

CUSTOMER SUCCESS

## CMS Derks Star Busmann

### European Law Firm Standardizes on the Veritas™ eDiscovery Platform to Accelerate and Streamline Competition Law Cases

It's called the 'dawn raid'; the moment the Netherlands competition authority (the NMa) enters an organization or institution's premises to investigate anti-competition malpractice or the operation of a cartel. The NMa gives law firms like CMS Derks Star Busmann—acting on behalf of the firm under investigation—just 10 days to sift through the thousands of digital documents collected as evidence, and identify those documents that constitute legal professional privilege. It's a tight timescale, and the traditional solution would be for this leading Dutch law firm to add significant resources to the examination at great cost to the client. However, CMS Derks Star Busmann has found a far more efficient route: the Veritas™ eDiscovery Platform. Simple and easy to use, this best-in-class eDiscovery solution streamlines and accelerates case assessments and review. Veritas enables CMS Derks Star Busmann to prevent inadvertent disclosure of non-relevant data to and ultimately meet the NMa regulatory deadline for their client's privileged review.

#### Creating a level playing field for competition in Europe

European organizations and institutions face increasingly tough regulations designed to ensure fair competition. Competition authorities such as the European Commission and the NMa can enforce the prohibition of merger and acquisition transactions, the imposition of market obligations and sanctions on businesses, and even bring criminal charges against individuals for certain anti-competitive behavior. In the Netherlands, the NMa has the statutory right to impose fines for creating cartel price agreements or making agreements between competing companies to collude for their benefit in various ways (like price fixing, dictating available market shares, or allocation of the market).

These situations are far from straightforward, both in prosecution and defense, demanding specific knowledge of competition law. That's where CMS Derks Star Busmann excels. The company is a leading and long-standing law firm in the Netherlands, with 175 lawyers, civil-law notaries, and tax advisers. CMS Derks Star Busmann is part of CMS, the European provider of law and tax services with 2,800 legal and tax advisers in 53 offices—and a growing presence in Russia, China, North Africa, and South America.



#### Organization profile

Website: [www.cms-dsb.com](http://www.cms-dsb.com)

Industry: Legal Services

Headquarters: Amsterdam,  
The Netherlands

#### Veritas solution

eDiscovery

#### Why Veritas?

- Proposed by Fox-IT
- Stability, scalability, and ease of use
- Smaller footprint compared with solution such as iConect

It should be noted at this point that although CMS Derks Star Busmann represents companies that are subject of an investigation conducted by the NMa, it also represents companies under investigation by the European Commission.

### It begins with the 'dawn raid'

When CMS Derks Star Busmann's competition law practice group is contacted by a client to act on their behalf in an anti-competition investigation, the law firm often has to move quickly. In many instances, they are playing catch-up, as the NMa will have already undertaken a 'dawn raid' on a client—arriving unannounced at the client's premises to seize copies of both the physical and digital evidence they need to support their investigation.

At this point, one or more of the client's servers will often be taken away for examination by the NMa. The Dutch authority will perform keyword searches against the data as part of the cartel investigation, looking for clues, and eventually adding pertinent documents into an investigation file.

CMS Derks Star Busmann then receives that data which is within the scope of the investigation back from the investigating authority. At this point the client has the right of legal professional privilege. In most jurisdictions, this protects all communications between CMS Derks Star Busmann and their client from being disclosed without the permission of the client. The purpose is to protect a client's ability to access the justice system by encouraging complete disclosure to legal advisers without the fear that disclosure of those communications may prejudice the client in the future.

### Solutions at a glance

#### Key challenges

- Adhere to regulator's 10 day rule for legal privilege
- Lower the time and cost associated with identifying relevant versus privileged documents
- Lower the cost of client service—and enhance the quality of service

#### Veritas products

- Veritas eDiscovery Platform

#### Veritas partner

- Fox IT ([www.fox-it.com](http://www.fox-it.com))

### Business value and technical benefits

- Streamlined and accelerated case assessments and review
- Enabled company to adhere to regulator's deadline for privilege review
- Managed multiple, concurrent review use cases from a single application
- Maintained data integrity and chain of custody across the eDiscovery lifecycle
- Enabled fast adoption without IT involvement

### Ten working days to examine tens of thousands of documents

Here's the problem. When CMS Derks Star Busmann enters into the privileged review phase, the company is typically allowed 10 working days by the NMa to sift through the data and identify those documents covered by legal professional privilege and those that are irrelevant to the case at hand. Ten working days is an incredibly tight window to complete the review and is further compounded by the complex nature of the vehicle by which the NMa supplies that data. What is referred to as the "gold-plated spread sheet" from the NMa doesn't provide access to the information in an easy or intuitive manner.

According to Edmon Oude Elferink, a partner in the company's Competition Law practice group, this places tremendous pressure of the lawyers involved on the case. "The NMa gives us 10 days to sort through the evidence, irrespective of how

many documents there are. In a recent case, for example, the first dataset included 25,000 documents to be reviewed in the 10 day window, while the second dataset covered 60,000 documents. The complexity of the in-scope program used by the NMa to hold the data makes the challenge even greater—going through the documents one by one."

The default option would be for Edmon Oude Elferink and his team to add a significant amount of physical resources into each case—having teams of lawyers working late into the night searching through the program provided by the NMa to find the documents relating to legal privilege. The significant costs for the additional reviewers would then be passed onto the client.

## Defensibly solve legal challenges

However, CMS Derks Star Busmann has found a far more cost-effective, successful, and viable alternative: the eDiscovery Platform. This best-in-class enterprise eDiscovery solution enables law firms like CMS Derks Star Busmann to automate the entire privileged review process from a single application. The Veritas platform was designed from the ground up for eDiscovery, making it easy for the company to defensibly solve challenges such as legal hold and collections, analysis, and review.

How does it work? CMS Derks Star Busmann has engaged with Fox-IT, a leading Dutch technology security and eDiscovery company, to take the tricky datasets provided by the NMa and load it into Veritas. From a secure browser interface, lawyers from CMS Derks Star Busmann can then search the data through the eDiscovery platform, relying on unique tools like domain name filtering users quickly and efficiently identify and separate those documents that relate to legal professional privilege.

Concurrently users can filter and remove those documents un-related to the particular competition case, confidently ensuring they do not produce data unnecessarily. Data integrity and the chain of custody are maintained across the entire eDiscovery lifecycle, providing defensibility to the process. "The eDiscovery Platform has transformed the speed with which we can sift through case investigation documents and tag those relating to legal professional privilege," says Edmon Oude Elferink. "You don't need any IT experience to use it, and analyses are immediately shared and results reported on paper or in digital form."

Fox-IT has deployed Veritas as a physical appliance in a secure online environment hosted at Fox-IT, giving CMS Derks Star Busmann and other customers access to Veritas through their browser. Hans Henseler, a partner at Fox-IT, explains why his company chose the eDiscovery Platform. "We chose Veritas two years ago, based on its stability, scalability, and ease of use," he explains.

Edmon Oude Elferink's experience in processing datasets manually, provides some insight into just how valuable the Veritas platform is. "Before we used Veritas, one cartel investigation was absorbing such a huge amount of our time that we realized it would be almost impossible to meet the 10 day deadline set by the NMa. Our options were either to add even more resources to the analysis, or ask the NMa to extend the deadline," says Edmon Oude Elferink. "With Veritas, we can comfortably identify which documents are in-scope and which are in legal privilege, meeting that 10 day deadline set by the NMa, and safeguarding our clients' interests."

The flexible Veritas solution can also be used under other circumstances than an ongoing investigation. For example, an internal audit at the request of a client conducted in the framework of a compliance program. In that event, CMS Derks Star Busmann plays the role of investigator, using key word searches of the copied data conducted in Veritas.

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**Edmon Oude Elferink**  
Partner  
CMS Derks Star Busmann

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**Edmon Oude Elferink**  
Partner  
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