

Key Issue:

How should I respond if a competition regulator shows up for a surprise visit?

Unannounced inspections (usually pursuant to a search warrant in the US or referred to as a “dawn raid” in other countries) typically consist of officials:

1. Searching company premises (including computers and mobile devices)
2. Copying/seizing company documents and other information
3. Interviewing employees

While this may be the first contact the company has had with the government, it often is the case that the visit was prompted by a suspected competition law violation.



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While an investigation may already be underway, your response to an unannounced visit may impact the trajectory of the investigation. Ideally, the company should have a plan in place for responding to government visits as part of its ordinary course of compliance training and procedures. This should facilitate the company’s response, which should follow three primary paths: cooperate, communicate and preserve.



Cooperate

- Remain calm and professional
- Follow pre-established policies (if applicable)
- Provide officials with a meeting room, food/drinks, etc.
- Assign someone to accompany the officials and keep notes of searches, copies and inquiries



Communicate

- Notify management and counsel (internal and external)
- Follow counsel’s instructions regarding communication with officials
- Do not communicate about the visit with anyone outside the company
- Do not allow interviews or respond to inquiries without counsel



Preserve

- Have IT assist in retrieval of records and maintain a record of everything accessed or copied
- Quarantine devices that have been accessed during the visit
- Do not delete or hide any files or messages

