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REF/PRVLBR NOTIFIED 6/29/09  
COMMENTS: YES NO  
OVERRULED; ATTACHED  
EXCISES/FOLA HLG. 3462 NOT ACPUBW  
DO NOT RE-NOTIFY RE-NOTIFY

April 17, 2009

**Via Electronic Mail and Hand Delivery**

Mr. Howard N. Tarnoff  
U.S. Consumer Product Safety Commission  
Office of Compliance  
4330 East-West Highway  
Bethesda, MD 20814

(b)(3):CPSA Section 6(b),(b)(4),Not Responsive

Dear Mr. Tarnoff:

(b)(3):CPSA Section 6(a),(b)(4),Not Responsive

KTM distributes All Terrain Vehicles (ATV) in North America. The ATVs are manufactured by KTM Sportmotorcycle, AG located at Stallhofnerstrasse 3, Mattighofen, Austria and distributed by KTM to our independent dealer network.

(b)(3):CPSA Section 6(a),(b)(4),Not Responsive

**KTM ATV Dealer Policy**

KTM has implemented a dealer policy that outlines the dealer responsibilities:

- KTM sells Type I Category S (Sport Model) ATVs. These ATVs are intended for recreational use by an experienced operator aged 16 or older.
  - KTM and its dealers will not recommend, market or sell new adult-sized ATVs for the use of persons less than 16 years old.
  - In the event that KTM enters the ATV market for persons less than 16 years of age, KTM will comply with the age recommendation requirements of Section 6 of the ANSI/SVIA-1-2007 standard for ATVs.



- Stress the importance of ATV safety and responsible use of ATVs whenever your dealership staff speaks to your customers and prospective customers. Review and understand all the on-product labels, owners manual and safety related materials.
- Provide ATV Safety Alert at the point of purchase.
- Always display the ATV Hangtag on all new retail KTM ATVs.
- Promote ATV safety training with your dealership staff and retail customers.
- Immediately warranty register sold units, review, complete and sign the Rider Training Certificate (RTC) with the customer. Process the RTC as required on the bottom of the form.
- Provide the customer with the Ride Safe / Ride Smart DVD.
- Promote the ATV Safety training provided by KTM through the ATV Safety Institute – 1-800-887-2887.
- Refer interested consumers to the KTM toll free safety hotline 1-800-985-6091 number.
- Adhere to the 1988 Consent Decrees regarding ATV advertisements.

#### Age Recommendations:

KTM is well aware of the concern regarding injuries and fatalities among persons under the age of 16. The product offerings from KTM are sport models that are positioned in the market for experienced sport ATV riders. KTM sells Type I Category S (Sport Model) ATVs. These ATVs are intended for recreational use by an experienced operator aged 16 or older. KTM will put forth its best efforts to assure that KTM authorized dealers do not recommend, market, or sell KTM ATVs to or for the use of individuals under the minimum age.

In the event that KTM enters the ATV market for persons less than 16 years of age, KTM will comply with the age recommendation requirements of Section 6 of the ANSI/SVIA-1-2007 standard for ATVs.

#### Safety Alerts

KTM shall provide to dealers for dissemination to each purchaser a "Safety Alert" containing the same substantive safety information as the Safety Alert at Section H.3.b.(4)(c) and Appendix J of the 1988 ATV Consent Decrees stating death and injury statistics for ATV's, Safety rules and age recommendation.

#### ATV Labels and Safety Hang Tags

KTM will affix to each ATV the General Warning Label, Age Recommendation Warning Label, Passenger Warning Label and Combined Tire Pressure and Overloading Warning Label as specified in Section 4.23.3 and 4.23.3.4 of ANSI/SVIA 1-2007. KTM will provide a copy of each warning label to the CPSC for information.

KTM will provide dealers with vehicle safety hangtags containing information as found in section 4.24 of ANSI/SVIA 1-2007. KTM hang tags will be provided to CPSC for information. Authorized KTM dealers are advised to affix a hang tag on all new KTM ATVs on their retail showroom floor.

#### Owner's Manual, Ride Safe Ride Smart DVD and Riding Tips and Practice Guide brochure

KTM will provide an Owners Manual, ATV safety DVD and Riding Tips and Practice Guide brochure to each ATV customer. The Owners Manual contains reprints of the ATV labels and Safety Hang Tags along with important safe operation information. The Ride Safe Ride Smart DVD and Riding Tips and Practice Guide brochure, which have been produced by the SVIA, will communicate essential safety and training-related information to consumers as well.

#### Training and Incentives

KTM is offering each first time purchaser an opportunity to take free hands on ATV safety training. The training will be conducted through the existing program of the ATV Safety Institute. KTM feels that this training is valuable for our customers and, as an incentive to complete such training, is offering to first time purchasers a \$50 cash rebate together with a \$50 credit rebate for already-purchased KTM safety equipment after the successful completion of the ATV Safety Institute program. In addition, KTM will also offer free training through the ATV Safety Institute to members of the ATV purchaser's immediate family who are within the recommended age group for the ATV purchased.

#### Dealer Monitoring Program:

KTM will use its best efforts to obtain dealer compliance with the KTM ATV Dealer Policy including monitoring age recommendations, training recommendations and safety hang tags. This will include routine on-site monitoring of dealer sales activity by undercover investigators who will undertake remedial actions, including possible termination to the extent permitted by applicable state and local laws, against dealers that do not abide by KTM's ATV Dealer Policy. Undercover investigators will perform at least 50 random onsite dealership inspections annually. In addition to undercover investigators, dealers are also responsible for filling out the Rider

Training Certificate (RTC) with the customer at the time of purchase which reviews important safe operation information. KTM shall take corrective action against non-complying dealers.

#### ATV Hotline

KTM has set up a 24 hour toll free hotline to respond to questions from consumers regarding ATV safety. The KTM ATV hotline toll free number (1-800-985-6091) will be included in KTM promotional brochures and print advertisements. The hotline shall provide safety and training information including age recommendations.

KTM will send, free of charge, to every person who calls copies of appropriate materials regarding ATV safety developed pursuant to the final consent decree, such as a copy of the ATV Safety Alert and ATV Ride Safe Ride Smart DVD.

#### Advertising

KTM advertising practices require depictions and representations of our products that are consistent with safe and responsible uses and, to this end KTM's ATV advertising and promotional materials will conform to the General Provisions set forth in Section J.1 and Appendix K of the 1988 Final Consent Decree. In addition, KTM 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. Advertising will depict ATVs in a manner consistent with safe and responsible use of the product. All riders shown in such advertising shall wear helmets and full protective gear. KTM shall also use best efforts to promote dealer compliance with advertising requirements.

#### Information / Education Effort

KTM will participate in joint information and education campaigns ("I&E Campaign") designed to promote safe and responsible use of KTM ATVs, including the need to observe age guidelines of 16 and older for Adult ATV use and the importance of training. KTM will facilitate I&E Campaigns through its membership with the Specialty Vehicle Institute of America primarily utilizing the ATV Safety Training Institute.

KTM's I&E Campaign will be carried out during each of the calendar years 2009 through 2011. The company's expenditures on its I&E Campaign will be in proportion (based on market share, currently under one-quarter of a percent of reported ATV sales for 2008 calendar year based on MIC reported units sold) to the planned I&E Campaign expenditures of other ATV manufacturers and/or distributors. KTM'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.

Howard N. Tarnoff  
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Three-Wheel ATVs

KTM does not intend to manufacture, market or sell three-wheel ATVs.

Notice

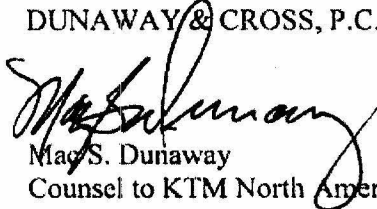
Unless otherwise indicated, KTM intends to maintain the above specified actions indefinitely. KTM will provide information about these activities upon receipt of reasonable requests from the CPSC. KTM will notify the agency at least sixty (60) days prior to terminating or materially changing any of these activities.

(b)(3):CPSA Section 6(b),(b)(4),Not Responsive



Very truly yours,

DUNAWAY & CROSS, P.C.



Mac S. Dunaway  
Counsel to KTM North America Inc.

cc: Cheryl Webb (via electronic mail only)