



Outcome of ACM's work in 2019

ACM wishes to be an effective and efficient regulator. We want to step in wherever our actions can truly make a difference for people and businesses. That is why we attach great value to the impact of our work.

Outcome in 2019: 755 million euros

Each year, ACM estimates how much money Dutch society has saved as a result of our interventions in the market. This is called outcome. The total outcome of ACM for Dutch society in 2019 is estimated at approximately 755 million euros. This figure is composed of

- Approximately 88 million euros from activities that ACM completed in 2019
- Approximately 667 million euros from activities in previous years, the impact of which still lasted in 2019

All amounts are expressed in 2019 euros. This means that amounts from previous years have been adjusted for inflation.

The outcome calculation method is explained in the paper "[Outcome of ACM – Calculation method of the outcome of ACM](#)" (in Dutch). ACM's calculation method has not changed in the last few years. The method had previously been reviewed by the CPB Netherlands Bureau for Economic Policy Analysis. For example, see the [2013](#) and [2014](#) ACM annual reports.

Basic principles in the estimation

When the outcome, ACM primarily looks at effects on price, quality, and choice. In that calculation estimation, the following basic principles are used:

- The effects must be estimated in a relatively easy manner.
- The effects must be quantifiable (in monetary terms) with a reasonable degree of certainty.
- The outcome refers to the expected future outcome for society.
- The effects are presented for each individual case as much as possible. However, this is not always possible because of confidentiality.
- Outcomes are, in general, expected to last for 3 years, which is in line with international outcome calculations. This means that ACM will include 2019 cases in its outcome calculations in 2020 and 2021. If ACM expects the effect to last shorter than 3 years, ACM will explicitly say so, which is, in principle, the case in consumer protection where outcomes are expected to last for 2 years. These basic principles are in line with the international method of the OECD and other authorities.

ACM uses conservative assumptions in the outcome calculation in order to prevent an overestimation of the effects. In addition, ACM rounds off amounts in order to avoid the impression that these are somehow precise estimates. That is why the total amount can differ from the sum of the individual amounts.

1 Outcome of consumer protection

The estimated outcome of ACM's consumer protection in 2019 is approximately 61.8 million euros. The outcome of consumer protection of completed activities in 2019 is approximately 49.0 million euros and is based on multiple rapid interventions and 6 cases:

1. Online dating
2. Aggressive debt collection agencies
3. Misleading practices of kitchen dealers
4. Rental agency fees
5. Energy supply to self-employed workers on their home addresses
6. Transparency in the telecommunications sector
7. Rapid interventions

The outcome from previous years, which are still in effect in 2019, is approximately 12.8 million euros, and is based on 6 cases and multiple rapid interventions:

1. Regulation of electricity and natural-gas tariffs in the consumer market
2. Seats and Sofas
3. Credit Invest
4. Belvilla
5. easyEnergy
6. De Reisplanner
7. Rapid interventions in 2018

Actual effect is greater

The actual effect of consumer protection, however, is greater than the outcome expressed in monetary terms. It is difficult to calculate an outcome for many of ACM's consumer protection activities. The impact of such activities is not easily expressed in monetary terms. One such example is the improved information that online stores provide (such as We Love Musthaves). An example of effects that cannot be expressed in monetary terms are the sample letters of ACM's consumer information portal ACM ConsuWijzer, enabling consumers to exercise their rights themselves.

For each case, whenever possible, ACM explains how it calculated the outcome. But, for confidentiality reasons, ACM does not specify the outcome for each case.

1.1 Unfair commercial practices and lack of price transparency

The outcome of our actions against unfair commercial practices and against lack of price transparency in 2019 is approximately 42.0 million euros.

Unfair commercial practices

Most of ACM's interventions related to consumer protection are aimed at countering unfair commercial practices. We look at the difference between the number of indications received by ACM ConsuWijzer before and after the intervention. In that context, ACM assumes that indications are submitted to ACM ConsuWijzer in 5% of all cases in which problems occur. The effect of ACM's intervention on the number of reported indications is multiplied by the average harm to consumers caused by the violation.

Lack of price transparency

As a result of the lack of transparency about additional costs when making purchases, consumers may make wrong (too expensive) choices or consumers may be faced with additional search costs. ACM assumes that these costs concern 0.75% of the realized turnover, as already estimated in the 2013 case “Transparency in travel costs” and in similar cases in 2014 in the travel industry.

Online Dating

Many consumers use dating sites for meeting others. The dating sites that ACM investigated charge users costs for each sent message, and they often use fake profiles with which users unsuspectingly chat. The messages that you receive, are sent by chat operators, which get paid for these messages. Consumers pay a lot of money, and never get what they hope to get: an actual meet-up. ACM's investigation has resulted in the closures of sites on which these practices occurred. ACM has agreed with the company behind these sites, The Right Link B.V., that consumers who have been misled by fake profiles on these sites will receive financial compensation. A part of the pledged compensations has already been paid.

Aggressive debt-collection agencies

ACM issued a warning against the aggressive practices of debt-collection agencies. Reports to ACM have shown that these agencies exert pressure on consumers to pay invalid bills. ACM has established that the individuals behind these agencies constantly set up new companies, allowing them to continue their aggressive practices. In order to put an end to these practices, ACM closely collaborates with other organizations like the police, the Dutch Public Prosecution Service (OM) and the Dutch Consumers' Association. Given the international dimension of these practices, ACM also collaborates with the Belgian and Turkish consumer authorities.

Misleading practices by kitchen dealers

An ACM investigation revealed that kitchen dealers Keukencentrum Mandemakers, Brugman Keukens, and Keukenconcurrent used misleading practices vis-à-vis consumers when selling kitchens at multi-day consumer events between 2015 and 2017. These three dealers had consumers sign a form, which wrongfully gave the impression that consumers were required to buy a kitchen. For example, the forms stated that these were purchase agreements, stated prices and terms of payment. In addition, they also stated that general terms and conditions were applicable. Furthermore, these forms also mentioned that consumers had to pay 30% if they decided not to go through with the purchase.

Rental agency fees

ACM compelled three rental agencies to stop charging lessees with unlawful agency fees. This is not allowed because they worked by order of the lessors. It does not matter what they call them: administrative fees, down payments or registration fees.

Energy supply to small businesses working from home

ACM received many reports that energy suppliers offer business contracts to small businesses that buy energy for their private homes. ACM has called on energy suppliers to offer consumer protection to small businesses that buy energy for their homes, mostly for private use. This means that, among other consequences, energy suppliers should charge this group, which includes many independent contractors, a lower termination fee. ACM sent a letter to all energy suppliers, explaining its call. Energy supplier Total Gas & Power Nederland BV's (TGP NL) made a commitment to ACM offering consumer protection to those customers who are attracted by TGP NL for energy at their private homes, and who use this energy for private purposes. Furthermore, TGP NL has financially compensated a large group of customers who have already left TGP NL.

Information transparency among telecom operators

ACM established that telecom operators KPN, Tele2, T-Mobile and Vodafone displayed incorrect and incomplete information about their offerings on their websites for consumers. Mobile plans are sold over their websites, among other sales channels. Consumers must be able to find correct and complete information about the products and services on offer. With such information, consumers are able to make proper comparisons, and to choose what plan meets their needs best. These four telecom providers did not meet this requirement.

1.2 Rapid interventions

Rapid interventions are aimed at getting in contact with traders quickly in order to end a violation (suspected or real) of consumer protection law. In addition, rapid interventions can also result in damages for injured parties, where possible. In 2019, ACM carried out various rapid interventions. For confidentiality reasons, we cannot comment on all rapid interventions. For each rapid intervention, the outcome was calculated by multiplying the average harm per consumer by the number of harmed consumers (estimated or real). The outcome of the rapid interventions in 2019 is approximately 6.9 million euros.

Incasso CC

ACM issued warnings against debt collection agency TA Finance Online Sales Marketing B.V., acting under the brand name Incasso CC. Incasso CC's debt collection methods were considered aggressive. And it collected on presumably unjust bills.

Vakantiegarent

ACM advised consumers not to pay if a debt collection agency approaches them about any bills from Vakantiegarent, not even if the agency threatened with measures such as sending bailiffs, or calling in locksmiths or the police. These debt collection agencies put tremendous pressure on consumers to pay Vakantiegarent's bills, even though no legally valid agreements had ever been concluded.

Online store We Love Musthaves must inform its customers more clearly

ACM called online store We Love Musthaves to account for failing to inform their customers properly. This action was taken because ACM had received indications about this online store through ConsuWijzer, the consumer information portal of ACM. We Love Musthaves informed its customers incorrectly or insufficiently about the right of withdrawal, delivery time, and its contact details.

Cultural organizations Museumkaart and CJP adjust their membership conditions

Museumkaart and CJP adjusted their practices after ACM had reprimanded them. These organizations now comply with the rules about membership renewals and cancellations. Both organizations used to renew memberships automatically with another year, without giving members the opportunity to cancel the membership in between. Consumers must either actively renew their memberships or receive the opportunity to cancel their memberships early.

Car tire dealers display correct prices

According to the rules, all unavoidable costs (including the recycling fee in the case of tires) have to be included in the price. If the mounting of the tires is part of the offer, the price of the tire must include the mounting costs. Following a check, ACM established that not all car tire dealers included all unavoidable costs in their prices still. ACM had set a deadline for these dealers so they could adjust their prices. Most dealers subsequently did so.

1.3 Correction to outcome in previous years

In 2019, a ruling of the Dutch Trade and Industry Appeals Tribunal (CBb) resulted in ACM having to adjust the outcome of previous years. In its ruling on appeal, the CBb reversed the fines on Shoebaloo, Bever and Cool Cat imposed in 2016. In connection with confidentiality of the figures of the market participants involved, ACM cannot disclose the reduction of the estimated outcome over the years 2016 and 2017.

2 Outcome of competition oversight

The total estimated outcome of competition oversight for 2019 is approximately 49.8 million euros. The outcome of competition oversight for activities that were completed in 2019 is approximately 24.3 million euros, and covers our competition oversight and concentration control efforts.

- The outcome coming from our competition oversight efforts in 2019 was approximately 19.5 million euros, and is based on commitments in the radio advertising market, and one other sector. This outcome and previous cases from 2017 and 2018 result in the total estimated outcome of competition oversight for 2019 of 22.0 million euros.
- The outcome coming from our concentration control efforts in 2019 was approximately 4.8 million euros, and is based on the concentration decisions Sanoma – Iddink, KidsFoundation – Partou, Kentalis – GGMD, and ZGA – Trimenzo. This outcome and previous cases from 2017 and 2018 result in the total estimated outcome of concentration control for 2019 of approximately 27.9 million euros.

The outcome coming from previous years of which the effect still continued in 2019 is approximately 25.5 million euros, and is based on:

1. Cartel agreements between manufacturers of forklift truck batteries and one other cartel agreement.
2. The concentrations Sint Anna – Catharina, Parnassia – Antes, Jumbo/Coop – Emté, and Aurobindo – Apotex.

For each case, whenever possible, ACM explains how it calculated the outcome. The calculation method for the method relies on several rules of thumb based on the relevant turnover, as described in the methodology, and is based on OECD practices, which are:

- 3% for concentrations that did not go ahead or went ahead in a different form;
- 5% for abuses of dominant positions; and
- 10% for anticompetitive arrangements.

For confidentiality reasons, ACM does not specify the outcome for each case.

2.1 Commitments made by OMS

On January 1, 2020, Dutch media company One Media Sales (OMS) stopped offering its so-called 'budget-share discount' when selling radio advertising spots. This element of OMS's discount scheme acted as an incentive for advertisers and media agencies to spend relatively more of their annual advertising budgets with OMS and less with other radio stations. This specific discount could result in a situation where other radio stations earn insufficient advertising revenue, thereby affecting their day-to-day operations.

ACM in 2019 issued an official commitment decision, declaring these commitments binding for a period of two years. As a result of ACM's action, a downward spiral for rival radio stations has been prevented. The effect is expected to last for at least the duration of the commitment, which is two years.

2.2 Other commitments

Commitments have also been made in one other case, resulting in lower tariffs. As a result of ACM's actions, buyers pay less. In this case, the actual price effect was determined, which means that ACM did not use the rule of thumb to estimate the outcome. ACM expects to disclose the details of this case some time later in 2020.

2.3 Concentration between Sanoma Learning – Iddink Holding

ACM conditionally cleared the acquisition of Iddink Group, a distributor of educational materials, by publisher Sanoma Learning. Iddink Group also owns Magister, a learning management system (LMS) that many secondary schools in the Netherlands use. Under these conditions, Malmberg's competitors must be granted access to Magister under equal conditions as Malmberg. Also, they have to be granted access to Magister's data in the same way as Malmberg does. Finally, Sanoma Learning must ensure that commercially sensitive information of competing publishers cannot reach Malmberg through Iddink. In this way, other publishers will continue to have the incentive to keep innovating. At the same time, a level playing field for publishers will continue to exist.

2.4 Concentration between Kidsfoundation – Partou

ACM conditionally cleared the merger between day care providers Kidsfoundation and Partou. Both Kidsfoundation and Partou provide day care and after-school care. ACM does attach a condition to this merger: the providers must sell three day-care locations in Amsterdam. In that way, sufficient competition will remain in the day-care market.

2.5 Concentration between Kentalis – GGMD

In 2018, Royal Dutch Kentalis (Kentalis) and the Mental Health Care Center and Social Service for the Deaf and Hard of Hearing (GGMD) notified ACM of their acquisition plans. Following a preliminary investigation, ACM in 2019 informed Kentalis and GGMD that this acquisition required a further investigation. Both providers subsequently withdrew their acquisition notification.

In accordance with the methodology, we assume 70% of the effect to be outcome, as the merger plans were withdrawn following ACM's first-phase decision.

2.6 Concentration between ZGA – Trimenzo

In 2019, ACM decided that two regional health care providers in the central Netherlands, De Zorggroep Apeldoorn en omstreken (ZGA) and Trimenzo could not yet merge. ACM came to the conclusion that the merger could negatively affect competition. It concluded that further investigation was needed into the effects of the merger on nursing-home care and complex homecare in the municipality of Voorst. The providers subsequently decided not to apply for the merger license, and decided to study options for new merger partners.

As the merger plans have been withdrawn following ACM's first-phase decision, we assume 70% of the price effect to be outcome.

2.7 Concentration between PostNL – Sandd

Having conducted a thorough investigation, ACM decided not to grant a license for the acquisition of postal operator Sandd by rival operator PostNL. ACM assessed the effects of the planned merger, and identified anticompetitive risks. The planned acquisition of Sandd by PostNL would create a monopolist on the postal delivery market. People, businesses, and local governments would have to pay more for sending mail.

After ACM had refused to grant the license for the concentration, the State Secretary for Economic Affairs and Climate Policy under Section 47 of the Dutch Competition Act decided to grant a license for the concentration anyway. For that reason, ACM decided not to attribute any outcome to this case. According to ACM analyses, the outcome would be 105 million euros at the most if the merger were blocked.

2.8 Correction to outcome in previous years

In 2019, a ruling of the court resulted in ACM having to adjust the outcome of previous years. This concerned the court's ruling in the 2017 case about price-fixing agreements with regard to the sale of batteries for forklift trucks, among other vehicles. The District Court of Rotterdam overturned the fine on Midac. The fines on the other cartel participants were upheld.

ACM accepts the court's ruling. The ruling has been made final. In connection with confidentiality of the figures of the market participants involved, ACM cannot disclose the reduction of the estimated outcome over the years 2016, 2017 and 2018.

3 Outcome of energy regulation

The total estimated outcome of energy regulation for 2019 is approximately 318 million euros. All directly quantifiable outcome come from completed activities in previous years, which are still in effect. This involves the following six cases:

1. The method decision for the transmission system operator of natural gas
2. The method decision for the transmission system operator of electricity
3. Tennet's tariff reduction as a result of using the auction revenues towards that reduction
4. The intervention on the market for metering services for large-scale services

5. Changing the calculation methodology for flow-based day-ahead capacity in Central-West Europe
6. Code amendment for electricity balancing

3.1 Subsequent calculations

In 2016 and 2017, ACM issued several decisions on the calculation method for the revenues that transmission and distribution system operators for natural gas and electricity are allowed to charge consumers and businesses. In the tariff decisions, ACM adjusts the calculated revenues from these method decisions on several points. The method decisions were in part based on estimates of several cost items. In the tariff decisions, ACM makes corrections for the costs that were not known in advance, such as local municipal fees and procurement costs for transport. Additionally, ACM adjusts the tariffs following rulings in legal proceedings.

Based on the 2020 tariff decisions, taken by ACM in 2019, the allowed revenues of the system operators are higher than previously calculated in the method decisions. Following the method decisions, ACM adjusts the outcome for society. The downward adjustment of the welfare gains is the result of the 2020 tariff decisions for the distribution system operators for electricity and the transmission system operator for natural gas.

One correction that ACM included for the distribution system operators for natural gas is the implementation of the realizations of the 2018 local fees. This correction is substantial, especially for Liander and Stedin. With regard to the tariff decision for the transmission system operator for natural gas, a CBb ruling is the main cause for an increase in the revenues.

In total, these adjustments combined result in a reduction of the revenues of over 21 million euros per year. This reduction is attributed to all years in the regulatory period.

4 Outcome of regulation of telecom, transport and postal services

The total estimated outcome of regulation of telecom, transport and postal services for 2019 is over 325 million euros. The outcome of regulation of telecom, transport and postal services of completed activities in 2019 is approximately 14.4 million euros, and is based on 3 cases:

1. Unfair commercial practices among directory-assistance service providers
2. Dispute decision regarding calling to non-geographic numbers
3. Decision on maritime pilotage tariffs

The outcome from previous years, which are still in effect in 2019, is approximately 311 million euros and is based on six cases:

1. Market analysis decision on Wholesale Fixed Access
2. Market analysis decision on HKWBT/HL
3. Market analysis decision on fixed and mobile call termination
4. Market analysis decision on fixed telephony
5. Schiphol's 2019-2021 cost allocation system
6. Decision on the tariff headroom of the universal service obligation of PostNL

4.1 Unfair commercial practices among directory-assistance service providers

ACM oversees the use of phone numbers, including those of directory assistance services. These directory assistance services are not prohibited, but providers thereof should indicate that they offer directory assistance services. In that context, they need to indicate what the service entails, and what the costs of this service are.

In 2019, ACM established among various providers that they offered their services in a misleading fashion. Following an ACM intervention, various providers now comply with the rules. As a result thereof, consumers are informed better, and are able to make a better assessment of whether or not they actually wish to use this service. Following ACM's intervention, the turnovers of these providers have decreased. ACM has concluded that a group of consumers now makes a different choice, possibly because they are better informed.

For the estimated outcome, ACM uses the differences in turnovers. The duration of this outcome is two years, which is in line with unfair commercial practices in consumer protection.

4.2 Dispute decision regarding calling to non-geographic numbers

The tariffs that telecom operators charge each other for non-geographic numbers are regulated. Telecom operators are allowed to charge no more than the same tariffs as those that are charged for calling to geographic numbers, plus any additional costs. Various telecom operators filed dispute-settlement requests with ACM, because they believed that KPN charged too high tariffs. ACM came to the conclusion that the tariffs that KPN charged telecom operators for calling to non-geographic numbers were indeed too high. ACM expects that the dispute between the different market participants has been resolved with this decision.

Following this dispute resolution, the tariffs that KPN charges telecom operators for calling to non-geographic numbers will decrease in the future. This leads to lower costs for end-users when using non-geographic numbers. ACM will count this outcome for one year.

4.3 Decision on maritime pilotage tariffs

In 2019, ACM set the 2020 pilotage tariffs. In this decision, ACM sets the tariffs that Dutch Maritime Pilot's Association (NLc) is allowed to charge for guiding ships. Each year, ACM determines what costs the pilots are allowed to include in their prices, based on a tariff proposal that the NLc submits halfway through the year. ACM subsequently assesses the proposal, and sets the tariffs in a tariff decision. Maritime pilots enjoy a monopoly position. That is why ACM as independent regulator assesses whether or not they charge unreasonably high tariffs.

When setting the 2020 pilotage tariffs, ACM deviated from NLc's tariff proposal. Following ACM's assessment, the projected costs for conferences were adjusted downwards. The projected outcome of this

decision is equal to the decrease in costs for the regulated activities as a result of the adjustment. This outcome only applies to 2019, since the tariffs are set every year.

4.4 Correction to outcome in previous years

Since 2015, an outcome is calculated for the Decision on the tariff headroom of the universal service obligation of PostNL. The outcome depends on the volume of the universal service obligation. Production figures have shown that the projections of the volumes for 2018 were too high. This results in a reduction of the outcome for 2018 of approximately 2.5 million euros.