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Policy rule of the Netherlands Authority for Consumers and Markets with regard to informers (anonymous and non-anonymous)

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1. Introduction

When investigating violations of the laws and regulations it enforces, the Netherlands Authority for Consumers and Markets (ACM) relies on information. If individuals have information on potential violations, it is vital that these individuals come forward and inform ACM thereof. Such information may prove very useful for investigations into violations. In practice, individuals that have such valuable information often prefer to remain anonymous. ACM therefore offers the option of bringing information on possible violations to the attention anonymously. This policy rule explains what the options are for that, and what the basic principles are. In addition, this policy rule addresses the question of how and to whom informers can come forward, and what they can expect from ACM.

Individuals who have information that may contain clues about potential violations will be designated as informers in this policy rule. Two types of informers are distinguished in paragraph 2 and 3. If individuals wish not to disclose their identities to ACM, they are considered anonymous informers. Their anonymity will be guaranteed. Anonymous informers have the option of contacting ACM through intermediaries, for example, lawyers.

If individuals wish their identities to be known to ACM, but not outside ACM, they are called informers. As a rule, their identity will be unknown outside ACM. There are, however, special situations in which ACM cannot guarantee the anonymity of these informers. This policy rule explains the extent to which ACM is able to guarantee the informer's anonymity. As the policy sees to informers (anonymous and non-anonymous), it does not apply to interested parties that file an application with ACM for issuing an enforcement decision.

2. Anonymous informers

- 2.1. Anonymous informers are natural persons who make information, data and/or documents available to ACM (which is not the same as when ACM requests such information), which may contain clues about potential violations without revealing their identities to ACM.
- 2.2. ACM will not attempt to uncover the informer's identity.
- 2.3. If ACM receives information for any clues that may inadvertently disclose the informer's identity, this information will be deleted.
- 2.4. Anonymous informers also have the option of contacting ACM through intermediaries. Intermediaries are natural or legal persons that, on behalf of an informer, make information, data and/or documents available to ACM, which may contain clues about potential violations without revealing the informer's identity. Intermediaries are often lawyers or other trusted representatives of the informers with the right of non-disclosure.

- 2.5. Intermediaries must always reveal their identities to ACM and will continue to act as liaisons in any subsequent investigations.
- 2.6. ACM will contact and inform intermediaries if it turns out that the information it has received may inadvertently disclose the informer's identity. Intermediaries are then given the opportunity to indicate which data cannot be disclosed outside ACM.

3. Informers

- 3.1. Informers are natural persons who make information, data and/or documents available to ACM (which is not the same as when ACM requests such information), which may contain clues about potential violations and who wish their identities not to be disclosed outside ACM.
- 3.2. ACM will do its best not to disclose the identities of these informers outside ACM. ACM and the informer will make arrangements on what efforts ACM will make to prevent the informer's identity from being disclosed.
- 3.3. ACM will appoint a limited number of enforcement officials who will take delivery of the informer's information, data and/or documents. These officials are the only ones that know the informer's identity. Said officials will remove from that information, data and/or documents any data that may inadvertently disclose the informer's identity before that information is used within ACM.

4. In what situations is ACM required to disclose an informer's identity

ACM will do its best not to disclose the identities of these informers (anonymous and non-anonymous). There are, however a number of situations where ACM is required to disclose an informer's (anonymous and non-anonymous) identity outside ACM. Among other situations, this may be the case if:

- the court orders ACM to disclose the informer's identity when cases are taken to court;
- in matters of crimes for which an obligation to file a report applies
- ACM or an ACM official is heard under oath in case a court order is issued.
- an ACM official is heard under oath as a witness in a parliamentary investigation.
- it appears that an informer (anonymous and non-anonymous) committed the violation or took part in it.

5. Providing information

There are several ways of how informers (anonymous and non-anonymous) and intermediaries can provide information about potential violations to ACM:

- by calling the ACM Business information desk at +31-70-72 22 000, Monday through Friday between 9 a.m. and 5 p.m.
- by using the electronic form on the website of ACM (www.acm.nl), in Dutch,
- by calling M, the national hotline for reporting crime anonymously at 0800-7000, seven days a week, from 10 a.m. till 10 p.m.
- by sending information by regular mail to the address of ACM : the Netherlands Authority for Consumers and Markets, P.O. Box 16326, 2500 BH, The Hague, the Netherlands
- by visiting our office (address Muzenstraat 41, 2511 WB, The Hague)

6. Final remarks

- 6.1. This decision shall be cited as Policy Rule of the Netherlands Authority for Consumers and Markets with regard to Informers (anonymous and non-anonymous).
- 6.2. This Policy Rule on Informers comes into effect on the day after its publication in the Dutch Government Gazette and has retroactive force until April 1, 2013
- 6.3. The Policy Rule of the Netherlands Competition Authority with regard to informers (anonymous and non-anonymous) will be repealed.
- 6.4. Arrangements made by the Netherlands Competition Authority as one of the legal predecessors of ACM with an informer (anonymous and non-anonymous) continue to be valid.

The Netherlands Authority for Consumers and Markets,

On its behalf

In accordance with the decision issued by the Board on May 2, 2013

Chris Fonteijn

Chairman of the Board