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March 8<sup>th</sup>, 1999

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U.S. Consumer Product Safety Commission  
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**BOMBARDIER  
RECREATIONAL PRODUCTS**

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**Re: Voluntary All Terrain Vehicle (ATV) safety program**

Dear Mr. Bromme:

Bombardier Inc. Recreational Products as the manufacturer of a new Bombardier "Traxter™" model ATV ("Products") and acting through its wholly owned subsidiary and distributor, Bombardier Motor Corporation of America ("Bombardier"), will shortly begin the manufacturing, assembling, distributing, selling and servicing the Products in North America.

As you know, Bombardier was not one of the five major manufacturers and/or distributors of ATV's named in Civil Action 87-3525, which was settled with the court's approval of the Final Consent Decree of April 28, 1988<sup>1</sup>. Consequently, Bombardier was not involved in any manner whatsoever in the negotiations leading to the entry of the Final Consent Decree.

Like other members of the general public, we are aware of the various provisions of the now-expired Final Consent Decree including, among others things, requirements for the:

- stop sale of all new three-wheeled ATV's;
- promotion and sale of adult-size ATV's only for the use of riders age 16 and over;
- adherence to guidelines for advertising and promotional materials, and

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<sup>1</sup> References in this letter, to sections of the FINAL CONSENT DECREE, refer to sections of the FINAL CONSENT DECREE entered into by American Honda Motor Co et al

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- inclusion of specific warnings on ATV labeling and in ATV owner's manuals.

It has been reported that the measures taken by your agency under the Final Consent Decree have a direct impact on reducing deaths and injuries associated with the ATV's.

Bombardier is committed to product quality and reliability and the safe and responsible use of its Products. We will continue to work hard to establish and maintain our reputation with your agency and shall, among other things, adhere to your overall objective of reducing, to the extent possible, ATV accidents. Our entry into a voluntary safety program with your agency confirms to you our commitment to contribute our efforts given to this objective.

Bombardier has authorized the undersigned to outline the voluntary safety program herein, which is the result of discussions with your office and our participation in the Specialty Vehicle Institute of America (the "SVIA"). The Bombardier program will be implemented using best reasonable commercial efforts as we enter into a new market for the Products, and provided such market remains economically viable.

Bombardier believes that manufacturers and/or distributors of motorized products do not have a legal duty to audit independent authorized Bombardier ATV dealers or to provide free and/or incentivized training to ATV purchasers and/or to the members of their immediate families, without prior operating experience. Nonetheless, Bombardier is committed to implementing the undertaking negotiated with the CPSC staff, as outlined below.

**Age Recommendations**

Bombardier understands and shares the CPSC's goal of reducing, to the extent possible, ATV-related deaths and injuries to young persons. Therefore, Bombardier will recommend, market, and sell its ATV's (all of which currently are adult-sized ATV's, with engine sizes greater than 90 cc),

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only to or for the use by persons sixteen years of age or older. If, in the future, Bombardier manufactures ATV's with an engine size between 70 cc and 90 cc, Bombardier will recommend, market and sell such ATV's only to or for use by persons twelve years of age or older. Bombardier will use its best efforts, including through the monitoring of dealers as outlined below, to reasonably assure that Bombardier authorized dealers do not recommend or sell Bombardier ATV's to or for the use of individuals under the minimum ages.

### **Dealer Monitoring**

Bombardier will perform on-site undercover monitoring of its ATV dealers to monitor compliance with its age recommendation requirements. The number of dealers to be monitored during 1999 will be subject to the approval of the CPSC's staff and will be based, in part, on Bombardier's expectation that, initially, its ATV's will be distributed to relatively few Bombardier dealers. During the second and subsequent years covered by its monitoring program, Bombardier will conduct undercover monitoring of at least the same number of randomly selected dealers that other manufacturers/distributors of ATV's agreed to conduct in monitoring agreements that were approved by the CPSC on September 28<sup>th</sup>, 1995. (CPSC staff has given Bombardier a confidential copy of the substantive provisions of that monitoring agreement.)

Authorized Bombardier dealers will be selected for monitoring using a statistically valid sampling technique. Bombardier will inform the CPSC staff in advance of the components of the sampling technique to be used. Bombardier will also advise the CPSC staff of the name of the independent firm that will conduct the monitoring. In addition, Bombardier will provide the CPSC with a copy of the instructions to personnel conducting the monitoring and the reporting form to be used in reporting monitoring results.

### **Sanctions against Dealers**

Bombardier will take appropriate measures against dealers who do not comply with age recommendation requirements. Such measures may have severe consequences, including, but not limited to, termination of the dealer relationship with Bombardier, as prescribed in the ATV Dealer Agreement.

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If Bombardier does not terminate its relationship with a dealer as a result of an initial violation, Bombardier will take follow-up actions against the dealer that are consistent with the procedures outlined in the monitoring agreement of other ATV distributors/manufacturers that was approved by the CPSC on September 28<sup>th</sup>, 1995.

Bombardier has supplied the CPSC with a copy of the standard ATV dealer agreement for Bombardier Products and the CPSC staff's comments have been incorporated into the final version of such agreement.

### **Information / Education Effort**

Bombardier will develop and support an information and education campaign ("I&E Campaign") designed to promote safe and responsible use of Bombardier ATV's, including the need to observe the age recommendations for such ATV's and the importance of training. Bombardier will provide to CPSC staff, for review and comment, a copy of all material to be used in such I&E Campaign and information on when and where such materials will be published or otherwise disseminated to the public, and Bombardier's projected expenditures for its I&E Campaign.

Bombardier's I&E Campaign will be carried out during each of calendar years 2001 through 2003. The company's expenditures on its I&E Campaign will be in proportion (based on market share) to the planned I&E Campaign expenditures of the other ATV manufacturers and/or distributors. (The other ATV manufacturers and/or distributors currently have a collective market share of 100% and have agreed to spend approximately \$10 million dollars on I&E campaigns over the course of the next three years.) Bombardier's expenditures on its I&E Campaign will be no less than one hundred thousand US dollars (USD 100, 000) for each percent of its aggregate percent of market share for the years 2000 through 2002.

Bombardier's I&E Campaign expenditures for each year of its I&E Campaign will be based, in part, on the company's market share for the previous year. The methodology to be used in determining its annual market share will be subject to the approval of the CPSC staff. At the end of each

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full year of its I&E campaign, Bombardier will report to the CPSC staff the amount of expenditures spent on the I&E campaign for that year.

Bombardier reserves the right to participate in the joint I&E campaign being developed by certain other manufacturers and/or distributors of ATV's as part of their post Consent-Decree programs. In the event Bombardier decides to participate in that I&E campaign in lieu of implementing a separate I&E campaign, as described above, Bombardier will advise CPSC staff of its decision at least thirty (30) days prior to its participation in the joint I&E program and in any event Bombardier will advise the CPSC staff of its intention to participate in the joint I&E program prior to January 2000.

### **ATV Labels**

Bombardier will permanently affix to each of its ATV's the general warning label that is currently being used by other members of the ATV industry and, at the CPSC's request, Bombardier has finalized negotiations with members of the industry to use this label under license. In addition, Bombardier will permanently affix to each of its ATV's the other warning labels that were required under the Final Consent Decree and are generally in use.

Bombardier will provide a copy of each warning label to the CPSC for information. In the future, if such labels are modified, Bombardier will assure that such modified labels provide the same substantive safety information in as effective a manner as the labels they replace. Bombardier shall provide a copy of any such modified labels to the CPSC at least thirty (30) days prior to first use.

### **Operator's Guides**

Bombardier will supply, with each ATV, an operator's guide and safety handbook that includes the substantive informational content of paragraph H.2.b. (2) (including relevant cross-references) of the Final Consent Decree. Bombardier has provided a copy of its initial operator's guide and safety handbook to the CPSC staff for information. In the future, if such operator's guide or safety handbook are modified, Bombardier will assure that such operator's guide or safety handbook will include the substantive informational content of paragraph H.2.b.(2) (including relevant cross-

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references) of the Final Consent Decree. Bombardier shall provide a copy of any such modified operator's guide & safety handbook to the CPSC staff at least thirty (30) days prior to first use.

In essence, the operator's guide and safety handbook to be used by Bombardier shall be comparable to all others used with Bombardier recreational products sold in the United States of America. In addition, these documents will include the appropriate warnings and instructions applicable to ATV's.

### **Advertising**

Bombardier advertising practices require depictions and representations of our products that are consistent with safe and responsible uses and, to this end Bombardier's ATV advertising and promotional materials will conform to the General Provisions set forth in Section II. A 1-4 of Appendix K of the Final Consent Decree. In addition, Bombardier will include in its ATV advertisements and promotional materials, the substance of the safety messages in Section III of Appendix K of the Final Consent Decree.

Moreover, Bombardier will use its best reasonable commercial efforts to promote dealer compliance with Bombardier advertising practices, including conditioning cooperative advertising funding on such compliance. As you may be aware, Bombardier follows the same standards of conduct for its other recreational products.

### **Hang Tags**

Bombardier will use vehicle hangtags that convey the same substantive safety messages as hangtags under the Final Consent Decree.

As discussed with your office, Bombardier's hangtags will also incorporate a section to allow the dealer to indicate the selling price of the ATV.

Authorized Bombardier ATV dealers will be advised to affix multiple copies of the hangtags to each ATV and the consumers will be allowed to remove one of the hang tags, if desired.

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Bombardier will use its best reasonable commercial efforts to assure that pricing information added to the hangtag by authorized Bombardier ATV dealers does not detract from the safety information that will appear in the hang tag, and that dealers will display a supply of hangtags on each Bombardier ATV at all times. We believe such practice will allow retail customers to take vehicle hangtags with them and allow members of their immediate families to take cognizance of their content.

Bombardier will provide the CPSC staff with a copy of its hangtag for information. Such hangtag will be provided to the CPSC staff at least thirty (30) days prior to first use.

### **Safety Alerts**

Bombardier will provide to its authorized ATV dealers, for dissemination by them to prospective purchasers, information that conveys the same substantive safety messages as the "ATV Safety Alert" in Appendix J of the Final Consent Decree.

Information concerning the estimated number of fatalities and injuries associated with ATV's will be accompanied by an explanation that such numbers are estimated and do not imply any causative factors involved in such incidents. Such Safety Alert will be provided to the CPSC staff at least thirty (30) days prior to first use.

### **ATV Safety Video**

As it does for most recreational products Bombardier manufactures and/or distributes, Bombardier intends to include a copy of a safety video with every Bombardier ATV sold in the United States. The safety video will communicate essential safety and training-related information to consumers, including the messages in the ATV Safety Alert

Bombardier firmly believes that watching a safety video with family members and friends will be beneficial in terms of understanding the characteristics and the handling features of an ATV. Bombardier will

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provide CPSC staff with a copy of a pre-production script for its ATV safety video for information.

### **Training**

Bombardier will offer free hands-on training to all purchasers of Bombardier ATV's, and members of their immediate families, through the existing program of the ATV Safety Institute (the "ASI"), or through a suitably equivalent program that the CPSC staff has approved in advance.

This training program will be in addition to the training and information Bombardier will provide in a variety of forms to all purchasers, including our operator's guides, hang tags, ATV safety video and other media.

Bombardier will implement a dealer-loan program whereby its authorized ATV dealers may obtain Bombardier ATV's for loan to Bombardier ATV purchasers who need to borrow such vehicles to take ASI training. Bombardier will submit the details of its dealer-loan program to the CPSC staff for its approval at least 30 days prior to Bombardier's first distribution of ATV's to Bombardier dealers.

### **Incentives**

Consistent with CPSC's stated interest in promoting the training of first-time ATV purchasers without prior operating experience, Bombardier will offer an incentive program to promote the training of first-time purchasers without prior operating experience.

The incentive will consist of the purchaser's choice of either (i) extending the coverage period of the applicable ATV limited warranty, for an additional six (6) months or (ii) a one hundred US dollars (USD100) cheque. Subject to the following, the incentive will be awarded after the purchaser or an age-appropriate member of the purchaser's immediate family has completed the Bombardier-recommended-and-approved hands-on training course, which shall be the course offered by the ASI or an equivalent suitable to CPSC staff. Only one incentive per vehicle sold will be made available, regardless of the number of family members who take the training. For the first year following



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launch of the Bombardier ATV, only the cash incentive shall be available to those who qualify.

We understand, from our discussions with your office, that studies demonstrate that such training improves rider awareness and may help reduce the number of injuries in the first hours of use of an ATV by inexperienced operators.

### **Voluntary Standards**

Bombardier will participate in the efforts of the SVIA Technical Committee to update and revise the ATV voluntary standards. Potential technical issues identified by CPSC staff will be discussed and considered in good faith as part of those efforts.

### **ATV Hotline**

Bombardier intends to use its existing hotlines for watercraft and snowmobiles to respond to questions from consumers regarding ATV safety or may help fund the toll-free ATV hotline administered by the SVIA. Alternatively, Bombardier may elect to establish an independent toll-free number to fulfil the same functions as outlined above.

The Bombardier ATV hotline telephone number will be included in Bombardier promotional brochures and print advertisements.

### **Three-Wheel ATV's**

Bombardier does not intend to market or sell three-wheel ATV's in the United States of America.

### **Updated materials**

Bombardier will provide copies of any updated and modified safety materials, such as operator's guides and on-product warning labels, which contain a material change in format, language or presentation, to the CPSC staff.

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**Notice**

Unless otherwise indicated, Bombardier intends to maintain the above-specified actions indefinitely.

Bombardier will provide information about these activities upon receipt of reasonable requests from the CPSC. Bombardier will notify the agency at least sixty (60) days in advance of terminating or materially changing any of these activities

**Conclusion**

Bombardier has distributed recreational products in the USA for a significant number of years. During this time period, Bombardier consistently promoted the safe and responsible use of its products.

Accordingly, Bombardier hopes that the measures outlined in this voluntary safety program or undertaking regarding its ATV's will be well received by the CPSC and we look forward to working with and maintaining our good working relationship with the CPSC's staff in an effective and productive fashion.

Please let us know if you have any questions.



Alain Bruncelle  
Vice President and General Manager  
On behalf of Bombardier Motor Corporation of America,  
ATV- Recreational Products

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