

U.S. CONSUMER PRODUCT SAFETY COMMISSION

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Via Certified Mail

Wayne Allard Vice President, Government Relations American Motorcyclist Association 101 Constitution Avenue NW Suite 800W Washington, DC 20001

Re: CPSC Infographic: Big Real Rough Tough Deadly ATV Statistics

Dear Mr. Allard:

I am writing in response to your letter dated July 15, 2013 to Chairman Tenenbaum. You objected, on behalf of the American Motorcyclist Association (AMA) and its All-Terrain Vehicle Association (ATVA), to the infographic, entitled "CPSC Infographic: Big Real Rough Tough Deadly ATV Statistics," that appears on the Commission's website. The infographic provides illustrations, safety tips, and statistics on the use of All-Terrain Vehicles (ATVs), such as the reported number of ATV-related deaths and the top ten states where fatalities occurred. You assert that the title of the webpage is inflammatory and that the use of the word "deadly" implies an "extreme bias against ATVs by the CPSC." You further state that the juxtaposition of the word, "deadly," and the Commission's own statistics, which indicate that the ATV safety record is improving, are contradictory. You request that the Commission "further consider the future composition of the infographic webpage." As discussed below, we have decided not to revise the infographic that appears on the Commission's website.

Section 6(b)(6) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(b)(6), states the following:

Where the Commission initiates the public disclosure of information that reflects on the safety of a consumer product or class of consumer products, . . . , the Commission shall establish procedures designed to ensure that such information is accurate and not misleading.

In accordance with section 6(b)(6) of the CPSA, the Commission adopted procedures to ensure that it does not publicly disclose inaccurate or misleading information that reflects adversely

upon the safety of any consumer product or class of consumer products, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products. CPSC Directive 1450.2, "Clearance Procedures for Providing Information to the Public," January 13, 2003 (Clearance Directive). Pursuant to the Clearance Directive, "clearance" means a careful review and written approval of the information to be disclosed by each Assistant or Associate Executive Director whose area of responsibility is involved in the disclosure in order to eliminate inaccurate or misleading statements. *Id.* "Clearance" for initiating public disclosure within the scope of the Clearance Directive involves a review of technical and scientific information supported by:

- (a) data in Commission files or in currently applicable literature;
- (b) articulated technical judgment that is both reduced to writing and based on consideration of all relevant factors; or
- (c) a report prepared by a contractor to the Commission and such report has been subject to a review process by Commission staff. Id.

The purpose of the infographic is to educate the public about the potential dangers associated with ATVs and to encourage ATV riders to use proper-sized vehicles and to follow basic guidelines to make their riding experience safer. The infographic contains various statistical data from the Commission's files on ATVs, such as the reported number of ATV-related deaths, the top ten states where fatalities occurred, and the average number of reported ATV-related deaths by month. Pursuant to the Clearance Directive, before publishing this infographic on the Commission's website, the appropriate Commission Directorates and Offices reviewed the material for accuracy. The Commission staff determined that the material is factually accurate and not misleading because it is supported by data in Commission files.

The illustrations and statements that appear in the infographic do not identify any particular manufacturer or private labeler of ATVs and cannot be interpreted to reflect directly on the practices of any ATV manufacturer. In addition, the infographic, which contains information supported by data in Commission files, does not constitute inaccurate or misleading information that reflects adversely on ATVs or ATV manufacturers as a class.

Commission staff complied with all required regulations and directives. As discussed above, the infographic:

- (a) Contains statements and illustrations that are factually accurate and not misleading as they are supported by data in Commission files;
- (b) Does not identify any manufacturers or private labelers of ATVs; and
- (c) Does not constitute inaccurate or misleading information that reflects adversely on ATVs or ATV manufacturers as a class.

For these reasons, Commission staff disagrees with your characterization of the infographic and, thus, will not revise the infographic.

Sincerely,

Amy S. Colvin