



DANISH COMPETITION AND CONSUMER AUTHORITY

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Planning a case investigation II: Casehandler perspective

NDRC/SAI01

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Agenda

1	Before initiating an investigation
2	Investigative tools
3	Investigating parties and/or non-parties?
4	Requests for information
5	Dawn raids
6	Interviews
7	The investigation plan

1. Before initiating an investigation

» “Strategy” memorandum

1. The parties & the background (i.e. complaint/ ex officio)
2. The competitive situation on the relevant market
3. Potential infringements
4. Theories of harm
5. Is the market definition relevant to pursue the case?
6. Collection of necessary information (Investigation)
7. Plan on how to complete the case
8. Check list re priorities and preliminary timeline

» Resources & effect of investigation

2. Investigative tools

» Requests for information

- » Documents (*books, records, contracts, etc.*)
- » Questionnaires

» Dawn raids

- » Business premises
- » Private premises (*possible under EU-rules, not under Danish rules*)
- » IT-forensics (*i.e. mirroring computers etc.*)

» Interviews

- » **Limitation: Only request/obtain information which is necessary for the infringement being investigated!**

3. Investigating parties and/or non-parties?

» Parties

- » Interest in answering
- » Time to answer
- » Self-incrimination
- » Confidential information
- » Legal privilege

» Non-parties

- » Interest in answering
- » Time to answer
- » Self-incrimination
- » Confidential information

4. Requests for information

» Purpose?

- » To obtain documents and answers to questionnaires; e.g.:
 - » Business plans concerning products/ customers concerned
 - » Turnover concerning products/ customers concerned

» Effect?

- » What information is needed?
- » What kind of resources are necessary to investigate this information?
- » What kind of infringement is being investigated

» Timing

- » May be time consuming due to e.g.:
 - » The review of the answers/documents
 - » In-complete answers & follow-up questions/requests

5. Dawn raids

» Authorisation

» Subject matter of the dawn raid must be specified

» Purpose

- » To obtain documents and other information which may not be possible to obtain via a request

» Effect?

- » Will the necessary resources be proportionate with the likely result of the investigation?

» Inspectors' powers to investigate

- » Examine books & business records
- » Take copies and extracts of books & business records
- » Interviewa
- » Enter any premises of undertakings
- » Brown envelope-procedure – disputes as to legally privileged documents

» Timing

- » Faster than request for information

» Record & result of inspection

6. Interviews

» At a dawn raid?

» Oral explanations of documents on the spot

» At a meeting with the authority

» Oral explanations of documents and behaviour

» Minutes of meetings – signed

» Timing

» Faster than request for information

» Possible to raise follow-up questions immediately

7. The investigation plan

- » **Dawn raid or request for information?**
 - » **Identify “respondents”**
 - » **Hypothesis as to likely infringement?**
 - » **Effects analysis**
 - » **likely to find proof of infringement?**
 - » **Effects of DR? Decision?**
 - » **Resources necessary**
- » **Allocate case team**
 - » **Coordination of places/respondents**
 - » **Coordination of duties**
- » **Analyse information received and seized**
- » **Result of investigation – close the probe or initiate infringement procedure?**



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Thank you for your attention

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