

2013 Annual Report

The Netherlands Authority for Consumers and Markets (ACM)

Contents

| | | |
|-------|---|----|
| 1 | Foreword | 6 |
| 2 | About ACM | 7 |
| 2.1 | Launching ACM | 8 |
| 2.1.1 | Preparing for the merger | 8 |
| 2.1.2 | The Establishing Act and the Streamlining Act..... | 8 |
| 2.2 | Strategy and oversight philosophy..... | 10 |
| 2.2.1 | Strategy | 10 |
| 2.2.2 | Oversight philosophy..... | 11 |
| 2.3 | The Board of ACM | 13 |
| 2.3.1 | Chris Fonteijn | 13 |
| 2.3.2 | Anita Vegter | 13 |
| 2.3.3 | Henk Don..... | 14 |
| 2.4 | Cooperation in the Netherlands | 15 |
| 2.5 | International Cooperation | 16 |
| 2.5.1 | International interest in the organization of ACM | 16 |
| 2.5.2 | Sharing knowledge at an international level..... | 16 |
| 2.5.3 | OECD pays attention to effect calculation | 17 |
| 2.5.4 | ACM hosted a roundtable for international energy regulators | 17 |
| 2.5.5 | Henk Don chosen as Vice-Chairman of IRG-Rail..... | 18 |
| 2.5.6 | Response of ACM to EU regulation in a BEREC context | 18 |
| 2.5.7 | ICPEN pays attention to online games | 19 |
| 2.5.8 | Cooperation with ECN | 19 |
| 2.5.9 | ACM collaborates on REMIT regulation within ACER context..... | 20 |
| 2.6 | Corporate Services | 21 |
| 2.6.1 | Inflow | 21 |
| 2.6.2 | ACM Academy | 21 |
| 2.6.3 | Workplace conditions and absenteeism | 21 |
| 2.6.4 | Integrity..... | 22 |
| 2.6.5 | Employee participation | 22 |
| 2.6.6 | Budget cutbacks | 22 |
| 2.7 | Annual statement of accounts | 24 |
| 2.7.1 | Administrative systems of ACM and its predecessors | 24 |
| 2.7.2 | Autonomous Administrative Authority (AAA) Board of the NMa and AAA Board of ACM | 25 |
| 2.7.3 | Integrated cash expenditures..... | 26 |
| 2.7.4 | Integrated income..... | 27 |
| 2.7.5 | Integrated outstanding debts and receivables per industry | 28 |
| 2.7.6 | Breakdown of expenditures along market organizations | 29 |
| 3 | In the spotlight! | 30 |
| 3.1 | Health care | 30 |
| 3.2 | Energy | 32 |
| 3.3 | Housing | 33 |
| 3.4 | Travel | 35 |
| 4 | Consumers | 37 |
| 4.1 | Consumer protection | 37 |

| | | |
|-------|---|----|
| 4.1.1 | Harmed consumers get reimbursed after premium-rate number scam..... | 37 |
| 4.1.2 | Consumers reimbursed after receiving ‘free samples’ | 38 |
| 4.1.3 | Consumers will have a single point of contact for their energy matters | 38 |
| 4.1.4 | Cleaning company was reprimanded over customer-recruitment methods | 39 |
| 4.1.5 | Improvements in the secure processing of mailpieces by PostNL | 40 |
| 4.1.6 | Providing information about statutory right to replacement or repair | 40 |
| 4.2 | Consumers in the digital world | 41 |
| 4.2.1 | Amendments to the Dutch cookie act will result in fewer annoyances..... | 41 |
| 4.2.2 | Internet security..... | 41 |
| 4.2.3 | More attention needed for online shops..... | 42 |
| 4.3 | Consumers and their rights..... | 44 |
| 4.3.1 | ConsuWijzer stimulates switching energy suppliers | 44 |
| 4.3.2 | Forty-six percent of consumers take action after contacting ConsuWijzer | 45 |
| 4.3.3 | Switching telecom providers is getting easier..... | 45 |
| 4.3.4 | Fine for sending final bills too late or not at all..... | 46 |
| 4.4 | Clear and reasonable prices for consumers..... | 47 |
| 4.4.1 | Prices in the energy industry must be clearer..... | 47 |
| 4.4.2 | Clear prices in the travel industry | 47 |
| 4.4.3 | Fine for unclear prices in the travel industry | 48 |
| 4.4.4 | 200 indications about prices in the travel industry following a campaign..... | 49 |
| 5 | Markets..... | 50 |
| 5.1 | Energy regulation..... | 50 |
| 5.1.1 | ACM makes energy affordable | 50 |
| 5.1.2 | ACM increases reliability and quality | 51 |
| 5.1.3 | Better functioning and integrated energy market | 52 |
| 5.1.4 | Exemption requests processed and direct lines registered | 53 |
| 5.1.5 | Network operators receive unbundling certificates | 53 |
| 5.1.6 | Enforcement of REMIT: ACM is ready to go | 54 |
| 5.2 | Telecom regulation | 55 |
| 5.2.1 | KPN’s connection network continues to be open for competitors | 55 |
| 5.2.2 | Handling mobile calls becomes cheaper | 56 |
| 5.2.3 | New net-neutrality legislation..... | 56 |
| 5.2.4 | Fines for putting competitors at a disadvantage | 57 |
| 5.3 | Transport regulation | 58 |
| 5.3.1 | Access of Transavia to budget pier stimulates competition | 58 |
| 5.3.2 | Position of regional railway undertakings must be strengthened | 59 |
| 5.3.3 | Complaint of KLM was partially allowed | 59 |
| 5.3.4 | No special circumstances surrounding significant increase of Schiphol’s asset value | 60 |
| 5.3.5 | Limitation of increase of pilotage tariff..... | 61 |
| 5.4 | Post regulation | 62 |
| 5.5 | Competition | 63 |
| 5.5.1 | More competition in energy-neutral-housing renovation project..... | 63 |
| 5.5.2 | More fines imposed on real-estate traders | 64 |
| 5.5.3 | Conclusion of investigation into mobile operators | 65 |
| 5.5.4 | Fines in the magazine pack market | 65 |
| 5.6 | Mergers..... | 66 |

| | | |
|-------|---|-----|
| 5.6.1 | Mergers in health care | 66 |
| 5.6.2 | HAL investments is allowed to acquire office-furniture manufacturer Gispen..... | 67 |
| 5.6.3 | Failure to notify of a concentration resulted in a fine | 68 |
| 5.7 | Government and Free Markets..... | 69 |
| 5.8 | Sustainability..... | 70 |
| 5.8.1 | Sustainability and competition..... | 70 |
| 5.8.2 | Sustainability in energy regulation..... | 71 |
| 5.8.3 | Closing down coal power plants harms consumers | 71 |
| 5.8.4 | Enough competition despite one-to-one contracts veterinarians | 72 |
| 5.8.5 | Impact of wind and solar energy on energy prices | 72 |
| 6 | Outcome of ACM's work..... | 74 |
| 6.1 | Calculation method..... | 75 |
| 6.2 | Competition oversight | 76 |
| 6.2.1 | Art auctions | 76 |
| 6.2.2 | Onion sets..... | 77 |
| 6.2.3 | Demolition firms..... | 77 |
| 6.2.4 | Magazine packs | 77 |
| 6.2.5 | Flood insurance | 78 |
| 6.3 | Energy market..... | 79 |
| 6.3.1 | Method decisions for network operators of electricity and natural gas..... | 79 |
| 6.3.2 | A share of the auction revenues goes to consumers | 79 |
| 6.3.3 | Code amendments regarding metering devices | 80 |
| 6.4 | Telecom..... | 81 |
| 6.4.1 | Fixed and mobile termination tariffs..... | 81 |
| 6.4.2 | Phone calls to non-geographic numbers..... | 81 |
| 6.4.3 | Access to transmitter locations | 82 |
| 6.5 | Transport..... | 83 |
| 6.6 | Consumer protection | 84 |
| 6.6.1 | Regulation of consumer tariffs for electricity and natural gas..... | 84 |
| 6.6.2 | Energie Direct..... | 85 |
| 6.6.3 | Transparency in travel costs..... | 85 |
| 6.6.4 | Rapid interventions | 85 |
| 7 | Markets in focus | 87 |
| 7.1 | Telecom..... | 87 |
| 7.1.1 | Mobile services..... | 87 |
| 7.1.2 | Prices of subscriptions..... | 89 |
| 7.1.3 | Wi-Fi as an alternative to mobile broadband..... | 90 |
| 7.1.4 | Consumers on fixed networks..... | 91 |
| 7.2 | Postal services..... | 102 |
| 7.2.1 | Number of mailpieces and turnover | 102 |
| 7.2.2 | Business and consumer letter-size mail | 102 |
| 7.2.3 | Delivery times of mailpieces | 103 |
| 7.2.4 | Sorted or unsorted mail | 103 |
| 7.2.5 | Competition..... | 104 |
| 7.3 | Energy | 105 |
| 7.3.1 | Wholesale market monitor | 105 |

| | | |
|-------|---|-----|
| 7.3.2 | Smart Meter | 107 |
| 7.3.3 | Consumer market..... | 108 |
| 7.4 | Financial Sector | 109 |
| 7.5 | Rail..... | 110 |
| 8 | Key figures | 111 |
| 8.1 | Objections and appeals..... | 111 |
| 8.2 | Concentrations..... | 112 |
| 8.3 | Detection and investigations | 113 |
| 8.4 | Sanctions..... | 114 |
| 8.5 | HR..... | 115 |
| 8.6 | Organization..... | 116 |
| 8.7 | Indications received from consumers and businesses..... | 117 |
| 8.8 | Numbers and registrations | 120 |
| 8.9 | Lead times | 122 |
| 9 | Contact details..... | 123 |

1 Foreword

Just one year after its creation, the Netherlands Authority for Consumers and Markets (ACM) has already arrived. It combines the knowledge and strengths of its three predecessors, the NMa, OPTA, and the Netherlands Consumer Authority. In our first annual report, you will find what results ACM achieved in 2013 for consumers and businesses. The outcome of our work in 2013 totaled over EUR 1.8 billion.

Together with this annual report, we also publish *Het Signaal*, in which we discuss key trends that affect our work. We point out to the public and to lawmakers what effects these trends could have on our work.

On behalf of everyone here at ACM, I would like to invite you to take a closer look at our annual report.

Chris Fonteijn
Chairman of the Board

2 About ACM

The Netherlands Consumer Authority, the Netherlands Competition Authority (NMa) and the Netherlands Independent Post and Telecommunications Authority (OPTA) joined forces on April 1, 2013, creating a new regulator: [the Netherlands Authority for Consumers and Markets](#) (ACM). ACM is an independent regulator that creates opportunities and options for consumers and businesses.

ACM advises consumers

Consumers may contact ACM for free information and advice. Consumers may file complaints with consumer information desk ConsuWijzer. ConsuWijzer will then advise consumers on how they can solve those problems. Based on that advice, consumers will know what their rights are, and how they can exercise them. If it turns out that, based on the complaint, the company in question has violated the law, ACM can step in and take action.

ACM oversees businesses

Businesses may contact ACM if they have any indications that other businesses are not playing by the rules, for example, because they have concluded price-fixing agreements.

When large firms or organizations wish to merge, we will investigate what impact the proposed merger will have on competition. If it has a negative impact on competition, we will attach conditions to that merger, or block it altogether. In addition, we impose additional rules in specific markets in order to stimulate competition. These markets are telecommunication, transport, postal services, and energy. Increased competition leads to better prices and more options for consumers and businesses. Competition sometimes also affects sustainability and innovation. When stepping in, we take these aspects into account as well.

The effect of our oversight is central

ACM investigates complaints from consumers and businesses in order to be able to tackle the root cause. Violations will be punished. But fines alone cannot solve every problem. Wherever it is needed, we will be looking at different alternatives to find a solution, for example, through educational campaigns, sitting down with the parties involved, or starting a public debate.

2.1 Launching ACM

In March 2011, the Cabinet at the time decided to merge the Netherlands Competition Authority (NMa), the Netherlands Independent Post and Telecommunication Authority (OPTA) and the Netherlands Consumer Authority (CA) into a new regulator. This decision followed from the [Compact Government program](#), which aims to make government smaller and more effective.

The first months of 2013 were dominated by the preparations for the launch of the new regulator. The merger was realized through two legislative processes: [the Establishment Act of the Netherlands Authority for Consumers and Markets](#), which enabled the launch of the new regulator with the name 'the Netherlands Authority for Consumers and Markets' and the [Streamlining Act](#), which streamlined procedures, tasks, and powers.

2.1.1 Preparing for the merger

Employees of the three former organizations NMa, OPTA, and CA cooperated intensively during the preparations for the new organization. Such collaborations often consisted of projects resulting in recommendations to the Board of the new organization. These recommendations were aimed at organizing ACM in an efficient and effective manner.

Merging oversight philosophy and physical workspace

The topics of the merger projects varied tremendously. For instance, one project focused on ACM's oversight philosophy, while other projects focused on how internal consultations and decision-making could be carried out best. Also, ideas were exchanged about the desired organizational culture and structure. In addition, a new corporate identity was created. Furthermore, the Corporate Services department focused on IT systems, and on the physical workspaces of ACM workers.

Our own people worked on the merger

These projects were carried out by employees of the three former organizations, and were carried out on top of their regular activities. Though the extra work asked a lot of everyone, they did so with great enthusiasm, dedication, and used their own expertise.

2.1.2 The Establishing Act and the Streamlining Act

Two acts were needed to establish ACM, namely the Establishment Act of the Netherlands Authority for Consumers and Markets and the Streamlining Act.

The Establishment Act of the Netherlands Authority for Consumers and Markets

The Establishment Act of the Netherlands Authority for Consumers and Markets set ACM's establishment on 1 April 2013. The Establishment Act contains a number of provisions about the structure of the organization, and about its relation to other organizations such as the Ministry of Economic Affairs and the Ministry of Infrastructure and the Environment. In addition, the Establishment Act contains a provision about the exchange of data and intelligence with other organizations, including with other regulators.

The Streamlining Act

On 17 December 2013, the Dutch House of Representatives passed the Streamlining Act. This act streamlines the existing rules of ACM's predecessors resulting in a clear set of rules and powers of ACM concerning, among other things, the manner in which ACM publishes its decisions, the instruments that the regulator can use, and objection, appeal and higher appeal procedures. This act also streamlines decision periods and payment periods, and it simplifies procedures. One such example is the introduction of a more unequivocal system of administrative enforcement. The Streamlining Act is expected to be passed by the Dutch Senate in the spring of 2014.

2.2 Strategy and oversight philosophy

ACM's mission is to promote opportunities and options for businesses and consumers. We wish to create opportunities for new and existing businesses to innovate, and to introduce new products and services. And we wish to create options for consumers, so that they really have something to choose from, and that they have the courage to make a choice. This can be realized if businesses are clear about what they offer, and if consumers know what their rights are. Therein lies the key to well-functioning markets.

2.2.1 Strategy

ACM published its [strategy](#) in September 2013. While preparing its strategy document, ACM held interviews and round-table discussions with scholars, trade organizations, and consumer organizations. A draft version of the strategy document was put up on its website so interested parties could comment on it. The insights ACM gained from these comments have been incorporated into the final version.

Consumers are central

In its oversight, ACM puts consumers central. ACM wishes to create opportunities and options to businesses and consumers. Having well-functioning markets is in the interest of consumers. That is what it is all about. We want consumers to have an actual choice, and we want businesses to be able to compete freely in order to gain the favor of customers.

ACM takes action if companies collude to increase prices or to restrict options. ACM also protects consumers against unfair commercial practices, for example if not enough information is given to consumers about their rights and obligations when purchasing products. In certain industries where providers (existing and new) are dependent on a small number of established parties (who often used to be the only provider), ACM has the authority to set prices and conditions. These established parties own infrastructures such as the connection networks for telecommunication or energy, which cannot be built again because of the high costs associated therewith. The conditions ACM sets allow competitors to offer services themselves, and ensure that consumers have more options. Several segments of, for example, the energy and transport industries, have only one network operator. In such situations, we speak of natural monopolies, and ACM directly sets the prices that such network operators are allowed to charge consumers or businesses.

Besides consumers, businesses benefit from ACM's oversight, too, because businesses that do play by the rules have better opportunities if violators are dealt with.

Competition is not a goal unto itself

Competition is a means, not a goal unto itself. Competition is sometimes at odds with other public interests. ACM is committed to explaining what room the Dutch Competition Act offers in order to come to good solutions. One example is the Knowledge Bank on Sustainability with which ACM explains what room the Dutch Competition Act offers for collaborations between companies with regard to sustainability. ACM also actively informs the health care sector on what collaborations are possible.

Impact is central

ACM does not enforce for the sake of enforcement alone: the impact of our actions is central. ACM aims for swift and pragmatic solutions wherever possible. However, this is not always possible. Sometimes, a violation is

not an isolated incident, but is part of a larger, underlying market problem. ACM chooses the instrument or a combination of instruments that is most likely to offer a permanent solution to that problem. In some cases, imposing a fine for a violation can go hand in hand with the launch of an awareness campaign for consumers.

Position of consumers

Consumers themselves often know best what their interests are, and how to protect them. In practice, however, consumers are not always given the clarity that they ought to be given. ACM helps consumers become aware of their rights, and promotes opportunities for consumers to exercise their rights through consumer information website [ConsuWijzer](#).

ConsuWijzer also gives ACM current information on the issues that consumers face. In addition, we sit down with other organizations on important and current issues. Moreover, ACM shares its knowledge with policymakers.

Cooperation with other regulators

Problems do not neatly follow the way oversight and regulation are structured. That is why ACM seeks to work together with other regulators and other organizations in the Netherlands and abroad. ACM is an active member of the Consultation Forum of Regulatory Bodies (MTB) in which the Dutch market regulators work together towards better and more efficient oversight. ACM wishes to be a pioneer in the improvement of oversight at both a national level and an international level.

2.2.2 Oversight philosophy

ACM thus takes a broader perspective, and will not merely investigate the alleged violation, but will also determine the root cause of the market or consumer problem in question. ACM subsequently selects the instrument or a combination of instruments that offers the highest probability of producing a structural solution to the problem.

Style and instruments

ACM constantly adjusts its style in order to achieve the best and fastest result for consumers. Sometimes ACM imposes fines, other times ACM decides to give consumers extra information about their rights, obligations and options. The website ConsuWijzer plays an important role in this process. In other cases, ACM sits down with companies to induce them to comply with regulations. ACM has many instruments at its disposal, and continuously assesses which instrument is the best one for each situation.

Looking for the root cause

ACM looks for the root cause of problems. Sometimes, a company's behavior is the result of another problem. ACM looks at the market from a broader perspective. It carries out, for example, market studies to analyze the problems in greater detail, and to give information about them afterwards. ACM collects knowledge about the market in other ways as well. Through ConsuWijzer, ACM is provided with up-to-date information every day. In addition, ACM collaborates with other regulators, both national and international, and with other market participants.

Openness, professionalism, independence

In their day-to-day work, ACM's employees observe three core values: openness, professionalism, and independence. 'Openness' means that ACM is fully aware of what is going on, and also that we make clear as

much as possible what we do and why. We obviously cannot be open about everything because, in some cases, the parties concerned are entitled to confidentiality. ACM's employees are professional. They are highly-skilled and have a considerable amount of expertise. Independence: ACM comes to decisions independently, and performs its legal tasks independently of political pressure and industries. Companies may file appeals against ACM's decisions.

2.3 The Board of ACM

Responsibility for all decisions of the Netherlands Authority for Consumers and Markets lies with the Board of ACM. Each member of the Board has their own portfolio.

2.3.1 Chris Fonteijn

Chris Fonteijn (1955) is the chairman of the Board of the Netherlands Authority for Consumers and Markets (ACM). Prior to this, Mr. Fonteijn was chairman of both the Commission of the Netherlands Independent Post and Telecommunications Authority (OPTA), and of the Netherlands Competition Authority (NMa). Mr. Fonteijn earned his master's degree in law from Leiden University.

From 1980 until 2005, when he became the chairman of the Commission of OPTA, he was a lawyer at the Rotterdam-based law firm NautaDutilh, where he was promoted to partner in 1988. At NautaDutilh, he specialized in energy and corporate law, and held various positions. He has also worked for a number of years in the Middle East. In his final years at NautaDutilh, he directed the Energy & Utilities Group.

In his capacity of chairman of the Commission of OPTA, he sat on the board of IRG (Independent Regulators Group) and that of BEREC (Body of European Regulators for Electronic Communications) between 2008 and 2011. In 2011, he was chairman of both of these international bodies.

From July 1, 2011, until the launch of the ACM, he was also the chairman of the Board of the NMa.

Portfolio

Strategy

General competition oversight

International

Communication

2.3.2 Anita Vegter

Anita Vegter (1965) earned a master's degree in Dutch law from Tilburg University.

Ms. Vegter worked as an attorney in private practice from 1990 until 2005. From 2002 until 2005, she was dean of the Dutch Bar Association in the city of Arnhem. Ms. Vegter had been a senior judge of the District Court of Amsterdam since 2006, as well as subdistrict-sector chairwoman since 2009. She served as a member of the Governing Board of the District Court, and was acting President of the District Court of Amsterdam since August 2011.

From January 1, 2013 until the launch of the ACM, she was a member of the Board of the NMa.

Portfolio

Consumers

Legal affairs

Corporate affairs

2.3.3 Henk Don

Henk Don (1954) earned a master's degree in econometrics from the University of Amsterdam (UvA), and received his Ph.D. from the same university, with a dissertation on 'Linear methods in non-linear models'.

Mr. Don worked for the Netherlands Bureau for Economic Policy Analysis (CPB) in The Hague between 1978 and 2006, during which he also worked for the University of Pennsylvania for one year. Until 1984, he was involved in the development of models for the national and global economies. He became a head of sector in 1985, and became deputy director in 1989. From 1994 until 2006, Mr. Don was director of the CPB. Next to his positions at the CPB, Mr. Don was part-time professor in economics at the University of Amsterdam (UvA) between 1990 and 1999. In addition, he was distinguished professor in econometrics and economic policy at the Erasmus School of Economics (Erasmus University) in Rotterdam between 2006 and 2009.

From October 1, 2009, until the launch of the ACM, he was a member of the Board of the NMa.

Portfolio

Sector-specific regulation (energy, telecom, transport, postal services)

Office of the Chief Economist

2.4 Cooperation in the Netherlands

ACM [works together](#) with a large number of ministries, other regulators, government agencies and organizations that protect the interests of businesses and consumers, as well as with scientific institutions and complaint boards. Some of these collaborations have been laid down in protocols.

Vision on good oversight

ACM actively works together with the Netherlands Authority for the Financial Markets (AFM), the Dutch Data Protection Authority (CBP), the Dutch central bank (DNB), the Netherlands Gaming Authority, and the Dutch Healthcare Authority (NZA) in the [Consultation Forum of Regulatory Bodies](#) (MTB). In April, the MTB put out for consultation a common vision document on [criteria for good oversight](#). Its aim was to offer a framework for independent, effect-oriented oversight and a sharper evaluation of oversight quality. In November, the regulators finalized the criteria for good oversight. It is ACM's aim to use this framework for its first evaluation in 2015.

2.5 International Cooperation

ACM regularly works together with [fellow regulators](#) and other agencies outside the Netherlands. Problems of consumers and business do not stop at the border. The Netherlands has an open economy that is strongly influenced by international developments. International cooperation is aimed at the exchange of knowledge and experience at an international level. Regulators help each other by exchanging experiences about how to tackle oversight problems.

Among other networks, ACM participates in collaborative networks of European and international competition authorities (ECN and ICN respectively), of telecom regulators (BEREC), of regulators on the electricity and natural-gas markets in the Member States of the European Union (ACER and CEER), and of consumer protection authorities (ICPEN and CPC).

2.5.1 International interest in the organization of ACM

ACM is the first European authority that brings together consumer protection, general competition oversight and sector-specific regulation into a single organization. In 2013, ACM was asked on several occasions by other countries to speak about its multidisciplinary problem-solving oversight philosophy.

Contributions to conferences and workshops

Chris Fonteijn spoke about the organization of ACM at the European Competition Day in Dublin in May 2013, as well as at conferences in Brussels and Rome. In addition, ACM helped organize several smaller workshops of fellow authorities, for example, at the British Office of Fair Trading in April. The other two members of the Board, Henk Don and Anita Vegter, too, spoke in other countries about regulation and consumer interests in the new organization.

Forerunner

Bringing together consumer protection as well as competition oversight and sector-specific regulation is unique in Europe. In addition, ACM aims to be a forerunner in several other areas, for example, consumer empowerment, behavioral economics and effect calculation. That is why in 2014, the theme of ACM's conference is "Innovation in Oversight/Oversight and Innovation".

2.5.2 Sharing knowledge at an international level

The OECD and the World Bank sometimes ask ACM to share its knowledge. ACM spoke at a seminar in the Russian city of Kazan about the new ACM organization, the added value of the combination of energy and competition oversight within a single organization, and the developments in intelligent networks. Intelligent networks are electricity networks that, using certain technologies, result in electricity supply and demand meeting each other better. The aim of the seminar was to stimulate the exchange of knowledge with countries in Southeastern Europe, the former Soviet republics and Russia. ACM has additionally shared its knowledge about mergers in Nairobi at the request of the World Bank.

Best practices

ACM is active in the Network of Economic Regulators of the OECD. In this network, ACM shares its experience in the area of outcome calculation and results measurement. In 2013, ACM shared in this network the criteria

for good oversight, drafted by the joint regulators that sit on the Consultation Forum of Regulatory Bodies (MTB). This report was received very positively, and serves now as one of the best practices for European regulators to set up their own outcome calculation processes.

2.5.3 OECD pays attention to effect calculation

In 2013, ACM contributed to the harmonization of how the results of competition policies are calculated. International attention for calculating the effects of policies is growing tremendously.

Contribution of ACM to effect calculation

In 2012, the [OECD](#) (Organization for Economic Co-operation and Development), launched a project called “Evaluation of Competition Interventions”. The results of this study focus on determining the impact of the activities of regulators. One major reason behind this study is to give society insight into the benefits of competition oversight and regulation. Assessing the impact is also important when tackling the question of which cases regulators pick up and which not. The OECD closely involved ACM in drafting its recommendations, as a result of which the expertise that ACM’s predecessors had built up over the last decade could be shared with other organizations in various countries.

International differences in effect calculation

Several countries, among which the Netherlands and the United Kingdom, have years of experience in effect calculation. Nevertheless, ACM calculation method differs from that of the British regulator Office of Fair Trading (OFT). The [OFT](#), for example, includes potential effects of market surveys in its effect calculation, whereas ACM does not. This is because ACM only includes cases that are associated with an intervention in case of a violation or a merger, or cases that are the result of tariff decisions in regulated sectors. OFT takes a broader view, and also includes anticipatory effects in its calculations. These are effects that have occurred purely and solely because there is regulation. The mere fact that regulation exists already has an effect on parties that must play by the rules set by the regulator.

Towards a single calculation method

The international project of the OECD contains recommendations for the way in which effects can be calculated best. Each country is free to use its own calculation method. However, efforts are made at an OECD level to come to a single calculation method. Calculations of regulatory effects in one country can thus be compared better with those in other countries. Starting with this annual report, ACM bases its outcome calculation on the OECD recommendations.

2.5.4 ACM hosted a roundtable for international energy regulators

Cyber security and protection of critical infrastructure are becoming more and more important. Energy networks increasingly rely on smart technology. This increases the risk of cyber-attacks. As a result, the implementation of secure networks will become an ever greater challenge for network operators with regard to data management. This was one of the topics discussed by US and European regulators during the “[EU-US energy regulators roundtable](#)”.

Various topics on agenda

The roundtable offers regulators the opportunity to learn from intercontinental developments. The tenth edition of this roundtable took place in The Hague and Amsterdam in April and was hosted by ACM. Other

topics at this roundtable were the influence of US shale gas, the improvement of consumer participation in the energy market, and the increase in cross-border trade in energy and the infrastructure required for that trade. Furthermore, the prevention of market distortions and insider trading were priorities to regulators on both continents.

Discussions between CEER and NARUC

Discussions were held between the US regulator, the [National Association of Regulatory Utility Commissioners](#) (NARUC) and European energy regulators that work together in the [Council of European Energy Regulators](#) (CEER). CEER is a voluntary collaboration between all European energy regulators. ACM actively contributes to the exchange of experiences and the development of a common vision on European energy oversight and regulation within CEER. ACM helps bring together knowledge on industrial organization and infrastructure for the discussions at a European level.

2.5.5 Henk Don chosen as Vice-Chairman of IRG-Rail

In 2013, Henk Don, member of the Board of ACM, was chosen as Vice-Chairman of the [Independent Regulators' Group - Rail](#) (IRG-Rail) from 1 January 2014. IRG-Rail, the European network of independent rail regulators, is the voice and face of rail regulators in Europe.

Healthy European cooperation

With the vice-chairmanship, ACM aims to realize a healthy European rail market in which regulators work together closely. The European rail market is currently in a crucial phase. After the liberalization of the freight rail transport market and the international passenger rail transport market, negotiations for opening the national market for passenger rail transport were started.

New legislation

The European Commission proposed new legislation on international passenger rail transport, long-term capacity agreements, and the tariffs for using rail. IRG-Rail last year published various position papers about this new legislation. ACM contributed to the drafting of these papers. Moreover, ACM gave advice to the Dutch Ministry of Infrastructure and the Environment about these developments.

2.5.6 Response of ACM to EU regulation in a BEREC context

In September 2013, the European Commission (EC) proposed introducing a regulation to strengthen the telecom market in Europe. ACM and the Body of [European Regulators for Electronic Communications](#) (BEREC) reacted to this proposal.

EU regulation: a single European telecom market

ACM has found that the EC proposal could lead to reduced competition in the telecom market. This could lead to higher prices and a decrease of new services for consumers. That is not in the interest of consumers. In addition, ACM finds the new proposal about roaming complicated. This may negatively affect suppliers. Moreover, it will not lead to lower consumer tariffs for calls in other countries. However, ACM does support the proposals to regulate net neutrality at a European level, and to strengthen consumer rights.

The role of BEREC

BEREC supports the European Parliament, the EC and the European Council, providing better alternatives. ACM plays an active role in this process.

2.5.7 ICPEN pays attention to online games

The online games market is a fast-growing market, populated by a predominantly young target audience. These characteristics, together with blurred lines between real and virtual money, a relative lack of payment obstacles, and the sharing of personal information, has led to ACM indicating it has identified several risks in this industry.

International approach of the problem

The suppliers of the online games that are played in the Netherlands are all over the world. Some countries are further than others with tackling the risks for children. Because of the cross-border characteristics of the market, the annual international conference of the [International Consumer Protection and Enforcement Network](#) (ICPEN) focused its attention mainly on the theme of children and online games. At the conference, the exact nature of the problems was analyzed, discussions with scholars and the industry were held, and possible solutions were considered.

A study by ACM

ACM carried out [a study of the Dutch online games market](#) in 2013. ACM emphasizes the importance of education to parents and children about the risks of online games. Parents could do more to prevent problems, but are often not aware of the options at their disposal. These are the main conclusions of the analysis of the online games market carried out by ACM.

2.5.8 Cooperation with ECN

ACM works closely together with the European competition authorities and the European Commission (EC) within the European Competition Network (ECN).

ECN Recommendation

ACM helped draft the ECN Recommendation on Investigative Powers, Enforcement Measures and Sanctions published on 13 December 2013. This is a follow-up of the evaluation of EU Regulation No. 1/2003 concerning the enforcement of the prohibition of agreements and the prohibition of abuse of dominance and other anticompetitive practices.

Procedures, forms and ECN Brief

ACM and other member states also participated in the revision of the simplified concentration procedure and the adjustment of EC's notification forms. Finally, ACM made several textual contributions to the ECN Brief. The ECN Brief is a bulletin, that is published five times a year and in which the EC and the European competition authorities give an overview of their activities and antitrust investigations under Regulation 1/2003.

2.5.9 ACM collaborates on REMIT regulation within ACER context

At a European level, ACM in 2013 made further preparations for and laid the foundation of the new regulatory task '[energy market integrity and transparency](#)' (REMIT). REMIT is a European regulation seeking to enhance the integrity of trade in energy products.

Towards a transparent market, without any insider trading or manipulation

The REMIT regulation mandates transparency with regard to offerings, prohibits insider trading and market manipulation. This will benefit energy end users. In July 2013, ACM was designated as the authority to enforce compliance with REMIT. ACM is authorized to impose fines in case of non-compliance with REMIT.

Cooperation with the industry

At a European level, ACM closely works together with ACER and regulators in other member states. ACM has actively contributed to the creation of ACER's Guidance regarding the implementation of REMIT. This Guidance ensures that European regulators implement the REMIT regulation in a consistent manner, and it gives the industry certainty.

2.6 Corporate Services

In the first months of 2013, the corporate services department focused on preparing for the transition from the NMa, OPTA, and the Consumer Authority to ACM. As a result, the new organization was successfully launched on 1 April 2013. Following the launch, policies with regard to various areas such as HR, employee training, integrity, and employee participation were further developed.

ACM carries out its tasks as flexibly and economically as possible on the condition that the quality of our work is not compromised.

2.6.1 Inflow

ACM requires highly-educated and professional employees to carry out its activities well. ACM hired ten young employees in 2013.

Flexible deployment of employees

ACM wants to continue to innovate, lower the average age within the organization, and, at the same time, must take into account the government cutbacks. When an employee leaves the organization, ACM first investigates if the vacancy can be filled by internal candidates. This approach ensures employee mobility, increase of knowledge, and enables a flexible deployment of employees. The room that is thus created offers opportunities for attracting fresh graduates or government trainees on a temporary basis.

2.6.2 ACM Academy

The ACM Academy is the internal employee-training department. Within the Academy, ACM employees can work on their career development and knowledge. The ACM Academy helps embed the strategy in the knowledge, attitude and behavior of employees. A key element of the strategy is the 'impact-oriented' and 'problem-solving' approach. The ACM Academy helps increase the level of professionalism among employees, it helps realize the "ACM culture", mutual interconnectedness, and it helps create a single method of working within the organization. At the launch of ACM, the ACM Academy offered many introduction courses and organized 65 training courses. Many employees took advantage of these opportunities.

Selection of courses is expanding

In 2013, a plan was developed to flesh out the ambitions of the Academy. The ACM Academy not only focuses on employee development, but also targets college graduates and students, and it also focuses on cooperation with fellow regulators. The ACM Academy expanded its selection of courses in 2013, and developed a long-term plan. Courses are offered to all ACM employees. Moreover, special "professional" and "advanced professional" programs (for employees with a lot of professional experience) are offered, and a new program for new employees has been developed.

2.6.3 Workplace conditions and absenteeism

In 2013, the absentee rate was 4.4 percent. The launch of ACM coincided by a higher absentee rate. Over the course of 2013, absenteeism was reduced to normal levels in part because of professional support. Short-term and medium-term absentee rates are currently within the norm.

Looking at the options together

ACM works with the so-called Own Direction Model. According to this model, employees and managers look at the options of deployment together. In 2013, ACM took further steps in the improvement of support for absent workers and in the promotion of active sick-leave monitoring by managers. This was done in close cooperation with company doctors, company social workers, and HRM. Prevention of absenteeism and supporting long-term absent workers continue to be critical issues in 2014.

2.6.4 Integrity

For ACM, as an independent regulator, integrity is of great importance. That is why ACM took several major internal measures in the build-up to the merger.

ACM formulated an integrity code. In addition, ACM uses the integrity regulations of the Ministry of Economic Affairs, for example, regulations for digital workspaces such as rules for using ACM workspaces for personal reasons. As part of the transition to ACM, dozens of employees were required to make special arrangements about their financial interests and outside activities.

Compliance officers were appointed who have an advisory and supervisory role when dealing with financial interests or outside activities in cases where a conflict of interest, or a semblance thereof, could exist. In addition, integrity officers were appointed. Employees who have questions about integrity issues can approach these individuals for assistance.

2.6.5 Employee participation

In the build-up to the launch of the new organization, the three participation bodies of ACM's predecessors held consultations with each other and with the new members of the Board. As a result, several services for employees were introduced in a harmonized manner such as the company gym.

The new Works Council (OR) was launched in April 2013. The OR and the members of the Board hold regular meetings. For example, discussions concerned filling the vacancies and the introduction of flexible workspaces and working hours at ACM. The OR is supported by an official secretary. One OR member sits on the departmental works council of the Ministry of Economic Affairs.

2.6.6 Budget cutbacks

The merger produced savings of about 30 full-time equivalents (fte). Overlapping positions were dropped and work processes were streamlined. About half of these savings were achieved in corporate services.

Material savings

In terms of material savings, ACM saved approximately EUR 3.3 million, part of which concerned housing and thereto-related expenses. These savings were used to realize the targets set in the budget cutback program set by the previous administration (the first Rutte Cabinet). These cutbacks were realized despite the fact that ACM's duties have increased for which it did not receive any additional funds.

Preparing for the budget cutbacks for 2014 - 2015

The budget cutback program set by the previous administration will lead to further budget cutbacks in 2014 and 2015. The realization thereof has already been partially realized, for example because of housing and the introduction of flexible workspaces and working hours. The Streamlining Act, which will come into force in 2014, will adjust all laws ACM enforces, thereby further streamlining them.

2.7 Annual statement of accounts

The section on finance concerns 2013 in its entirety.

2.7.1 Administrative systems of ACM and its predecessors

Given the fact that the Establishment Act took effect on April 1, 2013, this annual report, from a financial point of view, concerns six organizations with different statutory regimes and different administrative systems. These six organizations are: the Autonomous Administrative Authority (AAA) Board of ACM, ACM, AAA Board of the NMa, the NMa, OPTA, and the Netherlands Consumer Authority. For each organization, a short summary is given below.

Board of ACM from April 1 through December 31

The Dutch Framework Act on AAAs applies to the Board of ACM. This means that a certified annual statement of accounts must be drawn up. The certifying accountant is the Central Government Audit Service. The Board used a cash-basis accounting system in the Oracle administration of the Ministry of Economic Affairs (EZ). The summary annual statement of the Board has been listed in section 2.7.2 This is a consolidated annual statement with the AAA Board of the NMa.

ACM Organization April 1 through December 31

From a financial point of view, the ACM Organization is an integral part of EZ without any statutory obligation to publish an independent annual statement. The accounting check takes place at EZ level. EU Directive 2002/20/EC applies to the ACM Organization. The ACM Organization used a cash-basis accounting system in the Oracle administration of EZ. ACM tracked time in accordance with a system based on the draft version of an order in council which outlines the new method of passing on costs to regulated industries. This order in council is expected to come into effect January 1, 2015.

Board of the NMa January 1 through March 31

The Dutch Framework Act on AAAs applies to the Board of the NMa. This means that a certified annual statement of accounts must be drawn up. The certifying accountant is the Central Government Audit Service. The Board used a cash-basis accounting system in the Oracle administration of EZ. The summary annual statement of the Board has been listed in section 1.7.2 This is a consolidated annual statement with the AAA Board of ACM.

OPTA January 1 through March 31

The Dutch Framework Act on AAAs applies to OPTA. This means that a certified annual statement of accounts must be drawn up. The certifying accountant is accounting firm BDO. In addition, [Directive 2002/20/EC](#) applies to OPTA. In this so-called Authorization Directive, it is stipulated that, every year, the costs that have been incurred in relation to the electronic communication networks and services sector will be published. The OPTA Annual Report is not part of the EZ budget nor of EZ's responsibility. Only the EZ contribution to the execution of objections and appeals, and giving advice to the ministry are accounted for. OPTA used an accrual accounting system in Exact. OPTA tracked time in accordance with the OPTA system.

The NMa January 1 through March 31

From a financial point of view, the NMa is an integral part of EZ without any statutory obligation to publish an independent annual statement. The accounting check takes place at EZ level. The NMa used a cash-basis accounting system in the SAP administration of EZ. The NMa tracked time in accordance with the NMa system.

The Netherlands Consumer Authority January 1 through March 31

From a financial point of view, the Netherlands Consumer Authority is an integral part of EZ without any statutory obligation to publish an independent annual statement. The accounting check takes place at EZ level. The Netherlands Consumer Authority used a cash-basis accounting system in the SAP administration of EZ.

2.7.2 Autonomous Administrative Authority (AAA) Board of the NMa and AAA Board of ACM

This financial account concern the calendar year 2013. This means that account is given for both the AAA Board of the NMa between January and March 2013, and for the AAA Board of ACM between April and December 2013. The figures in the tables below may have been rounded up or down.

Realization 2013

The budget letter that ACM gives to the Ministry of Economic Affairs (EZ) indicates what the available budget is. For 2013, the AAA Board of the NMa and the AAA Board of ACM had a budget of EUR 771,000. The table below lists the total realization in 2013 of both organizations compared with the budget letter. The budget has not been split, but the realization has been split between the NMa and ACM.

| JANUARY THROUGH DECEMBER 2013 (in EUR) | | | | |
|--|----------------------|--------------------|---------------------|---------------|
| Description | Budget letter | Obligations | Expenditures | Income |
| Realization January-March AAA Board of the NMa | | 159,432 | 159,432 | |
| Realization April-December AAA Board of ACM | | 509,463 | 509,463 | -50 |
| Realization | 771,000 | 668,895 | 668,895 | |
| Underspending | | 102,105 | 102,105 | 0 |
| As a percentage | | 13.24% | 13.24% | 0.00% |

AAA Board of the NMa

As in previous years, the salary payments of the Chairman of the Board of the NMa were handled by OPTA. This referred to the first quarter of 2013. The share of the Chairman's salary that related to the NMa was claimed by OPTA, and has been included in this financial account. The share of the Chairman's salary that related to OPTA has been included in OPTA's financial account.

Expenses that have been claimed by the Chairman have been reimbursed by either the NMa or OPTA. Claims that have been filed with OPTA regarding activities for the NMa or ACM in formation have been filed with the NMa by OPTA, and have been included in this financial account. Claims that the other two members of the Board filed and were reimbursed in P-Direkt, the central government's salary administration system, have been included automatically in this financial account.

No obligations need to be carried over to the new ACM organization.

AAA Board of ACM

| JANUARY THROUGH DECEMBER 2013 | | | | |
|-------------------------------|-----------------------|----------------|---|--|
| Description | Allocated budget 2013 | Total 2013 | Realization January through March 2013 AAA Board of the NMa | Realization April through December 2013 AAA Board of ACM |
| Personnel | | 667,855 | 159,376 | 508,479 |
| Materials | | 1,041 | 56 | 985 |
| Total | 771,000 | 668,896 | 159,432 | 509,463 |

The abovementioned budgets and realizations concern both income and expenditures.

| JANUARY THROUGH DECEMBER 2013 | | | | |
|--|-----------------------|----------------|---|--|
| Ledger account and description | Allocated budget 2012 | Total 2013 | Realization January-March 2013 AAA Board of the NMa | Realization April-December 2013 AAA Board of ACM |
| PERSONNEL | | | | |
| Salary costs | | 563,224 | 136,403 | 426,821 |
| Travel expenses abroad | | 17,560 | 1,438 | 16,121 |
| Travel and accommodation expenses domestic | | 51,297 | | 51,297 |
| Telephone expenses | | 336 | | 336 |
| Commuting expenses | | 16,353 | 16,240 | 113 |
| Various expenses | | 1,091 | 776 | 315 |
| Employee training | | 17,996 | 4,520 | 13,476 |
| Total personnel | 0 | 667,857 | 159,377 | 508,479 |
| MATERIALS | | | | |
| Contributions and memberships | | 922 | | 922 |
| Social allowance | | 137 | 56 | 82 |
| Small presents for personnel | | -18 | | -18 |
| Total materials | 0 | 1,040 | 56 | 985 |
| Total general | 771,000 | 668,895 | 159,432 | 509,463 |

The abovementioned budgets and realizations concern both income and expenditures.

The Dutch Act on Executives Pay Standards (Wet normering topinkomens, WNT)

In 2013, the three members of the Board of ACM did not receive pays (including the remunerations from positions with the AAA Board of the NMa and OPTA) that exceeded the amount mentioned in the WNT.

2.7.3 Integrated cash expenditures

In order to provide some insight into the total expenditures (the trends thereof) of the three organizations, an integrated financial overview is given below.

The cash expenditures of the three organizations have been added up, and are listed in the below table. The column '2013' represents the total cash expenditures of the NMa, the Netherlands Consumer Authority, OPTA

and ACM in 2013. The column '2012' represents the cash expenditures of the NMa, the Netherlands Consumer Authority, and OPTA in 2012.

| CASH EXPENDITURES | 2013 | 2012 |
|--|-------------------|-------------------|
| | | |
| Personnel costs | | |
| Salary costs | 39,290,347 | 39,982,885 |
| Temporary employees | 2,054,161 | 2,547,501 |
| Other personnel costs | 1,586,502 | 2,302,855 |
| Total personnel costs | 42,931,010 | 44,833,241 |
| | | |
| Material costs | | |
| Housing | 6,310,768 | 5,838,935 |
| Research | 3,780,081 | 5,011,009 |
| IT | 3,159,953 | 6,168,952 |
| Catering/security/service/general expenses | 1,329,025 | 1,383,691 |
| Office furniture and supplies | 978,856 | 813,387 |
| Education and events | 94,009 | 59,559 |
| Other material costs | 251,633 | 385,753 |
| Total material costs | 15,904,325 | 19,661,286 |
| | | |
| Total personnel and material costs | 58,835,335 | 64,494,526 |

Different administrative systems and three different financial-administrative systems were used in this period. A comprehensive multi-year comparison is therefore not possible. The above table reveals that the merger year 2013 did not lead to overspending.

2.7.4 Integrated income

The incomes of the three organizations have been added up, and are listed in the below table. The column '2013' represents the total income of the NMa, the Netherlands Consumer Authority, OPTA and ACM in 2013. The column '2012' represents the total income of the NMa, the Netherlands Consumer Authority, and OPTA in 2012.

Fines have been included in the below table, among other items. Fines imposed under the Dutch Competition Act only need to be paid after the highest court has ruled on it, and they are not paid to ACM, but to the Dutch treasury. The time between imposing the fine and the actual payment thereof is usually several years, and is also affected by the legal lead times. Fine income can therefore vary. However, the second table below shows that the outstanding debts and receivables remain fairly constant.

The levels of the contributions from the telecommunication and postal services industries are determined based on the rules that were applicable in 2013 and 2012, but also, in part, on the realized costs in previous years. As a result, an item 'amount to be settled' is thus created in the contribution for subsequent years. This item affects the level of income. Taking into consideration the amount to be settled with market participants after 2012 in the postal services sector, the total amount to be settled was settled in 2013 (in connection with the merger). This means that these parties were not charged any contributions in 2013.

The contribution of EZ is an advance payment covering the costs of objections, appeals and implementation tests for the AAA OPTA. These costs were paid annually based on subsequent calculation. In 2013, the AAA OPTA only existed in the first quarter. The amount in 2013 thus only relates to the first quarter of 2013, and a back payment from 2012. This explains the relatively low amount.

| INCOME | 2013 | 2012 |
|--|-------------------|-------------------|
| Contributions | | |
| Contribution Telecom | 11,463,881 | 14,631,691 |
| Contribution Energy | 2,701,695 | 2,824,485 |
| Contribution Postal Services | - | 353,983 |
| Total contributions | 14,165,576 | 17,810,159 |
| Fines | | |
| Fees from merger notifications under Dutch Competition Act | 19,853,316 | 41,005,293 |
| Contribution of EZ to OPTA | 1,136,422 | 1,598,128 |
| | 663,611 | 2,390,000 |
| Total income | 35,818,925 | 62,803,580 |

2.7.5 Integrated outstanding debts and receivables per industry

| OUTSTANDING DEBTS AND RECEIVABLES | 2013 | 2012 |
|---|--------------------|--------------------|
| Fines | | |
| Flour | 67,037,767 | 70,235,539 |
| Telecom | 41,300,031 | 49,671,437 |
| Bell peppers and onions | 26,801,199 | 26,596,481 |
| Industrial laundries | 19,433,945 | 18,868,209 |
| Foreclosure auctions | 9,831,602 | 6,010,132 |
| Taxi transport | 8,726,024 | 8,507,000 |
| General practitioners | 8,229,690 | 7,990,128 |
| Double glazing | 6,269,739 | 6,087,230 |
| Pre-selected magazine packs | 5,478,000 | - |
| Construction | 3,688,050 | 3,580,664 |
| Bankruptcy | 1,650,877 | 1,143,939 |
| Consumers | 630,808 | 759,199 |
| Other | 7,147,699 | 19,670,319 |
| Subtotal fines | 206,495,431 | 219,120,277 |
| Other outstanding receivables | | |
| Receivables contribution scheme | | |
| Telecom/Post | 1,046,813 | 597,850 |
| Fees | 277,578 | 225,000 |
| Subtotal other outstanding receivables | 1,324,391 | 822,850 |
| Total | 207,819,222 | 219,943,127 |

The above table lists the outstanding debts and receivables per industry. These are the amounts on December 31 of the year in question. The column '2013' lists the actual amounts on that date. The column '2012' lists the

total outstanding debts and receivables per industry of the NMa, OPTA and the Netherlands Consumer Authority. A similar table was included in previous annual reports of the NMa.

2.7.6 Breakdown of expenditures along market organizations

A breakdown of ACM's expenditures for the period of April 1 through December 31 has been included in this annual report as well. These overviews are an implementation of Directive 2002/20/EC.

A breakdown of ACM's expenditures along market organizations, which is based on the new method of passing on to regulated industries, is given in the below table. This overview covers the expenditures of nine months. This breakdown differs substantively from the scheme that existed when OPTA's regulations and legislation were enforced. Various activities such as related to consumer protection and investigation are no longer passed on in the new Decision. In addition, the activities as part of general competition oversight are not passed on to market organizations. ACM's expenditures over the period of April 1 through December 31, 2013 were EUR 45,488,314.

| CONTRIBUTIONS ALONG ORGANIZATIONS | April 1 through December 31, 2013 |
|---|--|
| Market organizations | |
| Electricity and natural gas (regional and national) | 7,608,025 |
| Electronic communication | 3,923,204 |
| Numbers | 1,993,870 |
| Transport | 1,182,212 |
| Heat suppliers | 353,180 |
| Trusted Third Parties (TTP) | 340,165 |
| Post - Universal Service | 196,942 |
| Post – non-Universal Service | 167,900 |
| Total market organizations | 15,765,498 |
| Other | |
| Dutch State/Treasury | 29,722,826 |
| Total | 45,488,314 |

The new method of passing on is laid down in the decision regarding the rules on passing on costs to market organizations by ACM. This decision is expected to come into effect on January 1, 2015.

3 In the spotlight!

ACM is an open, independent and professional regulator, fully aware of the social context in which it operates. ACM aims to use an integrated and balanced approach to market and consumer problems. We will look into the root cause of the market or consumer problem in question, and then select the best solution to the problem. In doing so, we use a combination of instruments, ranging from fines to informal opinions, market scans, and educational activities. We would like to illustrate our approach using examples in four industries.

3.1 Health care

Health care is an important social issue. Health care must be affordable, accessible, and must be of high quality. ACM keeps a close watch on competition in the health care sector, and makes sure that mergers and collaborations between health care providers and insurers will not negatively affect consumers, which are patients and insured.

Consumers are central

ACM oversees markets so that they function well. In its oversight efforts, ACM puts consumers central. If consumers are harmed, for example by price increases or quality reductions, ACM will take action. Putting consumers central means in practice that ACM sets great store by the opinions of patient organizations and health insurers when assessing collaborations and mergers. As independent regulator, ACM weighs the pros and cons of planned collaborations and mergers in its assessments.

Considerable attention to mergers and collaborations

In the past year, ACM devoted considerable attention to mergers and collaborations in hospital care. ACM has observed a number of trends. Hospitals are more and more setting up collaborations, or they are specializing. In addition, consumers are becoming increasingly more critical about the hospital in which they receive treatment, and health insurers are increasingly purchasing health care at better price-quality ratios. Furthermore, ACM found out that it was not entirely clear in what way ACM assessed mergers and collaborations in the health care sector. For example, ACM supposedly assessed collaborations more strictly than mergers, which is not the case. As a result, ACM noticed that market participants were getting cold feet, and thus decided not to cooperate, whereas ACM does not make any distinction between mergers and collaborations in its assessments. ACM finds it important to give clarity in order to anticipate market developments.

Giving clarity

In 2013, ACM reviewed several concentration decisions. ACM released two publications, which were '[Assessing mergers and collaborations in hospital care](#)' and [an information chart](#) (in Dutch), about how ACM assesses hospital mergers and collaborations. ACM's recent concentration decisions such as [Bronovo and Medisch Centrum Haaglanden](#) in The Hague and [St. Franciscus Hospital in Roosendaal and the Lievensberg Hospital in Bergen op Zoom](#) are in line with these publications. ACM continues to welcome questions (in general or if certain issues are unclear) from the industry, and happily sits down with health care providers about any merger or collaborative plans. ACM has also given clarity about how it assesses [collaborations between partnerships of medical specialists from different hospitals](#).

Study into the factors affecting consumer choices for certain hospitals

Given the fact that there is a relationship between a patient's choice for a certain hospital and the price paid by the health insurer, it is critical to know what factors affect patients' choices. ACM carried out a study into these factors. It turned out that patients base their choices primarily on journey time, but quality and waiting time also play a role in the final decision. Knowing how markets function is important to ACM. Because of studies like these, ACM gains more insight into how competition in this sector works. Such insights can be used in its oversight of the health care sector.

Consumers benefit from competition in home care

Increased competition in the home care industry has resulted in higher quality and in more price variation. This is an important conclusion of an article written by ACM for Dutch economic magazine ESB. ACM looked into market developments in the period between 2007 and 2011. More players entered the market in that period. Market shares of the market participants that are active in the market change every year. Furthermore, market shares are more evenly distributed among these participants. In addition, participants negotiate for discounts on the maximum tariffs.

3.2 Energy

European energy agency ACER in 2013 said in the December issue of energy magazine *Energieactueel* that 'consumers are still paying several billions of euros too much for their energy.' The reasons thereof are the delay of the realization of the joint European energy market, and consumers failing to switch to cheaper energy suppliers. Keeping energy bills under control was a key priority of ACM in 2013. As a result of international cooperation, regulation of the energy market, and successful consumer education, ACM managed to have consumers save on network costs.

Benefiting from cheaper energy from abroad

ACM closely cooperates with ACER in order to integrate national energy markets better into a single European energy market. One of the key conditions to successful integration are the electricity connections between the different countries. In 2013, ACM approved the use of auction revenues for investing in such a new electricity connection, allowing the Netherlands to benefit from the lower energy prices in Germany. In addition, ACM set conditions to the auctioning of cross-border capacity for transporting natural gas. A pilot project revealed that market participants are better able to benefit from lower gas prices in another market.

Network management costs savings

One of the major components of consumer energy bills are the costs associated with energy network management. ACM in 2013 laid down in several [decisions](#) how it will calculate the revenues of network operators in the next few years. The tariffs for buyers are based on the revenues of the network operators. ACM expects network operators to be able to operate more efficiently and to be able to have easier access to capital in the next three years, which will offer businesses and consumers savings of EUR 2.1 billion.

Helping consumers take action themselves

Another component of energy bills, besides energy network management, are the costs of energy consumption. Consumers that switch are able to realize significant savings on consumption. A [study](#) by ACM revealed that consumers do wish to switch, but often decide not to in the end because they find the information of energy suppliers unclear and difficult to understand. With its [national awareness campaign](#) 'If you snooze, you lose,' ACM stimulated consumers to switch energy suppliers. Consumers are able to save up to EUR 400 per year.

3.3 Housing

The housing market is a current social issue. It is also a key driver behind the economic recovery. That is why ACM in 2013 looked into the service in the housing chain from a wider perspective. Several issues catch ACM's attention such as competition in the mortgage market, transparency in the realtor market, and competition in rented-homes renovation projects. ACM carried out different activities in these areas such as a market study, offering guidance to market participants, and sitting down with the industry.

More insight into competition in the mortgage market

ACM carried out a market study into competition in the mortgage market. This [study](#) revealed that, since the outbreak of the financial crisis, profit margins have increased. No indications were found that this might be the result of possible cartels in the market. The study did find that banks wish to be more cautious with regard to selling mortgages because of the market and of the ever stricter requirements set by the regulator. This has resulted in higher profit margins. In addition, hardly any new entrants have entered the market in recent years. A follow-up study should make clear why this is the case, and how new entrants can be stimulated to enter the Dutch market.

More competition needed in rented-homes renovation

In 2013, ACM offered [guidance](#) in the project 'De Stroomversnelling', aimed at making 110,000 homes energy-neutral (zero net energy) in three phases. ACM recommended the four construction companies and six public-housing corporations that joined forces in this project to open up the project to other market participants after the first phase. That way, sustainable and energy-efficient renovation in the construction industry will get an extra boost, and the costs for lessees will decrease. ACM gave these recommendations as part of its focus on competitive positions between service providers in the entire housing market. In addition, ACM wishes to explain what room the Dutch Competition Act offers to sustainability initiatives.

Flood insurance

At the request of the Dutch Association of Insurers (VvV), ACM issued an informal opinion about the association's planned insurance scheme in which consumers would be required to take out an additional flood insurance when taking out a fire insurance. The VvV wanted to introduce this scheme in 2014. ACM is of the opinion that consumers and business owners should continue to have the freedom to decide for themselves whether or not to take out a flood insurance when taking out a fire insurance. With a mandatory scheme, consumers and businesses would unnecessarily face an increased financial burden, while the proposed insurance scheme does not even satisfy any actual need.

Discount scheme allowed with appraisals

In 2013, ACM sat down with the Foundation for Appraisals and Validations (Stichting Taxatie en Validatie, STenV) to discuss a ban on discounts for buyers, which was included in its membership conditions. STenV members, the validation institutes, were not allowed to offer discounts when verifying the validity of appraisals. STenV was unable to explain why its ban on discounts would be justified in order to be able to guarantee the quality and independence of the service offered by its members. STenV subsequently removed the ban on discounts from its code. As a result, the antitrust concerns were eliminated.

Real-estate traders fined for manipulation of foreclosure auctions

In 2013, another [65 real-estate traders were imposed fines](#) totaling EUR 6.4 million. In late-2011, one of ACM's predecessors, the NMa, already fined the 14 most active traders. These real-estate traders manipulated foreclosure auctions between 2000 and 2009. After the official foreclosure auctions, traders re-auctioned homes at other, secret auctions, often at a higher price, thereby harming a vulnerable group of homeowners trying to sell their homes. The 'profit' was split among the traders involved. With these fines, the extensive investigation was completed. As foreclosure auctions are easily manipulated, the NMa published the '[Market recommendations for foreclosure auctions](#)' (in Dutch, *Marktadvies NMa executieveilingen onroerend goed*).

More clarity on biggest real-estate portal in the Netherlands

One of ACM's predecessors, the NMa, in 2012 carried out a [market study](#) into real-estate listings. That study revealed that listings of real estate agents that are member of the Dutch Association of Real Estate Agents (NVM) are always displayed higher in search results on the NVM-owned website Funda, the largest real estate portal in the Netherlands, than listings of non-NVM real estate agents. In 2013, [Funda started to explicitly state on its website](#) that listings of real estate agents that are NVM-members always appear higher in search results than listings of other real estate agents (non-NVM members). In 2014, ACM will be evaluating whether this remedy is sufficiently effective. Depending on that evaluation, ACM will determine whether or not any follow-up steps are necessary.

3.4 Travel

When solving consumer problems, ACM always looks for the right combination of instruments that has the highest impact. In 2013, ACM used this approach in, among other industries, the travel industry. One of the major problems in this industry is that advertised prices are often incomplete and not transparent, which negatively affects consumer welfare. When booking air tickets and other holiday products such as rental homes or trips, consumers find out that these products often cannot be purchased at the advertised price. By using an integral approach, which consists of fines, guidance for the industry, and consumer education, the problem is dealt with from various angles. The first results can already be observed.

Fine for unclear prices of airline tickets

Because Irish low-cost carrier Ryanair failed to comply with several consumer regulations, [ACM imposed a fine](#) of EUR 370,000. European regulations require airlines to include all foreseeable and unavoidable costs in airfares that are displayed on their websites. Ryanair failed to do so. In addition, the online booking process did not offer consumers the option to review the information they entered and to correct any mistakes before finalizing the booking. Also, Ryanair failed to publish an email address on its website, and its customer service was offered in English only, but this had not been mentioned anywhere on its Dutch website. This has been adjusted by now.

Points for attention with regard to price transparency enforcement in the travel industry

As a reminder to the travel industry, ACM in May 2013 published [several important points for attention about price transparency](#), calling on the industry to take these rules to heart. In the foreseeable future, ACM will be focusing on these points for attention. ACM wants consumers to be better informed about the price of the standard offer. This means that it must be clear at the beginning of the booking process what the total price is of the booking, including all unavoidable costs. In addition, the variable unavoidable costs must be mentioned with the advertised price. Other additional costs can only be added if consumers themselves opt for additional services, and selects them by themselves. This means that it must be clear on time what is included in the offer, and that the presentation of the price is complete and transparent. In addition, any additional options that consumers may choose from, as well as the costs thereof, must be made clear and transparent at the beginning of the booking process.

Consumer information campaign on price transparency in the travel industry

In order to make consumers more aware of the often unclear prices in the travel industry, ACM launched a [consumer information campaign](#) on ConsuWijzer. ACM received more than [200 indications](#) about businesses that do not advertise with clear prices.

Support from trade associations

In addition, trade associations ANVR (Dutch Association of Travel Agents and Tour Operators) and Recron (Dutch Association of Businesses in the Recreational Sector) actively supported ACM's campaign. ACM's campaign coincided with a campaign of the Dutch Consumer Association for clear prices in holiday parks. All of these measures combined have resulted in the travel industry promising that it will no longer pre-check checkboxes for optional products or services from October 1. Furthermore, a considerable share of the providers lists the additional costs such as reservation and booking costs in the base price more clearly now.

ACM continues to enforce

In late-2013, ACM inspected businesses in the travel industry such as providers of accommodations, package tours, and air tickets. Next, ACM sat down with providers that did not or not entirely comply with the rules, and made arrangements about implementing the necessary adjustments. And with regard to businesses that do not comply with the rules yet, ACM will be taking enforcement actions against them.

4 Consumers

Businesses should be able to compete freely for the favor of consumers. Consumers should know their rights, and take an active and critical attitude. That forces businesses to do their best. Businesses should make sure that consumers get value for their money, and that they constantly adjust their offerings to meet the needs of their customers. ACM sees a key role for consumers, and it therefore informs them about their rights through consumer information portal [ConsuWijzer](#). By running awareness campaigns, providing information, and offering tools, ConsuWijzer ensures that consumers are armed with enough knowledge to take on that role. In addition, ACM receives indications from consumers submitted to ConsuWijzer about the problems they face. ACM takes action against companies that do not play by the rules, and that harm consumers and competitors.

4.1 Consumer protection

Consumers are central to ACM's thinking. ACM therefore enforces regulations that protect consumers against businesses that treat them unfairly. Through its information portal ConsuWijzer, ACM is able to empower consumers. Being more aware of their own rights offers consumers a better bargaining position. ACM also takes action against companies that fail to comply with consumer protection laws. In those situations, ACM will look for the best solution to the identified problems. Sometimes this can lead to compensations for the consumers that were harmed.

Different ways to protect consumers

ACM seeks to empower consumers. In addition, ACM stimulates businesses to take their responsibility for complying with the rules, and ACM will take action against market participants that have caused collective harm. In 2013, ACM took action when it turned out that consumers after receiving fake collection notices, called a premium-rate number, but failed to get anyone on the phone. These consumers were compensated. Also, ACM helped the energy industry in its transition towards a single energy bill that includes supply costs and network costs. ACM aims to improve compliance. For example, a firm was held accountable for its customer-recruitment methods, after which it adjusted them. In addition, ACM carried out another investigation at postal company PostNL into the secure processing of mailpieces.

4.1.1 Harmed consumers get reimbursed after premium-rate number scam

Consumers that contacted debt collection agency Corpus Justitia calling a premium-rate number in connection with fake invoices got their call charges reimbursed. Over a period of eight hours, consumers had made 4,354 calls to the number in question. In total, EUR 22,000 was charged. Following reports, ACM closed down the phone number. Consumers that had been harmed were reimbursed through their phone bills.

Fake collection notices

In early August 2013, Corpus Justitia sent out fake collection notices. Worried consumers then called the premium-rate number of Corpus Justitia wanting to ask what amount they allegedly had to pay. They never got anyone on the phone, and, in some cases, they were put on hold for 20 minutes. The charges of the premium-rate number in question were EUR 0.45 per minute. In August, ACM already took down the premium-rate number following indications about Corpus Justitia that consumer information desk ConsuWijzer had been receiving.

Phone charges reimbursed

Because ACM stepped in, consumers that had called the premium-rate number of Corpus Justitia did not have to pay the charges associated therewith. Telephone providers that had already collected those phone charges were required to reimburse consumers that were harmed within two months.

4.1.2 Consumers reimbursed after receiving ‘free samples’

ACM last year reprimanded SA Premium, which had sent consumers unsolicited follow-up shipments. The company advertised on the Internet with ‘free samples’ of products such as facial cream, teeth whitener, and multivitamins and weight-loss supplements.

Money-back guarantee

The advertisements did not mention that follow-up shipments would be sent after the free sample. However, this did happen to consumers. Charges for these shipments were automatically collected. If a product is offered for free, consumers must be able to trust the company that it truly offers its product for free. At the most, consumers could pay shipping costs. When ACM subsequently held the company accountable for its actions, it promised to stop its sales activities immediately. In addition, the firm refunded almost 6,000 wrongfully collected payments of €60 per follow-up shipment.

Free samples often turn out to be expensive subscriptions

ConsuWijzer receives many complaints from consumers who respond to an offer for free products. Such offers to consumers are often made on the Internet or through telemarketing. Critical information is usually lacking, making the offer for consumers not clear. For example, no information is given about the follow-up shipments or this information is hidden somewhere in the general terms and conditions. If consumers are not informed correctly, no agreement is concluded concerning the follow-up shipments.

Consumer protection

To ACM, it is essential that consumers are able to make their purchasing decisions on the basis of complete and correct information. Supplying products or services without a formal agreement thereto is prohibited. The law stipulates that consumers are allowed to keep such products or services for free. Consumers are thus legally protected against this unfair commercial practice. Many companies nonetheless still use this commercial practice. Some consumers may feel pressured by debt collection agencies to pay for the follow-up shipments. If consumers do pay in the end, it is often difficult to get that money back. ACM continues to keep a close watch on these practices, and will take enforcement actions if necessary. It informs consumers about their rights on ConsuWijzer.

4.1.3 Consumers will have a single point of contact for their energy matters

On August 1, 2013, the final and biggest step was taken towards the introduction of a new market structure of the supply of energy. From that day, consumers only have to deal with their supplier with regard to the payment of their bills. In order to facilitate this transition, an entire package of regulations came into force to help the processes in the energy sector function more efficiently, including the [Information code](#) (in Dutch). ACM oversees the correct and timely implementation of this package.

One bill. One point of contact.

The supplier can and must collect the information that he needs in order to draw up this combined bill, himself. To that end, the necessary information of network operators has been made accessible in a system, which can also be accessed by suppliers. Furthermore, the task of metering has been reassigned to suppliers. Suppliers thus have access to all the information they need to be able to send their customers a correct and complete energy bill. Consumers can contact their supplier for all of their questions about their bills or energy consumption.

Role of ACM in the transition

In 2013, ACM was closely involved in this transition in order to prevent these changes from negatively affecting consumers. ACM's role included sitting down with market participants, and urging energy suppliers to prepare for the transition on time. In consultation with the Ministry of Economic Affairs, it was decided to postpone the transition date from April 1 to August 1, 2013. This delay gave the industry more time to prepare for the transition more carefully. Consumer problems have thus been prevented.

Correct and timely energy bills

The new market structure enables suppliers to send a correct energy bill on time independently to consumers. ACM keeps a close watch on this process, and will continue to do so in 2014. ACM sits down with market participants whose processes are not in order or insufficiently in order.

4.1.4 Cleaning company was reprimanded over customer-recruitment methods

ACM received complaints through ConsuWijzer about the customer-recruitment methods of a cleaning company. This company offered its services using door-to-door selling methods. Consumers were given incorrect information in these sales pitches. As a result, they signed an agreement that they otherwise might not have signed. Following the discussion it had with ACM, the company made changes to the written agreements, the general terms and conditions, and its website.

Failing to fulfill its obligations

Moreover, complaints about the company revealed that it did collect the monthly fees, but that it failed to come the agreed-upon number of times it would clean. In addition, it was difficult to cancel the contract. The contract did not meet the requirements of the [Dutch act on door-to-door selling](#) (in Dutch). The general terms and conditions, as well as the website were not correct either.

Methods adjusted

In part because of an episode of a Dutch consumer watchdog show that featured this company, ACM invited the company for a discussion. ACM urged the company to adjust its behavior. The company subsequently made the necessary changes to its contracts, general terms and conditions, and to its website. Furthermore, the company sent its door-to-door salespeople to additional training workshops in order to have them comply with the rules. In addition, internal supervision on the salespeople was increased in order to prevent them from giving misleading information in the sales pitches. Finally, the company promised to be obliging to consumers that wished to cancel their contracts.

4.1.5 Improvements in the secure processing of mailpieces by PostNL

Dutch mail delivery companies must ensure that any mail they ship and deliver is processed securely. This obligation is laid down in the [Dutch Post Act](#) (in Dutch). ACM assessed whether temporary storage locations of postal services company PostNL met this obligation. ACM found that PostNL did improve the secure storage of mailpieces compared with 2011.

Secure storage of mailpieces

ACM examined more than a hundred of PostNL retail locations whether they were sufficiently secure to store mail. These locations must be locked up properly, and mail satchels must be supervised well. In June 2013, ACM concluded that PostNL's processes regarding secure storage of mailpieces had improved compared with a previous assessment in 2011. The risk of something happening to people's mail at temporary storage locations of PostNL because unauthorized individuals obtain access thereto has decreased. However, ACM did find a number of serious faults at five locations, because facilities at these locations were not or not sufficiently locked up, and mail satchels were left unattended. However, because of the limited number of detected irregularities, ACM did not impose any fines on PostNL.

4.1.6 Providing information about statutory right to replacement or repair

On July 25, 2013, the District Court of Rotterdam ruled in four cases that the Netherlands Consumer Authority, one of ACM's predecessors, was allowed to impose fines on four consumer-electronics companies. These companies were fined for violations of the warranty rules. Under certain circumstances, consumers have the right to free replacement or free repair in case of a faulty product during the product's entire expected lifetime. This means they retain this right even after the manufacturer's warranty period has expired.

Expected lifetime is longer than the warranty period

The companies were fined for having informed consumers incorrectly about that statutory right. Particularly with durable electronic products, the expected lifetime often exceeds the manufacturer's warranty period. These firms sold extended warranty contracts for the period after the manufacturer's warranty period.

Free replacement is unrelated to extended warranty contracts

These are important rulings for consumer protection. They confirm that consumers cannot be misled about their rights to free replacement and free repair.

Investigation method allowed, and fines published

In each of these four cases, the fines were EUR 90,000. A fifth firm that had been fined as well did not file an appeal. The court ruled that it was lawful to impose the fines. Moreover, the court agreed with ACM's line of reasoning that, in the investigation, ACM enforcement officials were allowed to pose as consumers wishing to purchase a product. Equally important was the court's conclusion that ACM was allowed to publish the fines with an eye to consumer education. One firm filed an appeal with the Dutch Trade and Industry Appeals Tribunal against this ruling. That appeal is still pending.

4.2 Consumers in the digital world

Consumers use digital services more and more often. The ongoing development of digital services offers consumers exciting possibilities, but, as a result, consumer security and privacy are put under more and more pressure as well. ACM promotes the interests of online consumers, and, also in cooperation with other regulators, takes action against unwanted behavior.

4.2.1 Amendments to the Dutch cookie act will result in fewer annoyances

Since June 2012, rules about [cookies](#) have been included in the Dutch Telecommunication Act. A decision was taken in 2013 to amend these rules. Since their inception, the original rules caused a lot of uncertainty and irritation. Under these rules, websites have to inform visitors and ask them for permission whether they are allowed to store or access a cookie or other information on a computer, mobile phone or game console.

Amendments to the cookie rules

Together with the Dutch Ministry of Economic Affairs, ACM drafted amendments to the cookie rules. The purpose of these amendments is to provide more certainty and to reduce irritation. One such amendment could be expanding the list of exemptions to the act. In the new rules, users of websites will only be asked for permission to have cookies stored if such storage is essential, for example, if the privacy of users is at stake. An online consultation was held about this bill.

Towards a European level playing field

Cookie laws in other European countries differ from the one in the Netherlands. This harms the competitive position of the Netherlands. That is why ACM consulted with other European regulators. In addition, ACM took part in the international meeting of privacy regulators in the Article 29 Working Group. Within that group, ACM helped to increase certainty and to create a more level playing field with regard to the application of rules in Europe. In the Netherlands, ACM gave more certainty by releasing a revised version of its '[Frequently asked questions about the Dutch cookie act](#)'.

Enforcement and education

ACM hopes the bill will be passed soon. With the new law, ACM can focus its oversight efforts to those cases where the privacy of users is truly at stake. In addition, ACM continues to invest in education to businesses about the cookie rules, and to increase awareness among internet users.

4.2.2 Internet security

ACM enforces the spam prohibition and the malware prohibition. Through indications submitted to spam desk [Spamklacht](#) and other channels, ACM receives reports about the spread of spam and malware. Dealing with spam and malware is complicated, and investigations into such cases are often massive. In such investigations, ACM works together with national and international parties.

Spam prohibition

ACM deals with violations of the spam prohibition in different ways. In case of spam from abroad, ACM works together with its international partners. ACM can sometimes ask a foreign regulator to take action. In some

cases, the spam can be stopped by the internet providers. In other cases, ACM cooperates with the police and the Public Prosecution Service (OM) because practices such as these often have criminal-law elements as well.

ACM has imposed two fines for violations of the spam prohibition, one of which was imposed on Goede Doelen Loterijen, the holding of Dutch charity lotteries. The other decision has not yet been published. In another case, the District Court of Rotterdam overturned a previously imposed fine for violating the spam prohibition. In a different case with the same court, the decision was upheld, but the fine was lowered because the court had taken a long time to handle the case.

Malware prohibition

In 2013, ACM did not impose any sanctions for violations of the malware prohibition. The Dutch Trade and Industry Appeals Tribunal (CBb) overturned a 2007 sanction decision. According to the CBb, the parties involved could not be considered violators.

4.2.3 More attention needed for online shops

In 2013, ACM took action against online shops that had caused delivery and payment problems. In addition, ACM educated businesses and consumers about online shopping and the rules that apply. ACM has developed tools that make compliance easier for businesses, and that should make online shopping safer for consumers. The number of indications about problems with online shops continues to be high. ACM will therefore continue to keep an eye on this market in 2014.

Problem: delivery, payment, grace period

ACM carried out various investigations into online shops that failed to deliver purchases on time (or not at all), or that failed to give consumers refunds on time (or not at all). These investigations have led to changes to the websites of those online shops. In several cases, the online shop decided to suspend its sales activities. Two online shops went bankrupt while the investigations into them were still ongoing. In addition, ACM launched an investigation into the provision of information about grace periods. It turned out that many online shops provided incorrect information or no information at all about the period in which consumers can still cancel their purchase. ACM will talk to online shops that do not have their information in order.

Information for consumers

Consumers make more and more purchases online, and more often. These trends are reflected in the indications that consumer information desk ConsuWijzer receives as well. Since 2012, ConsuWijzer has been receiving more indications about online shops than about traditional, brick-and-mortar shops. Most indications concern delivery problems. ACM developed the Shopscan to help consumers that wish to shop online make well-informed decisions. With the Shopscan, consumers are able to find out in a relatively easy and fast way whom they are dealing with, and whether they find the online shops trustworthy. In addition, a lot of information about the rights of consumers when shopping online can be found on ConsuWijzer.

Information for businesses

ACM has found that businesses with online shops often have insufficient knowledge of the rules that apply. In order to give more clarity, ACM published a check list and an overview of all the rules, and it created a demo online shop. Using the check list, businesses can check quickly whether or not they comply with the most important rules. The demo online shop shows what an online shop would look like if all of the rules were followed. ACM has brought these products to the attention of businesses through, among other channels, the

Chamber of Commerce, the Dutch Tax Administration, Answers for business (business information portal of the Dutch government), and trade organizations.

4.3 Consumers and their rights

Consumers that are critical and who know their rights keep businesses alert. Consumers are not always fully aware of their rights vis-à-vis businesses. ACM educates consumers about their rights through its consumer information portal ConsuWijzer, and ACM offers consumers tools to exercise those rights. In addition, through ConsuWijzer, ACM receives indications from consumers about businesses that do not play by the rules.

Consumers taking action

If businesses fail to deliver what consumers can reasonably expect from them, consumers have several options. They can file a complaint with the company in question, go to court or a complaints board, or they can switch suppliers. ACM wishes to increase awareness among consumers about the options that they have, for example, by making it easier to switch suppliers, by making sample complaint letters available, or by the previously-mentioned Shopscan, allowing consumers to compare online shops. That way, it becomes clear what options consumers have, and it becomes easier for them to take action. Forty-six percent of consumers not only retrieved information from ConsuWijzer, but also took action afterwards.

4.3.1 ConsuWijzer stimulates switching energy suppliers

Consumers that are critical stimulate businesses to do their best. That is why ACM launched its awareness campaign 'If you snooze, you lose' in November 2013 on ConsuWijzer. This campaign aimed to stimulate consumers to take a moment and review their contracts, plans, and subscriptions. Doing so will make it easier for consumers to select an offer that better meets their needs, thereby maximizing their benefits.

What once was a smart choice does not necessarily have to be one today

An ACM study into switching behavior among consumers with regard to energy and financial products revealed that consumers have a lot of options, and that potential savings are substantial. By not doing anything, consumers often unnecessarily lose money or they hang on to contracts that no longer meet their needs, for example, if consumers started using mobile internet more often, or if they value green energy more than before.

Comparing easily and clearly

In order to raise awareness among consumers about deals and the money they are wasting if they do not review their contracts, ConsuWijzer used social media, for example, by posting an [online video](#) (in Dutch). [Clear information](#) (in Dutch) can be found on ConsuWijzer's website, as well as tips, step-by-step guides and comparison charts to make comparing providers easier and clearer. The [savings overview for financial products](#) (in Dutch) has been updated.

Positive effects

The campaign, the slogan and the approach were all covered in the huge stream of news reports in November and December 2013 about 'switching.' In virtually all of the reports about switching, ConsuWijzer's campaign was also mentioned. What is striking is that a substantial number of market participants have continued to use (in some cases permanently) the campaign in their communication such as comparison websites, energy companies and telecom companies. As a result, the campaign has reached millions of consumers. ACM was thus able to positively influence the consumers' propensity to switch. This campaign will be repeated in 2014.

4.3.2 Forty-six percent of consumers take action after contacting ConsuWijzer

After contacting ConsuWijzer, 46 percent of consumers take actual steps to exercise their rights. That is revealed in ConsuWijzer's customer satisfaction survey held in 2013. ConsuWijzer examined to what extent consumers were satisfied about ConsuWijzer, and what effects ConsuWijzer's consumer information had. If consumers are able to exercise their rights themselves, it can have a positive effect on compliance with the rules by businesses.

Customer profiles identified

The customer satisfaction survey looked into consumer satisfaction with ConsuWijzer, and it identified the profile of consumers that contact us. The survey also measured whether they took action following a visit to our website. The survey looked at consumers that visited our website or that submitted a question or complaint via email or phone.

Improving our service

ConsuWijzer measures customer satisfaction in order to improve its service. By improving its service, ACM is able to help consumers better, and ACM strengthens its work. That is why ACM uses online tools, advice, and consumer education. ACM does so in such a way that consumers are encouraged to actually exercise their rights. We also ask consumers to report any problems to ConsuWijzer. This will make clear to ACM what problems consumers face.

How satisfied are consumers with ConsuWijzer?

The survey revealed that www.consuwijzer.nl offers the information that consumers want. Direct interaction with customers through emails and over the phone also received excellent marks. Interaction over the phone is reviewed more positively than emails. ConsuWijzer gets a grade of 7.3 (on a scale from 1 to 10) for its overall service.

4.3.3 Switching telecom providers is getting easier

Consumers sometimes decide not to switch providers because they are afraid something might go wrong or they think it involves a lot of hassle. In 2013, telecom providers agreed to expand the switching service for consumers. The Dutch Ministry of Economic Affairs and ACM were involved in that process. As a result, consumers in 2014 are able to switch providers easily, even for all-in-one packages. The objective is to have fewer complaints, more consumer confidence, and more competition.

Switching easily since 2008

In 2008, the major telecom providers launched the 'switching service'. Urged by one of ACM's predecessors, the Netherlands Independent Post and Telecom Authority (OPTA) and the Dutch Ministry of Economic Affairs, providers made arrangements about switching internet subscriptions and 'internet and phone' subscriptions within the consultation forum FIST. The new provider could cancel the consumer's previous contract on his behalf. Many complaints were resolved as a result, without the need for legislation or regulatory measures.

Switching all-in-one packages

Today, households predominantly take out all-in-one packages that include internet, phone, and television. Switching used to be a complicated process sometimes, and was a different process with each provider. In 2013, ACM and the ministry encouraged providers to agree on the switching service for all-in-one packages. In time, all telecom services must fall under the switching service. However, competitors have different interests,

and negotiations are tough. ACM and the ministry try to have providers reach a compromise by giving information and by exerting pressure in working groups, thereby eliminating the need to introduce specific legislation.

Reducing switching barriers for business contracts

Switching barriers for businesses are currently higher than for consumers. That is because businesses have to deal with other rules, but also because of long-term contracts and customized services. Under supervision by ACM and the ministry, providers are currently working on arrangements for a business switching service to lower switching barriers in that segment as well, to increase trust, and to improve competition.

4.3.4 Fine for sending final bills too late or not at all

In 2011, energy provider Greenchoice was fined for sending final bills too late or not at all for several years. These were customers that had cancelled their energy contracts and who were entitled to overpayment refunds. In late-2013, the judge almost completely upheld the ruling of the NMa, one of ACM's predecessors.

Fines on both the company and on former executives

Greenchoice only sent a final bill to customers that were entitled to overpayment refunds if they asked for their final bills themselves. According to ACM, this practice violates the statutory obligation to ensure the supply of electricity and natural gas against reasonable tariffs and conditions. That is why a fine was imposed on Greenchoice in 2011. In 2012, two additional fines were imposed. The fine imposed on Greenchoice was EUR 7.2 million, and the fines on the former executives EUR 450,000 per person. Greenchoice has in consultation with ACM taken measures to prevent repeat violations.

Repair process

In the ruling on objection it was decided to lower the fines on the former executives by 10 percent to EUR 404,000. The reason is that these individuals had cooperated with the 'repair process': paying Greenchoice customers their rightful overpayment refunds. Greenchoice and the former executives then filed an appeal with the District Court of Rotterdam, which issued its ruling in November 2013.

Fines were upheld for the most part

The court agreed that Greenchoice's practices violated the statutory obligation to supply electricity and natural gas against reasonable tariffs and conditions. However, the court did rule that the fine on Greenchoice had erroneously been raised by 10 percent because of the intentional nature of the violation. According to the court, that intentional nature had already sufficiently been incorporated in the fine. The fine on Greenchoice was therefore set at EUR 6,136,000. The court did uphold the fines on the two former executives. According to the court, it has been established that they had a leadership role with regard to the violation. The court dismissed the argument that not enough data were available to send the final bills on time.

Appeal

Greenchoice and the former executives have filed an appeal with the Dutch Trade and Industry Appeals Tribunal (CBb).

4.4 Clear and reasonable prices for consumers

ACM promotes opportunities and options for businesses and consumers. Consumers that make choices stimulate businesses to do their best even more. To that end, consumers must have the opportunity to be able to make the best choice.

ACM forces businesses to be clear about their offerings, their prices and their terms and conditions, but it also helps consumers make comparisons in order to come to the best choice. This strategy has been applied to great success in several industries.

Travel industry in the spotlight

The travel industry in particular caught a lot of attention in 2013. It started with a fine that was imposed on Ryanair for failing to clearly mention all unavoidable costs when booking flights. Several rules were subsequently set up, and a campaign was launched through ConsuWijzer. ACM also reminded suppliers in the energy industry that they must increase price transparency.

4.4.1 Prices in the energy industry must be clearer

Energy suppliers must increase the transparency of their offerings in order to enable consumers to compare the products of different energy suppliers. This helps consumers make a choice. ACM calls on the industry to make energy prices more transparent.

Consumer survey

According to an ACM survey, 87 percent of consumers finds it difficult to compare the information of different suppliers. Consumers that consider switching energy suppliers give up because of the unclear information that suppliers provide. This is a problem because consumers are subsequently less aware of the price differences between suppliers, and are less able to choose the better offer.

The ball is in the industry's court

ACM in 2013 called on the energy companies to make their offerings and prices clearer. ACM explained in detail what needs to be done. Energy companies must come with concrete proposals that are supported by the entire industry. Until prices are transparent, ACM's regulation of energy prices will continue to be necessary. ACM will continue in 2014 to aim for increased transparency in the energy industry.

4.4.2 Clear prices in the travel industry

Prices in the travel industry are often incomplete and not transparent, which negatively affects consumer welfare. When booking air tickets and other holiday products such as rental homes or trips, consumers find out that these products often cannot be purchased at the advertised price. It must be clear to consumers at the beginning of the booking process what the price of the booking is, including all unavoidable costs. ACM in May 2013 published several important points for attention about price transparency, calling on the industry to take these rules to heart.

Informing consumers clearly

ACM wants consumers to be better informed about the price of the standard offer. This means that it must be clear on time what is included in the offer, and that the presentation of the price is complete and transparent. In addition, any additional options for consumers, as well as the costs thereof, must be made clear and transparent at the beginning of the booking process.

Industry directs attention to realization of clearer prices

In addition, trade associations ANVR (Dutch Association of Travel Agents and Tour Operators) and Recron (Dutch Association of Businesses in the Recreational Sector) actively supported ACM's campaign. ACM's campaign coincided with a campaign of the Dutch Consumer Association for clear prices in holiday parks. All of these measures combined have resulted in the travel industry promising that it will no longer pre-check checkboxes for optional products or services from October 1. Furthermore, a considerable share of the providers lists the additional costs such as reservation and booking costs in the base price more clearly now.

Keeping a close watch on developments

In late-2013, ACM inspected businesses in the travel industry such as providers of accommodations, package tours, and air tickets. Next, ACM sat down with providers that did not or not entirely comply with the rules, and made arrangements about implementing the necessary adjustments. And with regard to businesses that do not comply with the rules yet, ACM will be taking enforcement actions against them.

4.4.3 Fine for unclear prices in the travel industry

In 2013, Ryanair was fined for, among other reasons, listing prices incorrectly when consumers purchased airline tickets online. On its website, Ryanair listed airfares that did not include all unavoidable costs. Consumers that purchased airline tickets were faced with higher tariffs than advertised. Ryanair was fined EUR 370,000 for violation of European aviation Regulation 1008/2008 about airfares. Ryanair has already adjusted its website.

Tariffs without unavoidable costs

On Ryanair's website, consumers can purchase airline tickets themselves. After entering the point of departure and destination, a list of available flights and their fares is shown. Investigations have revealed that, during the booking process, additional fees are charged on top of the listed airfares such as airport tax, security and environmental fees, and administrative fees, and other items that cannot be avoided. Consumers were thus unable to book their flights at the prices at which they had been advertised. These additional costs could add up to dozens of euros per booking. This is in violation of the European aviation Regulation.

Other violations

Next to the violations in the booking process, other violations were found too. Ryanair's customer service was only available in English, which had not been clearly mentioned, and customers could not reach Ryanair by email. Also, Ryanair's website was set up in such a way that it was difficult for consumers to correct any mistakes. The latter could result in additional costs for consumers. Ryanair was fined for these violations too.

Ryanair's measures

In addition to the fines, orders subject to periodic penalty payments were imposed on Ryanair, urging it to adjust its website. Ryanair has adjusted its website by now. Ryanair filed an objection against the decision. ACM dismissed the objection. Ryanair has now brought the decision before the court.

4.4.4 200 indications about prices in the travel industry following a campaign

In late-May 2013, ACM launched an awareness campaign about prices in the travel industry through ConsuWijzer. This awareness campaign was part of a broader strategy to do something about unclear prices in the travel industry. The objective of the campaign was to educate consumers about comparing travel prices online, enabling them to make the right choice, and stimulating them to report incorrect prices to ConsuWijzer.

Unfair comparisons

An increasing trend in the travel industry is advertising with basic fares. In most cases, total costs of the trip only become clear at the end of the booking process. And if consumers are in the middle of booking their trip, chances are that they accept the extra costs without having taken them into account in their comparison before the booking process. As a result, they could be unnecessarily worse off. It must be clear at the beginning of the booking process what the total price is of the booking, including all unavoidable costs. Other additional costs can only be added if consumers themselves opt for additional services, and select them by themselves. These costs must be clearly mentioned at the beginning of the booking process.

ConsuWijzer educates consumers to help them compare prices

In order to remind consumers to take into account additional costs in their price comparison, ConsuWijzer launched an [online promotional video](#) on social media. In this video, consumers were informed of what they should look out for, and also of what additional costs are allowed. This and other information can also be found on the [campaign's webpage](#) (in Dutch).

ConsuWijzer also created a check list to help consumers get a clear overview of additional costs. Finally, an online complaints form was developed for reporting unclear travel prices.

Effects

The awareness campaign about unclear travel prices received widespread attention in regional and national media. Furthermore, the online campaign reached hundreds of thousands of Dutch consumers, for example through online advertisements and messages on social media. Following the campaign, approximately 200 consumers filled out the online complaints form. All of these indications were examined by ACM, and resulted in ACM's contacting dozens of websites to remind them of the way they should advertise their travel prices.

5 Markets

One of the important tasks of ACM is to have well-functioning markets for the benefit of consumers. This means that businesses should be able to compete with each other to enable consumers to make their choices in a free manner. To this end, ACM takes action against cartels and against businesses that abuse their dominant positions. For businesses that are unable to compete because of their monopoly positions (including natural monopolies), ACM sets maximum tariffs. ACM also assesses mergers and acquisitions in order to prevent businesses from becoming so large that they are able to dominate the market. Consumers will thus continue to have an actual choice, and businesses will continue to compete for the favor of customers.

5.1 Energy regulation

The energy market consists of parties that operate networks, and of parties that supply energy to consumers and businesses using such networks. The energy supply market is a free market. The network operators, however, are monopolists. The energy market, therefore, has specific legislation that ACM enforces. ACM does so because consumers benefit from affordable and reliable energy.

ACM stimulates network operators to work as efficiently as possible, and wishes to facilitate the market as well as possible in that effort, so that the supply of energy will not be jeopardized.

In addition, ACM makes contributions to international developments that promote opportunities and options for consumers with regard to energy. The creation of a single European energy market will lead to a more efficient utilization of available transmission and production capacity, which, in the end, will lead to lower prices for consumers.

Not just anybody is allowed to supply energy. ACM issues licenses, and subsequently reviews the actions of energy suppliers to make sure that they stick to the rules.

5.1.1 ACM makes energy affordable

Consumers and businesses can expect to save about EUR 2.1 billion over the next three years. ACM significantly lowered the tariffs of network operators for the use of the electricity and natural gas grids for the next three years. The tariffs have decreased, because ACM expects the network operators to be able to work more efficiently and to attract cheaper capital for investments.

Network tariffs should decrease

With the regulation of energy network operators, ACM ensures an affordable energy supply for consumers and businesses. In 2013, ACM issued several [decisions](#) about the way it will calculate the tariffs of the network operators for the next three years. The year 2014 will be the first year in which the savings are processed. The customers of network operators are businesses and consumers. They will see these new tariffs on their energy bill. ACM, however, does take into account extra investments for network operators that are needed to continue to guarantee a reliable and secure energy supply in the future as well.

Only pay for what you buy

ACM wishes to distribute the costs among buyers better. That is why ACM set up the [tariffs of national transmission system operator for natural gas](#), GTS differently. From 2014, GTS will be required to distribute its costs over five entries instead of two. GTS thus supplies more tailor-made solutions, and its customers have better options. Customers will thus only pay for what they actually buy. GTS' customers are predominantly large businesses. From 2014, [lower tariffs for the underground storage of natural gas](#) (in Dutch) also apply. Underground storage makes it possible to offer extra natural gas when demand is high. Lower tariffs lead to improved competition among businesses that have natural-gas storage, and to a better distribution of the costs.

New task: regulation of heating tariffs

From 2014, ACM regulates the tariffs for the supply of heat. With heating systems, hot water directly enters a home without the use of a central-heating boiler. Heating tariffs are based on tariffs that consumers pay for heating based on central-heating boilers. Heat consumption should therefore not cost more than what consumers with natural-gas connections pay. Consumers can see their heating tariffs directly on their energy bills. From 2014, ACM will monitor the returns of heating suppliers.

5.1.2 ACM increases reliability and quality

With its regulation of the energy network operators, ACM aims to have a secure supply of energy for consumers and businesses, now and in the future. In addition, it is important that consumers and businesses are properly informed by the network operators if problems arise with the supply of natural gas or electricity.

Reliable energy suppliers

Consumers depend on their suppliers for correct and timely energy bills. Before companies are allowed to supply consumers electricity and natural gas, they must demonstrate that they possess all of the necessary qualities. In 2013, ACM issued energy supply licenses to thirteen undertakings. In addition, ACM in 2013 made sure that supplying energy without a license was stopped. ACM tackled the legal constructions that enabled such activities (the so-called 'white labels'), because they presented too many risks for consumers.

Reliability of regional gas transmission networks has slightly decreased

In its annual [Quality Factsheets](#) (in Dutch), ACM observed a slight decrease in the reliability of regional gas transmission networks. Particularly, the average length of electricity failures has increased in the past few years (though not in each individual case). The increase is primarily caused by several large and extended failures of the gas transmission networks. The national average of failure lengths went from about 72 minutes in 2008 to 154 in 2012.

High reliability of electricity networks

An investigation revealed that consumers and businesses were left without electricity on average for 26 minutes because of failures in the networks of the regional network operators. ACM thus established that [reliability](#) of the Dutch electricity networks is still high compared to the networks of most other countries in Europe.

Study into voltage quality: network operators should do more

A [study](#) (in Dutch) into voltage quality in the Netherlands has revealed that network operators should do more to guarantee the current level in the future as well. Bad voltage quality may damage or put out of order equipment, particularly business equipment. This would lead to economic losses.

ACM ordered network operators to measure the voltage at more points in the grid, and to develop additional standards to guarantee its quality. Network operators must, furthermore, give more clarity about voltage quality on their networks, and they must give more insight into the impact of special projects, such as underground cables, on voltage quality.

New quality standard for voltage dips on high-voltage grids

In 2013, ACM introduced a [quality standard for the high-voltage grids](#). With this decision, a single standard is introduced that stipulates how often voltage dips may occur at a connection point on the high-voltage grid in a year. In addition, arrangements were made about providing customers with information following the occurrence of a voltage dip.

5.1.3 Better functioning and integrated energy market

Further integration of the European energy markets is one of ACM's highest priorities. This is what ACM wrote in its [vision document](#). Market integration will lead to a more efficient utilization of available transmission and production capacity, which ultimately means lower prices for consumers. Most of ACM's efforts in this context focus on making sure there is sufficient transmission capacity at border points. Consumers can thus benefit from low electricity prices in Germany.

Working hard towards successful market integration

ACM is concerned because the European energy market is not functioning well yet. For a well-functioning European market, it is critical to have a coupling of the intraday and day-ahead markets. These are markets where energy is traded for meeting same-day demand and next-day demand. An efficient balancing system (matching supply and demand) is also important. In 2013, ACM worked hard on the coupling of the intraday electricity markets across Northwestern Europe. However, since energy exchanges could not agree on what IT platform should be used, the coupling was delayed. Nevertheless, progress has been made in the coupling of the day-ahead market. In addition, improvements to the balancing regime were realized. Together with the regulators in the Gas Regional Initiative North-West (GRI NW), ACM examined whether the 'virtual' allocation of transmission capacity could help. ACM, furthermore, handed over the chairmanship of the GRI NW in 2013. It had chaired the GRI NW since 2006.

Fair competition of gas transmission from and to other countries

If transmission capacity of the gas network is allocated fairly, it will lead to a better-functioning market. ACM set rules that make sure that market players are able to transport natural gas from and to other countries under equal conditions. These rules follow from the first European Grid Code for gas. From now on, cross-border transmission capacity will be auctioned, and thus replaces the so-called 'first come, first served' principle. This way, ACM has already implemented the Grid Code at an early stage, so that buyers in the Netherlands can benefit from it.

Better utilization of transmission capacity and of natural gas

ACM stimulates, through a transmission arrangement, GTS to sell extra capacity. The existing network is thus better utilized. In addition, ACM enables GTS, in case of high demand for capacity, to resell capacity that has already been allocated but is still unutilized. This will lead to more gas-transmission options and to a more efficient utilization of the network. This will ultimately have favorable effects on gas prices on the wholesale markets.

More transmission capacity with Germany and Belgium

Furthermore, steps have been taken towards expanding border capacity for electricity. In an informal opinion, ACM laid down that TenneT is allowed to finance an investment in a connection between the Dutch city of Doetinchem and the German city of Wesel from the auction revenues for that purpose. In cooperation with the Belgian regulator CREG, ACM continued the study that was started in 2012 into the capacity at the Dutch-Belgian border. Partially because of this study, it turned out that intraday capacity could be increased by 200 MW per hour because TenneT and the Belgian Transmission System Operator Elia optimized the calculation method for determining capacity.

5.1.4 Exemption requests processed and direct lines registered

ACM received more than 120 requests for exemptions from appointing a network operator for an electricity or natural-gas transmission network. In 2013, ACM processed 43 of these requests. In most cases, the exemption was granted and the electricity or gas transmission network operator continued to stay in private hands.

Registration as a result of legislative amendments

In 2012, the Dutch Electricity Act 1998 and the Dutch Gas Act were amended. As a result, all previous exemptions from appointing a network operator were cancelled. If a party wishes to operate its own network, it may apply for an exemption. More than 150 exemptions were filed. The owners of electricity or gas transmission networks had to reapply for an exemption of the obligation to appoint a network operator with ACM. A lighter regime is in effect for the network operators on these electricity and gas transmission networks. For example, ACM's tariff regulation does not apply to these electricity and gas transmission networks.

Direct lines

Furthermore, 23 direct lines have been reported with ACM. A direct line is a direct connection between an energy producer and energy consumer. ACM has registered them on its website. These direct lines do not fall under ACM's oversight and regulation.

Reducing the financial burden

On networks where an exemption applies or on direct lines, owners only have to comply with fewer legal obligations or with none at all. The result is a substantial reduction in the financial burden for businesses.

5.1.5 Network operators receive unbundling certificates

ACM assessed whether the Dutch national transmission system operators TenneT and GTS, and BBL Company V.O.F. (BBLC), which is the operator of the gas transmission pipeline between the Netherlands and Great Britain, comply with the unbundling requirements, and has certified them. Certification followed certain amendments to legislation and regulations.

Separation between transmission and production, supply and trading

'Unbundling' means an effective separation must be realized between energy transmission on the one hand, and energy production, supply and trading on the other hand. Transmission network operators need such certificates in order to be able to be appointed as network operator by the Minister of Economic Affairs.

Unbundling ensures a level playing field

Separation prevents the operator of a transmission network from favoring one or several of his customers. A transmission network operator could, for instance, give preferential treatment to a customer by excluding other customers, making specific investments or, conversely, not making these investments, or by withholding business-sensitive information. Buyers must be able to compete with one another on a level playing field on the infrastructure of the TSOs and BBLC without these operators disturbing this level playing field. With a level playing field, it is ensured that energy companies compete more effectively among each other, and it prevents market distortions. As a result, consumers pay better prices for their electricity or natural gas.

In 2014, the assessment of BritNed, the operator of the electricity cable between the Netherlands and Great Britain, is also planned.

5.1.6 Enforcement of REMIT: ACM is ready to go

In 2013, ACM prepared for and laid the foundation for its new enforcement task concerning '[energy market integrity and transparency](#)' (REMIT), and started the implementation thereof. REMIT is a European regulation that aims to enhance the integrity of the energy products market.

Towards a transparent market, without insider dealing or market manipulation

The REMIT regulation mandates transparency about one's offerings, prohibits inside dealing and market manipulation. This will benefit energy consumers. In July 2013, ACM was appointed as the authority to enforce REMIT. ACM can impose fines in case of non-compliance with REMIT.

Cooperation with the sector

At a European level, ACM closely collaborates with the Agency for the Cooperation of Energy Regulators (ACER) and with regulators in other member states. ACM actively helped create the ACER guidelines on the implementation of REMIT. These guidelines ensure that European regulators implement the REMIT regulation uniformly, and they offer the sector clarity.

At a national level, ACM continued to flesh out its collaboration with the Netherlands Authority for the Financial Markets (AFM) and the Dutch Public Prosecution Service (OM) in 2013. ACM regularly informs the sector of developments regarding the implementation of REMIT such as the registration of market participants, the preparations of which were made in 2013, and which will be launched in 2014. ACM sat down with several market participants in order to promote the enforcement of REMIT.

In short: in 2013, ACM laid the foundation for effective enforcement of REMIT.

5.2 Telecom regulation

Competition in the consumer telecommunication market is strong. Initially, Dutch telecom company KPN was the sole supplier in this market. The market was opened up by allowing other companies to use KPN's network. These companies now offer services to consumers, too. As a result, consumers have more choices, and prices have decreased.

ACM protects and promotes competition in the telecom market wherever needed. Competition leads to freedom of choice and to lower prices, and new services are introduced. This benefits the economy and consumers.

Regulation through decisions, investigations and fines

In 2013, ACM carried out market analyses, and, as a result of which, it set new maximum tariffs. In several cases, ACM assessed the compliance with net neutrality regulations, which guarantee an open and free internet. Finally, fines have been imposed on KPN for failing to comply with several obligations.

5.2.1 KPN's connection network continues to be open for competitors

OPTA, one of ACM's predecessors, mandated KPN to give its competitors access to its copper and fiber optic connection networks. This access requirement allows other suppliers that do not have their own connection networks (besides KPN and cable providers) to remain active in the market. This will increase competition in the market. Dutch telecom companies Tele2 and Online are examples of this type of suppliers. This access requirement creates more options and lower prices for consumers.

No access leads to too little competition

The requirement to give competitors access was imposed by ACM following a market analysis. That analysis concluded that, without such requirements, competition would be insufficient. KPN would then have a dominant position in several markets. This would result in prices that are too high for consumers.

Court ruling

Several parties appealed the decision in which the requirements were imposed. In the appeal proceedings, the Dutch Trade and Industry Appeals Tribunal (CBb) ruled in these cases on 25 April 2013. The CBb upheld ACM's market analysis almost completely. The CBb only made a slight adjustment to the requirement in order to prevent the margins of competitors from being eroded.

Two tariff decisions in 2013

In 2013, ACM issued two decisions in which it is explained what maximum tariffs KPN is allowed to charge for access to its connection network. Without such maximum tariffs, KPN would otherwise be able to take away its competitors' ability to compete. These decisions concern the tariffs for connections in which two copper pairs are used for a single address. This is the so-called 'pair bonding' service. Using pair bonding, competitors are able to offer internet access services with higher speeds. In addition, the maximum tariffs for access to the fiber-optic network were set once again. This enables competitors to offer consumers ultrafast fiber-optic services.

5.2.2 Handling mobile calls becomes cheaper

The telecom provider of an individual that is called charges the provider of the customer that makes the call a fee for the use of its network. That fee is called the termination tariff. Callers cannot choose themselves which network handles their calls. In effect, every provider is a monopolist of their termination tariffs. That is why ACM caps these termination tariffs. Consumers eventually benefit from such caps. From 1 September 2013, ACM has lowered the tariffs that telecom providers are allowed to charge one another for delivering calls (call termination).

Termination tariffs of calls decrease

From 1 September 2013, suppliers are allowed to charge one another for delivering calls to a mobile number 1.861 cents per minute compared to 2.4 cents before. For calls to landlines, the tariff was lowered from 0.37 cents to 0.302 cents per minute. These are the tariffs that the court provisionally ruled on. ACM wishes even lower tariffs, 1.019 and 0.108 cents per minute respectively, but appeal proceedings about these tariffs are still pending. The call termination tariff represents 5-10 percent of the cost of mobile calls. For landlines, this share is lower.

Gradually lower

Through regulation, these tariffs have been gradually lowered since 2003. Originally, the termination tariffs to mobile numbers were approximately 20 cents per minute, and to landlines more than 1 cent per minute.

European Commission clears new tariff caps

ACM sent its tariff proposal for lower termination tariffs to Dutch market participants first. It was subsequently sent to the European Commission. On July 31, the European Commission cleared ACM's tariff proposal, after which it was able to finalize the tariff decision. From 1 September 2013, the tariffs that telecom providers are allowed to charge one another for delivering calls were lowered.

5.2.3 New net-neutrality legislation

On 1 January 2013, legislation on net neutrality came into force. ACM has established that compliance with the net-neutrality legislation has overall been good. However, ACM did investigate certain services whether they were offered in a net-neutral way.

A free and open internet

Net neutrality ensures a free and open internet. Internet providers are not allowed to block or delay access to content or applications on the internet. Next to the prohibition of blocking and delaying services, providers cannot charge different tariffs for services such as WhatsApp or Skype. Having an open Internet is critical for the freedom of information and for the development of innovative services.

Sizz app

The first service that ACM investigated was the Sizz app of Dutch telecom provider Vodafone and Dutch media company RTL. With this app, users were able to watch RTL streams for free without using data from one's data plan. ACM ruled that putting this service outside the data plans of users was not in accordance with net-neutrality legislation. Vodafone adjusted the offerings of its provider Sizz following discussions with ACM.

Internet access on board trains

ACM also investigated free internet access on board of trains of Dutch railway company NS using T-Mobile as provider. ACM concluded that T-Mobile is allowed to block certain services such as YouTube and Spotify on the free Wi-Fi-network on board of trains. The free internet connection on board of trains has limited capacity, which also varies significantly. For example, if some riders watch movies on their laptops, tablets or cell phones, congestion will occur, thereby affecting other riders because less capacity will be available for their connections. By blocking such 'bandwidth-consuming' services, as many riders as possible will be able to use the internet connection. When blocking such services, it must be done on a non-selective basis. Similar services must be treated equally.

5.2.4 Fines for putting competitors at a disadvantage

ACM imposed four fines on Dutch telecom company KPN totaling EUR 972,977, because KPN had put competitors on its fiber-optic and copper networks (such as Tele2 and Online) at a disadvantage when it introduced broadband services.

Inform competitors in advance

KPN is required to inform competitors on its networks at least two months in advance if it wishes to offer new services to consumers. This way, all providers have similar opportunities to compete for new customers. Competitors thus will be able to take up similar services in their product range or adjust the price they charge to consumers for a particular service. This is part of KPN's transparency requirement. KPN did not comply with these requirements when introducing new broadband services.

Non-discrimination requirement

During that pre-announcement period of at least two months, KPN is not allowed to offer any deals to consumers. This prevents KPN from putting a better or cheaper offer in the market. Its competitors would not have had any opportunity to include the new service on KPN's network in their own product ranges. This is part of the non-discrimination requirement. However, since KPN did make its own offers to consumers, it did not comply with the non-discrimination requirement. Therefore, competitors did not have equal opportunities.

Significant fines

The fines were raised, because this was not the first time that KPN was fined for this type of behavior. In addition, KPN did not find the violations themselves. It also failed to notify ACM of them, and subsequently end them, which had been agreed upon in a code of conduct. ACM gave KPN these decisions in October 2013. KPN filed an objection against the fining decisions.

5.3 Transport regulation

ACM regulates certain markets of the transport sector. It concerns those markets where only limited competition exists or where competition is non-existent.

Rail

Regulation of the rail market focuses on the relation between the managers of the infrastructure and rail-related services on the one hand, and, on the other hand, the users of rail infrastructure. The largest Dutch network infrastructure managers are ProRail and Keyrail. The largest railway user is Dutch Railways NS. NS is also the provider of many rail-related services. For example, it owns the railway stations and the journey information system. In addition, dozens of freight transport operators make use of the rail infrastructure in the Netherlands.

Aviation

Amsterdam airport Schiphol is the only major international airport in the Netherlands. Schiphol, therefore, has a strong position. Airlines are often bound to Schiphol, which charges them for using the airport. There is a risk that airlines pay too much or that Schiphol's service is less than what is desired. That is why ACM regulates the tariffs and conditions of Schiphol.

Pilotage

Sea-going vessels cannot just moor in a Dutch maritime port. They are required to take a pilot of the Dutch Pilots' Corporation (NLC). This organization thus enjoys a monopoly position. That is why ACM regulates the pilotage tariffs.

Studies, handling complaints and setting tariffs

In 2013, ACM published a Quick Scan on passenger transport by rail. This is a study into the relation between NS and the regional railway undertakings. In the aviation sector, ACM ruled that Dutch low-cost airline Transavia was allowed to depart from Schiphol's budget pier. ACM also looked into the increase of the asset value at Schiphol, and it dealt with a complaint of Dutch airline KLM. The pilotage tariffs were set for 2014.

5.3.1 Access of Transavia to budget pier stimulates competition

In the fall of 2012, Transavia.com requested Schiphol to be allowed to depart from the budget pier (H pier). Schiphol denied this request, because the airline did not qualify for departures from the H pier, according to the airport's own rules. ACM ruled that Schiphol must admit Transavia.com at least at times when a longer period of time between landing and take-off (the turn-around time) does not hinder other flights.

Budget pier

The H pier is also called the 'budget pier' because airlines that are known as low-cost carriers use the H pier such as easyJet, FlyBe and Air Berlin. Since this pier is not equipped with jetways, turn-around times are shorter, meaning flights from the H pier can be offered at lower prices than flights from the other piers at Schiphol. After all, aircraft do not need to be connected or disconnected to the jetways.

Conditions for using the budget pier

Transavia.com did not agree with the rules that Schiphol used for the allocation of gates and filed a complaint with ACM. The rules gave priority to airlines that were able to prepare their aircraft for the next flight quickly. ACM ruled that, during rush hours, Transavia.com is allowed to use the H pier, under the condition that turn-around times would not exceed the expected preparation time. Hence, some of Transavia.com's flights qualify for the lower tariff for using the H pier, and can thus be handled faster.

5.3.2 Position of regional railway undertakings must be strengthened

On 31 October 2013, ACM offered its conclusions of the [2013 Quick Scan on Passenger Rail Transport](#) (in Dutch) to the Ministry of Infrastructure & the Environment. ACM concluded that the interests of regional railway undertakings and their travelers were inadequately reflected and that there were thus insufficient incentives for NS to dedicate itself in a way that is good for travelers. ACM particularly recommends to distribute revenues from ticket sales in a more transparent manner and to improve the service at railway stations and the trip information system. Trans Link Systems (TLS), the provider of the national public-transport smartcard, should get an incentive to stimulate cost transparency, cost efficiency and innovation for the use of the smartcard.

Background of the quick scan

The quick scan was carried out in response to indications of regional railway undertakings when purchasing services from NS and TLS, and to a motion of the Dutch House of Representatives to identify current bottlenecks.

Lack of incentives

ACM established that NS has a huge say in TLS's operations. Because of a lack of incentives for innovation and efficiency, interests of regional railway undertakings and their travelers were insufficiently represented. Further bottlenecks, according to ACM, are related to setting ticket prices, travel information and fare revenue distribution. Fare revenues are distributed by NS among the regional railway undertakings through a revenue allocation model. Another observation by ACM are bottlenecks in the service that regional railway undertakings offer their travelers. They have to make arrangements with NS when opening a service counter or a small convenience store. As a result, negotiations tend to become difficult and lengthy.

Different relationship between NS and regional railway undertakings

The solutions that are most effective are those that directly deal with the relationships between NS and the regional railway undertakings. One idea is relieving NS from its station management duties. In addition, the revenue allocation process and the travel information system could be organized without any involvement from NS. ACM also recommends to organize TLS differently (NS currently owns 68% of TLS).

The Ministry acknowledges the bottlenecks. ACM expects that, if the appropriate measures are taken to solve the bottlenecks, it will lead to improved service by NS and TLS to regional railway undertakings, and eventually to travelers as well.

5.3.3 Complaint of KLM was partially allowed

On 28 November 2012, KLM filed a complaint with ACM about the charges and conditions of Schiphol of 1 April 2013. Several items of the charges and conditions were allegedly not cost-oriented or reasonable, nor had they

been consulted as they should have been as laid down in the [Dutch Aviation Act](#) (in Dutch). On 23 April 2013, ACM established that Schiphol violated the law on two counts.

Content of the complaint

The complaint was about the settlement of revenues from 2011 that, according to KLM, allegedly had not been consulted properly. In addition, a restriction of Schiphol's liability for damages was, in KLM's opinion, unreasonable and had not been consulted. The renovation costs of Lounge 2 had, according to KLM, not been consulted either. Finally, the application of the allocation system for the corridor between piers B and C (the BC corridor) and the Integrated Incident Room Infrastructure (GMI) were, according to KLM, incorrect and, as a result, the charges were not cost-oriented.

Assessment by ACM

ACM ruled that Schiphol did not consult the traffic and transport projections that were used to determine the revenue settlement over 2011. This settlement affects the charges from 1 April 2013. ACM also established that Schiphol violated the Dutch Aviation Act by failing to consult a condition with regard to liability.

Consequences of ACM's decision

ACM's decision led to a reduction of Schiphol's security charges from 1 April 2013 by about EUR 0.6 million. The take-off and landing fees remained unchanged, because the projected revenues were already far lower than the projected costs.

5.3.4 No special circumstances surrounding significant increase of Schiphol's asset value

ACM carried out an investigation into the significant increase of Schiphol's asset value. On the basis of this value, Schiphol passes on costs to airlines that make use of the airport. ACM thought it was remarkable that the asset value had risen about 30 percent in the past four years. However, in its investigation, ACM did not find anything unusual.

Value of investments

Asset values concern the value of investments for using the airport by airlines such as runways. The financial account that Schiphol annually reports to ACM revealed the value increase of about 25 percent within four years from almost EUR 1.6 billion to EUR 2.0 billion. It was not completely clear to ACM what had caused this significant increase. It was also unclear whether or not the costs had been allocated to the charges that airlines paid to Schiphol.

Increase of asset value because of investments

For the most important projects and items, ACM assessed whether the allocation of investment costs to airport activities was correct. Any items that were unclear were clarified by Schiphol. The conclusion was that the increase of asset value had been caused by new and replacement investments.

ACM carried out this investigation of its own accord. Such investigations will keep Schiphol sharp, and it reassures airlines that the regulator remains critical while keeping a close watch.

5.3.5 Limitation of increase of pilotage tariff

ACM sets the tariff that the Dutch Pilots' Corporation (NLC) is allowed to charge shipping companies. This prevents the NLC, being the only provider of pilot services, from charging too high tariffs. The tariffs that pilots are allowed to charge shipping companies will increase by 1.02 percent in 2014. With this decision, ACM sets lower pilotage tariffs than the NLC had initially proposed. Shipping companies that purchase pilot services will benefit from this limitation of the increase.

ACM annually assesses the proposals of the NLC for tariffs that they wish to charge the shipping companies the following year. ACM may deviate from the proposal if it believes that NLC's proposal would insufficiently help in achieving the most efficient production process. It is up to the NLC to prove that the proposal will lead to a more efficient organization.

Positive development of pilotages

The increase of tariffs could be limited because of a positive development of the number of expected pilotages. A higher number of pilotages has a moderating effect on the tariffs. In addition, several court decisions also affected the tariffs. In 2013, the court upheld that ACM was allowed to impose reductions in order to make the NLC operate more efficiently. As a consequence, ACM was once again able to impose several reductions as a result of which the pilotage tariffs were set permanently lower. The court also decided (in the absence of a legal ground) that ACM is not allowed to settle tariffs that were once set too high or too low. As a result, ACM dropped the settlement in the tariff proposal. This was also a moderating factor in the tariff increase.

Percentage of equity capital costs lowered

Furthermore, ACM lowered the percentage of equity capital costs that pilots get paid. This is the compensation that pilots get for the amount of money that they invested in their company. The basis for determining the compensation is an efficiently-financed NLC with a reasonable rate of return. The percentage of the equity capital costs is lowered from 12 to 6.5 percent. ACM uses this percentage when setting the pilotage tariffs of 2014. When setting the tariffs of NLC, a comparison had been made with other regulated sectors such as energy and water. Energy and water companies have a lower risk for investors than businesses to which the NLC was compared previously. A lower risk comes with a lower compensation. In addition, the lower interest rate was a factor that played a role in the lower percentage of equity capital costs.

5.4 Post regulation

ACM regulates the postal-services market. This means that ACM keeps a close eye on whether postal companies handle mail sufficiently securely from sender to addressee. ACM also monitors if postal companies have a complaints procedure.

Net costs of Universal Postal Service

In the first quarter of 2013, one of ACM's predecessors, OPTA, was still processing a request of Dutch postal company PostNL for compensation of the net costs of its execution of the universal postal service (UPS) in 2011. That review was stopped when PostNL retracted its request in April 2013. The retraction was related to the fact that the Minister of Economic Affairs announced measures to safeguard cost recoverability and affordability of the UPS. In the same quarter, OPTA at the request of the Minister assessed these measures for their impact on PostNL's rate of return.

New powers for ACM

In late-2012, the Minister of Economic Affairs introduced a bill that gave ACM powers to take measures to prevent potential competition problems in the postal markets. The reason was a report drawn up by OPTA in 2011. The bill became law on 1 January 2014.

To prevent antitrust problems, ACM is allowed to impose certain requirements on a postal carrier that is dominant in the market. This may vary from the requirement to offer other providers access to its network to requirements for the tariffs the carrier charges its customers. Before ACM is allowed to impose such requirements, it must analyze the market in question first. However, ACM cannot impose requirements for the universal postal service. In 2013, ACM made the first preparations to implement the law in 2014.

5.5 Competition

Companies sometimes agree not to compete with one another. They raise prices together or they agree not to work in each other's areas. These kinds of arrangements are called cartels. According to Dutch and European rules, cartels are prohibited. They distort competition, which is harmful to consumers.

Cartels are harmful to competition and consumers

ACM makes sure that businesses do not make illegal arrangements. ACM takes measures to solve problems caused by cartels. ACM, for example, imposes fines to businesses that take part in cartels. Employees of businesses who confess to ACM their participation in a cartel and who fully cooperate with the investigation may pay a reduced fine or may even escape one.

Fewer options and higher prices

Because of cartels, new businesses are not given, for example, a fair chance to sell their products. Consequently, consumers often pay too high prices. The competitiveness of existing businesses is reduced, because they take part in a cartel. For example, to a certain extent, they can afford to disregard sharp offers of competitors. In a global economy, it is critical that undertakings continue to be vital and innovative. That is how they will also be able to compete with businesses from other countries. This is of the utmost importance for an open economy as the Dutch economy.

Fines and recommendations

In 2013, ACM imposed several fines in cartel cases. More fines have been imposed on real-estate traders at foreclosure auctions. In late-2011, one of ACM's predecessors, the NMa, already fined fourteen traders, and, in 2013, another 65 parties were fined. In addition, fines were also imposed in the relatively small magazine-pack sector for cartel activities. Finally, ACM recommended the construction companies and housing corporations in a renovation project of rented homes to allow more parties to the next phase of the project.

5.5.1 More competition in energy-neutral-housing renovation project

'De Stroomversnelling' is a project in which a total of 111,000 rented homes are renovated according to zero-energy standards. ACM advised the four construction companies and six housing corporations that worked together in this project to give other construction companies a chance, too, to compete for renovation contracts in the second phase of this project.

Request of 'De Stroomversnelling'

At the request of the 'De Stroomversnelling' project members, ACM assessed their plan. ACM decided to give guidance to the project, considering the social interest of this sustainability initiative, but also because ACM had mentioned competition among service providers in the housing chain as a key issue for 2013.

Zero-energy renovation

The parties involved in 'De Stroomversnelling' wish to renovate a total of 111,000 homes to zero-energy buildings, also known as 'zero on the meter'. In the first two phases of this project, the homes are distributed among the four construction companies involved. This involves a pilot phase of the first 1,000 homes and a second phase with 10,000 homes. In the third phase, in which 100,000 homes are renovated, the four construction companies wish to compete with one another and with other construction companies for the

renovation contracts. The renovations are paid by the tenants. Besides the rent, they pay their former energy costs to the housing corporation, which uses these funds to pay for the renovations.

Guidance of ACM

ACM can understand that cooperation between the construction companies involved can, to a certain degree, be necessary to develop, for example, optimal renovation techniques. However, especially in the second phase of the project, ACM does not see any need or justification for dividing these homes exclusively among those four construction companies alone. In its recommendations, it indicates that construction companies should create more competition in that second phase, and that they should thus give other construction companies the chance to compete for contracts to renovate those 10,000 homes. This will benefit the tenants, who pay for the renovation. ACM will keep a close eye on the next steps of this project.

5.5.2 More fines imposed on real-estate traders

In January 2013, one of ACM's predecessors, the NMa, imposed [fines on 65 real-estate traders](#) totaling EUR 6.4 million for cartel activities at foreclosure auctions. In late-2011, the NMa already fined the fourteen most active traders EUR 6.3 million. In 2013, ACM published almost [all fining decisions](#) (in Dutch) on its website.

Collusion is not allowed

At foreclosure auctions, homes are auctioned, which often belonged to homeowners that have had payment problems. In practice, mostly professional real-estate traders bid on these homes. They manipulated the auction process by not bidding as individuals, but by bidding as a single group. After the official foreclosure auctions, traders re-auctioned homes at other, secret auctions (so-called after-auctions), often at a higher price. The 'profit' (the difference between the price at the official auction and the price at the after-auction) was split among the traders involved, at the expense of the homeowners.

Publication of fining decisions for real-estate traders

ACM is statutorily required to publish fining decisions. Several traders tried to prevent ACM from publishing the fining decisions on its website. They filed an objection with the court to prevent publication. In August and in December 2013, the court decided that ACM is in principle allowed to publish all fining decisions but one on its website. Most traders have filed objections and appeals against these fining decisions. These procedures are still ongoing in 2014.

Advice and call to take responsibility

In early-2013, a document called [Market Recommendations](#) (in Dutch) was published, which explained what factors that have a downward effect on prices could play a role at foreclosure auctions. In most cases, information about homes is incomplete, there is no appraisal report, and potential buyers are not able to view homes in advance. Furthermore, it is often not clear what transaction costs (or other costs) are associated with buying a home at such auctions. In the Market Recommendations, notaries and selling parties (which in most cases are banks) are called on to take their responsibility to improve the functioning of foreclosure auctions.

Guidelines for real-estate traders

After imposing the fines, ACM in 2013 also looked towards the future. [Guidelines for real-estate traders at foreclosure auctions](#) (in Dutch) were published. These guidelines make clear what is and what is not allowed at foreclosure auctions, and what the risks of cartel activities are.

5.5.3 Conclusion of investigation into mobile operators

In November 2013, ACM announced [the results of the cartel investigation](#) that it had started in the mobile telecommunications market two years earlier. No price-fixing agreements in the mobile-telecommunications market were established. However, ACM did establish that mobile operators make public statements about planned price increases or reductions in commercial conditions for consumers (for example, at conferences or in trade journals). Such statements, which have not been based on a final decision, may create anticompetitive concerns.

Operators to adjust their conduct

If competitors took note and followed such publicly-made statements, it could lead to collusive behavior, which is harmful to consumers. The three major mobile-telecommunication providers in the Netherlands, KPN, T-Mobile and Vodafone, therefore made a commitment to ACM that they would refrain from making such statements. ACM will keep a close watch on the mobile operators to make sure they comply with these proposed commitments. With this [commitment decision](#) (in Dutch), made on January 7, 2014, the investigation was concluded.

5.5.4 Fines in the magazine pack market

Having received several indications from the sector and complaints from consumers, for example, on consumer forums on the internet, ACM launched an investigation into possible cartel activities in the magazine pack market. On November 7, 2013, ACM imposed fines totaling almost EUR 5.75 million on thirteen undertakings. In addition, thirteen executives of these undertakings were held jointly and severally liable for part of these fines. Their fines ranged from EUR 10,000 to EUR 150,000 per person. With these fines, ACM aims to deter other undertakings from making cartel arrangements or to stimulate them to end these arrangements immediately.

Cartel activities

Pre-selected magazine packs offer subscribers different magazines in a single pack, usually on a weekly basis. These packs can be rented out several times to different subscribers such as consumers and to various businesses with waiting rooms, for example, hair salons and care providers. The thirteen undertakings made illegal agreements about supply areas, and they agreed not to approach each other's customers. They exchanged information about these arrangements on a regular basis. These activities reduced mutual competition.

The importance of ACM's actions

The reduction in competition may have led to consumers having less choice in magazine packs, having fewer options to switch suppliers or having no options at all, and having to pay too high a price for their subscriptions. For many people, magazine packs are a relatively affordable way to stay informed and engaged with society. ACM finds it important that this option is not restricted by cartel arrangements among suppliers of magazine packs.

All sectors can be fined

With this decision, ACM demonstrates that it also takes action in sectors where cartel participants do not expect this. These can be sectors that, for example, are relatively small, are shrinking or that are not in the spotlight that often. By holding individuals accountable, ACM wishes to signal that participation in cartels can have serious personal consequences.

5.6 Mergers

ACM assesses mergers, acquisitions, and joint ventures. ACM must be notified of these if:

- the combined annual global turnover of the businesses involved is more than EUR 113,450,000 and
- at least two of the businesses involved each have an annual turnover of at least EUR 30 million in the Netherlands.

Lower turnover thresholds apply to organizations in the health care industry. They need to notify ACM of their plans sooner. The following conditions apply to health care organizations:

- the combined annual global turnover of the businesses involved is more than EUR 55 million and
- at least two of the businesses involved each have an annual turnover of at least EUR 10 million in the Netherlands.
- With regard to health care institutions, each institution involved (or each unit thereof) must have realized at least EUR 5.5 million in turnover from offering health care services.

ACM assesses the impact of a merger, acquisition or joint venture on competition.

Number of merger notifications remains the same, number of notifications in health care sector increases

The number of notifications of mergers, acquisitions and joint ventures that ACM received in 2013 is similar to those it had received from 2009 through 2012. One striking trend was that, in the past year, the number of merger notifications in the care sector significantly increased compared with previous years. This was particularly the case with hospital mergers. In addition, a merger in 2013 between large players in the office-furniture market was not expected to have any harmful impact on competition. If a planned merger, acquisition or joint venture is not notified of on time, the parties involved may face certain risks. In such cases, ACM may take action, which it did in 2013.

5.6.1 Mergers in health care

In 2013, ACM received 37 concentration notifications in the health care sector. That is more than in previous years. As in 2012, a relatively large number of these notifications involved hospitals. ACM also received (again) many notifications from subsidized institutions (Exceptional Medical Expenses Act, AWBZ) and mental health organizations (GGZ). A new trend in 2013 was concentration notifications among laboratories.

Hospital mergers

ACM cleared the majority of the notified hospital mergers in the notification phase. In two cases, ACM ruled that further investigation was needed. This concerned the planned merger between Stichting R.K. Hospital St. Franciscus in the city of Roosendaal and the Stichting Lievensberg Hospital in the city of Bergen op Zoom in the western part of the southern Dutch province of Noord-Brabant, and the planned merger between Stichting Medisch Centrum Haaglanden and the Stichting Bronovo-Nebo Foundation in the The Hague area.

ACM attaches great value to the opinions of patient organizations and health insurers, and it, therefore, involved them in its investigation. In the southern part of the Netherlands, the health insurers were in favor of the merger. Moreover, various patient organizations indicated they had no objections to the merger. The

Federation of Patients and Consumer Organizations in the Netherlands (NPCF) did not file an objection against the decision of the combination St. Franciscus/Lievensberg hospital. In the The Hague area, a majority of the health insurers believed the merger would not have any negative effects. They were of the opinion that they could still negotiate successfully about price and health care quality with the different hospitals. Furthermore, both patient advisory councils were in favor of the merger.

ACM concluded that, in both cases, health insurers will continue to have enough opportunities to make arrangements with hospitals that are beneficial to their clients. And patients will continue to have enough options with regard to hospital care after the merger. Finally, both mergers were cleared.

Proton therapy

ACM has cleared the creation of 'HollandPTC', a joint venture for proton therapy between TDH Services (part of Delft University of Technology), Erasmus Holding and Leiden University Medical Center. These parties will create a treatment and research facility for proton therapy. This type of therapy can be used to treat cancer.

ACM assessed whether there are any anticompetitive risks associated with a collaboration between these parties with regard to health care services such as radio therapy. Based on an investigation and on discussions with a number of health insurers, this does not seem to be the case.

Proton therapy is currently not available in the Netherlands. It can be offered only after providers have been granted a license from the Dutch Minister of Health, Welfare and Sport and after they have signed a contract with health insurers.

5.6.2 HAL investments is allowed to acquire office-furniture manufacturer Gispen

On December 16, 2013, ACM cleared the planned acquisition of office-furniture manufacturer Gispen by HAL Investments. HAL Investments is the owner of rival manufacturer Ahrend and already owns 49 percent of shares in Gispen. HAL Investments will acquire the remaining shares of Gispen.

High market share as a result of acquisition

In 2010, HAL already acquired its rival ASPA. Ahrend and Gispen are both active as manufacturers and suppliers of office furniture. In the Netherlands, Ahrend and Gispen have a high combined market share, particularly with regard to office furniture projects for medium-sized and large companies through tenders. ACM's investigation thus focused on the question whether, after the planned acquisition, enough competition in the office furniture market would remain if both companies were included in HAL's portfolio.

Many other suppliers are active in the market

The VDB-Groep, a Dutch group of various furniture manufacturers, is, after Ahrend and Gispen, the largest Dutch office furniture supplier/manufacturer. The product range of this group is similar to that of Ahrend and Gispen. In addition, another large group of suppliers, consisting of other Dutch manufacturers, foreign manufacturers, dealers, office-supply companies, self-service companies and contractors, is also active in this market. Individual market shares of each of these suppliers are limited.

Sufficient competition

ACM's investigation into the bidders and winners of several office furniture tenders in the past six years revealed that other office furniture companies regularly win against Ahrend and Gispén, and that both the VDB-Groep and those other suppliers are tough competitors.

ACM thus expects that enough competition will remain in the Dutch office furniture market after the acquisition.

5.6.3 Failure to notify of a concentration resulted in a fine

In 2012, it turned out that ACM had not been notified of a concentration by Dutch car dealer Motorhuis B.V. ACM therefore imposed a fine of EUR 500,000. The Dutch Competition Act mandates companies to notify ACM of any concentration they plan. ACM can assess prior to the concentration whether it may harm competition. Reduced competition leads to higher costs, fewer choices, and fewer opportunities for consumers and businesses.

Notification of concentration in advance

Since ACM was not able to assess the concentration in advance, ACM imposed a fine of EUR 500,000 on Motorhuis B.V. It fully cooperated with ACM during the investigation. Failing to notify concentrations on time undermines the oversight efforts of ACM. With the fine, ACM also wanted to give a warning to other companies.

Three companies fined

Motorhuis B.V. is owned by Markeur Holding B.V., and this company, in turn, is owned by Markeur Houdster B.V. ACM considers all three companies violators. This also means that all three companies are jointly and severally liable for the payment of the fine. No objection has been filed against ACM's decision. Motorhuis B.V. paid the fine of EUR 500,000.

5.7 Government and Free Markets

In 2013, ACM brought the [Dutch Act on Government and Free Markets to the attention of local governments](#) and businesses. This was necessary because a baseline measurement revealed that familiarity with the Dutch Act on Government and Free Markets was still very limited. By explaining the new rules in discussions, conferences, information sessions and publications in professional journals, ACM increased the knowledge on the Dutch Act on Government and Free Markets.

Four rules of conduct

Since July 1, 2012, local governments competing with private companies must comply with [four rules](#) to prevent unfair competition with businesses. These rules have been laid down in the Dutch Act on Government and Free Markets. ACM will be checking whether local governments comply with the rules. For economic activities that started before July 1, 2012, a transitional period until July 1, 2014 will apply.

Baseline measurement by ACM

In 2013, ACM had a baseline measurement carried out to get more insight into the extent to which local governments are familiar with the new rules, and are taking measures to prevent unfair competition with the corporate sector.

The baseline measurement revealed that both local governments and businesses are not yet well-informed of the new rules and that local governments do too little to prevent unfair competition with private businesses. The potential magnitude of these problems is enormous, since 83 percent of local governments carries out economic activities, such as business-waste collection, sports facility rentals, and property rentals or sales.

Audits

In 2013, ACM carried out audits at various local governments to gain more experience with the application of the rules of conduct in practice. Until July 1, 2014, the new rules only apply to new activities. After that date, the rules will apply to activities that were launched before July 1, 2012. ACM will enforce the rules wherever necessary.

5.8 Sustainability

One of ACM's key issues in 2013 was sustainability. Sustainability is a broad concept: various subjects are included such as environmental protection, public health and 'fair trade' production.

No exemptions from competition law

Sustainability agreements are not granted any exemptions from competition law. All agreements between businesses and all activities of businesses are assessed in exactly the same way as are initiatives that do not involve a sustainability component.

Clarity is important

Clarity about what is and what is not allowed with sustainability initiatives is important. If the overall framework is clear, it can act as a boost for investments and cooperation. To provide more clarity to businesses, ACM launched the '[Knowledge Base on Sustainability](#)' on its website in 2013. The knowledge base offers an overview and guidelines to businesses that wish to check whether a collaboration with regard to sustainability is allowed under competition rules. In the consultation document 'Sustainability in energy regulation', ACM has explained what room it sees for the role of sustainability in energy regulation. Just like with any other agreement that businesses conclude among themselves, ACM sees opportunities, provided that the rules are not violated.

Assessment of sustainability initiatives

In 2013, ACM assessed several sustainability initiatives. These included the planned closure of five coal power plants, and a more intensive form of collaboration between veterinarians and cattle breeders.

5.8.1 Sustainability and competition

ACM wishes to offer clarity about competition rules in relation to sustainability initiatives. In 2013, ACM launched the Knowledge Base on Sustainability.

Knowledge Base on Sustainability

Businesses are able to find important information about sustainability and competition in the Knowledge Base on Sustainability launched by ACM on its website. The [Knowledge Base on Sustainability](#) contains relevant reference works and publications, and summaries of decisions of one of ACM's predecessors, the NMa, and of the European Commission (EC). ACM also plans to include new notices and summaries of new decisions in this knowledge base.

Assessment framework for sustainability initiatives

To provide more clarity to businesses about the room that competition law offers for cooperation with regard to sustainability, ACM created a [draft position paper](#). In the position paper, the assessment framework for sustainability initiatives is explained. This paper was submitted for consultation. ACM received various reactions. ACM will soon publish the final version of this position paper.

The position paper is the interpretation of the framework that the Ministry of Economic Affairs outlined for the competition-law assessment of sustainability initiatives. This framework can be found in the draft version of

the 'Policy rule on competition and sustainability' that was also published for consultation. The final version of the policy rule will also be released soon.

5.8.2 Sustainability in energy regulation

ACM wishes to facilitate sustainability initiatives in the energy sector as much as possible within the room that the law provides. This should stimulate sustainable development that benefits consumers and the rest of society.

Room for sustainability in energy regulation

ACM wishes to facilitate sustainability initiatives in the energy sector as much as possible within the room that the law provides. Therefore, it must be clear what initiatives are and are not allowed. If the regulatory framework is clear, it can act as a stimulus for investments in sustainability in the energy sector. In its [consultation document](#) 'Sustainability in energy regulation', ACM explained what room it sees for the role of sustainability in energy regulation. ACM will finalize this document, taking into account the comments it received, and will publish the final version of its opinion about this theme once the consultation period has expired.

Level playing field for network operators and market participants

In the consultation document, ACM explores the question, among other issues, to what extent network operators are allowed to initiate other activities with regard to sustainability next to their statutory tasks. When initiating such activities, network operators cannot hinder other market participants from entering these markets. Furthermore, ACM discusses the tariff regulation of network operators, the assessment of investments and investment plans, green-energy claims made by energy providers, and experiments with regard to distributed generation.

Promoting sustainability through European cooperation

For sustainable energy, having a European level playing field is critical. ACM briefly touched upon this in the [vision document](#), in which it describes the priorities for the wholesale markets for electricity and natural gas. ACM also highlighted the promotion of European cooperation during the roundtable discussions with the Dutch House of Representatives about the impact of the German Energy Transition (Energiewende) on the Dutch energy market. European countries currently use different methods to stimulate increasing the share of sustainable-energy production. These differences lie in, for example, taxes or subsidies for coal, or in options for consumers to inject electricity back into the grid for a compensation. According to ACM, preventing such disruptions to the internal market ensures that investments are made as efficiently as possible. Since prices can remain low this way, it will ultimately benefit consumers.

5.8.3 Closing down coal power plants harms consumers

ACM published an [analysis](#) of a planned agreement as part of the Dutch Energy Agreement to close down five coal power plants. ACM concluded that the closure affects consumers and offers too few environmental benefits.

Increase of energy prices resulting from closure of power plants

ACM expects drawbacks for consumers if the five power plants were to be closed down sooner. Energy bills would be higher because production capacity of electricity would decrease by approximately 10 percent.

Too few environmental benefits

Furthermore, ACM analyzed what environmental benefits this move would offer. In order to qualify for an exemption, Dutch and European competition rules stipulate that the benefits must be enough to offset the increase in energy prices for consumers. It turned out that the positive environmental benefits were not enough to compensate the higher energy bills of Dutch consumers. Therefore, the planned closures of the power plants violated the rules that prohibit restriction of competition among businesses.

Emission rights of carbon dioxide to other countries

The plan to close down five coal power plants claims a reduction of carbon dioxide (CO₂) emissions in the Netherlands. In the current proposal, this claim is cancelled out by the fact that these emission rights can be used elsewhere on the European market for CO₂ emission rights. Emissions are thus not reduced but are merely transferred elsewhere.

5.8.4 Enough competition despite one-to-one contracts veterinarians

From 2008, sector organizations and businesses in the cattle industry and the veterinarian sector have made agreements that led to contracts under which each cattle breeder has one veterinarian that is primary responsible for the veterinary care (mandatory one-to-one contracts). This approach it was claimed would contribute to a reduction of the use of antibiotics and would promote sustainability in the cattle industry. Several veterinarians filed a complaint with ACM because they believed that the mandatory one-to-one contracts harmed both the cattle breeders' freedom of choice as well as competition between veterinarians.

Enough freedom of choice for cattle breeders and enough customer-recruitment possibilities for veterinarians

ACM does not see any harm to competition in this approach. ACM has concluded in [its decision](#) that enough competition among veterinarians will remain and that cattle breeders will continue to have enough freedom to choose a veterinarian themselves. For example, cattle breeders will continue to have the opportunity to switch veterinarians. In addition, other veterinarians (specialized or general ones) will be able to work for cattle breeders that have one-to-contracts.

5.8.5 Impact of wind and solar energy on energy prices

ACM carried out [a study](#) (in Dutch) into the impact of wind and solar energy on electricity prices. Investments in wind turbines, solar panels and cogeneration installations are increasing. This method of energy generation is very popular, particularly in Germany. Studies reveal that winds in Germany affect Dutch energy prices. When German supply of wind increases, prices in the Netherlands decrease.

Impact of solar and wind energy on traditional generation

When solar and wind energy become important renewable energy sources, energy supply and, as a result, electricity prices will fluctuate strongly. Investments in traditional power plants could thus become less attractive. These traditional methods, however, remain very important, particularly at times when no energy can be generated because of little wind or sun.

Impact of solar and wind energy on electricity prices

ACM examined how solar and wind energy affected the electricity prices between 2006 and 2011. To set the electricity prices of wind and solar energy, all other variables that are taken into account when setting the electricity price must be corrected. These include demand for electricity, as well as competition among energy suppliers. Once solar or wind power plants are up and running, energy generation costs are low. Supply, however, does depend strongly on weather conditions.

Impact

If all of the explanatory variables are taken into account, it turns out that German winds are a determining factor for Dutch electricity prices. Like Belgium, the United Kingdom and the Scandinavian countries, Germany is connected to the Dutch electricity network. An increase of 1 percent of supply as a result of German winds leads to a reduction of 0.03 percent in Dutch electricity prices. This effect can still be considered limited. If developments continue as expected, and the generation capacity of wind and solar power is expanded, the impact of solar and wind power on energy prices will increase.

6 Outcome of ACM's work

The Netherlands Authority Consumers and Markets (ACM) wishes to give account of the effect and effectiveness of its work in an open manner. ACM's activities aim to have markets function better, and to offer consumers more options. In some cases, the outcome of ACM's work is directly visible to consumers. However, in most cases, the effect is more indirect. That is why ACM wishes to make the total outcome of its work visible. The outcome for consumers is EUR 1.85 billion in 2013 of which EUR 860 million is the result of the activities in 2013 and EUR 990 million the result of earlier activities in 2011 and 2012 with effects lasting longer than a year.

Effect calculation

ACM calculates the results of its work using a method that it has developed itself, and which is based on economic insights. This method calculates the effects of ACM's actions on consumer welfare in a relatively easy way. It gives an indication of the results of ACM's actions.

Tradition

Determining the outcome of ACM's work is in line with the tradition of ACM's predecessors, the Netherlands Competition Authority (NMa) and the Netherlands Independent Post and Telecommunications Authority (OPTA). Moreover, it is fitting in these times of increased attention for the effects of oversight. The NMa was one of the first regulators that calculated and reported on the effects of its actions. In the past, OPTA quantified the expected effects of its market analyses.

Presenting the outcome is not always possible

ACM wishes to give more insight into its activities. That is not always possible, certainly not in each individual case. With regard to activities in regulated industries, ACM is usually able to present the effects per case or intervention. This is because of the statutory task of ACM to intervene in these markets, if necessary.

In 2013, there were three cases in regulated industries on which ACM cannot report individually because of business-sensitive information or ongoing legal proceedings about publication of the decisions. The outcome of these three cases is EUR 9.7 million.

ACM does not publish any information about the size of the effects for individual cases in competition oversight, concentration control, and consumer protection. This is because of confidentiality. With regard to these activities, ACM publishes a total that is linked to multiple cases, thus making it impossible to attribute any effect to individual cases.

Evaluation by the Netherlands Bureau of Economic Policy Analysis

At the request of ACM, [the Netherlands Bureau of Economic Policy Analysis](#) (CPB) tested whether the outcome calculations for 2013 is plausible. The CPB assessed both the calculation method and the calculation results. The CPB did so too in previous years.

The CPB's conclusion was that the outcome calculation was carried out thoroughly, using rules of thumb that are sufficiently supported in economic literature. It does note that care is needed when interpreting these results.

6.1 Calculation method

In 2013, ACM developed a new method to calculate the outcome of its actions. The existing calculation methods of ACM's predecessors NMa (outcome) and OPTA were used as the point of departure for this method. To quantify the outcome of consumer protection, the method was expanded, and has been applied for the first time. In addition, national and international trends in outcome calculation and in scientific literature have been taken into account as well.

In an easy and quantifiable manner

One of the basic principles of the calculation is that it must be possible to calculate the effects of ACM's actions in an easy manner. This way, the expected effects can be published relatively soon after the action in question. In addition, the effects must be quantifiable (in monetary terms) with a reasonable degree of certainty. That is why it is not possible to include the effects of all of ACM's activities. Some activities, for instance, concern making sure that current and future supply (for example, of energy) is safeguarded. Such long-term activities are difficult to quantify in monetary terms. While these affect consumers and businesses, they are not included in the calculation. In addition, ACM's oversight in itself also has a certain 'preventative effect.' The fact that a regulator exists prevents some companies from exhibiting illegal behavior. This effect, however, is not included in the calculation method, which is also called 'outcome.'

Conservative assumptions are the starting point

The outcome calculation refers to the expected future effects for consumers. As a result of ACM's actions, consumers will pay less for certain products or services in the future. Since ACM attempts to estimate expected future effects for consumers in a relatively easy manner, these estimates come with uncertainties. To prevent an overestimation of the effects, we use conservative assumptions. It can thus be expected that the presented effects represent the lower limit of the actual effects.

Taking into account effects from previous years

ACM seeks to implement structural improvements that result in well-functioning markets with clear and transparent market processes, where consumers are treated with care. It can thus be expected that the effects of ACM's actions will be appreciable for more than a year. When calculating the effects, we will generally assume a time period of three years. That is why, in the new method, effects resulting from the activities of ACM's predecessors in 2011 and 2012 have been taken into account. The effects of ACM's predecessors NMa, OPTA and the Netherlands Consumer Authority (CA) will be listed separately.

6.2 Competition oversight

The outcome of our competition oversight is EUR 668 million for 2013. This concerns general competition oversight and concentration control (mergers). Because of confidential information, the outcome is not specified per case.

Five new antitrust cases

The outcome of general competition oversight for 2013 comes from three cartel cases, one commitment decision and [one informal opinion](#). The outcome of competition oversight for 2013 is EUR 451 million, to which the cases from 2013 contributed EUR 47 million. The remaining EUR 404 million comes from cases from 2011 and 2012.

No new concentration cases

In 2013, ACM reviewed various mergers. However, no mergers were prohibited or withdrawn in 2013, and no adjustments were needed to solve competition problems (also known as remedies) as a result of ACM's actions in 2013. That is why no new concentration cases qualified to be included in the calculation of the outcome for 2013. However, concentration cases that were prohibited, remedied or withdrawn as a consequence of ACM's actions in 2011 and 2012 did qualify to be included in the calculation for 2013. This came down to a total amount of EUR 252 million.

6.2.1 Art auctions

ACM launched an investigation into possible cartel activities in art auctions, particularly painting auctions. In some instances, art dealers collectively placed bids on paintings. This potentially reduced the number of bidders at auctions, and resulted in prices that were kept artificially low. When a piece of art was obtained, the art dealers would sometimes resell it among each other.

Dealers to adjust their behavior

After ACM had launched an investigation and had come across possible competition problems, five art dealers formally promised to adjust their behavior. Among other promises, they would no longer coordinate bids before and during the auctions.

Art dealers to announce joint bids before the auction

Furthermore, the art dealers promised to announce beforehand when an individual art dealer is unable to buy a piece of art on his own and is therefore bidding together with other dealers. Sellers of paintings thus benefit from this commitment since it will result in better prices. It additionally makes clear what is and what is not allowed on the basis of antitrust rules which offers guidance to all involved parties on how to act at auctions.

Effects of the commitment decision

ACM issued a [formal commitment decision](#) in 2013, in which these commitments have been declared binding for a period of three years. ACM's actions result in better prices for paintings. For the calculation of this price effect, the rule of thumb of 10 percent of the relevant turnover of the five art dealers involved was used. This effect is expected to exist for at least the commitment period, which is three years.

6.2.2 Onion sets

ACM established that seven undertakings that grow, process and trade in first-year onion sets violated the cartel prohibition in 2009 by making agreements. According to ACM, the undertakings sought to reduce the supply of onion sets to bring about higher prices, which harmed their buyers. The effect is not final yet. Parties have filed an appeal against this decision.

Fine imposed because of exchange of information

The agreements concerned the destruction of sown acreage of onion sets. In order to agree on the destruction of onion sets, and to make sure that the cartel participants stuck to the cartel agreement, the undertakings involved exchanged competition-sensitive information. In total, [seven undertakings were fined](#) for a total amount of over EUR 4 million.

Effects of the onion sets cartel

As a result of ACM's actions, buyers are able to pay a lower price. For the calculation of this price effect, the rule of thumb of 10 percent of the relevant turnover of the seven undertakings involved was used. This effect is expected to exist for at least three years.

6.2.3 Demolition firms

[Five demolition firms restricted competition](#) in four tender procedures in the city of Rotterdam by way of 'cover pricing.' This means that one firm, in cooperation with the other firm, places a bid, even though it does not have any actual interest in the contract. Its bid was higher than that of the other firm. This way, the demolition firms eliminated mutual competition. ACM imposed fines, ranging from EUR 2,000 to EUR 69,000. However, one firm was not fined, because it had informed ACM of the agreements by means of a leniency request.

Effects of the demolition cartel

As a result of ACM's actions, buyers are able to pay a lower price. For the calculation of this price effect, the rule of thumb of 10 percent of the turnover realized in the tendered contracts was used. Only the two tenders in which the project was awarded to one of the participants of the cartel were taken into account. This effect is expected to exist for at least three years. The effect is not final yet. Parties have filed an appeal against this decision.

6.2.4 Magazine packs

[Thirteen undertakings in the market of pre-selected magazine packs restricted competition](#) by sharing the market among themselves. They agreed not to approach each other's customers, and made arrangements regarding their territories. As part of these arrangements, they frequently exchanged information. For customers, it was thus difficult to switch suppliers.

Heavy fines imposed

ACM took action against these practices. It imposed fines totaling EUR 5.75 million for cartel activities, and it held several executives jointly and severally liable for a part of these fines.

Effects of the magazine-pack cartel

As a result of ACM's actions, buyers are able to pay a lower price. For the calculation of this price effect, the rule of thumb of 10 percent of the relevant turnover of the 13 undertakings involved was used. This effect is expected to exist for at least three years. The effect is not final yet. Parties have filed an appeal against this decision.

6.2.5 Flood insurance

The [Dutch Association of Insurers](#) (VvV) is an independent interest group of private insurance companies in the Dutch market. It requested ACM to issue an informal opinion about a mandatory insurance scheme with regard to flood coverage, which it wished to introduce in 2014. With this insurance scheme, the VvV wished to offer insurances against flooding, which currently cannot be insured against.

Restriction of freedom of choice of consumers and businesses

[ACM came to the conclusion](#) that the mandatory insurance scheme as proposed by the VvV would violate competition law. According to ACM, consumers and businesses should continue to have the freedom to decide for themselves whether or not to take out a flood insurance. Moreover, in a mandatory scheme, insurers, too, would no longer be able to decide for themselves whether or not they wish to offer flood insurances. This would be a restriction of competition among insurers. Based on the information presented by the VvV, no justification for this restriction of competition could be found.

Increased financial burden

The VvV projected that the new insurance would cost at least EUR 155 million per year. Consumers would be paying these costs through a mandatory surcharge on top of the premiums of their fire insurances. This would result in an increased financial burden, while the proposed insurance scheme would not satisfy any need. Fifty percent of the Dutch live in areas that are not at risk of flooding. A share of the areas that are prone to floods, the floodplains, is excluded from the coverage in the insurance scheme as proposed by the VvV. ACM consulted with the relevant ministries, and with consumer and business interest groups. Based on this consultation, it turned out there was no need for the planned flood insurance.

Price effect calculated based on conservative estimate

In spite of the fact that it was not a formal decision, ACM's opinion was taken into account in the outcome calculation for 2013. After all, there was a very concrete plan, which was not carried out because of ACM's opinion. As a result, consumers will not be faced with an increase of their financial burdens. The level of these savings, the price effect, has been determined by comparing the minimum annual costs for the new insurance (EUR 155 million) with the projected average annual damage to be paid by the VvV. It is assumed that consumers will benefit at least three years from ACM's actions.

6.3 Energy market

ACM issued various method decisions with regard to the energy sector this year. With these decisions, ACM sets the tariffs of the national and regional network operators. This affects the tariffs that costumers pay for energy transmission and for their connections to the energy networks.

Outcome

The outcome for consumers from these method decisions is [EUR 2.1 billion for the next three years](#). For 2013 specifically, the outcome is 690 million. Additional benefits for consumers come from auction revenues and from fewer investments in measuring equipment on the transition points between the national and regional grids. The total outcome of energy regulation is EUR 780 million for 2013.

6.3.1 Method decisions for network operators of electricity and natural gas

With its tariff regulation for network operators of electricity and natural gas, ACM contributes to an affordable energy supply. As part of its tariff regulation activities, ACM issued various method decisions in 2013. The method decisions are used to calculate the annual tariff cuts (also called x-factors) for all network operators of electricity and natural gas for the period of 2014-2016.

Cheaper capital for investments

Because of the tariff cuts, network operators must charge much lower tariffs for the use of the electricity and natural-gas networks in the next three years. Buyers of natural gas and electricity thus benefit. The decrease of the tariffs for buyers is mainly caused by the decrease of the return that network operators are allowed to earn, which is set by ACM. ACM expects that network operators are able to attract cheaper capital for making investments, and ACM takes this into account in its calculation of the standard return. This standard return is used as the basis for the calculation of the efficient costs of network operators on which ACM bases the tariff revenues.

In addition to the annual tariff cut, the method decision for the regional electricity network operators also contains the choice to directly decrease the tariff revenues to the level of efficient costs in 2014.

Outcome of the method decisions

The choices made in the method decisions have led to a total outcome of EUR 690 million for 2013. Most of it can be attributed to the tariff regulation of the regional network operators for electricity and natural gas: EUR 360 million and EUR 140 million respectively. The method decision for Dutch transmission system operator for natural gas Gasunie Transport Services (GTS) will yield EUR 132 million for consumers, and the method decision for TenneT EUR 58 million. This effect is not final yet. Parties have field an appeal against these decisions.

6.3.2 A share of the auction revenues goes to consumers

The national transmission system, which is operated by TenneT, is connected to networks abroad (among other countries, with Norway and Germany) through interconnectors. The capacity on these interconnectors is scarce and is, therefore, sold through auctions. The auction revenues must be used for the expansion of cross-border connections. As a result of ACM's actions, a share of these auction revenues is used to keep energy prices for buyers stable.

Non-recurrent use of revenues for affordable energy bills

Auction revenues must, in principle, be used for the expansion of cross-border connections. Because of the fact that more than enough auction revenues are available for such investments, ACM decided that TenneT could use (one time only) a share of the revenues to ensure a stable development of the tariffs in 2014. If ACM had not allowed TenneT to do so, tariffs would have been set higher. ACM is consulting with TenneT about an assessment framework for using auction revenues more structurally in accordance with European regulations.

Increase of imported electricity

Wholesale prices abroad, in particular in Germany, are relatively low, which is the reason behind the relatively high volume of imported electricity. These lower wholesale prices are in part caused by specific subsidies in countries from which the energy is imported. Because of the high volumes of imported electricity, total auction revenues have increased considerably recently.

Auction revenues to be used for the benefit of consumers

As a result of ACM's work, the auction revenues will benefit consumers in the form of lower tariffs. The entire amount of EUR 87 million will be taken into account in the outcome calculation. After all, without ACM's actions, it would not have been clear when TenneT would have used the revenues for the benefit of consumers (in the form of more investments in interconnections or lower tariffs). The effect is taken into account for the period of one year.

6.3.3 Code amendments regarding metering devices

In 2013, ACM amended the regulations to ensure that TenneT is not automatically required to install metering devices at the transition points between national and regional networks. Because of this amendment, ACM has prevented TenneT from installing new metering devices throughout the Netherlands.

Fewer metering devices

A few years ago, metering devices were installed in the grids on each transition point between national and regional networks. This was statutorily required. Following the [Independent Grid Administration Act](#), regional network operators in 2006 transferred their grids to TenneT. As a result, the transition points between the national and regional networks changed positions in the grids, in locations where no metering device had yet been installed before. In order to comply with the regulation, TenneT suggested installing a metering device at each transition point. Because of the current amendments to the regulation, however, TenneT is allowed to install fewer metering devices, which has saved investment costs.

Lower energy bills because of amendments to regulations

As a result of amendments to the regulations, energy users will pay EUR 4.4 million less each year for their energy. For the calculation of the outcome of these amendments, we used the investments costs that were no longer needed. The investments would have otherwise been passed on to users through the annual depreciation and a capital compensation. The effect of this action has been taken into account in the outcome calculation for a period of three years.

6.4 Telecom

The outcome of ACM's actions in the telecom sector in 2013 concern the [market analysis decision for fixed and mobile termination tariffs](#) (in Dutch) and [access to transmitter locations](#) (in Dutch).

The outcome in the telecom sector is EUR 360 million, of which more than EUR 16 million relates to activities carried out in 2013. The remaining EUR 344 million relates to 2011 and 2012. In those years, market analysis decisions in particular were responsible for the outcome.

6.4.1 Fixed and mobile termination tariffs

In its decision of 5 August 2013, ACM lowered the maximum tariff for call termination. The call termination tariffs are the costs that telecom providers charge each other when calls are made on each other's networks. The level of this call termination tariff accounts for 5 to 10 percent of the costs for mobile calls. For landline calls, this share is lower.

Call termination tariff

The telecom provider of the individual that is called charges the provider of the customer that makes the call a fee for the use of its network. That fee is called the call termination tariff. Callers cannot choose themselves which network handles their calls. In effect, every provider is a monopolist of their call termination tariffs.

Outcome calculated on the basis of the minimum effect

The outcome has been calculated on the basis of a model (the so-called pure BULRIC cost method), as described in the market analysis decision in question. For the outcome, ACM uses, in accordance with the basic principle of conservative estimates, the minimum effect that was calculated in the market analysis decision. The benefits of this decision are thus EUR 16 million per year. In accordance with the general calculation model, the duration of the outcome is set at three years. The effect is not final yet. Parties still have the option of going to court.

6.4.2 Phone calls to non-geographic numbers

For the transit of calls to non-geographic numbers (for example, 0800 and 090x-numbers), Dutch telecom company KPN charges considerably higher rates than to geographic numbers. In an order subject to periodic penalty payments, ACM ordered KPN to lower its tariffs for the transit to non-geographic numbers.

No higher tariffs for calls to non-geographic numbers

In principle, tariffs for phone calls to non-geographic numbers [may not be higher than to geographic numbers](#) (in Dutch). If the tariffs for non-geographic numbers were allowed to be higher, using these numbers would be less attractive.

Outcome is confidential

The outcome of this action is calculated by multiplying the current turnover of KPN for these services by the price effect of the order. The duration of the effect is estimated at three years. This outcome is confidential, because it would provide insight into competition-sensitive data of KPN. This outcome is, therefore, included in ACM's total outcome. The effect is not final yet.

6.4.3 Access to transmitter locations

In a dispute settlement decision, ACM concluded that the tariffs charged by NOVEC, the operator of high transmitter locations, for transmitter locations were not reasonable. As a result of this decision, NOVEC was ordered to lower several tariffs by 19 percent.

Shared use on the basis of cost orientation

Operators of transmitter locations are required to comply with a reasonable request to share the use of these locations. In 2013, ACM ruled in a dispute between NOVEC and a party that used those locations to offer broadcasting services (Broadcast Technology & Development). ACM ruled that the tariffs were not reasonable, because they were not cost-oriented.

Limited effect

The duration of the effect has been estimated at one year (2013), because the case will fall under a different legal framework in 2014. This also means that a new assessment is likely to be carried out. The outcome of this decision is EUR 0.4 million.

6.5 Transport

The outcome resulting from transport regulation comes from the pilots and from the regulatory duties concerning Amsterdam Airport Schiphol. The outcome is more than EUR 25 million, of which EUR 3 million comes from activities carried out in 2013. The remaining EUR 22 million comes from activities in 2012.

2014 pilotage tariff decision

The Dutch Trade and Industry Appeals Tribunal (CBb) ruled in favor of ACM with regard to a number of principles for calculating the fee of pilots. The fees form a component of the cost items that are used in the tariff calculation process. The CBb ruling concerns lower labor costs in the region of Amsterdam-IJmond (a different calculation of the number of rest hours) and in the region of Scheldemonden (a different calculation of available hours for standby duties). This will lead to a lower pilotage tariff than the [Dutch Pilots' Corporation](#) (NLc) had initially proposed. The outcome of this decision is EUR 2.4 million. The duration of this outcome is one year. The effect is not final yet.

Tariffs of Amsterdam Airport Schiphol from April 1, 2013

In 2013, ACM [ruled that the tariffs proposed by Schiphol](#) (in Dutch) for landing, take-off and security were too high. This was because Schiphol failed to consult the traffic and transport projections when setting the security tariffs. As a result, Schiphol was required to lower said tariffs. The outcome of ACM's action is EUR 0.6 million. The duration of this outcome is one year. The effect is not final yet.

6.6 Consumer protection

Consumer protection activities had an outcome of EUR 7.1 million in 2013, of which EUR 4.2 million concerned activities carried out in 2013. The remaining EUR 2.9 million concerned cases from 2011 and 2012 that still affected consumers in 2013.

Different types of cases

There are seven activities for which the outcome for consumers has been calculated. These include a case of unfair commercial practices, and three cases where rapid interventions were carried out. The combined outcome of these cases is EUR 1,040,000. Next, there are two cases that concern tariff regulation, and one case relating to tariffs that had been charged incorrectly. Due to the confidentiality of some of this information, the outcome of the calculations in some cases cannot be mentioned separately.

Consumer protection cannot always be expressed in monetary terms

The outcome of many consumer protection activities is difficult to express in monetary terms. One such example is a sample letter on the website of consumer information desk ConsuWijzer, which offers consumers a relatively easy opportunity to file a complaint against a supplier. Another example are campaigns to switch energy suppliers. The effect of consumer protection activities is therefore larger than is presented in this report.

6.6.1 Regulation of consumer tariffs for electricity and natural gas

Electricity and natural-gas suppliers inform ACM of their proposed tariffs for small-scale consumers. ACM assesses whether these proposed tariffs are reasonable. This is also known as safety net regulation. In 2013, ACM twice announced that it found the proposals of the energy suppliers unreasonable. In both cases, the suppliers subsequently adjusted their tariffs.

Imposing a tariff cap

If ACM is of the opinion that a tariff is unfair, it may impose a tariff cap on the supplier. The threat of imposing a tariff cap is usually sufficient to have suppliers “voluntarily” lower their tariffs.

Direct effect for consumers

Tariff reductions have an immediate measurable price effect. The price effect per buyer is the difference between the tariff that the supplier had proposed first, and the reduced tariff that is actually charged after ACM’s intervention. With regard to the contracts involved, ACM knows how many households have taken out such contracts. Therefore, this group of customers benefit from ACM’s actions. Without ACM’s actions, they would have paid more. In the calculation of the outcome for consumers, we assume an average energy consumption (in kWh).

Calculation on the basis of contract length

The duration of the effect depends on the contract length of the tariffs against which action was taken. If the tariff proposals concern three-year contracts, the action will also have a three-year effect. If insufficient data are available, a one-year effect is used. In both cases, it concerns a one-year period. Total consumer benefits are EUR 900,000 for 2013.

6.6.2 Energie Direct

In late-2011, one of ACM's predecessors, the NMa, carried out an investigation into energiedirect.nl (ED), which revealed that administrative errors had been made. These mistakes have been corrected, and customers have been compensated. Because customers had been incorrectly transferred to contracts with a variable tariff, which was sometimes even higher, ED was also asked to look into the termination fees.

Even more administrative errors discovered

It was discovered that termination fees had been charged incorrectly. In fact, even more administrative errors were discovered such as charging too high capacity tariffs, corrected metering data that had not been processed, and advance payments that had not been settled with the final bills. This second part was reimbursed in the fourth quarter of 2013. Because ED had compensated its customers, ACM decided not to draw up a report.

Long-term effect on prices

As a result of ACM's actions, energiedirect.nl is continuously improving its administrative processes. It can be assumed that, if ACM had not intervened, the irregularities would have continued for a longer time. After all, the violation related to the period between January 1, 2009 and October 2013, which is 45 months. Because of ACM's actions, consumers will save a certain amount annually. We assume that the effect will last for three years.

6.6.3 Transparency in travel costs

Irish airline Ryanair offered airfares on its website that did not include all foreseeable and unavoidable costs such as fees and surcharges that must be statutorily charged. In most cases, consumers thus paid considerably more than the airfares that were initially displayed on Ryanair's website.

In violation with regulations

If not all costs are directly visible, it is difficult for consumers to compare the fares of various airlines. This is in violation with consumer regulations. ACM [imposed fines on Ryanair](#), totaling EUR 370,000 for four violations that ACM found in the airline's online booking process.

The outcome of the intervention saves consumers money

To calculate the outcome, an estimate was made of Ryanair's turnover realized in the Netherlands. Since Ryanair failed to provide clarity in its booking process, consumers were faced with extra unavoidable costs. In addition, consumers risked making a wrong (and therefore too expensive) choice. We assume that these extra search costs and wrong choices concern 0.75 percent of realized turnover. The effect of this intervention counts for the years 2013 and 2014. The outcome of this intervention has been taken into account in the total outcome calculation of consumer protection. The effect is not final yet. Ryanair has filed an appeal.

6.6.4 Rapid interventions

The idea behind rapid interventions is to quickly put an end to potential violations of consumer law. Swift action can be taken, for example, by contacting businesses by telephone and pointing out to them any unfair commercial practices. Consumers can thus be compensated immediately. Many businesses, too, wish to correct a violation (alleged or real), and to keep this outside the media. Fines are not always imposed.

Collection notices

Various rapid interventions took place in 2013. With regard to confidentiality, not all interventions can be mentioned. One intervention where confidentiality is not an issue is the case of debt collection agency Corpus Justitia. This agency sent out fake collection letters after which consumers called its premium-rate number. However, they failed to get Corpus Justitia on the phone, yet incurred high call charges. Within a period of eight hours, consumers made 4,354 calls to the number in question. Average call charges were EUR 5 per consumer. The total amount of EUR 22,000 was reimbursed, as a result of which the harm had been undone.

Outcome still has effect in 2014

The total benefit for consumers in this case is EUR 22,000 in 2013. For the calculation of the outcome of the intervention, we assume that the violation would have continued, and that at least the same number of consumers would have incurred similar call charges. Furthermore, we assume that this behavior would have continued through 2014.

Other interventions

Similar calculations have been made for the other rapid interventions (confidential). The amount associated therewith has been included in the calculation of the outcome of consumer protection.

7 Markets in focus

ACM gives a structural overview of the developments and trends in a number of markets such as the telecommunications, postal services and energy markets, in which (or in parts thereof) monopolies are or were active. In addition, ACM gives an overview of the financial industry, because the barriers to entry in this market are very high.

These overviews do not focus on each and every part of these markets. We particularly focus on those parts of the markets where competition had not existed previously, but does exist now. With regard to the telecommunications and postal services markets, we focus on the market shares and the trends in the competitive positions of market participants. With regard to the energy market, we focus on the trends in the wholesale markets, but also on consumer behavior.

By actively monitoring these markets, ACM offers more insight into the latest trends that can be observed in these markets. Such insight can be used in different ways. For example, it serves as the basis for setting maximum prices on companies in certain submarkets that enjoy monopoly positions.

7.1 Telecom

The 2013 Telecom Market Monitor offers an overview of the market trends in electronic communication. These trends are technological ones that take place on or off the markets such as the rollout of fiber optic. In addition, user needs play a role such as increased usage of services over mobile broadband networks. This creates a dynamic playing field in which ACM acts as the regulator. Based on these trends, ACM gives an objective picture of the current state of play in the telecommunication markets, which ACM regulates.

Structural Market Monitor

The Market Monitor is largely based on data that ACM collects through its Structural Market Monitor. For the Structural Market Monitor, the largest market participants provide data on their activities on a regular basis. ACM verifies these data. In addition, ACM uses studies and media reports. This is how ACM keeps an eye on trends in various markets. The figures form an important basis for ACM's market analyses that are published every three years.

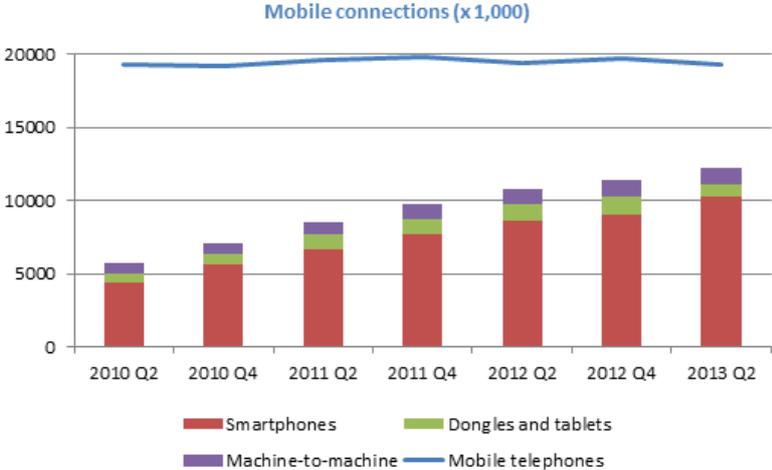
7.1.1 Mobile services

The existing operators started the rollout of 4G in 2013. Mobile broadband with download speeds of up to 50 Mbps will be possible with 4G. Having already resulted in a decline in text messages, the growth in mobile broadband is now affecting voice services too. Consumers now often have the option of getting unlimited text messages and/or voice minutes in combination with mobile data subscriptions for a fixed monthly rate.

Connections

In December 2012, the existing operators in the Netherlands (KPN, T-Mobile and Vodafone) and Tele2 won spectrum rights. As a result, they were able to start rolling out 4G networks, thereby making mobile broadband with higher speeds possible. In 2013, the existing operators started the rollout in the major cities, and they

have indicated that they expect to be able to offer nationwide coverage in 2014 or 2015. With the higher speeds that 4G offers, ACM expects increased innovation and new services to be introduced for consumers.



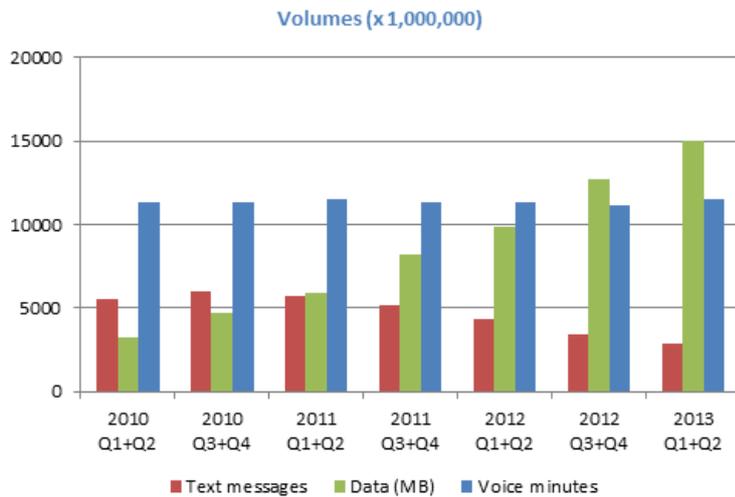
While the number of connections remained relatively stable at 19.3 million last year, the number of connections that use mobile broadband increased from 9.8 million to 11.0 million. The number of subscriptions for dongles and tablets decreased in the first half of 2013 as some operators offer subscriptions that can be used for both tablets and smartphones.

From an international perspective, the Netherlands is average. In mid-2013, the Netherlands had 66 mobile-broadband connections per 100 inhabitants. The OECD average for that period was slightly over 68 connections. Countries that have considerably more connections are the Nordic countries, particularly Finland.

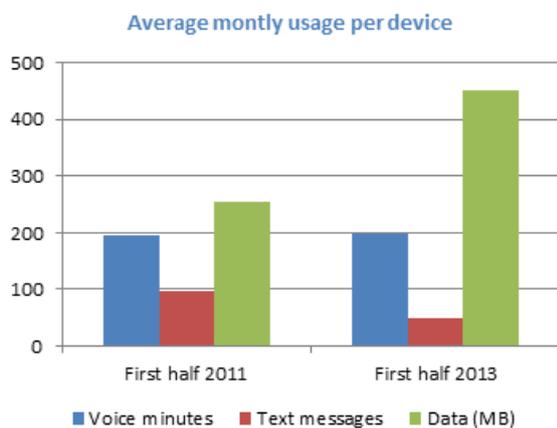
In mid-2013, subscriptions that come with a device are the most popular type of subscriptions among consumers. Of all mobile connections of operators, 46 percent are subscriptions with devices, 22 percent are sim-only subscriptions, and 32 percent are prepaid connections.

Usage

With the number of devices that can be used for mobile broadband on the rise, data usage has increased, while text messaging has decreased. Over a period of one year, data usage has risen by 53 percent from 18.1 petabyte to 27.6 petabyte per year. One petabyte equals one billion megabyte. As previously mentioned, text messaging has decreased, since mobile broadband offers alternatives such as WhatsApp. As a result, text messaging has dropped approximately 34 percent within one year from 9.5 billion to 6.3 billion per year. Operators react to the impact that mobile broadband has on voice minutes by offering subscriptions with unlimited voice minutes and texts. The total number of minutes used for calls remains relatively stable at 22.7 billion.

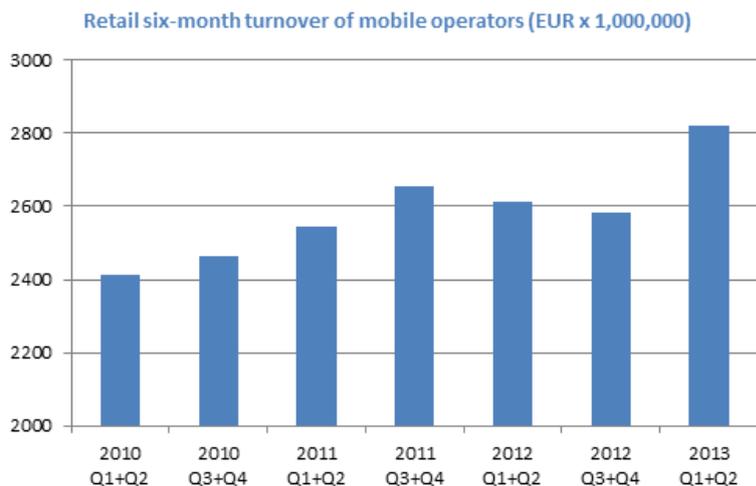


In the second half of 2011, consumers called on average 196 minutes and sent 97 text messages per month per device, and used 249 MB per month per device equipped with mobile broadband. Two years later, the average number of voice minutes has slightly increased to 199, while the number of texts has dropped to 49. Conversely, approximately 452 MB per device per month is used.



7.1.2 Prices of subscriptions

The strong rise in mobile broadband has its effects on text messaging. This shift in usage forces operators to look for new business models in order to stay competitive. Various operators offer packages with unlimited texts and voice minutes. As operators respond to the shifts in usage, their turnovers rose in the first half of 2013 after a year of decreasing turnovers.



In 2013, various studies were published about prices of subscriptions, voice minutes and mobile data. Studies from, among other sources, the European Commission and Rewheel revealed that Dutch consumers pay relatively much per voice minute and per data unit. However, in some countries, it is less common to buy subscriptions in combination with a device, making it difficult to compare the results. The Dutch Ministry of Economic Affairs commissioned consulting firm Telecompaper to carry out a study into total expenditures. This study revealed that Dutch consumers pay relatively a lot when buying a subscription with a more expensive device. Sim-only subscriptions are relatively cheap.

From 2011 through 2013, the Netherlands Competition Authority, one of ACM's predecessors, and later ACM itself launched [an investigation into possible price-fixing agreements between mobile operators](#). The investigation revealed that there was a risk for operators coordinating their propositions through public statements. In response, the mobile operators promised to refrain from making such statements.

Aided by the entry of Tele2 as a provider with its own spectrum, competition will increase, according to ACM. As a result, propositions and prices will more closely match the needs of consumers.

7.1.3 Wi-Fi as an alternative to mobile broadband

Next to the rollout of 4G networks by the existing operators, cable provider Ziggo in 2013 activated a second Wi-Fi signal on the modems of its subscribers. Internet customers of Ziggo are thus able to use mobile broadband from other Ziggo subscribers without using data from their mobile-data subscriptions, even if those data subscriptions were taken out from another provider. In late-2013, UPC launched a similar program, and KPN announced it would also introduce a similar service in cooperation with Spanish internet provider FON. Wi-Fi makes it possible to further integrate fixed and mobile services in the future, thereby increasing competition even further.

Competition in mobile services

Mobile operators not only face competition from each other, but, to a certain extent, also from providers that do not have their own networks. These providers without networks of their own offer their services as so-called mobile virtual network operators (MVNOs) or as service providers (SPs). Approximately 50 of these

independent providers are active on the networks of the mobile operators. This number is relatively stable, although existing providers leave the market, while new ones enter the market.

The combined market share of the independent providers on the number of connections has risen in one year from 15 to 20 percent to 20 to 25 percent in mid-2013. Even though this increase comes at the expense of the combined market share of the mobile operators, their individual market shares have seen little change. In mid-2012 as well as in mid-2013, KPN's market share was between 30 and 35 percent. T-Mobile's market share was between 20 and 25 percent, and Vodafone's between 25 and 30 percent.

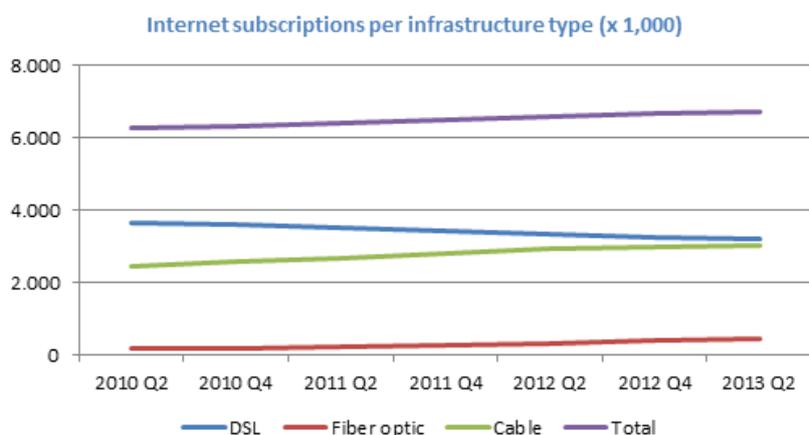
The reason behind the increase of the combined market share of the independent providers appears to be their focus on specific niche markets. With that strategy, they are better able to meet consumers' needs, more so than the mobile operators. Examples of such niche markets include certain types of professions, and ethnic minorities that predominantly make calls to the countries they have cultural ties with, but also customers that have a preference for specific products such as prepaid connections.

7.1.4 Consumers on fixed networks

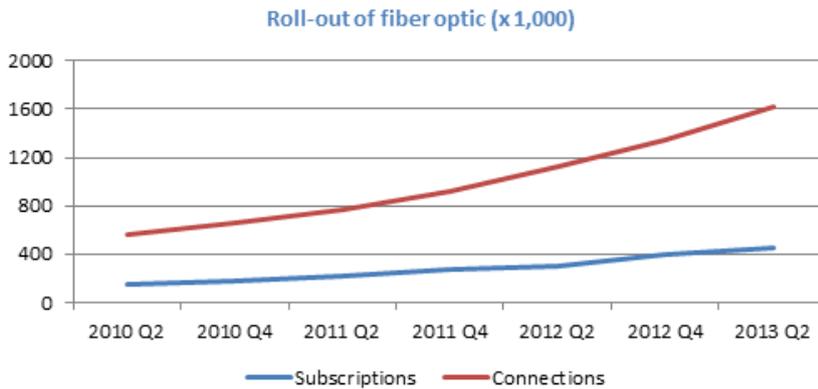
The number of DSL subscriptions has been decreasing as a result of the rollout of fiber optic, and of the increase of the number of cable subscriptions for internet access. Fiber optic and cable subscriptions have higher average download speeds, thereby increasing the average download speed in general. Having already introduced triple-play packages, providers are now experimenting with quadruple play, which include mobile services.

Internet access

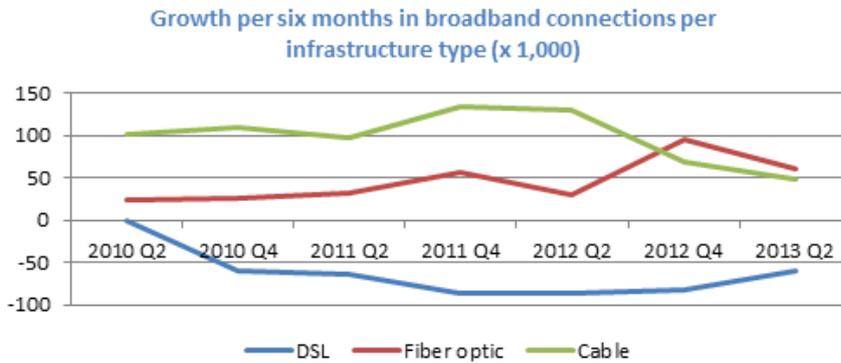
The number of active broadband connections saw a modest yet steady increase in 2013. In mid-2013, slightly more than 6.7 million subscriptions were active, an increase of almost 130,000 compared with mid-2012. Of those 6.7 million subscriptions, approximately 3.2 million were DSL-based, while slightly more than 3 million were cable-based. The remaining 457,000 were fiber-optic-based.



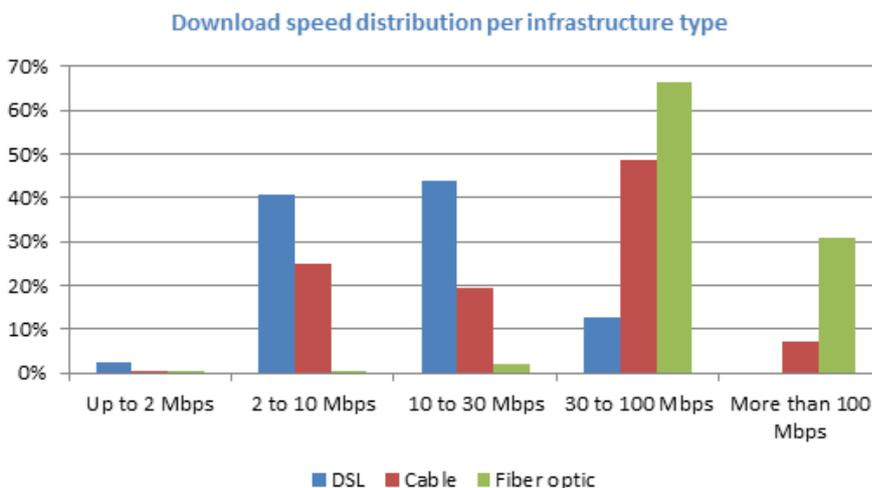
Even though the majority of subscriptions is still DSL-based, this number has been decreasing over the last few years. Over a period of one year, the number of DSL-subscriptions dropped by 143,000, while cable providers welcomed 117,000 new subscribers. The number of DSL-subscriptions thus decreased by 4 percent within one year, while the number of cable subscriptions increased by 4 percent. Fiber optic posted the strongest growth rate in the past year. The number of subscriptions based on fiber optic rose by 155,000, or 51 percent.



The rate at which fiber-optic connections are rolled out has been slowly increasing in the last few years. Between mid-2012 and mid-2013, the number of fiber-optic connections increased by more than half a million, compared with 350,000 in the same period in the previous year. On average, approximately 30 percent of available connections are actively used.



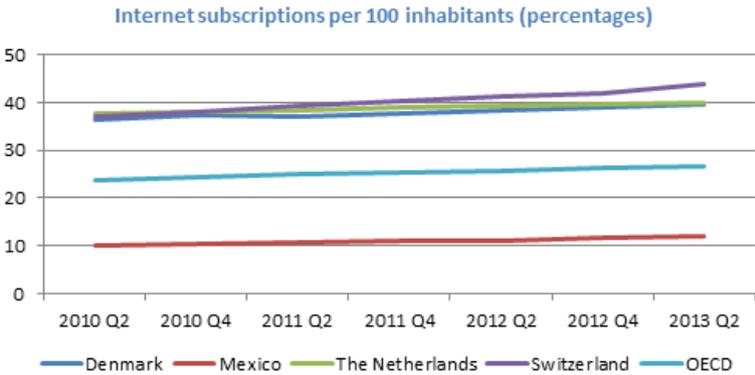
Cable and fiber-optic subscriptions are growing because, among other reasons, the higher download speeds that these infrastructures offer. In order to stay competitive with these infrastructures, KPN introduced new technologies on its copper network, making higher speeds possible. One such technology is 'vectoring'. New technologies for higher speeds on cable networks are currently under development as well. However, these new technologies are likely to be introduced in a couple of years.



As with the introduction of 4G on mobile networks, ACM expects that higher speeds on the various fixed networks may encourage innovation in services. Since multiple networks are available at a national level, and since KPN must offer its competitors access to its network, consumers will continue to have enough options.

In mid-2013, most cable and fiber-optic subscriptions had download speeds of 30 to 100 Mbps, while the DSL-subscriptions had download speeds between of 10 to 30 Mbps.

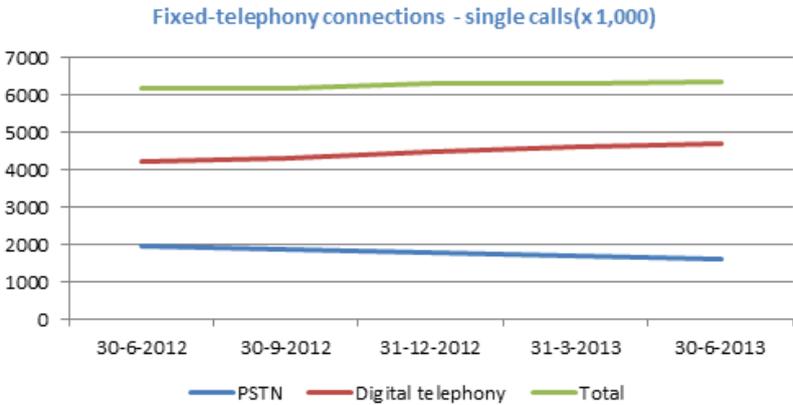
With over 40 subscriptions per 100 inhabitants, the Netherlands is ranked second on the OECD ranking list of internet subscriptions. Switzerland is ranked first, while Denmark is third. Mexico has the lowest number of internet subscriptions per 100 inhabitants.



Fixed telephony

The fixed-telephony products that are particularly popular among consumers are characterized by the fact that only one conversation can be held at a time. Popular products include analog landlines (PSTN-based) and digital telephone services (based on voice-over-broadband, VoB-1). Analog landlines are primarily offered by KPN, Pretium and Tele2. The latter two are able to do so by offering regulated wholesale line rental (WLR) connections. This means that KPN resells phone connections to these providers.

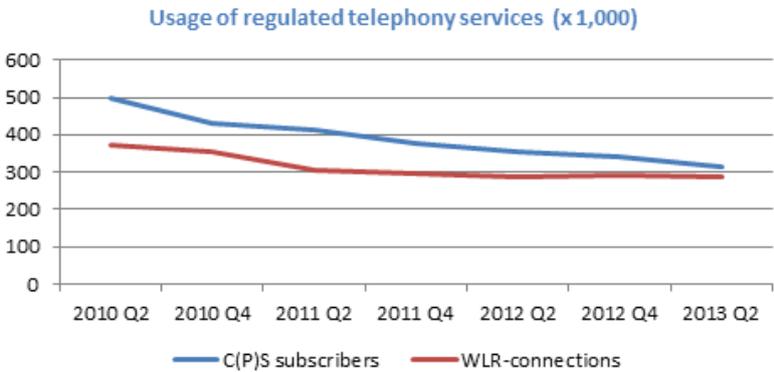
The market itself is growing because consumers increasingly opt for including digital telephony in their packages for a small markup. Compared to the same period last year, the number of connections in mid-2013 increased by 2 percent to 6.3 million. Of these connections, 4.7 million, or almost 3 in 4, were digital connections.



Since digital telephony can be added for a small markup, it is assumed that this product is primarily taken out by consumers so they can be easily reached. Users of digital telephony usually call less. In 2013, consumers with analog connections called, on average, 200 minutes per month more, while consumers with digital connections called, on average, 130 minutes more.

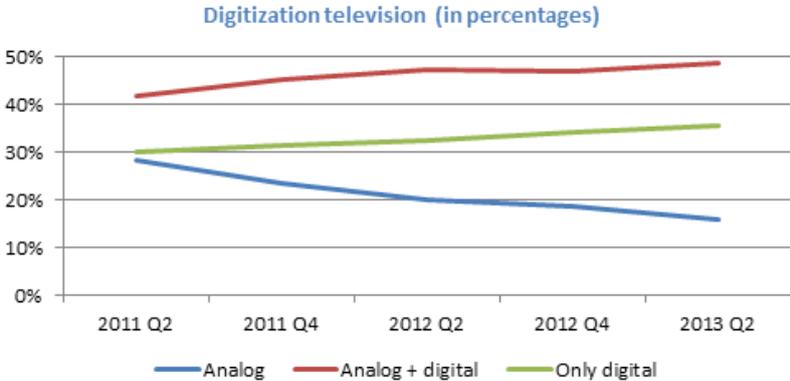
In recent years, the decrease in the number of analog connections went hand in hand with a decrease in the total number of WLR connections. However, there was an upswing last year, and the total number of WLR connections slightly increased. In mid-2013, approximately 288,000 connections based on WLR were taken out, compared with 285,000 in the same period in 2012. However, the share of consumers within that number of WLR connections dropped, and the share of businesses increased.

The number of analog telephone connections is expected to continue to decrease for the foreseeable future, according to ACM. However, ACM does not rule out the possibility that, in time, a certain share of consumers will continue to prefer analog connections.



Television

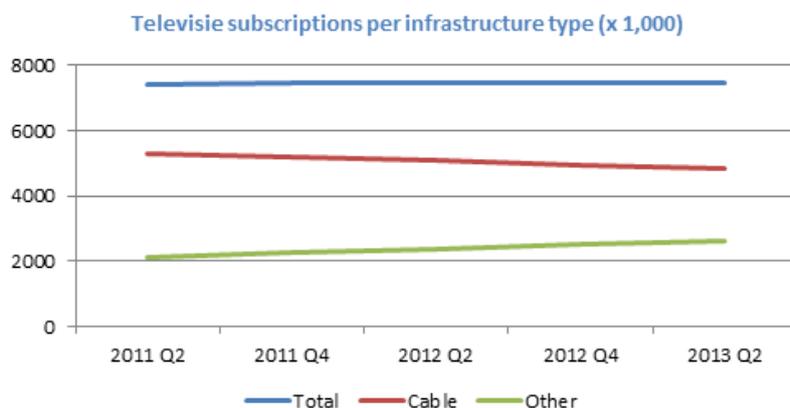
As with fixed telephony, the television market is faced with the trend of digitization. Cable providers have traditionally offered analog television. In mid-2013, more than 84 percent of the subscriptions offer digital television, which is 6 percentage points more than in the same period in the previous year. That means fewer than 1.2 million out of the 7.4 million subscriptions are purely for analog television.



Next to the 1.2 million analog television subscriptions over the cable network, more than 3.6 million households had digital cable television in mid-2013. The total number of cable television subscriptions has thus decreased from 5.1 million to 4.8 million over a one-year period.

While the use of DVB-T (Digitenne) and satellite has decreased, the number of subscribers of television over fiber optic and DSL has increased. The total number of households that have a television connection over a different infrastructure network than cable has increased with 229,000 to more than 2.6 million over a one-year period. That is an increase of 10 percent.

As television services can be offered on more and more infrastructures, and as consumers switch from cable to other infrastructures, competition is increasing in this market as well. Competition for customers is expected to intensify, according to ACM.



Television providers increasingly offer additional packages such as sports and film channels. In 2008, less than 16 percent of total turnover came from video-on-demand and additional television packages. In 2012, this share has risen to over 29 percent.

With higher download speeds now available, content providers are no longer dependent on providers of television subscriptions, as they are able to offer their services over the Internet as well. For example, Netflix became available to Dutch households in September 2013, Dutch television station RTL recently launched its streaming video-on-demand service Videoland, and it plans to join forces with Dutch public station NPO and its commercial rival SBS to create a joint platform. According to ACM, more and more television services are expected to be offered over the Internet, offering consumers more choice.

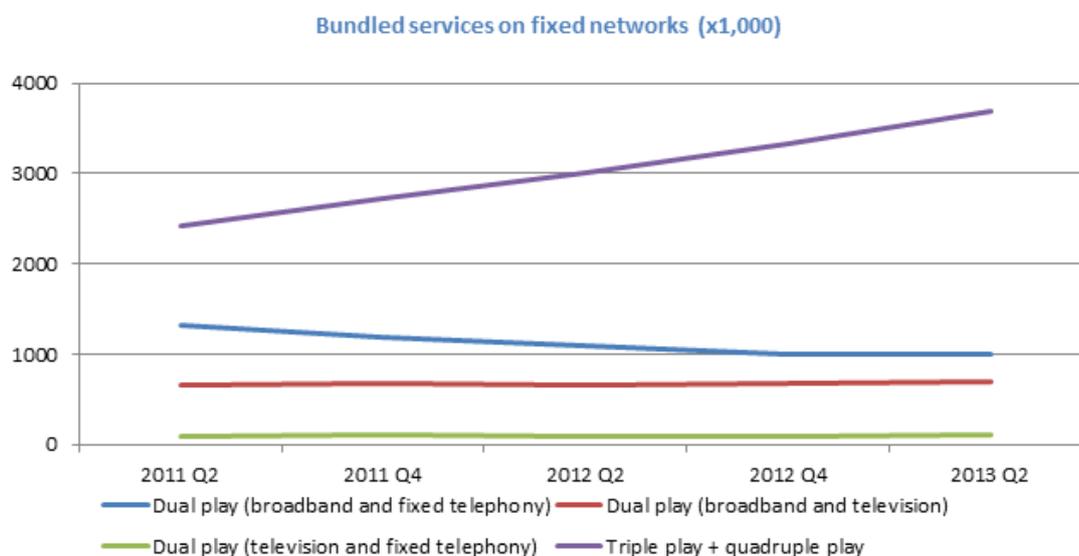
Packages

The growth of triple-play packages continued in 2013. Triple-play subscriptions combine internet, television and telephony services from a single provider. Some of the reasons why triple-play subscriptions are popular are that they are relatively cheap, and that consumers can take out all of these services from a single provider. Multiple parties are becoming active in quadruple-play packages. Quadruple-play packages add mobile services to the abovementioned three services.

In mid-2013, 72 percent of all households took out multiple services from the same provider, which are combined in a single bill. The number of subscriptions with service packages has thus increased from 4.8 million in mid-2012 to 5.5 million in mid-2013.

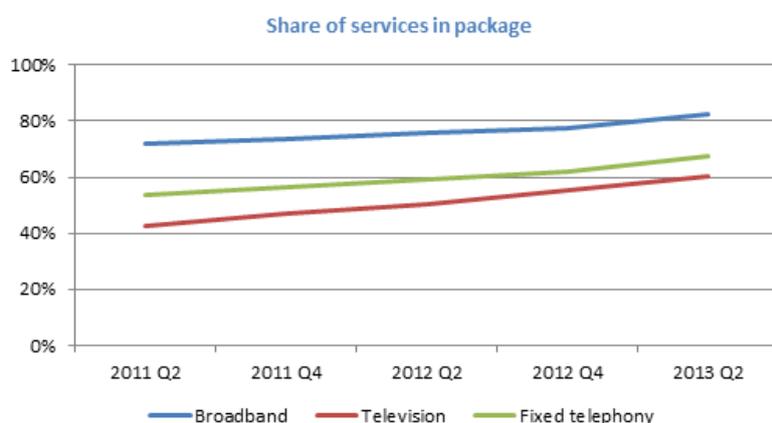
An increasing share of these subscriptions is triple play or quadruple play. By the end of the first half of 2013, there were 3.7 million of these packages. That is an increase of 693,000 over the previous year. The number of

dual-play packages with television slightly increased in that same period, while the dual-play package with broadband and fixed telephony was taken out less.



Traditionally, broadband access is mostly taken out as part of a package. This is because consumers had traditionally already been taking out television and telephony services before they were able to choose internet services. Similarly, cable providers offer their broadband products only in combination with television services. In mid-2013, more than 80 percent of broadband subscriptions were taken out as part of a package. More than 6 in 10 television subscriptions were taken out as part of a package, whereas 2 in 3 telephony subscriptions were taken out as part of a package.

The success of packages has led to the trend that, when consumers wish to switch, they usually do so for their entire package. The barriers to switch, as perceived by these consumers, are thus higher. ACM does its best to lower these barriers to switch for consumers.



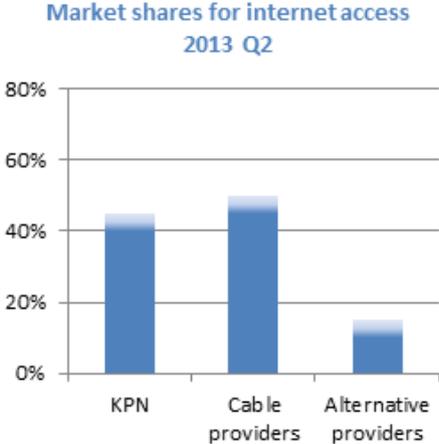
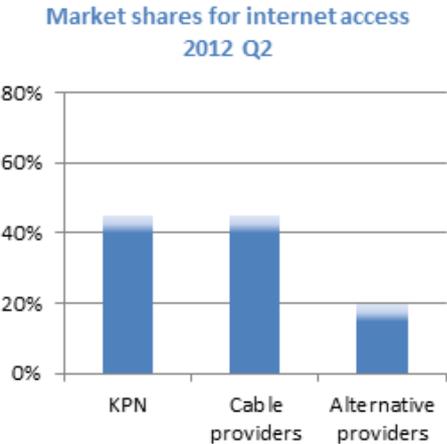
Competition in consumer markets

More and more consumers opt for taking out services as part of packages. This convergence towards packages has resulted in a convergence of the competitive positions in the different markets. Cable providers CAIW, Cogas, Delta, UPC and Ziggo have been traditionally strong in the television market. Their combined shares in

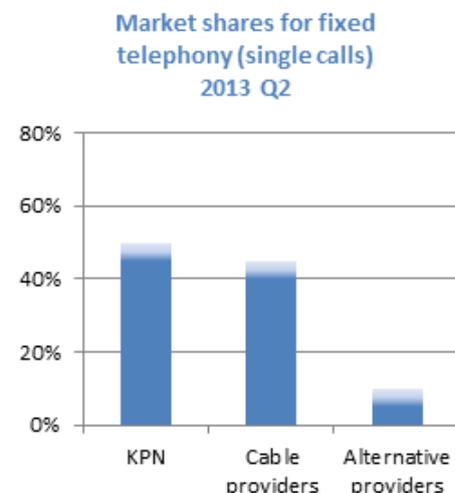
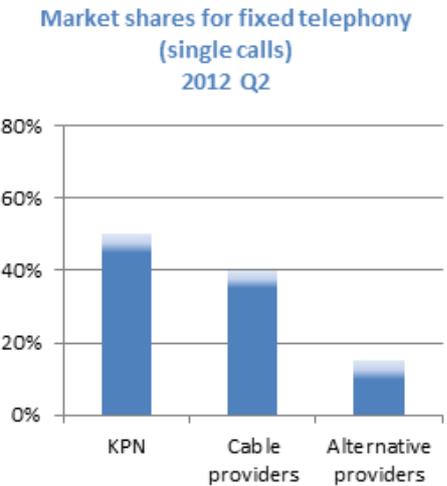
the internet access market, and the fixed telephony market for single calls have increased. At the same time, their combined market shares in the television market, and the triple-play and quadruple-play market segments have decreased.

KPN has traditionally been strong in the markets for internet access and for fixed telephony for single calls. Its share in the fixed telephony market for single calls is decreasing, while its shares in the television market and in the triple-play and quadruple-play market segments are increasing. Next to KPN and cable providers, there is a group of providers that offer their services completely or mostly over KPN’s network. As a group, these alternative providers such as Online, Pretium and Tele2 have difficulties with retaining current customers. Even though these providers have been able to grow in the fiber-optic market, that growth was not enough to offset the loss of customers on the copper network.

As previously mentioned, the combined market share of cable providers in the market for internet access is growing. In mid-2013, it grew to 45 to 50 percent. KPN’s market share was between 40 and 45 percent at that point, which was the same as in mid-2012. The combined market share of the alternative providers dropped to 10 to 15 percent.

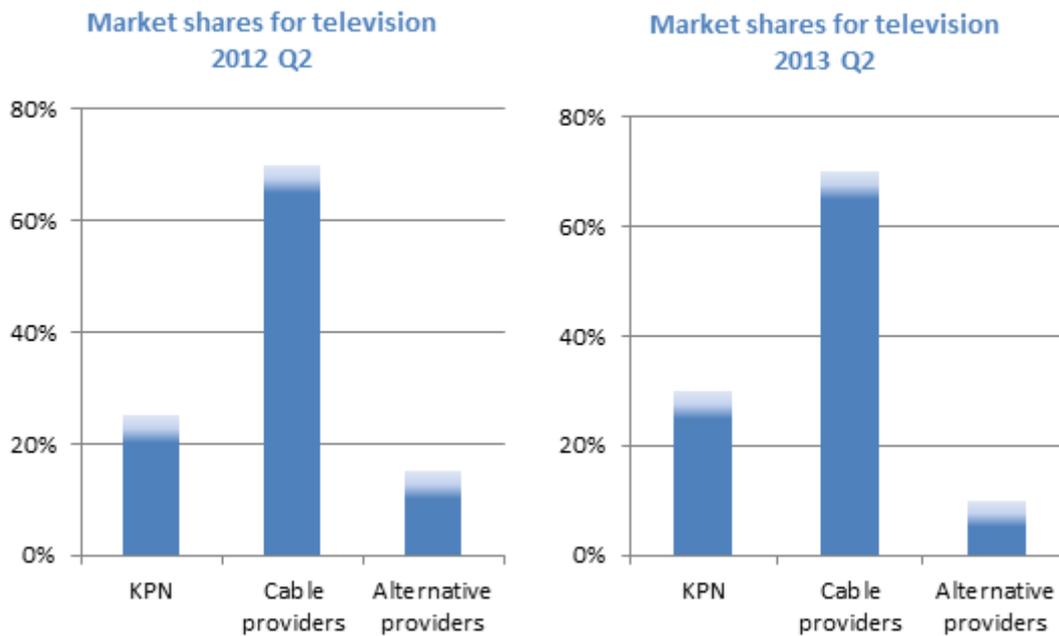


In the fixed-telephony market for single calls, the combined market share of the alternative providers dropped to 5 to 10 percent. The combined market share of cable providers, on the other hand, increased to 40 to 45 percent, while KPN’s market share remained stable at 40 to 45 percent.

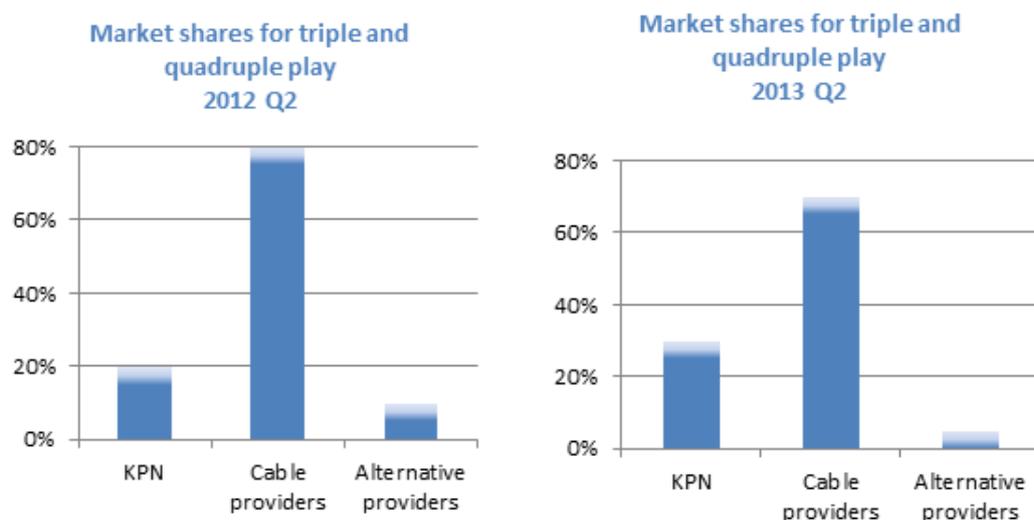


The trends in competitive positions in the television market is a mirror image of those in the internet access market. In the television market, the combined market share of the cable providers in mid-2013, like in mid-2012, was between 65 and 70 percent, while KPN's market share was between 25 and 30 percent, which is higher compared with the same period in 2012. The combined market share of the alternative providers, including CanalDigitaal, decreased from 10 to 15 percent to 5 to 10 percent.

With the increase in bandwidth, market participants are able to offer services that are similar to video-on-demand (VoD). Consumers are thus no longer dependent on the provider of their television subscription for VoD-services.



Like its market share in the television market, KPN's market share in the triple-play and quadruple-play segment has increased to 25 to 30 percent. Each of the combined market shares of the cable providers and of the alternative providers have decreased to 65 to 70 percent and 0 to 5 percent, respectively.



ACM has observed that the competitive positions of the cable providers and of KPN are converging in the different markets. This convergence is at the expense of the alternative providers. As a result, competition may decrease leading to higher prices and fewer options, according to ACM. ACM wishes to make sure there is enough competition, leaving consumers with enough options.

Business services

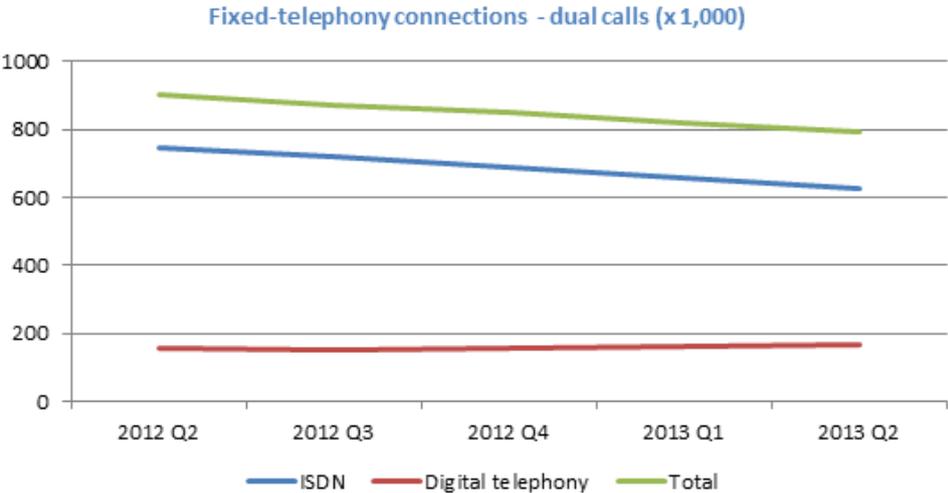
For secure, internal data and telephone communication between different locations, companies use business network services. Providers are phasing out leased lines, and are increasingly opting for virtual private networks (VPNs). For telephony services, users are opting for ISDN2-based services less and less.

Fixed telephony

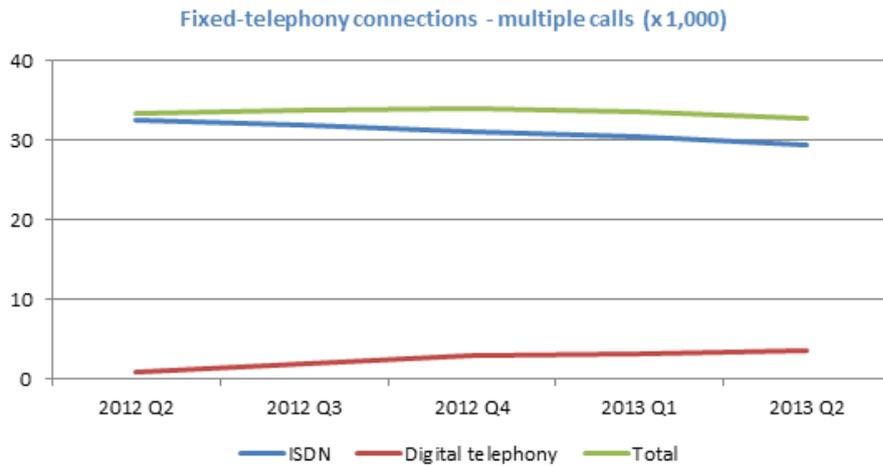
Fixed-telephony products for business users are characterized by the capability of holding two or more conversations simultaneously. This is less the case with telephony products for consumers. Examples of such business products are ISDN in different forms (ISDN1, ISDN2, ISDN15, ISDN20 and ISDN30, possibly stacked) and the digital counterpart (VoB-2 and VoB-multiple).

The dual-call market had traditionally been dominated by ISDN. In mid-2013, 79 percent of connections were ISDN-based, while a year before, that percentage was 83 percent. The number of ISDN-connections decreased in that period from 746,000 to 628,000. The increase in the number of digital connections is significantly lower. Over a period of one year, that number increased by 12,000 to 166,000.

ACM suspects that business users that cancel their ISDN-connections more and more often choose not to replace them. ACM additionally suspects that users that use an ISDN-connection for different locations replace this connection with an integrated solution, which telephony services are just one part of.



The number of ISDN-connections has decreased in the market for simultaneous calls. This decrease is less marked than with ISDN2. Between June 2012 and June 2013, the number of connections decreased by 4,000 to 29,000. The number of digital connections increased with over 2,000 connections in that same period.

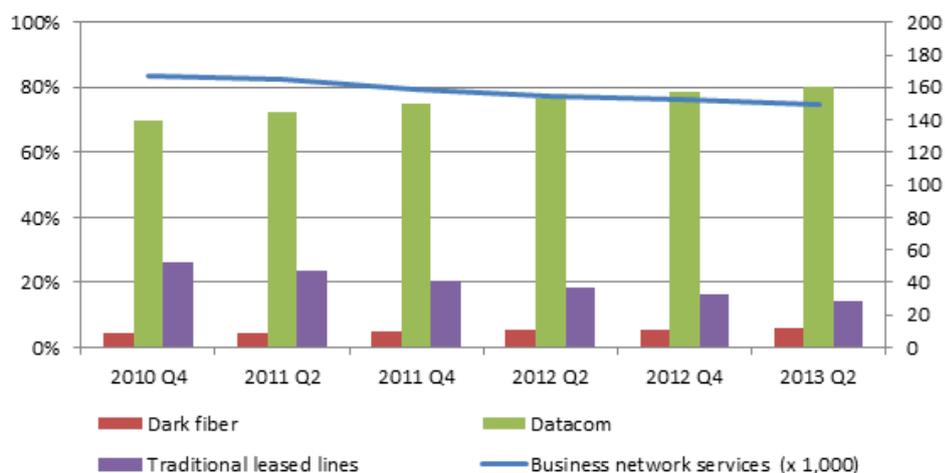


Business network services

For secure communication between different locations, companies use business network services, such as leased lines, virtual private networks (VPNs), and ‘bare’ fiber connections (dark fiber). Companies these days often choose VPNs. These services are cheaper than leased lines because of, among other reasons, the use of cheaper IP and Ethernet technologies. An added benefit is that network management comes with the VPN service, resulting in lower IT expenses for companies. All locations can have access to the VPN service. This also applies to home offices.

Larger companies sometimes choose to manage their networks themselves, which gives them more control over the quality thereof. In that case, they take out a ‘bare’ fiber optic connection (dark fiber), and install their own network service themselves.

The total number of business network services has decreased in the last few years. In mid-2012, there were over 154,000 of these services, whereas in mid-2013, there were fewer than 150,000. One of the reasons behind this decrease is the fact that multiple copper connections are replaced with a single fiber-optic connection.



Competition in business markets

Because of long-term contracts, the playing field in these markets changes less frequently than that in the consumer markets. More so than in the consumer markets, KPN faces competition from alternative providers, which compete partially on the basis of their access to KPN's network. That is in part because there are hardly any cable networks in business parks.

In mid-2012 and in mid-2013, KPN had a market share of 85 to 90 percent in the fixed-telephony market for dual calls. Cable providers and alternative providers each had a combined market share of 5 to 10 percent in this market.

The dynamics and the competitive positions in the large-business segment, the fixed-telephony market for multiple calls, are different. In this market, KPN faces more competition from alternative providers. Within one year, alternative providers have grown from 25 to 30 percent to 30 to 35 percent, while cable providers have a combined market share of 5 to 10 percent. In mid-2012 and in mid-2013, KPN had a market share of 55 to 60 percent. Furthermore, ACM observed an increase in the number of digital connections last year. These have not yet been added to the market.

More so than in the fixed telephony market for multiple calls, KPN has been able to maintain its position in the market for business network services. Its market share remained stable between 60 and 65 percent in 2013, just like the year before. KPN faces strong competition from Eurofiber, Tele2 and Vodafone.

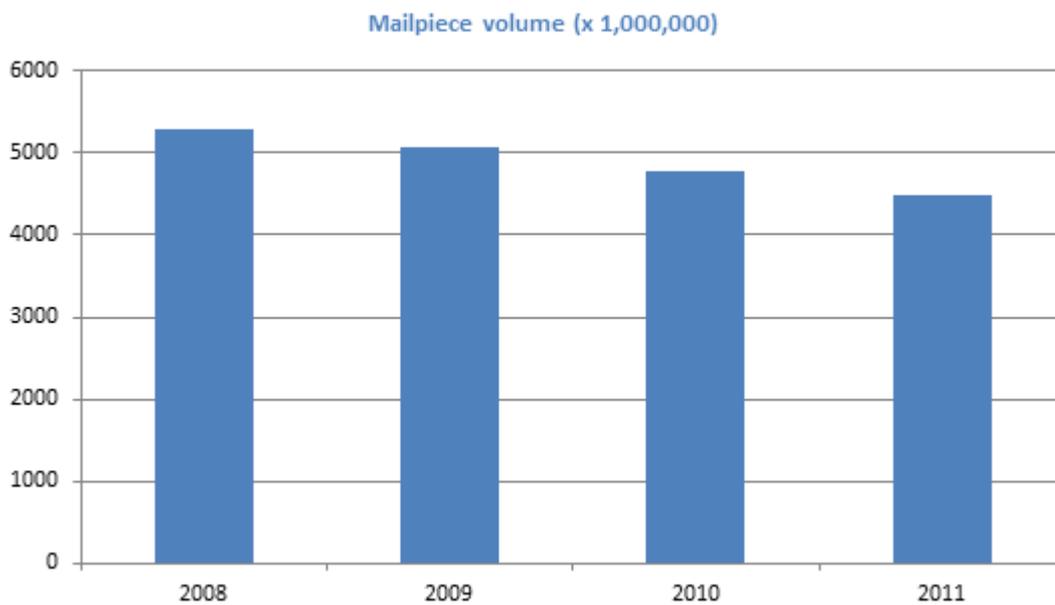
While the competitive positions of KPN and the joint cable providers are converging in the consumer markets, KPN's position in the business market is substantially stronger. ACM believes that more competition is needed in these markets, and takes action by imposing stricter obligations on KPN in these markets than in other markets.

7.2 Postal services

ACM publishes an annual monitor about the postal services market.

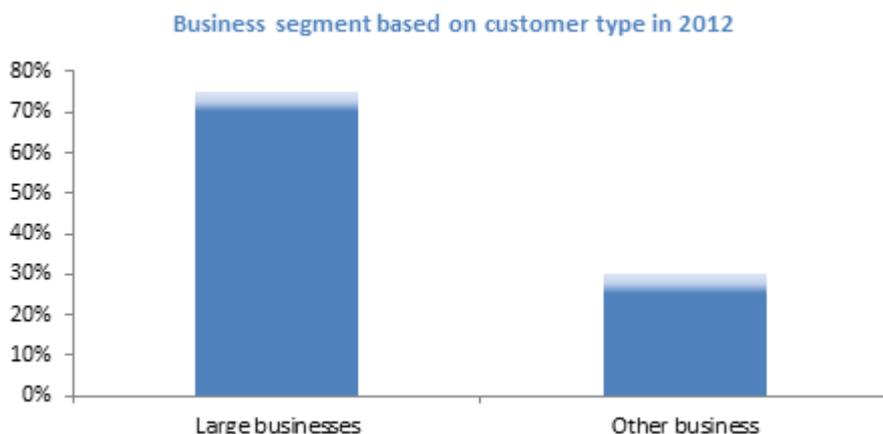
7.2.1 Number of mailpieces and turnover

The most recent year of which public data is available about total number of mailpieces and turnover is 2011. In that year, approximately 4.5 billion addressed mailpieces were delivered in the Netherlands. Turnover in the postal services market was roughly EUR 1.5 billion.

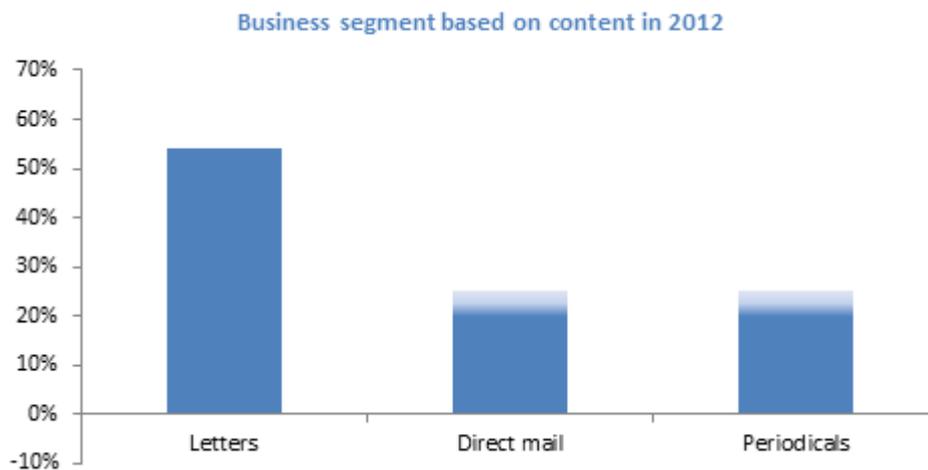


7.2.2 Business and consumer letter-size mail

For the different segments in the postal services market, public data is available through 2012. In that year, consumers accounted for a relatively small share of all letter-size mail, sending approximately 297 million pieces. Approximately 70 to 75 percent of business mail is sent by large-business customers. These are businesses that send at least 1 million parcels per year. The remaining 25 to 30 percent is sent by other business customers.



Fifty-four percent of the letter-size mail that business customers send are letters. About 20 to 250 percent is direct mail, addressed promotional mail, and 20 to 25 percent are periodicals, such as magazines and papers.



7.2.3 Delivery times of mailpieces

Approximately 35 percent of all letter-size mail is offered to be delivered the next day. A shift can be observed towards longer delivery times. This may be an indication of postal services users becoming increasingly critical of delivery costs, and making more conscious choices about how fast their mail should be delivered. ACM believes this stimulates competition. In 2012, about 21 percent was offered to be delivered two days later, and 45 percent was offered to be delivered three days later.

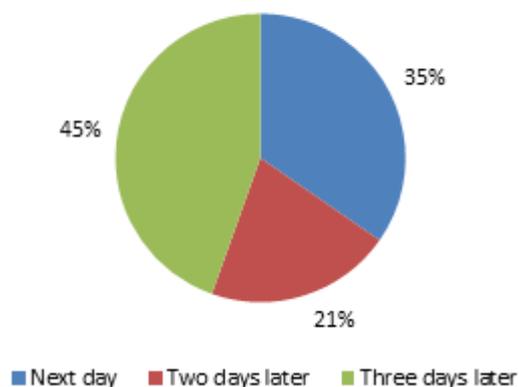
Letters are mostly offered to be delivered the next day. Periodicals are mostly offered to be delivered two or three days later. Direct mail is mostly offered to be delivered three days later.

7.2.4 Sorted or unsorted mail

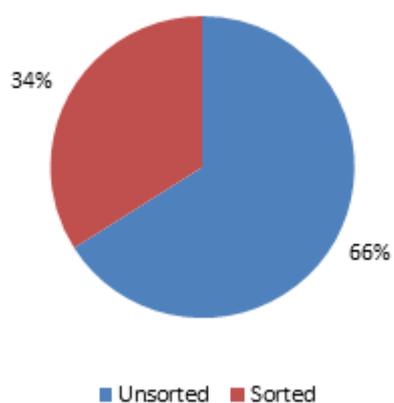
The majority of business mail, approximately 66 percent, is offered unsorted by the sender. The remaining 34 percent is offered pre-sorted. The share of pre-sorted mail that is offered has slightly increased in recent years. This may be an indication of postal services users becoming increasingly critical of delivery costs, and making more conscious choices about how they offer their mail. ACM believes that this trend stimulates competition.

Virtually all letters are offered unsorted, while all periodicals are offered sorted. The volume of direct mail that is offered sorted slightly increased in 2012 compared with 2011. In recent years, the majority of the volume was still offered unsorted, but in 2012 more than half was offered sorted.

Business segment based on delivery in 2012



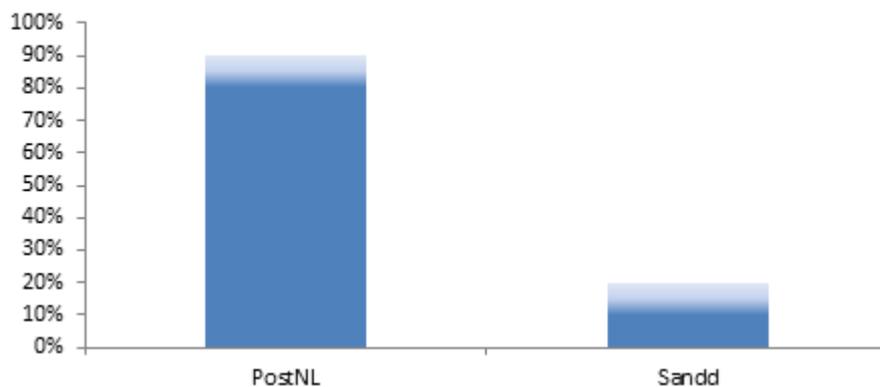
Business segment based on sortation in 2012



7.2.5 Competition

With a market share of 80 to 90 percent, PostNL continued to be the largest mail company in 2012. That share is the same as in previous years. With a market share of 10 to 20 percent, Sandd is its largest competitor.

Market shares for post as of 2012



Like in previous years, competition can be mainly observed in mailpieces that are offered sorted, and mailpieces that are offered to be delivered three days later.

7.3 Energy

ACM keeps a close watch on the trends in the markets for electricity and natural gas. ACM is thus able to identify any bottlenecks, and take appropriate action to stimulate competition. Every year, ACM publishes a consumer market monitor, as well as a wholesale market monitor. In addition, ACM measures consumer confidence in the energy markets, for example with regard to switching.

7.3.1 Wholesale market monitor

In 2013, ACM released its 2012 liquidity report on the liquidity in the wholesale markets for natural gas and electricity. ACM concluded that the wholesale market for natural gas continued to develop successfully, as it posted another increase in trading volumes and liquidity. The electricity market painted a different picture: trading volumes increased in 2012, whereas liquidity decreased.

Liquidity

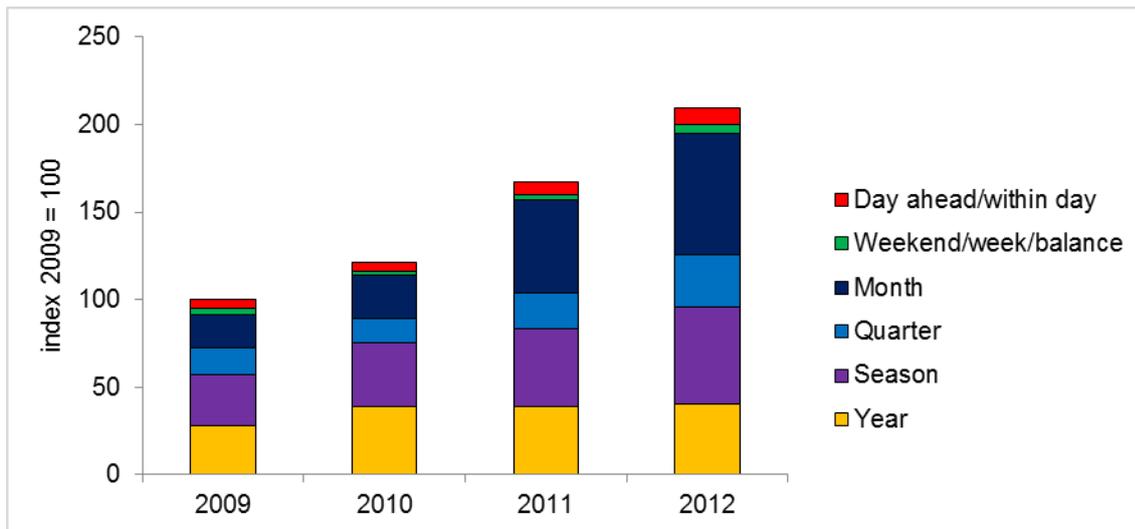
A higher level of liquidity means that more buyers and sellers are active in the market. Previously, a considerable amount of energy was directly traded between producer and supplier. Today, energy is increasingly traded on trading hubs where multiple producers and sellers are active. This has a positive effect on prices, from which consumers ultimately benefit. ACM continues to work towards further market integration with neighboring countries. Market integration leads to increased supply and demand on the trading hubs, and thus to higher levels of liquidity. Harmonization of sustainable-energy policies is critical in order to achieve this goal.

Natural-gas wholesale market

For years now, trading volumes and liquidity levels on the wholesale market for natural gas have continuously increased. The share of monthly contracts in the total volume has significantly increased, while volumes traded through standard annual contracts has remained reasonably stable. Across the board, liquidity levels have improved.

Increase in short-term contracts

Increased trading volumes and liquidity levels in contracts with durations of one year or shorter are a positive development. Energy suppliers with short-term contracts are better able to anticipate factors that affect end-user demand such as the weather. This stimulates competition on the Dutch natural-gas market. With the increase in liquidity levels, the confidence in the energy market has risen too. At trading hubs, energy suppliers are able to buy additional gas relatively fast if so needed. It is therefore not always necessary anymore to take out long-term contracts. Generally speaking, long-term contracts are more expensive for end-users.



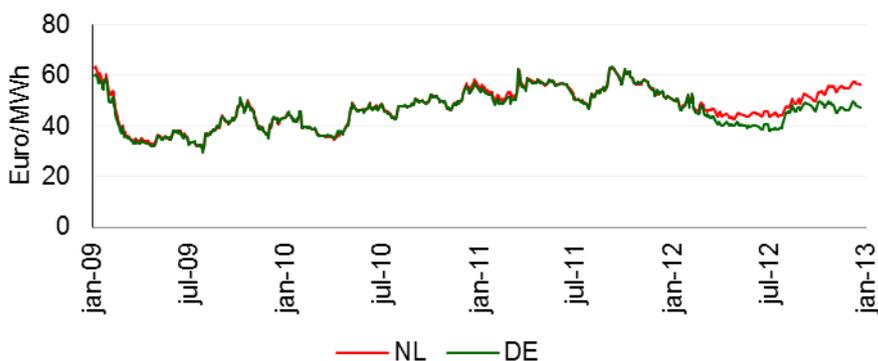
Electricity wholesale market

Trading volumes and liquidity levels on the electricity wholesale market vary each year. In 2012, trading volumes clearly increased, following the drop in 2011. However, liquidity levels of short-term contracts have decreased because of scarce capacity on the transconnectors with Germany. The Netherlands imports a lot of energy from Germany, because many Dutch energy plants are fueled with relatively expensive natural gas. In Germany, energy is generated from cheaper coal power plants and subsidized wind turbines. The Netherlands can benefit from these lower prices in Germany and Norway, but this has not yet been fully realized because of the scarcity on the interconnectors.

German wholesale price is lower

The German wholesale energy price is lower than prices in the Netherlands. German wholesale prices are subsidized. These subsidies in Germany are passed on to consumers, which means that the German consumers' energy bill is higher than that of Dutch consumers.

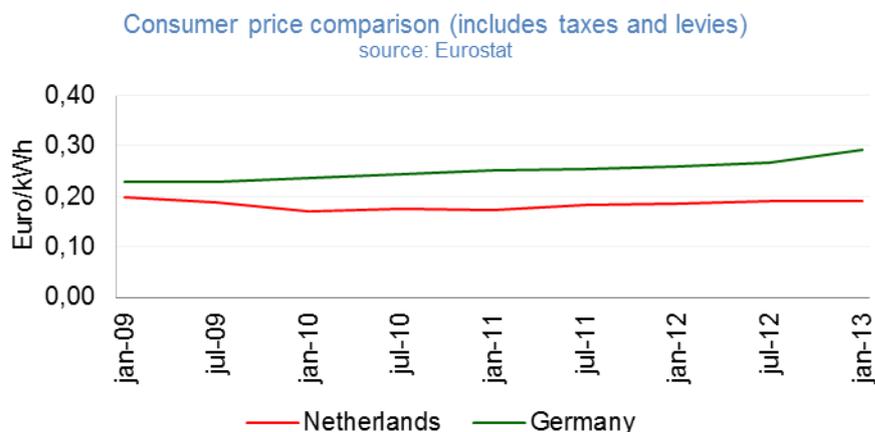
Wholesale price comparison of month-ahead contracts
source: Bloomberg



European capacity

Sustainable energy is generated in many European countries. One of the drawbacks of wind and solar power is that they are difficult to predict. That is why countries must have capacity (plants) available for the times when not enough sustainable energy is generated. Countries compensate energy suppliers for keeping capacity

available. ACM aims to make arrangements at a European level about keeping capacity available. If every country were required to keep its capacity available, it would be less efficient.



7.3.2 Smart Meter

By order of the Dutch Ministry of Economic Affairs, ACM reports on the rollout of the smart meter. In early-2012, the rollout of the smart energy meter was launched on a small scale. This is the first phase of the rollout process of equipping every small-scale user in the Netherlands with a smart meter. The Minister of Economic Affairs is expected to consult with the Dutch House of Representatives in early-2014 about the pace of the meter's introduction.

Limited availability of energy-saving services

ACM not only looks at how network operators and suppliers carry out their statutory tasks, but also makes suggestions for improvement that should lead to a bigger selection of energy-saving services for consumers. Consumers are not making full use of the smart meter yet. Smart meters offer more insight into one's energy consumption, allowing consumers to realize savings on their energy bill. At this point, consumers have little to choose from when it comes to energy-saving services that can offer such insight. In the long run, that lack of services may pose a risk to the success of the smart meter. After all, smart meter do not save energy, but offer the opportunity to gain more insight. Energy-saving services that use the reading data of the smart meter are essential to that end.

Rollout of smart meter is progressing well

ACM has followed the introduction because the introduction must be realized in an efficient and consumer-friendly way. ACM wishes to identify and solve any obstacles in a timely manner. In general, the introduction of the smart meter by the regional network operators is progressing well. Consumers are satisfied with the way the smart meters are installed.

Smart meter monitor is public

In late-2013, ACM sent the monitor report to the Minister of Economic Affairs. The Minister sent the report to the Dutch House of Representatives. In early-2014, the report was published. ACM published [its first monitor report](#) about the smart meter in 2012.

7.3.3 Consumer market

ACM publishes the 'Trend Report on Competition and Consumer Confidence in the Energy Market' twice a year. This report paints a picture of the trends of a number of key characteristics of the consumer energy market. It outlines consumer behavior and the energy consumer market. In addition, it gives an overview of the market through graphs and data about demand, prices, concentration, switching behavior, satisfaction and consumer confidence, and the number of indications received by consumer information portal ConsuWijzer.

In 2013, ACM released the ['Trend report for the second half of 2012'](#) and the ['Trend report on the first half of 2013'](#).

7.4 Financial Sector

The Financial Sector Monitor (MFS) consists of a research team within ACM that carries out economic research into competition in the financial and finance-related industries on a permanent basis. ACM looks into markets that are not functioning well or where competition has deteriorated. Such actions could follow indications received from consumers, businesses, other regulators, or ministries.

More insight into competition in the mortgage market

ACM carried out a [market study](#) into competition in the Dutch mortgage market. The study revealed that, since the outbreak of the financial crisis, profit margins on mortgages have increased. So far, no indications have been found about possible cartels in the mortgage market. However, ACM has observed a more cautious attitude among mortgage providers as a result of the ever stricter requirements imposed on banks by regulators. Banks have indicated that they are forced to increase margins on new mortgages considerably in order to improve their balance sheets.

Follow-up study

Furthermore, the study revealed that hardly any new entrants have entered the market in recent years. A follow-up study should make clear why so few do, and how entry can be stimulated.

Opinion on National Mortgage Institution

In 2013, the Dutch government commissioned a study into the creation of the National Mortgage Institution (NHI). ACM [examined](#) what effects the creation of the NHI would have on competition in the banking industry. The study revealed that the benefits of the NHI would predominantly be reaped by the existing major banks, and that, in the long run, competition in the banking industry could decrease. Reduced competition could lead to higher mortgage interest rates, and possibly to lower savings interest rates. The Minister of Finance and the Minister for Housing and the Central Government Sector have responded to ACM's opinion. They said they would take into consideration the competitive aspects in the creation process of the NHI, and that they would adjust the plans.

'Underwater' mortgages do not result in higher interest rates for homeowners

Following indications from consumer organizations, intermediaries, and moneylenders, ACM conducted an [investigation](#) into switching problems that consumers face that have mortgages that do not meet the loan criteria. Homeowners with reduced incomes or with mortgages that are 'underwater' are often bound to their current banks. Switching banks is usually not possible because the new bank refuses the potential switcher. ACM has found that, in such situations, homeowners are not worse off with their current bank. ACM calls on banks to be clearer about what refinancing options such homeowners have. The Dutch Banking Association (NVB) has answered that call.

7.5 Rail

In 2013, a new rail monitor was started, which will be published in early-2014. The monitor provides insight into the satisfaction levels of all rail users, and into the efforts and services of rail infrastructure managers. ACM has asked the opinions of customers of the managers, the shippers, and freight and passenger rail transport companies.

The monitor covers aspects such as access to the Dutch rail network, capacity allocation, the infrastructure charge that rail companies pay the infrastructure managers, and quality levels of, for example, waiting and walking areas (do riders have enough room on the platforms?), and the quality of travel information.

8 Key figures

By publishing these key figures, ACM offers insight into its activities it carried out in 2013, in a transparent and quantifiable way, for example detecting and fining cartels, issuing rulings on mergers and acquisitions, and taking decisions in energy, telecommunication, postal services, and transport cases.

8.1 Objections and appeals

| Objections | | Consumer protection | Energy | Competition | Telecom & Post | Transport |
|---|-------------------|---------------------|--------|-------------|----------------|-----------|
| Number of resolved objections against decisions (fining or otherwise) | Founded | | 1 | 2 | | |
| | Unfounded | 2 | 74 | 4 | 6 | |
| | Withdrawn | | 6 | | 6 | 1 |
| | Inadmissible | | 17 | | 2 | |
| | Direct appeal | 3 | 1 | 2 | 4 | 2 |
| | Partially allowed | | | 2 | 1 | |
| Total number of resolved objections | | 5 | 99 | 10 | 19 | 3 |
| % of decisions on objection against decisions (sanction or otherwise) within lead-time target | | 0% | 23% | 30% | 71% | 100% |
| % of decisions on objection Telecom within lead-time target | | | | | | |

| Appeals | | Consumer protection | Energy | Competition | Telecom & Post | Transport |
|---|--------------|---------------------|--------|-------------|----------------|-----------|
| Number of resolved appeals | Founded | 2 | 15 | 4 | 5 | 3 |
| | Unfounded | 10 | 36 | 6 | 2 | |
| | Withdrawn | | 11 | 1 | 3 | |
| | Inadmissible | | 4 | 1 | 1 | |
| Number of resolved appeals to a higher court* | Founded | | | 4 | 11 | |
| | Unfounded | 1 | | 3 | 6 | |
| | Withdrawn | 1 | | 5 | 8 | 1 |
| | Inadmissible | | | | 2 | |
| Total number of resolved appeals (including higher appeals) | | 14 | 66 | 24 | 38 | 4 |
| Number of resolved provisional injunctions | | 1 | | 2 | 11 | |

*This should be interpreted as: appeal was considered founded or unfounded against ACM's decision

ACM did not always meet its internal lead-time targets. This was often due to conflicts with other procedures inside or outside of ACM. In most cases, ACM and parties maintain direct contact with each other, and ACM announces when a decision can be expected. These deadlines are then met.

8.2 Concentrations

| | | |
|---|--|----|
| Concentrations (Competition Department) | Proceeds of notifications and licenses | |
| | Notifications of mergers, acquisitions and joint ventures (concentrations) | 91 |
| | Concentration notifications that did not have to be notified | |
| | Withdrawn notifications | 8 |
| | Exemption from the waiting period | 2 |
| | Decisions on notifications of concentrations | 85 |
| | License required for concentration | 2 |
| | License applications | 2 |
| | License applications withdrawn | |
| | Decisions on license applications | 2 |

8.3 Detection and investigations

| Detection | | Consumer protection | Energy | Competition | Telecom & Post | Transport |
|---|-----------|----------------------------|---------------|--------------------|---------------------------|------------------|
| Number of resolved requests/complaints | | | | 7 | 3 | 5 |
| Number of resolved indications of data leaks | | 211 | | | | |
| Number of European requests for information regarding consumer protection | sent | - | | | | |
| | received | 6 | | | | |
| | completed | 9 | | | | |
| Number of enforcement requests | sent | 3 | | | | |
| | received | 8 | | | | |
| | completed | 14 | | | | |

ACM in 2013 received in total 211 indications of data leaks. In 16 percent of these cases (34), it turned out there was no violation. In 38 percent of these cases (67), the company in question informed its customers. In 45 percent of these cases (79), it concerned personal information that was encrypted.

With regard to consumer protection, ACM in 2013 received in total 14 requests, and it completed 23 requests. The difference between these figures is the fact that ACM also completed requests in 2013 that were received before 2013.

| Interventions | |
|----------------------|----|
| Energy disputes | 13 |
| Telecom disputes | 8 |

| Investigations | Consumer protection | Energy | Competition | Telecom & Post | Transport |
|--|----------------------------|---------------|--------------------|---------------------------|------------------|
| Number of investigations launched | 74 | 13 | 8 | 6 | 4 |
| Number of investigations completed by way of a statement of objections | 3 | 1 | 1 | | |
| Number of investigations completed by way of an order subject to periodic penalty payments without a statement of objections | 2 | | | 1 | |
| Number of investigations completed by way of another instrument | 71 | 12 | 2 | | 5 |
| Number of investigations suspended without any intervention | 2 | | 1 | | 1 |

The table states that, under consumer protection, 71 investigations were completed by way of another instrument. These concerned requests for information and dawn raids.

8.4 Sanctions

| | Consumer protection | Energy | Competition | Telecom & Post | Transport |
|--|----------------------------|---------------|--------------------|---------------------------|------------------|
| Fine (in millions of euros) | 0.4 | | 12.6 | 2 | |
| Number of cases in which a fine was imposed | 2 | | 7 | 6 | |
| Number of times that undertakings were fined | 2 | | 84 | 6 | |
| Number of fines imposed on de facto executives | | | 13 | 2 | |

8.5 HR

The below HR key figures relate to the period of April 1 – December 31, 2013. These key figures do not include any data of ACM's predecessors, the NMa, OPTA and the CA.

| Personnel expenditures | 2013 (x €1000) | |
|-------------------------------|-------------------|--|
| Salary costs | 29,978,407 | |
| Average salary | 77,782 | based on utilization rate on 31 Dec 2013 |
| Other personnel expenditures | 2,866,009 | |

| Employee utilization rate | FTE | % men | % women |
|----------------------------------|-----|-------|---------|
| 1 April 2013 | 506 | 51.4 | 48.6 |
| 31 December 2013 | 495 | 51.3 | 48.7 |

| Inflow and outflow | men | women | total |
|---------------------------|-----|-------|-------|
| Inflow | 4 | 5 | 9 |
| Outflow | 10 | 9 | 19 |

| Age structure of staff on 31 Dec 2013 | total |
|--|------------|
| 24 years and younger | 2 |
| 25 through 34 years | 126 |
| 35 through 44 years | 223 |
| 45 through 54 years | 116 |
| 55 through 59 years | 37 |
| 60 years and older | 20 |
| Total | 524 |

| Absenteeism | Verbaan rate* | 2013 |
|--------------------|---------------|------|
| Absentee rate | 3.4% | 4.4% |

* 'Verbaan' rate = the average absentee rate for similar professions

| Education and employee development | |
|---|----|
| Number of organized training courses | 65 |

8.6 Organization

| | Number |
|--|---------------|
| Complaints against ACM employees | 7 |
| Number of completed Wob-requests* | 57 |
| Number of completed Wob-requests on objection and appeal | 11 |
| Defaults | 5 |
| Number of allowed periodic penalty payments | 1 |

* Wob = Dutch Act on Public Access to Government Information

8.7 Indications received from consumers and businesses

ConsuWijzer

ACM's consumer information portal ConsuWijzer in 2013 received 71,932 questions and complaints from consumers.

| Indications | Total |
|--------------------|---------------|
| Telephone | 43,256 |
| Email | 27,954 |
| Letter | 722 |
| Total | 71,932 |

Several lists can be found below: the five most used sales channels that businesses used to offer their products and services to consumers, the five sectors that consumers in 2013 dealt with the most, based on the indications received, and the five most named topics, based on the indications received.

| Sales channel | Total |
|------------------------------------|--------------|
| Telephone | 10,880 |
| Internet | 10,288 |
| Shop (including markets) | 8,530 |
| Mail order | 1,718 |
| Door-to-door / Sales demonstration | 1,002 |

The five sales channels that generated the most indications were telephone, internet, and shops (brick and mortar). A lot of indications concerned electronically-signed agreements. This is in line with the steady growth in the number of online shops and in their turnover figures. A considerable share of these indications concern delivery times and purchasing issues, for example late deliveries or non-delivery of purchased products.

With regard to the sales channel 'telephone,' the indications received predominantly concern telemarketing activities such as consumers being called by businesses despite their being registered in the Do-Not-Call-Me Register.

| Sector | Total |
|-------------------------------------|--------------|
| Telecom | 7,544 |
| Energy | 4,069 |
| Electronics and domestic appliances | 3,918 |
| Travel agencies | 2,692 |
| Home decor retailing | 2,350 |

Most indications concern telecom and energy. Approximately 10 percent of all indications received by ConsuWijzer concern telecom companies, for example about their customer-recruitment methods, selling methods, and about unclear bills. The same applies to the indications received concerning energy companies.

From electronics and domestic appliances, we can see that consumers face uncertainty about their warranty rights with regard to laptops, smartphones and televisions.

| Topic / nature of complaint | Total |
|--|--------------|
| Faulty product/service and warranty | 14,090 |
| Advertising, customer recruitment, and selling methods | 11,022 |
| Bills and payments | 6,808 |
| Questions about legislation, competition and privacy | 5,577 |
| Termination and cancellation of contracts | 4,527 |

About one in five indications received by ConsuWijzer in 2013 concerned faulty products/services and warranty. Consumers continue to experience warranty and conformity regulations as complicated. ACM continuously focuses on high-quality consumer education on ConsuWijzer about this topic. This topic is also reflected indirectly in one of ACM's key priorities for 2014: 'online consumers'.

The number of indications concerning advertisements and customer recruitment also catches ACM's attention. Most indications relate to aggressive customer-recruitment methods that businesses use. Examples of aggressive selling methods include involuntarily transferring consumers to another provider, unsolicited shipments of products, sending spam, and calling consumers that are registered in the Do-Not-Call-Me Register.

The number three in the list is the category 'bills and payments'. Most of the indications within this category concern situations where consumers say that their bills are incorrect. The majority of these indications relates to the telecom and energy sectors.

The other topics concern questions about changes to legislation and/or upcoming laws. With regard to termination and cancellation of contracts, consumers often face difficulties when cancelling a long-term contract.

Indications submitted by businesses

Since the launch of ACM, indications submitted by businesses for the purpose of ACM's oversight duties are centrally registered and processed. In 2013, 2,921 indications were received. The top 3 categories are listed below. The category with the most indications was Telecom and Internet. Most indications in this category concerned business telephony services.

| Top 3 indications | Total |
|--------------------------|--------------|
| Telecom and internet | 737 |
| Competition | 569 |
| Energy | 501 |

Businesses are able to find ACM better and better with regard to competition issues. Most indications concern competition and markets.

Fueled by the introduction of the Dutch Heat Act, the number of indications about energy increased in the final months of 2013. Buyers submit their indications to ACM about the practical implementation of the Heat Act by heat suppliers, and what consequences it has for them.

Spam complaints board Spamklacht

ACM oversees compliance with spam regulations. On the website of spam complaints board www.spamklacht.nl, consumers are able to file complaints about spam. In 2013, ACM received 16,856 spam-related complaints.

| Indications to spam complaints board | Total |
|---|---------------|
| Email | 15,473 |
| Text messages | 688 |
| Fax | 50 |
| Phone | 294 |
| Social media | 53 |
| Other | 298 |
| Total | 16,856 |

Customer satisfaction of websites of ACM and ConsuWijzer

| Customer satisfaction (on a scale from 1 to 10) | |
|--|-----|
| ACM | 6.7 |
| ConsuWijzer | 7.3 |

Consumers have indicated they are satisfied with ConsuWijzer. Customer satisfaction is higher in case of contact over the phone than over email. The mark for ACM is a solid start given the new website.

8.8 Numbers and registrations

In 2013, ACM carried out various preventative actions for the purpose of enforcement such as education about and verifying indications about maximum tariffs, various actions against number abuse, education about number portability, education about and verification of registration and turnover-related contribution of market participants.

| Number of assigned and withdrawn numbers | Assigned | Withdrawn |
|---|------------------|------------------|
| 0800 | 675 | 877 |
| 0900 | 568 | 1028 |
| 0906 | 128 | 883 |
| 0909 | 108 | 459 |
| Business numbers | 278,301 | 45,200 |
| Other numbers | 3,934,047 | 1,092,034 |
| Total | 4,213,827 | 1,140,481 |

| Number series | % available numbers |
|---|----------------------------|
| Short 0900-numbers | 40.4% |
| Short 0800/0906/0909-numbers | 79.1% |
| Long 0800/0900/0906/0909-numbers | 98.1% |
| Mobile numbers | 10.0% |
| Carrier selection (4 digits) | 49.0% |
| Business numbers | 71.3% |
| 18xy – subscriber information service numbers | 54.6% |

Approximately 10 percent of all assigned 06-numbers is still available. However, this situation does not necessarily lead to scarcity. There are two 06-series (060 and 069) left that have not yet been released for mobile telephony. This would require an amendment to the number plan.

| Electronic communication | As of | registrations | | As of |
|---|----------|---------------|------------|------------|
| | 1-1-2013 | new | terminated | 31-12-2013 |
| Provider of a public electronic communication network | 480 | 291* | 40 | 731 |
| Provider of a public electronic communication service | 555 | 117 | 64 | 608 |
| Provider of related facilities | 19 | 6 | 1 | 24 |
| Provider of qualified certificates | 7 | 0 | 0 | 7 |

*This includes 237 registrations of Netwerk Exploitatie Maatschappijen

A provider may be found in the register as a provider of a public electronic communication network, public electronic communication service and/or related facility.

| | |
|---|--------|
| Number of registrations (including termination) | 519 |
| Percentage of registrations within Awb term | 100% |
| Number of number-related decisions | 4,656 |
| Percentage of decisions within established term | 98.26% |

8.9 Lead times

ACM wishes to be open about its operations and about the lead times of its key processes, for example detecting and fining cartels, issuing rulings on mergers and acquisitions, and issuing decisions in energy, telecom, postal services and transport cases.

For ACM, 2013 has been a transitional year. In the first three months of 2013, ACM's predecessors, the NMa, OPTA and the Netherlands Consumer Authority, were still active. ACM was officially created on April 1, 2013. At the time of publication of this annual report, the lead times (insofar they have not been statutorily set) and the thereto-related standards were under review and will be set up for the new organization.

9 Contact details

The Netherlands Authority for Consumers & Markets

Mailing address

P.O. box 16326
2500 BH The Hague
The Netherlands

Address

Muzenstraat 41
2511 WB The Hague
The Netherlands

Phone: +31-70-7222000

Fax: +31-70-7222355

Email: info@acm.nl

Internet: www.acm.nl