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CLIENT/MATTER NUMBER
111224-0101

September 24, 2021

Via NHTSA's Secure FTP

Ann Carlson
Chief Counsel
National Highway Traffic Safety Administration
W41-227
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Triumph Motorcycles Limited (UK) – Request for Confidential
Treatment for Submission of Information to Support Triumph
Motorcycle (America) Limited's Response to July 28, 2021
Information Request – PE21-017

Dear Ms. Carlson:

This letter serves as the request for confidential treatment by Triumph Motorcycles Limited (UK) (TML) with respect to the enclosed documents. TML is voluntarily submitting this information to support the response to the Agency's July 28, 2021 Information Request in the above-referenced investigation by Triumph Motorcycles (America) Limited (TMA), the U.S. importer of the subject motorcycles. For the Agency's reference, TMA also submitted a request for confidential treatment for the confidential portions of its response.

In accordance with 49 C.F.R. Part 512.5, TML is submitting the confidential portions of its response with the file names and content of these files marked "CONFIDENTIAL BUSINESS INFORMATION." These files contain detailed product testing and analysis. Also enclosed is a Certificate in Support of Confidentiality. To facilitate social distancing due to COVID-19, NHTSA is treating electronic submissions, using email or secure File Transfer Protocol (FTP), as an acceptable method for submitting confidential business information. *See* <https://www.nhtsa.gov/coronavirus/submission-confidential-business-information>. Because the information is being submitted via NHTSA's secure FTP site, TML included a single file as the confidential copy of the response.

As set forth below, TML requests confidential treatment for the enclosed materials on the grounds that they contain trade secrets and/or confidential, proprietary information that would likely subject TML to substantial harm if disclosed. *See* 49 C.F.R. § 512.3(c)(1) and (2); *National*

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Parks & Conservation Ass'n v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974) (“commercial or financial matter is ‘confidential’ . . . if disclosure of the information is likely to . . . cause substantial harm to the competitive position of the person from whom the information was obtained.”); *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983) (a trade secret is a “secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort”); *Center for Auto Safety v. Nat’l Hwy. Traffic Safety Admin.*, 93 F. Supp. 2d 1, 16 (D.D.C. 2000), *remanded for further proceedings*, 244 F.3d 144 (D.C. Cir. 2001) (air bag specifications representing “years of research and development and enormous financial investment” not subject to FOIA disclosure).

Release of this information would give competitors detailed and commercially valuable information regarding TML’s product design and quality testing and analysis. Specifically, TML seeks confidential treatment for testing and design information related to the braking performance in motorcycles covered in the above referenced investigation. This testing information includes detailed performance metrics, product design information, and analysis.

This information was developed as a result of TML’s extensive engineering, research, and development efforts and involved significant financial investment. As the Agency is aware, the automotive industry is highly competitive and closely guards against public disclosure of such information. Disclosure of this information would provide TML’s competitors valuable information concerning its product testing and manufacturing processes. Such disclosure would, in turn, compromise TML’s competitive position by, among other things, reducing or eliminating its competitors’ investment of time and resources in improving their products. Accordingly, TML requests that this information be granted confidential treatment under National Parks for an indefinite period of time.

Please contact me if you have any questions or need additional information.

Sincerely,

Christopher H. Grigorian

CHG:krb

Enclosures

cc: Peter Kivett (NHTSA ODI)
Sean Ward (NHTSA NCC)
R. Nicholas Englund (Foley & Lardner LLP)
Charles Smart (TML)

Certificate in Support of Request for Confidentiality

I, Charles Smart, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

(1) I am Head of Department, Claims Management, for Triumph Motorcycles Limited (UK) (TML) and I am authorized to execute this certificate on behalf of TML.

(2) I certify that the information accompanying this confidential treatment request is confidential and proprietary and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. § 552(b)(4).

(3) I hereby request that the information be protected indefinitely.

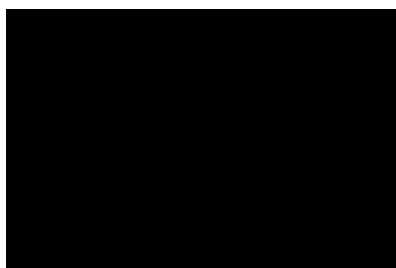
(4) This certification is based on the information provided by the responsible TML personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside TML.

(5) Based upon that information, to the best of my knowledge, information and belief, TML does not customarily release this information to the public. Further, the information for which confidential treatment is being sought has never been released or become available outside TML, with exception of being shared within the scope of confidential relationships.

(6) I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside TML because of unauthorized or inadvertent disclosure (except as stated in paragraph 5).

(7) I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 24th day of September, 2021

A large black rectangular redaction box covering the signature area.

**Charles Smart
Head of Department
Claims Management
Triumph Motorcycles Limited (UK)**