

# ALLEN & OVERY

## Antitrust training: compliance and dawn raids

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2017



# The importance of antitrust compliance

In the current climate, compliance continues to play a prominent role for companies with cross-border operations.

Having an effective compliance policy and culture in place is vital for the prevention of anti-competitive conduct. Given the proliferation of antitrust regimes and the growing magnitude of penalties, multinational companies should ensure that their compliance efforts meet the highest standards.

We work with our clients to ensure that issues do not arise in the first place by devising risk management policies and compliance programmes. This involves developing and updating guidelines, delivering training, and hosting interactive workshops.

We can also help to carry out in-depth audits where anti-competitive conduct is suspected, or as part of a due diligence process. In the event of a dawn raid, it is essential that the company is fully prepared. We can work with you to develop tailored procedures and step-by-step guides on how to manage a raid, and can test those procedures in practice by carrying out simulated inspections.

*“Excellent service! The lawyers are thorough and the quality of work is really high.”*

Chambers Global 2016

*“Allen & Overy pound-for-pound has one of the most highly acclaimed competition practices in the world.”*

Global Competition Review 2016

*“The firm is an outstanding adviser on competition law matters, with a combination of high-quality expertise and availability in all circumstances.”*

Chambers Global 2016



# Developing effective, bespoke antitrust compliance programmes

Having fully trained staff and compliance materials will help ensure your business is equipped to deal with any issues that may arise.

In our experience, the most successful programmes are tailored to meet the specific business and geographic needs of our clients. They take a risk-based approach, identifying the key areas in the business where antitrust concerns are most likely to arise. We help our clients develop international or national compliance programmes, encompassing:

- Guidance on the basic principles of competition law set out in an accessible format
- Checklists of ‘dos and don’ts’ that cover dealing with competitors, suppliers and customers
- Answering tailored FAQs
- Guidelines on how to stay on the right side of the line when attending trade association or industry meetings
- Practical tips on managing documents and communications in order to avoid potential antitrust pitfalls

Our materials are user friendly, use relevant real-life practical examples, and outline to executives what they can do as well as what is prohibited.

Regular training is a vital component of any compliance programme. We offer the following, tailored according to the role of attendees and the issues they are likely to face:

- Periodic seminars (these can be conducted in-person or remotely) to educate staff on the basics of antitrust law and how to comply
- Presentations on how to handle antitrust investigations and how to devise a strategic response.

*Winner 2016, GCR Behavioural Matter of the Year Europe (Agency)*

Global Competition Review 2016

# Being prepared in the face of a dawn raid

Knowing what to expect from the authorities during a dawn raid is essential to mitigate risk.

We can help you develop a dawn raid procedure, taking you and your employees step-by-step through the formal process, from instructions for reception staff who will be the first to encounter the investigators, to how those in charge should deal with inspectors and manage the internal team.

We offer a suite of training solutions to suit specific business needs, including:

- A short webinar or seminar on the practical steps to follow in the event of a dawn raid
- A mock dawn raid to put the training into practice and identify any gaps in internal procedures
- Interactive training on key aspects of a dawn raid, including how to shadow inspectors, and handling interviews and electronic searches

Should an investigation be launched, we have extensive experience in assisting our clients, including:

- Attending dawn raids to ensure that the company's rights are being preserved
- Challenging dawn raid procedures in court
- Conducting audits (including reviews of documents seized, and interviews) on a national and/or multi-jurisdictional basis
- Preparing post-dawn raid strategies and defending cases

We can also assist with internal audits in the event that anti-competitive conduct is suspected.

# Online tools at your disposal when you need them

We provide our clients with a range of online tools that are accessible to them 24 hours a day.

## Antitrust practice guides:

A set of guides, aimed at in-house counsel, covering three important areas of competition law in relation to liability: leniency, individual liability and private enforcement. The guides set out the relevant rules across the EU, the U.S., China and Japan, key EU Member States (including Austria, Belgium, Czech Republic, France, Germany, Hungary, Italy, the Netherlands, Poland, Portugal, Slovakia, Spain, Sweden and the UK) as well as Russia, Switzerland and Turkey.

The guides can be used to provide a comprehensive description of the rules in a particular jurisdiction and to produce comparisons between the rules and regulations in different jurisdictions.



## Antitrust dawn raid guides:

Our bespoke website contains jurisdictional guides giving emergency assistance to employees in the event that the company becomes the target of a dawn raid by the European Commission, the U.S. Department of Justice, China's MOFCOM, or a number of other competition authorities in the EU and beyond.



### The areas covered are:

- Leniency: describing the various leniency regimes which allow "whistleblowing" companies to reduce or even be immune from fines for anti-competitive conduct (and, in particular, cartels)
- Individual Liability: a comparison of the rules in relation to whether an individual may face civil (or even criminal) sanctions for breach of the antitrust rules
- Private Enforcement: which considers the extent to which private actions for damages can be brought by third parties as a result of a breach of the competition laws

The guide sets out the main features of an inspection by the relevant competition authority, including:

- What happens when the inspectors arrive
- How the inspectors may obtain evidence, and
- The powers the inspectors may exercise.

# Our global team: key facts

## Agency insight

Our team includes former officials who have served with the EC, the U.S. Department of Justice and Federal Trade Commission, China's MOFCOM and other competition agencies at EU Member State level and worldwide.

In addition we have several non-governmental advisers to the International Competition Network of competition authorities and a former president of the International Bar Association, a director and founding member of the IBA's global forum on competition and the European Union co-ordinator for the IBA.

We understand the authorities' procedures and give clients a wide range of tried and tested defence strategies.

## Geographic and cultural proximity

We have one of the most extensive competition networks in the world, meaning we can provide you with both co-ordinated cross-jurisdictional and local advice on compliance and dawn raid matters.

With over 100 specialists based in 18 offices serving four continents – Asia, Australia, Europe and North America – A&O is the first choice for major companies seeking advice on their global compliance and dawn raid strategies.

We are not aware of any other firm with market-leading teams and deep coverage on all four continents. As such we combine the efficiency of a global practice with local depth of expertise.

We stand ready with dedicated experts wherever you are based to assist you in the event of a possible raid or investigation.

*“Allen & Overy is an international law firm with an excellent understanding of local knowledge both legal and cultural”, one client says.”*

IFLR1000 (Competition) 2015



# Key contacts

## North America

### U.S.

**Todd Fishman**  
Partner – New York  
Tel +1 212 756 1130  
todd.fishman@allenoverly.com

**Elaine Johnston**  
Partner Co-head Antitrust –  
New York  
Tel +1 212 610 6388  
elaine.johnston@allenoverly.com

**John Roberti**  
Partner – Washington, D.C.  
Tel +1 202 683 3862  
john.roberti@allenoverly.com

## Asia Pacific

### Australia

**Peter McDonald**  
Partner – Sydney  
Tel +61 2 9373 7582  
peter.mcdonald@allenoverly.com

### China

**Charles Pommies**  
Counsel – Beijing  
Tel +86 10 6535 4188  
charles.pommies@allenoverly.com

### Hong Kong

**François Renard**  
Foreign Registered Lawyer –  
Hong Kong  
Tel +86 138 1013 6350  
francois.renard@allenoverly.com

## Europe

### Belgium

**Dirk Arts**  
Partner – Brussels  
Tel +32 2 780 2924  
dirk.arts@allenoverly.com

**Michael Reynolds**  
Of Counsel – Brussels/  
Washington, D.C.  
Tel +32 2 780 2950  
michael.reynolds@allenoverly.com

**Jürgen Schindler**  
Partner – Brussels/Hamburg  
Tel +32 2 780 2920  
juergen.schindler@allenoverly.com

**Vanessa Turner**  
Partner – Brussels  
Tel +32 2 780 2957  
vanessa.turner@allenoverly.com

### Czech Republic

**Iva Bilinska**  
Associate – Prague  
Tel +420 222 107 113  
iva.bilinska@allenoverly.com

**Ivana Halamova Dobiskova**  
Senior Associate – Prague  
Tel +420 222 107 137  
ivana.halamova-dobiskova  
@allenoverly.com

### France

**Florence Ninane**  
Partner – Paris  
Tel +33 1 40 06 5322  
florence.ninane@allenoverly.com

**Michel Struys**  
Partner – Brussels/Paris  
Tel +33 1 40 06 5035  
michel.struys@allenoverly.com

### Germany

**Ellen Braun**  
Partner – Hamburg  
Tel +49 40 82 221 2137  
ellen.braun@allenoverly.com

**Boerries Ahrens**  
Partner – Hamburg  
Tel +49 40 82 221 2124  
boerries.ahrens@allenoverly.com

### Hungary

**Tibor Szanto**  
Counsel – Budapest  
Tel +36 1429 6037  
tibor.szanto@allenoverly.com

### Italy

**Emilio De Giorgi**  
Counsel – Milan  
Tel +39 02 2904 9492  
emilio.degiorgi@allenoverly.com

### Netherlands

**Yvo de Vries**  
Partner – Amsterdam  
Tel +31 20 674 1772  
yvo.devries@allenoverly.com

**Leigh Hancher**  
Of Counsel – Amsterdam  
Tel +31 20 674 1122  
leigh.hancher@allenoverly.com

**Tom Ottervanger**  
Of Counsel – Amsterdam  
Tel +31 20 674 1758  
tom.ottervanger@allenoverly.com

**Kees Schillemans**  
Partner – Amsterdam  
Tel +31 20 674 1649  
kees.schillemans@allenoverly.com

### Poland

**Marta Sendrowicz**  
Partner – Warsaw  
Tel +48 22 820 6255  
marta.sendrowicz@allenoverly.com

### Romania

**Valentin Berea**  
Partner – Bucharest  
Tel +40 31 405 7777  
valentin.berea@allenoverly.com

### Slovakia

**Juraj Gyarfas**  
Senior Associate – Bratislava  
Tel +421 259 202 406  
juraj.gyarfas@allenoverly.com

### Spain

**Antonio Martinez**  
Partner – Madrid  
Tel +34 91 782 9952  
antonio.martinez@allenoverly.com

### Turkey

**Emre Onal**  
Counsel – Istanbul  
Tel +90 212 371 2965  
emre.onal@allenoverly.com

### United Kingdom

**Alasdair Balfour**  
Partner – London  
Tel +44 20 3088 2865  
alsadair.balfour@allenoverly.com

**Antonio Bavasso**  
Partner Co-head Antitrust –  
London/Brussels  
Tel +44 20 3088 2428  
antonio.bavasso@allenoverly.com

**Mark Friend**  
Partner – London  
Tel +44 20 3088 2440  
mark.friend@allenoverly.com

**Jonathan Hitchin**  
Partner – London  
Tel +44 20 3088 4818  
jonathan.hitchin@allenoverly.com

**Dominic Long**  
Partner – Brussels/London  
Tel +44 20 3088 3626  
dominic.long@allenoverly.com

**Philip Mansfield**  
Partner – London/Brussels  
Tel +44 20 3088 4414  
philip.mansfield@allenoverly.com

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## GLOBAL PRESENCE

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