

# NDRC Price-Fixing Workshop

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## Conduction of Dawn Raids as a Means of Uncovering Cartels

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# I. Why Dawn Raids?

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1. Illegal cartels are always secret and the evidence is hidden.
  - ⇒ Price fixing cartels
  - ⇒ Quota cartels
  - ⇒ Customer allocation cartels
2. Cartel participants know about illegality and high fines to be expected – no incentive to cooperate (exception: leniency) – no voluntary disclosure of evidence

# I. Why Dawn Raids?

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- 3. Once suspicion becomes known to cartel members all evidence will be destroyed/hidden
- 4. Strategic advantage on the Authorities' side
  - ⇒ „Surprise Effect“
  - ⇒ No strategic behaviour on the firm's side (consider leniency applicants)
  - ⇒ Detering effects of dawn raids

## II. How to Build a Suspicion?

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### Sources:

- Market Research
- Administrative Procedures (eg. Merger Control)
- Informants/complaints of competitors or other participants (third companies, customers)
- Leniency Applications

# III. Preparation of a Dawn Raid

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**Meticulous Preparation is a necessary condition for a successful operation!**

- Which companies are involved?
- Which persons are involved?
- Who organized the cartel?
- How do the cartel members communicate?
- Meetings – past and upcoming?

# III. Preparation of a Dawn Raid

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## Check:

- ⇒ Plausibility of the case
- ⇒ Sufficient evidence to obtain a court order?

## Decide:

- companies, offices, locations, private homes
- relevant persons
- which evidence to be searched for

# III. Preparation of a Dawn Raid

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## Organize:

- Other Authorities involved – courts, local police, public prosecutors
- Internal staff – qualified teams
- Internal and external IT-resources
- Short term information
- Booking of transport/hotels

**Secrecy has to be preserved – keep it as small as possible!**

## IV. On the Premises

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- Ensure simultaneous access of all teams (consider time zones)
- Directly proceed to target persons and offices
- Stop all communication (electronic and other) immediately
- Information about leniency programme
- Find out about organisational structure



# IV. On the Premises

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- Search for evidence – priority:
  - IT
  - Desks and personal belongings of target persons, cars
  - Surrounding office of target persons
  - Offices of other people in charge of sales/procurement, personal assistants etc.
- Inform other teams of interesting evidence
- If necessary: seizure of documents and IT

# V. Traps and Pitfalls

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- Wrong address/target persons
- Access denied/difficult
- „Stuck in the elevator“
- Destruction of evidence
  - while you are searching – follow them everywhere
  - „stealing“ from your evidence bundle
  - messing around with IT – use yesterday’s backup
- Obstructive behaviour by target persons, lawyers

# VI. Summary

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1. Prepare with ultimate precision while keeping it small and secret
2. Carefully train and select staff deployed in dawn raids (legal and practical issues)
3. Be prepared to improvise at every stage
4. Take all necessary provisions to secure evidence (IT!!!) and to bring it back!

**GOOD LUCK!**



Thank you for  
your attention!

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