

Authority for  
Consumers & Markets



# 2018 ACM Annual Report



# In 2018, we achieved the following:



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# Preface



## Dear reader,

Having clear rules is essential for well-functioning markets, where individuals and businesses are able to buy and sell products and services. Rules help ensure that consumers and businesses get a fair share of the benefits that markets offer. The Netherlands Authority for Consumers and Markets (ACM) promotes compliance with these rules through enforcement and education.

Ensuring that markets work well also involves quality and innovation, not just lower prices. Conservative estimates reveal that our interventions in 2018 saved Dutch consumers 880 million euros. This annual report highlights a selection of our activities of 2018.

Several of our efforts in 2018 include our contribution towards creating a well-functioning digital economy and a level playing field in the Dutch ports. We also helped realize the energy transition, and we informed consumers about the risks of online shopping.

In 2018, ACM celebrated its five-year anniversary. We organized a conference in April to mark the occasion. At the conference, Chris Fonteijn stepped down as chairman. Martijn Snoep succeeded him in September.

Today, ACM faces the challenge of continuing to be able to anticipate the rapid changes in society. We see that vulnerable consumers in society are having a rough time, and that big firms are met with distrust. Digital developments are greeted with open arms, yet, at the same time, concerns linger about dependence and loss of control.

In this ever-changing and dynamic environment, it is paramount that authorities like ACM show that they will be there for citizens and have their backs, that consumers and small businesses feel protected, and that they can rely on the fact that there are organizations out there that will come to their aid if somehow they are unable to defend themselves. At ACM, we believe we can play a significant role in that, too.

ACM has the knowledge, the resources, the statutory powers, and the national and international collaborations, all of which consumers and small businesses do not have. Those elements enable us to help them, to fight against abuses, and to help create well-functioning markets with good products and competitive prices.

**Martijn Snoep, Cateautje Hijmans van den Bergh, Henk Don**

# Highlights of our work in 2018



### Looking out for digital consumers

Digitalization offers many benefits and options for consumers and businesses. But it also carries risks for abuse. In [InSight 2018](#), ACM called on lawmakers to think about new frameworks for the digital economy. In an opinion piece on choice architecture on websites and apps, we argued that taking advantage of well-known decision-making processes needs to stop, and that the industry must take the lead in this effort.

In addition, we launched specific investigations into the digital economy. For example, we looked into the terms and conditions of app stores, and we presented a study into the opportunities and risks of the introduction of 5G to the market. With regard to net neutrality, we have managed that providers are now transparent about the download speeds that they actually offer to consumers.



### ACM facilitates the energy transition

International trade in electricity is vital to a successful energy transition and to a secure supply of energy. ACM's contribution to these efforts has been the expansion of the rules for international trade in electricity. It has made possible the import of wind power from Denmark using a submarine connection. In addition, ACM agreed to the establishment of a European trading platform, enabling the trade of short-term electricity: the European Cross Border Intraday trading platform (XBID). As we increasingly use solar and wind power, the ability to exchange electricity in a fast and flexible manner becomes ever more necessary.

In addition, we facilitate sustainable energy initiatives. For example, we granted distribution system operator Westland permission to experiment with the so-called Smart Grid Westland-model (SGW), which allows the available capacity in the Westland grid to be used more efficiently. Another experiment that we wish to make possible is the creation of the first direct-current network in the Netherlands by distribution system operator Liander, thereby rendering the conversion of sustainably generated direct current into alternating current no longer necessary.



### Paying attention to prescription drug prices

Controlling the costs of prescription drugs is one part of a much larger public debate. In that context, ACM's oversight is one of the many links in the chain. In 2018, we launched a sector inquiry into TNF inhibitors, which are anti-rheumatic drugs. The costs of these drugs have a significant impact on health care costs. We expect to publish the results of this inquiry in 2019.

In addition, ACM gives education about its role when it comes to dealing with excessive prices in the pharmaceutical sector. Various ACM experts helped in that educational effort by publishing articles (including in academic journals). The central message in one of these publications was that competition law fully applies to patented drugs. In another article, it was argued that lower drug prices do not always stifle innovation in the sector, but, in fact, sometimes even promote it. Finally, we launched an investigation into a drug manufacturer following a complaint about allegedly excessive prices of a drug against a rare metabolic disease.



### Increased competition thanks to online lawyer platforms

Following a complaint from a price-comparison site for lawyers, ACM launched a study into the code of conduct for lawyers. Urged by ACM, the Dutch Bar (NOvA) adjusted its code of conduct, clarifying that lawyers are allowed to pay any reasonable amount to price-comparison websites for getting them a job.

On price-comparison websites, lawyers are able to present themselves to individuals and businesses that seek legal assistance. Such websites are able to promote competition, as they make it easier for visitors to compare lawyers in terms of price, expertise, and location.





### Awareness campaign 'Online store or fake store?'

Consumers buy more and more online, and do so more and more often. Companies try to tempt consumers into making impulse purchases on social media as well. When purchasing products on social media, it is often unclear who the seller of the product is. Sometimes, you might have made a purchase from a fake store, and you will not receive your product at all. By running its consumer awareness campaign 'Online store or fake store?', ACM warned consumers for purchases made on social media, and informed them about their rights. It is essential that consumers know what they should be looking out for in order to be able to protect themselves when making online purchases.

To gauge the campaign's impact, we had a social-science study carried out. Individuals between the ages of 18 and 45 make purchases over social media more often (34% compared with 27.5% in 2017). After seeing the campaign, individuals intend to do more checks in the future when making purchases on social media. Before making a purchase online, the majority of consumers (73%) searches for reviews or complaints about the provider.



### Competition on VodafoneZiggo's and KPN's networks

ACM has decided that telecom providers VodafoneZiggo and KPN must open up their fixed networks to other telecom providers. That is how we ensure there is sufficient competition. Previously, competitors only had access to KPN's network. Now they have the opportunity to offer broadband access, television services, and fixed telephony to consumers and businesses over VodafoneZiggo's network as well.

It is expected that this will lead to more competitive prices, improved service, and more innovation. Both KPN and VodafoneZiggo have filed appeals against ACM's decision, but they did start with the implementation of the decision. Various businesses have already expressed interest in access to the cable network.



### Fine and warnings in the debt collection sector

ACM wants the debt collection sector to adjust its behavior in a structural manner. Debt collection abuses often involve vulnerable consumers. We take action against debt collection agencies that do not comply with the rules. That is how we wish to reduce the problems consumers have with debt collection agencies. Based on a behavioral analysis, ACM decided on target groups and a strategy. We imposed a fine of 415,000 euros on debt collection agency Credit Invest because it exerted pressure on consumers to pay unjust bills.

In addition, ACM warned consumers against the practices of Pay Care, while debt-collection agency Intrum Justitia committed to providing more accurate information and using a more personalized approach. Furthermore, our educational efforts have empowered consumers more, we have given debt counsellors additional tools, and we have called on companies that hire debt collection firms to face up to their responsibility.



### ACM saves consumers 880 million euros

We want to be an effective and efficient authority. ACM takes action in those areas where it can truly make a difference for consumers and markets. That is why ACM each year estimates how much it saves consumers as a result of our interventions. This outcome consists of 290 million euros from activities that were completed in 2018, and of 590 million euros from activities from previous years, which still had an impact in 2018.

The outcome calculation method is explained in the paper “Outcome of ACM – Calculation method of the outcome of ACM”. When calculating the outcome, ACM primarily looks at effects on price, quality, and choice. ACM uses conservative assumptions in the outcome calculation in order to prevent an overestimation of the effects.

# Our oversight activities

- > Consumers
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*ACM takes action against businesses that harm consumers and competitors because they do not play by the rules. Through its consumer information portal ConsuWijzer and Business desk, ACM informs consumers and small businesses about their rights and obligations, and stimulates them to exercise their rights. In 2018, 61,105 consumers and 6,449 businesses contacted ACM. The total number of visitors of ConsuWijzer's website increased by 7.7% to 3,274,768.*

## We protect consumers in the digital economy

ACM took action whenever online stores provided incorrect or incomplete information, or made mistakes. One such example was Bralex's websites, which displayed incorrect information about the features and prices of products. In addition, clothing brand BALR was reprimanded because the company had told several of its consumers that they could not return (within 14 days) their purchases made in its online store, because they had used a promo code.

At an international level, together with several European consumer authorities, we succeeded in calling on Google+, Facebook and Twitter to adjust their general terms and conditions. These platforms adjusted their general terms and conditions with regard to, for example, the right to cancel purchases, going to a local court rather than a US court, and expanded liability in favor of consumers. With the help of social-science research, we explore the possibilities to improve the online choice architecture and the provision of information.

In addition, we conducted dawn raids at companies running dating sites, which were possibly misleading consumers with incorrect and misleading information about the profiles on these dating sites.

## We protect energy consumers

In 2018, ACM dealt with energy suppliers that displayed their prices not clearly. ACM reprimanded Easy Energy because it was unclear to customers in advance that the fixed supply costs had to be paid separately for natural gas and electricity. In addition, we completed a process in which we sought to improve the clarity of energy bills of 40 companies. Of these companies, 21 had to make improvements before February 2, 2018. In two cases, the situation was so serious that orders subject to periodic penalty payments had to be imposed. By now, all of the 40 energy suppliers send out clear energy bills to their customers.

In 2018, 5 energy suppliers were granted licenses, and three licenses were revoked. EnergieFlex's license was revoked because it no longer complied with the requirements set out in the supply license. ACM made sure that all of EnergieFlex's customers were transferred to another supplier so that they would continue to be supplied with electricity and natural gas.

In addition, we identify the trends and developments on the Dutch energy market in our Energy Monitor. In 2018, the majority of Dutch consumers know that switching energy providers pays off. 52% say they know they can save a lot of money by switching. It forces energy providers to improve their services and to lower their prices. Also, 91% of the consumers that have switched are satisfied with the process of switching to their new energy provider.

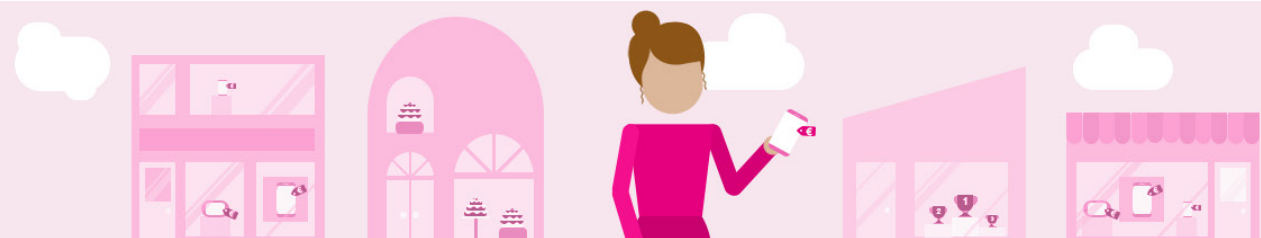
### **We deal with aggressive and misleading practices**

In 2018, we took action against aggressive and misleading practices. ACM used various enforcement instruments after assessing the problem, and deciding on the most effective approach. This can be a fine, like the one in the debt-collection sector, but it can also be a rapid intervention in the form of a serious talk, public warning, or an order subject to periodic penalty payments. Furthermore, we dealt with numerous other companies that were misleading consumers about what they offered. These included VakantieGarant, De Reisplanner, Splendid Club, and Klussersteam.

### **We promote price transparency**

We imposed fines on Belvilla and Seats&Sofas for advertising misleading prices. Also, Bo-Rent, a Dutch rental company for equipment, tools, and cars, had to display its prices with VAT included. In addition, ACM educated car tire dealers about clear pricing, and it checked whether they had clear prices. We also sat down with second-hand car dealers, because there is often a lot of uncertainty about the prices in the advertisements, and about what consumers exactly get for the advertised price. We found that, following the check, the information about prices and consumers' rights regarding warranty improved tremendously.

# Competition



*ACM makes sure that businesses comply with the competition rules, and compete fairly. ACM takes action against cartels and abuses of dominant positions. And we assess mergers and acquisitions in order to prevent new dominant positions from emerging.*

## We investigate possible violations

Because of the importance of the Dutch ports to the economy, we paid extra attention to the ports in 2018. An investigation revealed that, when planning the loading and unloading of barges, Europe Container Terminals (ECT) sometimes may not have treated similar situations equally. In addition, it appeared that, for some barge operators, it was not clear what requirements they must meet in order to be given priority in ECT's planning system. ACM did not establish a violation, but it did identify anticompetitive risks. ECT made a commitment about its planning process for barges that transport containers between ECT's deep sea terminals in the port of Rotterdam and its hinterland, thereby taking away those risks.

Furthermore, we promoted competition between auto repair shops. We reminded auto repair shops that they are completely free to set their own prices for car maintenance, and that they are allowed to deviate from the recommended retail prices suggested by car importers. RAI Vereniging (association for the Dutch mobility sector) and BOVAG (trade association of car dealers in the Netherlands) support ACM's call, which means that competition between auto repair shops may increase.

In addition, we launched an investigation into the procurement market for projects involving the renovation and maintenance of roofs. We also launched an investigation into price-fixing agreements between consumer-goods manufacturers and retailers. And we established that the commitments in the ready-mix concrete sector have been effective, and we have stopped our anticartel investigation in the bunker sector. Prompted by the investigation, trade investigation NOVE will devote attention to compliance on a permanent basis.

In 2018, ACM did not impose any fines for violations of the competition rules. On the other hand, various investigations were still underway, and we launched several new ones into possible violations. In addition, we invested tremendously in our detection methods, for example in data analysis, and we will be launching a campaign about leniency in 2019. In this campaign, we want to remind undertakings or individuals involved of the fact that notification of violations may produce a discount on any fine. In 2019, we will complete several of these ongoing and new investigations with fines, orders to subject to periodic penalty payments or other instruments.

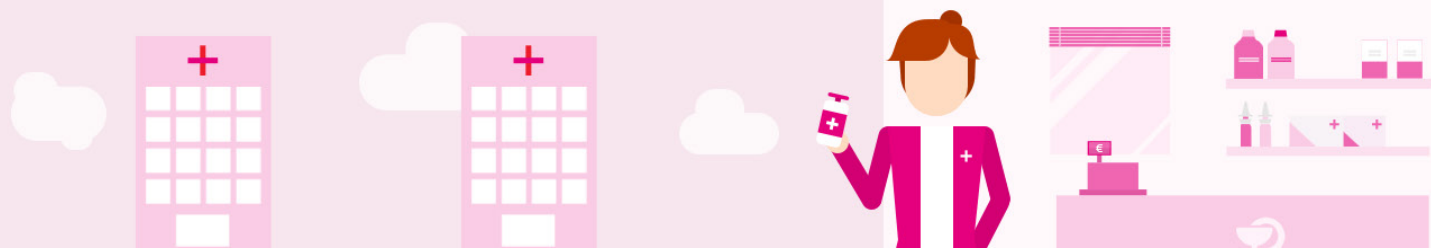
## **We assess mergers and acquisitions**

In 2018, ACM issued 80 decisions on planned concentrations. ACM cleared the acquisition of 130 locations of Dutch supermarket chain Emté by rival chains Jumbo and Coop on the condition that Jumbo must sell locations to a competitor in three towns. That is why ACM cleared the acquisition of these three locations by Dutch supermarket chain Jan Linders. In that way, consumers will continue to have sufficient, competitive options in their neighborhoods. In early-2018, Belgian flour product Dossche Mills was allowed to acquire its rival Meneba. ACM found that sufficient competition will remain in the flour sector.

## **We ensure that local governments compete fairly**

ACM ensures that local governments compete fairly with commercial businesses when engaging in commercial activities. Under the Dutch law on competitive neutrality, the Dutch Act on Government and Free Markets, local governments are not allowed to use any public funds for these commercial activities, and they must include all costs when engaging in commercial activities. We also received reports and complaints from businesses about local governments competing unfairly. ACM allowed the Social Insurance Bank (SVB), which implements national insurance schemes in the Netherlands, to continue managing the salary administrations for recipients of personal budgets (PGB). That is one of the SVB's public duties. We took action against the municipality of Harlingen, which violated the law by offering the use of a boat ramp for free, thereby competing unfairly with commercial companies that offer similar services.





*The Dutch health care system is characterized by a combination of market-based principles and regulation. Health providers and health insurers compete with each other. But they also work together in many different ways in order to improve quality, efficiency, and innovation in health care. Some types of collaborations impede competition. These types are only allowed if patients are allowed a fair share of the benefits of such collaborations. ACM takes action against types of collaborations that do not comply with this principle. In addition, we assess whether health providers, as a result of mergers or acquisitions, do not become so large that competition is impeded. Besides our attention to prescription drug prices, we also achieved several concrete results in 2018.*

## We assessed 13 health care mergers

We cleared the acquisition of health care provider Warmande by its rival ZorgSaam on the basis of a failing firm defense. This acquisition prevents Warmande from going bankrupt. The providers involved were sufficiently able to demonstrate that, after the concentration, the competitive landscape would not be worse off than if the concentration were not to take place.

In the merger assessment of NL Healthcare Clinics and Bergman Clinics, which are two independent treatment centers, focusing on specialist medical care, we looked into the merger's consequences for the options of patients and health insurers.

We found that the merger would not have any negative effect on the options of patients: they will continue to have sufficient alternatives. Health insurers will not see any changes in their ability to purchase health care for their clients at the best possible price-quality ratio. That is why we cleared this merger.

We have intensified our attention for anticompetitive risks of hospital mergers because of potential negative effects. That is why we published in late-2018 a revised procedure for merger notifications. From now on, the merging providers have to indicate per patient group what options will remain for health insurers and insured. In that way, ACM is better able to assess the merger's effects on various types of health care services for patients and insurers.

At the request of the Ministry of Health, Welfare and Sport (VWS), we put forward several [policy recommendations](#) (in Dutch) for tightening merger control in health care. The minister of Health, Welfare and Sport informed the Dutch House of Representatives that he would flesh out two of our recommendations, together with ACM, the Dutch Healthcare Authority (NZa), and the Dutch Health and Youth Care Inspectorate (IGJ).



### We focus on awareness, knowledge, and compliance

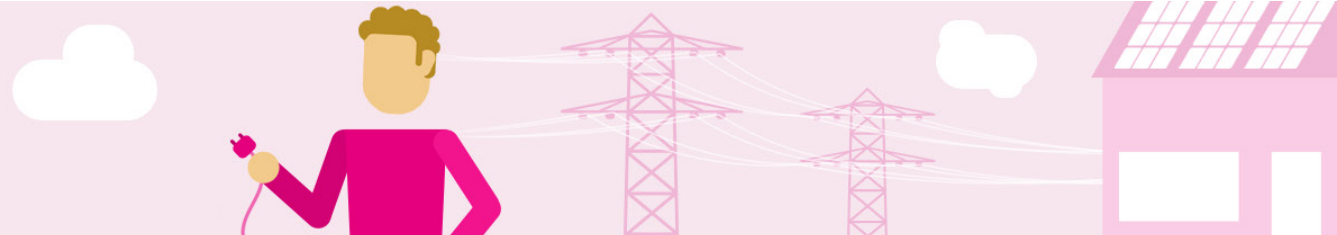
We wish to prevent anticompetitive collaborations. That is why we focus on awareness of, knowledge of, and compliance with competition rules among health care buyers and providers. By giving presentations, writing articles for journals, and having discussions with health care buyers and providers, we have been able to prevent harmful collaborations.

In addition, we showed that there is a lot of room when it comes to collaborations in the interest of patients. As a result of seismic activity in the northern Dutch province of Groningen, regional long-term care needs to be jointly strengthened and reorganized. In 2018, ACM took part in those discussions with regard to competition issues. We did so at the request of the Health Care Steering Group of the National Coordinator for Groningen (NCG).

We also carried out interventions in order to eliminate concrete anticompetitive risks. Midwives, postpartum nurses, obstetricians/ gynecologists, and hospitals will work together even more closely in an effort to improve the quality of maternity care. But the admission criteria for these maternity care collaborations were unclear to other providers. Our intervention resulted in an adjustment of those criteria. In addition, ACM published [guidelines for the assessment of admission criteria when collaborating in maternity care](#) (in Dutch).

### We monitor trends and developments in our Health Care Monitor

In 2018, we once again studied the choice behavior of insured, and published these results in the Health Care Monitor. This study revealed that consumers have the impression that the policies that health insurers offer differ from each other less and less, and that they do not know whether switching would be beneficial to them. Together with the NZa, we also published [a study into the differences between basic health insurance packages](#) (in Dutch). It turns out that it is difficult for consumers to compare basic health insurance packages, thereby making it hard for them to choose one. ACM and NZa therefore call on health insurers and policymakers to make it easier for consumers to compare and choose health insurance packages.



*ACM promotes the security and affordability of the supply of energy. Energy market regulation helps promote innovation, sustainability, and leads to the lowest possible tariffs for the transmission of electricity and natural gas.*

## **We promote European market integration & the energy transition**

Next to our activities with regard to the energy transition, we put out the draft decision ‘Consolidation of the Network Code and System Code for electricity’ (in Dutch: *Samenvoeging Netcode en Systeemcode elektriciteit*) for public consultation in order to have the European electricity market integrate further, and to make it more sustainable. The decision will ensure that the rules for electricity producers in the Netherlands and in the rest of Europe will converge. As a consequence, it will be easier for these producers to build wind farms and solar panels anywhere in Europe. The decision therefore helps realize a more sustainable energy generation, increase security of supply, and lower prices.

In addition, we have made arrangements with energy regulators in five other EU countries. For example, we mandate system operators to reserve at least 20% of the capacity on the high-voltage grids for cross-border electricity. As a result, electricity trade has increased, which may help lower prices. Also, this arrangement helps realize the energy transition as solar and wind power can be exchanged more easily between countries.

ACM also helps implement the energy transition by giving advice about rules and regulations, for example, with regard to investment plans and quality control systems, the reduction of natural-gas production in Groningen, the introduction of green gas, and to the regulations related to the Dutch Heat Act. Our contribution was one of the key drivers behind the improvement in the feasibility and enforceability of these rules and regulations.

Since July 1, 2018, new rules with regard to the gas connection requirement in the Netherlands came into force. Gas connections used to be the norm, but, today, the ambition is to be connected to more sustainable heat sources. For example, new housing development projects do not have any gas connections, unless municipalities rule that gas connections are in the public interest. ACM are informed of such decisions, which we will include in a public register.

## **We increase transparency of energy transmission tariffs**

We have determined the calculation method for the national transmission tariffs for natural gas. This is an implementation of European rules, which ensure that the tariff calculations within Europe become more transparent and easier to compare. We decided to introduce a postage stamp method, which means that, across the Netherlands, everyone pays the same transmission tariff, irrespective of geographical location.

As a result thereof, gas traders and gas buyers will have more certainty about the tariffs they will be faced with. This will make natural-gas transmission within Europe easier for them, thereby strengthening security of supply. The new tariff structures and conditions have been established following intensive discussions with buyers and various interest groups. Moreover, this agreement results in the withdrawal of objections and appeals in current legal proceedings concerning these topics, and it prevents new proceedings.

### **We help realize affordable energy transmission tariffs**

Revenues for the Dutch transmission system operator for natural gas Gasunie Transport Services (GTS) will fall by over EUR 8 million in 2019 as a result of an efficiency-stimulating tariff cut. Nevertheless, the cost-oriented tariffs charged by GTS will increase by around 2%, because GTS will be expected to sell less transmission capacity. The tariffs for the transmission of electricity and natural gas in 2019 will increase by EUR 1.50 per household per year.

### **We maintain fair competition on the energy market**

ACM enforces compliance with the European regulation called REMIT (Regulation on wholesale energy market integrity and transparency) among market participants on the wholesale markets for electricity. REMIT helps combat market abuse, and increase transparency of the wholesale energy markets. In 2018, we actively focused on compliance of these rules, and approached market participants regarding missing registrations, missing reports or in the case of problems with reporting inside information. By now, we have seen improvements.

Liandon and Alliander DGO have new names and logos following commitments to ACM. They have rebranded themselves as Qirion and Firan, respectively, separating themselves from distribution system operator (DSO) Liander, with whom they are connected in the Alliander group. For consumers and businesses, it will become clear with whom they are dealing: with the DSO, which performs its statutory duties such as the transmission of electricity and natural gas, or with a commercial business, which carries out thereto-related activities. Behavioral studies commissioned by ACM have revealed that the name and logo changes help towards creating a clear and organized market.

### **We protect grid safety**

In a decision, ACM laid down what safety standards new low-voltage grids must comply with. With the decision, stricter safety standards than collectively proposed by the system operators are introduced for parks, playgrounds, and recreational areas, for example. These are locations where people often walk barefoot. They are particularly vulnerable if they touch or step on live objects.

# Telecommunications, transport & postal services



*ACM regulates the telecommunications, transport and postal services markets. These are markets with few providers, and, in some cases, even a monopolist. With its sector-specific regulation, ACM aims to offer consumers more options, and to ensure that they are able to get services at a good price-quality ratio.*

## **We protect well-functioning telecom markets**

In addition to our regulatory activities regarding access to KPN's and VodafoneZiggo's networks, we help realize well-functioning telecom markets in many other ways. For example, we assessed numerous roaming offers of telecom providers in light of the Roaming Regulation ('roam like at home'), in which lower maximum tariffs for wholesale data roaming have been laid down, which came into force on January 1, 2018. In some cases, this led to adjustments to the offers to the benefit of consumers.

Also, we made sure that the use of phone numbers matched their intended purposes more closely. For example, we encouraged telecom companies to return unused numbers starting with the prefix 06 (in the Netherlands, mobile phones are assigned 06-numbers), so that these can be reissued. This will relieve some of the pressure on the number of available 06-numbers. In addition, we took stricter action against abuse of premium-rate numbers (usually 0900 and 18xy numbers) in order to prevent high phone bills and confusion among consumers.

One of ACM's statutory duties is to monitor trends and developments in the telecommunications sector. In 2018, we published the [2017 Telecom Monitor](#) and the [2017 Number Issuance Monitor](#).

## **We oversee tariffs in the transport markets**

In 2018, ACM assessed the cost allocation systems for the Dutch maritime pilots, Dutch network infrastructure manager ProRail, and Amsterdam airport Schiphol. Since 2018, oversight of Eindhoven Airport, next to Schiphol, has been part of our work. This means that we now also regulate aviation-related fees that Eindhoven Airport charges. We have already started handling the first complaints about this.

Following our approval of ProRail's cost allocation system, ProRail was able to publish in December its network statement, containing the conditions for access to the rail network for 2020 and beyond, as well as cost-based tariffs. From 2020, ProRail will charge railway undertakings an extra fee, as well. ACM approved the calculation method for that fee. In that context, ProRail must take into account the financial strengths of the market segments, when applying the extra fee.

In addition, we published a guide on rail-related services and service facilities, such as stabling yards, port terminals, and train maintenance workshops. According to European rules, owners of such services and service facilities, from mid-2019, must observe transparency with regard to the access conditions for railway undertakings. With the increase in rail traffic, it is crucial that, where reasonable, such facilities can be used by a wide range of undertakings. With this guide, we explain what the European conditions exactly mean, and how we will enforce compliance therewith.

Finally, we gave advice about the market for mobility service payments. According to ACM, regulation would help create equal opportunities for providers, for example, because they get equal access to the national public-transport card system and the underlying data. This promotes the development of innovative mobility services for travelers.

### **We make sure postal markets function well**

In early-2018, ACM published the Market analysis decision for 24-hour business mail, with obligations on Dutch postal operator PostNL. After the summer, the Dutch Trade and Industry Appeals Tribunal (CBb) reversed this decision as ACM had insufficiently shown that digital communication is not part of the market for 24-hour business mail. In response to this ruling, ACM made a new analysis, concluding that digital communication is indeed not part of the market for 24-hour business mail. Based on that analysis, we published in late-2018 a new draft Market analysis decision.

In addition, we established that Dutch postal operator PostNL had an additional room of 14.2% to raise the tariffs of the basic set of postal services. The primary reason is that mail volumes have declined, while a share of the costs is not able to decline in a similar fashion. We found that PostNL's proposal to raise the stamp price from 83 cents to 87 cents would not overstep that room.

Finally, it is also our duty to identify the trends and developments on the postal market, as well as the effects of liberalization. In September 2018, we published [the 2017 Postal and Parcel Markets Scan](#).

# ACM and the courts



*Many of our decisions are brought to court by market participants. The courts subsequently rule on ACM's actions. With their rulings, the courts also provide guidance for future cases. In 2018, approximately three in four rulings were in ACM's favor. In 2018, 16 fines in legal proceedings became final. These included 3 competition cases, 1 telecom case, and three consumer cases, totaling 18 million euros.*

## Competitive neutrality

The rulings in cases involving the Dutch law on competitive neutrality, the Dutch Act on Government and Free Markets, are new. In these rulings, the courts clarified the line between pure government duties and economic activities that governments carry out in competition with commercial undertakings. In the latter situation, the rules on competitive neutrality apply.

## Market definitions

A recurring subject in the court rulings are market definitions. Defining the relevant market is not a goal unto itself, but an instrument that needs to be applied, depending on the nature of the case.

Although the court rulings make ACM's duties clearer, questions about market definitions will continue to pop up in the future, especially now when markets change more rapidly than ever in the digital economy.

## ACM procedure for the inspection of digital data

Digital questions are also discussed when it comes to the use of ACM's powers. In 2018, the courts looked into the way ACM conducts digital investigations into companies it suspects to have committed violations. The court in interlocutory proceedings ruled that our procedure results in a sufficiently targeted and proportional selection of data that ACM is subsequently allowed to inspect in order to be able to determine whether a violation was committed.

## Adjustments of the level of the fine

If a violation has been committed, we are able to impose a fine. The court also assesses the level of the fine. In 2018, too, did the court substantially lower the fines in several cases, for example, in a case involving construction companies in the south of the Netherlands. Such rulings offer ACM guidance for its fining policies.

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# Organization



## ACM and the academic world

ACM believes it is important to bring in outside knowledge. It works together with academia and other regulators in order to exchange and expand knowledge. For example, we use behavioral insights more and more often.

We also regularly publish papers in scientific journals. Several ACM members of staff are also part-time instructors. And we support the special chair 'Innovation and Competition' at Tilburg University.

On May 22, ACM organized a one-day conference where scholars (national and international) discussed their most recent insights with regard to cartels, fines and consumers harm. We also organized the very first Thesis Day in order to strengthen our ties with the academic world, and to make students excited about our work.



## Data-driven oversight

Data is becoming more and more important in society. The volume of data that consumers and businesses generate and use increases by the day. ACM currently already works with data in different ways, and data is expected to play an even larger role in our oversight over the next few years.

In order to be an effective regulator that solves relevant problems for consumers and businesses, we invest in the development of new technologies, skills, and competences. We have concluded several cooperation protocols with other government agencies about the exchange of data.

In addition, ACM, together with the Dutch Healthcare Authority (NZA) and the Dutch Authority for the Financial Markets (AFM), set up a data-science traineeship program, where six data-science trainees rotate among ACM, NZA and AFM.



## Diversity and inclusion

ACM aims to have a diverse workforce. Diversity helps us detect and understand problems in the market from a broader perspective, and it subsequently helps us select the best solutions to those problems. ACM aims to create a workplace environment where everyone feels welcome and included, regardless of their individual background.

We promote diversity and inclusion at the organizational level but also in smaller settings such as our LGBTI employee network and our network for young ACM employees. In 2018, ACM once again took part in the 'Diversity Week', a week-long awareness campaign at the Ministry of Economic Affairs and Climate Policy (EZK) and its affiliated agencies, including ACM. And we also participated in the float of Dutch Government Pride during Amsterdam Pride 2018 to show that diversity is important to us. In 2018, we took many steps with regard to diversity and inclusion, and, over the next few years, we will take our efforts to the next level.



## Complaints against ACM or ACM employees

If an individual feels that they are not treated properly by ACM or its staff, they have the opportunity to file a complaint. ACM handles complaints in accordance with its Complaints procedure. This procedure is based on the Dutch General Administrative Law Act (Awb). Our complaints officer handles the complaints, and gives the board advice about them. It is the board that has the final say.

Complaints that are not handled mostly concern tip-offs and reports about companies that ACM oversees. In all of these cases, the complainants were satisfied with the complaint-handling processes. The complaints against ACM and ACM employees vary widely, ranging from payment of ACM invoices and the spam notification form to ACM's actions in a bankruptcy case involving an energy supplier.

ACM made official decisions about two complaints. The first complaint was against the way phone numbers are cancelled, and the payment of invoices for the use of phone numbers. This first complaint was disallowed. The second complaint involved, among other aspects, the convention of only sharing the file after an appeal has been filed. This element of the complaint was allowed as information about this convention was missing, and the relevant information was not shared with the party involved fast enough. The provision of information has already been adjusted.

Figure 1: Complaints against ACM or ACM employees

Total number of complaints	
New complaints in 2018:	<b>41</b> (49 in 2017)
Complaints from 2017, completed in 2018:	<b>2</b>
Complaints from 2018, to be completed in 2019:	<b>7</b>
Handled complaints	
Complaints not handled:	<b>15</b> (25 in 2017)
Complaints against ACM handled:	<b>21</b>
<i>Complaints resolved through information and explanations:</i>	<b>16</b>
<i>Complaints dismissed because complainants did not respond:</i>	<b>2</b>
<i>Complaints retracted:</i>	<b>1</b>
<i>Decisions taken by Board of ACM:</i>	<b>2</b>

## ACM staff

Figure 2: Employee utilization rate on 31 December 2018

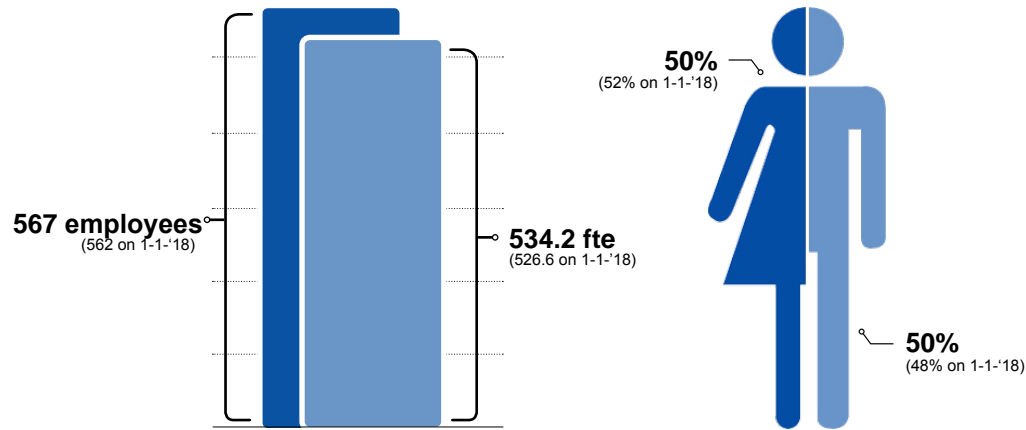


Figure 4: Inflow and outflow of staff

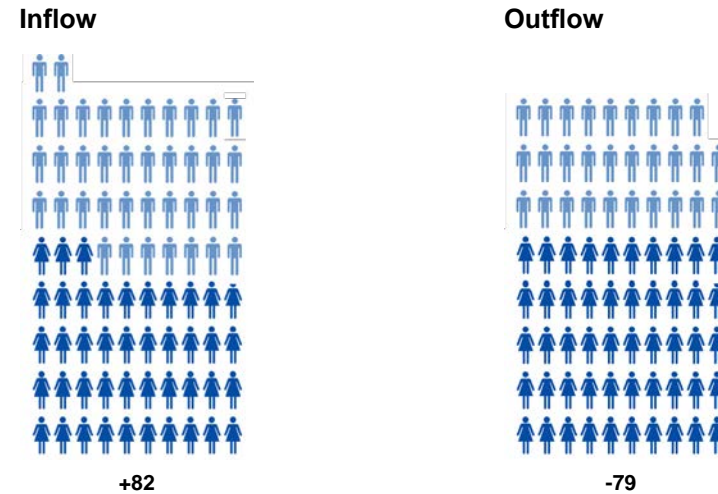


Figure 3: Age structure of staff

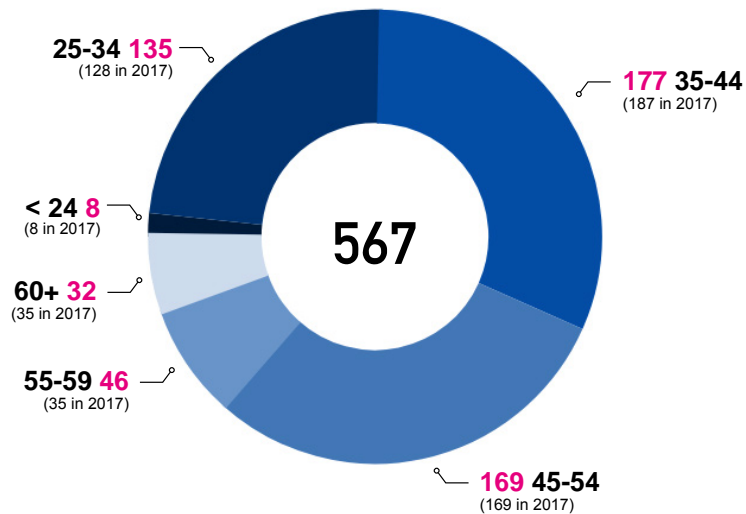
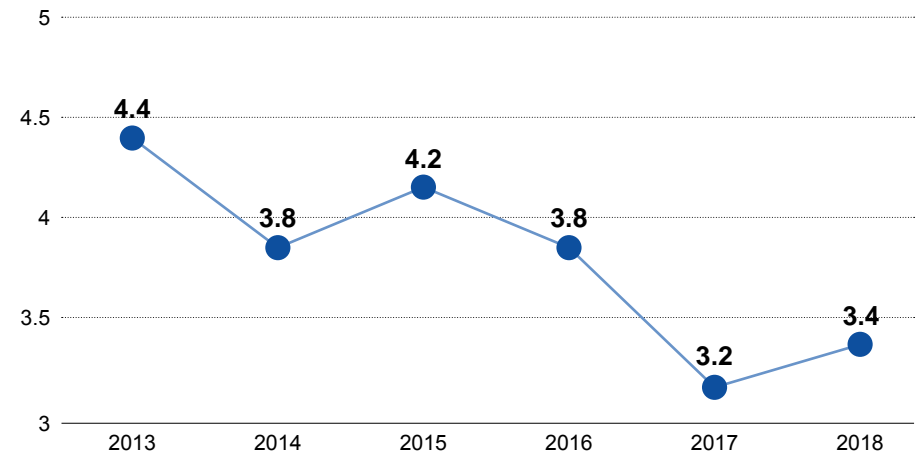


Figure 5: Absenteeism (in %)

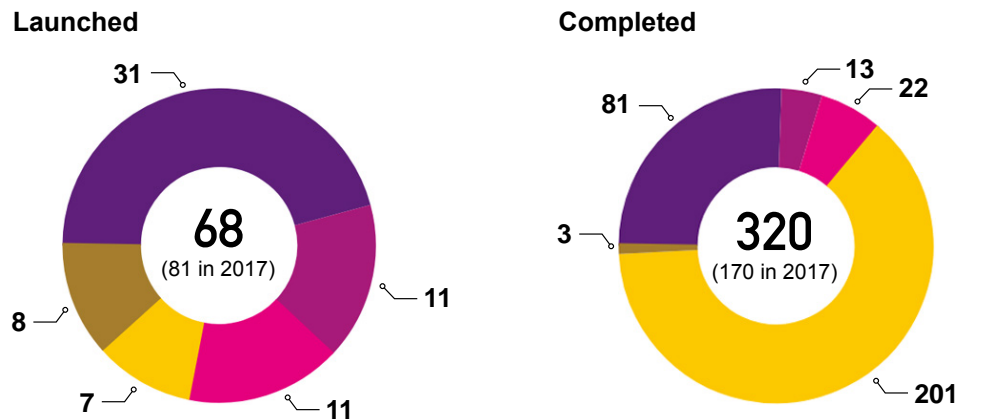


# Our oversight efforts in facts & figures

## Investigations

ACM carries out investigations on the basis of indications, reports, and ACM's own detection efforts. Our enforcement teams assess whether a violation has been committed. If that is the case, an enforcement team can use different instruments to end the violation. For some violations, enforcement teams draw up a statement of objections, which is handed over to the fining team. This team subsequently assesses whether a fine is imposed for the violation. Not all statements of objections result in fines. In addition, some of these assessments run into the next calendar year, which means the number of statements of objections is not equal to the number of fines. See figure 10 for the fines imposed in 2018.

**Figure 6: Number of investigations**



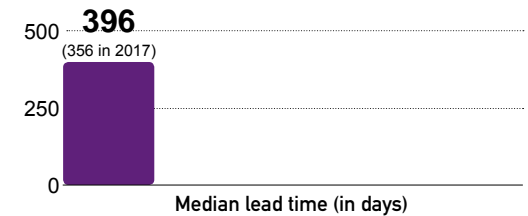
As some cases run into the next calendar year, the number of statements of objections is not equal to the number of fines.

consumer protection   energy   competition\*   telecommunications & postal services   transport

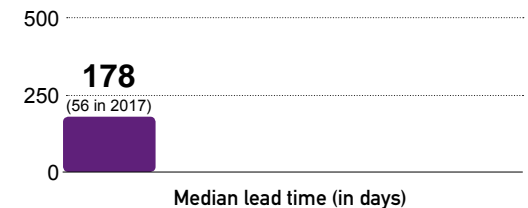
\*Includes the investigations under the Dutch law on competitive neutrality, the Dutch Act on Government and Free Markets.

**Figure 7: Investigations completed per instrument**

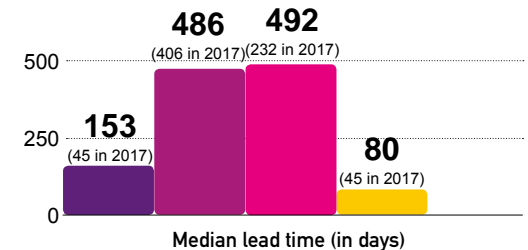
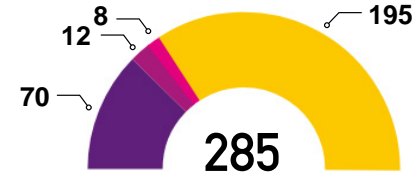
### Statement of objections



### Order subject to periodic penalty payments

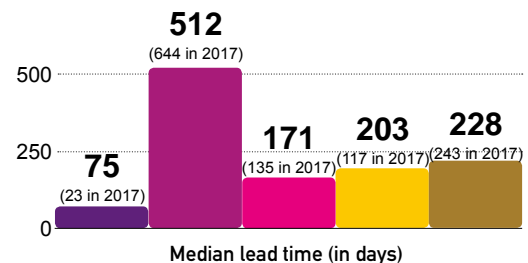
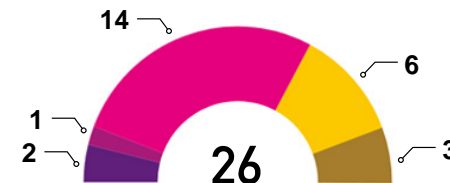


### Another instrument



The high number for telecommunications & postal services is caused by enforcement actions where ACM has sent holders and owners of phone numbers letters in which it explains the rules. In consumer protection, too, ACM used such letters as well as conversations to that effect in rapid interventions.

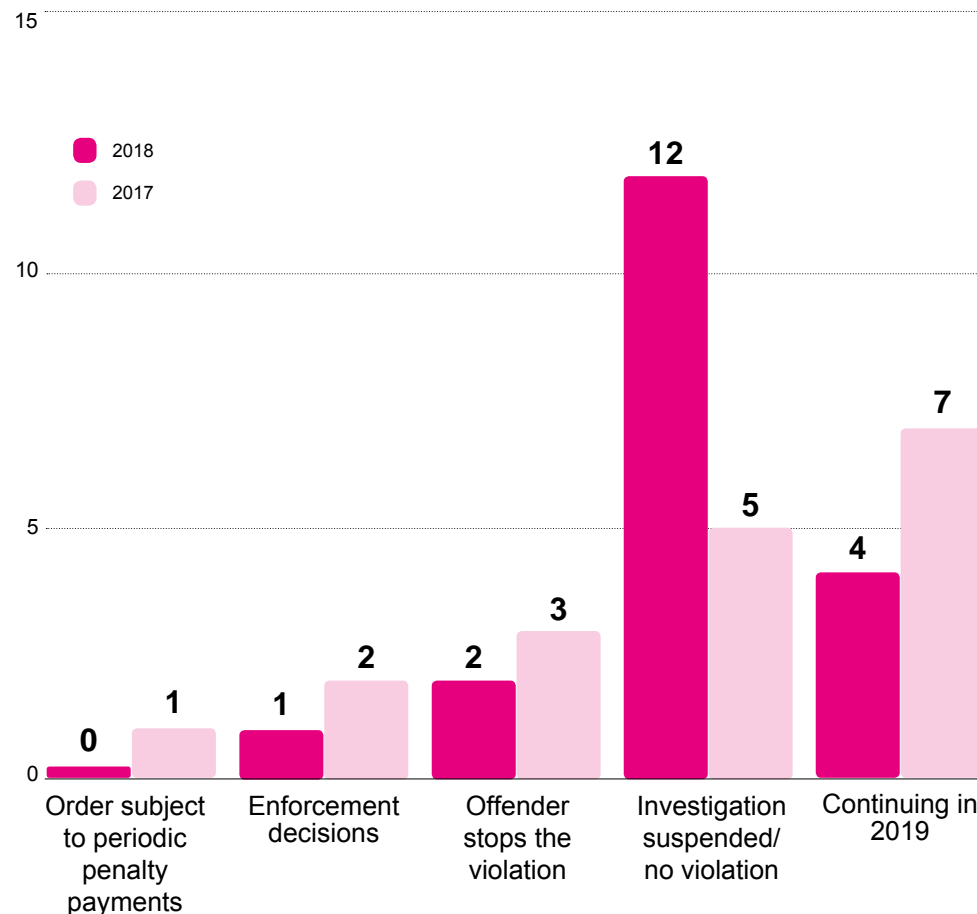
### Suspended without any intervention



## Investigations on competitive neutrality

Government organizations (such as municipalities) are allowed to offer products and services on the market. If they do, they will have to play by the rules though in order to prevent unfair competition by government organizations. These rules have been laid down in the Dutch law on competitive neutrality, the Dutch Act on Government and Free Markets. This act is part of the Dutch Competition Act. In 2018, 19 such investigations were conducted.

**Figure 8: Number of investigations under the Dutch law on competitive neutrality per instrument**

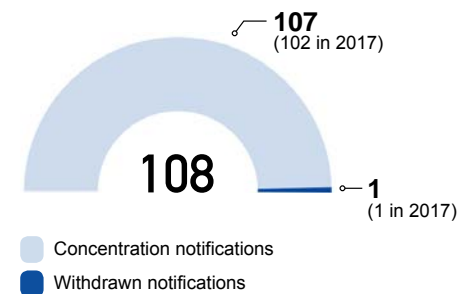


## Concentrations

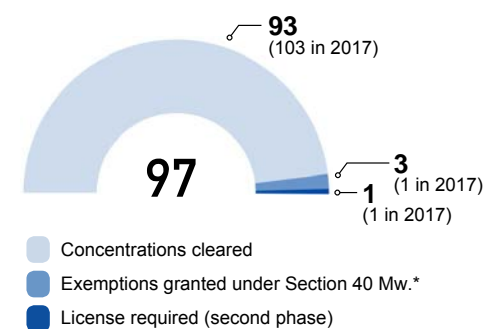
If businesses wish to merge, acquire another business, or wish to set up a new undertaking together, they will have to notify ACM of their plans. In a so-called first phase, we determine whether or not the concentration can go through or whether a further investigation is required. If ACM, after the first phase, has concerns about the effects on competition, the merger parties will have to apply for a license. ACM will then conduct a further investigation in the so-called second phase. As some cases run into the next calendar year, the number of notified concentrations is not equal to the number of decisions.

**Figure 9: Concentrations**

### Notifications in first phase



### ACM decisions



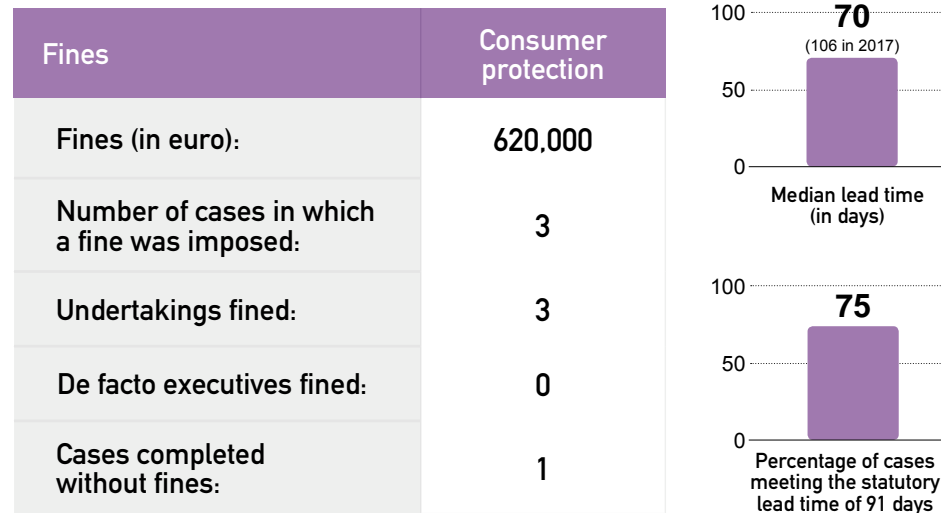
*\*Large undertakings are, normally speaking, only allowed to merge after they have notified ACM of their planned concentration, and after ACM has completed its assessment thereof. In critical situations, ACM can grant an exemption in order to prevent irreparable damage inflicted on the undertakings involved if they had to wait for ACM's assessment.*

In 2018, ACM ruled that a license was required in one concentration notification. The parties involved subsequently filed a license application. After an extensive investigation, ACM decided to grant the parties involved a license.

## Fines

ACM can impose fines as a result of violations of the laws it enforces. It starts with an investigation in which a statement of objections is drawn up. In 2018, ACM did not impose any fines in energy, competition, telecommunications and postal services.

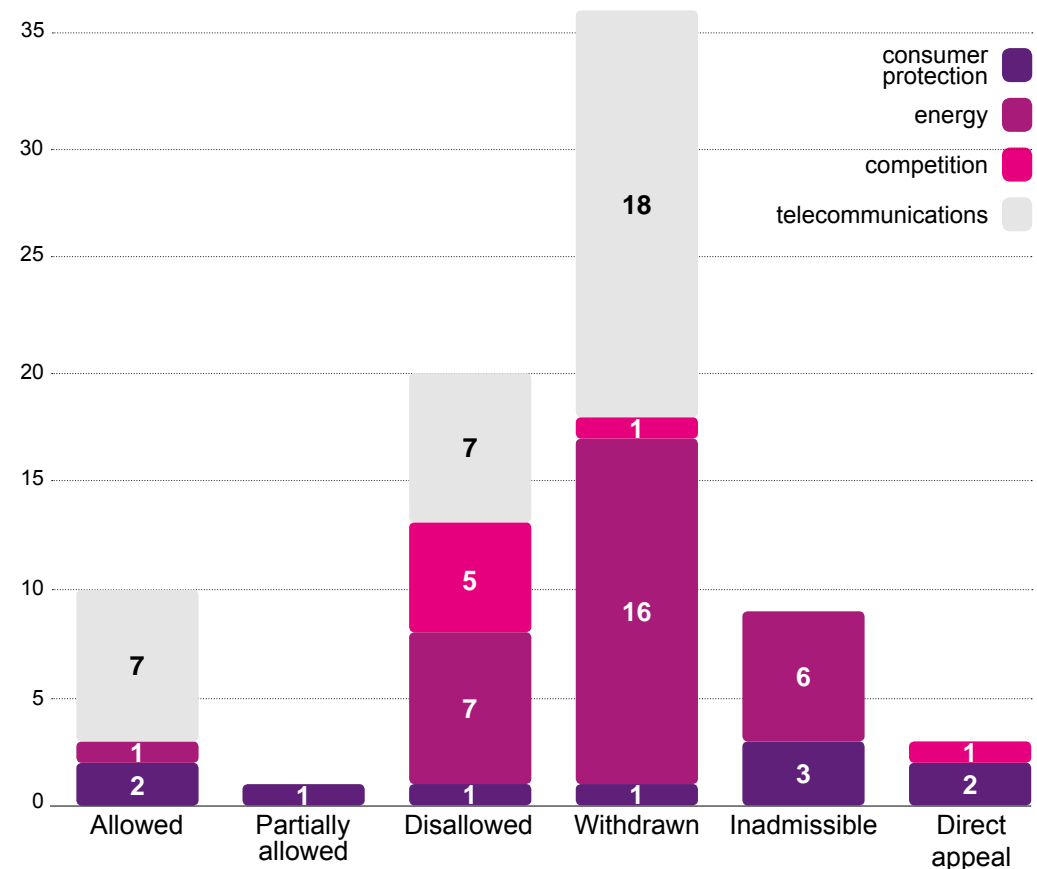
**Figure 10: Imposed fines and lead times**



## Objections and appeals

If a party disagrees with an ACM's decision, it can file an objection or an appeal. Each objection or appeal is counted separately. The handling of multiple appeals or objections is often joined together, which means multiple cases are completed in one go. The statutory lead time for objections is 42 days, and 84 days for postponements. With regard to consumer protection, the statutory lead time has been met for several years now. With regard to energy, many objection cases are still waiting for their decisions on appeal, thereby preventing the statutory lead time to be met.

**Figure 11: Resolved objections**



**Lead times of objections**

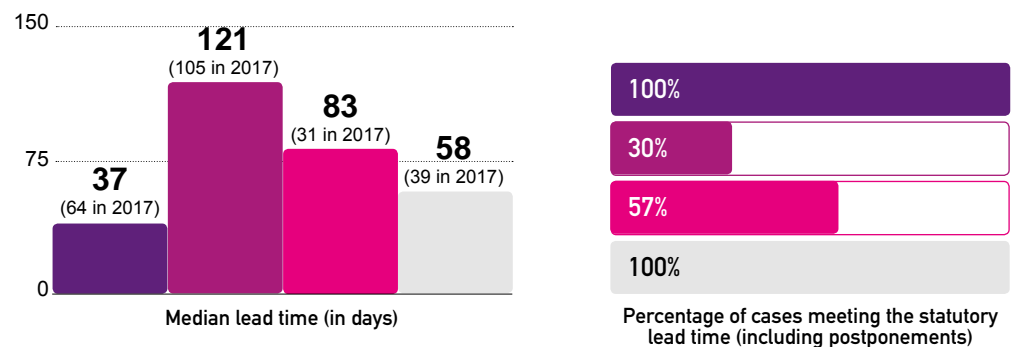


Figure 12: Resolved appeals

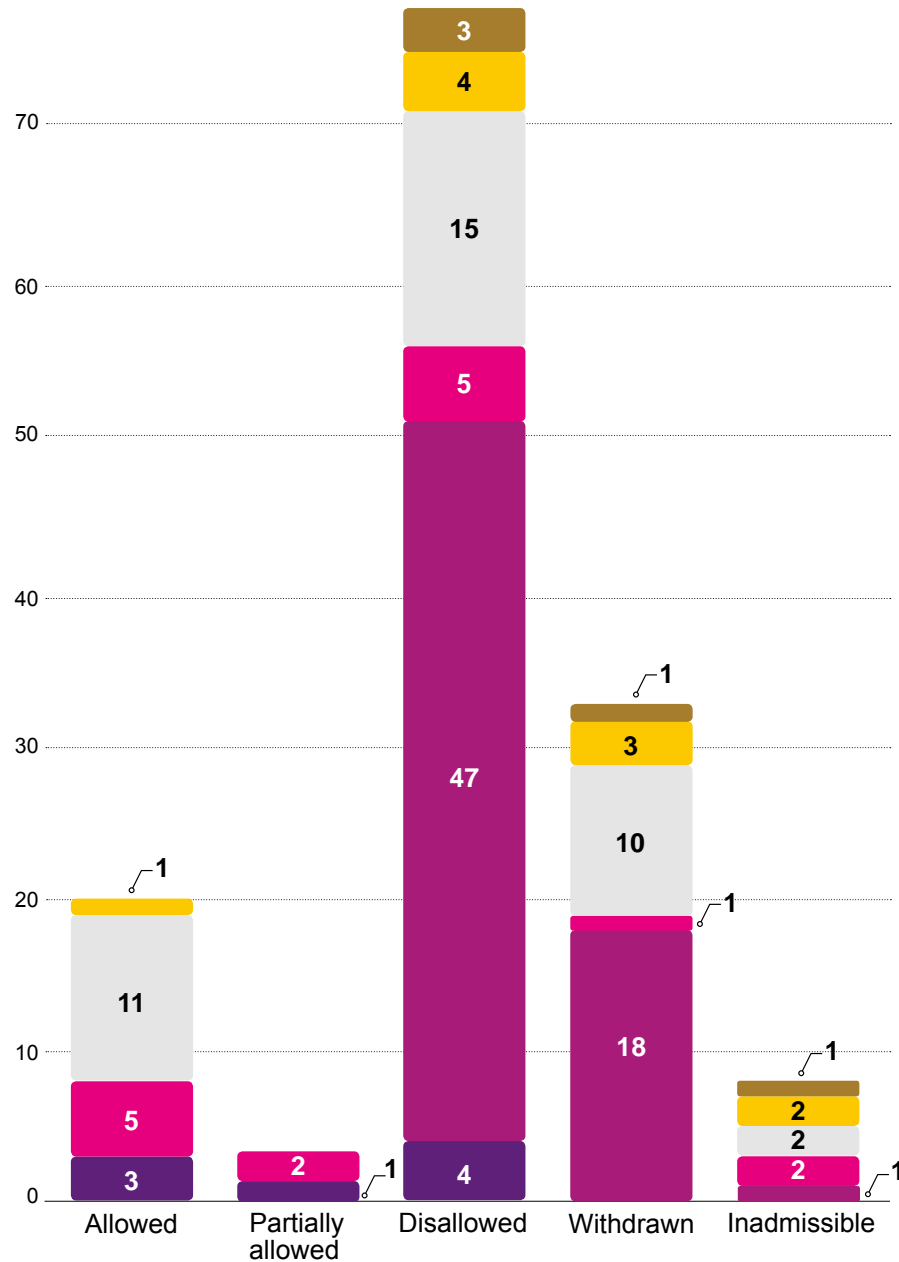


Figure 13: Resolved appeals to a higher court

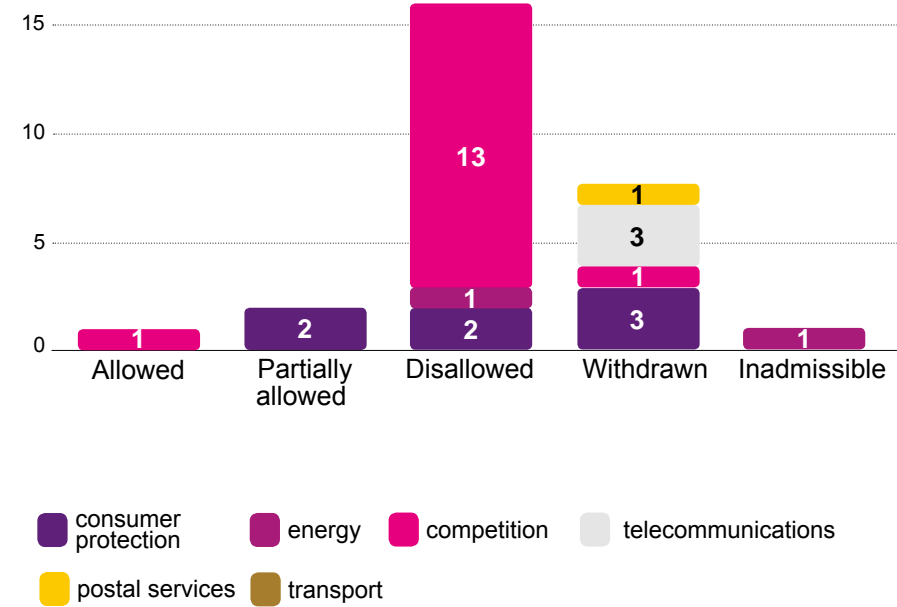
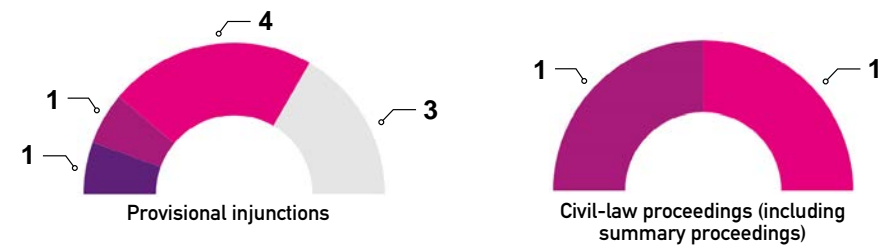


Figure 14: Provisional injunctions\* and civil-law proceedings

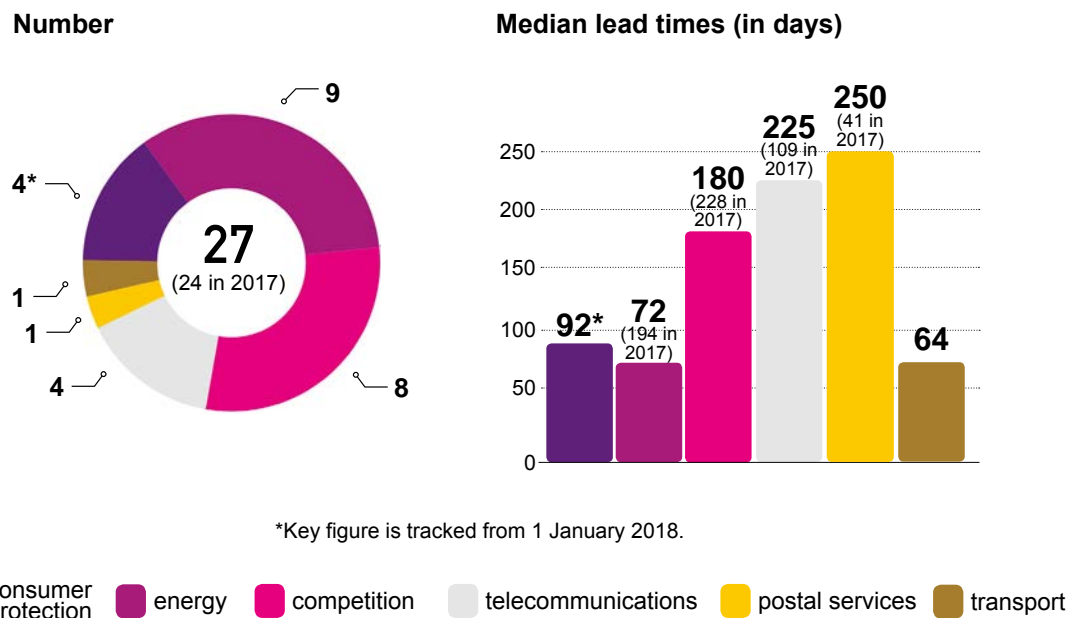


\*these also include the provisional injunctions for which no hearings were held because they had been withdrawn.

## Requests for enforcement

ACM receives many valuable tip-offs, indications, and complaints. If an official complaint is filed, it is considered a request for enforcement. ACM handles such requests with care. Other complaints, tip-offs, and indications are included in figures 21 through 25.

**Figure 15: Requests for enforcement**

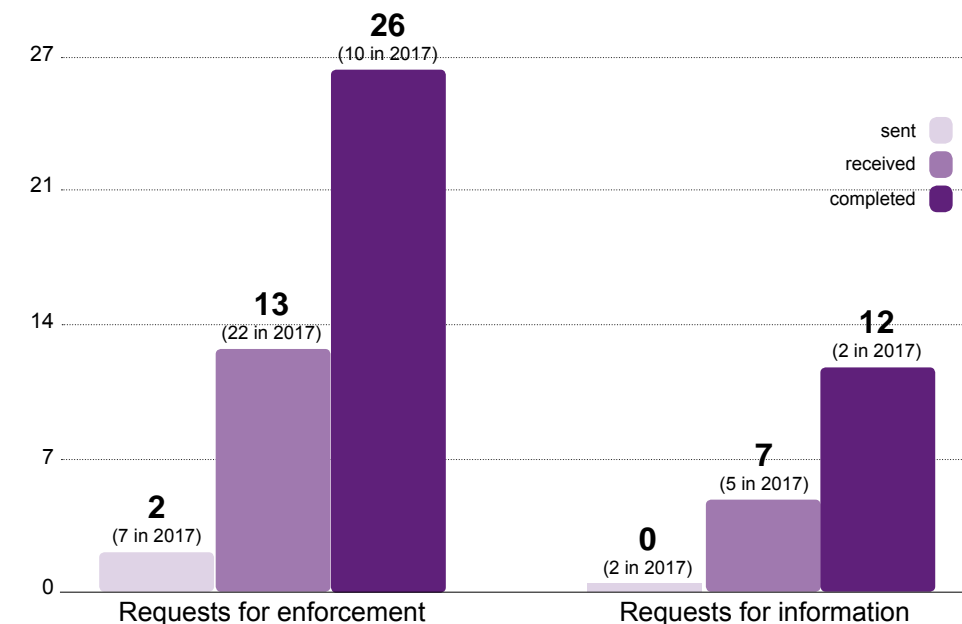


*In 2018, ACM completed a total of 27 requests for enforcement. The increased lead times in telecommunications and postal services can be explained by the large number of other investigations that took priority. See figure 7.*

**Figure 16: European requests for assistance**

The European consumer authorities work together within a network for consumer protection (Consumer Protection Cooperation, CPC). They can request each other's assistance when dealing with cross-border violations. Many of the requests for assistance that ACM received in 2017 were completed in 2018.

## Consumer protection

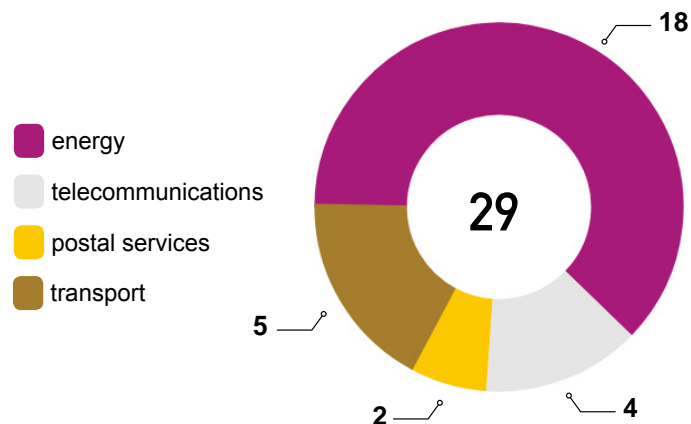


## Disputes in regulated sectors

Consumers and businesses do not always agree with the methods of operators or suppliers in the energy, telecommunications, postal services and transport sectors. In such situations, the disputes can be submitted to ACM. ACM hands down a ruling within two months. This period can be extended by another 2 months. ACM seeks to resolve disputes to the satisfaction of both parties. If parties file an appeal against the dispute decision, the case will be brought to the Dutch Trade and Industry Appeal Tribunal (CBb). This has happened in all 18 energy cases, of which the appeal was allowed in six cases, and disallowed in 4 cases. In 7 cases, the appeal was withdrawn, and in one case, the appeal was inadmissible.

Figure 17: Disputes in regulated sectors

Numbers



Median lead time (in days)

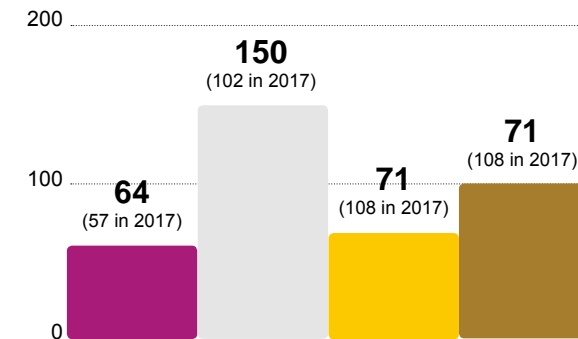
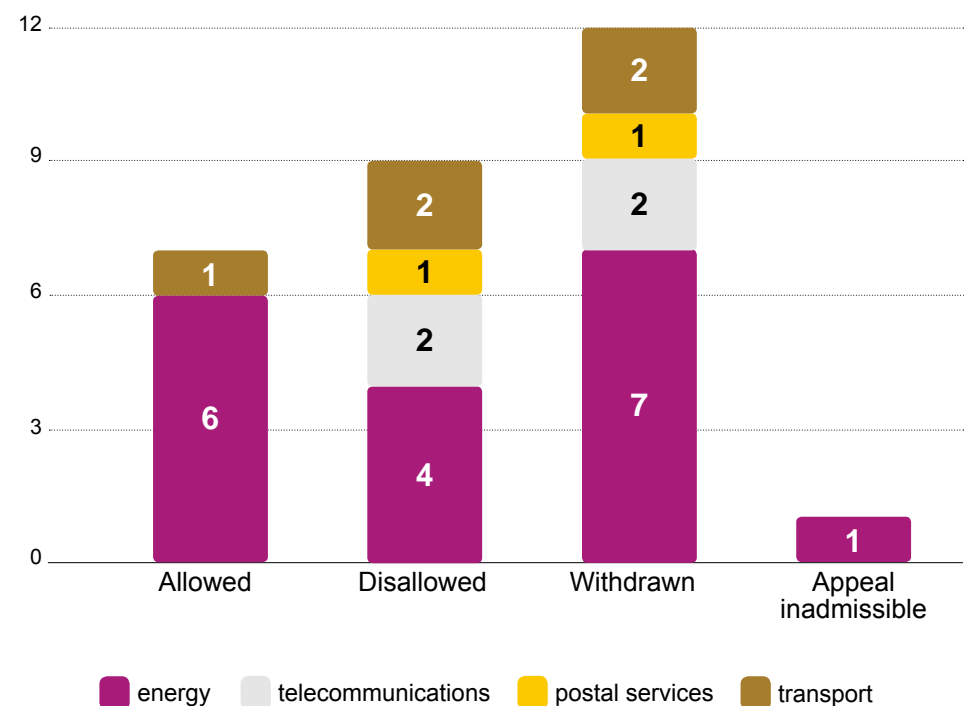


Figure 18: Resolved disputes

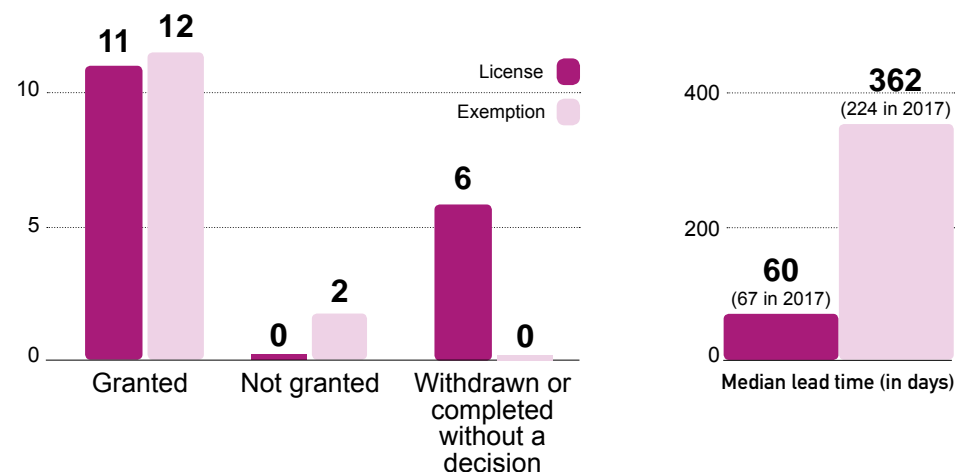




## Licenses and exemptions

ACM grants licenses and exemptions in the energy sector. For the supply of electricity and natural gas, suppliers need to have a license. All providers that supply heat to consumers and small-scale users, too, have a license requirement. This obligation does not apply to small heat providers and providers that own or rent out the building to which heat is supplied. Owners of grids or gas transmission networks must designate a system operator. Sometimes there may be circumstances in which it is unreasonable to designate a system operator. Owners can then apply for an exemption with ACM.

**Figure 19: Completed licenses and exemptions**

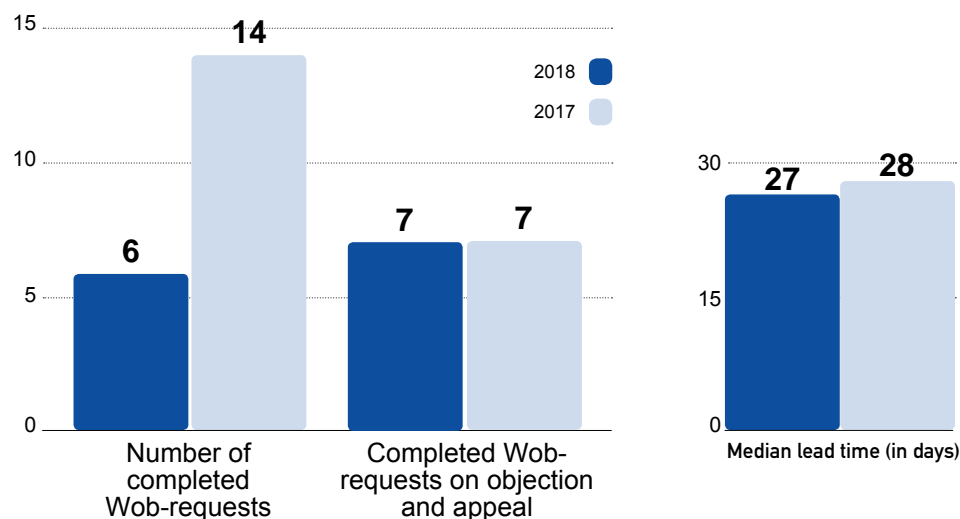


*Applications for exemptions from designation of a system operator are often complex cases. In practice, we see that we need the entire time limit (1 year in total) to process the applications. In consultation with the parties involved, and considering our desire to make careful preparations, ACM processes the applications as swiftly as possible. Several applications could not be completed within the time limit. ACM kept the applicants informed about their applications' progress.*

## Requests under Dutch Act on Public Access to Government Information

Consumers and businesses have the opportunity to request information regarding the government's actions. They can do so under the Dutch Act on Public Access to Government Information (Wob). Over the past four years, we have observed a steady decline in the number of such requests. Each year, the number is half the number of requests in the previous year. The statutory lead time for Wob-requests is 28 days. With regard to 3 Wob-requests, the statutory term limit was exceeded.

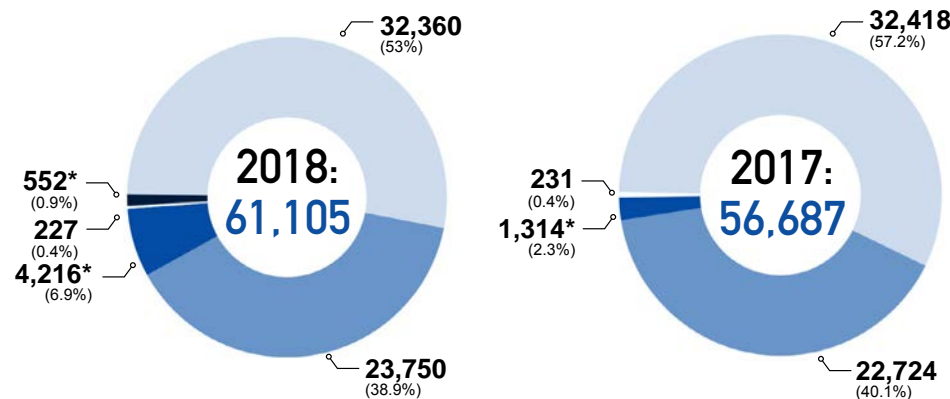
**Figure 20: Completed Wob-requests**



## Indications submitted by consumers

Consumers contact consumer information portal ConsuWijzer for various reasons. They can ask questions, but also file complaints about a company. We refer to such questions and complaints as indications. The number of indications increased as a result of the addition of a new channel, WhatsApp, following a successful trial in 2017.

**Figure 21: Indications submitted to ConsuWijzer**

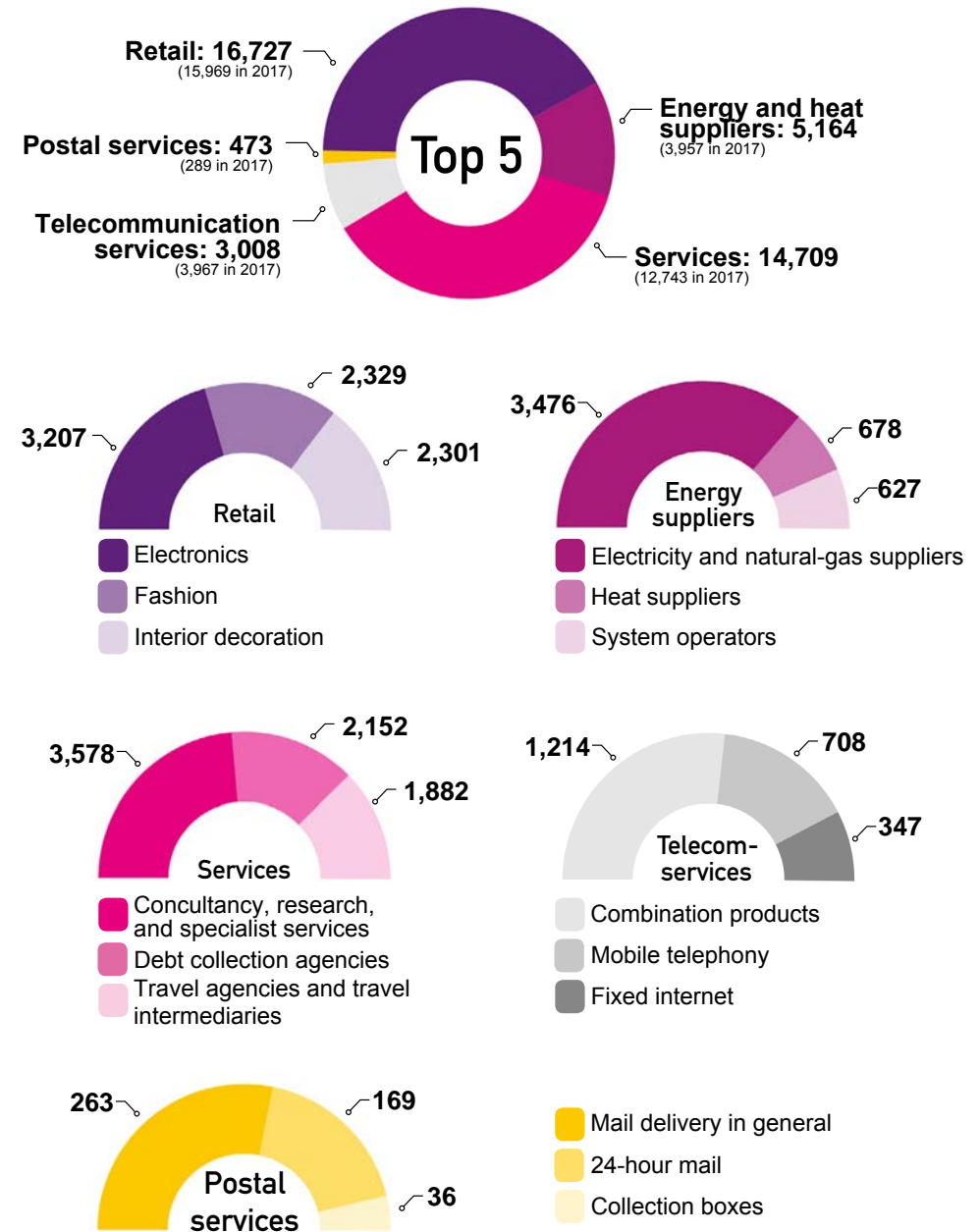


\*Indications submitted via social media have been included in the figures from June 2018. Indications over WhatsApp have been included since September 2017.

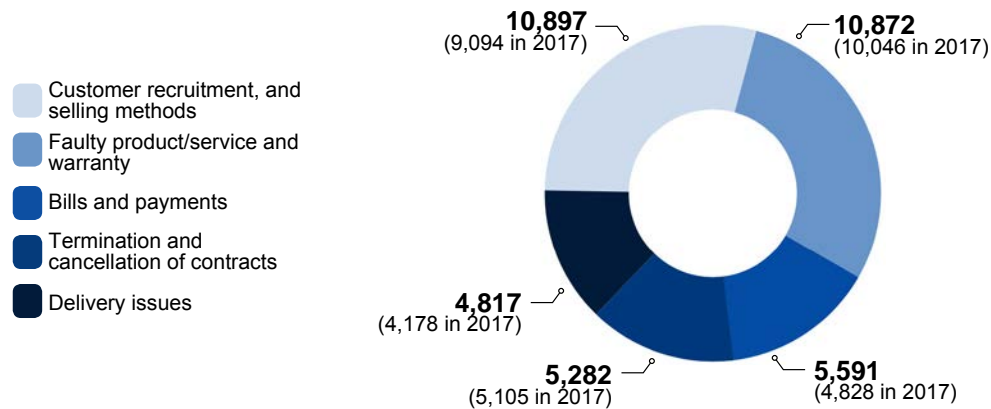
Telephone Email WhatsApp Letters Social media

ACM bases its oversight to a large extent on the number of indications it receives. In 2018, we witnessed a significant rise in the number of indications about debt collection agencies, and energy suppliers. This increase is partially caused by our call to report abuses involving debt collection agencies, and by the bankruptcy of an energy supplier.

**Figure 22: Top 5 consumer indications per sector**



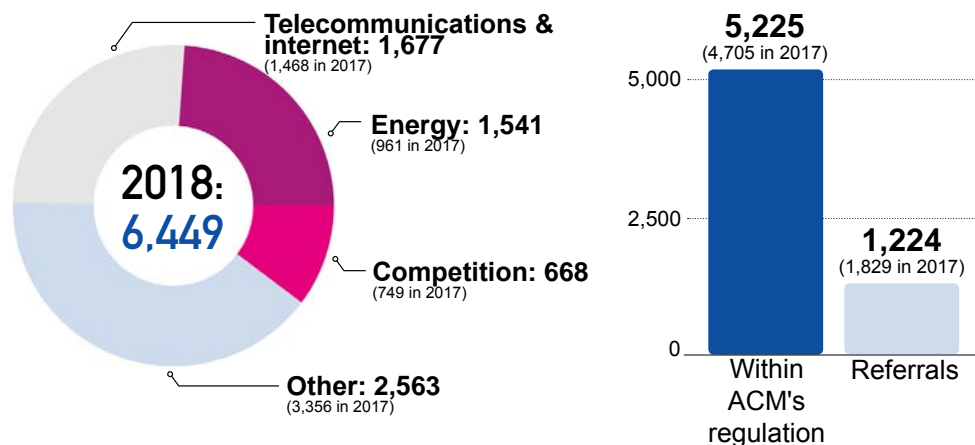
**Figure 23: Top 5 indications, nature of complaint**



## Indications submitted by businesses

Businesses, too, are able to contact ACM if they have questions or complaints, for example, if they are unsure whether they comply with the rules, or if they suspect competitors having concluded illegal agreements. In 2018, we received 6,449 indications from businesses, which is slightly lower than 2017, when we received 6,534. However, the number of indications that fall under our regulatory jurisdiction did increase tremendously. Businesses appear to be more aware of the subjects for which they can contact ACM.

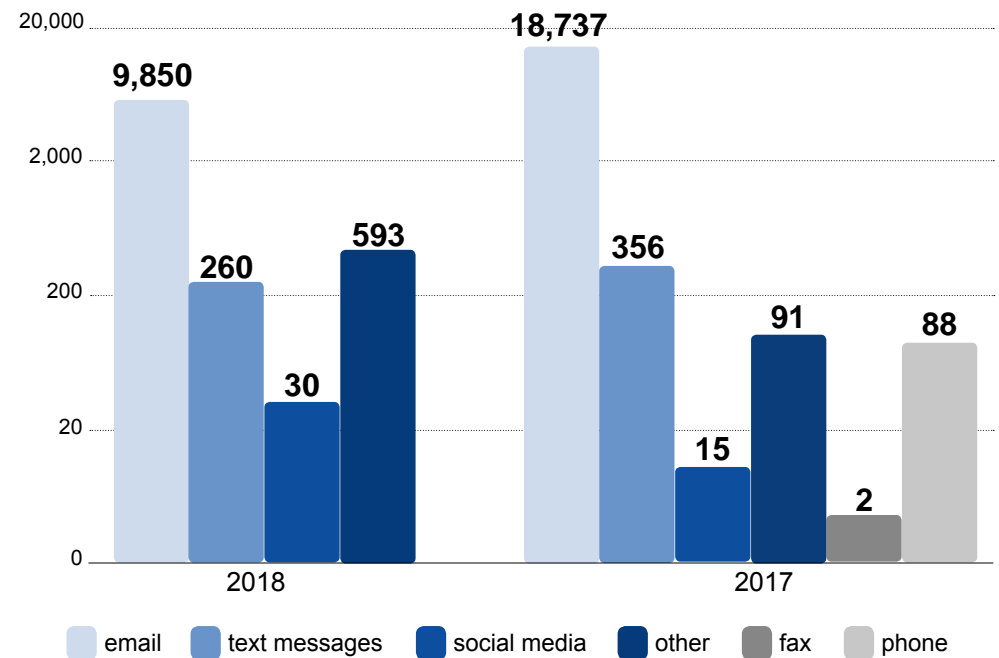
**Figure 24: Number of indications submitted to ACM's business desk**



## Spam complaints board Spamklacht

ACM enforces compliance with spam regulations. Consumers receive spam through all kinds of channels, and have the opportunity to file their spam-related complaints with ACM. Since 2018, the categories phone and fax are no longer registered separately, but are included in the category 'other'.

**Figure 25: Indications submitted to spam complaints board**



## Registrations

All providers of electronic communication services and postal services in the Netherlands are required to register themselves with ACM.

**Figure 26: Overview of registrations of various market participants**

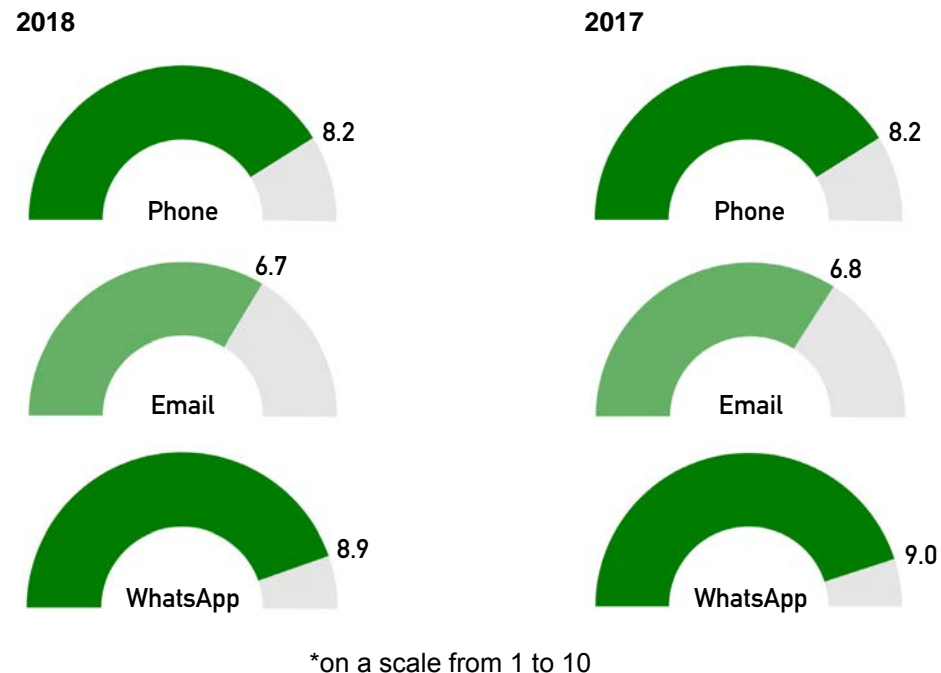
Registrations of providers of electronic communication	End of 2017	New registrations	Terminated registrations	End of 2018
Public electronic communication network	896	71	37	930
Public electronic communication service	930	166	14	1,082
Related facilities	79	23	1	101
Qualified certificates	7	0	7	0
<b>Registrations of providers of postal services</b>				
Postal delivery services	121	10	2	129

**Figure 27: Number of registrations for electronic communication**

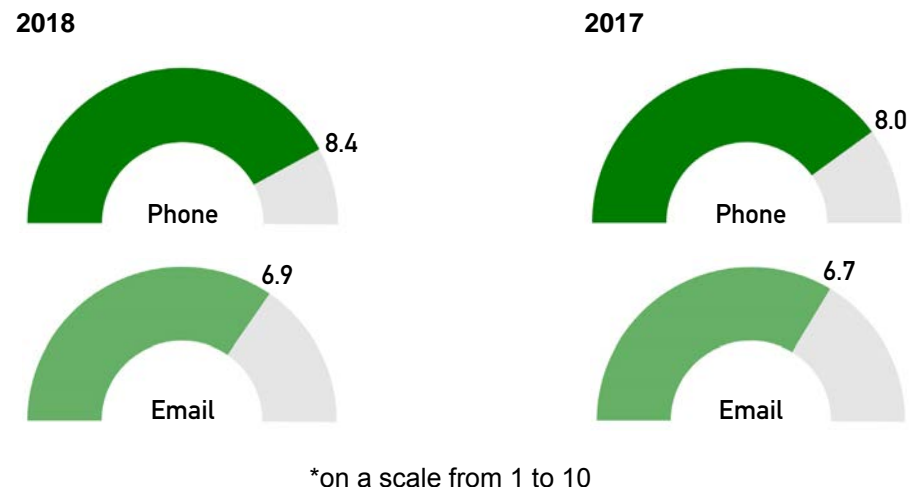
	2018	2017
Number of registrations for electronic communication (including termination)	313	412
Percentage of registrations within the statutory term limit	100%	100%

## Satisfaction with ACM and ConsuWijzer

**Figure 28: Satisfaction with ConsuWijzer's customer interaction**



**Figure 29: Satisfaction with ACM's customer interaction**



# Annual statements of accounts of ACM

## ACM's 2018 annual statement of accounts consists of three parts:

1. Annual statement of accounts of the ACM Organization
2. Annual statement of accounts of the Autonomous Administrative Authority ACM (ZBO ACM)
3. Corporate affairs of the Autonomous Administrative Authority ACM (ZBO ACM)

This annual statement of accounts concerns 2018 in its entirety. In the tables below, amounts are rounded up or down to the nearest euro. As a result, rounding errors may occur.

## 1. Annual statement of accounts of ACM Organization

From an administrative point of view, the ACM Organization is an integral part of the Ministry of Economic Affairs and Climate Policy (EZK) without any statutory obligation to publish an independent annual statement. The accounting check takes place at EZK level. In addition, the so-called Authorization Directive (EU Directive 2002/20/EC) applies to the ACM Organization. The ACM Organization uses a cash-basis accounting system in the administration of EZK. There is no balance sheet or profits-and-loss account. ACM kept time in accordance with a system based on the method of passing on costs to regulated industries. This method came into force on January 1, 2015.

## 1.1 Expenditures of ACM Organization

The table below lists the cash expenditures for 2018 and 2017.

**Table 1: Cash expenditures of ACM organization (in euros)**

	2018	2017
Personnel costs		
Salary costs	44,008,588	44,491,471
Temporary employees	3,858,761	2,946,959
Travel expenses	1,267,629	1,321,369
Education	691,876	707,943
Other personnel costs	660,996	246,916
Government prosecutor	579,971	619,865
Total personnel costs	51,067,822	50,334,523
Material costs		
Housing	3,311,330	3,418,598
Research	2,805,315	3,488,039
IT	5,283,985	5,669,320
Catering/security/cleaning/general	543,647	712,733
Office furniture and supplies	467,050	598,475
Education and events	116,916	7,063
Other material costs	86,485	162,982
Damages/compensation	1,722,000	5,000,000
Total material costs	14,336,727	19,057,212
Total expenditures	65,404,549	69,391,735

## Explanatory notes to table 1

In 2018, a new collective labor agreement for the central government (2018-2020) was signed. Since July 1, 2018, the salaries of the pay scales laid down in the Civil Servants Pay Decree (BBRA) have been raised by 3%. The average utilization rate in 2018 was lower, which means the salary costs were also lower compared with 2017.

The increase in temporary employees is partially caused by the need for temporary staff to absorb the outflow. Another reason is the need for specialist knowledge with regard to IT and communication technologies.

The cost item 'other personnel costs' consists of multiple items. The increase of 400,000 euros has different reasons. In 2018, investments in coaching processes were higher in light of sustainable employability. The tight job market and a higher outflow have resulted in higher recruitment expenditures in 2018.

In 2018, we celebrated our 5-year anniversary by holding a one-day conference about the digital economy and the role of regulators therein. The one-off expenditures for this conference partially fall under 'other personnel costs', and partially under 'education and events'.

In 2018, total housing expenses decreased because of a lower tariff per square meter, and fewer expenses on minor renovations.

In 2017, ACM started replacing old and failure-prone hardware. As a result, less IT-related maintenance expenditures were made in 2018.

The invoice for service costs over 2018 has not yet been received, which means the costs for catering/security/cleaning are lower than in 2017. However, ACM expects to pay these costs in 2019.

In 2018, expenditures on office furniture and supplies were lower, particularly on books, periodicals, and professional literature.

The increase in the costs on education and events is caused by ACM's five-year anniversary in 2018.

In connection with legal proceedings, ACM in 2018 paid damages for incurred costs or paid compensations for loss of income of regulated market participants.

## Claims

ACM is handling 32 claims, 30 of which have a combined value of 40.2 million euros. The value of the other claims has not been determined yet.

## 1.2 Income of ACM organization

The tables on the following pages provide an overview of the income in 2018 and 2017. The levels of the income from market organizations are largely determined by the contribution scheme and the sanctions imposed. The levels of the contributions from the market organizations have been laid down in [the Regulation on the passing on of costs to regulated parties](#) (in Dutch).



**Table 2a: Income of ACM Organization (in euros)**

	2018	2017
<b>Telecom</b>		
Electronic communication	3,623,548	4,084,174
Numbers	2,395,519	2,318,783
Arbitration services	798,379	782,627
<b>Total Telecom</b>	<b>6,817,447</b>	<b>7,185,584</b>
<b>Postal Services Contributions</b>		
Universal Service Obligation	290,489	283,206
Non-Universal Service Obligation	1,566,646	726,557
<b>Total Postal Service</b>	<b>1,857,135</b>	<b>1,009,763</b>
<b>Energy</b>		
Distribution system operators electricity	583,753	640,648
Distribution system operators natural gas	1,017,285	1,424,806
Transmission system operator electricity	3,248,644	3,144,487
Transmission system operator natural gas	3,026,614	3,592,053
Heat license holders	259,914	190,624
<b>Total Energy</b>	<b>8,136,210</b>	<b>8,992,618</b>
Merger notifications	1,769,397	1,943,873
Licenses of energy providers	10,791	4,898
Receipts from Personnel/Materials	914,025	784,275
<b>Total income</b>	<b>19,505,005</b>	<b>19,921,011</b>

### Explanatory notes to table 2a

In order to provide more insight into the nature of the income within the Telecom category, the income from Electronic communication has been split into Electronic communication and Arbitration services since 2018. The 2017 figures have been adjusted accordingly. Income per market category may change from year to year. The reason is that, on the one hand, more or fewer economic and technical studies are needed for ACM's tasks. That, in turn, also affects the number of hours that is needed for ACM's tasks. The income in 2018 is largely based on the expenditures to the market category as calculated in 2017.

**Telecom:** the income from Electronic communication is in line with the Regulation on the passing on of costs to regulated parties.

**Postal services:** The income from the Postal services market category has increased. This is the result of the market analysis decision regarding 24-hour business mail, which came into force in 2017.

**Energy:** In 2016, the regulatory method for 2017-2021 was finalized. This has led to an increase in income in 2017.

### Transport (not included in the table because the balance was zero):

In accordance with the Regulation on the passing on of costs to regulated parties, ACM in 2018 received 0.57 million euros for the maritime pilots and aviation for the Ministry of Infrastructure and Water Management. In 2018, this income was transferred to the Ministry of Infrastructure and Water Management.

### Financial (not included in the table because the balance was zero):

In 2018, ACM sent the invoices to the Financial market category. This is the result of the new regulatory duty concerning oversight of debit and credit card transactions in the Netherlands since 2017. In accordance with the Regulation on the passing on of costs to regulated parties, ACM in 2018 received 150,000 euros for the payment system for the Ministry of Finance. In 2018, the income was transferred to the Ministry of Finance.

**Table 2b: Income from sanctions (in euros)**

	2018	2017
Sanctions (including repayments)	15,102,170	70,817,794
<b>Total income</b>	<b>15,102,170</b>	<b>70,817,794</b>

**Explanatory notes to table 2b**

Sanctions that ACM has imposed under the former statutory regime only need to be paid by parties after the highest court has ruled on their cases. Therefore, the period between the imposition of the sanction and the actual payment therefore can take multiple years, because of the legal procedures. As a result, receipts from sanctions can greatly vary from year to year.

The amount of received sanctions (including repayments) is 15.1 million euros. The breakdown is as follows:

- Received related to sanctions 28.3 million euros,
- 8.7 million euros has been repaid following court rulings.

Under the Streamlining Act, ACM can demand payment of the sanctions within 6 or 24 weeks. In general, ACM receives payment of the fine on behalf of the Dutch State within these term limits, barring any ongoing legal proceedings. If the court hands down a ruling in a case and either lowers or reverses the fine, ACM will have to make repayments on behalf of the Dutch State. Such a situation can also occur years after the procedure, which means the Dutch State runs the risk of fluctuations to this part of its income.

**1.3 Outstanding receivables of ACM Organization**

The table below lists the outstanding receivables as of December 31, 2018 and December 31, 2017.

**Table 3a: Outstanding receivables of ACM Organization (in euros)**

	2018	2017
<b>Telecom</b>		
Electronic communication	70,176	136,062
Numbers	292,029	321,849
Arbitration services	40,229	28,932
<b>Total Telecom</b>	<b>402,434</b>	<b>486,843</b>
<b>Postal services contributions</b>		
Non-Universal Service Obligation	40,428	-
<b>Total Postal Service</b>	<b>40,428</b>	<b>-</b>
<b>Energy</b>		
Heat license holders	1,684	1,684
<b>Total Energy</b>	<b>1,684</b>	<b>1,684</b>
Merger notifications	244,328	331,550
Licenses of energy providers	500	2,398
Other receipts	538,480	931,952
<b>Total</b>	<b>1,227,853</b>	<b>1,754,427</b>



**Table 3b: Outstanding receivables from sanctions (in euro)**

	2018	2017
Sanctions (including statutory interest)	23,502,127	52,685,420
<b>Total</b>	<b>23,502,127</b>	<b>52,685,420</b>

**Explanatory notes to table 3b**

The amount of outstanding receivables for sanctions has dropped with 29.2 million euros from 52.7 million euros in 2017 to 23.5 million euros on December 31, 2018. This drop can be explained as follows: we received 23.8 million euros less in income, and 7.1 million euros less as a result of court rulings or sanctions that have been deemed irrevocable. And, as a result of a lower outstanding balance, the outstanding statutory interest is 3.2 million euros lower. In addition, the increase of 4.9 million euros is a combination of new sanctions and the statutory interest.

## 2. Breakdown of expenditures along market organizations

In the [Decision on the method of passing on costs to regulated industries](#) (in Dutch) and [its amendment](#) (in Dutch), it has been laid down how ACM can pass on costs to market organizations. According to this method, the income of the year in question is based on the actual expenditure of the previous year. The market categories and the formula have been explained in more detail in the explanatory notes to the Decision on the method of passing on costs to regulated industries of October 27, 2014, and December 10, 2014, respectively.

Per sector, ACM calculates the expenditures to be passed on to the relevant categories. For each category, ACM has one or more timekeeping codes. This will ensure that ACM is able to allocate the costs to the right category. ACM calculates the amount to be passed on per category as follows:

1. Per category, the 'direct material costs' are determined, which are the costs that can be directly attributed to this category.

2. Next, the remaining amount is determined, consisting of the indirect material costs and all direct and personnel costs. These costs are allocated based on the actual hours spent on these categories.

The next table provides a breakdown of the cash expenditures for ACM Organization and for the Autonomous Administrative Authority ACM (Dutch abbreviation: ZBO ACM).

**Table 4: Total cash expenditures (in euros)**

	2018			2017
	ACM Organization	ZBO ACM	Totaal	Total
Direct material costs	4,910,505	-	<b>4,910,505</b>	8,679,589
<i>Remaining costs based on actual direct hours consisting of:</i>				
Personnel costs	51,067,822	732,536	<b>51,800,358</b>	50,970,700
+ indirect material costs	9,426,222	4,058	<b>9,430,280</b>	10,382,467
Total personnel and indirect material costs	60,494,044	736,594	<b>61,230,638</b>	61,353,167
<b>Total expenditures</b>	<b>65,404,549</b>	<b>736,594</b>	<b>66,141,143</b>	<b>70,032,756</b>

### Explanatory notes to table 4

The direct material costs in 2018 were lower than those in 2017 as a result of fewer 'paid compensations' in 2018. Compensations are part of the costs of the market category 'State'.

Table 5 gives a breakdown of the expenditures of ACM Organization and ZBO ACM to be passed on to market organizations on the basis of the Decision on the method of passing on costs to regulated industries. Please note: the amount in the column "Total share" is the amount to be passed on to the market organizations. It is not the total amount that has been spent on that sector. Example: sanction procedures in one of the regulated industries are not passed on to the market organizations but to the Dutch State.

**Table 5: Overview of the allocation of the expenditures of ACM to be passed on to market organizations (in hours and euros)**

2018					2017
	Direct hours	Direct material costs	Personnel & indirect costs based on share of hours	Total share	Total share
	in hours	in euros	in euros	in euros	in euros
<b>Telecom</b>					
Public electronic communication services & networks, and related facilities	27,162	38,993	3,328,671	3,367,664	3,669,931
Numbers	16,374	37,628	2,006,625	2,044,253	2,430,641
<b>Subtotal Telecom</b>	<b>43,535</b>	<b>76,620</b>	<b>5,335,297</b>	<b>5,411,917</b>	<b>6,100,572</b>
<b>Postal Service</b>					
Universal Service Obligation	670	3,501	82,151	85,652	306,689
Non-Universal Service Obligation	9,834	16,280	1,205,174	1,221,455	1,599,321
<b>Subtotal Postal Service</b>	<b>10,504</b>	<b>19,782</b>	<b>1,287,325</b>	<b>1,307,107</b>	<b>1,906,010</b>
<b>Energy</b>					
Distribution system operation Electricity	5,951	60,141	729,329	789,470	583,753
Distribution system operation Natural gas	3,460	6,976	424,044	431,020	1,017,285
Transmission system operation Electricity	33,285	148,414	4,079,053	4,227,467	3,289,144
Transmission system operation Natural gas	21,628	93,558	2,650,570	2,744,128	3,067,114
Supply of heat	3,926	-	481,171	481,171	260,487
<b>Subtotal Energy</b>	<b>68,251</b>	<b>309,089</b>	<b>8,364,167</b>	<b>8,673,256</b>	<b>8,217,784</b>
<b>Transport</b>					
Registered pilots	1,424	-	174,557	174,557	162,979
Aviation	3,974	-	487,075	487,075	406,565
<b>Subtotal Transport</b>	<b>5,399</b>	<b>-</b>	<b>661,632</b>	<b>661,632</b>	<b>569,543</b>
<b>Financial</b>					
Payment system	769	-	94,273	94,273	152,893
<b>Subtotal Financial</b>	<b>769</b>	<b>-</b>	<b>94,273</b>	<b>94,273</b>	<b>152,893</b>
<b>Total market organizations</b>	<b>128,458</b>	<b>405,491</b>	<b>15,742,694</b>	<b>16,148,185</b>	<b>16,946,802</b>
<b>Central government</b>					
State/treasury	371,176	4,505,015	45,487,943	49,992,958	53,085,954
<b>Total</b>	<b>499,635</b>	<b>4,910,505</b>	<b>61,230,638</b>	<b>66,141,143</b>	<b>70,032,756</b>

Please note: Due to rounding, some totals may not correspond with the sum of the separate figures.

### Explanatory notes to table 5

The amount per market category may fluctuate each year. This is because more or fewer economic and technical studies are needed for ACM's duties each year. This also affects the number of hours that is needed for ACM's duties. Those are the reasons behind any differences in the total share of costs per market category over the years.

## 3. Annual account of ZBO ACM

This financial account of the Autonomous Administrative Authority ACM (ZBO ACM) concerns the entire calendar year of 2018. The ZBO ACM concerns the Board of ACM. The ZBO ACM used a cash-basis accounting system in the administrative system of the Ministry of Economic Affairs and Climate Policy (EZK).

### 3.1 Expenditures and income of ZBO ACM

The below table is an overview of the expenditures and income over 2018 and 2017.

**Table 6: Total expenditures and income of ZBO ACM (in euros)**

	2018	2017
Personnel costs		
Salary costs	696,048	605,313
Travel expenses (domestic)	3,672	2,876
Travel & accommodation expenses (abroad)	18,198	16,134
Various expenses	350	1,920
Employee training	14,268	9,934
Total personnel	732,536	636,177
Material costs		
Contributions and memberships	3,715	3,994
Social allowance	343	850
Total material costs	4,058	4,844
<b>Total expenditures</b>	<b>736,594</b>	<b>641,021</b>
Income	162,040	162,120
<b>Total income</b>	<b>162,040</b>	<b>162,120</b>

### **Explanatory notes to table 6**

Personnel costs predominantly consist of salary costs. In 2018, a new chairman was installed. The increase in personnel costs is incidental, and is related to the change in the composition of the board.

The item 'income' concerns the receipts from market organizations, as laid down in the Decision on the method of passing on costs to regulated industries.

As of 31 December 2018, the ZBO ACM did not have any outstanding receivables.

### **3.2 Corporate services of ZBO ACM**

This section on corporate services lists all relevant points of attention in the operations of ZBO ACM. In accordance with the Government Accounts Act 2016, the corporate-services section is organized as an exception report. The information included in this section has been collected from the management control system of the ZBO ACM and from information coming from the audit of the Central Government Audit Service. The corporate-services section consists of four mandatory elements: lawfulness, establishment of policy information, financial and material management, and other aspects related to corporate services.

### **I Lawfulness**

Based on information at my disposal, no irregularities with regard to the accountable lawfulness of the expenditures of the ZBO ACM that have exceeded the relevant reporting tolerance thresholds have occurred.

### **II Establishment of policy information**

Based on information at my disposal, no shortcomings have occurred in the establishment of policy information.

### **III Financial and material management**

No irregularities have occurred.

### **IV Other aspects related to corporate services**

No irregularities have occurred.