



## Deloitte Discovery Second Request Services

Knowledge, experience, and scalability to help you meet a second request

Attempting to complete a critical merger or acquisition can be a daunting challenge for a company and its antitrust counsel, further complicated by a Request for Additional Information and Documentary Materials, otherwise known as a "Second Request."

### Overview

Common challenges, including identifying sources of potentially responsive information, collecting the information in an efficient fashion, processing the data for review, and training and supervising a review team to analyze the materials, all contribute to the pressures of meeting a Second Request. Combined with the need to produce properly formatted materials to the Federal Trade Commission or Department of Justice Antitrust Division, speed, accuracy, and attention to detail is

needed to comply with the request. Equally, a failure in compliance may lead to delay, the collapse of a deal, the payment of sizeable break-up fees, or even worse, protracted litigation over the lost opportunity.

Deloitte Discovery has worked with organizations, law firms, and regulators on some of the largest and more complex Second Requests. We bring the people, technology, resources, and experience to help you keep the deal on track while tackling the formidable challenges posed

by Second Request compliance. Leveraging the knowledge gained from our experience enables us to help you to anticipate road blocks and overcome them, as well as to assist you with planning for Second Request compliance from the moment the request is issued. Furthermore, Deloitte Discovery offers true end-to-end coverage of the Second Request process – from preservation through collection, processing, review, and production.

### Our services

Second Requests can create an urgent need to review voluminous documents and data before a transaction can proceed. As a result, it is imperative to promptly identify and collect potentially responsive information from document custodians and from data repositories. Deloitte Discovery personnel can work alongside you to collect the data needed for compliance. We bring to our clients the skills and scalability needed to perform enterprise-level search and targeted collections, and our professionals have experience working with in-house IT teams to collect e-mail, file server data, and structured data, either on-site or remotely. We can facilitate the simultaneous harvest of data located throughout the US and around the world.

We also know that along with speed, the ability to have near real-time updates on the status of data collection is also important. Our commitment to collaboration throughout the collection process can provide visibility into data collection at each stage.

### People and technology

By using leading technology and other demonstrated eDiscovery tools, we can help counsel organize, cull, and prepare data for review. Moreover, our personnel can assist you in selecting the applicable culling workflow prioritization strategies for the matter, whether that involves de-duplicating data, crafting basic word searches, or employing the latest technology to facilitate concept clustering or document seeding.

Deloitte Discovery couples its Second Request experience with processing technology that has extensive scalability. As a result, we have the processing capacity

to stay ahead of even the largest review teams, thus significantly reducing costly and disruptive reviewer down time. We also offer 24/7 support geared to resolving issues and answering questions whenever they arise. Additionally, our team has experience working with counsel in negotiations with the antitrust agencies to help limit and define the bounds of Second Request compliance. For example, in a recent Second Request,

Deloitte Discovery not only worked with counsel and the reviewing agency to limit the reach of the request, we also created a web-based platform for use by the agency to review native files produced by the law firm's client and devoted a full-time project manager, who was appropriately walled off from the rest of the Deloitte Discovery team, to assist the agency's review.

### Examples of Deloitte Discovery's technology offerings:

#### Staging Platform

Our Staging Platform provides a secure and efficient means of reducing collected data to a manageable set for review. In this platform, documents are ingested, searched, and culled without incurring hosting fees. This gives you and your counsel the ability to employ analytic and search methods along with a series of filters to identify prioritized and high-value documents. These high-value documents are then funneled into the review work stream, where the documents are reviewed for responsiveness and privilege.

#### STAGING

Data is ingested, searched and culled securely without incurring hosting fees. Culling and navigation is done through the application of targeted search terms and date filters alongside several other modern analytics capabilities

 **80%\***  
Cull rate across all projects

#### REVIEW

Prioritized, high-value documents are reviewed for responsiveness and privilege

Reviewed over   
**25 million** documents and  
**150 million** pages on a single matter

 **500** review ready workstations, scalable to **1,000+**

#### Analytics Capabilities

Deloitte Discovery also leverages modern analytics capabilities for early case assessment, review population reduction and smart batching, and document review and insight gathering. Some of these capabilities include concept clustering and extraction, metadata profiling, email threading, near duplicate propagation, identification of private emails and email groups, metadata hotspot analysis, and search term analysis.



#### Easy Case Assessment

Defining the in-scope review universe



#### Population Reduction and Smart Batching

Increasing the efficiency of the review process



#### Document Review and Insight Gathering

Identifying responsive documents within the review universe

#### Technology-assisted Review (TAR)

TAR classifies documents into predefined categories and scores them to assess likelihood of responsiveness. Additionally, TAR can be used to identify privilege, potential redactions, and issue codes, and the model is iteratively strengthened by fine tuning techniques, resulting in improved efficiency and accuracy. In our experience using the TAR model, application of these analytics capabilities using a proprietary tool was shown to reduce the review population significantly, saving thousands of hours spent reviewing documents.

\*Results are based on individual circumstances and may vary.

### **Managed Document Review**

Deloitte Discovery's experienced team of reviewers can be rapidly trained on the particular facts and issues presented by a Second Request to help accelerate the time it takes to get to review and identify data required to move the investigation along. We employ time-tested and established quality checks to help validate our reviews, and we also use various reports to help provide updates on the pace of review, and to identify documents of potential interest to keep the legal team abreast of the information gathered by our reviewers.

### **Production**

Production requirements and formatting are some of the most critical issues related to Second Request compliance. To assist in addressing these issues, Deloitte Discovery brings the capacity to produce responsive materials in many desired formats – e.g., extracted text with metadata, TIFF images, or nativefile format – promptly and efficiently. Furthermore, we also have experience working with the antitrust agencies in setting up web-based review repositories when applicable. We also have quality control procedures in place to check the validity of the production for added comfort, and we have experienced personnel who can assist with production inquiries as compliance deadlines loom.

### **Our Experience**

#### **For a manufacturing company**

A national law firm engaged Deloitte on behalf of a Fortune Global 500 manufacturing company, which had received a Second Request from the Department of Justice ("DOJ") Antitrust Division for close to a \$1 billion acquisition.



The Second Request required the rapid collection, processing/hosting, review and production of a large volume of disparate data from both companies for the purpose of responding to the antitrust subpoena. We worked with one of the Deloitte Touche Tohmatsu Limited member firms to collect and preserve over 11.5 TB of data from various network repositories for more than 60 custodians globally. We then helped the client cull the review population to 1.1 TB of hosted data, helped develop and run highly targeted searches across the review population, and handled the translation process. By effectively managing more than 140 active reviewers, we produced 750,000 documents to the DOJ in under the 60-day required timeframe.

Our efforts helped enable the client to effectively and to defensibly respond to the Second Request and meet the DOJ's aggressive deadlines, which ultimately led to a successful acquisition.

### Contact us:

#### **Andy Ruckman**

##### **Principal**

Deloitte Risk and Financial Advisory  
Deloitte Discovery  
Deloitte Transactions and Business Analytics LLP  
aruckman@deloitte.com  
+1 202 370 2270

#### **Ashley Smith**

##### **Managing Director**

Deloitte Risk and Financial Advisory  
Deloitte Discovery  
Deloitte Transactions and Business Analytics LLP  
asmith@deloitte.com  
+ 1 213 553 1727

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