

# THE JUGGLING ACT OF PARALLEL INVESTIGATIONS

Niels Ersboll - Arnold and Porter

Maria Lancri - Hachette Livre

Craig Earnshaw - FTI Technology

# The Juggling Act of Parallel Investigations

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# Agenda

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## ■ Introduction to our panel

- **Matt Kelly**, Editor and Publisher - Compliance Week
- **Niels Ersboll**, Partner - Arnold and Porter
- **Maria Lancri**, Former Deputy General Counsel and Compliance Manager - Hachette Livre
- **Craig Earnshaw**, Senior Managing Director - FTI Technology

## ■ An outline of the session and scenario

## ■ Act I: Initial Internal Investigation

## ■ Act II: Involvement of the European Commission

## ■ Act III: The Added Complexity of US Authorities

## ■ Postscript: Private Litigation

## ■ Question and Answer



## **Editor and Publisher – Compliance Week**

Matt Kelly is publisher and editor of Compliance Week, an information service on corporate compliance and risk. Appointed to the top editorial position in January 2008, Kelly had previously been managing editor of Compliance Week since January 2006.

Prior to that, he worked as a writer for Compliance Week for several years, reporting on myriad corporate governance and compliance issues. A frequent speaker and moderator at compliance- and risk-related events around the world, Kelly previously cut his teeth as a writer and contributor to Time Magazine, The Boston Globe, and other regional and national publications.

# Niels Ersboll



## Partner - Arnold and Porter

Niels Christian Ersbøll is a Brussels-based Partner in Arnold & Porter LLP's European antitrust practice. He is a Danish qualified lawyer and has more than ten years' experience practicing EU competition law. After a short term at the European Commission's Directorate General for Competition, and several years spent practicing in the Brussels-based EU competition law groups of leading Danish and international law firms, he joined Arnold & Porter LLP's Brussels office at the beginning of 2004, shortly after the office was established.

Niels advises extensively on merger control and cartel investigations before the European Commission and national competition authorities worldwide. In addition, he regularly advises clients on restrictive agreements and practices, as well as questions related to abuse of dominance. He has represented a series of FORTUNE 500 and Financial Times 500 companies in competition law matters relating to a wide range of industries, and has experience in the electronics, transport, pharmaceuticals, vaccines, medical equipment, tobacco, food, and media industries. Niels also provides advice on state aid as well as regulatory matters.

# Maria Lancri

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## **Former Deputy General Counsel and Compliance Manager - Hachette Livre**

Maria Lancri is a French lawyer. She was deputy general counsel and compliance manager at Hachette Livre (a subsidiary of Lagardère SCA and one of the largest international publishing companies worldwide) until August 2015 when she returned to private practice. She has extensive experience in setting up and adapting compliance programs, including training, policies and procedures, and audits in addition to her regulatory compliance expertise.

Lancri began her career in private practice at JP Karsenty & Associés and then at Ginestié, Paley-Vincent & Associés (formerly part of the D&P association with DLA). She moved in 2004 to an in-house position at Hachette Livre, to become deputy general counsel in 2009 and deputy general counsel – compliance manager in 2013.

# Craig Earnshaw

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## Senior Managing Director - FTI Technology

Craig Earnshaw is a Senior Managing Director in FTI Consulting's Technology segment based in the London office which he founded in 2006. For over fifteen years Craig has worked solely in the electronic evidence field and during this time has amassed considerable experience in both the technical and strategic application of forensic technology for the clients whom he represents.

Craig provides strategic advice to clients across all areas of FTI Consulting's Technology offering, and provides specific counsel to clients in the areas of European Union-based evidence collection and disclosure, computer-based forensics and electronic data hosting for litigation and regulatory enquiries. His engagement experience includes multi-jurisdictional investigations and regulatory enquiries relating to anti-competitive behaviour, cartels and price-fixing, in addition to fraud, bribery and corruption investigations, intellectual property theft and on-line libel. Craig has authored numerous articles that have been published in the European and US legal and technical press, and is a frequent conference speaker on subjects including multi-jurisdictional investigations and data privacy.



## Act I: Initial Internal Investigation

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- EngineNaut is a European-based engineering company that manufactures marine engines and is majority owned by a US private equity house.
- They have been made aware, through an anonymous call on the whistleblowing hotline, of allegations of price fixing between their sales teams in France, Belgium and the UK, and those of several of their major competitors throughout Europe.
- Tom Groves, the company's Head of Compliance, has been made aware of the allegations, and asked his team to conduct an internal investigation.





## Act II: Involvement of the European Commission

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- Three weeks into the internal investigation, two of the company's European competitors in Italy and France are raided by the European Commission.
- The raids are as a result of the price fixing and bid-rigging issues that appear from the information that has been released by the European Commission and relate to the same issues as the internal investigation.
- The European Commission will be carrying out its own investigation.



## Act III: The Added Complexity of US Authorities

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- Two weeks after the European Commission dawn raids, the US Department of Justice puts out a press release stating that it has been made aware of the activity in Europe.
- As several of the boat manufacturers that have purchased the engines, as well as the consumers who have purchased the boats, are US-based they will be carrying out their own investigation.
- They will be looking at all of EngineNaut subsidiaries in various jurisdictions, including across Europe, Russia and China and are actively looking to extradite executives to the US.



## Postscript: Private Litigation

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- Following the news of the European Commission and US Department of Justice investigations, the company becomes aware that civil litigation claims are being prepared by a US and a German based boat manufacturer.

## Question and Answer

# THANK YOU

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