

# WHAT'S HAPPENING IN DAWN RAIDS ACROSS EUROPE?

## EDITION 2

Throughout the second half of 2025, competition authorities across Europe have continued to conduct raids across varied sectors with a focus on digital evidence. Several authorities are seeking wider inspection powers. Debates around data, disclosure, and privilege continue to evolve. This two-pager summarises the most recent developments and key takeaways which companies need to know to plan and adapt their processes in readiness for dawn raids in 2026.

### 1. CHALLENGING DAWN RAIDS: EXPECT BETTER PREPARED AUTHORITIES

Recent rulings of the General Court of the EU ("General Court") demonstrate challenges to the legality of decisions ordering competition inspections can succeed, but much will depend on the facts of the case. In the ongoing tyres investigation, the General Court partially annulled a raid because the European Commission ("Commission") lacked sufficient grounds for part of the inspected period. However, a challenge to the legality of an inspection decision ordering raids on an energy drink manufacturer was dismissed in October 2025.

In the light of the trend of challenging the legality of dawn raid decisions over the past few years as a result of the French Supermarkets case, authorities are now planning inspections with litigation in mind. They are also making increased use of AI-enabled tools including for example screening hundreds of thousands of earning calls to flag potential coordination signals to justify raids. This growing use of data analytics and forensic triage is likely to continue in 2026.

In any such proceeding, an authority is likely to resist disclosure of the detailed grounds for its investigation and the evidence it has collected to date, to protect its ongoing inquiries including other raids. The UK Competition Appeal Tribunal ("CAT") recently affirmed that the UK Competition and Markets Authority ("CMA") can withhold sensitive content where disclosure would harm the public interest, e.g., revealing sources or methods. The CAT will balance the different interests in each case but noted in this instance that heavily redacted disclosure was legal since fuller disclosure was not essential to the applicant's ability to exercise its rights of defence.

### 2. MODERNISING ENFORCEMENT: INCREASED POWERS ARE IN THE MAKING

Over the summer the Commission consulted on modernising its inspection powers under Regulation 1/2003. For some time already, the Commission has considered that its inspection powers should cover any data accessible from the inspected premises. However, in times of cloud-based data storage, such a claim would result in limitless powers. The Commission is now proposing to clarify what data it can access during investigations. Although the latest proposals stop short of granting a general right to access data stored remotely outside the EU, given the focus on enhancing the Commission's powers in this area and in particular in respect of digital evidence, the direction of travel is clearly towards increased data access for the Commission and potentially opening the way to entirely remote inspections. If these ideas are formally adopted, they risk being extremely problematic for companies both in terms of compliance as well as confidentiality and security.

The Commission is also asking for compulsory interview powers, a proposal which is hotly debated, particularly as to how this can be reconciled with the fundamental right to remain silent and not lead to self-incrimination. Especially in a context of growing prosecution risks on individuals, concerns are being raised that the Commission is going too far.

### 3. CROSS BORDER RAIDS: CO-OPERATION CASES LIKELY TO DEVELOP EVEN THOUGH THEY GENERATE LITIGATION

Although National Competition Authorities ("NCAs") have long had the power to request mutual assistance in conducting inspections within each other's territories and to share the evidence gathered, such cases remain relatively rare. The Italian Competition Authority decided to make use of facilitation arrangements to obtain evidence in Ireland concerning Ryanair. Challenges to this approach have been brought in both Ireland and Italy. In November 2025, Ireland's High Court refused Ryanair's application to require the Irish Competition Authority to recover, or prevent the use of, documents seized in Ireland on behalf of Italy's Competition Authority during a dawn raid, where Ryanair was contesting the underlying search warrant. The Irish High Court made clear that Ryanair *"appears to have sued the wrong body in the wrong jurisdiction"*. However, the debate continues since the Irish High Court is still considering the legality of the inspection itself, and Ryanair is also challenging the legality of the dawn raid in the Italian courts, arguing that the Italian authority's request to the Irish regulator for assistance lacked sufficient motivation and did not follow proper process. Specifically, Ryanair is requesting access to the relevant correspondence between the two authorities. The Italian Council of State has now asked the Court of Justice of the EU whether Ryanair can access the reasons given to the Irish authority that triggered the latter's involvement. This raises important questions about whether exchanges between competition authorities are "internal" and shielded from disclosure, with potential knock-on effects for companies seeking judicial review of inspection measures in crossborder cases.

Note that an EU/UK cooperation agreement has now been authorised for signature on behalf of the EU and should soon enter into force once all approvals have been obtained, possibly easing more pan-European investigations.

### TAKEAWAYS

Authorities are making the most of their existing powers to justify their inspections and increase their ability to identify potential infringements, not relying on leniency applications to develop new cases. They are also looking for additional/clearer powers and are already pushing in that direction in practice such as with data located abroad.



## 4. EMAILS AND PHONES: ONLY PROPORTIONATE INTRUSIONS INTO PERSONAL DATA ALLOWED

In October 2025, an Advocate General at the Court of Justice of the European Union ("AG") flagged the inherently intrusive nature of dawn raids, especially when it comes to emails and even more so, mobile phones. The AG opined that although seizing work emails on corporate devices during a raid on business premises does not require prior judicial authorisation, legal safeguards must be in place such as clear reasons in the inspection decision for the seizure, clearly defined scope, and access to judicial review. Central to the AG's opinion was the importance of properly protecting personal data as the Commission is doing. The AG also distinguished the seizure of work emails from previous caselaw on seizures of mobile phones, indicating that the latter likely deserve greater protection given the larger amount of personal data they contain. This reinforces statements made in several previous EU cases and is especially timely given that some NCAs are still taking copies of all personal data found and refusing any protection.

A recently published judgment in the UK granting the CMA a dawn raid warrant including the power to seize mobile phones also highlights the need for proportionality. In its warrant application, the CMA promised the devices would be returned as soon as possible (SIM card within 2 hours and phone within 36 hours) and that it would try to provide a substitute device in the interim. In addition, the CMA prioritised on-site data collection. The CMA emphasised that phone data was likely to be especially relevant given the communications in question and doubts over the availability of other data.

Businesses should be wary of inspectors asking for personal devices and be prepared to insist on obtaining sufficient protection. Where mobile phones (business or personal) are requested by inspectors, without obstructing the inspection, businesses can refer to the deeply personal nature of communications on such devices and suggest appropriate methodology such as handling the device and copying materials in the presence of the device owner and limiting seizures to exchanges containing professional information. If adequate measures are not obtained, businesses should consider reaching out to courts, where needed on urgency grounds as suggested by the General Court in French Supermarkets.

## 5. IN-HOUSE LEGAL PRIVILEGE: EU POSITION REMAINS UNWORKABLE FOR BUSINESSES

The Commission's November 2025 Policy Brief reiterates the unsatisfactory position that, at EU-level, privilege attaches to communications with independent EU-qualified external counsel, not in-house lawyers. The Commission's rationale is that the employment relationship precludes the "full independence" required for legal professional privilege and that broader privilege would impair enforcement. However, this analysis fails to account for businesses seeking advice from in-house lawyers. Indeed, everyday compliance requires frequent contact between a business and its internal legal team. Furthermore, the EU position contradicts several national regimes which recognise the privileged nature of in-house legal advice. In France, in the present political context, proposed legislation to protect the confidentiality of in-house lawyers is progressing very slowly, but it is necessary to continue pushing for better protection, in particular as the French Competition Authority has relied in two recent cases (an obstruction case and an abuse case), on the advice or the actions of in-house counsel. This current policy is unworkable for businesses who must be able to seek legal advice as needed, without fear of compulsory disclosure.

## KEY RECENT COMPETITION DAWN RAIDS IN EUROPE

### DECEMBER 2025

- Commission conducts raids in e-commerce sector (FSR)
- Greek authority conducts raids in electricity generation and wholesale supply sectors
- Italian authority conducts raids in watch manufacturing sector

### NOVEMBER 2025

- German authority conducts raids in slaughterhouse sector
- Spanish authority conducts raids in the private healthcare and health consultancy sectors

### OCTOBER 2025

- European Commission conducts raids in ski equipment sector
- Greek authority conducts raids in taxi and personal transport sector

### SEPTEMBER 2025

- European Commission conducts raid in vaccines sector
- Dutch authority conducts raid in software sector
- French authority conducts raid in cancer treatments sector

### AUGUST 2025

- Romanian authority conducts raids in crop seeds and crop protection products sectors

### JULY 2025

- Danish authority conducts raid in accounting services sector
- Irish authority conducts raids in retail sector
- Italian authority conducts raids in ski pass sector

## EUROPEAN ANTITRUST & COMPETITION CONTACTS



PARTNER (EUROPEAN CO-LEAD)  
**NATHALIE JALABERT-DOURY**  
ANTITRUST & COMPETITION  
PARIS/BRUSSELS +33 6 80 24 29 24  
[NJALABERTDOURY@MAYERBROWN.COM](mailto:NJALABERTDOURY@MAYERBROWN.COM)



PARTNER (EUROPEAN CO-LEAD)  
**CHRISTIAN HORSTKOTTE**  
ANTITRUST & COMPETITION  
DÜSSELDORF/BRUSSELS +49 162 299 0838  
[CHORSTKOTTE@MAYERBROWN.COM](mailto:CHORSTKOTTE@MAYERBROWN.COM)



PARTNER  
**JEAN-MAXIME BLUTEL**  
ANTITRUST & COMPETITION  
PARIS +33 6 29 90 27 58  
[JBLUTEL@MAYERBROWN.COM](mailto:JBLUTEL@MAYERBROWN.COM)



PARTNER  
**MARK HILLS**  
ANTITRUST & COMPETITION  
LONDON +44 7540 336 665  
[MHILLS@MAYERBROWN.COM](mailto:MHILLS@MAYERBROWN.COM)



PARTNER  
**AYMERIC DE MONCUIT**  
ANTITRUST & COMPETITION  
BRUSSELS/PARIS +32 477 65 03 20  
[ADEMONCUIT@MAYERBROWN.COM](mailto:ADEMONCUIT@MAYERBROWN.COM)



PARTNER  
**DANIEL VOWDEN**  
ANTITRUST & COMPETITION  
LONDON + 44 7385 004708  
[DVOWDEN@MAYERBROWN.COM](mailto:DVOWDEN@MAYERBROWN.COM)



PARTNER  
**JOHANNES WEICHBRODT**  
ANTITRUST & COMPETITION  
DÜSSELDORF +49 176 1794 1021  
[JWEICHBRODT@MAYERBROWN.COM](mailto:JWEICHBRODT@MAYERBROWN.COM)

## TAKEAWAYS

In 2025, competition agencies across Europe have signalled a push towards more intrusive detection tactics. Alongside moves to expand inspection powers, agencies are claiming broad rights to withhold sensitive material, increasing the burden on businesses caught up in dawn raids. Clear, contemporaneous and firmly framed objections should be made as soon as possible, without causing any obstruction. Companies should assume continued inspection activity into 2026 and take steps to prepare for this now.

## COMPETITION INVESTIGATIONS CONFERENCE PARIS, 17 FEBRUARY 2026

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