

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Andrew N. Ferguson, Chairman**
 Melissa Holyoak
 Mark R. Meador

In the Matter of

**CIVIL INVESTIGATIVE DEMAND TO
MEDIA MATTERS FOR AMERICA
DATED MAY 20, 2025**

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) **File No. 251-0061**
) **PUBLIC**
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**ORDER DENYING PETITION TO QUASH
CIVIL INVESTIGATIVE DEMAND**

By FERGUSON, Chairman:

Media Matters for America (Media Matters) petitions the Commission to quash in its entirety a Civil Investigative Demand (CID) issued on May 20, 2025, in connection with the Commission’s investigation into whether any natural persons, partnerships, corporations, associations, or other legal entities have engaged in unfair methods of competition, including boycotts or other forms of collusion or coordination, with respect to withholding, degrading, increasing the cost of, or otherwise diminishing the quantity of advertising placed on news outlets, media platforms, or other publishers in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, or Section 5 of the FTC Act, 15 U.S.C. § 45.

Media Matters requests that the Commission quash the CID because (1) it fails to identify the nature of the conduct under investigation or how it relates to Media Matters; (2) compliance with the CID would violate Media Matters’ First Amendment rights; (3) the Commission lacks the authority under the FTC Act to enforce the antitrust laws against nonprofits like Media Matters; (4) the CID is overly broad and unduly burdensome; and (5) the CID is vague and ambiguous. *Petition*, at 2–3. For the reasons set forth below, we deny Media Matters’ petition.

I. BACKGROUND

Media Matters describes itself as a “Washington, D.C.-based nonprofit established in 2004” that, for over two decades, “has committed itself to its journalistic mission of monitoring, analyzing, and correcting misinformation in the U.S. media by disseminating research and information to notify journalists, pundits, and the general public about instances of misinformation.” *Petition*, at 1–2; *id.* Ex. 3, at 4 (incorporation in the District of Columbia). As part of its mission, Media Matters “posts rapid-response items as well as longer research and

analytic reports documenting conservative misinformation throughout the media.”¹ The organization also “works daily to notify activists, journalists, pundits and the general public about instances of misinformation, providing them with resources to rebut false claims and to take direct action against offending media institutions.”²

On May 20, 2025, under the authority of a Commission resolution authorizing the use of compulsory process, the Commission issued a CID to Media Matters pursuant to Section 20 of the FTC Act, 15 U.S.C. § 57b-1. The Media Matters CID was one of seventeen still-outstanding CIDs issued as part of the Commission’s investigation into whether entities have conspired to withhold, degrade, increase the cost of, or otherwise diminish the quantity of advertising placed on news outlets, media platforms, or other publishers in violation of Section 1 of the Sherman Act and Section 5 of the FTC Act, under the guise of promoting “brand suitability” and “brand safety” against “misinformation.” Specifically, the Commission is investigating whether online advertisers and/or advertising agencies have unlawfully agreed to use certain lists promulgated by other industry participants that categorize or rate content publishers as not “brand suitable” or not “brand safe,” to coordinate the placement of ads. As such, CID recipients to date include multiple advertising agencies as well as entities for which the Commission has reason to believe that they possess information relating to the use of such lists to coordinate ad placement. These entities include several advertising trade associations, several brand safety/suitability rating organizations, and several policy/advocacy groups such as Media Matters.

The CID to Media Matters seeks information pertaining to Media Matters’ organizational structure; documents it has produced or received in certain litigation; documents pertaining to the relationship between online platforms and advertisers, including documents discussing rating systems, harmful or undesirable content, and brand safety tools for online advertising; the methodology by which Media Matters evaluates or categorizes content publisher entities; complaints Media Matters has received pertaining to its programs; and Media Matters’ financial information. *See generally* *Petition* Ex. 1, at 2–4. The relevant time period for Media Matters’ responses is from January 1, 2019 to the present. *Id.* Ex. 1, at 7.

The CID attached the Resolution Directing Use of Compulsory Process in Nonpublic Investigations of Collusive Practices (Omnibus Resolution) issued by the Commission on July 1, 2022. The Omnibus Resolution authorized the issuance of CIDs:

To investigate whether any persons, partnerships, corporations, or others have engaged or are engaging in inviting, initiating, participating in, or facilitating collusion or coordination in any way with any other market participant, whether through private communications, public statements, sharing information, or other actions, in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, as amended, or any other statutes or rules enforced by the Commission; and to determine the appropriate action or remedy, including whether injunctive and monetary relief would be in the public interest.

Petition Ex. 1, at 19.

¹ Media Matters, *About Us*, <https://www.mediamatters.org/about-us> (last visited July 11, 2025).

² *Id.*

The CID set a return deadline of June 19, 2025. Media Matters met and conferred with Commission staff on June 2, June 13, and June 18, 2025. *Petition* Ex. 2 (Statement of Counsel Pursuant to 16 C.F.R. § 2.10(a)(2)) (“Media Matters’ meet-and-confer summary”).³ During the June 18 meeting, Media Matters raised for the first time many of the objections it now raises in its petition to quash: notice of the nature of the investigation, the Commission’s authority to enforce the antitrust laws against nonprofit entities, the First Amendment, and “several issues with specific specifications, instructions, and definitions.” *Id.* Ex. 2, at 3–4. Media Matters timely filed the instant petition hours later on June 18, 2025,⁴ asking the Commission to quash the CID in its entirety.⁵

On July 7, 2025, the Commission sent Media Matters a letter modifying the May 20 CID to include an additional description of the scope and nature of the investigation. The modification letter described the subject of the investigation as:

To determine whether any natural persons, partnerships, corporations, associations, or other legal entities have engaged in or are engaging in unfair, anticompetitive, collusive, or exclusionary acts or practices -- including inviting, participating in, or facilitating boycotts or other collusion or coordination -- to withhold, degrade, increase the cost of, or otherwise diminish the quantity of advertising placed on news outlets, media platforms, or other publishers in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, or Section 5 of the FTC Act, 15 U.S.C. § 45, as amended, or any other statutes or rules enforced by the Commission, and to determine the appropriate action or remedy. See also the attached resolution.

Exhibit A.⁶ The letter was signed by the Assistant Director of the Anticompetitive Practices I Division of the Bureau of Competition and was issued pursuant to Rule 2.7(l) of the Commission’s Rules of Practice, 16 C.F.R. §2.7(l). The letter attached a modified copy of the CID that included the above subject of the investigation, but was identical to the May 20 CID in all other respects.

II. ANALYSIS

A. The CID Adequately Describes the Conduct Under Investigation.

Media Matters contends that the CID fails to provide it adequate notice of the scope of the Commission’s investigation. Specifically, Media Matters claims that the general description in the Omnibus Resolution about “collusion or coordination” fails to identify a

³ Counsel for Media Matters and Commission staff discussed the CID “at a high level” on a May 30, 2025 phone call, but no substantive meet-and-confer appears to have taken place until June 2. *Petition* Ex. 2, at 1.

⁴ On June 3, 2025, Media Matters requested, and staff granted, an extension to the deadline for filing a petition to limit or quash the CID to June 18, 2025. *Petition* Ex. 2, at 2.

⁵ On June 23, 2025, Media Matters sued the Commission, alleging retaliation in violation of the First Amendment and seeking to enjoin the Commission from enforcing the CID or further investigating Media Matters. *See* Compl. (ECF No. 1), *Media Matters for Am. v. FTC*, No. 1:25-cv-01959 (D.D.C. June 23, 2025). On July 14, 2025, Media Matters moved for a preliminary injunction. *Id.* ECF No. 22 (D.D.C. July 14, 2025).

⁶ Because the modified CID was issued after Media Matters filed the petition to quash, we are attaching it to this Order as Exhibit A.

market or market participants that are the subject of the investigation. Nor, Media Matters claims, does the Omnibus Resolution state how the investigation relates to Media Matters itself. *Petition*, at 3–4. We disagree. The Omnibus Resolution accompanying the May 20 CID provided adequate notice of the scope of the Commission’s investigation, and even if it did not, any doubt was laid to rest by the July 7 modification to the CID, providing additional detail about the nature of the investigation and giving Media Matters ample notice of the nature of the alleged illegal conduct under investigation.

The FTC Act requires that “[e]ach civil investigative demand . . . state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.” 15 U.S.C. § 57b-1(c)(2). Similarly, Commission Rule 2.6 requires that “[a]ny person . . . compelled or requested to furnish information or documentary material . . . be advised of the purpose and scope of the investigation, the nature of the practices under investigation, and the applicable provisions of law.” 16 C.F.R. § 2.6; *see also* *FTC v. Carter*, 636 F.2d 781, 788 (D.C. Cir. 1980) (holding that CID recipient should be “aware of the purposes of the investigation”). Under Rule 2.6, a Commission resolution authorizing the use of compulsory process that accompanies a CID “shall be sufficient to give persons, partnerships, or corporations notice of the purpose of the investigation.” 16 C.F.R. § 2.6; *see also* *In re Civil Investigative Demand to Matthew C. Thayer Dated Mar. 20, 2023*, No. 212-3090, 2023 WL 4014246, at *3 (June 5, 2023). A CID may be modified by certain Commission personnel, including the Assistant Directors of the Bureau of Competition. 16 C.F.R. § 2.7(l).

Courts and the Commission have found that a general description of the nature of the investigation contained in a resolution is sufficient to provide adequate notice to CID recipients. For instance, courts have found sufficient notice of the scope and nature of an investigation when a resolution described the subject as firms who sell “business opportunities . . . to consumers [and] have been or are engaged in unfair or deceptive acts or practices in violation of 16 C.F.R. 436 and/or Section 5 of the Federal Trade Commission Act,” *FTC v. Nat’l Claims Serv., Inc.*, No. S 98-283 FCD DAD, 1999 WL 819640, at *2 (E.D. Cal. Feb. 9, 1999), and “whether unnamed consumer reporting agencies or others are or may be engaged in acts or practices in violation of Section 5 of the Federal Trade Commission Act . . . and of the Fair Credit Reporting Act [FCRA],” *FTC v. O’Connell Assocs., Inc.*, 828 F. Supp. 165, 170-71 (E.D.N.Y. 1993) (alterations in original). *See also* *Responses to Petitions to Quash or Limit Compulsory Process Unnamed Telemarketers*, 155 F.T.C. 1657, 2013 WL 8364926, at *3 (Mar. 4, 2013) (the scope of the investigation and the resolution’s statement that “authorize[d] the use of compulsory process to determine whether telemarketers, sellers, or others assisting them have or are violating Section 5 of the FTC Act . . . or the Telemarketing Sales Rule . . . is more than sufficient under applicable standards, and courts have enforced compulsory process issued under similar resolutions”). The Commission is required to define the boundaries of the investigation only “quite generally,” and broadly worded resolutions are acceptable during the investigative process. *See* *FTC v. Invention Submission Corp.*, 965 F.2d 1086, 1090 (D.C. Cir. 1992); *see also* *FTC v. Texaco, Inc.*, 555 F.2d 862, 874 n.26 (D.C. Cir. 1977) (en banc).

Media Matters argues that the notice provided by the unmodified May 20 CID resembles the notice a court found inadequate in *CFPB v. Accrediting Council for*

Independent Colleges & Schools, 854 F.3d 683, 692 (D.C. Cir. 2017) (“*ACICS*”). But *ACICS* is inapposite. The CID in *ACICS* stated that the “purpose of this investigation is to determine whether any entity or person has engaged or is engaging in unlawful acts and practices in connection with accrediting for-profit colleges,” in violation of the Consumer Financial Protection Act. *Id.* at 686. The court found that the CID failed to “explain[] what the broad and non-specific term ‘unlawful acts and practices’ mean[t] in this investigation,” and focused particularly on the CFPB’s admission that it “lacks statutory authority over the accreditation process of for-profit colleges.” *Id.* at 690–91. The court held that where a CID’s notification of purpose “gives no description whatsoever of the conduct the [agency] is interested in investigating,” a reviewing court cannot determine whether the inquiry is within the agency’s authority or whether the information sought is reasonably relevant. *Id.* at 691.

The Omnibus Resolution provides more guidance than the broad “unlawful acts and practices” language in *ACICS*. It identifies the nature of the conduct (“persons . . . facilitating collusion or coordination in any way with any other market participants”), the methods of law violations (“private communications, public statements, sharing information, or other actions”), the relevant law that may have been violated (Section 5 of the FTC Act), and the investigation’s purpose (“to determine the appropriate action or remedy, including whether injunctive and monetary relief would be in the public interest”). And holding aside Media Matters’ argument that it cannot properly be served with a CID because the Commission lacks enforcement jurisdiction (addressed in Part II.C below), Media Matters does not contend that the Commission lacks statutory authority to enforce Section 5 of the FTC Act or that it has no authority over digital advertising. *Cf. ACICS*, 854 F.3d at 691. The Omnibus Resolution, therefore, is sufficient to make Media Matters “aware of the purposes of the investigation,” *Carter*, 636 F.2d at 788, and comports with the plain language of both 15 U.S.C. § 57b-1(c)(2) and Rule 2.6’s provision that a Commission resolution “shall” be sufficient notice, 16 C.F.R. § 2.6.⁷

Furthermore, any uncertainty about the scope of the investigation in the May 20 CID has been dispelled by the July 7 modification of the CID. The modification was properly executed under Commission Rule 2.7(l), 16 C.F.R. § 2.7(l), and provided additional details on the subject matter of the Commission’s investigation, including the actors involved (“natural persons, partnerships, corporations, associations, or other legal entities”), the nature of the potentially violative acts or practices (“inviting, participating in, or facilitating boycotts”), and the products and industry at issue (“advertising placed on news outlets, media platforms, or other publishers”). Moreover, the language also explained that the Commission’s investigation extended to nonprofits such as Media Matters by expressly noting the scope includes “other legal entities.” 15 U.S.C. § 57b-1(a)(6); *see* Part II.C, *infra*. There is no requirement, as Media Matters urges, that the subject of the investigation list it or other entities by name or make the “link” between it and the conduct under investigation more explicit than it already does. *See Nat’l Claims Serv.*, 1999 WL 819640, at *2 (“The agency

⁷ In addition, Media Matters admits that it had notice of the scope of the investigation based on staff’s description, at the June 2 meet-and-confer, that the Commission’s investigation covered collusion in the digital advertising industry. Staff also pointed to CID Specification 6 as providing further information about the market participants and subject matter relevant to the investigation. *See Petition* Ex. 2, at 2. Objections to the scope of an investigation are insufficient where the scope “is evident from the nature of the [information] . . . sought” in the specifications themselves. *FTC v. Green*, 252 F. Supp. 153, 156 (S.D.N.Y. 1966).

issuing a CID need not inform the subject of an investigation about any particular wrongful conduct before it investigates.”); *O’Connell Assocs.*, 828 F. Supp. at 170 (“*unnamed* consumer reporting agencies or others” (emphasis added)).

For these reasons, we find that the CID to Media Matters—based on the Omnibus Resolution alone, and certainly after the July 7 modification—adequately provides notice of the purpose and scope of the investigation and the applicable provisions of law.

B. Complying with the CID Would Not Violate Media Matters’ First Amendment Rights.

Media Matters argues that forcing it to comply with the CID would violate its First Amendment rights. *Petition*, at 6–7. More specifically, it contends that compliance with Specifications 6 through 17 (inclusive) would “require Media Matters to disclose its resources, sources, methods, and other information that is protected from disclosure by the First Amendment” and the associated journalist’s privilege.⁸ *Petition*, at 7. We are unpersuaded for two reasons: the public interest in effective law enforcement outweighs Media Matters’ qualified First Amendment privilege in withholding information, and Media Matters has not met its burden of showing that the information sought by the CID falls within that privilege.

Some courts have held that the First Amendment “provides journalists with a qualified privilege against compelled disclosure of information obtained through their news gathering activities.” *Hutira v. Islamic Republic of Iran*, 211 F. Supp. 2d 115, 118 (D.D.C. 2002). In those courts that have recognized the privilege, the reporter invoking the privilege bears the burden of demonstrating its applicability. *See id.* at 119 nn. 4–5. “[T]he critical question for deciding whether a person may invoke the journalist’s privilege is whether she is gathering news for dissemination to the public.” *Shoen v. Shoen*, 5 F.3d 1289, 1293 (9th Cir. 1993). In other words, assuming the existence of the privilege,⁹ the person seeking to invoke the privilege must demonstrate “the intent to use material—sought, gathered or received—to disseminate information to the public and that such intent existed at the inception of the newsgathering process.” *von Bulow v. von Bulow*, 811 F.2d 136, 144 (2d Cir. 1987).

First, the Supreme Court has held that only in limited circumstances will the First Amendment bar the government from gathering information during a law enforcement investigation. In *Branzburg v. Hayes*, 408 U.S. 665 (1972), the Court considered whether the First Amendment protected journalists from revealing confidential information and sources in response to a grand jury subpoena. The Court ruled in favor of the government, noting that it could “perceive no basis for holding that the public interest in law enforcement and in ensuring effective grand jury proceedings is insufficient to override the consequential, but uncertain,

⁸ To the extent Media Matters believes that responding to other Specifications violates its First Amendment rights, it does not identify those Specifications; instead, it makes only a general statement that “forcing Media Matters to comply with the FTC’s CID would violate its First Amendment rights.” *Petition*, at 7. Accordingly, we confine our analysis to Specifications 6 through 17.

⁹ *See In re Request from United Kingdom Pursuant to Treaty Between Gov’t of U.S. and Gov’t of U.K. on Mutual Assistance in Criminal Matters in the Matter of Dolours Price*, 685 F.3d 1, 17 n.23 (1st Cir. 2012) (“[T]here is a circuit split on whether under *Branzburg v. Hayes*, 408 U.S. 665 (1972)] there can ever be a reporter’s privilege of constitutional or common law dimensions.”); *In re Grand Jury Subpoena, Judith Miller*, 438 F.3d 1141, 1145–49 (D.C. Cir. 2006) (rejecting existence of constitutional reporter’s privilege in grand jury proceedings).

burden on news gathering that is said to result from insisting that reporters, like other citizens, respond to relevant questions put to them in the course of a valid grand jury investigation or criminal trial.” *Id.* at 690–91.

The Commission exercises investigative law enforcement powers akin to those of a criminal grand jury. Indeed, the Supreme Court has noted that the Commission “has a power of inquisition . . . [that] is more analogous to the Grand Jury, which does not depend on a case or controversy for power to get evidence but can investigate merely on suspicion that the law is being violated.” *United States v. Morton Salt Co.*, 338 U.S. 632, 642–43 (1950); *see also In re Grand Jury Proceedings*, 486 F.2d 85, 90 (3d Cir. 1973) (“Grand jury subpoenas then, when they are brought before the federal courts for enforcement, for all practical purposes are exactly analogous to subpoenas issued by a federal administrative agency on the authority of a statute, without any prior judicial control.”). As such, when the Commission acts in its law enforcement capacity, as it does here, the public interest in the ability to thoroughly gather evidence outweighs any qualified First Amendment privilege.

Second, Media Matters fails to meet its burden to show that the material sought by the CID qualifies for the journalist’s privilege. Its two-paragraph argument does not demonstrate that it intends to use material responsive to Specifications 6 through 17 to disseminate information to the public. The mere fact that Media Matters describes itself as an organization “disseminating research and information to notify journalists, pundits, and the general public about instances of misinformation,” *Petition*, at 1–2, does not mean, without a further showing, that the information sought by the CID was intended to be disseminated as news. “The journalist’s privilege does not extend ‘to any person with a manuscript, a web page or a film’” but applies only if the person claiming the privilege uses competent evidence to meet the test articulated in *von Bulow*. *See In re Feb. 11, 2014 Civil Investigative Demand Issued to Ziegler Supersystems, Inc.*, No. 131-0206, 2014 FTC LEXIS 91, at *25–26 (Apr. 21, 2014) (quoting *In re Madden*, 151 F.3d 125, 129 (3d Cir. 1998)). Specifically, Media Matters makes no attempt to meet its burden to show where it obtained the information requested by the CID, nor how the materials requested by these Specifications were intended for newsgathering versus Media Matters’ business operations or other, non-journalistic purposes, such as internal research and advocacy.¹⁰ For instance, Specification 17 calls for documents “relating to Media Matters working with ad tech, technology, or developer companies or social media platforms to develop or advance any of Media Matters’ programs, policies, or objectives, including but not limited to any agreements between Media Matters and these companies.” *Petition* Ex. 1, at 4. Media Matters does not indicate that it intended to disseminate information about any such documents or agreements to the public, as opposed to using them for business purposes (i.e., its commercial relationships with the listed companies).

Nor, on their face, do these Specifications demand the production of reporters’ confidential resources, sources, methods, or notes. For example, Specification 12 requests “any list produced, licensed, sold, or otherwise provided by Media Matters to any third party that evaluates or categorizes any news, media, sources, outlets, platforms, websites, or other content publisher entities by credibility, the presence of hate or misinformation, or any other categorical

¹⁰ *See* Media Matters, *About Us*, <https://www.mediamatters.org/about-us> (last visited July 11, 2025) (describing advocacy work with “activists” to help them “take direct action against offending media institutions”).

metric maintained by Media Matters.” *Id.* Ex. 1, at 3. Media Matters fails to explain how lists provided to a third party are privileged. Likewise, Specification 16 requests documents relating to complaints that Media Matters has received related to its own activities, programs, or policies. *Id.* Ex. 1, at 4. We think it unlikely that Media Matters considers complaints it receives about its own activities or related documents to be a subject for dissemination to the public as news, and Media Matters does not indicate otherwise.

Accordingly, assuming the First Amendment journalist’s privilege exists, we reject its application to this CID.

C. The Commission Has Authority to Serve a CID on Any Legal Entity.

Media Matters next argues that, because it is a nonprofit, the FTC lacks authority to enforce the antitrust laws against it under Sections 4 and 5 of the FTC Act, 15 U.S.C. §§ 44–45. *Petition*, at 7–10. Section 5 provides, in relevant part, that the FTC has authority to prevent “persons, partnerships, or corporations” from using unfair methods of competition in or affecting commerce. 15 U.S.C. § 45(a)(2). Under Section 4, a “corporation” includes any company, “incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members.” *Id.* § 44. Media Matters argues that as a nonprofit organization, it does not meet Section 4’s definition of a corporation, and provides a list of factors that, it contends, qualify it as a “true” nonprofit. *Petition*, at 7–10.

The question whether the Commission has enforcement authority over Media Matters is irrelevant because this argument confuses the Commission’s enforcement authority with its much broader investigatory authority.¹¹ The plain language of the FTC Act makes clear that the Commission has the authority to issue this CID as part of its investigation. Section 20 authorizes the Commission to serve a CID on any “person.” 15 U.S.C. § 57b-1(c)(1).¹² “Person” for purposes of Section 20 is defined as “any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law.” *Id.* § 57b-1(a)(6) (emphasis added). Prior Commission decisions have recognized that Section 20 authorizes the Commission to obtain information from any “legal entity,” irrespective of whether the entity falls within the definition of “corporation” in Section 4 of the FTC Act. *See In re Aug. 11, 2022 Civil Investigative Demand Issued to Childhood Leukemia Found., Inc.*, No. 222-3073, 2023 WL 8112947, at *2 (Nov. 17, 2023) (“the plain language of Section 20 permits the Commission to serve a CID on any legal entity, regardless of whether it is a ‘corporation’ within the meaning of Section 4”); *In re Mar. 19, 2014 Civil Investigative Demand Issued to Police Protective Fund, Inc.*, No. 132-3239, 2014 FTC LEXIS 130, at *5 (May 22, 2014) (petitioner’s objections “confuse the Commission’s investigatory authority (under Section 20 of the FTC Act) with its enforcement authority (under Section 5)”); *In re Feature Films for Families, Inc.*, No.

¹¹ The Commission does not concede that it lacks enforcement authority over Media Matters.

¹² Section 20(c)(1) provides: “Whenever the Commission has reason to believe that any person may be in possession, custody, or control of any documentary material or tangible things, or may have any information, relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 45(a)(1) of this title), or to antitrust violations, the Commission may, before the institution of any proceedings under this subchapter, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to submit such tangible things, to file written reports or answers to questions, to give oral testimony concerning documentary material or other information, or to furnish any combination of such material, answers, or testimony.” 15 U.S.C. § 57b-1(c)(1).

102-3023, 2010 FTC LEXIS 134, at *8 (Sept. 23, 2010) (Commission “can require production of material from an entity that is not subject to the Commission’s enforcement authority if that material furthers the investigation of possibly illegal conduct by entities that are subject to the agency’s jurisdiction, such as for-profit telefundors making calls on [the CID recipient’s] behalf”). Media Matters does not dispute that it is a “person” as that term is defined in Section 20. Therefore, Media Matters is subject to the Commission’s investigatory jurisdiction and may properly be issued a CID irrespective of whether the Commission may enforce the antitrust laws against Media Matters.

D. The CID is Not Overly Broad or Unduly Burdensome.

Next, Media Matters argues that the CID should be quashed because it is “clearly overbroad” and unduly burdensome. *Petition*, at 10–14. Agency process is not unduly burdensome, however, unless compliance “threatens to unduly disrupt or seriously hinder” the normal operations of the recipient’s business. *Texaco*, 555 F.2d at 882. The test is “not easily met” because “[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.*; see also *FTC v. Shaffner*, 626 F.2d 32, 38 (7th Cir. 1980) (“[A]ny subpoena places a burden on the person to whom it is directed. Time must be taken from normal activities and resources must be committed to gathering the information necessary to comply. Nevertheless, the presumption is that compliance should be enforced to further the agency’s legitimate inquiry into matters of public interest.”).

A CID recipient bears the burden of showing how a CID interferes with its ability to operate its business. See *FDIC v. Garner*, 126 F.3d 1138, 1146 (9th Cir. 1997) (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”). Absent a showing of disruption, the sheer amount of responsive materials does not demonstrate undue burden or overbreadth, since “to define the reasonableness of a subpoena based on the volume of items identified for production would be to require the government to ascertain, before issuing a subpoena, the extent of any wrongdoing. But ascertaining the extent of wrongdoing is itself a primary purpose for the issuance of the subpoena.” See *In re Subpoena Duces Tecum*, 228 F.3d 341, 350–51 (4th Cir. 2000); see also *Garner*, 126 F.3d at 1145–46 (mere allegation that subpoena called for thousands of financial documents and one million other documents was not sufficient to establish burden). Further, “[b]roadness alone is not sufficient justification to refuse enforcement” of agency process. *Texaco*, 555 F.2d at 882 & n.51 (citing *Adams v. FTC*, 296 F.2d 861, 867 (8th Cir. 1961)); see also *Genuine Parts Co. v. FTC*, 445 F.2d 1382, 1391 (5th Cir. 1971) (FTC should be accorded “extreme breadth” in conducting its investigations in order to “‘satisfy [itself] that corporate behavior is consistent with the law and the public interest’”) (quoting *Morton Salt*, 338 U.S. at 652). A recipient of process must make “a record . . . of the measure of [its] grievance rather than ask [a reviewing tribunal] to assume it.” *Morton Salt*, 338 U.S. at 654.

Here, Media Matters fails to provide any details showing how compliance will impose an undue burden by seriously disrupting its operations. It claims that the CID is unduly burdensome

because it “seeks essentially every piece of information in any way related to content moderation (and beyond) for more than six years.” *Petition*, at 10. But Media Matters provides no facts to substantiate this sweeping assertion, nor its similar claims that compliance with the CID would be “impossible” within the thirty-day compliance deadline or that attempting to respond “could materially disrupt its operations, both by redirecting employee time and resources and by chilling Media Matters’ researching and reporting activities.” *Petition*, at 12–13. For example, it makes no attempt to quantify how much time or employee resources it will take to search for and assemble responsive documents, beyond the conclusory and unsupported claim that attempting to comply with one Specification related to communications (Specification 15) could “bring Media Matters to a standstill.” *Petition*, at 12. Media Matters’ failure to substantiate such claims by affidavit or other documentation, as contemplated by 16 C.F.R. § 2.10(a)(1), is reason enough to deny the petition. The Commission routinely denies petitions to quash that lack an adequate evidentiary basis.¹³ Furthermore, “mere statements by counsel in a brief do not provide a factual basis” to support CID objections, and petitions to quash are routinely denied for that reason. *In re Civil Investigative Demand to Liberty Auto City, Inc., Dated Apr. 12, 2022*, No. 222-3077, 2022 FTC LEXIS 54, at *6 & n.3 (June 13, 2022) (collecting authority); *accord Morton Salt*, 338 U.S. at 653 (rejecting as inadequate “mere assertions in . . . briefs” as to burden).

Media Matters further argues that the CID is overbroad because the definition of “Media Matters” requires production of documents outside the organization’s possession, custody, or control. *Petition*, at 10–11. But Media Matters’ meet-and-confer summary acknowledges that Commission staff “orally agreed that Media Matters could not produce documents outside of its possession, custody, or control.” *Id.* Ex. 2, at 3. As such, to the extent that the CID could be read to require Media Matters to produce documents not within its possession, custody, or control, Media Matters acknowledges that this issue was resolved during the meet-and-confer process. Accordingly, it is no longer a valid basis for quashing or modifying the CID.

We note that resolution of Media Matters’ concerns about having to produce documents outside its possession, custody, or control exemplifies why the Commission’s Rules require all CID recipients to engage in good faith in a mandatory meet-and-confer process with Commission staff to attempt to resolve by agreement any issues or concerns a recipient has with a CID. 16 C.F.R. §§ 2.7(k), 2.10(a)(2); *see also In re Feature Films for Families*, 2010 FTC LEXIS 134, at *5 (CID recipient’s obligation to meet and confer “is neither a pro forma requirement nor one that can or should easily be waived” because it provides a method for “resolving disputes in an efficient manner”). When Media Matters engaged in that required

¹³ *See, e.g., In re Civil Investigative Demand to Spread Techs. LLC, Dated May 11, 2022*, No. 222-3050, 2022 WL 2967367, at *8 (July 18, 2022) (rejecting claim of undue burden based on “conclusory contentions regarding [petitioner’s] resources, the breadth of its operations, or the burden and expense of responding”); *In re Feb. 11, 2014 Civil Investigative Demand Issued to Ziegler Supersystems, Inc.*, No. 131-0206, 2014 FTC LEXIS 91, at *25–26 (Apr. 21, 2014) (noting that the CID recipient must make a factual record to support a claim of undue burden); *In re Jan. 16, 2014 Civil Investigative Demand Issued to The College Network, Inc.*, No. 132-3236, 2014 FTC LEXIS 90, at *21 (Apr. 21, 2014) (denying petition to quash CID specification where recipient provided “no factual support” for its claimed burden); *In re HealthyLife Scis., LLC*, No. 122-3287, 2013 WL 12180902, at *2 (Dec. 20, 2013) (rejecting claim of undue burden where CID recipient “has not provided any affidavits or other evidence” to establish that burden); *In re Nat’l Claims Serv., Inc., Petition to Limit Civil Investigative Demands*, No. 952-3169, 1998 FTC LEXIS 192, at *6–8 (June 2, 1998) (rejecting petitioner’s burden argument that as a small company it could not afford the diversion of personnel and financial resources needed for compliance because it failed to substantiate its burden objection with any evidence).

process in good faith, its concerns about having to produce information outside of its possession, custody, or control were resolved. *See Texaco*, 555 F.2d at 882–83 (noting CID recipient’s admission that the “alleged burdensomeness of its subpoena was ‘substantially mitigated’ during the course of extensive negotiations with Commission attorneys”). By contrast, however, the record does not indicate that Media Matters proposed any modifications or otherwise seriously engaged with Commission staff in a good faith attempt to resolve the other burden or overbreadth concerns that it raises now in its Petition. Media Matters’ failure to do so further justifies rejecting Media Matters’ burden and overbreadth challenges. 16 C.F.R. § 2.7(k) (“[R]ecipient of Commission compulsory process shall meet and confer with Commission staff . . . to address and attempt to resolve all issues.”); *id.* § 2.10(a)(2) (“Each petition [to quash] shall be accompanied by a signed separate statement representing that counsel for the petitioner has conferred with Commission staff pursuant to § 2.7(k) of this part in an effort in good faith to resolve by agreement the issues raised by the petition and has been unable to reach such an agreement.”); *see also In re Civil Investigative Demand to Bachi.Tech Corp., Dated May 11, 2022*, No. 222-3050, 2022 WL 3500455, at *4–5 (Aug. 9, 2022) (petitioner’s “failure to prove that it has satisfied the meet-and-confer requirement constitutes an adequate and independent reason to deny [its] petition” where it “did not request clarification of any CID requests or propose narrowing the requests” nor “present any information to staff that corroborates any of the assertions of burden in its petition” (quotation omitted)).¹⁴

For the reasons set forth above, we reject Media Matters’ call to quash the CID on grounds of undue burden and overbreadth.

E. The CID is Not Vague or Ambiguous.

Finally, Media Matters asserts that the CID “leaves a number of critical terms undefined” and contains other undefined language, creating ambiguity that fails to give Media Matters “clear notice of how it can substantially comply with the CID.” *Petition*, at 14. Again, we disagree.

Media Matters focuses particularly on Specification 5, which requests “all documents that Media Matters either produced or received in discovery in any litigation between Media Matters and X Corp. related to advertiser boycotts since 2023.” Media Matters claims that it is unclear whether the phrase “related to advertiser boycotts” refers to the documents that the FTC demands or the litigation between Media Matters and X Corp. *Petition*, at 14. But as Media Matters’ meet-and-confer summary acknowledges, staff clarified that it “intended to request documents produced or received in discovery in any litigation between Media Matters and X. Corp[.] where the allegations were related to advertising boycotts.” *Id.* Ex. 2, at 3. In our view, Specification 5 is clear on its face, but staff’s additional clarification describes the documents the Commission seeks “with sufficient definiteness and certainty as to permit such material to be fairly

¹⁴ Media Matters also objects that the CID’s approximately six-year relevant period is “a considerably longer timeframe than the FTC typically requires” and, on that basis, is unduly burdensome. *Petition*, at 12–13. Again, Media Matters’ Petition is devoid of any explanation why six years would unduly burden its operations. Moreover, Media Matters offers no authority establishing any legal, presumptive, or de facto time limits on a Commission CID’s relevant period, and in our view a six-year timeframe is reasonable given the broad nature of the FTC’s investigation. *Cf. In re Civil Investigative Demand to Bachi. Tech Corp.*, 2022 WL 3500455, at *11 (rejecting petitioner’s argument that three-year relevant period was unreasonable “because it encompasses nearly the entire period that the company has been operating and would entail ‘months’ of production time”).

identified.” 16 C.F.R. § 2.7(b)(1).¹⁵

Media Matters goes on to identify a list of terms that it claims make it impossible to respond to the CID without “clear definition[s].” The list includes words such as “sources,” “outlets,” “platform,” “publishers,” and “social media.” Media Matters also claims that certain undefined terms relevant to the subject of the investigation, such as “online environment,” “brand safety tools,” and “digital advertising,” are vague. *Petition*, at 14–15. “The party objecting to discovery as vague or ambiguous has the burden to show such vagueness or ambiguity.” *Johnson v. Kraft Foods N. Am., Inc.*, 238 F.R.D. 648, 655 (D. Kan. 2006). In doing so, a party “should exercise reason and common sense to attribute ordinary definitions to terms and phrases,” *id.* (quotation omitted), while avoiding “[h]yper-technical, quibbling, or evasive objections,” *Avalos v. Carpenter*, No. 15-cv-00369, 2017 WL 387243, at *1 (E.D. Cal. Jan. 27, 2017).

Here, Media Matters has not met its burden of showing that terms within the CID are impermissibly vague or ambiguous. It does not explain why it cannot interpret various terms, such as “sources,” “outlets,” and “social media,” using common sense and the ordinary usage of those words. Media Matters has also used many of the terms it objects to on its website, so presumably it understands their meaning.¹⁶ If it does not, it could have sought clarification from Commission staff by asking for guidance about unclear terms. But Media Matters’ summary of the June 18 meet-and-confer indicates only that it “raised” these terms (for the first time) as being vague and ambiguous, but did not give staff a chance to respond before filing the instant petition just hours later. *Petition* Ex. 2, at 3–4. That is not an “effort in good faith to resolve by agreement the issues raised by the petition” prior to its filing. 16 C.F.R. § 2.10(a)(2). Especially given staff’s continued availability to engage with Media Matters on reasonable modifications, limitations, and extensions, Media Matters’ vagueness and ambiguity arguments lack merit and are not a basis to quash the CID.

¹⁵ Media Matters also acknowledges that staff offered to remove the phrase “advertiser boycotts,” but Media Matters explained that doing so would raise an (unspecified) overbreadth issue. Staff then suggested that Media Matters propose alternative language, but as Media Matters explains, “that issue has not been resolved as of today”—that is, the day Media Matters filed this petition. *Petition* Ex. 2, at 3. This suggests that, to the extent Media Matters is still uncertain about the scope of Specification 5, there is room for further discussion and negotiation with Commission staff.

¹⁶ See, e.g., Media Matters, *Right-Leaning Online Shows Disproportionately Reach a Variety of Audiences and Shape Political Discourse and Public Perception* (Mar. 21, 2025), <https://www.mediamatters.org/google/right-leaning-online-shows-disproportionately-reach-variety-audiences-and-shape-political> (“The right’s expansive online ecosystem plays into a fundamental aspect of the current **online environment** . . .”) (emphasis added); Media Matters, *Angelo Carusone [Media Matters’ President] Discusses Elon Musk and X on MSNBC: “No Matter How You Slice It, The Fact Is Their Brand Safety Tools Were Not Operating In The Way That They Claim They Should Have Been”* (Nov. 26, 2023), <https://www.mediamatters.org/angelo-carusone/angelo-carusone-discusses-elon-musk-and-x-msnbc-no-matter-how-you-slice-it-fact> (emphasis added); Media Matters, *Facebook Must Close Loophole That Allows the Viral Spread of Climate Disinformation* (June 25, 2020), <https://www.mediamatters.org/facebook/facebook-must-close-loophole-allows-viral-spread-climate-disinformation> (summarizing ballot initiative in which corporations “spent more than \$1.1 million in **digital advertising** in the weeks leading up to voting day”) (emphasis added).

III. CONCLUSION

For the foregoing reasons, Media Matters' petition to quash is denied.

IT IS HEREBY ORDERED THAT Media Matters' Petition to Quash the May 20, 2025 Civil Investigative Demand be, and hereby is, **DENIED**.

IT IS FURTHER ORDERED THAT Media Matters shall comply in full with the Commission's Civil Investigative Demand no later than **August 27, 2025**, or at such other date, time, and location as the Commission staff may determine.

By the Commission, Commissioner Meador recused.

April J. Tabor
Secretary

SEAL:

ISSUED: July 25, 2025

Exhibit A

Civil Investigative Demand to Media Matters for America

CIVIL INVESTIGATIVE DEMAND ISSUED TO MEDIA MATTERS FOR AMERICA FTC FILE NO. 251-0061

Unless modified by agreement with the staff of the Federal Trade Commission (the “Commission” or the “FTC”), each Specification of this Civil Investigative Demand (“CID”) requires a complete search of Media Matters for America (“Media Matters”) as defined in the Definitions, which appear after the following Specifications. Pursuant to the Commission’s Rules of Practice, 16 C.F.R. § 2.7(k), Media Matters representatives must confer with the Commission representative identified in the final instruction of this CID within fourteen days after receipt of this CID. If Media Matters believes that the required search or any other part of this CID can be narrowed in any way that is consistent with the Commission’s need for information, you are encouraged to discuss such questions and possible modifications with the Commission representative. All modifications to this CID must be agreed to in writing pursuant to the Commission’s Rules of Practice, 16 C.F.R. § 2.7(l).

SUBJECT OF THE INVESTIGATION

To determine whether any natural persons, partnerships, corporations, associations, or other legal entities have engaged in or are engaging in unfair, anticompetitive, collusive, or exclusionary acts or practices -- including inviting, participating in, or facilitating boycotts or other collusion or coordination -- to withhold, degrade, increase the cost of, or otherwise diminish the quantity of advertising placed on news outlets, media platforms, or other publishers in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, or Section 5 of the FTC Act, 15 U.S.C. § 45, as amended, or any other statutes or rules enforced by the Commission, and to determine the appropriate action or remedy. See also the attached resolution. (As modified by letter dated July 7, 2025)

SPECIFICATIONS

1. State where Media Matters is incorporated or registered and provide a copy of Media Matters’s articles of incorporation.
2. State whether Media Matters is organized as a for-profit or not-for-profit entity.
3. State the location and full physical address of each Media Matters offices in the United States and abroad.
4. Provide Media Matters organizational charts from 2018 through the present or other documents sufficient to show all Media Matters personnel over the same time period.
5. Provide all documents that Media Matters either produced or received in discovery in any litigation between Media Matters and X Corp. related to advertiser boycotts since 2023.
6. Provide all documents relating to other entities that purport to track, categorize, monitor, analyze, evaluate, or rate news, media, sources, platforms, outlets, websites, or other content publisher entities for “brand suitability,” “reliability,” “misinformation,” “hate speech,” “false” or “deceptive” content, or similar categories. This request includes but is

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not limited to communications between Media Matters and any person connected to these entities. For purposes of this Specification, such entities include but are not limited to:

- a) NewsGuard Technologies, Inc.
 - b) The World Federation of Advertisers (“WFA”);
 - c) The Global Alliance for Responsible Media (“GARM”);
 - d) The Global Disinformation Index (“GDI”);
 - e) The Interactive Advertising Bureau (“IAB”);
 - f) Ad Fontes Media, Inc.;
 - g) The Check My Ads Institute;
 - h) Integral Ad Science (“IAS”);
 - i) DoubleVerify;
 - j) Barometer;
 - k) The Center for Countering Digital Hate;
 - l) Nelez; or
 - m) The Media Roundtable.
- 7. Provide all documents relating to the effect on advertisers of the presence on any media platform of harmful, hateful, misleading, unsafe, or otherwise undesirable content.
 - 8. Provide all documents relating to advertisers working with publishers and/or platforms to address harmful, hateful, misleading, unsafe, or otherwise undesirable media environments.
 - 9. Provide all documents relating to efforts by any person to create or advance brand safety tools.
 - 10. Provide all documents relating to the role that advertisers can play or do play to improve the safety of online environments.
 - 11. Provide all documents relating to efforts by any person to create or advance advertising rating systems.
 - 12. Provide any list produced, licensed, sold, or otherwise provided by Media Matters to any third party that evaluates or categorizes any news, media, sources, outlets, platforms, websites, or other content publisher entities by credibility, the presence of hate or misinformation, or any other categorical metric maintained by Media Matters.

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13. Provide all analyses or studies that Media Matters conducted, sponsored, or commissioned relating to advertising on social media or digital advertising platforms, including but not limited to any financial analyses or studies, and all data sets and code that would be necessary to replicate the analysis.
14. Provide documents and data sufficient to show the methodology by which Media Matters evaluates or categorizes any news, media, sources, platforms, outlets, websites, or other content publisher entities.
15. Provide all communications between Media Matters and any other person regarding any request for Media Matters to label any news, media, sources, outlets, platforms, websites, or other content publisher entities for “brand suitability,” “reliability,” “misinformation,” “hate speech,” “false” or “deceptive” content, or similar categories, regardless of whether the request was fulfilled.
16. Provide all documents relating to any complaints that Media Matters received related to its activities, programs, or policies, including but not limited to complaints regarding Media Matters’s decision to apply any label, rating, or categorization to any news, media, sources, outlets, platforms, websites, or other content publisher entities.
17. Provide all documents, including correspondence, relating to Media Matters working with ad tech, technology, or developer companies or social media platforms to develop or advance any of Media Matters’s programs, policies, or objectives, including but not limited to any agreements between Media Matters and these companies.
18. Provide each financial statement, budget, profit and loss statement, cost center report, profitability report, and any other financial report regularly prepared by or for Media Matters on any periodic basis. For each such statement, budget, or report, state how often it is prepared, and identify the employees responsible for its preparation.
19. Identify and describe the steps Media Matters took to preserve documents related to this CID. Provide documents sufficient to show all Media Matters document retention policies in effect during any portion of the relevant period.
20. Identify the person(s) responsible for preparing the responses to this CID and provide a copy of all instructions prepared by Media Matters relating to the steps taken to respond. Where oral instructions were given, identify the person who gave the instructions and describe the content of the instructions and the person(s) to whom the instructions were given. For each Specification, identify the individual(s) who assisted in the preparation of the response, with a listing of the persons (identified by name and title or job description) whose files were searched by each. For each Specification requiring a narrative response or data, identify all individuals who provided any information considered or used in drafting the response.

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DEFINITIONS

For purposes of this CID, the following Definitions apply:

1. “You,” “Your,” and “Media Matters” mean Media Matters for America, together with its successors, predecessors, divisions, wholly- or partially-owned subsidiaries, committees, working groups, alliances, affiliates, and partnerships, whether domestic or foreign; and all the directors, officers, employees, consultants, agents, and representatives of the foregoing. Identify by name, address, and phone number, each agent or consultant.
2. “Agreement” means any oral or written contract, arrangement, or understanding, whether formal or informal, between two or more Persons, together with all modifications or amendments thereto.
3. “Communication” means any exchange, transfer, or dissemination of information, regardless of the means by which it is accomplished.
4. “Document” and “documents” mean any information, on paper or in electronic format, including written, recorded, and graphic materials of every kind, in the possession, custody, or control of Media Matters. The term “documents” includes, without limitation: computer files; email messages; text messages; instant messages and chat logs; other Messaging Applications; group chats; voicemails and other audio files; calendar entries; schedulers; drafts of documents; metadata and other bibliographic or historical data describing or relating to documents created, revised, or distributed electronically; copies of documents that are not identical duplicates of the originals in that Person’s files; notes of meetings or telephone calls; and copies of documents the originals of which are not in the possession, custody, or control of Media Matters.
 - a) The term “computer files” includes information stored in, or accessible through, computers or other information retrieval systems. Thus, Media Matters should produce documents that exist in machine-readable form, including documents stored in personal computers, portable computers, workstations, minicomputers, mainframes, servers, backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether on or off Media Matters premises. If Media Matters believes that the required search of backup disks and tapes and archive disks and tapes can be narrowed in any way that is consistent with the Commission’s need for documents and information, you are encouraged to discuss a possible modification to this Definition with the Commission representative identified on the last page of this Request. The Commission representative will consider modifying this Definition to:
 - i) exclude the search and production of files from backup disks and tapes and archive disks and tapes unless it appears that files are missing from those that exist in personal computers, portable computers, workstations, minicomputers, mainframes, and servers searched by Media Matters;
 - ii) limit the portion of backup disks and tapes and archive disks and tapes that needs to be searched and produced to certain key individuals, certain time

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periods, or certain Specifications identified by the Commission representative;
or

iii) include other proposals consistent with Commission policy and the facts of the case.

5. “Each,” “any,” and “all” mean “each and every.” The terms “and” and “or” have both conjunctive and disjunctive meanings as necessary to bring within the scope of this CID anything that might otherwise be outside its scope. The singular form of a noun or pronoun includes its plural form, and vice versa; and the present tense of any word includes the past tense, and vice versa.

6. “Identify” or “specify,” when used in reference to a natural person, means to state the person’s (1) full name; (2) present or last-known residence and telephone number and present or last-known business address and telephone number; and (3) present or last-known employer and job title. For any person identified, if any of the above information was different during the time period relevant to the CID, supply both the current information and such different information as applies to the time period relevant to the CID. Once a natural person has been identified properly, it shall be sufficient thereafter when identifying that same person to state the name only.

“Identify” or “specify,” when used in reference to a corporation or other non-natural person, means (1) to state that entity’s name; (2) to describe its nature (e.g., corporation, partnership, etc.); (3) to state the location of its principal place of business; and (4) to identify the natural person or persons employed by such entity whose actions on behalf of the entity are responsive to the CID. Once such an entity has been identified properly, it shall be sufficient thereafter when identifying that same entity to state the name only.

“Identify” or “specify,” when used in reference to facts, acts, events, occurrences, meetings, or communications, means to describe, with particularity, the fact, act, event, occurrence, meeting, or communication in question, including but not limited to (1) identifying the participants and witnesses of the fact, act, event, occurrence, meeting, or communication; (2) stating the date or dates on which the fact, act, event, occurrence, meeting, or communication took place; (3) stating the location(s) at which the fact, act, event, occurrence, meeting, or communication took place; and (4) providing a description of the substance of the fact, act, event, occurrence, meeting, or communication.

7. “Include” and “including” mean “including but not limited to.” The use of the term “include” in any request shall not be used to limit the generality or scope of any request. Nor shall the generality of any request be limited by the fact that another request touches on the same topic with a greater or lesser degree of specificity.

8. “Person” or “persons” includes Media Matters and means any natural person, corporate entity, sole proprietorship, partnership, association, governmental or non-governmental entity, or trust.

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9. “Relate,” “related to,” and “relating to” mean, in whole or in part, addressing, analyzing, concerning, constituting, containing, commenting on, discussing, describing, identifying, referring to, reflecting, reporting on, stating, or dealing with.
10. The term “Messaging Application” refers to any electronic method that has ever been used by Media Matters and its employees to communicate with each other or entities outside Media Matters for any business purposes. “Messaging Application” includes platforms, whether for ephemeral or non-ephemeral messaging, for email, chats, instant messages, text messages, and other methods of group and individual communication (e.g., Microsoft Teams, Slack, GroupMe, WhatsApp, Signal, and Skype). “Messaging Application” may overlap with “Collaborative Work Environment.”

INSTRUCTIONS

For the purposes of this CID, the following Instructions apply:

- I 1. All references to year refer to calendar year. Unless otherwise specified, each of the Specifications calls for: (1) documents for each of the years from January 1, 2019 to the present; and (2) information for each of the years from January 1, 2019 to the present. Where information, rather than documents, is requested, provide it separately for each year; where yearly data is not yet available, provide data for the calendar year to date. If calendar year information is not available, supply Media Matters’s fiscal year data indicating the 12-month period covered, and provide Media Matters’s best estimate of calendar year data.
- I 2. Do not produce any Sensitive Personally Identifiable Information (“Sensitive PII”) or Sensitive Health Information (“SHI”) prior to discussing the information with a Commission representative. If any document responsive to a particular Specification contains unresponsive Sensitive PII or SHI, redact the unresponsive Sensitive PII or SHI prior to producing the document. The term “Sensitive Personally Identifiable Information” means an individual’s Social Security Number alone; or an individual’s name, address, or phone number in combination with one or more of the following:
 - Date of birth
 - Driver’s license number or other state identification number, or a foreign country equivalent
 - Passport number
 - Financial account number
 - Credit or debit card number

The term “Sensitive Health Information” includes medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. Sensitive Health Information relates to the past, present, or future physical or

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mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

- I 3. Except for privileged material, Media Matters will produce each responsive document in its entirety by including all attachments and all pages, regardless of whether they directly relate to the specified subject matter. Media Matters should submit any appendix, table, or other attachment by either attaching it to the responsive document or clearly marking it to indicate the responsive document to which it corresponds. Attachments must be produced along with the document to which they are attached, regardless of whether they have been produced separately. Except for privileged material, Media Matters will not redact, mask, cut, expunge, edit, or delete any responsive document or portion thereof in any manner.
- I 4. Compliance with this CID requires a search of all documents in the possession, custody, or control of Media Matters, including, without limitation, those documents held by any of Media Matters's officers, directors, employees, agents, representatives, or legal counsel, whether or not such documents are on the premises of Media Matters. If any person is unwilling to have his or her files searched, or is unwilling to produce responsive documents, Media Matters must provide the Commission with the following information as to each such person: his or her name, address, telephone number, and relationship to Media Matters.
- I 5. Form of Production: Media Matters shall submit documents as instructed below absent written consent from the Commission representative.
- a) Documents stored in electronic or hard copy formats in the ordinary course of business shall be submitted in the following electronic format provided that such copies are true, correct, and complete copies of the original documents:
- i) Submit Microsoft Excel, Access, and PowerPoint files in native format with extracted text and metadata.
- ii) Submit emails in TIFF (Group IV) format with extracted text and the following metadata and information:

Metadata/Document Information	Description
Spec No.	Subpoena/request paragraph number to which the document is responsive.
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the email.
Bates End	Bates number of the last page of the email.

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Metadata/Document Information	Description
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of the person from whom the email was obtained.
Email BCC	Names of person(s) blind copied on the email.
Email CC	Names of person(s) copied on the email.
Email Date Received	Date the email was received. [MM/DD/YYYY]
Email Date Sent	Date the email was sent. [MM/DD/YYYY]
Email From	Names of the person who authored the email.
Email Message ID	Microsoft Outlook Message ID or similar value in other message systems.
Email Subject	Subject line of the email.
Email Time Received	Time email was received. [HH:MM:SS AM/PM]
Email To	Recipients(s) of the email.
Email Time Sent	Time email was sent. [HH:MM:SS AM/PM]
Page count	Number of pages in record
File size	Size of document in KB
File Extension	File extension type (e.g., docx, xlsx)
Record Type	Indicates form of record: E-Doc, E-Doc Attachment, Email, Email Attachment, HardCopy, Calendar Appt, Text Message, Chat Message, etc.
Folder	File path/folder location of email.
Filename with extension	Name of the original native file with file extension.

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Metadata/Document Information	Description
Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Redaction	Indicates Yes or No status regarding document redactions.
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC0003090.txt

- iii) Submit email attachments other than those described in subpart (a)(i) in TIFF (Group IV) format. For all email attachments, provide extracted text and the following metadata and information as applicable:

Metadata/Document Information	Description
Spec No.	Subpoena/request paragraph number to which the document is responsive.
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the document.
Bates End	Last Bates number of the document.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of person from whom the file was obtained.
Date Created	Date the file was created. [MM/DD/YYYY]
Date Modified	Date the file was last changed and saved. [MM/DD/YYYY]
Page count	Number of pages in record
File size	Size of document in KB

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Metadata/Document Information	Description
File Extension	File extension type (e.g., docx, xlsx)
Filename with extension	Name of the original native file with file extension.
Record Type	Indicates form of record: E-Doc, E-Doc Attachment, Email, Email Attachment, HardCopy, Calendar Appt, Text Message, Chat Message, etc.
Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Author	Author field value extracted from the metadata of a native file.
Last Author	Last Saved By field value extracted from metadata of a native file.
Redaction	Indicates Yes or No status regarding document redactions.
Native Link	Relative file path to submitted native or near native files. Example: \NATIVES\001\FTC0003090.xls
Parent ID	Document ID or beginning Bates number of the parent email.
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC0003090.txt
Time Created	Time file was created. [HH:MM:SS AM/PM]
Time Modified	Time file was saved. [HH:MM:SS AM/PM]

- iv) Submit all other electronic documents, other than those described in subpart (a)(i), in TIFF (Group IV) format accompanied by extracted text and the following metadata and information:

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Metadata/Document Information	Description
Spec No.	Subpoena/request paragraph number to which the document is responsive.
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the document
Bates End	Last Bates number of the document.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of the original custodian of the file.
Date Created	Date the file was created. [MM/DD/YYYY]
Date Modified	Date the file was last changed and saved. [MM/DD/YYYY HH:MM:SS AM/PM]
Record Type	Indicates form of record: E-Doc, E-Doc Attachment, Email, Email Attachment, HardCopy, Calendar Appt, Text Message, Chat Message, etc.
Author	Author field value extracted from the metadata of a native file.
Last Author	Last Saved By field value extracted from metadata of a native file.
Redaction	Indicates Yes or No status regarding document redactions.
Page count	Number of pages in record
File size	Size of document in KB
File Extension	File extension type (e.g., docx, xlsx)
Filename with extension	Name of the original native file with file extension.

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Metadata/Document Information	Description
Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Originating Path	File path of the file as it resided in its original environment.
Production Link	Relative path to submitted native or near native files. Example: \NATIVES\001\FTC0003090.xls
Native Link	Relative path to submitted native or near native files. Example: \NATIVES\001\FTC0003090.xls
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC-0003090.txt
Time Created	Time file was created. [HH:MM:SS AM/PM]
Time Modified	Time file was saved. [HH:MM:SS AM/PM]

- v) Submit documents stored in hard copy in TIFF (Group IV) format accomplished by OCR with the following information:

Metadata/Document Information	Description
Spec No.	Subpoena/request paragraph number to which the document is responsive.
Bates Begin	Beginning Bates number of the document.
Bates End	Bates number of the last page of the document.
Record Type	Indicates form of record: E-Doc, E-Doc Attachment, Email, Email Attachment, HardCopy, Calendar Appt, Text Message, Chat Message, etc.
Page count	Number of pages in record.

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Redaction	Indicates Yes or No status regarding document redactions.
Custodian	Name of person from whom the file was obtained.

- vi) Submit redacted documents in TIFF (Group IV) format accompanied by OCR with the metadata and information required by relevant document type in subparts (a)(i) through (a)(v) above. For example, if the redacted file was originally an attachment to an email, provide the metadata and information specified in subpart (a)(iii) above. Additionally, please provide a basis for each privilege claim as detailed in Instruction 9.
- b) Submit data compilations in electronic format, specifically Microsoft Excel spreadsheets or delimited text formats, with all underlying data un-redacted and all underlying formulas and algorithms intact. Submit data separately from document productions.
- c) Produce electronic file and ESI processed submissions as follows:
 - i) For productions over 20 gigabytes, use an External Hard Disc Drive (stand-alone portable or hard drive enclosure) or USB Flash Drive in Microsoft Windows-compatible, uncompressed data format.
 - ii) For productions under 20 gigabytes, submissions may be transmitted electronically via FTP. The FTC uses Kiteworks Secure File Transfer. To request a Kiteworks upload invitation, contact the FTC representative identified in the request you received. Use of other File Transfer methods is permitted. Please discuss this option with the FTC representative identified in the CID to determine the viability.
 - iii) CD-ROM (CD-R, CD-RW) optical disks and DVD-ROM (DVD+R, DVD+RW) optical disks for Windows-compatible personal computers, and USB 2.0 Flash Drives are acceptable storage formats.
 - iv) All documents produced in electronic format shall be scanned for and free of viruses prior to submission. The Commission will return any infected media for replacement, which may affect the timing of Media Matters's compliance with this CID.
 - v) Encryption of productions using NIST FIPS-Compliant cryptographic hardware or software modules, with passwords sent under separate cover, is strongly encouraged.
- d) Each production shall be submitted with a transmittal letter that includes the FTC matter number; production volume name; encryption method/software used; list of

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custodians and document identification number range for each; total number of documents; and a list of load file fields in the order in which they are organized in the load file.

- e) If Media Matters intends to utilize any de-duplication or email threading software or services when collecting or reviewing information that is stored in Media Matters's computer systems or electronic storage media, or if Media Matters's computer systems contain or utilize such software, Media Matters must contact the Commission representative to determine, with the assistance of the appropriate government technical officials, whether and in what manner Media Matters may use such software or services when producing materials in response to this CID.
- I 6. Before using software or technology (including search terms, email threading, Technology Assisted Review, deduplication, or similar technologies) to identify or eliminate documents, data, or information potentially responsive to this CID, Media Matters must submit a written description of the method(s) used to conduct any part of its search. In addition, for any process that relies on search terms to identify or eliminate documents, Media Matters must submit: (a) a list of proposed terms; (b) a tally of all the terms that appear in the collection and the frequency of each term; (c) a list of stop words and operators for the platform being used; and (d) a glossary of industry and company terminology. For any process that relies on a form of Technology Assisted Review to identify or eliminate documents, Media Matters must include (a) confirmation that subject-matter experts will be reviewing the seed set and training rounds; (b) recall, precision, and confidence-level statistics (or an equivalent); and (c) a validation process that allows Commission representatives to review statistically-significant samples of documents categorized as non-responsive documents by the algorithm.
- I 7. All documents responsive to this CID:
- a) shall be produced in complete form (e.g., including all family members, including Modern Attachments), un-redacted unless privileged, and in the order in which they appear in Media Matters's files;
 - b) shall be marked on each page with corporate identification and consecutive document control numbers when produced in TIFF format (e.g., ABC-00000001);
 - c) if written in a language other than English, shall be translated into English, with the English translation attached to the foreign language document;
 - d) shall be produced in color where necessary to interpret the document (if the coloring of any document communicates any substantive information, or if black-and-white photocopying or conversion to TIFF format of any document (e.g., a chart or graph), makes any substantive information contained in the document unintelligible, Media Matters must submit the original document, a like-colored photocopy, or a JPEG-format TIFF);
 - e) shall be accompanied by an index that identifies: (i) the name of each person from whom responsive documents are submitted; and (ii) the corresponding consecutive

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document control number(s) used to identify that person's documents, and if submitted in paper form, the box number containing such documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that the Commission representative determines prior to submission that the machine-readable form would be in a format that allows the agency to use the computer files). The Commission representative will provide a sample index upon request; and

- f) shall be accompanied by an affidavit of an officer of Media Matters stating that the copies are true, correct, and complete copies of the original documents.
- I 8. If any documents or parts of documents are withheld from production based on a claim of privilege, provide a statement of the claim of privilege and all facts relied upon in support thereof, in the form of a log that includes, in separate fields, a privilege identification number; beginning and ending document control numbers; parent document control numbers; attachments document control numbers; family range; number of pages; all authors; all addressees; all blind copy recipients; all other recipients; all custodians; date of the document; the title or subject line; an indication of whether it is redacted; the basis for the privilege claim (e.g., attorney-client privilege), including the underlying privilege claim if subject to a joint-defense or common-interest agreement; and a description of the document's subject matter. Attachments to a document should be identified as such and entered separately on the log. For each author, addressee, and recipient, state the Person's full name, title, and employer or firm, and denote all attorneys with an asterisk. The description of the subject matter shall describe the nature of each document in a manner that, though not revealing information itself privileged, provides sufficiently detailed information to enable Commission staff, the Commission, or a court to assess the applicability of the privilege claimed. For each document or part of a document withheld under a claim that it constitutes or contains attorney work product, also state whether Media Matters asserts that the document was prepared in anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial upon which the assertion is based. Submit all non-privileged portions of any responsive document (including non-privileged or redactable attachments) for which a claim of privilege is asserted (except where the only non-privileged information has already been produced in response to this Instruction), noting where redactions in the document have been made. Documents authored by outside lawyers representing Media Matters that were not directly or indirectly furnished to Media Matters or any third party, such as internal law firm memoranda, may be omitted from the log. Provide the log in Microsoft Excel readable format.
- I 9. If Media Matters is unable to answer any question fully, supply such information and data as are available. Explain why the answer is incomplete, the efforts made by Media Matters to obtain the information and data, and the source from which the complete answer may be obtained. If books and records that provide accurate answers are not available, enter best estimates and describe how the estimates were derived, including the sources or bases of such estimates. Estimated data should be followed by the notation "est." If there is no reasonable way for Media Matters to make an estimate, provide an explanation.

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- I 10. If documents responsive to a particular Specification no longer exist for reasons other than the ordinary course of business or the implementation of Media Matters's document retention policy, but Media Matters has reason to believe have been in existence, state the circumstances under which they were lost or destroyed, describe the documents to the fullest extent possible, state the Specification(s) to which they are responsive, and identify the persons having knowledge of the content of such documents.
- I 11. Do not destroy or dispose of documents responsive to this CID, or any other documents relating to the subject matter of this CID. The destruction or disposal of such documents during the pendency of this investigation might constitute a felony in violation of 18 U.S.C. § 1505 and 18 U.S.C. § 1512.
- I 12. In order for Media Matters's response to this CID to be complete, the attached certification form must be executed by the Media Matters official supervising compliance with this CID, notarized, and submitted along with the responsive materials.
- I 13. Any questions you have relating to the scope or meaning of anything in this CID or suggestions for possible modifications thereto should be directed to Nicholas Bush at (202) 326-2848 or nbush@ftc.gov. The response to the CID shall be delivered per the instruction of Mr. Bush during the course of normal business (8:30 a.m. to 5:30 p.m., Monday through Friday). Mr. Bush will provide specific mail delivery instructions should that method of transmittal be required.

CERTIFICATION OF COMPLIANCE

Pursuant to 28 U.S.C. § 1746

I, _____, certify the following with respect to the Federal Trade Commission's ("FTC") Civil Investigative Demand directed to Media Matters for America ("Media Matters") (FTC File No. 251-0061) (the "CID"):

1. Media Matters has identified all documents, information, and/or tangible things ("responsive information") in Media Matters's possession, custody, or control responsive to the CID and either:
 - a. provided such responsive information to the FTC; or
 - b. for any responsive information not provided, given the FTC written objections setting forth the basis for withholding the responsive information.
2. I verify that the responses to the CID are complete and true and correct to my knowledge.

I certify under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature

Printed Name

Title