

## Guidelines of the Belgian Competition Authority concerning dawn raids

1. Pursuant to Article IV.25, 2° of the Code of Economic Law ("CEL"), the Board of Directors of the Belgian Competition Authority ("BCA") adopted these Guidelines on 20 June 2025. They are published in the Belgian Official Gazette and on the BCA's website.
2. These Guidelines reflect the current practice of the BCA when conducting dawn raids pursuant to Article IV.40/2 CEL. They have been codified and published for reasons of transparency and to ensure the proper conduct of such measures.
3. These Guidelines replace those previously approved by the Board of Directors of the BCA on 17 December 2013 (*Belgian Official Gazette*, 24/12/2013, pp. 102122-102126).

### **I. General**

4. Undertakings<sup>1</sup> are legally required to submit to dawn raids carried out by the Prosecutor and the staff of the BCA (hereinafter: "Investigators") authorised by the Minister, with the prior authorisation of an investigating judge.<sup>2</sup> The Prosecutor General may appoint experts to assist the BCA's Investigators in the performance of their duties.<sup>3</sup>
5. A copy of the Prosecutor's mission order specifying the subject matter and purpose of the mission,<sup>4</sup> a copy of the Prosecutor General's decision appointing the experts, and a copy of the prior authorisation of the investigating judge shall be provided to the Undertaking by one of the BCA's Investigators. The Undertaking signs a document in which it confirms having received these Guidelines and a copy of the three aforementioned documents.
6. The Undertaking may be assisted by a lawyer or legal adviser; however, such assistance is not a legal condition for the validity of the dawn raid. After notification of the prior authorisation, the mission order and the appointment of the experts, the Investigators and appointed experts may immediately enter all premises (offices, warehouses, workspaces, vehicles, etc.) where the Undertaking's activities take place, take all necessary measures to preserve the integrity of relevant elements and begin their investigative acts. They are not required to wait for the Undertaking to consult a lawyer or legal adviser and for them to be present on site.
7. The rules on the protection of personal data apply to all personal data obtained by the BCA in the context of competition investigations. All personal data obtained during the dawn raid are processed

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<sup>1</sup> In these Guidelines, the term "Undertaking" refers to undertakings, business associations and natural persons who are the subject of a dawn raid.

<sup>2</sup> Article IV.40/2, §1 of the Code of Economic Law, hereinafter "CEL".

<sup>3</sup> Article IV.40/4 CEL.

<sup>4</sup> Article IV.40/2, §8 CEL.

in accordance with Regulation (EU) 2016/679 on the processing of personal data ("GDPR").<sup>5</sup> The legality of the collection and processing of personal data by the BCA is justified by its public interest task (Article 6(1)(e) GDPR) in accordance with Article IV.16 §8 CEL. The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority. The legality of the processing of personal data by the BCA does not depend on the consent of the data subjects. The BCA's data protection statement can be found on its website under the tab '[Privacy and data processing](#)'.

8. In accordance with Article IV.32 CEL, staff members of the BCA, as well as any person working under their authority, are bound by professional secrecy and may not disclose to any person or authority any confidential data and information of which they have become aware by reason of their duties, except where they are called upon to testify in court or to produce evidence. They may only use such data for the purposes for which they were collected.

## **II. Investigative powers**

9. In accordance with Article IV.40/2 CEL, the Investigators are authorised to carry out searches in:

- The premises, means of transport and other locations of the Undertakings.<sup>6</sup>
- Other premises, means of transport and places, including the residences of Undertaking executives, directors, managers, administrators, and other staff members, as well as the homes and premises for professional use of internal or external natural and legal persons responsible for commercial, accounting, administrative, tax and financial management, when they have reason to believe that they will find documents or information that they deem necessary for the performance of their tasks.

10. For the purpose of conducting the dawn raid, the Investigators may call upon the police.<sup>7</sup>

11. During the dawn raid, the Investigators, with the support of the appointed experts, may in particular (Article IV.40/2, §§ 3 to 5 CEL):

- Examine all documents and data, regardless of their medium, that are in the Undertaking's possession and those to which the Undertaking has access, regardless of their location and access conditions.
- Make or obtain copies of all relevant documents or data in any form whatsoever.
- Question any representative or staff member of the Undertaking about facts or documents relating to the subject matter and purpose of the mission order, as well as the internal

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<sup>5</sup> Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119 of 4 May 2016, p. 1).

<sup>6</sup> Article IV.40/2, §1 CEL.

<sup>7</sup> Article IV.40/2, §7 CEL.

organisation of the Undertaking, working methods and the allocation of responsibilities, in order to facilitate the search for documents.<sup>8</sup>

- Affix seals for the duration of their mission.

12. The measures taken pursuant to these powers are recorded in an official report, a copy of which is provided to the Undertaking.

### **III. Cooperation**

13. The Undertaking is legally required to submit to the dawn raid conducted by the Investigators; it is therefore obliged to cooperate fully and actively with the Investigators throughout the entire duration of the investigative acts.

14. This cooperation includes, but is not limited to:

- Not disclosing to anyone internally or externally, unless permitted by the Investigators, that the Undertaking is subject to a dawn raid;
- Providing the most recent organisational chart of the Undertaking and the group to which it belongs, and providing all relevant explanations about the organisation of the Undertaking and the role of each current or former staff member (regardless of legal status);
- Immediately making the IT and network manager (including information systems) available to explain and provide access to the entire IT systems environment of the Undertaking, in particular with a view to granting “administrator” access rights, temporarily blocking individual email accounts, temporarily disconnecting computers from the network, etc.;
- Making available to the Investigators any person targeted by the dawn raid, including requesting them to proceed immediately to the premises visited, bringing their communication means and professional data, or by communicating to the Investigators the address of their residence;
- Responding clearly and accurately to the various questions asked by the Investigators and appointed experts;
- Granting access to the various premises of the Undertaking by providing, as necessary, access badges to all Investigators and appointed experts;
- Making available a space large enough to allow the installation of laptops that will be consulted by the Investigators;
- Providing access to a photocopier, etc.

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<sup>8</sup> See Article IV.40/2, §5 CEL: "They may question any representative or staff member of the undertaking or association of undertakings about facts or documents relating to the subject matter and purpose of the mission order, as well as the internal organisation of the undertaking, working methods, and the allocation of responsibilities, with a view to facilitating the search for documents. The answers may be recorded in writing or electronically. When the answers are recorded electronically, either the content of the recording is transcribed in an official report, a copy of which is handed to the person questioned, or a copy of the recording is provided to them."

## **IV. Document searches**

15. The Investigators have the right to examine any type of document and professional data, regardless of the medium on which it is stored, and to make or obtain a copy of it in any form. In particular, they may examine electronic data and make copies thereof in electronic or paper form.
16. The Investigators may inspect the IT systems environment and all storage media in the possession of the Undertaking or the individuals concerned, or to which the Undertaking or the individuals concerned have access (e.g. servers, desktop computers, laptops, tablets and other mobile devices, CD-ROMs, DVDs, USB sticks, external hard drives, backup tapes, cloud services, as well as any internal and external communication platform). This also includes private devices and media that are used (even partially) for professional purposes. To this end, they may not only use any search tool (which in particular allows searching on the basis of a non-exhaustive list of keywords that will be provided to the Undertaking at the end of the dawn raid), but also use their own specific software and/or computer hardware. These IT identification tools enable the BCA to copy, search and restore data, while respecting the integrity of the Undertaking's systems and data.
17. Storage media selected for examination may be kept under the control of the Investigators and appointed experts until the dawn raid is completed. Where appropriate, at the discretion of the Investigators, they may also be returned earlier, for example after making an image copy of the examined data. An image copy is a truecopy (partial or complete) of the data stored on the original medium. Examination of the true copy is equivalent to examination of the original storage medium.
18. When the Investigators decide to affix seals, an official report is drawn up. The Undertaking must ensure that the seals that have been affixed remain intact until they are removed by the Investigators.

## **V. End of the dawn raid**

19. At the end of the dawn raid, the Undertaking will receive a copy of all documents and data that have been copied on paper or in electronic form, as well as an inventory identifying them.
20. The documents and data (on paper and in electronic form) selected by the Investigators are verified in the presence of the Undertaking at the end of the dawn raid, to determine whether they may be covered by LPP<sup>9</sup> and/or fall outside the scope of the mandate ("out of scope").
21. The selected documents are then copied to an external medium and classified into one of the following three registers:

(1) "in scope" documents, containing documents whose copying is not contested by the Undertaking;

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<sup>9</sup> LPP (Legal Professional Privilege) protects all communications between a lawyer who is a member of a bar of the European Union and their clients against disclosure without the client's consent. This protection also applies to documents and their annexes. The opinions of in-house lawyers and requests for their opinions are also confidential (Article 5 of the Law of 1 March 2000 establishing an Institute for Corporate Law (Belgian Official Gazette, 4 July 2000)). Within the framework of these Guidelines and for the purposes of conducting dawn raids, the professional secrecy of lawyers and the confidentiality of opinions of an in-house lawyer affiliated with the Institute for In-house Lawyers ([www.iije.be](http://www.iije.be)) are designated by the abbreviation "LPP" for "Legal Professional Privilege".

(2) any "LPP" documents, containing documents which the Undertaking considers to be protected by LPP and whose LPP character is contested by the Investigators; and

(3) any "out of scope" documents, containing documents which the Investigators consider relevant but which, according to the Undertaking, fall outside the scope of the mission order.

22. The documents listed under (2) possible "LPP" documents and (3) possible "out of scope" documents must be sealed in secure envelopes for further examination by a member of the Prosecutor's team who is not part of the investigation team. The Undertaking receives the references of the sealed envelopes.

23. The Undertaking is granted a period of at least 10 working days after the date of completion of the dawn raid, depending on the number and size of the documents, to provide a list of the "out of scope" or "LPP" documents that are part of the sealed documents, accompanied by a brief explanation of the "out of scope" or "LPP" nature of each document whose copying is contested. The Prosecutor shall inform the Undertaking of the identity of the third Prosecutor responsible for handling the LPP and/or out of scope claims.

24. In accordance with Article IV.41, §2, CEL, the Undertaking has a period of 10 working days after the date of completion of the investigation to inform the Prosecutor of the confidential nature of certain documents and data concerned. The Undertaking may request a deadline for the submission of a non-confidential version or a non-confidential summary of the documents and data concerned. The Prosecutor shall grant a period of at least two months.

25. At the end of the dawn raid, the Investigators must erase the Undertaking's data from all IT tools used to collect and process such data, with the exception of IT equipment made available by the Undertaking, which is returned to the Undertaking. The Investigators take two identical copies of the selected data "in scope" on external media, as well as the secure envelopes containing the sealed information.

26. The above-mentioned steps are described in the official report drawn up by the Investigators at the end of the dawn raid. The Undertaking may make observations and/or reservations in the official report regarding the conduct of the dawn raid.

27. A copy of this official report, as well as a non-exhaustive list of the keywords used to carry out the dawn raid, are handed over to the Undertaking.

28. If the Investigators deem it appropriate, Article IV.40/2, §3 CEL provides for the possibility of continuing the dawn raid in the offices of the BCA or at any other designated location, in the presence of representatives of the Undertaking.

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