

Competition Law



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South Africa

- Enforcement by dawn raid in South Africa, a renewed and rising risk for businesses



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Enforcement by dawn raid in South Africa, a renewed and rising risk for businesses

Search and seizure operations (dawn raids) are among the most intrusive enforcement tools available to competition regulators. Conducted without prior notice, these search-and-seizure operations can disrupt business operations, expose sensitive information and trigger significant legal and reputational risk.

The Competition Act 89 of 1998, as amended (Act) empowers the Competition Commission of South Africa (Commission) to conduct unannounced inspections at business premises (and in certain circumstances, private residences) where there are reasonable grounds to suspect participation in practices prohibited under Chapter 2 of the Act. These include cartel conduct (such as price fixing, market allocation and bid rigging), abuse of dominance and other anti-competitive conduct.

Dawn raids are designed to preserve evidence by allowing the Commission to secure that evidence before it can be concealed or destroyed. During a dawn raid, the Commission may:

- examine physical and electronic records, including emails and internal communications;
- require employees to provide explanations regarding documents or business practices;
- copy or seize documents and electronic data; and
- seal premises or offices to preserve evidence.

The element of surprise is central to the effectiveness of a dawn raid. In multi-party investigations, the Commission often conducts simultaneous raids across multiple firms to prevent companies from alerting one another of imminent raids.

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The Commission has conducted dawn raids across a range of industries, demonstrating its willingness to deploy this tool in diverse markets. Publicly reported examples of raids pursuant to alleged cartel conduct include:

- **Edible oils industry (2016):**
six companies raided.
- **Cargo shipping industry (2016):**
six companies raided.
- **Insurance industry (2022):**
eight companies raided.
- **Scrap metal industry (2026):**
four companies raided.

The recent scrap metal raid that occurred in February 2026 follows allegations that various scrap metal purchasing companies implemented near-identical price increases at approximately the same time for the purchase of processed scrap metal. According to the Commission, this signals that there may have been price co-ordination between the scrap metal purchasers. If established, this conduct may constitute price fixing in contravention of section 4(1)(b)(i) of the Act. Notably, this appears to be the Commission's first publicly reported dawn raid in recent years, signalling a potentially renewed enforcement focus and a likely increase in the deployment of this investigative tool.

A global tool

Dawn raids are used as an investigative tool in competition enforcement globally. The European Competition Commission (EU Commission) has conducted numerous such raids in recent

years. A notable example arose in 2023 when the EU Commission raided various companies in the fragrance industry. A senior employee of International Flavors & Fragrances (IFF) was alleged to have deleted WhatsApp messages exchanged with a competitor during the raid. The EU Commission treated the deletion of WhatsApp messages as deliberate obstruction and imposed a fine of EUR 15,9 million against IFF. Similarly in South Africa, the obstruction of the Commission's inspection during a raid including the destruction of evidence, is an offence.

The above highlights that employee conduct during a raid can give rise to substantial penalties even before any underlying competition law infringement is proven. It is therefore important to ensure that where companies are subject to a raid conduct such as destroying documents, deleting electronic communications or providing false or misleading information is avoided as it may expose the company to significant administrative penalties and, in certain circumstances, raise criminal liability for individuals.

A dawn raid can have immediate and far-reaching consequences, including:

- **Operational disruption:** Business activities may be suspended or significantly affected during the raid.
- **Loss of control over information:** Regulators gain access to confidential and commercially sensitive data.
- **Reputational harm:** Customers, suppliers and investors may lose confidence in the business.

- **Legal and financial exposure:** Investigations may lead to administrative penalties, follow-on damages claims and, in certain cases, criminal liability for individuals.
- For listed companies, a dawn raid may also trigger share price volatility.

Given these risks, preparation is essential and companies should ensure that:

- a clear dawn raid response protocol and communication strategy is in place;
- internal and external legal advisers that may be contacted during a raid have been identified;
- employees are trained on how to practically respond to a raid; and
- procedures exist to identify and protect legally privileged information.

Companies should assume that a dawn raid is a realistic possibility and ensure that they are prepared to respond swiftly, lawfully and effectively if it occurs.

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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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