

# Dawn Raids - A Survival Guide

## Introduction

This guide is designed as a brief list of what to do and what not to do in the event that officials from either the Office of Fair Trading or the European Commission visit your offices to investigate allegations of anti-competitive practices.

Both the Office of Fair Trading and the European Commission have extensive powers to search company premises, require the production of documents and question staff. It is therefore important that companies are aware of both their rights and responsibilities.

## What you should do

- **Be polite and co-operative at all times.** Be aware, however, that anything you say could later be used against either the company or you.
- On arrival, **refer officials immediately to your legal department.**
- **Contact external legal counsel as soon as possible for advice and assistance.** Both the Office of Fair Trading and the European Commission will wait for a short time for legal advisers to arrive before starting their search. If necessary, officials may ask you to secure documents, equipment or rooms in the interim. The contact details for the Burges Salmon competition team are set out below.
- **Check and take copies of the officials' identity documents.**
- **Check the notice setting out the grounds for and scope of the investigation carefully.**
- **Identify the investigation team leader and try to establish what it is the officials are looking for.**
- **Answer concisely and truthfully any questions about the whereabouts of documents and the location and role of individuals.** Officials may also ask you to provide brief factual explanations of documents. In the event that officials wish to ask any detailed questions or interview particular individuals, legal advice should be sought before any answer or interview is given.
- When searching premises officials will split up to look at different parts of the premises/review different documents. **Ensure that each official is accompanied at all times by a member of staff (preferably a lawyer).** Try to keep as full a record as possible of what documents they ask for and/or inspect and of any questions asked / answers given.
- **If documents contain legal advice (e.g. correspondence with in-house or external lawyers), legal privilege should be asserted.** Officials should not be allowed to inspect these documents, but instead they should be put aside for later consideration after the issue of legal privilege has been resolved.
- Officials will ask to take copies of particular documents, discs and/or hard drives. **Ensure that you take your own copy of all of documents copied by the officials as a record of what they have taken.**

## What you should not do

- Refuse entry to officials or keep them waiting unduly.
- Inform anybody outside of the company (other than external lawyers) that an investigation is underway or has taken place. This is to stop other companies and individuals being “tipped off”.
- Destroy or delete any documents or records (including electronic records).
- Delay contacting executives that officials ask to see.
- Be unhelpful or obstruct investigating officials.
- Answer any detailed questions or sign anything without taking legal advice.

### Contact details

For more information on how to prepare for and what to do in the event of a dawn raid, please contact a member of our competition team:



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