

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Lina M. Khan, Chair  
Rebecca Kelly Slaughter  
Christine S. Wilson  
Alvaro M. Bedoya

In the Matter of )  
)  
)

CIVIL INVESTIGATIVE DEMAND TO )  
ACIA17 Automotive, Inc. and ACIA ACQ Corp. )  
d/b/a Leader Automotive Group )  
DATED DECEMBER 21, 2022. )

File No. 232-3004

ORDER DENYING PETITION TO MODIFY, LIMIT,  
OR QUASH CIVIL INVESTIGATIVE DEMAND

By BEDOYA, Commissioner:

ACIA17 Automotive Inc. and ACIA ACQ Corp. d/b/a Leader Automotive Group (collectively hereafter “Leader”) petition the Commission (a) to extend by 30 days the deadline to file, if necessary, a more detailed petition to limit or quash the FTC’s Civil Investigative Demand, *see* Pet. Ex. 1 (“CID”), served on Leader on December 27, 2022, or in the alternative (b) to quash or limit the CID. The Commission served the CID in connection with the Commission’s investigation into whether Leader has engaged in unfair or deceptive practices with respect to the marketing, sale, and financing of automobiles in violation of Section 5 of the FTC Act and the Equal Credit Opportunity Act (“ECOA”). For the reasons set forth below, we deny Leader’s petition.

**I. Background**

Leader owns and operates ten automobile dealerships in Illinois selling a variety of vehicle makes including Kia, Hyundai, Honda, Chevrolet, Toyota, Chrysler, Dodge, Jeep, and Ram. In the past two years, the Leader dealerships have sold more than 30,000 new and used automobiles. Pet. at 2–3.

In November 2022, the Commission initiated an investigation into whether Leader has engaged in violations of the FTC Act and ECOA. In particular, the Commission sought to determine whether Leader’s auto sales and lending practices constituted unfair or deceptive practices or reflected discrimination on a prohibited basis—resulting in higher vehicle sales

prices, periodic payments, “add-on” charges, or other harm to consumers.<sup>1</sup> On December 21, 2022, the Commission issued a CID to Leader seeking responses to interrogatories as well as the production of documents and data. The CID defines Leader to include its ten automobile dealerships, *see* CID at 12, and requests information related to Leader’s financing and add-on practices, data regarding Leader’s auto financing transactions, and consumer complaints, among other documents and information. *See id.*, CID at 2–5 (interrogatories), 6–8 (documents), 8–11 (data). The CID’s specified time period is April 1, 2018, through compliance with the CID, *id.* at 2, except that the time period for deal packets is January 1, 2021, through compliance with the CID, *id.* at 6.

The Commission served the CID on Leader via email on December 27, 2022. Pet. at 1.<sup>2</sup> That day, Leader’s lead U.S. counsel, Ira M. Levin, notified FTC staff that he was on vacation out of town until January 9, 2023, and Mr. Levin and FTC staff agreed to meet and confer on January 10, 2023. *Id.* He also agreed to attempt to provide staff with a proposed production schedule by January 10, 2023. Pet. Ex. 2 at 1. On January 2, 2023, Mr. Levin confirmed his representation of Leader and the meet and confer appointment, copying two other lawyers in his firm, Elizabeth M. Pall and Joshua J. Cauhorn. Pet. Ex. 2 at 4.

During the January 10 meet and confer, Leader raised several concerns with the CID, including that some requests seemed overbroad and unduly burdensome, possibly disrupting Leader’s business. *See* Pet. at 2. FTC staff clarified the scope of certain requests while observing that many documents and much of the data appeared to be maintained electronically, suggesting that the burden claims were overstated. Leader did not produce a proposed production schedule by January 10.

Writing on behalf of Leader on January 12, Ms. Pall stated that Leader hoped to provide a production schedule the week of January 16. Pet. Ex. 2 at 2. In addition, Ms. Pall requested a two-week extension of the deadline to file a petition to quash the CID, which by Commission rules was set for January 17, 2023, *see* 16 C.F.R. §§ 2.10(a)(1), 4.3(a). Pet. Ex. 2 at 2. In support of the request, Ms. Pall stated that an extension “will give us more time to continue to discuss the production schedule and potential means of limiting some of the requests . . . .” *Id.* FTC staff denied the request on January 13, explaining that extensions are not granted absent extraordinary circumstances and that Leader’s request had articulated no reason warranting an extension. *Id.* at 1. FTC staff expressed its willingness to continue to negotiate about the CID’s scope and a production schedule. *Id.*

Leader filed its petition to modify, limit, or quash the CID on January 16. Pet. at 10. At that time, Leader had not provided FTC staff with a proposed production schedule, while producing just a handful of documents and virtually none of the requested data.

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<sup>1</sup> “Add-ons” are additional products or services not provided by the vehicle manufacturer, for which Leader charges consumers a fee. *See* Pet. Ex. 1, CID at 11–12.

<sup>2</sup> Commission records indicate that Leader received the CID by FedEx on December 28, 2022.

## II. Analysis

### A. There Is No Good Cause To Extend The Petition To Quash Deadline.

Leader first requests a 30-day extension of the date by which it must file a petition to quash or limit the CID. Pet. at 4–5. The Commission’s rules require petitions to quash or modify compulsory process to be filed within 20 days of service. 16 C.F.R. § 2.10(a)(1). That timeline exists to facilitate efficient investigations of potentially unlawful practices. CIDs such as the one directed to Leader issue only if there is reason to believe that the recipient may have information or documents relevant to unfair or deceptive practices. See 15 U.S.C. § 57b-1(c). CIDs enable Commission staff to obtain information needed to investigate potentially unlawful conduct, which may be significantly harming consumers. The 20-day period ensures that disputes regarding a CID’s validity or scope are promptly presented to the Commission for resolution, which in turn enables the staff investigation to proceed efficiently and without delay—or to be adjusted as needed depending on the Commission’s ruling.

As a threshold matter, Leader has failed to provide a factual basis for its petition. Mere statements by counsel in a brief do not suffice, because a petition to quash must include “all appropriate arguments, affidavits, and other supporting documentation.” 16 C.F.R. § 2.10 (a)(1). Other than the petition, the CID, and emails exchanged between counsel to Leader and FTC staff, Leader provided none of required factual support for its claims. The Commission routinely denies petitions to quash that lack an adequate evidentiary basis.<sup>3</sup> As the Supreme Court has explained, recipients challenging FTC compulsory process must “ma[ke] a record that would convince us of the measure of their grievance rather than ask us to assume it.” *United States v. Morton Salt Co.*, 338 U.S. 632, 653–54 (1950) (rejecting as inadequate “mere assertions in . . . briefs”); see also *EEOC v. Md. Cup Corp.*, 785 F.2d 471, 477 (4th Cir. 1986) (mere “conclusory allegations . . . do not constitute evidence” that could show that an administrative subpoena is unduly burdensome).

Leader’s request for an extension is premised on the need for additional time to negotiate with FTC staff “a reasonable timeline for production on an agreed scope of documents and information” and to “reasonably work through all potential issues as to the tens of thousands of transactions for which the FTC seeks documentation and information.” Pet. at 2. The Commission applies a “good cause” standard to requests to extend the time to file a petition to quash. See *In re Civil Investigative Demand to Liberty Auto City, Inc.*, dated April 12, 2022, FTC File No. 222-3077, at 3 (June 13, 2022). Although certain FTC officials possess “the authority to rule upon” such “requests for extensions of time,” 16 C.F.R. § 2.10(a)(5), the decision whether to grant an extension rests within the sound discretion of those officials. Setting aside Leader’s

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<sup>3</sup> See, e.g., *In re October 30, 2013 Civil Investigative Demand Issued to HealthyLife Sciences, LLC*, FTC File No. 122-3287 (Dec. 20, 2013), at 2 (rejecting claim of undue burden where CID recipient “has not provided any affidavits or other evidence” to establish that burden); *In re February 11, 2014 Civil Investigative Demand Issued to Ziegler Supersystems, Inc.*, FTC File No. 131-0206 (Apr. 21, 2014), at 10–11 (noting that CID recipient must make a factual record to support a claim of undue burden); *In re January 16, 2014 Civil Investigative Demand Issued to The College Network, Inc.*, FTC File No. 132-3236 (Apr. 21, 2014), at 8, 11 (denying petition to quash CID specification where recipient provided “no factual support” for its claimed burden).

failure to provide evidence in support of its petition, we find that neither Leader's request to FTC staff nor the petition itself supplies good cause to extend the deadline.

The grounds for challenging a Commission CID are limited to whether the agency has exceeded its authority, whether CID itself is "too indefinite," whether "the information sought is reasonably relevant," and whether, on the whole, the CID is "not . . . unreasonable." *Morton Salt Co.*, 338 U.S. at 652–63. Leader has provided no evidence as to why it needs an extension to assess whether the CID satisfies the *Morton Salt* requirements. Indeed, it does not even assert that it needs more time to make this assessment. Leader's January 12, 2023, email in which Ms. Pall requested an extension gives no reason for why Leader could not meet the petition deadline. Rather, it simply states that more time will allow continued negotiation regarding the production schedule and the scope of the CID. Pet. Ex. 2 at 2. In its petition, Leader suggests that two of its lawyers were unavailable for portions of the time established by the Commission rules for deciding whether to file a petition to quash, Pet. at 2, 5, but provides no evidence, such as an affidavit, demonstrating that the time available did not suffice for those or other lawyers to determine whether Leader should petition to quash and prepare such a petition. Nor did Leader provide evidence that it was diligent in making its assessment of whether to file a petition. See *Capitol Sprinkler Inspection, Inc. v. Guest Servs., Inc.*, 630 F.3d 217, 226 (D.C. Cir. 2011) (finding good cause to extend deadlines when the party seeking relief can "show that the deadlines cannot reasonably be met despite [the party's] diligence" (cleaned up)). Indeed, Leader's repeated failures to provide FTC staff with a proposed production schedule suggest a lack of "diligence." *Id.*

The thrust of Leader's request is not that Leader needs more time to determine whether the CID as issued warrants quashing but instead that it cannot decide whether to petition to quash until it knows if its negotiations with staff will address "Leader's concerns by narrowing the scope of and clarifying the CID." Pet. at 5. But Leader's desire to know the outcome of those negotiations does not provide good cause for an extension. If the CID, as issued, is unreasonable, the Commission rules require that a petition to quash be filed "within 20 days" of service. 16 C.F.R. § 2.10(a)(1). An extension to permit negotiations with FTC staff to narrow and clarify its scope will not diminish the reasonableness of the CID, and thus the outcome of those negotiations cannot provide good cause for an extension where none existed in the first place. If the CID, as issued, is not unreasonable, neither is one that is narrowed and clarified.

In any event, Leader has obtained more time to engage in negotiations with FTC staff. Because the timely filing of a petition to quash or limit Commission compulsory process "shall stay the remaining amount of time permitted for compliance," 16 C.F.R. § 2.10(b), the original return date for the CID, here, January 20, 2023, has effectively been extended by the filing of Leader's petition. The Commission urges Leader to negotiate diligently and in good faith to meet the new production deadline set below or as FTC staff may modify it hereafter.

#### **B. The CID Is Not Unduly Burdensome Or Unreasonable.**

Leader also requests, in the alternative, that the Commission limit or quash the CID because, Leader asserts, the CID (1) "was not properly served" and (2) is "objectionably overbroad," "excessive and threaten[s] to unduly disrupt or seriously hinder Leader's business operations." Pet. at 6, 7. We deny this request, too.

First, the Commission properly served the CID on Leader. Its petition, however, contends that at the January 10 meet and confer Leader’s counsel “learned for the first time that the interrogatories, document requests, and data requests set forth in the CID were intended to be directed to the ten (10) automobile dealerships operated through AutoCanada Holdings” in the United States. Pet. at 6. That claim is unsupported. The CID defines ACIA17 Automotive, Inc. and ACIA ACQ Corp., d/b/a Leader Automotive Group as the “Company” to which the CID is directed, and “Company” includes “wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates . . . .” CID at 12. Thus, by definition the CID is directed to the ten automobile dealerships. Further, the CID’s specifications include numerous requests making clear that they apply to Leader’s dealerships, including Interrogatory 1(g), asking that Leader state “the names and addresses of all dealerships operated by the Company in the United States” and numerous other interrogatories that explicitly apply to all “dealerships” (e.g., CID Interrogatories 9–11, 14, 15, 17, 18, and 20). CID at 2–5. It is untenable to maintain that the CID could be read as not applying to Leader’s dealerships. Nor does Leader dispute that it received the CID via both email, which is confirmed by Mr. Levin’s January 2, 2023, email to the FTC, *see* Pet. Ex. 2 at 4, and the FedEx receipt on file with the Commission’s Office of the Secretary.

Second, the CID is not “objectionably overbroad” and “excessive” and does not “threaten to unduly disrupt or seriously hinder Leader’s business operations.” Pet. at 6–7. Agency process is not unduly burdensome unless compliance “threatens to unduly disrupt or seriously hinder normal operations” of the recipient’s business. *FTC v. Texaco, Inc.*, 555 F.2d 862, 882 (D.C. Cir. 1977) (en banc). Of course, “[s]ome burden on subpoenaed parties is to be expected and is necessary in furtherance of the agency’s legitimate inquiry and the public interest.” *Id.* Accordingly, the test for undue burden “is not easily met.” *Id.*; *see also Md. Cup*, 785 F.2d at 477, 479. Leader has not made the required showing.

Leader cites the number of the CID’s interrogatories (25, or 72 with subparts), document requests (17, or 19 with subparts), and data requests (2, one with 54 and the other with 85 subparts). Pet. at 7. As an initial matter, the number of requests or volume of responsive documents alone does not show undue burden. *See, e.g., In re March 19, 2014 Civil Investigative Demand Issued to Police Protective Fund, Inc.* (“PPF”), FTC File No. 132-3239 (May 22, 2014) (“[A] ‘sheer volume of requests’ does not itself establish that the CID is overbroad or imposes undue burden.”); *FDIC v. Garner*, 126 F.3d 1138, 1145–46 (9th Cir. 1997) (mere fact that a subpoena called for thousands of financial documents and one million other documents was not sufficient to establish undue burden); *FTC v. Jim Walter Corp.*, 651 F.2d 251, 258 (5th Cir. 1981) (“[a]bsent a showing of disruption, the sheer number of documents sought does not demonstrate” undue burden). Indeed, the numbers are comparable to those the Commission finds reasonable in *Liberty Auto City, Inc.*, FTC File No. 222-3077, at 4. Moreover, the numbers are entirely reasonable given the nature of the investigation and size of Leader’s business. *See* Pet. at 3 (noting that Leader sells over 15,000 vehicles per year). Further, the CID’s requests are limited in time, and are tailored to provide the agency with specific information about Leader’s add-on sales and procedures and its financing practices—areas plainly relevant to assessing compliance with the fair lending and consumer protection laws at issue. *See Texaco*,

555 F.2d at 882 (recognizing that subpoenas were “broad in scope” but finding that breadth necessary to match the FTC’s “comprehensive” investigation).<sup>4</sup>

Nor does Leader provide any affidavits or other factual documentation to support its conclusory claim that complying with the CID will “unduly disrupt or seriously hinder” its operations. Pet. at 7. A CID recipient bears the burden to show how a CID interferes with its ability to operate its business. *See Garner*, 126 F.3d at 1146 (rejecting claim of undue burden where recipient failed “to enunciate how these subpoenas constitute a ‘fishing expedition’”); *see also FTC v. Standard Am., Inc.*, 306 F.2d 231, 235 (3d Cir. 1962) (finding no undue burden where subpoena recipients “did not adduce a single shred of evidence” to support their claim that compliance would result in “the virtual destruction of a successful business”); *Texaco*, 555 F.2d at 882. The conclusory statements Leader advances “do not constitute evidence that the company’s normal operations will be seriously disrupted” by producing the requested material.” *Maryland Cup*, 785 F.2d at 477; *see also Doe v. United States (In re Admin. Subpoena)*, 253 F.3d 256, 268–69 (6th Cir. 2001) (finding insufficient recipient’s “general and conclusory statement” regarding burden).

Finally, Leader argues that the CID is unduly burdensome because responding to it will require engaging a “third-party discovery vendor to process and prepare the information” requested by the CID. Pet. at 7. As the D.C. Circuit explained in another FTC matter, “[t]he difficulty with [this] argument is that it could be made with respect to almost any investigation.” *FTC v. Invention Submission Corp.*, 965 F.2d 1086, 1090 (D.C. Cir. 1992). Such burdens fall within the ordinary, reasonable costs that attend any government investigation and do not make the CID unduly burdensome. *See id.*; *see also Texaco*, 555 F.2d at 882 (“Some burden on subpoenaed parties is to be expected and is necessary in furtherance of the agency’s legitimate inquiry and the public interest.”). As we have previously explained, it is not enough merely to assert that a CID request “is overbroad and burdensome and that ‘gathering, copying, and scanning all documents and responses [to the CID] would take a significant amount of time and resources that the organization simply does not have.’”<sup>5</sup> *PPF*, FTC File No. 132-3239, at 7. Those assertions need to be supported with competent evidence that makes a specific showing of severe business disruption. *See id.* (noting that “a blanket objection” does not suffice, and that a CID recipient must show that a request is “highly disruptive”).

Nor has Leader shown that the cost of such efforts is too high “relative to the financial positions” of the company when “measured against the public interest of this investigation.” *FTC v. Carter*, 464 F. Supp. 633, 641 (D.D.C. 1979), *aff’d*, 636 F.2d 781 (D.C. Cir. 1980); *see also*

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<sup>4</sup> Leader does not seriously dispute that the information sought is relevant. The final sentence of the Petition asserts that the CID’s requests are “irrelevant,” Pet. at 8, but the Petition contains no elaboration or evidence supporting this claim. The Commission has no obligation to consider such a throwaway claim, which is unsupported and wrong in any event.

<sup>5</sup> To the extent the asserted burdens stem from Leader’s own document practices such burdens “cannot excuse” Leader from compliance with the CID. *See, e.g., Letter Ruling re Civil Investigative Demands Issued to D. R. Horton, Inc. and Lennar Corp.*, FTC File Nos. 102-3050 & 102-3051 (Mar. 9, 2010), at 6 (“Burden caused by Petitioners’ own organizational design cannot excuse them from compliance with the CIDs.”).

*Md. Cup*, 785 F.2d at 479 (holding that the cost of compliance is not unduly burdensome “in the light of the company’s normal operating costs”). In fact, Leader has provided no information about its financial position, human resources, or other capabilities relevant to complying with the CID, giving us no factual basis to conclude that the burden on the company is undue.

Moreover, as Leader acknowledges, Commission staff have repeatedly expressed willingness to further narrow or limit some of the CID’s requests, including in light of Leader’s concerns. *See* Pet. at 3, 4. Again, the Commission urges Leader to engage with FTC staff who, we are confident, will seek to accommodate any reasonable requests that are consistent with the needs of the investigation.

### III. CONCLUSION

For the foregoing reasons, Leader’s petition to quash is denied.

**IT IS HEREBY ORDERED THAT** Leader Automotive Group’s Petition to Modify, Limit or Quash the December 21, 2022, Civil Investigative Demand be, and hereby is, **DENIED**.

**IT IS FURTHER ORDERED THAT** Leader shall comply in full with the Commission’s Civil Investigative Demand no later than **Friday, March 10, 2023, at 9:00 a.m. (Central Time)**, or at such other later date, time, and location as the Commission staff may determine.

By the Commission.

April J. Tabor  
Secretary

SEAL:  
ISSUED: February 27, 2023