

Instructions for submitting turnover details

Turnover-related fee structure

ACM charges providers of public electronic communication services in the Netherlands an annual fee to cover the costs incurred for their regulatory work. This fee is based on their net turnover. ACM requires a specification of your net turnover in order to impose a turnover-related fee. This refers to the net turnover for the calendar year two years preceding the year in which the fee is imposed. Therefore, the fee you are due for 2015, is based on your net turnover for 2013.

Net turnover refers to the turnover achieved by providing goods and services through the company of the corporate body, after deduction of discounts and suchlike, and after turnover tax rebates. The legislator here applies the definition under Section 377, subsection 6 of Book 2 of the Dutch Civil Code. Not all net turnover of providers is relevant. Only that net turnover which a provider has achieved by providing public electronic communication services, public electronic communication networks and corresponding facilities which are covered by the disclosure obligation under Section 2.1 of the Dutch Telecommunications Act. Several legal definitions will be provided further on in these instructions.

As referred to in Section 24b of Book 2 of the Dutch Civil Code, when a provider belongs to a group of businesses, the obligation to submit a group turnover specification is applicable, pursuant to Section 5b, subsection 2 of the Regulation on Fees under the Dutch Telecommunications Act. This signifies that the turnover from supplying public electronic communication services, public electronic communication networks and their accompanying facilities in the Netherlands, by all companies belonging to that group, should be tallied up. Transactions (internal deliveries) between the companies belonging to that group should not be included in the calculation. Under Section 24b of Book 2 of the Dutch Civil Code, follows that a group is an economic unit in which corporate bodies and partnerships are bound organizationally. Group associations are corporate bodies and partnerships bound together in a group (see also: Sections 361, 379, 405 Dutch Civil Code Book 2; Sections 35, 46 of the Works Councils Act).

Providers are classified in three categories based on the amount of their relevant net turnover. The category under which providers fall, will depend on the ministerial regulation of a final stipulation on limit values. A fee will be stipulated for each category for ACM regulation. The Minister of Economic Affairs annually determines the limit values, the charge in proportion and the flat-rate fee in the Regulation on Fees for the Telecommunications Act and the Postal Act. The Regulation on Fees under the Telecommunications and Postal Act 2015 has not yet been determined. Therefore the fees for 2015 are unknown at this moment.

Category	Limit Values	Fees for ACM regulation
1.	Relevant net turnover exceeding 20 million euro -	Charge in proportion to the relevant net turnover
2.	Relevant net turnover equal to or less than 20 million euro, and where it has not been established that the relevant net turnover is less than 2 million euro	Flat-rate fee
3.	Where it has been established that the relevant net turnover is less than 2 million euro	Nil on request.

Providers who come under the first category, are charged in proportion to their relevant net turnover. Providers who come under the second category, are charged a flat-rate fee. Providers who come under the third category, qualify for a nil on request if they have submitted a plausible turnover statement to ACM showing their relevant net turnover to be less than 2 million euro.

The Dutch Minister of Economic Affairs annually sets the limit value, the percentage and the flat-rate fee in the Regulation on Fees under the Telecommunications and Postal Act. For further information, see the Regulation on Fees under the Telecommunications and Postal Act 2014.

Formal requirements for the turnover statement

Turnover Specification Form

You are required to use the turnover specification form to report your turnover. You are required to state the amount of your total (relevant) net turnover. Please complete the form, sign it and return it to ACM along with the appropriate enclosures. Your turnover specification will be incomplete if you do not make use of the form. If applicable, your accountant should also sign the form.

Procedure for submitting a group turnover specification

If your company is part of a group of businesses, you are under obligation to submit a *group turnover specification*. The companies which are part of the group should decide among themselves who is responsible for submitting the group turnover specification. The names of the companies belonging to the group that provide public electronic communication activities in the Netherlands, and that are involved in the group turnover specification, should be stated in the turnover specification form. The accountant should confirm in his auditor's report that there is a group of companies, and confirm which companies comprise the group.

Material requirements for the turnover specification

(Specified) turnover details

You are under obligation to submit either a turnover specification which is derived from the annual accounts, or a specified statement of your relevant net turnover. In the first instance, the turnover specification should be supported by the auditor's report which goes with the annual account. In the second instance, you may have a separate auditor's report drawn up. A template for an auditor's report is available on the website (www.acm.nl).

A specified turnover statement gives a detailed account of your relevant net turnover. It is not sufficient to enter only one single amount (that of your relevant net turnover). In order for ACM to assess the turnover specification, you should provide motivated insight into those services and the turnover involved, that you consider irrelevant. Your supporting information must show why the turnover achieved by providing public electronic communication activity in the Netherlands, does not constitute relevant net turnover.

Legal definitions and explanation of terms

The definitions of electronic communication services, electronic communication networks (public or otherwise) and related facilities provided in Section 1.1 of Chapter 1 of the Telecommunications Act are as follows:

e. electronic communication network: transmission systems, which are deemed to include switching or routing equipment and other resources that render it possible to transmit signals by means of cables, radio waves, fibre optic or other electromagnetic means, including satellite networks, fixed and mobile terrestrial networks, electricity networks in so far as they are used to transmit signals, networks for radio and television broadcasting, and cable television networks irrespective of the information transmitted;

f. electronic communication service: usually provided for a fee, this service consists entirely or predominantly of transmitting signals through electronic communication networks, including telecommunication services and transmission services on networks used for broadcasting purposes, though not the service that entails the supply or editorial verification of content transmitted with the aid of electronic communication networks and services. This does not include any services from the Knowledge Economy referred to in Section 1 of the Notification Directive, which does not consist entirely or predominantly of transmission of signals through electronic communications networks;

g. public electronic communication service: electronic communication service that is available to the public;

h. public electronic communication network: electronic communication network which is entirely or predominantly used to provide public electronic communication services, that are regarded as also including a network intended for transmitting programmes insofar as this is done for the public;

i. providing an electronic communication network: building, exploiting, managing or making an electronic communication network available;

j. related facilities: any facilities relating to an electronic communication network or service which facilitates or supports the provision of services through that network or by means of that service, as well as any conditional access systems and electronic programme guides.

Points requiring attention for your assessment

Technology and media applied

The medium through which the service is provided is not important for establishing the definition of relevant turnover. It makes no difference whether turnover is achieved by fixed, wireless, or mobile networks or connections or by networks or connections which make use of satellites. The nature of a fixed connection, for example: paired copper, fibre optic or coaxial cable, is also irrelevant.

Subsequently, it makes no difference whether the services consist of speech, data or imaging.

Wholesale and Retail

Relevant turnover includes any turnover that is achieved through supplying either wholesale or retail, and both must be included in the relevant turnover. This means, for instance, that any payment for termination of calls on one's own network *and* payment for originating calls, comprises relevant turnover. It does not matter whether turnover achieved from wholesale does not come from directly supplying (network) services to end users.

Reselling

Any turnover achieved through an agent in the retail trade, by reselling services which are supplied by other providers (in the name of these providers and not in the name of the agent), do not comprise relevant turnover. Reselling occurs where there is no contractual relationship between the retailer and the buyer for purchasing this service.

Income from agreements between customer and provider

Any fees payable for activities which are undertaken for the purpose of supplying public electronic communication services, public electronic communication networks and related facilities, constitute part of the (telecommunication) services agreed upon by the customer and the provider. These include disconnection fees, income from help desk activities, relocation, lapsed call credit, connection and reconnection fees and income from subscription changes. These types of income should be regarded as relevant turnover.

Indicative overview (not exhaustive)

Turnover achieved through the following activities is considered relevant:	Turnover achieved through the following activities is considered <i>not</i> relevant:
<ul style="list-style-type: none">◆ Internet access through e.g. dial-up (including diallers), xDSL, cable (broadcasting and otherwise) and satellite◆ Connecting and fixed subscriptions (including call bundles)◆ Outgoing calls◆ International roaming (outgoing and incoming calls).◆ Data services (including SMS, GPRS, UMTS, MMS, Fax, etc.)◆ Accessing voice mail◆ Redirecting call services (e.g. for certain types of interactive voice response systems and subscriber information services)◆ Terminating calls (including FTA, MTA, VoIP In and routing calls to information numbers)◆ Access (including access to a network for other providers and unbundled access)◆ Originating calls (including VPN, CS, CPS, VOIP Out)◆ Call transit (including local, inter-regional and other forms of call transit)◆ Calls via information numbers with payment made through the operator or by means of a phone card◆ Transmission and transit of broadcasting programmes (radio and television)◆ Making radio frequencies available to other parties to facilitate public electronic communication services◆ Paging services◆ Telex◆ Lease lines and other point-to-point connections◆ Bit stream◆ Webmail◆ Site sharing (antenna locations for broadcasting networks)◆ Collocation (this refers to leasing space to facilitate or support the provision of electronic communication services)◆ Systems for conditional access of encrypted television programmes◆ Electronic programme guides	<ul style="list-style-type: none">◆ Sale of substantive information by means of electronic communication such as 0800 and 090x information numbers and through SMS (provided the accountant confirms there is no turnover involved which is achieved by providing public electronic communication services)◆ Turnover pertaining to the content of the programmes which are broadcast by broadcasting networks◆ Sale and lease of peripheral equipment◆ Sale and lease of software◆ Lease of hollow cable conduits◆ Web hosting◆ Legally stipulated wiretapping fees