

PUBLIC

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

The Kroger Company,

and

Albertsons Companies, Inc.,

Respondents.

Docket No. 9428

**NON-PARTY UBER TECHNOLOGIES, INC.'S UNOPPOSED MOTION TO EXTEND
THE TIME TO MOVE TO QUASH OR LIMIT SUBPOENA**

Pursuant to Rules 3.22, 3.34, and 4.3 of the Federal Trade Commission's ("FTC") Rules of Practice for Adjudicative Proceedings, non-party Uber Technologies, Inc. ("Uber"), by and through its undersigned counsel, hereby moves to extend its time to move to quash or limit the Subpoena for Production of Documentary Material ("Subpoena") issued in the above-captioned proceeding on April 24, 2024. Uber respectfully requests that the deadline to file a motion to quash or limit the Subpoena under Rule 3.34(c), and to submit written objections to the subpoena under Subpoena Nos. 13 and 14, be extended by four (4) days from June 7, 2024, to June 11, 2024, and states the following in support thereof:

1. On April 24, 2024, the FTC issued the Subpoena in the above-captioned proceeding. Subpoena Instruction No. 13 requires Uber to "set forth the basis for [Uber's] objection and respond to all parts of the request to which [Uber] do[es] not object. Any ground not stated in an objection within the time provided by 16 C.F.R. § 3.34, or any extension thereof, shall be waived."

PUBLIC

2. Section 3.34(c) provides that any motion “to limit or quash the subpoena shall be filed within the earlier of 10 days after service thereof or the time for compliance therewith,” 16 C.F.R. § 3.34(c).

3. This Court previously granted an extension for Uber to move to limit or quash the subpoena, extending that deadline to June 7, 2024.

4. Counsel for Uber and the FTC have met and conferred on a number of occasions. The meet and confer process is ongoing and productive, including a conferral most recently on June 7, 2024. During that conference, counsel for Uber and the FTC agreed that an extension of the deadline to seek relief from the Subpoena would allow the meet and confer process to continue and afford Uber additional time necessary to evaluate the Subpoena. Counsel for the FTC informed counsel for Uber that the FTC does not oppose this motion.

5. Granting the proposed four-day extension will permit counsel for Uber and the FTC to continue negotiating in good faith, thereby eliminating and/or narrowing any disputes.

WHEREFORE, for good cause shown, Uber respectfully requests that this unopposed motion to extend the time to file a motion to quash or limit the Subpoena be granted and that Uber be given until June 11, 2024, to file any such motion. A proposed order granting the requested relief is attached.

Dated: June 7, 2024

Respectfully submitted,

/s/ Lauren Battaglia
Lauren Battaglia
Joshua B. Short
HOGAN LOVELLS US LLP
555 Thirteenth Street NW
Washington, D.C. 20004
Telephone: (202) 637-5600
Facsimile: (202) 637-5910

PUBLIC

lauren.battaglia@hoganlovells.com
josh.short@hoganlovells.com

Counsel for Uber Technologies, Inc.

PUBLIC

CERTIFICATE OF SERVICE AND ELECTRONIC FILING

I hereby certify that on June 7, 2024, a true and correct copy of Uber Technologies, Inc.'s Unopposed Motion to Extend the Time to Move to Quash or Limit the Subpoena and the accompanying proposed order were filed electronically with the Federal Trade Commission using the Commission's E-Filing System, and a notification of such filing with a courtesy copy of the foregoing documents was sent by email to:

April Tabor
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, D.C. 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, D.C. 20580

I also certify that on June 7, 2024, I caused the foregoing document to be served via email to:

Charles Dickinson
James H. Weingarten
Emily Blackburn
Paul Frangie
Laura Hall
Janet Kim
Kenneth A. Libby
Eric Olson
Rohan Pai
Harris Rothman
Albert Teng
Elizabeth Arens
Jacob Hamburger
Joshua Smith
Katherine Bies
Lily E. Hough
Katharine Drummonds

PUBLIC

Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, D.C. 20580
cdickinson@ftc.gov
jweingarten@ftc.gov
eblackburn@ftc.gov
pfrangie@ftc.gov
lhall1@ftc.gov
jkim3@ftc.gov
klibby@ftc.gov
eolson@ftc.gov
rpai@ftc.gov
hrothman@ftc.gov
ateng@ftc.gov
earens@ftc.gov
jhamburger1@ftc.gov
jsmith3@ftc.gov
kbies@ftc.gov
lthough@ftc.gov
kdrummonds@ftc.gov

Counsel Supporting the Complaint

Michael B. Bernstein
Matthew Wolf
Sonia Pfaffenroth
Joshua Davis
Michael Kientzle
Jason Ewart
Yasmine Harik
Christina Cleveland
John Holler
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave, NW
Washington, D.C. 20001
Telephone: 202.942.5227
Michael.b.bernstein@arnoldporter.com
Matthew.wolf@arnoldporter.com
Sonia.pfaffenroth@arnoldporter.com
Joshua.davis@arnoldporter.com
Michael.kientzle@arnoldporter.com
Jason.ewart@arnoldporter.com
Yasmine.harik@arnoldporter.com
John.holler@arnoldporter.com

Mark Perry

PUBLIC

Luke Sullivan
Weil, Gotshal & Manges LLP
2001 M Street, NW, Suite 600
Washington, D.C. 20036
Telephone: 202.682.7511
Mark.perry@weil.com
Luke.sullivan@weil.com

Luna Barrington
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Telephone : (212) 310-8421
luna.barrington@weil.com

Bambo Obaro
Weil, Gotshal & Manges LLP
201 Redwood Shores Parkway
Redwood Shores, CA 94065
Telephone: (650) 802 -3083
bambo.obaro@weil.com

Counsel for The Kroger Company

Edward Hassi Debevoise & Plimpton LLP
801 Pennsylvania Avenue, NW
Washington, D.C. 20004
Telephone: (202) 383 -8135
thassi@debevoise.com
Michael Schaper
Shannon R. Selden
J. Robert Abraham
Natascha Born
Jaime Freilich-Fried
Marieugenia Cardenas
Tom E. Buckley
Heather T. Mehler
Marie Ventimiglia
Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
Telephone: (212) 909-6737
mschaper@debevoise.com
srselden@debevoise.com
jrabraham@debevoise.com
nborn@debevoise.com

PUBLIC

jmfried@debevoise.com
mcardena@debevoise.com
tebuckley@debevoise.com
htmehler@debevoise.com
msventim@debevoise.com

Mike Cowie
James Fishkin
Dechert LLP
1900 K Street, NW
Washington, D.C. 20006
Telephone: (202) 261-3339
mike.cowie@dechert.com
james.fishkin@dechert.com

Thomas Miller
Dechert LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104
Telephone: (215) 994-2906
thomas.miller@dechert.com

George L. Paul
White & Case LLP
701 13th Street, NW
Washington, D.C. 20005
Telephone: (202) 626-3656
gpaul@whitecase.com

Counsel for Albertsons Companies, Inc.

Dated: June 7, 2024

Respectfully submitted,

/s/ Lauren Battaglia
Lauren Battaglia
Joshua B. Short
HOGAN LOVELLS US LLP
555 Thirteenth Street NW
Washington, D.C. 20004
Telephone: (202) 637-5600
Facsimile: (202) 637-5910
lauren.battaglia@hoganlovells.com
josh.short@hoganlovells.com

Counsel for Uber Technologies, Inc.

PUBLIC

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of
The Kroger Company,
and
Albertsons Companies, Inc.,
Respondents.

Docket No. 9428

[PROPOSED] ORDER

On June 7, 2024, non-party Uber Technologies, Inc. (“Uber”) filed a motion to extend its time to move to quash or limit the subpoena (“Subpoena”) issued by Complaint Counsel on April 24, 2024 (“Motion”). Complaint Counsel does not oppose the relief requested in the Motion.

Under FTC Rule of Practice 3.34(c), any motion to limit or quash a subpoena must be filed within 10 days of receipt of the subpoena. 16 C.F.R. § 3.34(c). Pursuant to FTC Rule 4.3(b), the Administrative Law Judge, except in circumstances not here presented, may extend any time limit prescribed by the rules “[f]or good cause shown.” 16 C.F.R. § 4.3(b).

Based on the representations in the Motion, Uber has demonstrated good cause for the requested extension. Accordingly, the Motion is GRANTED and it is hereby ORDERED that Uber’s deadline for filing any motion to quash or limit the Subpoena is extended to June 11, 2024

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: _____, 2024