
IN THE MATTER OF
YAMAHA INTERNATIONAL CORPORATION, ET AL.
CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-2747. Complaint, Oct. 23, 1975-Dcision, Oct. 23, 1975

Consent order requiring a Buena Park, Calif., motorcycle manufacturer and its San Francisco, Calif., advertising agency, among other things to cease making unsubstantiated claims of motorcycle safety. Further, respondent is required to transmit to participants in its "Learn-to-Ride" program a letter reflecting the fact that contrary to popular opinion, riding a motorcycle weighing only several

Complaint

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hundred pounds is not as safe as operating an automobile weighing one to two tons, regardless of the training a cyclist has had.

Appearances

For the Commission: *Dean A. Fournier.*

For the respondents: *Lawrence P.J. Bonaguidi* and *William D. Greene, Burns, Van Kirk, Green & Kafer*, New York City.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Yamaha International Corporation, a corporation, and Botsford Ketchum Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Yamaha International Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 6600 Orangethorpe Ave., Buena Park, Calif.

PAR. 2. Respondent Botsford Ketchum Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office and place of business located at 55 Union St., San Francisco, Calif.

PAR. 3. Respondent Yamaha International Corporation is now, and for some time last past has been, engaged in the sale and distribution of Yamaha motorcycles, snowmobiles, and other products.

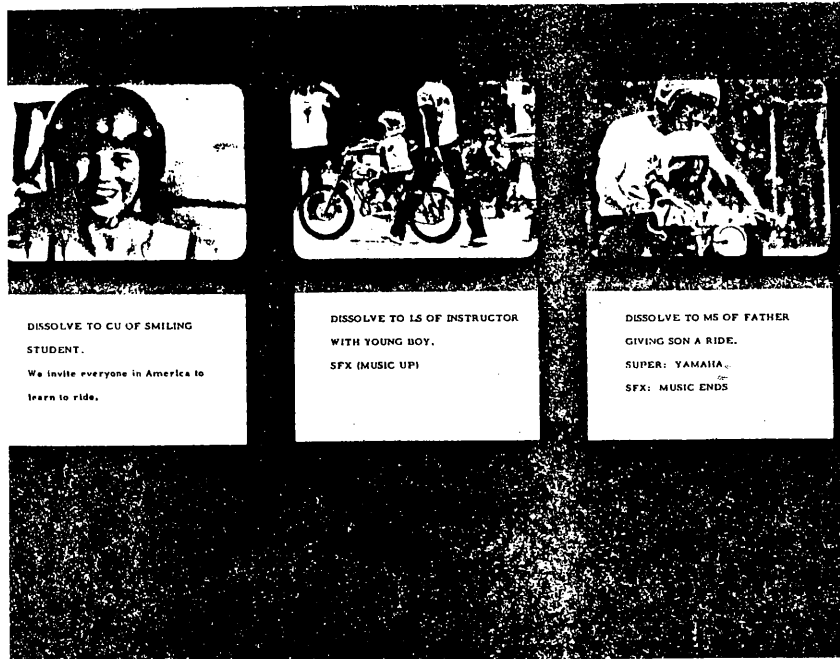
PAR. 4. Respondent Botsford Ketchum Inc. is now and for some time last past has been the advertising agency of Yamaha International Corporation, and now and for some time last past has prepared and placed for publication and caused the dissemination of advertising material, including but not limited to the advertising referred to herein, to promote the sale of Yamaha products.

PAR. 5. In the course and conduct of its business as aforesaid, respondent Yamaha International Corporation causes its said motorcycles, snowmobiles, and other products, when sold, to be transported from its place of business in California to purchasers located in various other States of the United States and in the District of Columbia. Said respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. In the course and conduct of their said businesses, and for the purpose of inducing the sale of said Yamaha products, respondents have disseminated and caused the dissemination of advertisements concerning said products by various means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to advertisements inserted in magazines and newspapers, and network and local television and radio broadcasts transmitted by television and radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across State lines.

PAR. 7. Among the advertisements disseminated as hereinabove set forth was a television commercial, presented in connection with Yamaha's Learn-To-Ride safety seminars during the year 1973, with the following audio and video storyboard:

 DISSOLVE WITH MUSIC TO CU OF LEE SEMINAR SEN. DISSOLVE WITH YAMAHA THEME	 DISSOLVE INTO CU OF BOY ANNOUNCER (VOICE OVER): Randy Beck is 12 years old. He's saving his money for the motorcycle he'll buy someday.	 DISSOLVE INTO MS OF HOUSEWIFE Connie Francis is a housewife.	 DISSOLVE INTO CU OF MAN, Bob Rogers, a retired railroad engineer.
 DISSOLVE INTO LS OF SEMINAR These people are riding a motorcycle for the first time, at a Yamaha Learn to Ride safety seminar.	 DISSOLVE INTO MCU PAN SHOT OF INSTRUCTOR AND STUDENT. A nationwide program of free safety instruction being offered in over one hundred major cities this year.	 DISSOLVE TO LS OF INSTRUCTORS WITH STUDENTS ON BIKES. With over five million machines on the road today, the motorcycle is be- coming as popular as the automobile.	 DISSOLVE TO INSTRU FOR GUIDING STUDENT ON MOTOR- CYCLE. Yamaha believes, with proper instruction, it can be just as safe.



PAR. 8. Through the use of said television commercial, respondents have represented, directly or by implication, that, with proper instruction, motorcycles can be operated as safely as automobiles.

PAR. 9. In truth and in fact, motorcycles cannot be operated as safely as automobiles. Reliable statistics show that the incidence of death and serious injury from accidents is significantly and substantially greater among motorcycle operators than among drivers of automobiles. Therefore, the representation set forth in Paragraphs Seven and Eight hereof was, and is, false, misleading and deceptive.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive representation has had, and now has, the capacity and tendency to mislead and deceive members of the purchasing public into the purchase of Yamaha motorcycles under the erroneous and mistaken belief that such representation is true.

PAR. 11. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent Yamaha International Corporation has been, and is now, in substantial competition, in or affecting commerce, with corporations, firms, and individuals in the sale of products of the same general kind and nature as those sold by said respondent.

PAR. 12. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent Botsford Ketchum Inc. has been, and is now, in substantial competition, in or affecting commerce, with other advertising agencies.

PAR. 13. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors, and constituted, and now constitute, unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for

settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty days, and having duly considered comments filed pursuant to Section 2.34 of its rules, now in further conformity with the procedure prescribed in Section 2.34 of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

A. Respondent Yamaha International Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 6600 Orangethorpe Ave., Buena Park, Calif.

Respondent Botsford Ketchum Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office and place of business located at 55 Union St., San Francisco, Calif.

B. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Yamaha International Corporation, a corporation, and Botsford Ketchum Inc., a corporation, and their officers, agents, representatives, employees, successors and assigns, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of motorized vehicles or other products as specified below, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing orally, visually, in writing, or in any other manner, directly or by implication, that any motorized vehicle other than an automobile can be operated as safely as an automobile, unless respondents have a reasonable basis for such representation at the time it is made, including documentation of competent and reliable scientific tests or other objective data of statistical validity.

B. Making any claims or statements orally, visually, in writing, or in any other manner, directly or by implication, as to the safety of any

transportation device or vehicle, unless respondents have a reasonable basis for such claim or statement at the time it is made, which may consist of documentation of competent and reliable scientific tests or other objective data of statistical validity.

Provided, however, That mere visual depiction of a product, device or vehicle in operation, without more, shall not be deemed a representation, claim or statement as to safety within the meaning of the above Paragraphs A and B.

It is further ordered, That respondent Yamaha International Corporation shall, not later than sixty (60) days after service upon it of this order, send a letter in the form annexed hereto as Letter "A" to each person known to have participated in any way in a Yamaha Learn-To-Ride seminar during the year 1973. Mailing by first class mail to the last known address of each such person shall comply with this requirement.

It is further ordered, That respondents maintain complete business records relative to the manner and form of their compliance with this order. Respondents shall retain each such record for at least three years, and shall retain substantiation and other documentation at least two years beyond the last dissemination of any representation, claim, or statement contingent thereon under the provisions of this order. Upon reasonable notice, respondents shall make any and all such records available for inspection and photocopying by authorized representatives of the Federal Trade Commission at respondents' place of business or other properly designated location.

It is further ordered, That respondents forthwith distribute a copy of this order to each of their operating divisions, and to all personnel now or hereafter engaged in any aspect of the preparation, creation or placing of advertising of transportation devices or vehicles.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in a corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in said corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondents shall, within 60 days after service upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

LETTER A

YAMAHA INTERNATIONAL CORPORATION

Dear Learn-To-Ride Participant:

A recent survey financed by our corporation revealed that a considerable number of the persons who attended our Learn-To-Ride program believe that, with proper instruction, they can be just as safe riding a motorcycle as in an automobile.

As one of the leading vendors of motorcycles in the United States, and because of our concern for the safety of all motorcycle owners and riders, we feel it is important to correct this erroneous and potentially hazardous belief. Although the motorcycle's maneuverability helps in avoiding accidents, and training can certainly help make you a safer rider, all presently available statistics show a substantially higher likelihood of accidental death or serious injury for the motorcyclist than for the automobile driver.

In other words: No matter how thorough your training, in the event you become involved in an accident you will be less safe from injury while riding a two-wheel vehicle weighing several hundred pounds than when riding in an enclosed four-wheel vehicle of one to two tons.

We believe that by making this fact clear to all who participated in our Learn-To-Ride program, we can contribute to their future safety as motorcycle operators.

IN THE MATTER OF

TEAC CORPORATION OF AMERICA

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2752. Complaint, Oct. 24, 1975—Decision, Oct. 24, 1975

Consent order requiring a Montebello, Calif., supplier of high fidelity audio components, among other things to cease fixing resale prices of its products; fair trading its products for five years; suggesting resale prices for two years; withholding earned advertising allowances from, or refusing to sell to, price-cutting dealers; requiring dealers to report price-cutters; and imposing customer restrictions upon dealers.

Appearances

For the Commission: *Laura P. Worsinger and Elliot Feinberg.*

For the respondent: *David B. Schulman, Prince, Schoenberg, Fisher, Newman & Schulman, Chicago, Ill.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the party identified in the caption hereof, and more particularly described and referred to hereinafter as respondent, has violated and is now violating the provisions of Section 5 of the Federal Trade Commission Act, (15 U.S.C. § 45), and it appearing that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent TEAC Corporation of America is a