

WHAT'S HAPPENING IN DAWN RAIDS ACROSS EUROPE?

In the first half of 2025, competition authorities across Europe have continued to vigorously use their intrusive dawn raid powers in diverse economic sectors. These operations require diligent and thorough preparation as well as forward-looking strategic thinking as they may involve avoiding obstruction charges, launching immediate appeals to courts, and/or applying for leniency – not to mention that dawn raids in Europe now frequently trigger private class actions in the US. In such cases, discovery proceedings soon follow. This two-pager summarises key points for how to prepare for a dawn raid in the current environment and how Mayer Brown can help.

1. EPHEMERAL MESSAGES PRIORITIZED RAISING PRESERVATION ISSUES

The European Commission ("Commission") is now routinely asking inspected companies to place legal holds on selected custodians in order to recover all their data. But legal holds only work for the data stored on the networks and apps of the company. In contrast, ephemeral messages are found on personal devices and apps controlled by the employee and the company has no copy.

Employees are therefore asked to surrender their personal devices and/or provide their login and passwords to download ephemeral messaging app data. Many recent obstruction procedures have been founded on the behavior of individual employees deleting conversations on WhatsApp, Signal, Messenger or others.

Authorities are increasingly concerned that businesses allow the use of such tools without taking appropriate steps to preserve evidence. Guidance has been released in the US on this topic and the recent UK Digital Markets Competition and Consumer Act ("DMCCA", in force since 1 January 2025) imposes a new duty to preserve potentially relevant data, including ephemeral messages, as soon as a person knows or suspects that the Competition and Markets Authority ("CMA") is likely to carry out or is carrying out a competition investigation.

[Click here: Antitrust risks raised by ephemeral messages.](#)

2. DATA STORED ABROAD OR IN THE CLOUD WILL LIKELY BE IN SCOPE

Competition authorities have long been able to exercise control over behaviour which takes place outside their jurisdiction, so long as there has been an impact or "effect" in the jurisdiction. Recently, attention has shifted to the question of whether authorities can obtain evidence from outside of their jurisdiction, especially in the context of a dawn raid.

The new EU Foreign Subsidies Regulation is inherently extraterritorial, since the Commission is concerned to see if any subsidy coming from outside the EU i.e. foreign, is distorting the internal EU market. In this context, the Commission's powers to inspect the EU premises of businesses operating in another jurisdiction, including outside of the EU have recently been upheld in court. More specifically, inspectors must be given access to data on their European operations even if stored outside the EU (*T-284/24 Nuctech Warsaw Company Limited and Nuctech Netherlands v Commission*). Most authorities also consider that they can copy all data "accessible from" the inspected premises.

A similar approach to investigation powers was incorporated in the new DMCCA. This gives the CMA an enhanced ability to require production of electronic information that is accessible from premises being searched.

3. REQUESTS TO PROTECT PRIVATE DATA MUST BE MADE IMMEDIATELY

Given the vast data sets and communication tools inspectors ask for, it is inevitable that private and personal data will be reviewed - and sometimes even copied and taken - by competition authorities. This can be very concerning for the individuals involved.

Courts are also increasingly concerned about these intrusions, and have considered in several cases that companies are right to ask for better protection of personal data. Immediate appeals to the courts have been allowed if proper protection cannot be obtained from inspectors (see for example *T-451/20 Meta Platforms Ireland and T-255/17 Les Mousquetaires*).

[Click here: The fundamental importance of gathering sufficient evidence to carry out competition dawn raids.](#)

4. TOWARDS GREATER PROTECTION OF PRIVILEGED COMMUNICATIONS?

Rules relating to the scope of legal privilege vary across Europe, making this a particularly complex area to navigate during a dawn raid. In particular, the status of advice provided by in-house counsel in an EU context is still very unsatisfactory. Apart from a few Member States, no protection is generally recognised. There are also growing uncertainties about the exact scope of protection for exchanges with outside counsel. Some authorities still require to show a potential rights of defence issue before claims for protection will be allowed. However recent case law has emphasised that "other than in exceptional situations, [clients] must have a legitimate expectation that their lawyer will not disclose to anyone, without their consent, that they are consulting him or her" (*C-694/20 Orde van Vlaamse Balies and Others*).

TAKEAWAYS

Businesses must be ready to be visited by competition inspectors and asked to grant access to huge quantities of different kinds of data including material stored on cloud servers, abroad and personal devices.

Businesses should prepare employees to avoid deletions and get organised in advance to make sure that the relevant protections are requested and reservations are made promptly during a dawn raid.

5. COMPANIES ALLOWING REMOTE WORKING SHOULD EXPECT HOME SEARCHES

Most authorities in Europe have the power to raid homes and have been doing it more frequently since the pandemic, as many companies are now operating with a hybrid working model. The French Supreme Court recently confirmed that a home visit only requires a reasonable suspicion that relevant documents may be found there and considered that this is admittedly the case when an employee works from home (*French Supreme Court, 8 April 2025*). Similarly the English High Court has confirmed that the same evidential threshold applies for granting a warrant to search business or domestic premises. More specifically, when applying for a warrant to search a domestic dwelling, the CMA is not generally required to provide evidence that an affected individual may have a particular propensity to conceal or destroy relevant evidence.

[Click here: Home Sweet Home? CMA granted domestic search warrant on appeal by English High Court.](#)

6. OBSTRUCTING INSPECTORS RISKS HEAVY PENALTIES

Unprepared employees are likely to panic and make inappropriate decisions. The authorities have made clear that any steps that hinder their dawn raid work will be penalised. For example, in 2024, the Commission imposed a €15.9 million fine on a company for obstructing dawn raids when a senior employee was found to have intentionally deleted relevant WhatsApp messages with a competitor after he had been informed of a Commission inspection. Similar recent examples can be found in:

- France, where a fine of €900,000 was imposed when executives were found to have lied to investigators about the CEO's presence on the premises;
- Finland, where a business was fined €1.5 million for resisting a dawn raid by deleting from a mobile phone WhatsApps and a call log; and
- Turkey, where a fine of €33.4 million was imposed on a supermarket for messages that were deleted by a company executive during a raid.

In the UK, the DMCCA brings administrative penalties more in line with European sanction levels and introduces new fines for individuals.

TAKEAWAYS

The Antitrust and Competition team at Mayer Brown can assist with all aspects of competition inspections and resulting liaison with competition authorities around the world. Our dawn raid app has been specifically designed to help you reach a member of our team immediately if a raid is occurring and walk you through initial steps to take when regulators first appear. Contact us to discuss further.

KEY RECENT COMPETITION DAWN RAIDS IN EUROPE

JUNE 2025

- Swiss Authority raids steel sector
- Belgian Authority raids personal care and retail sectors

MAY 2025

- Spanish Authority raids airport fixed base operators facilities sector
- Irish Authority raids betting sector

APRIL 2025

- Danish Authority raids sports equipment sector

MARCH 2025

- Italian Authority raids jewellery and watch sector
- French Authority raids glass packaging sector
- European Commission raids non-alcoholic drinks sector

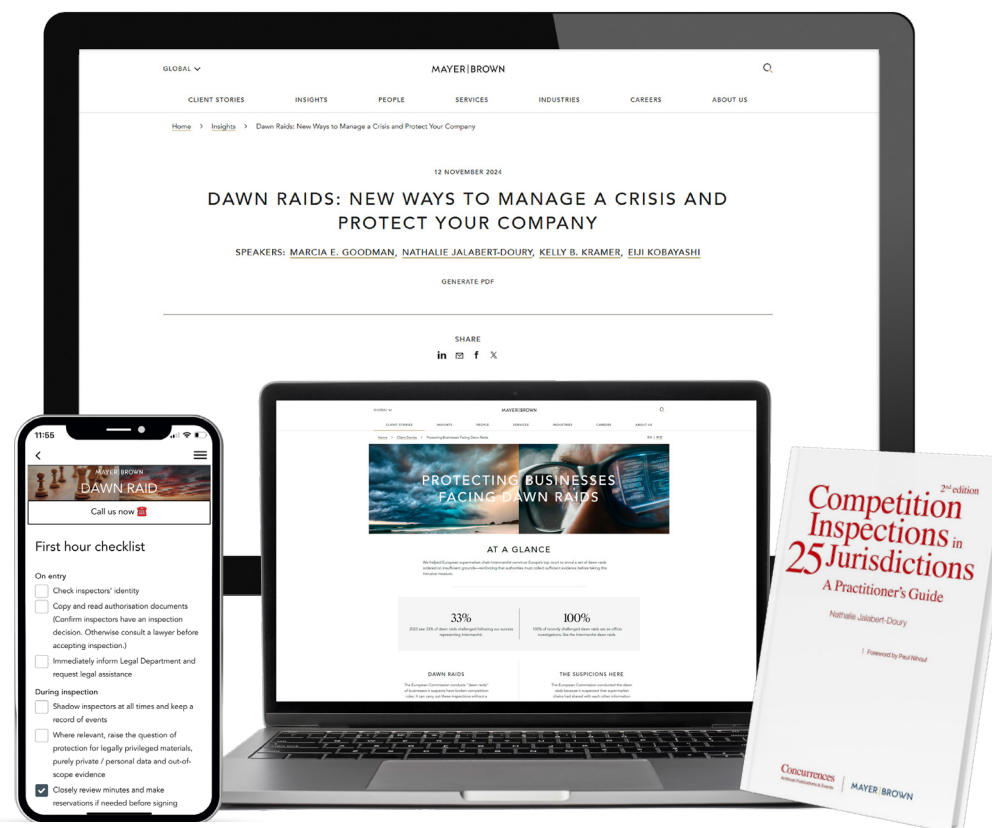
FEBRUARY 2025

- Norwegian Authority raids veterinary sector

JANUARY 2025

- Luxembourg Authority raids insurance sector

OTHER RESOURCES


[DAWN RAID APP](#)
[WEBINAR](#)
[CLIENT STORY](#)
[GUIDE](#)

Click a resource above to learn more

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