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When the FTC Comes Calling: Lessons from Dollar General

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FTC investigations typically occur behind closed doors, leaving businesses with little insight into what happens when the agency comes calling. The FTC's recent action against Dollar General offers a rare peek behind the curtain, thanks to Dollar General's unusually public response.

On October 26, 2026, the FTC and 20 states sued Dollar General, alleging that the retailer charged customers more at checkout than the prices displayed on store shelves. The company publicly disputed the allegations and provided a detailed description of its interactions with the FTC over the preceding nine months.

The Investigation Begins. While no two investigations are alike, they typically follow a standard path. Initially, FTC staff attorneys and investigators, using a variety of tools, gather evidence. The FTC may seek information from third parties who are not the subject of the investigation through phone or email, less formal voluntary access letters, or formal Civil Investigative Demands (CIDs). CIDs function like subpoenas, requiring the recipient to produce documents, answer written questions, or provide testimony. Many investigations end here if the agency concludes that it has insufficient evidence of wrongdoing to move forward. When it concludes otherwise, the FTC will usually issue CIDs to the investigation's target. Receipt of a CID is usually the first time a company learns it has drawn FTC scrutiny. It is the time to promptly assess potential legal exposure, preserve relevant documents, and develop a strategy for responding to the agency.

Information Gathering. Responding to CIDs can be demanding. Dollar General reported producing more than 200,000 documents and 350 gigabytes of data. Managing the response to a CID, including negotiating reasonable limits on the scope and timing of document production, written responses, or testimony, can make a significant difference in the time and expense involved.

Making Your Case. The CID production period provides an opportunity for companies to persuade the agency that an enforcement action is unnecessary. Companies can explain why their practices do not violate the law or challenge the FTC's legal theories. Companies can enhance their likelihood of success in this regard through cooperation: produce information in a timely matter and maintain open lines of communication with agency staff. If the FTC decides that further action is required, it can move quickly once the CID has been fully responded to, or even sooner if the agency determines that it has all the information it needs to proceed before full compliance with the CID is complete. According to Dollar General, the FTC presented a draft complaint and proposed

settlement order just three days after the company's final witness testified.

What Comes Next. The FTC almost always provides companies with a proposed complaint and settlement offer before filing suit, as it did with Dollar General. Settlement negotiations, which may include meetings with senior management and FTC Commissioners, generally follow. While these discussions can take time, the agency can move quickly here as well when it wants to. Dollar General reported spending approximately four weeks negotiating with the FTC before it sued.

What Can Companies Learn? Dollar General's public statement offers a glimpse into a process that usually remains hidden.

The matter highlights several practical considerations for companies responding to an FTC inquiry. First, investigations can move quickly. The speed of the Dollar General investigation, with just nine months passing between the initial CID and the filing of the federal lawsuit, is especially notable. Second, investigatory demands can place substantial demands on company resources. Negotiating the scope of investigatory requests and production timelines can be critical for controlling costs. Lastly, and perhaps most importantly, companies should be thinking about legal defenses and potential resolution strategies from the outset, well before the FTC announces its intention to bring a case.

If your company receives an FTC inquiry or CID and needs help to assess the issues, manage the response, and develop an effective negotiation strategy, contact Kilpatrick's Advertising and Marketing team.