

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)
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)

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 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

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

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

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 dePPFPFleePle(

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

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

