



OFFICE OF THE SECRETARY

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VIA FACSIMILE AND EXPRESS MAIL

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colds, and sore throats. The Commission is investigating whether any of Petitioner's claims and practices are deceptive and, therefore, constitute violations of Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 52. as amended.

resolution authorizing investigations of Internet Advertisers, Sellers, and Promoters, the Commission issued a subpoena *duces tecum* to the Petitioner. The Subpoena requests various documents, including sales figures, product labels, and advertising materials. The two specifications at the heart of this Petition call for (1) documents constituting the basis of evidence relied upon to substantiate Petitioner's claims regarding the products advertised on the Targeted Medical Foods web site, and (2) documentary materials that may limit or call into question those product claims.

Petitioner asks that these two specifications, numbered 1 and 2 in the Subpoena, be stricken or modified on the grounds that they are unduly burdensome. Specifically, Petitioner argues that the two specifications would require the downloading and printing of 45,000 pages of materials.

II. ANALYSIS

The issue at the heart of this investigation is whether Petitioner's claims about the

met this burden. For example, Petitioner provides no file lists, examples of files, file summaries, man-hour cost projections or business analysis affidavits of any sort to support his claim that downloading the files relating to specifications one and two in the Subpoena will “unduly disrupt

conclusory statement with no supporting evidence. Reviewing courts have found such unsupported or vague assertions of excessive burden unconvincing and inadequate to support challenges to FTC compulsory process requests.²

All compulsory process specifications require recipients to expend some effort and incur some expense. Compulsory process would be rendered useless if it could be avoided based upon nothing more than bald assertions that compliance would require the expenditure of time and resources.

III. CONCLUSION

For the foregoing reasons, the Petition is denied, and, pursuant to Rule 2.7(e), 16 C.F.R.