

Dawn raids: How to prepare for, manage, and mitigate the increasing risk to multinational tech companies

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Authors: [Bertrand Liard](#), [Ludovic Malgrain](#), [Norbert Majerholc](#)

Dawn raids and enforcement actions throughout Europe are becoming more and more prevalent. And increasingly, the targets of these raids are multinational tech companies with foreign headquarters, which through their global and digitalized footprint and innovative business models, present unusual challenges for law enforcement. Often, these investigations focus on the tax, competition (market power), and privacy practices of such multinational companies.

In these circumstances, it is vital for multinational tech companies to adopt strategic policies and practices to prepare for, manage, and challenge investigatory and enforcement actions. With 39 offices across 26 countries, and with first-rate expertise in advising and defending tech companies through all phases of dawn raids, investigations, regulatory disputes, and criminal proceedings, White & Case is uniquely positioned and qualified to protect targeted companies.

Our global team regularly handles a wide range of complex, high-stakes, and multijurisdictional legal matters. We help multinational corporations solve some of their most sensitive white collar and compliance matters, from risk assessments and multijurisdictional investigations to follow-on litigation. We advise multinationals on internal and government investigations into civil and criminal matters involving corruption, fraud, tax, accounting and regulatory issues.

For example, our Paris attorneys, together with colleagues from our offices around the world, in particular in Brussels, Hamburg, Hong Kong, London, New York, Silicon Valley, Singapore, Tokyo, and Washington, D.C., have represented leading multinationals in matters involving the financial prosecutor, the tax administration, the fraud and consumer administration, the AMF (financial markets authority), the ACPR (prudential control authority), the competition authority, and the CNIL (data protection authority) in France; as well as in civil, regulatory, and criminal matters involving the European Commission, the Financial Conduct Authority and Serious Fraud Office in the United Kingdom, and the Department of Justice, the Department of Financial Services, and the Commodity Futures Trading Commission in the United States.

How can companies best protect themselves before raids?

- **Designate an investigation response team.** This team should include a corporate spokesperson, a corporate decision-maker, legal counsel, and alternates. All team members should be ready to mobilize with little-to-no notice, and at all hours.

To mitigate the risk of negative public perception and stock fluctuation, the spokesperson should prepare shell press releases in anticipation of raids by various authorities. The corporate decision-maker, in turn, should be prepared to authorize the issuance of press releases and to make key decisions on the advice of legal counsel.

- **Train employees likely to come in contact with investigators.** Security and reception personnel are likely to be the first corporate representatives to come into contact with investigators and should be trained by legal counsel to: (i) identify the specific law enforcement authority and request documentation

establishing the basis for the raid; (ii) immediately alert the investigation response team to the same; and (iii) inform the law enforcement authority that the company has retained legal counsel, which will soon arrive.

In addition, all employees should be advised how to communicate with, or provide documents or other materials to, law enforcement authorities.

Legal counsel should tailor training protocols based on the laws and practices within the specific jurisdiction, as well as the permissible scope of investigatory actions by specific authorities within that jurisdiction.

- **Conduct mock raids with core personnel.** Raids are understandably stressful for employees. In our experience, this stress can be mitigated by periodically conducting mock raids to simulate what employees should expect and be ready to handle during a raid

How can companies best protect themselves during raids?

- **Follow established protocols.** As set forth above, security and reception personnel should immediately alert the investigation response team of a raid, and such members should immediately assume their respective responsibilities. All other employees should refrain from communicating with, or providing documents or other materials to, law enforcement authorities without the involvement of counsel.
- **Cooperate with law enforcement authorities but know your rights.** Although cooperation is the path of least resistance, it is imperative for a company to assert its legal rights against overbroad or unlawful searches and seizures. Legal counsel should be present for all searches and seizures, including interviews of personnel.

How can companies best protect themselves after raids?

- **Consult legal counsel.** After the investigation, corporate representatives should consult legal counsel to determine possible grounds to challenge the decision to conduct, or the procedures for carrying out, the raid, including with respect to any unlawful searches or seizures.
- **Notify relevant parties.** Corporate representatives should also consult legal counsel to determine whether and how to notify insurers, auditors, regulators, or other interested parties concerning the raid.
- **Manage publicity.** In addition to the issuance of any press releases, the corporate spokesperson should consult legal counsel to appropriately address inquiries from the press or other interested parties. The company should also advise employees to refrain from discussing the event or the circumstances leading up to it.

White & Case LLP
19 Place Vendôme
75001 Paris

T +33 1 55 04 15 15

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