



Australian
Competition &
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Commission

Breakout Session 3: Challenges related to evidence gathering after dawn raids and other formal investigation tools

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Pre-planning to make electronic searching during raid more effective

- Prepare **detailed IT plan** prior to warrant in consultation with IT consultants (identify key targets, prioritise devices for review etc);
- Take time to prepare **effective keywords** including unique words, search strings etc; provide keywords to IT consultants in advance for feedback and to pre-load into software;
- Teams: **dedicated IT officers (investigators)** to go through search results; **dedicated IT inspectors** (to make seizure and non-seizure decisions), more IT officers than physical searchers;
- IT forensic consultants **demonstrate software** they will be using during the raid for IT officers in advance to ensure familiarity;
- Have documents prepared in advance to seek order to require a person to provide assistance e.g. provide admin credentials;
- Prepare legal privilege protocols and draft agreement in advance
- Other experiences/ suggestions?

Dealing with legal privilege issues

- Electronic data hosted by independent third party that can remove LPP material before review by investigators
 - Do other agencies host own material?
- Current LPP Agreement template requires occupier to provide list of privileged material including certain metadata. Issues with ensuring documents are accurately identifiable.
 - Have other agencies encountered these issues?
 - In what format do agencies require LPP list to be provided?
- Data host removes LPP documents and allows investigators access to balance (NUIX web review).
- Any disputes over particular LPP claims dealt with while investigators review remainder of material.
 - Other approaches to dealing with LPP?