Harmony Juvenile Products
Third Partial Response to July 20, 2020 Information Request (AQ 20-001)

August 31, 2020

This Third Partial Response to the Agency's July 20, 2020 Information Request regarding Audit Query (AQ) 20-001 is submitted on behalf of Harmony Juvenile Products (Harmony). On August 17, 2020 and August 25, 2020, Harmony submitted partial responses to the Information Request. This Third Partial Response includes Harmony's responses to Request Nos. 24 through 28 and completes Harmony's response to the Information Request.

This response was prepared pursuant to a diligent search for the requested information. The scope of Harmony's search for responsive information focused on the locations where responsive information is most likely to be maintained and on review of Harmony files in which responsive information ordinarily would be expected to be found and to which Harmony ordinarily would refer. Harmony notes that although electronic information was included within the scope of its search, it has not attempted to retrieve from computer storage electronic files that were overwritten or deleted.

To the extent that the Agency's definition of Harmony Juvenile Products includes suppliers and contractors for which Harmony does not exercise day-to-day operational control, we note that information belonging to such entities ordinarily is not in Harmony's possession, custody, or control. Similarly, we note that information belonging to distributors and retailers is not in Harmony's possession, control, or custody.

Harmony is providing responsive information only insofar as such information is not subject to the attorney-client privilege or attorney work product.

Responses to NHTSA's Request Nos. 30 through 32

Responses to the Agency's Requests are set forth below. As requested, after each numeric designation, we have set forth verbatim the request for information, followed by our response. Unless otherwise stated, Harmony has undertaken to provide responsive documents dated up to and including August 14, 2020.

Request No. 30

Describe in detail Harmony's process for identifying and submitting manufacturer communications to NHTSA under 49 C.F.R. § 579.5. State whether Harmony has made any changes to that process during the prior five years, and if yes, describe the changes;

a. Produce copies of any written processes, policies, or procedures identified in response to Request No. 30; and

b. Identify each manufacturer communication sent by Harmony at any time from January 1, 2013, through the present; and

i. For each such manufacturer communication, state whether it was previously submitted to NHTSA under 49 C.F.R. § 579.5; and,

ii. *If it was submitted to NHTSA, state the date on which it was submitted to NHTSA.*

Response to Request No. 30

Prior to July 20, 2020, the date of this information request, Harmony did not have *written* procedures for reviewing certain communications to determine whether they triggered the reporting requirements of 49 CFR 579.5. All significant communications, which would include any documents (including letters, e-mails, and other electronic communications sent to more than one dealer, owner, distributor, or other third party) would be reviewed by Harmony's President, Senior Vice President, or head of customer service. Harmony's Senior Vice President and the head of customer service's review of these communications include determining whether they fall within the reporting requirements of 49 CFR 579.5. Harmony has made no changes to this process during the prior five years.

In preparing this response, Harmony has formalized this process with a written protocol, which Harmony is providing with a request for confidential treatment, which has been submitted to Office of the Chief Counsel as Exhibit 1 (Harmony Juvenile Products 49 CFR 579.5 Compliance Protocol – CONFIDENTIAL BUSINESS INFORMATION.pdf).

With respect to subpart (b) of Request No. 30, Harmony interprets the phrase "each manufacturer communication sent by Harmony at any time from January 1, 2013, through the present" to refer to communications that fall within the requirements of 579.5(a) and 579.5(b), which does not cover all communications sent by Harmony at any time from January 2, 2013, through the preset. Under 579.5(a), manufacturers shall furnish:

> a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax, or other electronic means and including warranty and policy extension communiqués and product improvement bulletins) other than those required to be submitted pursuant to §573.6(c)(10) of this chapter, sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety-related.

Under 579.5(b), manufacturers shall furnish:

> a copy of each communication relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment, that the manufacturer issued to, or made available to, more than

> one dealer, distributor, lessor, lessee, other manufacturer, owner, or purchaser, in the United States.

NHTSA defines the phrase "Customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment" as:

> any communication by a manufacturer to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, or owner, whether in writing or by electronic means, relating to repair, replacement, or modification of a vehicle, component of a vehicle, item of equipment, or a component thereof, the manner in which a vehicle or child restraint system is to be maintained or operated (excluding promotional and marketing materials, customer satisfaction surveys, and operating instructions or owner's manuals that accompany the vehicle or child restraint system at the time of first sale); or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

See 49 CFR 579.4(c).

With respect to the January 1, 2013 timeframe, Harmony's records are subject to a six-year record-retention policy. Harmony is not likely to have records of communications beyond this six-year window. Harmony reviewed the files and systems likely to contain communications that fall within the meaning of 49 CFR 579.5(a) and 579.5(b).[1] Based on these searches, Harmony did not locate any responsive communications.

Request No. 31

Describe in detail Harmony's process for identifying and reporting to NHTSA safety recalls and other safety campaigns in a foreign country under 49 C.F.R. § 579.11. State whether Harmony has made any changes to that process during the prior five years, and if yes, describe the changes;

a. Produce copies of any written processes, policies, or procedures identified in response to Request No. 31; and

b. Identify, by initiation date, country, recall or campaign number, and the equipment, population, and defect or noncompliance at issue, each safety recall or other safety campaign in a foreign country involving Harmony child restraint systems that are or was identical or substantially similar to child restraint systems sold or offered for sale in the United States from January 1, 2013, through the present; and

i. For each such safety recall or other safety campaign, state whether Harmony provided notice to NHTSA under 49 C.F.R. § 579.11; and

[1] Harmony also did not conduct forensic searches of information systems that could have potentially contained written communications that fall within the meaning of Part 579.5.

ii. *If Harmony provided notice to NHTSA under 49 C.F.R. § 579.11, state the date on which it provided that notice to NHTSA.*

Response to Request No. 31

Prior to July 20, 2020, the date of this information request, Harmony did not have *written* procedures for reviewing certain communications to determine whether they triggered the reporting requirements of 49 CFR 579.11. The determination to conduct a safety-related recall, noncompliance campaign, or other safety campaign involves Harmony's President and Senior Vice President. In reviewing these campaigns, Harmony's Senior Vice President would determine whether the campaign should be reported under 49 CFR 579.11. Harmony has made no changes to this process during the prior five years.

In preparing this response, Harmony has formalized this process with a written protocol, which Harmony is providing with a request for confidential treatment, which has been submitted to the Office of the Chief Counsel as Exhibit 2 (Harmony Juvenile Products 49 CFR 579.11 Compliance Protocol – CONFIDENTIAL BUSINESS INFORMATION.pdf).

With respect to identifying foreign recalls or other safety campaigns involving child restraint systems that are identical or substantially similar to products sold or offered for sale in the United States, Harmony interprets this request as seeking foreign recalls or other safety campaigns that are not exempt from the reporting requirements under 49 CFR 579.11(d). Based on this understanding, since January 1, 2013, Harmony did not conduct any foreign recalls or other safety campaigns that have or should have been reported to NHTSA. With respect to the campaigns that NHTSA describes as Canadian Recalls Nos. 1 through 4, Harmony refers to its initial Partial Response to this information request (submitted on August 17, 2020) and its Second Partial Response to this information request (submitted on August 25, 2020) for Harmony's discussion on the reportability to NHTSA.

Request No. 32

Describe in detail Harmony's process for identifying, reporting, and submitting to NHTSA all information (including but not limited to death and injury reports and copies of non-dealer field reports) required to be provided to NHTSA under 49 C.F.R. § 579.25. State whether Harmony has made any changes to that process during the prior five years, and if yes, describe the changes;

a. *Produce copies of any written processes, policies, or procedures identified in response to Request No. 32; and*

b. *Identify all claims or notices regarding any incident involving one or more deaths or injuries occurring in the United States that were received by Harmony during the period January 1, 2013, through the present; and*

i. For each such claim, state whether it was referenced in a report submitted by Harmony to NHTSA under 49 C.F.R. § 579.25(b)(1); and

ii. If the claim or notice was referenced in a report submitted by Harmony to NHTSA under 49 C.F.R. § 579.25(b)(1), state the date the report was submitted to NHTSA.

c. Identify all non-dealer field reports received by Harmony during the period January 1, 203, through the present; and

i. For each such non-dealer field report, state whether Harmony submitted a copy to NHTSA under 49 C.F.R. § 579.25(d); and

ii. If Harmony submitted a copy to NHTSA under 49 C.F.R. § 579.25(d), state the date on which it submitted the copy to NHTSA.

Response to Request No. 32

a. Prior to July 20, 2020, the date of this information request, Harmony had an informal written procedure for identifying, reporting, and submitting information (including but not limited to death and injury reports and copies of non-dealer field reports) to NHTSA under 49 CFR 579.25. Harmony is providing a copy of this procedure, which has been submitted with a request for confidential treatment to the Office of the Chief Counsel as Exhibit 3 (Harmony EWR and DI Reporting Update and Responsibilities – CONFIDENTIAL BUSINESS INFORMATION.pdf).

In preparing this response, Harmony has enhanced its process with a revised written protocol, which Harmony is providing with a request for confidential treatment to the Office of the Chief Counsel as Exhibit 4 (Harmony Juvenile Products 49 CFR 579.25 Compliance Protocol – CONFIDENTIAL BUSINESS INFORMATION.pdf). This written process describes the prior unwritten process followed by Harmony. Approximately two years prior to the July 20, 2020 information request, Harmony changed its previous unwritten process. Under the prior practice, Harmony's Senior Vice President was solely responsible for Harmony's compliance with 49 CFR 579.25, whereas the current policy assigns a "captain" to investigate a specific injury or death allegation.

b. With respect to identifying all claims or notices regarding deaths or injuries in the United States that were received by Harmony from January 1, 2013 to the present, Harmony submits the following:

Claim/Notice	Model	Model No.	Incident Date	Deaths	Injuries	Reported to NHTSA
Meads	Literider	0304003	2010-06-14	0	2	2Q2013*
Gomez	Literider	0304003	2012-09-02	1	0	2Q2013*
TGT1	Cruz	0304007	2013-03-22	0	1	5/24/13

TGT2	Cruz	0304007	2013-05-20	0	1	7/17/2013
Williams	Youth Booster	0304003	2012-07-31	1	0	10/31/2014
Stephens	Dreamtime 2 Deluxe Comfort Booster	0303007	2016-09-14	1	0	11/20/2019 (See Harmony's Initial Partial Response submitted on August 17, 2020)

[*] *Harmony has been unable to determine the precise date of the initial report for these incidents, but these incidents were reported to NHTSA no later than Harmony's 2Q2013 EWR report.*

c. With respect to non-dealer field reports received by Harmony during the period January 1, 2013, through the present, Harmony is a small manufacturer located in Canada, and the vast majority of Harmony's products offered for sale in the United States are sold to retailers as the direct importer (*i.e.*, the retailer purchases and takes delivery of the products directly from the factory in Ningbo, China and the retailer imports the product into the United States). Harmony does not have personnel in the United States, nor does it routinely send personnel to investigate field issues. Accordingly, Harmony does not in the ordinary course generate field reports. Nonetheless, Harmony has searched information systems and employees' files that would reasonably be anticipated to contain such reports (if such reports existed) and did not locate any field reports from January 1, 2013 to the date of this submission. Note that Harmony's records are subject to a six-year record-retention policy.

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