

Subpart A—Inquiries; Investigations; Compulsory Processes

§ 2.1 How initiated.

Commission investigations and inquiries may be originated upon the request of the President, Congress, governmental agencies, or the Attorney General; upon referrals by the courts; upon complaint by members of the public; or by the Commission upon its own initiative. The Commission has delegated to the Director, Deputy Directors, and Assistant Directors of the Bureau of Competition, the Director, Deputy Directors, and Associate Directors of the Bureau of Consumer Protection and, the Regional Directors and Assistant Regional Directors of the Commission's regional offices, without power of redelegation, limited authority to initiate investigations. The Director of the Bureau of Competition has also been delegated, without power of redelegation, authority to open investigations in response to requests pursuant to an agreement under the International Antitrust Enforcement Assistance Act, 15 U.S.C. 6201 *et seq.*, if the requests do not ask the Commission to use process. Before responding to such a request, the Bureau Director shall transmit the proposed response to the Secretary and the Secretary shall notify the Commission of the proposed response. If no Commissioner objects within three days following the Commission's receipt of such notification, the Secretary shall inform the Bureau Director that he or she may proceed.

[48 FR 41374, Sept. 15, 1983, as amended at 50 FR 53304, Dec. 31, 1985; 65 FR 67259, Nov. 9, 2000]

§ 2.2 Complaint or request for Commission action.

(a) A complaint or request for Commission action may be submitted via the Commission's web-based complaint site (<https://www.ftccomplaintassistant.gov/>); by a telephone call to 1-877-FTC-HELP (1-877-382-4357); or by a signed statement setting forth the alleged violation of law with such supporting information as is available, and the name and address of the person or persons complained of, filed with the Office of the Secretary in conformity with § 4.2(d) of

this chapter. No forms or formal procedures are required.

(b) The person making the complaint or request is not regarded as a party to any proceeding that might result from the investigation.

(c) Where the complainant's identity is not otherwise made public, the Commission's policy is not to publish or divulge the name of a complainant except as authorized by law or by the Commission's rules. Complaints or requests submitted to the Commission may, however, be lodged in a database and made available to federal, state, local, and foreign law enforcement agencies that commit to maintain the privacy and security of the information provided. Further, where a complaint is by a consumer or consumer representative concerning a specific consumer product or service, the Commission in the course of a referral of the complaint or request, or in furtherance of an investigation, may disclose the identity of the complainant. In referring any such consumer complaint, the Commission specifically retains its right to take such action as it deems appropriate in the public interest and under any of the statutes it administers.

[77 FR 59305, Sept. 27, 2012]

§ 2.3 Policy as to private controversies.

The Commission acts only in the public interest and does not initiate an investigation or take other action when the alleged violation of law is merely a matter of private controversy and does not tend adversely to affect the public.

[32 FR 8446, June 13, 1967]

§ 2.4 Investigational policy.

Consistent with obtaining the information it needs for investigations, including documentary material, the Commission encourages the just and speedy resolution of investigations. The Commission will therefore employ compulsory process when in the public interest. The Commission encourages cooperation in its investigations. In all matters, whether involving compulsory process or voluntary requests for documents and information, the Commission expects all parties to engage in

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meaningful discussions with staff to prevent confusion or misunderstandings regarding the nature and scope of the information and material being sought, in light of the inherent value of genuinely cooperative discovery.

[77 FR 59305, Sept. 27, 2012]

§ 2.5 By whom conducted.

Inquiries and investigations are conducted under the various statutes administered by the Commission by Commission representatives designated and duly authorized for the purpose. Such representatives are “examiners” or “Commission investigators” within the meaning of the Federal Trade Commission Act and are authorized to exercise and perform the duties of their office in accordance with the laws of the United States and the regulations of the Commission. Included among such duties is the administration of oaths and affirmations in any matter under investigation by the Commission.

[45 FR 36341, May 29, 1980]

§ 2.6 Notification of purpose.

Any person, partnership, or corporation under investigation compelled or requested to furnish information or documentary material shall be advised of the purpose and scope of the investigation, the nature of the acts or practices under investigation, and the applicable provisions of law. A copy of a Commission resolution, as prescribed under § 2.7(a), shall be sufficient to give persons, partnerships, or corporations notice of the purpose of the investigation. While investigations are generally nonpublic, Commission staff may disclose the existence of an investigation to potential witnesses or other third parties to the extent necessary to advance the investigation.

[77 FR 59305, Sept. 27, 2012]

§ 2.7 Compulsory process in investigations.

(a) *In general.* When the public interest warrants, the Commission may issue a resolution authorizing the use of compulsory process. The Commission or any Commissioner may, pursuant to a Commission resolution, issue a subpoena, or a civil investigative de-

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mand, directing the recipient named therein to appear before a designated representative at a specified time and place to testify or to produce documentary material, or both, and in the case of a civil investigative demand, to provide a written report or answers to questions, relating to any matter under investigation by the Commission. For the purposes of this subpart, the term:

(1) Electronically stored information (“ESI”) means any writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any electronic medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form.

(2) “Documentary material” includes all documents, materials, and information, including ESI, within the meaning of the Federal Rules of Civil Procedure.

(3) “Compulsory process” means any subpoena, CID, access order, or order for a report issued by the Commission.

(4) “Protected status” refers to information or material that may be withheld from production or disclosure on the grounds of any privilege, work product protection, or statutory exemption.

(b) *Civil Investigative Demands.* Civil Investigative Demands (“CIDs”) shall be the only form of compulsory process issued in investigations with respect to unfair or deceptive acts or practices under section 5(a)(1) of the Federal Trade Commission Act (hereinafter referred to as “unfair or deceptive acts or practices”).

(1) CIDs for the production of documentary material, including ESI, shall describe each class of material to be produced with sufficient definiteness and certainty as to permit such material to be fairly identified, prescribe a return date providing a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction, and identify the Commission’s custodian to whom such material shall be made available. Documentary material, including ESI, for which a CID has been issued shall