

December 1, 2000

Michael S. Solender, Esq.  
Office of the General Counsel  
U.S. Consumer Product Safety Commission  
Washington, D.C. 20207



MEMORANDUM NOTIFIED 2/17/10

COMMENTS: ☒ YES ☐ NO

☐ OVERRULED; ☒ ATTACHED

☐ EXCISIONS FOIA Hxs. ☐

☒ DO NOT RE-NOTIFY ☐ RE-NOTIFY

Dear Mr. Solender:

Cannondale Corporation will begin manufacturing and selling four-wheeled ATVs in the early part of next year. Through discussions with you and Leonard Goldstein of the CPSC, and through membership in the Specialty Vehicle Institute of America, Cannondale has learned of the commitments that manufacturers and importers of ATVs have voluntarily agreed to undertake following the expiration of the Final Consent Decree in April of 1998.

The CPSC has made Cannondale aware that the implementation of these commitments is essential to the efforts of the industry and the CPSC to inform the public of the risks associated with the use of ATVs. Cannondale is dedicated to producing innovative, quality products and to encourage their responsible use. Cannondale was not involved in the Final Consent Decree but desires to promote ATV safety by entering into comparable commitments as those entered into by the current manufacturers and importers of adult-sized ATVs as outlined below.

#### **Age Recommendations**

Cannondale will recommend, market, and sell Cannondale ATVs with engine sizes greater than 90 cc for use only by persons 16 years of age or older. If Cannondale offers for sale ATVs with engine sizes of 70 to 90 cc, Cannondale will recommend, market, and sell these ATVs for use only by persons twelve years of age or older with adult supervision. Cannondale will use its best efforts to obtain dealer compliance with the age recommendations.

#### **Dealer Monitoring Program**

Cannondale will implement an undercover dealer monitoring program to monitor the compliance of Cannondale ATV dealers with the age recommendations for Cannondale ATVs. Cannondale will use the services of independent companies to determine the sample of randomly selected dealers and to perform the monitoring. The number of dealers monitored annually will be equal to the number of dealers agreed upon by other manufacturers and importers of ATVs and the CPSC in ATV dealer monitoring agreements that were approved by the CPSC on September 28, 1995. A copy of the agreement was supplied to Cannondale by the CPSC.

Cannondale will inform the CPSC of the companies performing the monitoring program and the statistically valid sampling technique used to determine the sample. Prior to implementation, Cannondale will provide the CPSC with a copy of the procedure used to determine compliance and the reporting form used in reporting monitoring results. Cannondale ATV dealers will be notified of the monitoring program and that dealers who are not in compliance with the Cannondale age recommendations will be subject to enforcement actions, including possible termination of the dealership agreement, to the extent allowed by state laws and regulations. If Cannondale does not terminate its relationship with a dealer as a result of an initial violation, Cannondale will take follow-up actions against the dealer that are consistent with the procedure outlined in the monitoring agreements approved by the CPSC on September 28, 1995.

### **Information and Education Program**

Cannondale will participate with other ATV manufacturers and distributors in the joint information and education program developed by the ATV Information and Education Group to communicate the age recommendations, the need for training, no passenger, and other ATV safety information to consumers.

Cannondale's expenditures for safety information and education each year will be in proportion (based on market share) to the planned expenditures of the other ATV manufacturers and distributors in the ATV Information and Education Group. Cannondale's expenditures for each year will be based on Cannondale's US ATV market share for the previous year by a market share calculation approved by the CPSC.

Beginning in calendar year 2002 and continuing through year 2003, Cannondale will expend \$100,000 per each percentage point of annual US ATV market share achieved in the previous year toward information and education. This expenditure is similar to the expenditure agreed to by the CPSC and another North American manufacturer that recently entered the ATV market. A portion of this expenditure is expected to be used to provide safety materials in the ATV shipping crate for distribution by Cannondale ATV dealers to new ATV purchasers and for development and licensing fees for safety materials. If Cannondale's expenditures exceed the above stated amount, the amount in excess will be credited to the following year's total expenditure requirements.

### **ATV Labels**

Cannondale has licensed the use of the ATV general warning label currently used by other manufacturers and distributors of ATVs. Cannondale will permanently affix this general warning label and the age recommendation warning label, passenger warning label, and tire pressure and overload warning label outlined in the Final Consent Decree to each Cannondale ATV produced for retail sale. Cannondale will submit a draft of each new or modified label to the CPSC for approval at least thirty (30) days prior to first use.

### **Owner's Manual**

Cannondale ATV owner's manuals will include the substantive informational content requirements, including relevant cross-references, of paragraph H.2.b. (2) of the Final Consent Decree. Cannondale will submit a draft of the initial manual and any future modifications to the CPSC for approval at least thirty (30) days prior to first use.

### **Advertising**

Cannondale ATV advertising will promote the safe and responsible use of Cannondale ATV's. Cannondale ATV advertising and promotional materials will conform to the General Provisions of Section II.A.1-4 of Appendix K and include the substance of the safety messages required in Section III of Appendix K of the Final Consent Decree. Cannondale submitted an electronic file of an ATV specification sheet to the CPSC and received approval for the depiction of the ATV and the safety message before its first use. Cannondale will continue to submit ATV advertising and promotional materials to the CPSC for approval 14 days before first use for 6 months following the shipment of the first ATV for retail sale. Cannondale will encourage Cannondale ATV dealers to comply with Cannondale's advertising guidelines, including by providing ATV dealer cooperative advertising reimbursements, if a cooperative advertising program is developed in the future, only when dealer advertisements are in compliance with the guidelines.

### **Hang Tags**

Cannondale will use ATV hang tags that conform to the Guidelines For Point-Of-Purchase Safety Materials in paragraph II.B. of Appendix I of the Final Consent Decree. Cannondale has submitted an electronic file of a Category S ATV hang tag to the CPSC and received approval for its use.

**Safety Alerts**

Cannondale will provide to Cannondale ATV dealers, for dissemination 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 ATVs will be accompanied by an explanation that such numbers are estimated and do not imply any causative factors involved in such incidents. Cannondale has submitted an electronic file of a safety alert to the CPSC and received approval for its use.

**ATV Safety Video**

Cannondale will provide a copy of the current ATV Safety Institute ATV safety video in the shipping crate for delivery by the Cannondale ATV dealer to each purchaser of a new Cannondale ATV.

**Training**

Cannondale will provide free hands-on training to all purchasers of Cannondale ATVs, and everyone in the purchaser's immediate family who is within the recommended age group for the ATV purchased, through the existing training program of the ATV Safety Institute. This program is in addition to the training information Cannondale will provide through the owner's manual, hang tags, ATV safety video, and other media.

Consistent with the CPSC's stated interest in promoting the training of first-time ATV purchasers without prior operating experience, Cannondale will offer a training incentive to promote participation in the ATV Safety Institute hands-on training course. An individual who purchases a new Cannondale ATV, and who also completes or has a family member who is within the recommended age group for the ATV purchased complete the training course, will receive a check for \$100 if it is the individual's first ATV purchase. The training incentive is limited to one check per ATV purchased.

Cannondale will implement a dealer loan program to enable dealers to loan Cannondale ATVs to instructors for use in the ATV Safety Institute hands-on training courses. Dealers will receive a discount off dealer cost and deferred billing. Cannondale will submit a draft of the dealer loan program to the CPSC for approval prior to the first ATV shipment.

**Voluntary Standard**

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

**ATV Hotline**

Cannondale will contribute to funding of the toll-free ATV hotline administered by the SVIA and will include the hotline phone number in its advertising and promotional materials.

**Three-Wheel**

Cannondale will not market or sell 3-wheel ATVs.

**Notice**

As part of Cannondale's dedication to producing innovative, quality products, and encouraging their responsible use, Cannondale will continue with the above actions indefinitely and will notify the CPSC at least 60 days in advance of terminating or materially changing any of the actions. Cannondale will provide information on these actions upon reasonable request by the CPSC.

Cannondale is looking forward to an effective and productive working relationship with the CPSC staff and hopes that the actions outlined in this voluntary undertaking will be well received by the CPSC.

Sincerely,

A handwritten signature in black ink, appearing to read "John Moriarty". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

John Moriarty  
Assistant Treasurer

# **CSG CYCLING SPORTS GROUP™**

**cannondale  Schwinn mongoose**

Cycling Sports Group, Inc. 16 Trowbridge Drive, Bethel, CT 06801 USA Phone 203.749.7000 Fax 203.748.4012 WWW.CANNONDALE.COM

10 March 2010

Todd A. Stevenson, Director, Office of the Secretary  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814-4408

Received CPSC  
2010 MAR 16 A 8:28  
Office of the Secretary  
FOI

Re: FOIA Request S5080052: ATV Action Plans

Dear Mr. Stevenson,

Cycling Sports Group, Inc. is today in receipt of your certified return receipt letter dated 5 March 2010 addressed to John Moriarty of Cannondale Corporation based on a FOIA request of 8 August 2005.

The company that made ATVs, Cannondale Corporation, became bankrupt 29 January 2003. So the entity that wrote and filed the 1 December 2000 ATV Action Plan that the CPSC proposes releasing under this request no longer exists.

The paragraph immediately following is from counsel.

Please be advised that Cannondale Corporation filed a Chapter 11 bankruptcy petition in January, 2003. In March, 2003, pursuant to orders entered by the United States Bankruptcy Court, substantially all of the assets of Cannondale Corporation were sold to Bicycle Business Acquisition Corp. After this sale was consummated in May, 2003, Bicycle Business Acquisition Corp. changed its name to the Cannondale Bicycle Corporation. You may want to contact the Bankruptcy Court or the bankruptcy attorney for Cannondale Corporation, James Berman, of Zeisler & Zeisler, P.C. at (203) 368-4234, if you have any questions.

No ATVs or other motorized vehicles were made by Cannondale Bicycle Corporation (one of the reasons for the bicycle specific new company name).

To bring you fully up to date, in February 2008 Cannondale Bicycle Corporation was purchased by Dorel Industries Ltd. Cannondale Bicycle Corporation became a part of the Dorel Recreation and Leisure Group. In September 2009 Cannondale Bicycle Corporation's name was changed to Cycling Sports Group, Inc. Today "Cannondale" is not a company but one of several bicycle brand names owned by Dorel. The Cycling Sports Group Inc. headquarters are at the same address once occupied by Cannondale Corporation.

Thank you,



David L. Campbell  
Director of Technical Services  
Cycling Sports Group, Inc.

**DOREL**