

Please note that, although every effort has been made to ensure this translation is accurate and consistent, it is for informational purposes only. In case of any dispute or inconsistencies, the Dutch version is authentic.

## **Decision of the Ministry of Economic Affairs of 2 April 2013, WJZ/13052618, containing rules regarding the granting of mandate, authority and authorization to the Netherlands Authority of Consumers and Markets (Decision on mandate, authority and authorisation of ACM)**

The Minister of Economic Affairs,

Having regard to chapter 10.1.1 of the Dutch General Administrative Law Act;

Considering the written approval of the Netherlands Authority of Consumers and Markets,

Decides:

### **Article 1**

In this decision, the following definitions shall apply:

- a. *minister*: the Minister of Economic Affairs;
- b. *ACM*: the Netherlands Authority for Consumers and Markets within the meaning of Section 2, paragraph 1 of the Establishment Act of the Netherlands Authority for Consumers and Markets;
- c. *Member*: Member of the Netherlands Authority of Consumers and Markets within the meaning of Section 2 [*sic*<sup>1</sup>], paragraph 1 of the Establishment Act of the Netherlands Authority for Consumers and Markets;
- d. *HR-related matters*: matters with regard to staff, organization, and establishment, and their related budgets;
- e. *BBRA*: 1984 Civil Servants' Pay Decree;
- f. *ARAR*: General Public Service Regulations.
- g. *The EC Concentration Regulation*: Regulation (EC) no. 139/2004 of the Council of 20 January 2004 concerning the control of concentrations between undertakings (OJEC L 24/14).

### **Article 2**

Mandate, authority and authorization is given to ACM to take decisions and perform other actions in relation to:

- a. Section 4a, paragraph 1, sub-paragraph c, insofar as it concerns network capacity and sub-

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<sup>1</sup> Translator's note: this should be Section 3

paragraph d, Section 68, paragraph 2, Section 78, paragraphs 1, 2 and 3, Section 85, paragraph 3, Section 95d, paragraph 1, Section 95e and Section 95f, paragraph 1 of the Dutch Electricity Act 1998;

- b. Section 1h, paragraph 2, Section 40, paragraph 2, Section 45, paragraph 1, Section 46, Section 47, paragraph 1, Section 52a, paragraph 1, sub-paragraph d, insofar it does not concern the quality and condition of the maintenance of the national gas transmission network, subparagraphs f and i, Section 64, paragraph 3, and Section 83 of the Dutch Gas Act;
- c. Article 3, paragraphs 1, 2, 3 and 6 of the Decision on the security of supply of the Dutch Gas Act;
- d. Article 2, paragraphs 1, 2, 3 and 6 of the Decision on security of supply of the Dutch Electricity Act 1998.

### **Article 3**

Mandate, authority and authorization is given to ACM to take decisions, and to perform other actions in connection with Article 4, paragraphs 4, 5, Article 9, and Article 22 of the EC Concentration Regulation.

### **Article 4**

Mandate, authority and authorization is given to ACM to conduct legal acts under private law, and to perform related acts.

### **Article 5**

Mandate, authority and authorization is given to ACM to deal with appeals and objections to decisions as referred to in Article 2, including taking decisions on objections, and filing appeals.

### **Article 6**

1. Mandate, authority and authorisation is granted to ACM for HR-related matters regarding the staff made available by the minister to ACM.

2. In deviation from the first paragraph, the mandate, authority and authorization does not hold for the following matters:

- a. Decisions on appeal concerning HR-related matters;
- b. The granting of discharge pursuant to Article 99 of the ARAR and the granting of discharge in combination with a financial arrangement;
- c. Decisions regarding employees for whom salary scale 15 or above apply according to Annex B of the BBRA, respectively candidates for functions to which those scales apply, including:
  - 1°. appointment for an indefinite or definite period, and the termination of permanent and temporary appointments of officials working at the corporate services department of ACM;
  - 2°. granting of long-term special leave for fulfilling a function at an international

organisation pursuant to Article 34 of the ARAR for officials employed at the corporate services department of ACM;

- 3°. imposing disciplinary actions pursuant to Article 81 of the ARAR;
- 4°. suspending an official pursuant to Article 91 of the ARAR;
- 5°. withholding pay during a suspension pursuant to Article 92 of the ARAR;
- 6°. promotion to a higher salary scale of an official employed at the corporate services department of ACM;
- 7°. taking decisions related to granting a return-to-work guarantee;
- 8°. taking decisions related to compensation above an amount of EUR 10,000 pursuant to Article 69 of the ARAR;
- 9°. granting financial contributions based on a social support policy.

#### **Article 7**

1. ACM can, for the matters referred to in Articles 2 through 5, only grant sub-mandate, authority and authorization to an individual Member of ACM in the event that there is no time to wait for a decision of ACM .
2. ACM can, for the matters referred to in Articles 2 through 5, grant mandate, authority and authorization to an individual member of ACM for written finalization, and the signing of documents resulting from decisions taken by ACM.
3. ACM can, for the matters referred to in Articles 2 through 5, grant sub-mandate, authority and authorization to officials employed at its organisation.
4. ACM can, in addition, grant sub-mandate, authority and authorization for HR-related matters, referred to in Article 6, to officials employed at its organization.

#### **Article 8**

1. The granting of sub-mandate, authority or authorization, and any amendment of these, shall be done in written form, and, as concerns its formulation, in accordance with the Director of Legislation and Legal Affairs at the Ministry of Economic Affairs.
2. A copy of decisions regarding sub-mandates, authority or authorization, as referred to in the previous paragraph, will be sent to the Secretary General and the director of Legislation and Legal Affairs at the Ministry of Economic Affairs, and to those who are granted a sub-mandate as set by this decision.

#### **Article 9**

The signing of documents under mandate, authority or authorization will be finalized as follows:

The Minister of Economic affairs,

On his/her behalf:

(signature)  
(name of official)  
(position)

**Article 10**

The Decision regarding mandate, authority and authorization of the board of the Netherlands Competition Authority will be repealed.

**Article 11**

This decision will enter into force the day after the publication date of the Dutch Government Gazette in which it is published, and has retroactive force until 1 April 2013.

**Article 12**

This decision shall be cited as: Decision on mandate, authority and authorization of ACM.

This decision will be published in the Dutch Government Gazette.

*The Hague, 2 April 2013*

*The Minister of Economic Affairs*

*Anyone whose interest is directly affected by this decision can file an objection against this decision with the Minister of Economic Affairs within six weeks after the publication date of this decision. The objection must be sent to the following address: Department Legislation and Legal Affairs, P.O. Box 20401, 2500 EK, The Hague, the Netherlands.*