



**AHA Motorsports Inc.**  
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January 8, 2014

Sean R. Ward  
Attorney  
Division of Compliance  
Office of the General Counsel  
U.S. Consumer Product Safety Commission  
4330 East West Highway, Room 703-F  
Bethesda, MD 20814-4423

Re: ATV Action Plan of AHA Motorsports Inc.

Dear Mr. Ward,

Our company, AHA Motorsports Inc. ("AHA"), is an importer and distributor of All Terrain Vehicles (ATVs) in the United States. We insist on promoting safe and responsible usage of all our ATVs. We are fully committed to the goal of reducing ATV-related accidents. We are implementing new policies in accordance with the rules set forth by the Section 232 of the Consumer Product Safety Improvement Act of 2008. The actions outlined below are part of our effort to provide the safest ATVs for our customers.

**Age Recommendations:**

AHA will only recommend, market, advertise, and sell ATVs for use under the age category/speed guidelines specified at Section 6 of the ANSI/SVIA-1-2010 Standard for ATVs ("the ATV Standard"). In addition, AHA will not recommend, market, advertise, or sell adult-sized ATVs for the use of individuals less than 16 years of age. AHA will use its best efforts to ensure that our dealers comply with these requirements.

**Dealer Monitoring:**

1. Scope and Components of Monitoring Program

AHA requires that its dealers verify the intended ATV rider's age prior to selling that rider, or his/her parent or guardian, an ATV. AHA's warranty registration cards require the submission of the intended rider's name and date of birth to ensure that dealers do not sell AHA ATVs to under-aged riders.

AHA will use its “best efforts”<sup>1</sup> to ensure that its dealers comply with:

- the user age recommendation requirements of the ATV Standard;
- the requirements related to notifying ATV purchasers about the availability and importance of free, hands-on ATV training and the monetary incentive for taking such training; and
- the requirements relating to providing the ATV Hang Tag, the ATV Owner’s Manual, the ATV Safety Video, and the ATV Safety Alert to ATV purchasers at the point of purchase.

AHA will conduct on-site inspections of each of its authorized ATV dealers at least twice a year, with a minimum of 50 on-site inspections per year, by means of independent, undercover investigators (also known as “secret shoppers”) to ensure that these dealers comply with the above-listed requirements and other safety-related practices during sales or promotional functions. AHA will also modify the visitation criteria of its field personnel so that inspecting for dealer compliance with the above-listed requirements becomes a normal function of routine dealer visits.

## 2. Notice and Training Program

Within fifteen (15) days of learning of a dealer’s non-compliance with the above-listed requirements from the CPSC staff or by one of AHA’s independent investigators,<sup>2</sup> AHA will:

- notify the dealer of its non-compliance;
- inform the dealer of the operative facts reported by the CPSC staff or the independent investigator (such as the name of the salesperson and the model(s) of the ATV(s) allegedly recommended during the inspection); and
- demand a cure of the reported violation(s).

In addition, within thirty (30) days after notifying the dealer of its non-compliance,

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<sup>1</sup> “Best Efforts” shall include, among other things, an obligation to require, to the extent permissible under federal and state law, compliance by AHA’s dealers, agents, or representatives with the terms of this ATV Action Plan in future contracts entered into with dealers, agents, or representatives, and, where possible and within a reasonable time, modification of existing contracts with dealers, agents, or representatives to impose this duty.

<sup>2</sup> Within fifteen (15) days of learning of a dealer’s non-compliance with the above-listed requirements from a third party (such as another dealer or distributor), AHA will notify the dealer of the reported non-compliance and arrange an undercover, on-site inspection of the dealer to determine whether the dealer is complying with the above-listed requirements. If AHA discovers a violation during this inspection, AHA will initiate the notice and training procedures outlined in this section.

AHA will provide on-site training to all dealership personnel who are involved in the sale of ATVs. The training will include, but not be limited to, information concerning the above-listed requirements, the need for compliance with them, and the potential enforcement actions (including termination and non-renewal of the dealership agreement) that the dealer may incur if non-compliance continues. A record of the training effort will be made by AHA and provided to CPSC staff during bi-annual reporting (as described in the "Reporting" section below).

### 3. Follow-up Monitoring and Enforcement for Repeated Non-Compliance

Within sixty (60) days after completing the above-referenced training for a non-compliant dealer, AHA will conduct an undercover, on-site, follow-up inspection of the dealer to determine whether the dealer is complying with the above-listed requirements. If this follow-up inspection reveals evidence of continuing violations, AHA will take remedial action against the dealer, up to and including possible termination or non-renewal of the dealership agreement with AHA.<sup>3</sup> If AHA elects not to terminate the dealer's contract, remedial actions will at a minimum include additional undercover on-site inspections of the dealer. If these additional inspections reveal an additional violation, AHA will terminate or decline to renew the dealer's contract. In each instance, AHA will inform the CPSC Office of Compliance and Field Operations in advance of any remedial action or disposition, and it will provide the CPSC staff a reasonable opportunity to comment on such action or disposition before it occurs.

### 4. Reporting

AHA will report the results of its dealer monitoring program to the CPSC staff on a bi-annual basis, with reports due to the CPSC's Office of Compliance and Field Operations on February 1 and August 1 of each year. These reports should include a list of non-complying dealerships, the date of inspection, and all training or enforcement actions taken by AHA, along with dates of all follow up activities and remedial actions. AHA should maintain a list of all dealerships inspected each year in spreadsheet format, and this spreadsheet shall be provided promptly to the CPSC staff upon its request. The CPSC staff will maintain the confidentiality of these reports in accordance with applicable laws. The CPSC staff also reserves the right to request additional information from AHA regarding the results of AHA's dealer monitoring program.

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<sup>3</sup> The nature of the enforcement action will be determined on a case-by-case basis, and AHA will consider factors such as the applicable state and local laws, the circumstances of the reported violations, the length of time between reported violations, any intervening inspections in which the dealer was reported to be in compliance with the above-listed requirements, and the strength of the evidence supporting termination.

## 5. Notice to Dealers

AHA will notify its dealers in writing of its dealer monitoring program within fifteen (15) days of the effective date of this Action Plan. The notice will remind dealers of their ongoing obligations to comply with the above-listed requirements and the consequences of non-compliance, including, but not limited to, the assessment of administrative costs for AHA's monitoring of the dealer and possible termination or non-renewal of the dealership agreement. AHA will provide the CPSC's Office of Compliance and Field Operations an advance copy of the notice.

### **Information and Education Program:**

- AHA will require that all authorized dealers implement a new information/education effort to communicate age recommendations, passenger, and other safety-related information to consumers. Our materials and information will be based on all publications produced by the Specialty Vehicle Institute of America ("SVIA") and the ATV Safety Institute ("ASI"). The materials will provide safety information and warn children under the age of sixteen of the risks and dangers of operating adult-sized ATVs.
- AHA will provide DVDs with every ATV sold. These DVDs will feature safety themes and messages consistent with the 1988 ATV Consent Decrees.
- AHA will distribute safety reminders by direct mail within a few weeks of retail purchases. The reminders will include the safety messages and information about the free ATV training and incentives for completing that training.
- AHA will sponsor safety an Ad campaign, including web advertising and print advertising in major off-road publications. The ads will promote safe riding and age recommendation. The ads will continuously run throughout the whole year.
- AHA will distribute safety posters and flyers to authorized dealers. The content of these posters and flyers will include the safety messages for AHA dealers to display.
- AHA will require authorized dealers to display SVIA and ASI posters and educational materials in their retail locations.
- AHA will contribute \$20,000 per year for the next ten years for its Information and Education program.

### **Training:**

- AHA will offer free, hands-on ATV training to all AHA first time purchasers and age appropriate members of their immediate family. This training will be conducted through the educational programs of the ASI. All authorized dealers are able to register purchasers and age appropriate members of their immediate families for ASI training course at the time of purchase.
- After completion of the ASI course, the rider will qualify for an incentive worth \$100. The \$100 incentive for training will include at least \$50 in cash, with the balance offered (at the consumer's choice) as a rebate for already purchased

safety equipment or a credit towards the purchase of new safety equipment.

- The training program is in addition to the training information already provided in a variety of formats to all purchasers, including the owner's manual, hang tags, ATV safety video and other media.

**ATV Hang Tags:**

AHA will provide all authorized dealers hang tags which are attached to all AHA ATVs. The tags will comply with the requirements of Section 4.24 of the ATV Standard. The tags will convey the safety messages as required.

**ATV Labels:**

AHA will use all required labels, which will conform to Section 4.23 of the ATV standard.

**Owner's Manuals:**

AHA owner's manuals will conform to Section 4.21 of the ATV Standard. AHA will update owner's manuals if required by the new law. Toll free information helpline will be included in owner's manuals.

**ATV Safety Video:**

AHA will provide a Safety Video to all retail purchasers of AHA Motorsports Inc. at the point of sale. The video should comply with all requirements described at Section H.3.b.(4)(b) and paragraphs II.A and II. C of Appendix I of the 1988 ATV Consent Decrees.

**Safety Alerts:**

AHA will provide to its dealers, for dissemination to prospective purchasers, information that conveys substantive safety messages including information concerning the estimated number of injuries and fatalities associated with ATVs as described at Section H.3.b.(4)(c) and Appendix J of the 1988 Consent Decrees. Information of Injury and death statistics for ATVs, safety rules, and age recommendations will be included. AHA will provide information about availability of ATV training.

**ATV Safety Posters:**

AHA will provide ATV Safety Posters to our dealers. All the dealers are required to promote this ATV Safety Posters to all actual and prospective ATV consumers.

**24 Hour Toll-Free Safety Hotline:**

AHA will provide a 24 hour toll-free hotline in accordance the requirement of Section H.4 of the 1988 ATV Consent Decrees. Information available by this service will include age recommendations, warning labels, owner's manuals, advertising and promotional materials and ATV Safety Alerts. The toll-free number will be shown in all owner's manuals, ATV websites and other promotional materials.



**Advertising:**

- AHA will use its best efforts to encourage dealers to comply with our company safety policy.
- AHA will require that all advertising and promotional materials depict the safe and responsible operation of ATVs. All riders shown in such advertisements and promotional materials will wear helmets and full protective gear. The advertising shall include the safety messages described in Section J.1. and Appendix K of the 1988 ATV Consent Decree.

**Participation in ASI's Safety Program:**

If at any time AHA is no longer a participating member of ASI's Safety Program, and therefore no longer able to access ASI's training and safety materials and services, AHA will cease to distribute ATVs into U.S. commerce until such time that AHA is able to provide equal or greater materials and services as described herein.

**Notice of Change:**

AHA will inform CPSC with at least 60 days advance notice if we have any intention to terminate or materially change any commitment under this action plan. AHA will provide information about these activities upon request from CPSC.

**Amendment and Termination Procedures:**

If Commission staff determines that AHA's approved ATV Action Plan is no longer effective or adequate, Commission staff may take certain action, including but not limited to notifying AHA that the ATV Action Plan must be amended to address the effectiveness or adequacy of the plan. With that notification, Commission staff shall provide AHA with the text of any proposed amendment. AHA and Commission staff must reach agreement on the proposed amendment within 30 calendar days of the notification, unless Commission staff grants an extension for good cause. If AHA and Commission staff fail to reach an agreement within the designated timeframe, then Commission staff may recommend termination of the Action Plan. Additionally, (i) if AHA fails to comply with the obligations of this ATV Action Plan, or (ii) if Commission staff determines that AHA can no longer comply with the obligations of this ATV Action Plan, or (iii) if AHA fails to adopt a requested amendment within the timeframe specified by staff, Commission staff, after providing AHA with notice and an opportunity to respond, may recommend termination of the ATV Action Plan. AHA may not manufacture, import, or distribute any ATV in the United States under this Action Plan after receiving notice of termination. Failure to cease manufacture, importation, or distribution in United States commerce of any ATV under this ATV Action Plan after receipt of notice of termination is a prohibited act under section 19(a)(1) of the CPSA, 15 U.S.C. § 2068(a)(1).

Thank you in advance for your attention to this important matter. We stand by ready

to comply with all requirements.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bing Zhu', with a stylized, cursive script.

Bing Zhu  
CEO