



## 2014 ACM Annual Report



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## 1 About ACM

The Netherlands Authority for Consumers and Markets (ACM) looks back on a dynamic year of oversight. 2014 marked the first full year in which ACM operated. ACM was created in April 2013 when the Netherlands Consumer Authority, the Netherlands Competition Authority (NMa) and the Netherlands Independent Post and Telecommunications Authority (OPTA). ACM's activities include general competition oversight, regulation of the energy, telecommunications, postal services and transport markets (or parts thereof), and consumer protection. ACM calculates the expected effects (called 'outcome') of its actions on consumer welfare. The total estimated outcome of 2014 is more than EUR 1.2 billion.

### **ACM is a unique regulator**

By merging the NMa, OPTA, and the Netherlands Consumer Authority, a unique regulator was created, and the only one of its kind in Europe. ACM enforces both competition law and consumer protection laws. ACM additionally regulates the energy, telecommunications and postal services markets, as well as several transport markets. It is able to exert influence on both the demand side and the supply side, and, as such, has a broad set of instruments at its disposal.

The consolidation of said three regulators, and the Streamlining Act that came into force on August 1, 2014, have generated synergies. Last year, these synergies became visible in a number of cases. One such example was ACM's oversight on transparency in energy offers. ACM enforces compliance with sector-specific consumer protection rules *and* with general consumer protection rules. As a result, it was able to choose a comprehensive approach that gave clarity to all energy providers. It was more efficient, but also more effective. ACM and the energy providers made an agreement. The energy providers would give consumers personalized offers. These enable consumers to compare energy prices more easily, thereby making switching easier, too.

### **National and international collaborations**

Since market problems usually do not neatly follow the organizations that have oversight on them, ACM seeks to cooperate, where needed, with other Dutch and international regulators, and other organizations. Internationally, there is great interest in the pros and cons of housing together antitrust, sector-specific regulation, and consumer protection.



## 1.1 ACM in 2014

ACM is an independent regulator that dedicates itself to consumers and businesses. That is why ACM has interpreted its statutory task as the following mission: “ACM promotes opportunities and options for businesses and consumers.” While doing so, ACM takes into account innovations and sustainability initiatives.

### Consumers are central

Consumers are central to ACM’s [oversight philosophy](#). ACM aims to promote opportunities and options for consumers so that they have an actual choice, *and*, more importantly, are not afraid to make a choice. In order to realize this, ACM’s work areas stretch from the enforcement of consumer protection rules to general competition oversight and setting additional regulations in specific markets.

ACM considers the enhancement of consumer welfare as its biggest motive. In 2014, ACM made several contributions to the [special edition on consumer welfare](#) (in Dutch) of the journal *Economische Statistische Berichten* (ESB). ACM and ESB also organized a conference on consumer welfare.

### Innovation

Regulators need to respond to new market developments and trends immediately, whereas legislation often lags behind. Innovation is therefore important to ACM. Digitization is an example of a social development that changes the rules for businesses and regulators. The rise of the sharing economy (in which consumers offer their homes or cars for rent on new platforms) creates new questions regarding competition, privacy, and consumer protection. The [ACM Conference](#), celebrating ACM’s first anniversary, looked at how innovations affect society, and how ACM as a regulator is able to keep innovating in order to keep up. In that context, the ACM Academy helps the organization be able to do so.

ACM pays attention to the trend of making our economy and society more sustainable. Last year, ACM released its [Vision document on Competition and Sustainability](#). In this document, ACM explains to what degree sustainability initiatives of businesses are compatible with competition law. The vision document is part of ACM’s [Knowledge Bank on Sustainability](#) (in Dutch).

### Oversight style

Enforcement is one of ACM’s core tasks, but it is not a goal unto itself. ACM has a wide range of statutory powers at its disposal in order to solve problems. ACM does not want to enforce just for the sake of enforcement: the impact of our actions is central.

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



structural solution to the problem. Sometimes an observed violation is not an isolated incident but rather a symptom of a larger, underlying market problem.

In the past year, ACM selected various instruments to solve certain problems. Dutch copyright collecting society BUMA/STEMRA promised ACM to offer composers and songwriters more options in the management of their music copyrights. This commitment was made following an ACM investigation into possible abuse of dominance by BUMA/STEMRA in music copyright management. With this commitment, the risk for abuse has been eliminated, and it is likely that more ways to stream and download music are introduced. Composers and songwriters will thus benefit, as will listeners.

Another example is the enforcement day that ACM held, calling attention for the rules on renewing and cancelling subscriptions. Through its consumer information portal [ConsuWijzer.nl](http://ConsuWijzer.nl), ACM had received many indications about dozens of companies that did not comply with the new rules regarding subscriptions. On that enforcement day, ACM called these companies and warned them about their lack of compliance. With all of these warned companies, consumers are now able to cancel their subscriptions in accordance with the relevant rules. Because of the media attention that the enforcement day received, the actual reach of this action was greater than just the companies that had been called.

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## 1.2 Streamlining Act and jurisprudence

On August 1, 2014 the [Streamlining Act](#) came into force. The Streamlining Act was created in order to increase the efficiencies delivered by the merger between ACM's predecessors. Without the Streamlining Act, ACM would have had to deal with all kinds of legal procedures that are different for historical reasons. The Streamlining Act amends the [Establishment Act of the Netherlands Authority for Consumers and Markets](#), as well as the laws that ACM enforces. With these amendments, the different powers, enforcement tools and procedures of ACM's predecessors have been harmonized, streamlined, and simplified, thereby creating a clear and uniform set of rules for ACM.

From now on, the Dutch General Administrative Law Act (*Awb, Algemene wet bestuursrecht*) will be the basis for ACM's enforcement methods more often. This will result in more unequivocal procedures. For example, all appeals on ACM decisions will now be handled by the District Court of Rotterdam and the Dutch Trade and Industry Appeals Tribunal (CBb). With regard to sanctions, it is no longer required to seek advice from the advisory committee on administrative appeals. In addition, the rules on publication of ACM decisions have also been streamlined.

Instead of imposing fines, orders subject to periodic penalty payments, or binding instructions, ACM can also choose to use the lighter instrument of commitments. Using this instrument does not require the establishment of a violation beforehand. That makes it easier for businesses to offer commitments.

Information that becomes available through one procedure may be used in another ACM procedure, insofar such is necessary. Such information will be treated carefully. The Establishment Act contains an obligation of confidentiality. This means, for example, that information from inspected businesses cannot be made available to third parties just like that.

All ACM decisions can be reviewed by the courts. Judging from the case law of ACM decisions, the courts take a critical look at ACM's use of powers and instruments. ACM's interpretation of statutory provisions and the appraisal of evidence are also meticulously examined in appeal cases. Judicial review is a critical element of the checks and balances that ensure that the independent decisions of ACM stay within the boundaries of its statutory tasks.



### 1.3 ACM Conference ‘Innovation in Oversight, Oversight and Innovation’

Celebrating its first anniversary, ACM organized the international conference ‘Innovation in Oversight, Oversight and Innovation’ on Friday June 20. The [ACM Conference](#) looked at the effects of innovations on society, and how we as regulator are able to innovate ourselves in to order keep up. Her Majesty Queen Máxima delivered the opening speech. Other speakers were Annet Aris, Bill Kovacic, Charles Leadbeater and Cass Sunstein. Attendees included representatives from the corporate sector, government, academia and other regulators from around the world.

#### **The importance of consumer empowerment to well-functioning markets**

The opening address was delivered by Her Majesty Queen Máxima in her capacity of the UN Secretary-General's Special Advocate for Inclusive Finance for Development (UNSGSA). Her Majesty talked about the dilemma regulators are facing: finding the right balance between safeguarding stability and consumer protection on the one hand, and offering enough room for innovation on the other hand. She subscribed to the idea that consumer empowerment is a necessary condition for well-functioning markets.

#### **The added value of “nudging” to regulators**

Cass R. Sunstein, Professor of Law at Harvard Law School, is the co-author of *Nudge: Improving Decisions About Health, Wealth, and Happiness*, in which he argues that restrictive regulations are less effective at shaping behaviors than gentle, low-cost signals in people's environments. In his speech, Mr. Sunstein explained more about the idea of ‘nudge’. In his view, a ‘nudge’ is a policy-based push in the right direction. Together with Richard Thaler, he created the concept of ‘libertarian paternalism,’ a policy philosophy that influences people’s choices, but do not take any choices away from people. Whether it is about defaults, having individuals choose actively, or the order in which the options to choose from are presented, Mr. Sunstein believes that it is inevitable to think about ‘choice architecture’, how can certain processes be designed in such a way that people do (or are able to) make the ‘right’ choices?

#### **Merger synergies for ACM**

William E. Kovacic, Professor of Law and Policy at the George Washington University Law School, was the chairman of the Federal Trade Commission between 2006 and 2011. Mr. Kovacic talked about the synergies that combined authorities, like ACM, are able to achieve. He argued that market authorities must have the courage to experiment, because only then will true breakthroughs and innovation occur, which is what ACM has done by combining tasks. By combining consumer protection and competition, both the demand side as well as the supply side can be influenced. That is why he stressed the importance of having a broad range of instruments.

#### **Digitization changes the rules for businesses and regulators**

Annet Aris, adjunct professor of strategy at INSEAD and former member of the board of OPTA, presented her ideas about the influence of oversight and regulators on innovation. In her speech, Ms. Aris used the rise of technology giants such as Apple, Google and Facebook as an example. The



fields in which they operate are getting bigger and more diverse, as evidenced by the constant flow of new and different products, as well as by the number of acquisitions of other (mostly adjacent) products and services. How can or should regulators react to this trend? How are regulators able to promote (or continue to promote) innovation effectively without restricting competition?

### **Regulation as public leadership stimulates innovation**

Charles Leadbeater is author, thinker and strategic adviser on innovation. He talked about the importance of new business models in innovation, and about the role that ACM could play in that process. Mr. Leadbeater sees most innovations as system innovations rather than product innovations. He is therefore in favor of “regulation as public leadership”. He believes that ACM can help society build better systems, so that, in the end, we can live better lives. ACM’s task should thus be: stimulating consumers to make things better, to give room to consumer frustrations, and to inspire people to develop new tools and technologies.

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## 1.4 National cooperation

Within the Netherlands, ACM works together fellow regulators and other organizations in order to realize efficient and effective oversight.

### 1.4.1 Consultation Forum of Regulatory Bodies (MTB)

ACM is an active member of the Consultation Forum of Regulatory Bodies (MTB), which is a collaboration between regulators in the Netherlands in order to realize efficient and effective oversight: the Netherlands Authority for the Financial Markets (AFM), the Dutch Data Protection Authority (CBP), the Dutch central bank (DNB), the Netherlands Gaming Authority, the Dutch Healthcare Authority (NZa) and the Dutch Media Authority. In 2014, the MTB organized two seminars. In these seminars, regulators share knowledge and exchange experiences about shared topics in an atmosphere of openness and mutual trust. The topics of these seminars were “How to deal with technology and Big Data?” (in June) and “Oversight on Integrity” (in November).

### 1.4.2 Cooperation protocols

When dealing with market problems, ACM often seeks to collaborate with regulators and interest groups. Laying down these cooperation arrangements in protocols helps make these collaborations more effective and efficient. In 2014, ACM signed a [cooperation protocol with AFM](#) (in Dutch). ACM already had a cooperation protocol with the Infilter Foundation (*Stichting Infilter*), the organization behind the Do-Not-Call-Me Register. The cooperation protocols of ACM’s predecessors (OPTA, NMa and the Netherlands Consumer Authority) will continue to be valid until they are replaced with an ACM protocol. Most protocols will be replaced in 2015 at some point.

### 1.4.3 Collaboration with University of Groningen

ACM helped establish an endowed chair at the University of Groningen (RUG). The endowed chair addresses the question of how well energy markets function, and what measures governments can take in order to realize improvements. Machiel Mulder, employed with the Office of the Chief Economist of ACM, and with the Faculty of Economics & Business at RUG, will hold this endowed chair. In 2014, he and a colleague at RUG carried out a study into the degree to which the Dutch and German gas markets have become integrated. This is one of the aspects ACM’s sector-specific regulation focuses on. In their article, which was published in [Energy Economics](#), they argue that the integration of these markets has increased as a result of, among other reasons, improved availability of cross-border transport capacity.

### 1.4.4 Contributions to conferences, workshops, and discussions

ACM speaks at various meetings, explaining its oversight activities, and discussing recent developments and trends. ACM believes it is important that Members of the Board of ACM, directors, as well as staff members disseminate ACM’s positions this way.

ACM was closely involved in the creation of a [special edition on consumer welfare](#) (in Dutch) of the journal *Economische Statistische Berichten* (ESB). As part of the special edition, ESB also organized



a seminar with Chris Fonteijn, Chairman of the Board of ACM, and Jarig van Sinderen, Chief Economist of ACM, among other panelists. In addition, Mr. Van Sinderen expressed his vision on fixed book prices in an opinion piece.

At the International Chamber of Commerce seminar, Chris Fonteijn talked about the benefits of compliance with the Dutch Competition Act for businesses. During the so-called 'health care tour' (Ministry of Health, Welfare and Sport, and the Dutch Healthcare Authority), Chris Fonteijn and Gerard Bakker, then Director of the Competition Department, gave presentations about the role ACM plays in the health care industry. For example, they explained what ACM does when assessing collaborations and mergers in hospital care, and collaborations in primary care.

In October, Chris Fonteijn gave a speech at the annual antitrust conference organized by *Reed Elsevier* about the different instruments of ACM to enforce compliance with the Dutch Competition Act. A month later, Mr. Fonteijn spoke at a meeting of the Competition Law Association about the competition-law aspects of vertical agreements, among other topics. Vertical agreements are agreements between producers and retailers (or intermediaries) about aspects such as price, sales channels, and selling conditions. In some cases, these types of agreements can impede competition too much. Andreas Mundt, President of the German Bundeskartellamt, took part in that discussion as well.

At a meeting organized by the Association of Netherlands Municipalities (VNG) and Europa Decentraal (a knowledge center for local governments with questions concerning European law and legislation) in the spring of 2014, Anita Vegter, Member of the Board of ACM, urged local governments in the Netherlands to speed up the implementation of the Dutch Act on Government and Free Markets.

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## 1.5 International cooperation

Consumer and business problems do not stop at the border. The Netherlands is an open economy. International developments have a huge impact on our economy. That is why ACM regularly works together with fellow regulators and other agencies outside the Netherlands. This cooperation is aimed at exchanging knowledge and experience, and at formulating a joint approach to market problems. Among other platforms, ACM participates in European and international collaborations of competition authorities ([ECN](#) and [ICN](#)), of telecom regulators ([BEREC](#)), or electricity and gas regulators ([ACER](#) and [CEER](#)), consumer authorities ([CPC](#) and [ICPEN](#)), and rail regulators ([IRG-Rail](#)).

### 1.5.1 International interest in the organization of ACM

Many other European regulators have brought competition oversight and consumer protection together. However, bringing together both consumer protection, competition oversight, *and* sector-specific regulation under one roof is unique in Europe. By making the solving of market problems central to its strategy rather than adopting a more traditional, formalistic approach, ACM is internationally regarded as an innovative regulator. Because of this approach, ACM in 2014 was invited several times to international events to speak about its multi-disciplinary oversight. In addition, the theme of the 2014 ACM Conference was 'Innovation in Oversight / Oversight and Innovation.'

### 1.5.2 Contributions to international publications, conferences, and workshops

At the European Consumer Day in Rome in July 2014, Anita Vegter spoke about the innovation in European cooperation in consumer protection. Chris Fonteijn published an article on innovation in competition-law investigations in the May 2014 edition of the publication *Concurrences*. Following a contribution for CEER about regulation by Henk Don, ACM was asked to help organize a workshop about multi-disciplinary oversight in 2015. In addition, Ms. Vegter also spoke at an [UNCTAD](#) roundtable discussion. In Boston, she spoke with US regulators about ACM's experiences with consumer empowerment in the energy industry.

### 1.5.3 Sharing knowledge in an international context

#### Best practices

ACM together with the Ministry of Economic Affairs is an active member of the Competition Committee and the Network of Economic Regulators of the [OECD](#). ACM participated in the OECD project on harmonizing the outcome assessment methods for competition policy and oversight. In addition, ACM helped develop criteria for designing outcome assessment methods. In addition, ACM carried out several bilateral projects. ACM collaborated with the European Commission and the UK Competition and Markets Authority to explore how anticipatory effects can be estimated. This is about businesses that play by the rules, which result from their seeing another business getting fined for illegal activities. These kinds of indirect effects can be of considerable importance, but are difficult to measure. In December, ACM wrote a contribution for an OECD roundtable discussion about institutional design, in which ACM explains the opportunities and challenges of multi-disciplinary regulators.



#### 1.5.4 Henk Don is vice-chair of IRG Rail

In 2014, Henk Don, Member of the Board of ACM, was vice-chair of [IRG-Rail](#). In 2015, Mr. Don is chair of this European network organization of independent rail regulators.

During its tenure as vice-chair, ACM aimed to realize a healthy European rail market in which regulators worked closely together. The European Commission proposed new legislation on the liberalization of national passenger rail transport, rail-related services and facilities. In its proposal, the European Commission also discussed long-term capacity agreements and fees for using the rail infrastructure. In 2014, IRG-Rail published several [position papers](#) about this new legislation. ACM helped prepare these papers, and it gave advice to the Ministry of Infrastructure and the Environment about these developments.

#### 1.5.5 ACM and roaming within BEREC

ACM co-authored a [BEREC opinion piece](#) about the European Commission's proposals to regulate roaming further. [BEREC](#), the collaboration of European telecom regulators, found the roaming proposal not optimal. BEREC has proposed alternatives that are feasible for market participants, and, at the same time, offer benefits to consumers. ACM supports the proposals to have net neutrality regulated at a European level, and to strengthen consumer rights.

At a BEREC level, ACM also put forward [improvements](#) for the new Recommendation of the European Commission on relevant telecom markets. This recommendation came into force in the fall of 2014. This recommendation is of particular importance because it determines what telecom markets are eligible for regulation.

ACM co-authored the new BEREC [strategy](#) for the next three years. Its key points are promoting competition, strengthening the position of consumers, and improving the internal digital market.

#### 1.5.6 Ten-year anniversary of ECN

ACM works closely together with other European competition authorities and the European Commission in the European Competition Network (ECN). In 2014, ECN celebrated its ten-year anniversary. ACM helped draft a report about the results of ten years of cooperation and proposals for improving ECN. The European Commission incorporated these into a document for the European Parliament. The proposals were about institutional design of authorities, effective investigative and decision-making powers, effective and proportional fines, and well-designed leniency programs. The independent positions of competition authorities attract a lot of international attention at the moment. At international conferences, Chris Fonteijn spoke about the importance of independent regulators.

#### 1.5.7 ACM appoints five Non-Governmental Advisors within ICN

In 2014, ACM appointed five so-called non-governmental advisors (NGAs). They help ACM promote international cooperation with regard to competition, consumer protection, and regulation. NGAs play an important role within the International Competition Network (ICN).



ACM's NGAs are Mr. Paul de Bijl (Radicand Economics, Lexonomics, WHU Otto Beisheim School of Management), Ms. Kati Cseres (Faculty of Law, University of Amsterdam, Amsterdam Centre for European Law and Governance, Amsterdam Center for Law & Economics), Ms. Annetje Ottow (Dean, Faculty of Law, Economics and Governance, Professor in Public economic law, Utrecht University, non-executive director to the Board of the Competition & Markets Authority, UK), Mr. Jolling de Pree (Partner, De Brauw Blackstone Westbroek N.V.) and Mr. Weijer VerLoren van Themaat (Partner, Houthoff Buruma).

### 1.5.8 ACM works on European internal energy market

With regard to energy, ACM actively collaborates with other regulators, Member States, and the European Commission. Many of the collaborations take place within [ACER](#) (ACER is the European agency for cooperation between energy regulators) and [CEER](#) (CEER is a collaboration between European energy regulators), and focus on one of the priorities of the European internal energy market.

In 2014, the focus was on establishing [rules that would make cross-border energy trade easier](#). In addition, ACM and its partners strived to implement [measures that ensure that European countries are also well connected with each other at the network level too](#), and are able to help each other in case of any gas and/or power shortages. Also, rules have been drafted aimed at [preventing fraud in energy trading](#). ACM is co-chair of several European working groups for regulators such as the CEER/ [ACER Electricity working group](#).

### ACM invests in design of European internal energy market

ACM believes a single European energy market should be created. In such a market, electricity and natural gas can then be transported freely from countries with surpluses to countries with shortages. At the same time, we also want market participants to help in matching energy supply and demand better. This will lead to the best possible security of supply at the lowest price. ACM was able to put forward this position by helping draft ACER's [paper](#) with its vision for the energy market through 2025.

### ACM leads European study into the functioning of the gas storage market

The European gas shortages as a result of the current crisis in Ukraine underscore the importance of security of supply. Gas storages are an important tool to guarantee security of supply. After all, they can be emptied when supply from elsewhere is disrupted. In 2012, however, gas storages were used substantially less than normal. This was a reason for [CEER](#) in 2013 and 2014 to carry out a study into the functioning of the gas storage market. ACM was co-chair of the working group that had carried out this study. The [results of the study](#) were published in late-2014 by CEER. This vision contributes to the policy debates at a European level about safeguarding security of supply. It thus appears that the position that ACM and other energy regulators support have received a major platform.

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### 1.5.9 Cooperation within CPC

ACM takes part in Consumer Protection Cooperation (CPC), the European network of consumer protection authorities. Within CPC, regulators work closely together in dealing with consumer problems that occur widely in Europe. Agreements have been made with Google and Apple, which protect consumers better with regard to in-app purchases in online games, see also [http://ec.europa.eu/justice/newsroom/consumer-marketing/news/1401222\\_en.htm](http://ec.europa.eu/justice/newsroom/consumer-marketing/news/1401222_en.htm).

At a global level, regulators work together in the International Consumer Protection and Enforcement Network (ICPEN). One of the topics within ICPEN, for example, is how to combat fraud better when shopping online.

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## 1.6 Organization and the Board

ACM wishes to be more than the sum of the parts of its three predecessors. ACM's organizational structure follows its mission and strategy. Cooperation in cross-sectoral and cross-departmental teams and internal mobility are strongly encouraged.

ACM consists of [8 departments and the Board](#). The Board is the executive body of ACM. The Board and the directors sit down on a regular basis, discussing the strategy, choices and considerations in the most important regulatory cases and the organization.

ACM always carries out its tasks as effectively and efficiently as possible. The basic principle in that context is that the quality of our work must be protected.

In 2014, ACM introduced workplace flexibility. The office building in which ACM is located has been renovated and made fit for flexible workspaces. In addition, ACM has reduced the number of floors it rents. All facilities have been made fit for workplace flexibility. Also, ACM staff has been given guidance about how to use the new work environment effectively.

### 1.6.1 The Board

The Board is the executive body of ACM. Responsibility for all decisions of ACM lies with the Board of ACM. Each member of the Board has their own portfolio.

Chris Fonteijn is the Chairman of the Board of ACM. His portfolio consists of Strategy, General Competition Oversight, International Affairs, and Communication. The other Members of the Board are Anita Vegter and Henk Don. Ms. Vegter's portfolio consists of Consumers, Legal Affairs, and Corporate Services. Mr. Don's portfolio consists of Sector-specific Regulation (energy, telecom, transport, postal services) and the Office of the Chief Economist.

### 1.6.2 ACM Academy

The ACM Academy contributes to the implementation of the vision and strategy of ACM. The Academy is able to do so by linking the vision and strategy of ACM with the career development of employees. ACM employees determine the success of the organization. That is why it is important that they keep on developing their skills and knowledge. The ACM Academy helps enhance the professional skills of employees. That way, ACM is able to be and continue to be an open, independent and professional regulator.

In 2014, the ACM Academy focused on enhancing the collaborations with fellow regulators, other government organizations, and the academic world. Its objective is to make the ACM courses and workshops relevant and up-to-date with regard to oversight, regulation, competition, and consumer protection.

The ACM Academy aims to offer high-quality programs for its enforcement officials. To that end, the structure of the educational programs was revised in 2014, ensuring that all programs contribute to



the implementation of the vision and strategy of ACM. In addition, the educational needs of other groups of ACM employees have been identified, which means a solid program can now be offered to them as well. Having a first-rate educational and career-development structure is critical for the realization of ACM's objectives. This has received attention in 2014 too.

### 1.6.3 Inflow and outflow of staff

ACM requires highly-educated and professional employees to carry out its activities well. In 2014, ACM hired 40 new employees, and 32 employees left the organization. ACM stays within the boundaries of the staffing structure.

### Flexible deployment of employees

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

### 1.6.4 Integrity

For ACM, as an independent regulator, integrity is of great importance. In fact, it is an element of the ACM core value 'Professionalism.' ACM has two integrity compliance officers. They have been appointed by the Secretary-General of the Ministry of Economic Affairs (EZ). These two officers provide the Board of ACM with independent advice, both at the request of the Board or of their own accord. ACM employees, too, are able to contact them about integrity questions.

ACM has drawn up an integrity code. In addition, ACM uses several integrity regulations of the Ministry of Economic Affairs. Additional rules have been developed regarding several topics, including financial interests of employees, outside activities, and receiving gifts. The two integrity compliance officers are also (regular) compliance officers, which means they have a supervisory role when dealing with financial interests in particular in cases where a conflict of interest, or a semblance thereof, could exist.

### 1.6.5 Workplace conditions and absenteeism

In 2014, the absentee rate was 3.7 percent. This is 0.8 percentage points lower than in 2013. This drop is primarily caused by the successful work-reintegration processes for long-term absent workers. Prevention of absenteeism and reduction of the absentee rate continue to be critical issues for 2015. For 2015, the goal is to get the absentee rate below the so-called Verbaan target rate of 3.4 percent (the Verbaan target rate is the absentee rate that is realistic and feasible for an organization).

### Looking at the options together

ACM works with the so-called Own Direction Model. According to this model, employees and managers look at the options of deployment together. In courses and workshops, employees and



managers have become more aware of their roles in topics such as work-life balance and deployment. Managers took special courses about working in a healthy and safe manner.

#### **1.6.6 Employee participation**

In 2014, the Works Council (OR) held a survey asking employees how they perceived ACM after one year. The OR discussed the results with the Board and the directors. Other issues that were discussed in the regular meetings with the Board included work-related stress, absenteeism, and the performance reviews. The OR was also closely involved in the introduction of flexible workspaces. In addition, the OR put 'culture' on the agenda. As a result, an internal dialog was launched. In the ministerial Works Council of the Ministry of Economic Affairs, the OR contributed to discussions about the public-transport card for government workers, and the way vacancies are handled, among other topics.

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## 1.7 Annual statement of accounts

This section on finance concerns 2014 in its entirety.

### Board of ACM

The Dutch Framework Act on Autonomous Administrative Authorities (AAAs) applies to the Board of ACM. This means that a certified annual statement of accounts must be drawn up. The certifying accountant is the Central Government Audit Service. The Board used a cash-basis accounting system in the Oracle administration of the Ministry of Economic Affairs (EZ).

### ACM Organization

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

#### 1.7.1 Autonomous Administrative Authority (AAA) Board of ACM

This financial account of the AAA Board of ACM concerns the calendar year 2014. The Board used a cash-basis accounting system. The figures in the tables below may have been rounded up or down.

In February 2015, the final budget letter from the Ministry of Economic Affairs (EZ) was received. For 2014, the AAA Board of ACM had a budget of EUR 695,305. Table 1 lists the total realization of the obligations and expenditures compared with the budget letter.

**Table 1 Realization compared with budget letter**

2014 (in EUR)				
Description	Budget letter	Obligations	Expenditures	Income
Realization	695,305	693,305	695,305	120
Overspending				0
As a percentage		0%	0%	0%

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Table 2 Specification of personnel and materials

Ledger account and description	JANUARY THROUGH DECEMBER 2014				
	Allocated budget 2014	Realization 2014	Total 2013	Realization January-March 2013 AAA Board of the NMa	Realization April-December 2013 AAA Board of ACM
PERSONNEL					
Salary costs		559,143	563,224	136,403	426,821
Travel expenses abroad		24,033	17,560	1,438	16,121
Travel and accommodation expenses domestic		106,446	51,297		51,297
Telephone expenses		210	336		336
Commuting expenses		24	16,353	16,240	113
Various expenses		889	1,091	776	315
Employee training		135	17,996	4,520	13,476
<b>Total personnel</b>	<b>0</b>	<b>690,881</b>	<b>667,857</b>	<b>159,377</b>	<b>508,479</b>
MATERIALS					
Other outsourcing		106			
Contributions and memberships		1,545	922		922
Social allowance		2,773	137	56	82
Small presents for personnel			-18		-18
<b>Total materials</b>	<b>0</b>	<b>4,424</b>	<b>1,040</b>	<b>56</b>	<b>985</b>
<b>Total general</b>	<b>695,305</b>	<b>695,305</b>	<b>668,895</b>	<b>159,432</b>	<b>509,463</b>

Compared with 2013, the expenditures increased by EUR 26,410 from EUR 668,895 to EUR 695,305. This increase is predominantly caused by invoices from 2013 that were paid in 2014.

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

In 2014, the three members of the Board of ACM did not receive pays that exceeded the amount mentioned in the WNT. The Ministry of Economic Affairs is the party that must give account under this act.



### 1.7.2 Cash expenditures of ACM Organization

The table below provides insight into the total expenditures in 2013 and 2014. The column '2013' represents the total cash expenditures of the NMa, the Netherlands Consumer Authority, OPTA (January 1 – March 31) and ACM (April 1 – December 31) in 2013. These organizations used different accounting systems and administrative systems. As a result, a broad specification was necessary for 2013, which cannot be completely compared with 2014. From 2014, the following specification will be used.

CASH EXPENDITURES	2014	2013
<b>Personnel costs</b>		
Salary costs	38,427,321	39,290,347
Temporary employees	1,297,009	2,054,161
Travel expenses	896,962	463,556
Education	863,359	853,755
Other personnel costs	660,030	269,191
<b>Total personnel costs</b>	<b>42,144,681</b>	<b>42,931,010</b>
<b>Material costs</b>		
Housing	7,829,325	6,310,768
Research	4,473,549	3,780,081
IT	3,829,803	3,159,953
Catering/security/service/general expenses	1,158,560	1,329,025
Office furniture and supplies	674,990	978,856
Education and events	72,689	94,009
Other material costs	265,302	251,633
Damages / compensation for loss of income	7,430,279	
<b>Total material costs</b>	<b>25,734,497</b>	<b>15,904,325</b>
<b>Total personnel and material costs</b>	<b>67,879,178</b>	<b>58,835,335</b>

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A downward trend in the salary costs can be observed. ACM currently pursues a cautious staff recruitment policy, in part because of the cutbacks imposed by the central government. Job openings that do become available offer opportunities for attracting recent graduates or government trainees on a temporary basis. This approach has a downward effect on salary costs (longer lead times for filling job openings, and cheaper inflow of staff) and on the expenditures on temporary staff.

The increase in travel expenses can be explained by invoices from 2013 paid in 2014, totaling more than EUR 200,000.

The increase in housing costs in 2014 are caused by refurbishment works and moving activities in order to make the building ready for flexible workspaces. As a result, a permanent decrease in housing costs can be realized by giving up floors. This increase in housing costs should therefore be considered a one-off increase. The internal refurbishment was started in 2013, and will be completed



in the first half of 2015.

The increase in IT costs are partially explained by making the IT systems ready for the new flexible workplace environment.

In 2014, ACM compensated regulated parties for loss of income in connection with legal proceedings.

### 1.7.3 Income of ACM organization

The table below offers an overview of ACM's income in 2013 and 2014. The 2013 table lists the income of ACM (for the period of April 1, 2013 through December 31, 2013) and its predecessors the NMa, the Consumer Authority and OPTA (for the period of January 1, 2013 through March 31, 2013). These organizations used different accounting systems and administrative systems. As a result, a broad specification was necessary for 2013, which cannot be completely compared with 2014. From 2014, the following specification will be used. The increase in income is almost entirely explained by higher receipts from fines.

INCOME	2013
<b>Contributions</b>	
Contribution Telecom	11,463,881
Contribution Energy	2,701,695
Contribution Postal Services	-
<b>Total contributions</b>	<b>14,165,576</b>
Fines	19,853,316
Fees from merger notifications under Dutch Competition Act	1,136,422
Contribution of EZ to OPTA	663,611
<b>Total income</b>	<b>35,818,925</b>

The levels of the contributions from the telecommunication and postal services industries are laid down in the Contribution regulation 2014. The contributions that the market categories must pay in 2014 are lower than originally set because of an item 'to be settled' from the OPTA years. This item has been included in the income in 2014.

The levels of the contributions from the energy regulation and the energy providers' licenses in 2014 have been laid down in the Regulation on costs with regard to the energy sector (in Dutch: *Regeling kostenverhaal energie*).

The 2014 compensations for issuing decisions have been laid down in the Decision on costs of the NMa.



Sanctions that have been imposed under the previous legal framework can be paid after the highest court has ruled on it. Sanctions imposed under the previous legal framework only need to be paid after the highest court has ruled on it. The time between imposing the fine and the actual payment thereof is usually several years, and is partially affected by the legal lead times. As a result, receipts from fines can thus fluctuate. Under the Streamlining Act, which came into force on August 1, 2014, sanctions become demandable within 24 weeks. However, a transitional period does apply.

INCOME	2014
Receipts from Personnel / Materials	741,460
<b>Telecom contributions</b>	
Electronic communication	4,137,942
Numbers	1,555,163
TTP	96,406
<b>Postal services contributions</b>	
Non-Universal Postal Service	40,020
Universal Postal Service	0
Merger notifications	1,182,500
Contribution from regional electricity regulation	3,381,455
Licenses of energy providers	16,786
Sanctions	35,274,546
Balancing item of OPTA to settle with market	4,804,381
<b>Total income</b>	<b>51,230,659</b>

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#### 1.7.4 Outstanding receivables of ACM organization

The table below lists the outstanding receivables as of December 31, 2013 and December 31, 2014. The figures include the interest accrued on these outstanding receivables. The receivables total has dropped because of, on the one hand, the income (see income table), and, on the other hand, adjustment of the sanction amounts during legal proceedings.



OUTSTANDING RECEIVABLES	2013
Subtotal fines	206,495,431
Receivables contribution scheme Telecom/Post	1,046,813
Fees	277,578
<b>Total</b>	<b>207,819,222</b>

OUTSTANDING RECEIVABLES	2014
<b>Telecom contributions</b>	
Electronic communication	1,196,952
Numbers	1,371,791
TTP	156,173
<b>Postal services contributions</b>	
Non-Universal Postal Service	532,525
Universal Postal Service	87,750
Merger notifications	201,199
Sanctions	134,039,225
Other	768,424
<b>Total</b>	<b>138,354,039</b>

### 1.7.5 Breakdown of expenditures along market organizations

In the Decision on passing on costs of ACM, and in its amendment, the new method of passing on costs to market organizations by ACM has been regulated. The Ministry of Economic Affairs ran an online consultation of the draft decision in March and April 2014 for a period of four weeks. ACM received 13 responses from market organizations (or their representatives).

The new method of passing on came into effect on January 1, 2015, and affects the income of 2015. In this new method, the income of the year in questions is based on the realized expenditures of the previous year. We will look into the realized expenditures 2014 per market organization to be passed on in more detail below.

The market organizations (categories) and the formula have been detailed in the explanatory notes to the Decision on passing on costs of ACM of October 27, 2014.

For each sector, the expenditures to be passed on are allocated to the relevant categories. For each category, ACM has one or more timekeeping codes. It is thus ensured that ACM allocates the costs to the right category, and prevents ACM from charging market organizations from one category costs that belong to other categories.



The calculation method of the amount to be passed on per category is as follows:

- For each category, the direct material costs are determined. These are the direct costs with regard to economic and technical investigations.
- Next, the remaining amount is determined: indirect material costs, and all direct and personnel costs. These costs are allocated based on the actual hours spent on these categories.

ACM	2014
Personnel costs	42,144,681
Indirect material costs	13,813,494
<b>Subtotal</b>	<b>55,958,175</b>
Costs to be allocated based on actual hours	
Direct material costs	11,921,003
<b>Total expenditures</b>	<b>67,879,178</b>

Total direct material costs are 18 percent lower than total expenditures. Total indirect material costs are 20 percent of total expenditures.

The overview below offers insight into the allocation of the expenditures to be passed on to market organizations based on the Decision on passing on costs of ACM.

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.

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Decision on passing on costs of ACM	2014	2014	2014	2014
	Actual hours	Material expenditures	Share of personnel and indirect costs based on share of hours	Total share
		In EUR	In EUR	In EUR
<b>Telecommunication</b>				
Public electronic communication services, public electronic communication networks and related facilities	43,676	382,372	5,140,380	5,522,752
Numbers	21,040	15,773	2,476,257	2,492,030
Certification service providers	2,712		319,131	319,131
<b>Postal Service</b>				
Universal postal service	2,821	26,317	332,054	358,844
Non-universal postal service	8,588	27,060	1,010,768	1,037,828
<b>Energy</b>				
Regional network management Electricity	11,502	59,498	1,353,760	1,413,258
Regional network management Gas	8,814	50,515	1,037,385	1,087,900
Transmission system operation Electricity	16,403	46,908	1,930,587	1,977,495
Transmission system operation Gas	18,311	253,860	2,155,128	2,408,988
Heat	309	28,099	36,291	64,398
<b>Transport</b>				
Registered pilots	1,936	75,619	227,860	303,479
Aviation	1,185		139,507	139,507
<b>Total market organizations</b>		<b>966,021</b>	<b>16,159,108</b>	<b>17,125,129</b>
<b>Other</b>				
State/treasury	338,157	10,954,982	39,799,067	50,754,049
<b>Total</b>	<b>475,454</b>	<b>11,921,003</b>	<b>55,958,175</b>	<b>67,879,178</b>

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## 2 2014-2015 ACM Agenda

ACM has chosen six themes for its two-year agenda, the 2014-2015 ACM Agenda. Everyone was invited to think along with ACM about these themes via an online platform.

### Themes

ACM in February presented the six themes that it will specifically focus on in 2014 and 2015:

1. Online consumers
2. Willingness to invest in telecommunications networks and energy networks
3. Government tenders
4. Health care consumers
5. Switching barriers in energy and health care
6. Entry into the banking sector

### Consumers are central to ACM

These six themes were chosen based on complaints filed with [ConsuWijzer](#), consultations with businesses and consumer organizations, media reports, and on ACM's own investigations. With the selection of these themes, ACM has given consumers a central position. Consumers must really have something to choose from, and they must have the courage to make a choice. This can be realized if businesses are clear about what they offer, and if consumers know what their rights are. Therein lies the key to well-functioning markets.

### Thinking along with ACM online

On a special website ("[Denk mee met ACM](#)" or 'Think along with ACM'), interested parties were given the opportunity to react to questions and provocative statements about the themes of the 2014-2015 ACM Agenda. A total of 173 individuals made the effort to think along with ACM. ACM has received many useful reactions. The reactions ranged from useful information about shipping speeds of online retailers to concrete tips about suspected cartels. With these reactions, ACM has sharpened its approach regarding these themes.

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## 2.1 Online consumers

ACM protects online consumers, enabling them to surf and shop online with confidence.

A large number of the Dutch use the internet. This creates opportunities, but also risks. Think of abuse of personal details by apps and websites, unforeseen costs of mobile internet, or online shops that do not comply with consumer protection regulations. Although the Internet should actually be leading to more choices, some products seem to be sold at the same price in all online stores.

In 2014, ACM carried out several enforcement actions. ACM warned consumers against the activities of online furniture shop Bellio and those of Dutch photography company Vakfotografen Mediagroep B.V. ACM has called on businesses and consumers to submit indications about online stores in the fashion industry that fail to comply with consumer protection regulations. In addition, ACM launched a campaign to raise awareness about online safety. And ACM acted against unwanted cookies, and against a violation of the spam prohibition.

### 2.1.1 Online consumers

#### ACM issues warning about online shop Bellio

In early-2014, ACM issued a warning about Dutch online shop Bellio ([www.bellio.nl](http://www.bellio.nl)), which sells design furniture. ACM has received dozens of indications through consumer information desk ConsuWijzer from consumers who had placed an order with the online shop, had paid for their purchases, but were not delivered anything in the end.

Companies must inform their customers if they cannot deliver the product on time. In that case, consumers are allowed to cancel their purchases, whereupon the company must reimburse any advance payments to consumers immediately. In a lot of cases, Bellio failed to do so. The indications ConsuWijzer received concerned purchases of up to hundreds of euros. To prevent further harm to consumers, ACM thus issued a warning against this online shop.

#### Focus on online fashion stores

ACM announced it will take action against online fashion stores that fail to refund, either in full or in a timely manner, consumers that cancel their purchases. Consumers that make online purchases are entitled to cancel their purchases within 14 days after receiving the product. Within 14 days after canceling the purchase, online stores must offer consumers a full reimbursement of the costs that consumers have paid for getting their products delivered.

Clothing and other fashion items are increasingly sold online. As the total amounts of such purchases are often relatively small, delivery costs make up a large share of the total amount. The rate of returned merchandise in the fashion industry is relatively high (35 percent). An ACM survey has revealed that more than half of all websites that sell clothes, shoes or accessories provide incorrect information about refunds in case of cancellation. The fact that refunds are an issue is confirmed by a [study of the Dutch Consumers' Association](#) (in Dutch) into the practices of online stores regarding



refunds. Consumers that are not refunded the entire amount (or not in a timely manner) after cancelling their purchases are harmed considerably.

Furthermore, this type of behavior constitutes unfair competition vis-à-vis online stores that do play by the rules. ACM therefore called on everyone to submit any indications they might have about online fashion stores that fail to pay refunds, either in full or in a timely manner. Online retailers must make sure that the information about refunds on their websites is correct and complete. ACM will take action against online fashion stores that do not comply with these rules. On [ConsuWijzer.nl](http://ConsuWijzer.nl), ACM's consumer information portal, consumers are able to submit any indications they might have concerning online stores that do not comply with the rules about refunds.

### 2.1.2 Surfing the Internet with more confidence

#### Safe surfing? Keep your software up-to-date!

Consumers are often not aware enough of the importance of up-to-date software. By updating the software on their laptops or desktops, consumers are able to drastically reduce the risk of becoming a victim of malware and cybercrime. In order to raise consumer awareness about this issue, ACM launched an awareness campaign in the fall of 2014 via [ConsuWijzer.nl](http://ConsuWijzer.nl): “In with the updates, out with the hackers.”

On ConsuWijzer, consumers are able to find more information and a step-by-step guide on how to check and update their operating systems, browsers, and drivers. This campaign fits in with the national campaign [Alert Online](#) (in Dutch). This is a collaboration between government, the corporate sector, and the public sector to point out potential online risks to consumers.

#### Netherlands Public Broadcasting (NPO) corrects violation of cookie rules

In July 2014, ACM established that Netherlands Public Broadcasting (NPO) had violated the rules on storing cookies. When users visited various websites managed by NPO, NPO stored cookies on these users' computers without having sufficiently informed these users, and without having received these users' consent in the correct manner. ACM gave NPO several opportunities to adjust its websites with respect to the abovementioned points in order to have them comply with regulations. However, this did not lead to the desired result. In order to force NPO to adjust its practices, ACM imposed an order subject to periodic penalty payments.

In December 2014, ACM established that NPO informed visitors correctly about cookies. It requested their consent in the correct manner. However, since NPO failed to comply with all of the requirements set by ACM in the order subject to periodic penalty payments within the time limit of four weeks, NPO did have to pay a penalty payment of EUR 25,000.

#### ACM imposes fine for violation of the spam prohibition

ACM fined online-marketing firm Daisycon B.V. for its involvement in large-scale spam operations. Daisycon, as an affiliate network, was involved in the dispatch of over two billion unsolicited



commercial emails, with regard to which it could not be established that their recipients had given their consent to receiving them. Affiliate networks are a form of internet marketing where advertisers pay their partners (affiliates) for the sales that each individual affiliate generates. In that context, Daisycon acted as a 'digital broker' between advertisers and so-called publishers. These publishers have permission to include advertisements from other advertisers in their newsletters, websites, blogs, email databases or social media accounts. In addition, consumers who had been sent commercial messages for which they had not given any permission were not really able to unsubscribe from these emails. In the dispatch of these spam messages, Daisycon as an affiliate network played a central role between advertisers and publishers, and this was what ACM primarily focused on. Daisycon was thus imposed a fine of EUR 810,000 for violation of the spam prohibition. This fine was already imposed on Daisycon in October 2013. As Daisycon had requested the courts to stop publication thereof, ACM was unable to publish the decision sooner. In September 2014, the court in interlocutory proceedings ruled that the decision could be published.

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## 2.2 Willingness to invest in telecommunications networks and energy networks

ACM wishes that optimal investments are made in telecommunications networks and energy networks. In its regulation of the telecommunications market, ACM wishes to stimulate the rollout of networks further. In the energy market, ACM requires network operators to ensure their energy networks are secure at an affordable price for consumers. Our interventions thus influence the investment decisions of telecommunication companies and network operators.

### 2.2.1 More incentives to invest in fixed telecom networks

#### Many opportunities to make fixed telecom networks faster and better

In the Netherlands, there are two companies that each have their own fixed telecom network: UPC/Ziggo (cable) and KPN (copper and fiber-optic). With investments, the cable and copper networks can be made much faster than they are now. KPN's fiber-optic network currently covers a quarter of the Netherlands, and this will only continue to grow. With fiber-optic networks, even higher download speeds can be achieved. Making telecom networks even faster and better is therefore technologically possible.

#### More competition gives KPN and UPC/Ziggo an incentive to invest

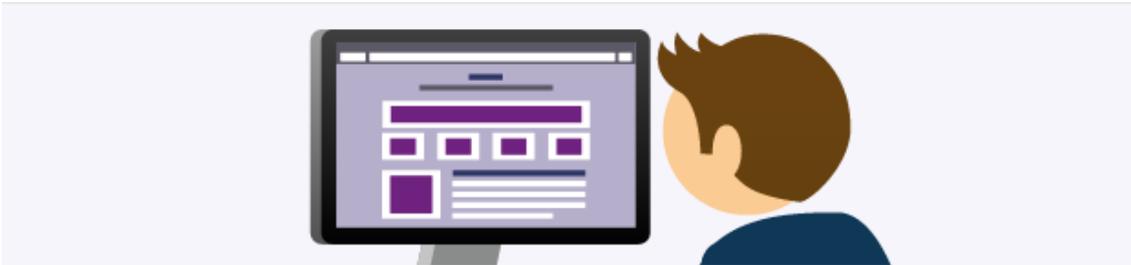
KPN and UPC/Ziggo need to be challenged by their competition to take advantage of those technological opportunities successfully. In 2014, ACM published the [market analysis decision on unbundled access](#). In that decision, ACM mandated that KPN give other telecom providers access to its network. With this decision, other telecom providers are able to offer all telecom services. For example, Vodafone recently announced it would invest heavily in offering fixed services over KPN's network. As a result, Vodafone is able to compete with KPN and UPC/Ziggo. This competition ACM believes will stimulate UPC/Ziggo and KPN to offer better and faster services. In order to do so, they will have to continue investing in their own networks.

#### Regulation of KPN offers opportunities for investment

The rules that ACM imposed on KPN in the [draft market analysis decision on unbundled access](#) have been drawn up in such a way that they will not hinder KPN in its investments. For example, ACM makes sure that KPN will be able to recoup the costs it incurs when offering others access to its network. That is why KPN is also allowed to continue with the expansion of its fiber-optic network. KPN recently reached the milestone of two million fiber-optic connections. In addition, KPN is given more room to make targeted investments in order to make its own copper network faster and better.

#### The Netherlands is an investment frontrunner in Europe

At a European level, the Netherlands is doing well when it comes to investments in the telecom network. Trade association *Nederland ICT* has shown this in [The state of telecom](#). The [digital agenda](#) of the European Commission has revealed that, within Europe, only in the Netherlands and Luxembourg investments in the telecom sector exceed 20 percent of turnover.



### 2.2.2 ACM provides clarity about the investment framework for the energy market

ACM increased transparency for network operators, advised the Ministry of Economic Affairs about the legislative process called STROOM, and urged, where necessary, market participants to invest.

#### ACM provides clarity on investments in sustainability

ACM wishes to create room for sustainability initiatives with its energy regulation. That is why ACM, as the energy regulator, provided clarity about the basic principles it uses in its energy regulation. ACM also explained the roles of consumers and network operators in sustainability initiatives.

#### Clarity about investments in cross-border connections

In the next few years, network operators of electricity networks in Europe need to make substantial investments in their networks. Such investments are needed in order to realize the transition to sustainable energy, and to complete the European internal market. In order to be sure that enough cross-border investments are made on time, the European Commission drew up [criteria](#). The Cobra-cable for electricity transmission between the Netherlands and Denmark is an example of such an investment. With regard to this cable, transmission system operator TenneT received an [informal opinion](#). In that informal opinion, ACM indicated that TenneT is allowed to use auction revenues for covering capital costs of new cross-border connections.

#### ACM gives advice about legislative process STROOM

ACM gave EZ advice about streamlining existing energy laws into the STROOM program. The Dutch acronym STROOM stands for streamlining, optimization, and modernization. Its objectives are to offer a clearer and unequivocal framework, and, in part because of that, to better facilitate the energy transition and market developments.

Furthermore, ACM gave advice with regard to the creation of new rules about the assessment of investment plans of network operators, and the compensation of investments through the tariffs. These recommendations will be published at a later point in 2015. Clear rules for the energy market help create a healthy investment climate. In the fall of 2014, US credit rating agency Moody's published a [report](#) about the assessment of risks of regulated networks. Dutch regulation and the UK were rated the best in Europe for political and regulatory risks, because ACM had issued reliably predictable regulatory decisions in recent years.

#### Major investments are incorporated into 2015 tariffs

The Netherlands is committed to making energy production more sustainable, for example, by



creating large-scale wind farms in the Noordoostpolder region in central Netherlands. The Minister of Economic Affairs has designated the connection of these farms by TenneT as a special investment. This status offers the network operator benefits in the sense that it will be able to recoup the project costs quickly. That is because ACM incorporates the costs of this investment into the [electricity tariffs](#) in the year after the infrastructure (of the investment) has become operational. In addition, two major investments in the gas infrastructure have been incorporated into [2015 gas tariffs](#). They are the expansion of transmission capacity for natural gas from the northern Dutch province of Groningen to the South, and the improvement of the inflow and outflow of natural gas for the Bergermeer gas storage facility.

**TenneT must come up with concrete plans regarding auction proceeds**

In the summer of 2014, ACM called on Dutch transmission system operator TenneT to come up with [concrete spending proposals](#) regarding the auction proceeds. TenneT earned considerable amounts of money from the auction of scarce capacity of cross-border connections

In 2015, the transmission tariffs will be lowered by EUR 45 million. With this decision, ACM has taken a step towards realizing the ambition of reducing the reserves of auction proceeds. In 2015, a new framework will be set up for spending the auction proceeds.

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## 2.3 Government tenders

ACM is attentive to indications about unfair competition in government tenders. Such tender procedures are not always fair for the government organization or for the companies involved. For example, companies may contact each other beforehand in order to rig their bids. As a consequence, the government may be forced to spend more taxpayers' money than if the tender procedure had gone well.

### Education for buyers about anticompetitive risks

Last year, ACM educated buyers about anticompetitive risks in government tenders. ACM paid visits to various contracting authorities, among other organizations, to give presentations.

In September, a team of ACM experts answered the phones for a week to answer questions from buyers about government tenders. In that context, there was also attention for the new role of municipalities as buyers of health care services under the Social Support Act (Wmo). Municipalities are to make sure that individuals are able to live as long as possible in their own homes. Municipalities are able to offer support, for example through the Wmo.

ACM also organized an informational meeting for buyers. ACM explained to attendees how they could spot and prevent tender manipulation (bid-rigging). ACM gave as many practical examples of collusion as possible. ACM's tips for spotting and preventing illegal arrangements in government tenders can be found on ACM's [website](#) (in Dutch) and in a practical [brochure](#) (in Dutch).

In 2014, ACM's educational efforts to buyers resulted in new indications about potential problems.

### Cooperation with PIANOo

[PIANOo](#) is the Dutch Public Procurement Expertise Centre. It gives advice to contracting authorities, helping contracting authorities professionalize their procurement processes by giving advice, providing tools, and practical tips. Contracting authorities could be able to mobilize more competitors if they paid more attention to the possible effects on competition when determining the requirements of their tender procedures. ACM works together with PIANOo in advising contracting authorities. In June, for example, ACM had its own booth at a [conference](#) organized by PIANOo and [buyer association NEVI](#).

### *ACM calls on to report abuses in the IT industry*

On October 2, 2014, Dutch investigative-journalism TV show ZEMBLA aired an episode about possible abuses in public procurement, and the possible involvement of the IT industry therein. ACM called on anyone who had information about fraud connected to government tenders for IT services to share such information with ACM.

At this stage, ACM is collecting as much information about this topic as possible. All information will be carefully assessed in order to determine whether or not government tenders for IT services have indeed suffered from anticompetitive problems.



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## 2.4 Health care consumers

Public attention to health care is high. One of the reasons is that we all spend a lot on health care. ACM's goal is to offer room to collaborations in the health care industry. Such collaborations must be in the interest of consumers, both as patients and as insured. But cooperation sometimes leads to market behavior that does not benefit consumers. Think of unnecessarily restricting consumers in their choice of health care provider, hampering the introduction of cheaper drugs, and price-fixing agreements.

With regard to the health care industry, ACM last year dealt with the assessment of hospital concentrations. In addition, ACM looked into the shifts in buyer behavior between the Social Support Act (Wmo), the Dutch Act on Exceptional Medical Expenses (AWBZ) (regional health care offices), and the Dutch Health Insurance Act (Zvw) in 2015. Last year, these shifts already raised many questions among health care providers and health care buyers about ACM's role and the application of competition law. That is why ACM provided a lot of information about this in the past year.

Furthermore, ACM kept a close watch on the trends in drug costs. This cost item is a major component of total health care costs in the Netherlands. Among other actions, ACM studied the large price differences of AstraZeneca's heart burn drug Nexium (esomeprazol) inside and outside of hospitals. ACM also looked more broadly into the causes of high drug costs and into possible solutions thereto.



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#### 2.4.1 Education for health care providers and health care buyers

Last year, ACM educated health care providers and health care buyers about ACM's role and the application of competition law.

##### **Information flow chart about mergers and collaborations in hospital care**

In early-2014, ACM published an interactive [information flow chart](#) about mergers and collaborations in hospital care aimed at health care providers. ACM created this information flow chart to give health care providers and buyers certainty. It is important to note that ACM assesses mergers or collaborations between hospitals using the same criteria as for all other mergers or collaborations. This was not clear to most market participants. If hospitals wish to merge or collaborate, ACM assesses whether patients will continue to have enough choices. Patients must be able to choose what hospital they want to go to, particularly if they are dissatisfied with, for example, service. The information flow chart is a useful tool for everyone preparing a merger or collaboration.

##### **Educating municipalities and health care providers about the Social Support Act (Wmo)**

ACM also educated municipalities and health care providers about procuring health care services under the Wmo. On its [website](#) (in Dutch), ACM gave tips to municipalities and health care providers, and it collected questions, answers, and examples about the Wmo and competition.

Since January 1, 2015, municipalities in the Netherlands are responsible for procuring different types of health care services for their residents. Based on the Wmo, municipalities organize the procurement of, for example, domestic help and daytime activities for the elderly and disabled. Municipalities are charged with procuring the best health care at a good price. That is why ACM offers municipalities tips about health care procurement. For example, municipalities can make sure that residents are also able to choose a different health care provider, and they can make room for new health care providers.

The Wmo offers health care providers opportunities, for example, to innovate, and to offer new products or services. However, there are also potential risks. ACM learned that health care providers wish to collaborate. Cooperation that leads to better health care is fine. But under the Dutch Competition Act, health care providers are not allowed to make arrangements about prices or about who offers health care services to what consumer. Such behavior may lead to unnecessarily high health care costs, reduced health care quality, and reduced choice between health care providers.

##### **Meetings as part of the 'Health Care Tour'**

In addition, ACM participated in meetings about collaborations between health care providers, organized by the Ministry of Health, Welfare and Sport (VWS). ACM together with the Dutch Healthcare Authority (NZa) explained the policies and rules regarding cooperation and competition. The most important message of ACM was that there is room for collaborations in the health care. Reports of these meetings can be found here: [report of meeting with hospitals](#), [report of meetings with primary care and mental health care](#) and [report of meeting with youth health care, long-term care and support](#).



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### 2.4.2 Costs of prescription drugs

ACM in 2014, too, focused on the costs of prescription drugs. If patients use relatively expensive brand-name drugs, while cheaper generic drugs are also available, drug costs unnecessarily go up.

#### Publication of ACM decision on price strategy of AstraZeneca

ACM has carried out an investigation into the large difference between the price that international pharmaceutical company [AstraZeneca](#) asked for heart burn drug Nexium sold inside hospitals, and the price for the same drug when sold outside of hospitals. AstraZeneca offered Nexium to Dutch hospitals at a deep discount whereas patients outside of hospitals had to pay a much higher price when buying them at pharmacies.

ACM suspected that AstraZeneca offered this drug to hospitals at below cost price in order to make it unattractive for certain competitors to enter the market. These competitors offer cheaper heart burn drugs (generic versions) outside of hospitals. Patients tend to continue to use the same brand that they had been given by their hospitals, and GPs are inclined to prescribe the same brand, too. ACM suspected that, as a result thereof, AstraZeneca faced little competition. AstraZeneca was thus able to offer Nexium at much higher prices outside of hospitals. This way, the losses incurred by offering Nexium to hospitals at a deep discount could thus be offset.

In early-December, ACM published its decision. It was explained in great detail that it had not sufficiently been determined that AstraZeneca enjoyed a dominant position. Therefore, no violation of the Dutch Competition Act was found. It could not be established that a sufficiently substantial group of patients that were prescribed the expensive branded drug Nexium outside of hospitals could also have benefited from a cheaper, generic version of the drug.

#### Study into problems in pharmaceutical industry

In addition, ACM conducted a wider study into potential anticompetitive problems in the pharmaceutical industry. In that study, ACM primarily focused on the behavior of drug manufacturers with regard to the development and selling of chemical-based drugs. ACM has established that manufacturers of chemical-based brand-name drugs have impeded the market entry and use of cheaper, so-called generic drugs. This has been done by maintaining and extending market exclusivity of brand-name drugs, and by increasing sales through marketing efforts and influencing prescribers of drugs. Such practices are undesirable because they lead to unnecessarily high health care costs. This is harmful to consumers.

Some of these practices constitute violations of competition law, and regulators can penalize and combat them. So far, this has not happened yet in the Netherlands, but it has happened in other countries. For example, abuses of dominant positions by drug manufacturers, and mutual arrangements between brand-name drug manufacturers and generic-drug manufacturers have been dealt with abroad. Other practices identified by ACM fall outside the scope of competition law. One such example was certain behavior exhibited by [AstraZeneca](#), on which ACM recently issued a

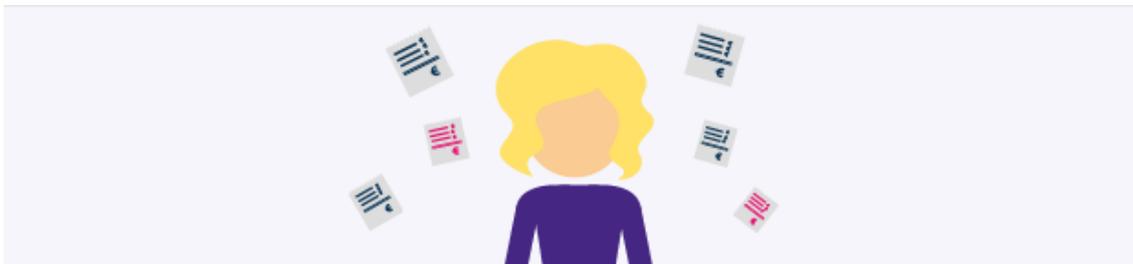
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decision.

When it comes to preventing such practices, ACM also looks at solutions that are closely associated with the way in which drug costs are funded and reimbursed in the Netherlands. Several of these solutions have already been adopted by various lawmakers and health insurers, and may also help prevent unnecessary health care costs.

The paper of ACM in which this problem has been described can be found on ACM's website.



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## 2.5 Switching barriers in the health care and energy markets

ACM wishes to take away any switching barrier that consumers face in the health insurance and energy markets.

Many consumers believe that switching providers is a lot of hassle. They are afraid of losing what they have, and believe that the benefits are too low. That is why a substantial share of consumers has never switched. If consumers do not switch, current providers see no need to do their best, and new providers get fewer opportunities.

ACM wishes to take away switching barriers in order to stimulate consumers to look for the best offer. Particularly in markets where competition was introduced not so long ago, such as in the health insurance and energy markets, it is vital that consumers take on the role they were given.

### 2.5.1 Health insurances

ACM, the Netherlands Authority for the Financial Markets (AFM), and the Dutch Healthcare Authority (NZa) called on consumers to check whether that offer still meets their needs, and to compare it with offers from other insurers.

#### Consumer studies

In 2014, ACM carried out an extensive study into switching behavior in the health insurance market. It turned out that one in four consumers did look around for a new health insurance. Less than one in 10 consumers actually took out a new health insurance. Consumers that *do* invest time and effort into shopping around cannot see the wood for the trees. They find it difficult to compare their own policies with those of other providers, and to find all information about coverage.

Consumers that have not switched insurers say that the most important reason not to switch was their satisfaction with their current insurer. They fear that switching will lead to losing something they have had before, for example the quality of coverage or the freedom of choice.

#### Comparing pays off

It is important that consumers are able to make an informed and conscious decision when choosing a health insurance that meets their needs. Dutch consumers have from mid-November until January 1 to choose a new health insurance. On consumer information portal [www.consuwijzer.nl](http://www.consuwijzer.nl) (in Dutch), consumers can find tools such a step-by-step guide to help them compare offers. The step-by-step guide on ConsuWijzer's website helps consumers gain clear insight into what is important to them. Consumers can use the coverage overviews of health insurers to make a comparison. In practice, this is not always easy. That is why consumers also like to use price comparison websites. On ConsuWijzer.nl, consumers can find five practical tips on how to use such sites effectively.

#### Dutch regulators join forces to increase comparability

An ACM study among consumers revealed that they wish to receive reliable information from price



comparison websites, based on their personal situations and needs. In addition, consumers also wish to have a good overview of the offerings of health insurers, as well as improved comparability of these offerings. AFM carried out a [study into how price comparison websites operate](#) (in Dutch). NZa examined how health insurers provide price comparison websites with information, and what the consequences thereof are on the accuracy and comparability of the offerings found on the various price comparison websites. Consumers must be able to rely on the fact that the information about health insurance policies is correct, including information found on price comparison websites. Health insurers are responsible for the accuracy of the policy information on the price comparison websites they do business with. NZa has reminded the health insurers of this responsibility.

### **Campaign “Covered or not covered”**

These studies were the reason to focus on health insurances in the campaign “Covered or not covered”. This campaign was aimed at urging consumers to take a closer look at their current policies. The conditions of your current insurance can change every year, and so can your personal situation. The campaign offered consumers a useful step-by-step guide to help them identify their needs better, and to sharpen them, enabling them to look for an appropriate offer more effectively.

### **2.5.2 Energy**

In 2014, ACM once again carried out a study into switching behavior. And it has become clear to suppliers what information customers must be given.

#### **More than half of all Dutch consumers have switched at least once**

Exactly ten years ago, consumers were able to choose their energy provider for the very first time. Over the past ten years, 55 percent of all Dutch consumers have switched energy contracts at least once. Between July 1, 2013 and July 1, 2014, 12.7 percent of all consumers switched.

#### **Consumers need to look around first**

Consumers that have switched are more likely to switch again. Lower energy costs are still, by far, the most important reason for switching. Consumers are not always aware that the special discount expires at the end of the contract of the special offer. Consumers mainly use price comparison websites and the energy companies' own websites if they want to find out more about all special offers. Consumers find a special offer on a price comparison website. Then they go to that energy company's website only to find out that that particular offer is not available there. The reason is that special offers can vary per sales channel. And that is why it is so important that consumers extensively research the various offers first. Consumer information portal ConsuWijzer ran a consumer awareness campaign 'If you snooze, you lose' (in Dutch: 'Niets doen, kost je poen'), aimed at stimulating consumers to make a conscious and informed decision when choosing between offers.

#### **Offers that are easy-to-understand and easy-to-compare**

All offers to consumers for switching energy companies must be easy-to-understand, and consumers must be able to compare these with other offers. Only then will they be able to choose the offer that best meets their needs. The document '[Provision of information in the consumer energy market](#)' (in



Dutch) explains exactly what information must be given to customers. It is now completely clear to providers in the energy industry what information requirements they must comply with.

ACM has agreed with the energy providers that, from now on, offers must be tailored to the individual customer's needs, based on that customer's actual usage as found on, for example, his annual energy bill. With individual offers, it is prevented that actual costs are completely different from what one would expect based on one's initial offer.

The following requirements have also been agreed upon:

- Consumers must be informed in advance about all costs and they need to be included in the offer. This generates a total price with which all offers can be easily compared.
- Providers must state the correct costs for network management, as these vary per network operator.
- When stating the total price, the total annual costs must, in any case, be displayed. As these can also be found on the final bill of one's current provider, it will make comparing the different offers easier.
- Tariff changes must be communicated with customers personally and in a timely manner. If customers wish to cancel their contracts following such tariff changes, they should be able to do so in time before the new tariff takes effect. This prevents customers from being switched from a low offer tariff to a much higher tariff without noticing.
- Consumers must be clearly informed about whether they purchase green or brown power.

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## 2.6 Entry into the banking sector

Last year, ACM conducted a study into how competition between banks can be improved, thereby creating more choice for consumers and businesses.

Competition in the banking sector plays a role in the choices that consumers and businesses have when it comes to payments, savings, and loans. In the Netherlands, 80 percent of all consumers and SMBs are customers with one of the four major banks. These four banks are considered systemically important banks. If one of these banks were to go bankrupt, it could seriously harm the financial system and the economy. That is why systemic banks enjoy implicit state guarantees against bankruptcies. As a result, systemic banks are able to borrow money against lower interest rates because of this implicit guarantee. Smaller banks, which do not have this implicit guarantee, are thus able to compete with the systemic banks less effectively.

### ACM's recommendations for improving competition in the banking sector

In June, ACM gave the Minister of Finance and the other cabinet members nine recommendations for increasing competition in the banking sector. These recommendations were based on a [study of ACM's Financial Sector Monitor](#) into barriers to entry in the Dutch banking retail banking sector.

The entry of new players or even merely the threat thereof will increase competition in the Dutch banking sector. This is important because the Dutch retail banking sector has become less competitive since the financial crisis. ACM in 2013 found out, for example, that, since the outbreak of the financial crisis, the profit margins on mortgages have risen considerably. Increased competition leads to lower prices, enhanced service, and more choice for businesses and consumers.

In its study, ACM established that barriers to entry do exist. For example, banking regulations are vast and complex. This creates an uneven playing field between smaller entrants and existing major banks. In addition, uncertainty during the licensing process and the unforthcoming attitude of the Dutch central bank DNB also constitute barriers to apply for licenses. Different market participants share these observations. Also, uncertainty about future mortgage rules in the Netherlands can lead to banks postponing their decision to become active in the country. Finally, consumers rarely switch banks for their current accounts (or checking accounts) or savings accounts. This makes it difficult for new entrants to attract new customers.

Therefore, ACM advised to reduce or simplify existing rules where possible. Another recommendation was to create more certainty about how mortgage rules might change in the future. In addition, ACM made a number of concrete recommendations so that more consumers will switch, such as improving and promoting the switching service for current accounts (or checking accounts). Also, ACM is in favor of free movement of capital within Europe. As a result, foreign savings can be used to offer loans in the Netherlands. Finally, ACM advises that DNB's licensing scheme be evaluated.

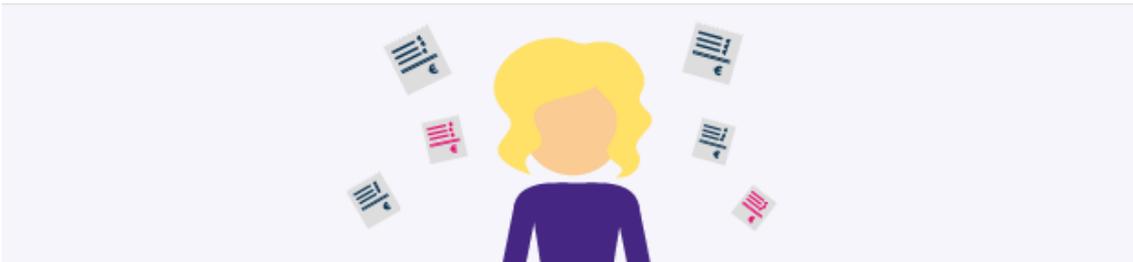


A complete overview of ACM's recommendations to the Minister of Finance and the other members of the Dutch cabinet can be found on ACM's [website](#). In response to ACM's recommendations, the Dutch administration sent the Dutch House of Representatives a [letter](#) (in Dutch) in which it announces, among other measures, a study into the regulatory burden in the financial sector, which will be carried out by Actal, the Dutch Advisory Board on Regulatory Burden.

#### **Better education for consumers needed about overdraft fees**

ACM also examined whether insufficient competition between banks harms consumers with overdrawn balances. This turns out not to be the case. The overdraft interest rate is a component of bank accounts. Compared with other countries, consumers in the Netherlands pay relatively low charges for their bank accounts, including overdraft facilities. Moreover, banks are facing competition from a large number of companies that offer consumer credit, which is considered an alternative to overdraft facilities.

However, ACM does see opportunities for improved protection of consumers with regularly overdrawn balances. ACM believes that banks must inform consumers better about the total annual costs they pay for their bank accounts, including overdraft fees.



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### 3 Consumers

Businesses should be able to compete freely for the favor of consumers. It is important that consumers know their rights, and take on an active role in the market. That in turn forces businesses to do their best. Since ACM recognizes the central role that consumers have, it informs them about their rights through consumer information portal [ConsuWijzer](#) (in Dutch). Using campaigns, information and other tools, ConsuWijzer makes sure that consumers are equipped with the right knowledge in order for them to take on that envisaged active role in the market. Conversely, through ConsuWijzer, ACM receives indications from consumers about any problems they run into. ACM takes action against companies that do not play by the rules or harm consumers and competitors.

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### 3.1 Consumer rights

Consumers that are critical and who know their rights are able to keep businesses sharp. In 2014, consumer rights were changed with regard to two different aspects. In June 2014, new European consumer protection rules came into force. Consumers are now even more within their rights when it comes to information and cooling-off periods. In July 2014, the new Dutch Pawnshop Act came into force, thereby introducing stricter rules concerning pawn loans.

#### 3.1.1 New European consumer protection rules

ACM informs consumers and businesses about new European consumer protection rules that came into force in June 2014.

##### What do the new rules entail?

With the new European rules, consumers are now even more within their rights when it comes to information and cooling-off periods. What information requirements apply or whether or not consumers are entitled to a cooling-off period depends on the physical location of where the sale took place: in the store, on the street, at the door, over the phone or online.

The most important new rules are:

- the cooling-off period for agreements that consumers enter into online or by phone is extended from 7 days to 14 days;
- the cooling-off period of 14 days is also applicable to door-to-door sales and street vending in case of purchases of more than EUR 50;
- if sellers do not properly inform consumers about the cooling-off period, this period will then be extended to a maximum of 12 months;
- agreements concerning a constant service, like telephone subscriptions or gym memberships, are only valid if consumers have agreed to such services in writing;
- agreements concerning utility services such as water, gas, electricity or district heating, are only valid if consumers have agreed to such services in writing;
- a ceiling will be introduced for the costs of calls to customer service lines using 090x-numbers; the maximum rate for such calls will be EUR 1. If the business does not charge a fixed amount per call, the normal charges apply.

##### 'Consumers are the champions' campaign

In June 2014, ACM launched a campaign on its consumer portal ConsuWijzer.nl: "Consumers are the champions". This campaign stimulated consumers to find out more about the new rules. ACM also encourages consumers to come into action when they experience problems with businesses. ConsuWijzer.nl explains the new regulations in a clear manner. It also offers consumers additional tools that help them stand up for their rights. For example, consumers can use the 'conversation plan', a useful tool to prepare a conversation with a salesperson about a problem with a purchase. With this campaign, ConsuWijzer wanted to motivate consumers: you have more rights now, so come into action if you have a problem about a purchase! Because: consumers are the champions!



### **Assistance for businesses**

The new European consumer protection rules have implications for most businesses in the Netherlands that offer products and services to consumers. For example, businesses had to adjust the information on their websites and in the contracts they offer. To help businesses prepare for these new rules, ACM published information on its website in March 2014. In addition, it organized an informational meeting for members of the Confederation of Netherlands Industry and Employers VNO-NCW.

#### **3.1.2 New Pawnshop Act**

ACM enforces the new Pawnshop Act, which protects consumers against from very high interest rates or unclear contracts.

#### **New pawn loan rules**

Consumers can take jewelry or other items to a pawnshop or jeweler, who will keep these items. In return, consumers receive a loan. If they want to reclaim their items, they have to repay the loan they received, plus an interest fee. With the new act, new rules apply to this fee – also called the finance fee or pawn fee. With the new Dutch Pawnshop Act, stricter regulations apply to pawn loans. These new regulations apply to both commercial and municipal pawnshops, but also for jewelers.

Since July 1, 2014, ACM enforces compliance with the new rules. In the run-up to the introduction of the new Act, ACM had informed pawnshops of the new rules in order for them to prepare for these changes. ACM informs consumers about their rights through [ConsuWijzer](#).

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## 3.2 Consumer education

Consumer education is an important enforcement tool of ACM. It became a statutory task of ACM with the implementation of the Streamlining Act.

### 3.2.1 Why does ACM engage in consumer education?

By informing consumers, ACM can prevent problems, tackle areas of concern, and promote competition. It leads to increased competition, opportunities for new entrants, and the promotion of innovation.

Consumers that know what their rights are, and take action, stimulate companies to play by the rules. Well-informed consumers are better able to make well-informed choices from the selection of products and services. [ConsuWijzer](#) is the eyes and ears of ACM. The consumer information portal thus serves as an important barometer for ACM. In 2014, consumer education became a statutory task of ACM.

#### 17 million enforcers

ACM prevents problems by informing consumers, and by empowering them. That way, consumers help ACM discipline the market. ACM cannot solve all market problems. It needs to prioritize. By informing consumers about their rights, ACM creates a potential of 16 million “enforcers,” who are able to talk to businesses about their practices.

#### Regulatory function of consumer education

ACM uses [ConsuWijzer.nl](#) as a regulatory tool in order to collect indications from consumers about harmful practices of businesses. The indications that ACM receives, may result in ACM taking action. For example, ACM may decide to warn or impose fines on businesses that do not play by the rules.

In addition, ACM in 2014 was granted the statutory power to issue formal warnings. ACM is allowed to publish a warning if a violation of consumer protection rules is suspected, even without having actually established one. As a result, consumers can be warned sooner against harmful business practices.

### 3.2.2 How does ACM educate consumers?

ACM informs consumers through its [ConsuWijzer.nl](#) and social media. In 2014, ACM ran two major campaigns to raise consumer awareness.

#### ConsuWijzer

[ConsuWijzer.nl](#) is ACM's consumer information portal. [ConsuWijzer](#) offers consumers free advice about their rights, and how they can exercise them. But it also gives them practical advice about how they are better able to choose the offer that meets their needs best. Finally, consumers are able to file complaints about businesses with [ConsuWijzer](#). Such indications are very important to ACM. That is how ACM can see what goes wrong in the market.



On the website [www.consuwijzer.nl](http://www.consuwijzer.nl), consumers are able to find answers to frequently asked questions. Consumers that need personal advice may contact ConsuWijzer by phone, an online form, and by regular mail. Questions are increasingly submitted over Facebook and Twitter.

ACM uses ConsuWijzer and social media for current events. ACM deploys these tools if the number of questions and complaints about a particular topic or company suddenly spikes, or if a particular consumer problem has attracted a lot of media attention. This could be a general warning against unsolicited follow-up shipments, and what you could do against such problems. Or it could be about specific events during the year. For example, ConsuWijzer focused a lot on additional costs with airline tickets right before the summer vacation period.

### Campaigns

By running awareness campaigns, ACM is able to inform consumers about a specific topic even better. In 2014, ACM ran campaigns such as “Consumers are the champions” and “If you snooze, you lose”. In addition, ACM participated in the national campaign “Alert Online.” In the latter campaign, governments and the corporate sector worked together to remind consumers of the risks they run when they are online.

#### “Consumers are the champions”

ConsuWijzer launched the campaign ‘Consumers are the champions’ to make consumers aware of the new consumer protection rules that came into force in June 2014. “You have been given more rights, so do you have a problem with your purchase? Take action! Because, consumers are the champions!” In this campaign, ACM used a combination of media tools. The campaign was launched with a video press release. In addition, a [general informational video](#) was created, too. Furthermore, other videos were made covering the most prominent consumer rules. Social media were also used to highlight these rules, and ACM received many responses from consumers. Because of this campaign, more consumers are able to take action effectively with the help of ConsuWijzer.

#### Campaign “Covered or not covered”

Like in 2013, ACM in 2014 ran a campaign to raise consumer awareness about the possibility of switching providers. In 2014, emphasis was given to health insurances. In addition, the 2013 energy campaign (‘If you snooze, you lose’) was repeated as well.

ACM looked into consumers’ switching behavior in both industries. It turned out that many consumers are satisfied with their current plans. That is why they do not consider switching. However, by not switching, consumers may actually be worse off in the end. If you snooze, you lose (in Dutch: ‘Niets doen kost je poen’). Switching may help consumers save. ACM therefore used this campaign to stimulate consumers to at least find out what plan meets their current needs. The step-by-step guide on ConsuWijzer helps consumers identify their specific needs. Because consumers that know what they want, are better able to compare the different offers.



### 3.3 Consumer protection

Consumers are central to ACM's thinking. That is why ACM enforces the rules that protect consumers against unfair treatment by businesses. ACM acts against businesses that do not comply with these rules. ACM tries to find the best solution to the identified problems. ACM stimulates businesses to accept their own responsibility for compliance with the rules.

ACM empowers consumers by using [ConsuWijzer.nl](https://www.consuwijzer.nl). ACM wishes to make consumers able to cope with problems by themselves. Increased knowledge of one's own rights creates an improved bargaining position for consumers.

#### 3.3.1 Different ways to protect consumers

ACM uses a creative approach to stop harmful behavior by businesses towards consumers as quickly as possible.

##### Unsolicited follow-up shipments

A company in Switzerland offered "free" products, but consumers ended up with subscriptions they did not ask for. Many complaints about this company were filed with [ConsuWijzer.nl](https://www.consuwijzer.nl). Taking action against companies in Switzerland is not easy. However, this Swiss firm used a Dutch company for its customer service in the Netherlands. ACM therefore sat down with this Dutch firm. Following these discussions, the Swiss company adjusted its commercial texts, making it clearer to consumers what they agree to.

##### Enforcement day regarding subscriptions

Businesses that offer subscriptions are not allowed to automatically renew these when the first subscription period expires. Furthermore, they are not allowed to make it difficult for consumers to cancel their subscriptions. ACM has received complaints about dozens of companies that do not play by the rules.

In July, ACM contacted these businesses by phone as part of its enforcement day regarding subscriptions. MP Martijn van Dam, one of the sponsors of the law with revised rules on subscriptions, closed the campaign. The businesses that were targeted sell subscriptions for newspapers, magazines, children's books, but also gym memberships or cleaning services for skips or dumpsters. As a result, more than half of the contacted businesses complied afterwards. ACM warned the other businesses again, the ones that still did not or not entirely comply with the rules, threatening to impose sanctions (orders subject to periodic penalty payments). This proved to be effective. In the end, ACM did not have to impose any sanctions. With this intervention, consumers are now able to cancel their subscriptions in accordance with the new rules. The actual reach of the intervention was broader than just the businesses that had been contacted. Because of the attention that the intervention attracted, other businesses and consumers were informed about the rules regarding subscriptions.



### **ACM issues warning against Dutch photography company Vakfotografen Mediagroep B.V. and its owner**

ACM had a reasonable suspicion that Dutch photography company Vakfotografen is acting in violation of Dutch consumer protection laws. Vakfotografen approached young consumers through social media, giving them the impression that they have been specially selected, and that a photo shoot with Vakfotografen is the perfect start to a successful modeling career. The way Vakfotografen operated was misleading, because:

- Consumers were given the impression that they can win a free photo shoot, but this is not true;
- Consumers were also given the impression that they are given a discount, but everyone pays the same price;
- Consumers were asked to waive their rights to a cooling-off period, although this is legally impossible;
- Consumers that canceled their photo shoot were aggressively bombarded with high bills, and were threatened with debt collectors and lawsuits.

ACM therefore issued a warning to consumers against the practices of this company, and those of its owner, Mr. J.A. Contermans.

### **Direct debit for searching for rented homes**

A company offered consumers the opportunity to search for rented homes or apartments using several of its websites. However, these websites did not clearly mention that consumers need to pay for this service. Unknowingly, consumers paid by direct debit. ACM called the company and issued a warning. It then adjusted the texts on its websites. It is now much clearer to consumers that they are about to buy a service. The bank that collected the direct debit transfers on behalf of this company also took action against the company after ACM's warning.

### **3.3.2 Travel industry**

In 2013, ACM urged the travel industry to make prices more transparent. In 2014, ACM acted against companies that failed to do so.

#### **Points for attention with regard to price transparency**

ACM wants that consumers are clearly informed about prices when booking trips. This used not to be the case before. That is why ACM in May 2013 published several key principles for the travel industry:

- The price in the advertisement is the price at which the booking can be made;
- All unavoidable costs are included in the advertised price;
- All variable, unavoidable costs such as travel or cancellation insurances or meals are listed directly with the advertised price.
- The checkboxes for optional products and services cannot be ticked in advance.



ACM has approached numerous businesses in the travel industry, informing them that their prices are displayed incorrectly. More of these businesses have adjusted their practices. ACM took a closer look at businesses that had failed to adjust the prices on their websites in a timely manner. In 2014, ACM took action against Dutch airline KLM, WTC, and Spanish travel company eDreams. These two companies did not comply with the rules. This way, ACM took steps to ensure a level playing field in the travel industry.

#### **ACM issues warning about travel website eDreams**

ACM issued a warning about Spanish travel company eDreams. On its website, eDreams offered Dutch consumers cheap airline tickets to various international destinations, but it did not include all unavoidable costs in its advertised prices. Consumers thus paid more than expected. The travel company thus violated the rules about transparency in travel prices. Because the Spanish company did not respond to any request to end the violations, ACM decided to issue a warning about eDreams. Further harm to consumers had to be prevented. eDreams has already adjusted its practices.

#### **ACM imposes fines on Dutch airline KLM and World Ticket Center (WTC) for displaying prices incorrectly**

ACM imposed a fine on KLM Royal Dutch Airlines for incorrect prices displayed on its website. On its website, KLM displayed airfares that did not include the booking costs of EUR 10. These booking costs were unavoidable and foreseeable, and had to be included in the airfares. ACM therefore imposed a fine of EUR 200,000 on KLM. KLM has already adjusted its website so that the booking costs are now charged per booking, and not per ticket.

In addition, ACM imposed a fine on World Ticket Center B.V. (WTC) for displaying its airfares and trip prices on its website incorrectly. WTC failed to include all mandatory costs in the base price of its airfares. Variable costs were not clearly mentioned in the base price, and were only added at a later stage during the booking process. Finally, optional extras such as travel and cancellation insurances were pre-selected. ACM has imposed a fine of EUR 350,000 on WTC. WTC has already adjusted its website.

#### **3.3.3 Rental agencies**

ACM wishes to prevent rental agencies from charging lessees any agency fees when acting as an agent between lessors and lessees.

#### **Investigation from a competition perspective and a consumer perspective**

The housing market is a current social issue. That is why ACM in 2013 looked into the service in the housing chain from a wider perspective. ACM looked into the agency fees that were charged by the rental agencies when acting as an agent between lessors and lessees.

ACM examined whether any price-fixing agreements were made, because it had occurred to ACM that rental agencies often routinely charged lessees agency costs of one month's rent. ACM was



unable to find any evidence for this behavior. At the same time, ACM also investigated whether rental agencies engaged in unfair commercial practices when acting as an agent between lessors and lessees. This turned out to be the case. As a result of that investigation, ACM sat down with rental agencies.

#### **Rental agencies are only allowed to charge lessors agency costs**

Lessees are legally protected against any conflict of interests the rental agencies might have. If rental agencies act on behalf of both lessors and lessees when dealing with apartments and houses for rent, they are only allowed to charge lessors agency costs. These rules only apply to apartments and houses for rent, not to rooms for rent. New agency legislation is currently being drawn up, as a result of which these rules will also apply to rooms for rent. ACM has established that rental agencies often routinely charge lessees agency costs, while sometimes also charging lessors agency costs.

#### **Rental agencies made commitments to adjust its practices**

Rental agencies NederWoon Verhuurmakelaars and Rots Vast in July 2014 made commitments to ACM that they will no longer charge lessees any agency fees when acting as an agent between lessors and lessees. Commitments are statements made by market participants to ACM in which they promise to adjust their procedures.

Earlier in 2014, another company, Direct Wonen, ceased operations as rental agency, but it, too, has promised it would adjust its procedures if it were to resume its agency operations in the future. As NederWoon Verhuurmakelaars and Rots Vast will have to make drastic adjustments to their agency procedures, ACM, in this specific case, agreed with them that they will have until January 1, 2015 to make the necessary adjustments. ACM is satisfied with the cooperation that these agencies have offered, and expects it will positively affect the rest of the market.

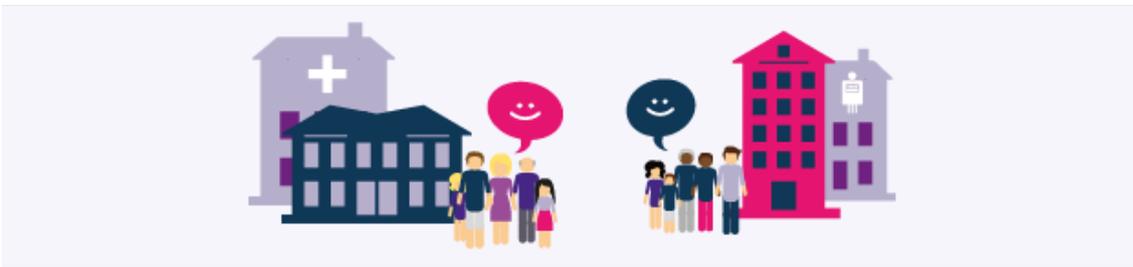
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## 4 Competition

The objective of ACM is to make markets work in the interest of consumers. This means that businesses must be able to compete with one another so that consumers have enough options.

To that end, ACM takes action against cartels and businesses that abuse their dominant positions. In addition, ACM assesses mergers and acquisitions in order to prevent businesses from becoming so large because of such concentrations that they can dominate the market. That way, consumers continue to have an actual choice, and businesses continue to compete with each other for the favor of customers.



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## 4.1 Competition oversight

### *Cartels*

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

### *Dominant positions*

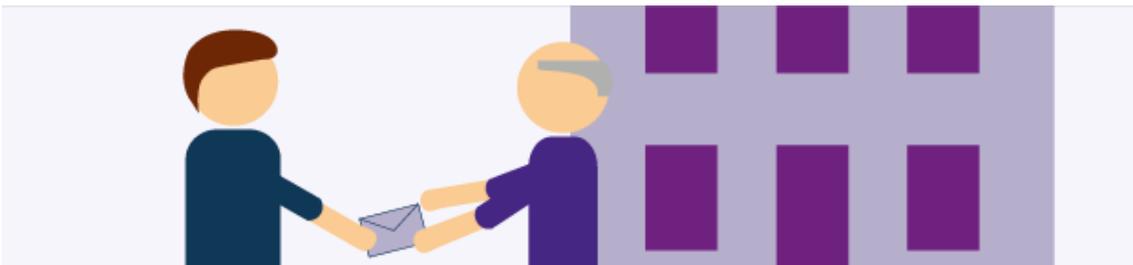
Some firms are larger than others. They stay ahead of the competition because they make an excellent product. That is healthy competition, and there is nothing wrong with that. ACM can take action if a company with a dominant position harms the competitive positions of its competitors. For example, the dominant firm excludes competitors from a market at the expense of consumers, as they will have fewer options. In addition, taking advantage of buyers by using unreasonably high prices, or refusing to supply products to certain buyers may also be abuses of dominance, which can harm consumers.

### *Using different instruments*

By using different instruments, ACM looks for the most effective and efficient way to solve competition problems. This can be a commitment, a fine or an order subject to periodic penalty payments. In various competition cases in 2014, ACM deliberately chose different instruments than fines in order to solve the identified problems. These included cases involving Dutch copyright collecting society Buma/Stemra, MasterCard, and Dutch insurance companies when they planned to concentrate emergency medical care in hospitals.

However, ACM did impose fines on three investment firms in the so-called 'Flour case.' ACM is of the opinion that these investment firms could also be held responsible for the behavior of the flour producers (which they owned through funds).

Finally, ACM took into account public interests in its competition oversight. For example, ACM published its Vision document on Competition and Sustainability. ACM published this document in order to provide businesses more clarity about what room there is for collaborations with regard to sustainability.





#### 4.1.1 Buma/Stemra promises to offer more options in music copyright management

Dutch copyright collecting society [Buma/Stemra](#) will offer composers and songwriters more options in the management of their music copyrights. This has been laid down in a commitment Buma/Stemra made to ACM. This commitment was made following an ACM investigation into possible abuse of dominance by Buma/Stemra in music copyright management.

ACM established that, in practice, composers and songwriters had little choice and basically no opportunity to sell their lyrics or compositions online outside of Buma/Stemra. That is because Buma/Stemra worked with copyright transfers in some sort of all-in-one package, both for offline and online management.

On the initiative of ACM, Buma/Stemra will make the copyright management system simpler, more flexible, and more accessible for composers and songwriters. Composers and songwriters will have more choice about what rights they wish to transfer to Buma/Stemra. With this new structure, it is likely that more ways to stream and download music are introduced. Composers and songwriters will thus benefit, as will listeners.



#### 4.1.2 MasterCard lowers tariffs for credit card payments

Over the next two years, financial-services company [MasterCard](#) will lower the tariffs that banks charge each other for processing domestic credit-card payments. These tariffs apply to all credit card payments, both online and offline. This commitment by MasterCard is for four years, and will end when the [Regulation of the European Commission on interchange fees for card-based payment transactions](#) comes into force.

ACM received indications from businesses, in particular from retailers that they thought that the tariffs that credit card companies charged for credit card payments were too high. ACM subsequently investigated these indications.

ACM confronted MasterCard with the competition concerns it found. As a result thereof, MasterCard immediately adjusted the interbank tariffs for domestic credit-card payments on June 1, 2014 from 0.9 percent of the transaction to 0.7 percent. On January 1, 2015, MasterCard further lowered the tariff to 0.5 percent, and from January 1, 2016, it will be 0.3 percent. As a result, businesses such as



in retail and the hospitality industry will incur lower costs for credit-card payments.



#### 4.1.3 Antitrust concerns over joint plans of insurance companies

In July 2014, ACM pointed out to health insurers that their joint plans about concentrating [emergency medical care](#) in hospitals could reduce the options of patients and the insured. For example, health insurers wished to concentrate emergency care for strokes or heart attacks in specialized hospitals per region. These plans would result in better and more efficient emergency care.

Although patients often do not have much to choose from when finding themselves in an emergency situation, emergency care is not an isolated discipline. ACM thinks that concentrating complex emergency care in itself is not a problem, but its effects on non-emergency care are. For example, moving emergency medical care for cerebral infarctions may affect the entire neurological care facility in hospitals where the emergency care disappears. So these plans of health insurers may affect non-emergency medical care, with which they are actually able to differentiate themselves from each other when contracting these other health care services. ACM therefore pointed out to insurers in an early stage that the options for patients and the insured could thus be reduced because of these plans.

Without any independent and well-established quality standards for complex emergency medical services, health insurers are unable to prove that the benefits they claim that the concentration of emergency medical services will have for patients and the insured offset the reduction of options. ACM therefore called on the health insurers to support their plans with such quality standards.

Health insurers have asked the National Health Care Institute to help them. [The National Health Care Institute](#) (in Dutch) asked the patient organizations (NPCF), the health care providers (NFU, NVZ, OMS) and health insurers (ZN) to agree on the quality standards. These will then be registered in the so-called 'quality register' of the National Health Care Institute. Any standards that these parties cannot agree on will be examined by a committee of experts.

In the future, ACM will use the quality standards of the National Health Care Institute as a starting point. This does not mean that ACM will assess in individual cases whether or not it is right to use the registered standard as the starting point. ACM will assess whether, in such cases, the benefits of the concentration offset the downsides for consumers such as the reduction of options.

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#### 4.1.4 ACM imposes fines on investment firms in ‘flour cartel’

Investment firms that own businesses can be held accountable for violations of the Dutch Competition Act committed by those businesses, if the investment firms have decisive influence over them. [Three investments firms](#) are thus imposed fines, totaling approximately EUR 2 million. This decision marks the first time that ACM fines investment firms.

ACM has previously already imposed fines on various companies that had been directly involved in the ‘flour cartel.’ Between 2001 and 2007, these flour producers made mutual arrangements in order to keep prices stable. One of these arrangements was a non-aggression pact. In addition, several flour producers bought and subsequently dismantled an old flour mill in the Netherlands in order to reduce total production capacity. These flour producers had a combined market share of approximately 65 percent. At the time, the investment firms that have now been fined successively owned one of the producers involved.

Investment firms usually manage one or more funds. Funds hold shares of businesses, and these shares are usually resold after a while. However, ACM is of the opinion that investment firms, too, can be held responsible for the behavior of the firms they own (through those funds), particularly if the investment firm in question has decisive influence. ACM has concluded that this was the case with the investment firms which have now been fined.



#### 4.1.5 Competition oversight and public interests

In its oversight, ACM keeps an eye out for public interests, for example when companies have made arrangements that can have long-term effects on public interests such as the environment and innovation. At the same time, such arrangements could run counter to the public interest of having well-functioning markets, and could thus raise prices for consumers.

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In 2014, ACM first provided more insight into how it looks at sustainability initiatives. In addition, ACM greenlit a collaboration between banks in the southern and sparsely populated region of Zeeuws-Vlaanderen in order to keep cash available in rural areas.

*ACM publishes its vision document on competition and sustainability*

Last year, ACM released its [Vision document on Competition and Sustainability](#). In it, ACM explains to what degree sustainability initiatives of businesses are compatible with competition law. ACM shows what room there is for collaboration initiatives with regard to sustainability. Think of protection of the environment, public health, and animal welfare.

Such room exists in initiatives that leave enough options for consumers. But even in cases in which ACM believes that the sustainability arrangements result in a restriction of competition, they might yet be allowed under certain circumstances. This is particularly the case if the arrangements offer long-term benefits to consumer welfare. After all, the benefits of sustainability initiatives will often become visible in the longer term, while users sometimes need to pay more for the product in question in the short term. Whether or not that is true will have to be assessed on a case-by-case basis.

ACM wishes to avoid that sustainability initiatives that are allowed under competition rules fail to be realized. That is why ACM gives as many examples as possible of collaborations between businesses with regard to sustainability. The vision document is part of ACM's [Knowledge Bank on Sustainability](#) (in Dutch).

*ACM ensures that ATMs continue to be available in rural areas*

It is important that cash is available for people living in rural areas. That is why ACM said that a collaboration between [banks that decided together which of them will install ATMs \(cash dispensers\) in rural areas](#), as an experiment in the sparsely-populated southern region of Zeeuws-Vlaanderen.

More and more often, banks decide to remove ATMs from small towns because they are used too little. In about two dozen towns in the Netherlands, residents do not have access to an ATM within a 5 kilometer radius from their homes. This is particularly the case in areas in the East and North of the Netherlands, and in Zeeuws-Vlaanderen. In some of these areas, local residents raised complaints about the availability of cash.

The four major banks in the Netherlands and the Dutch Payments Association wished to collaborate in order to prevent the residents' ability to withdraw cash from becoming a problem in those areas. ACM thus cleared this experiment in Zeeuws-Vlaanderen. It attached one condition to it. Banks cannot make joint arrangements about removing ATMs from larger towns and cities in order to install them in smaller towns. This could reduce the banks' service to consumers, and harm competition between banks.

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## 4.2 Concentration control

Businesses may decide to merge, to acquire a competitor, or to launch a new business together. These new businesses can become so large that too little competition remains in the market. The government has drafted rules to prevent businesses from becoming too powerful or too large as a result of concentrations. ACM ensures that businesses comply with the rules, and assesses mergers and acquisitions before they take place.

ACM in 2014 issued 72 concentration decisions in the notification phase of an investigation. ACM took one concentration decision after an investigation in the licensing phase, which was the decision on the license application filed by Dutch telecom company [KPN](#) to acquire fiber-optic company Reggefiber. In addition, ACM said in two cases it wished to conduct a further investigation into the concentrations because they might negatively affect competition. This was the case in the planned acquisition of [British publishing company Mecom by Belgian rival De Persgroep](#) and in the planned merger between [Dutch hospital groups Albert Schweitzer Hospital in the Dutch city of Dordrecht and Rivas Zorggroep in the city of Gorinchem](#). Also, ACM filed a referral request with the European Commission in connection with the concentration of cable companies [Liberty Global \(UPC\) and Ziggo](#). Furthermore, ACM in 2014 issued multiple concentration decisions in the health care industry.

Finally, it is interesting to note that the acquisition approved by ACM of bathroom ceramics company [Sanitec by rival Geberit](#) (in Dutch) had not only been notified of in the Netherlands, but also in Germany, France, Austria, and Poland. ACM therefore contacted all of these Member States as part of its assessment. In addition, ACM issued two so-called amendment decisions. ACM in June agreed to the request of [Nordic Capital](#) (in Dutch) for amending the decision of December 2010 on the merger of private equity firm [Nordic Capital and powered-wheelchair manufacturer Handicare](#). In October, ACM turned down the request of the [Admiraal De Ruyter Hospital](#) for lifting the price ceiling that ACM had imposed.



### 4.2.1 Dutch telecom company KPN is allowed to acquire fiber-optic company Reggefiber

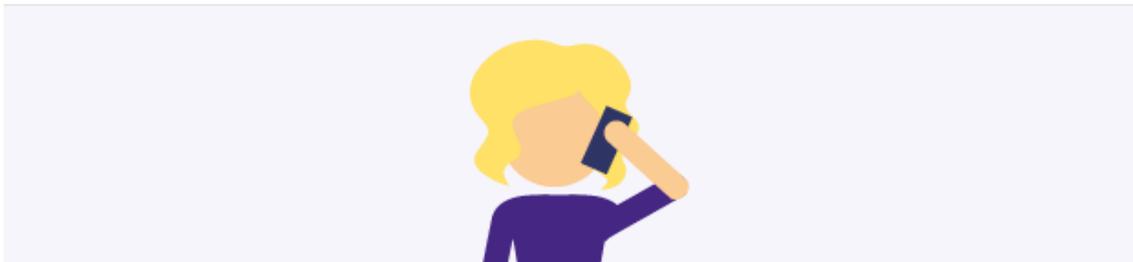
ACM in October ruled that telecom company [KPN](#) was allowed to acquire fiber-optic company Reggefiber. With the acquisition, KPN will acquire full control over Reggefiber's fiber-optic network. ACM established that enough competition will continue to exist after the acquisition.



In 2008, ACM imposed conditions on Reggefiber for the management of its fiber-optic cable network. The planned acquisition would produce a shift in the balance of power in Reggefiber, thereby rendering the 2008 conditions inapplicable. ACM was worried that this might lead to restrictions for other companies on the use of KPN's fiber-optic cable network. This turned out not to be necessary. As a result of ACM's market analysis decision, KPN must continue to allow other businesses access to its network as well.

ACM simultaneously worked on the investigation into the acquisition of Reggefiber, as well as on the market analysis of the telecom sector, which ACM conducts every three years. In such analyses, ACM determines whether or not there is effective competition in the telecom sector, or whether a company enjoys significant market power. In the latter case, ACM will then impose rules on the telecom company with significant market power. In October 2014, ACM released the [draft market analysis decision on unbundled access](#) to KPN's copper network and fiber-optic network. The analysis reveals that KPN must continue to grant its competitors access to its copper network and fiber-optic network. Various providers such as Tele2, Vodafone and Online will thus be able to increase competition in the market for internet access, fixed telephony, and business network services.

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#### 4.2.2 ACM launched a further investigation into planned acquisition of British publishing company Mecom by Belgian rival De Persgroep

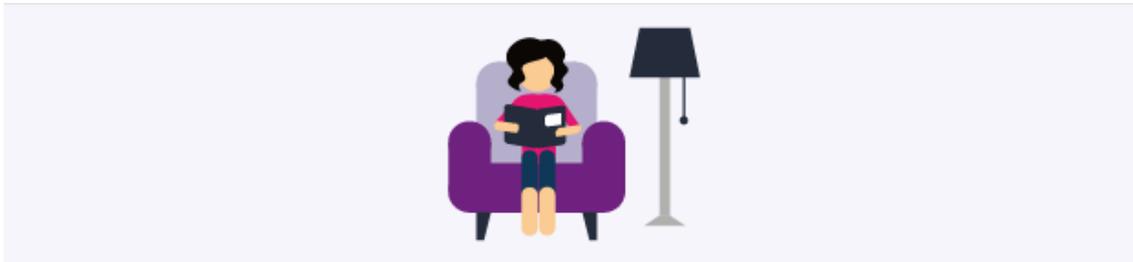
Publishing company De Persgroep wished to acquire its rival Mecom, and, in July, it asked ACM for permission. De Persgroep is the publishing company behind several major Dutch national newspapers such as Algemeen Dagblad, De Volkskrant, Trouw, and Amsterdam-oriented newspaper Het Parool. Mecom's subsidiary Wegener publishes the following regional Dutch newspapers: De Gelderlander, De Stentor, Brabants Dagblad, BN/DeStem, Eindhovens Dagblad, Provinciaal Zeeuwse Courant and De Twentsche Courant/Tubantia. De Persgroep and Mecom filed a license application with ACM.

ACM in 2014 [came to the conclusion](#) in the notification phase that if the planned acquisition were to go through, it would create a publishing company that publishes national and regional newspapers, as well as free local papers, in almost the entire Netherlands. Together, De Persgroep and Mecom would be so large that advertisers would simply be unable to ignore them if they wanted to purchase advertising space in a Dutch daily newspaper. As a result, newspaper advertising rates could go up.



ACM wished to further investigate, among other aspects, to what extent advertising online, on the radio and on television are alternatives to advertising in newspapers.

Another potential problem ACM had identified was newspaper publishers without a printing press of their own. They would have less choice after the acquisition, since they would become more dependent on De Persgroep. The planned acquisition could result in higher printing and delivery costs for the other newspaper publishers. And that, in turn, could affect the price and/or quality of those newspapers, thereby harming consumers. Further investigation was thus also needed into printing and delivery of newspapers, according to ACM.



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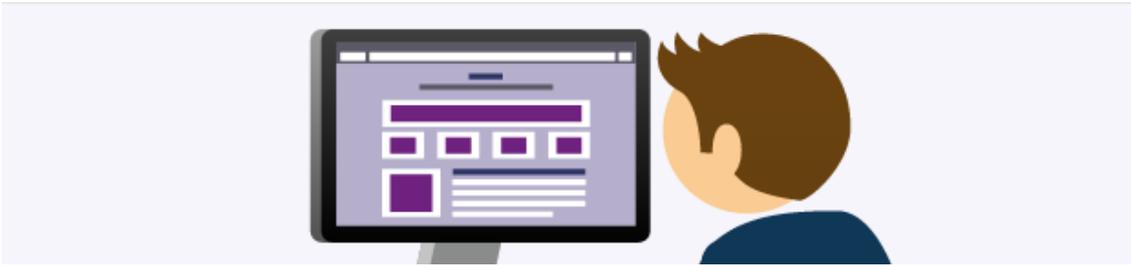
#### 4.2.3 ACM's referral request concerning Liberty Global – Ziggo

In 2014, ACM filed a referral request with the European Commission in connection with the planned concentration between Liberty Global, parent company of cable company UPC, and rival cable company Ziggo.

The European Commission must be notified of mergers and acquisitions between companies with high turnovers. It has the option of referring cases to the Member State in which the merger in question would predominantly take place, and in which it would have the largest effect on the national market. In April 2014, such a referral was a possibility in the planned concentration between Liberty Global and Ziggo.

ACM was convinced that the merger between these cable companies (UPC and Ziggo) should be assessed in the Netherlands. ACM therefore requested the European Commission to refer the merger application to ACM. One of the main reasons behind this request was ACM's knowledge of the Dutch market. In addition, ACM was also conducting the investigation into the acquisition of Reggefiber by KPN, and the Telecommunication Market Analysis.

The European Commission in June decided to launch a detailed investigation by itself. In October, the Commission conditionally [approved the acquisition of Ziggo by Liberty Global](#). ACM cooperated with the Commission's investigation. As a result thereof, ACM was able to align the Telecommunication market analysis with the European Commission's decision on the merger between Liberty Global and Ziggo.



#### 4.2.4 Concentration control in the health care sector

In its concentration control in the health care sector, ACM bases its decision-making process on the Dutch health care system. In the Netherlands, competition in the health care sector is regulated. That means that the government introduces more and more incentives so that health care providers compete with each other for the favor of patients. They can compete on, for example, price, service, specialization, and innovation. ACM has observed that individuals look at hospitals critically, and increasingly make conscious choices.

ACM in 2014 issued nine decisions on concentrations in the health care sector, of which five in the hospital sector. ACM assesses for each notified concentration whether enough options for patients will continue to exist after the merger. ACM carries out an extensive investigation for each notified concentration. For hospital concentrations, for example, it uses data on where the patients of hospitals in a certain region come from. In addition, ACM analyzes the travel times of patients in order to reach a hospital. ACM also sits down with representatives of other hospitals (competitors), patient associations, and health insurers that buy health care services from hospitals in a certain region.

ACM attaches great value to the opinions of insurers and patient organizations, and carefully weighs the arguments put forward by them. In addition, ACM includes in its assessment the opinion of fellow regulators such as the Dutch Healthcare Authority (NZa) and the Dutch Health Care Inspectorate (IGZ). This assessment method is further explained in ACM's [guidelines 'Assessing mergers and collaborations in hospital care'](#).

##### *Concentration decisions in the health care sector*

Last year, ACM cleared most concentrations between health care providers, because enough options for patients and health care buyers (insurers) would remain in their respective markets. One of these concentrations was between the [Noorderboog and Isala](#) hospitals (February 2014), the merger between [Rijnland Zorggroep and Diaconessenhuis Leiden](#) (February 2014) and the merger between three northern care providers [Kwadrantgroep, Antonius Zorggroep and Nij Smellinghe / Pasana](#) (October 2014).

With regard to one planned merger, ACM expressed its concerns over the options for consumers. This merger was between [Dutch hospital groups Albert Schweitzer Hospital in the Dutch city of Dordrecht and Rivas Zorggroep in the city of Gorinchem](#). In March 2014, ACM established that

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further investigation into the merger's effects on patients and health insurers was needed. These hospitals are each other's main competitors in part of the region. The merger would take away mutual competition. That could have negative effects on consumers in that region. Moreover, health insurers and patient organizations argued that the hospitals have not yet demonstrated what the benefits of the merger are. In addition, they also identified a risk for price increases.

*Public debate about mergers in health care industry*

In April 2014, a discussion took place about, among other topics, ACM's merger control in the health care industry. It was triggered by the release of a theme issue of Dutch economic journal *Economisch Statistische Berichten* (ESB) on consumer welfare. This particular issue also contained contributions by ACM employees. At a conference about this theme issue, held on April 30, ACM employees participated in the debate. The issue looked at ACM's policy objective of increasing consumer welfare, and at how that objective is interpreted in several industries, including health care. A [short report of that debate](#) can be found on ESM's website.

The consolidation process in the hospital sector in recent years has sparked a public discussion. Do mergers for example really lead to an increase of hospital care quality? ACM assesses whether enough options for consumers and hospital care buyers continue to exist after the concentration. Another important aspect is that the concentration does not lead to price and quality changes that are harmful to consumers. The responsibility over the actual realization of the merger's objectives, however, lies with the hospital directors in question. ACM sees that the sector continues to evolve because of the recent and upcoming policy changes. These changes also affect ACM's regulatory activities.

ACM believes that in merger assessments, the effects on consumers should be the key aspect. Facts, figures and insights from key stakeholders are taken into account such as competitors, health insurers and patient organizations. ACM carefully assesses all arguments, and gives as much insight as possible into that assessment in its decisions.



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### 4.3 Enforcement of the Dutch Act on Government and Free Markets

Government organizations are allowed to engage in economic activities, and thus regularly compete with private companies. However, these government organizations must comply with certain rules in order to prevent unfair competition with private companies. These rules have been laid down in the Dutch Act on Government and Free Markets (in Dutch: *Wet Markt en Overheid*). For example, government organizations must include all costs in the price of their product and/or service if they enter a market. In addition, they are not allowed to give preferential treatment to their own government undertakings over their competitors, for example, by offering favorable conditions on loans. ACM enforces compliance with these rules.



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#### 4.3.1 The two-year transitional period ended on July 1, 2014

The two-year transitional period of the Dutch Act on Government and Free Markets, an amendment to the Dutch Competition Act, ended on July 1, 2014. Government organizations had had two years to prepare for the new rules of conduct. In order to help government organizations in their preparations for this new act, ACM spent much time on education with an eye to a proper and timely introduction of the new act.

Anita Vegter, Member of the Board of ACM, gave a [speech](#) (in Dutch) at an informational meeting in February about the Dutch Act on Government and Free Markets, and the European competition rules. That meeting was organized by ACM, the Knowledge center Europa decentraal (the local and regional authorities' knowledge center for queries concerning European law and legislation), and the Association of Netherlands Municipalities (VNG). ACM called on government organizations to implement the Dutch Act on Government and Free Markets, and to ensure a level playing field if they engage in economic activities. A study on sports activities conducted by ACM in the fall of 2013 among 35 municipalities revealed that a limited number of municipalities had taken measures to comply with the new act.

In addition, ACM in March launched the '[the Government and Free Markets Test](#)'. This is an online test with which local governments, provinces, the central government and water authorities can see whether the rules of conduct laid down in the Dutch Act on Government and Free Markets applied to their situation. Furthermore, ACM collected several illustrative and practical examples of economic activities and published them in a book, titled '[If public employees become entrepreneurs](#)' (in Dutch). Using these examples, it quickly becomes clear in what situations the Dutch Act on Government and



Free Markets is applicable. Finally, ACM answered many questions from municipalities about the application of the act, either in person, over the phone or at the offices of the municipality in question.

In Mach, ACM provided more insight into the interpretation of the new act by [analyzing two services of RDW](#), the Dutch national motor vehicle and driving license registration authority. The two services in question were collecting and accessing vehicle data. The analysis was carried out following questions from a private company. The activities that were analyzed concerned the provision of data that RDW manages. ACM answered the question of whether these services constituted an economic activity within the meaning of the law. ACM came to the conclusion that providing 'bare' data about license plates to the public, which RDW manages as part of its public duty, is not an economic activity. This could be different if this data were processed or enriched with other information.

In April, ACM issued [a decision](#) (in Dutch) in a case between a video shop in the town of Naaldwijk, and the public library and municipality of Westland (which Naaldwijk is part of). The video shop, Filmclub Naaldwijk, was of the opinion that the rental conditions of the Westland library for renting out DVD and Blu-ray discs violated the provisions of the Dutch Act on Government and Free Markets, and those of the prohibition of abuse of dominance. Filmclub Naaldwijk asked ACM to act against these practices. ACM turned down the request to act under the Dutch Act on Government and Free Markets because that act does not apply to this situation. The request to act under the prohibition of abuse of dominance was turned down, too, because of ACM's prioritization policy.

Finally, ACM in this period also conducted, among other activities, three audits at local governments at their request to gain experience in the application of the rules of conduct in practice.



#### 4.3.2 ACM's enforcement efforts after July 1, 2014

The two-year transitional period of the Dutch Act on Government and Free Markets ended on July 1, 2014, and now applies to all economic activities of local governments. ACM shifted its focus to enforcement after this date, meaning checking whether government organizations comply with the rules.

ACM called on businesses to share with ACM tips about unfair competition by government organizations. To help these businesses do so, ACM published a [brochure](#) (in Dutch) for businesses that are affected by unfair competition from a government organization. ACM will look into serious



tips, and see whether businesses are harmed. If such is the case, ACM can impose an order subject to periodic penalty payments in order to force that government organization to stop violating the law.

Furthermore, ACM announced it would conduct three sector studies of its own accord after July 1. These three industries are: commercial-waste collection, commercial exploitation of sports facilities, and that of parking garages. The results of these [sector studies](#) are expected to be released in early-2015.



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## 5 Sector-specific regulation

ACM regulates the energy market, telecom market, postal service market, and several transport markets. In its sector-specific regulation, ACM sets the tariffs (or maximum tariffs) or companies that cannot compete due to their monopoly position (including natural monopolists).

### 5.1 Regulation of the energy market

ACM's regulation of the energy market promotes innovation, safeguards the investment climate, and ensures prices are as low as possible.

The energy market consists of participants that operate networks, and of participants that supply energy to consumers and businesses using one of these networks. Supplying energy is a free market. The network operators are monopolists. That is why specific legislation, which ACM enforces, applies to the energy market. ACM does so because consumers benefit from having affordable and secure energy. Regulation and oversight constantly evolve.

Two interesting examples from 2014 are:

#### ACM advocates fair trading in the energy market

The European Union has drawn up rules in order to prevent insider trading and market manipulation ([REMIT regulation](#)). Such practices lead to unfair competition. And they undermine the confidence of consumers and businesses in the energy market. Since July 26, 2013, ACM ensures that traders comply with this regulation. In 2014, ACM worked closely together with the Netherlands Authority for the Financial Markets (AFM) and other European regulators to set up oversight on insider trading in the energy market. ACM provided information in order to promote compliance with the regulations. Central themes were how the rules worked and what businesses could expect from ACM. Now that the rules are clear, and the regulatory framework has been set up, ACM has started investigating indications it receives, and will take enforcement actions where necessary.

#### New regulatory duties for ACM in the Caribbean Netherlands

In 2015, ACM is expected to be charged with new tasks with regard to regulation of energy and drinking water on the Dutch Caribbean islands of Bonaire, Sint Eustatius and Saba. As part of its preparations for these new tasks, ACM in May 2014 paid a working visit to these islands. During the visit, ACM got to know the local businesses, buyers, organizations, and officials. This visit provided useful insights that will help ACM prepare for the execution of the new tasks. Based on the insights obtained, ACM will select two employees who will be stationed temporarily on Bonaire to execute these new tasks.

#### 5.1.1 ACM makes energy affordable

Regulation of the energy sector in 2014 has generated a saving of EUR 777 million for consumers and businesses.



### **ACM sets the tariffs for the network operators**

By regulating the energy network operators, ACM ensures that the supply of energy to consumers and businesses is affordable. In 2013, ACM issued a number of decisions about how it will calculate the tariffs for the network operators in 2014 through 2016. With these regulatory decisions, ACM stimulates network operators to operate efficiently. However, ACM does take into account additional investments of network operators, which are necessary to continue to guarantee a secure and safe supply of energy. In 2014, ACM set the tariffs for the [regional network operators](#), [the national transmission system operator TenneT](#) and [the national transmission system operator Gasunie Transport Services \(GTS\)](#).

### **Network operators invest surplus revenues from metering services in roll-out of smart meters**

In April 2014, ACM set the [margins](#) (in Dutch) that regional network operators jointly achieved on their metering services in 2011 and 2012. 'Metering services' is the umbrella term for installing, managing, and maintaining gas and electricity meters. In 2011 and 2012, network operators jointly generated more revenues (approximately EUR 200 million) than costs they incurred for these metering services. It has been laid down in these margin decisions that the network operators use the EUR 200 million for the large-scale replacement of existing energy meters with digital smart meters in consumer households. As a result, the tariffs of the metering services for consumers can remain stable.

### **Financial accounts of regional network operators must be clearer**

In 2014, ACM inspected the financial accounts of the regional network operators. It turned out that the costs that the network operators had claimed were not always correct. These inspections generated a saving of EUR 60 million for consumers and businesses. The [identified errors](#) are mostly caused by the complexity of the financial accounts of network operators, as a result of which costs are not always allocated correctly. ACM re-emphasized the importance of constant attention to internal audits, and a structured method for financial accounting.

### **Amsterdam airport Schiphol is denied new permit for managing its own energy networks**

In the Netherlands, every business and household are statutorily required to be connected to the grid and/or the natural-gas network through a public network operator. ACM not only regulates, for example, the safety of these networks, but it also sets the supply conditions and the maximum transmission tariffs that the network operators are allowed to charge their customers. In some situations, permits (exemptions) may be awarded, allowing owning and managing one's own network, for example if the network primarily transmits electricity or natural gas for its owner.

With the introduction of new statutory rules in 2012, businesses that had had permits until then were required to reapply for a new permit. The reason behind this mandatory reapplication process was that additional requirements were imposed on the management of such networks. After receiving Schiphol's application, ACM launched an investigation into Schiphol's network. This investigation revealed that Schiphol actually has multiple networks, which all operate independently of one another. It meant that Schiphol had to file an application for each network, which was something



Schiphol refused to do. ACM therefore [turned down the application](#). As a result, Schiphol is no longer allowed to set its own transmission tariffs for its customers.

### 5.1.2 ACM increases reliability and quality

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

#### ACM gives the Ministry of Economic Affairs advice about gas quality

ACM in early-2014 advised the Ministry of Economic Affairs about the [new rules on gas quality](#) (in Dutch). These rules specify the requirements for the composition of natural gas. The composition of natural gas is a precise matter because gas-fired appliances such as stoves and central-heating boilers can cause accidents if gas with the incorrect composition is used. Network operators are required to refuse transporting gas that does not meet these requirements.

#### Plan of action regarding voltage quality on grids meets ACM's expectations

In September 2013, ACM still had some critical [comments](#) about the initial plans of the network operators for improving the voltage quality. Voltage quality of electricity networks relates to the voltage level, the limits within which the voltage may vary, the frequency and intensity of these variations, and voltage dips. Poor voltage quality may lead to equipment failures, which may lead to disruptions of business processes. This would lead to financial harm particularly to industrial firms, but also to small and medium-sized enterprises, and to households. The network operators subsequently adjusted their plans, and provided a better justification for the choices they made in the adjusted plans. As a result, these plans now meet ACM's expectations.

#### Disruptions on gas networks occurring more often

Dutch natural-gas networks are becoming more susceptible to disruptions. Despite the fact that households and businesses are facing gas-network disruptions more often, the natural-gas network continues to experience relatively few disruptions compared with the electricity networks in the Netherlands. But when a disruption does occur, it usually is an extended interruption. The number of minutes that Dutch members of the public are not supplied any natural gas because of unexpected interruptions increased from 23 seconds in 2009 to slightly over a minute in 2013. These conclusions have been drawn in the [Quality Factsheets 2013](#) by ACM. With these factsheets, ACM wishes to present an objective and broad picture of the quality that the regional network operators of electricity and natural-gas networks provide.

#### Network operator Rendo is fined for inadequacies in its operations

Network operators have a central role in the Dutch energy supply. Executing their tasks in accordance with the law, and informing the regulator in a timely manner (for example about financial ratios) is essential for the effective and reliable functioning of the Dutch energy supply. ACM ensures that network operators execute their tasks completely and correctly, and, in that context, imposed

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two fines, totaling EUR 1.6 million, on network operator Rendo in the Dutch city of Meppel in late-2014.

### 5.1.3 Towards the internal market for energy

The internal market for energy had not yet been completed in 2014. At a European level, and more specifically in the North-West region, ACM worked hard on further market integration.

#### Completion of the internal market for electricity

At a European level, ACM continued to focus much of its efforts on cross-border cooperation between regulators, exchanges, and transmission system operators (TSOs) of electricity in order to realize the creation of the internal market as quickly as possible. In 2014, several significant steps were taken in the electricity market. Arrangements have been made about how trade prices can be calculated better. Arrangements have also been made about improving the utilization of transmission capacity on the borders.

#### Improving trade between Scandinavia and Northern Europe

The Netherlands is part of the North-west European region. In February 2014, [arrangements](#) were made as a result of which market participants in the day-ahead market are able to buy electricity at an accurately calculated price.

#### Increased opportunities to transport electricity abroad

In September, ACM and the energy regulators in Belgium, France, Germany and Luxembourg released [a draft decision](#) about the calculation method of available transmission capacity on the borders. It is expected that more transmission capacity becomes available in 2015. Based on test results, this more efficient form of market coupling is projected to generate savings of approximately EUR 80 million per year for consumers and businesses in the Netherlands.

#### The Netherlands and its neighbors work together to balance their grids

In addition, ACM [agreed](#) with its neighboring countries to work together to balance the grid. The Netherlands together with Germany, Belgium, Austria, Switzerland, Denmark and the Czech Republic will allow the transmission system operators in these countries (which is TenneT in the Netherlands) to share each other's instantaneous shortages and surpluses of electricity. This collaboration is expected to generate a saving of approximately EUR 7 million per year for the Netherlands, as TenneT is able to take fewer measures. With this new system, everyone will look at the shortages and directly available surpluses in other countries first, before TenneT asks the market to come into action.

Right before the winter, ACM together with the Belgian and French regulators made [arrangements](#) in order to help Belgium during the winter. With mutual arrangements, the transmission system operators optimize Belgium's import capacity. As a result, the likelihood of Belgian consumers being interrupted is reduced, and Dutch consumers will not pay an unnecessarily higher price for electricity as a result of shortage in Belgium.



### Gas market benefits from Europe

Major steps were made in 2014 with regard to natural gas by completing the internal market for natural gas even further. By setting the first European gas grid codes, a European harmonization process has been set into motion. These ought to help make cross-border trade easier. In 2014, ACM implemented several European codes. ACM aims for market-oriented and efficient solutions so that consumers in the Netherlands are able to benefit fully from the internal market. The new [balancing regime](#) (in Dutch) and the introduction of [capacity auctions](#) are examples of such solutions.

### Helping European users of the gas transmission network balance the grids

In June 2014, [the grid code](#) (in Dutch) for balancing the gas transmission networks was implemented in the Netherlands. The Netherlands is the first European country that introduces this European code. With it, the Netherlands makes a major step towards a single European gas market.

As a result of the European grid code, the transmission system operator, Gasunie Transport Services (GTS), will switch to a new balancing regime. These rules ensure that the gas network continues to be balanced if gas is injected or withdrawn: GTS and shippers ensure together that gas network pressure stays balanced.

In this new system, shippers have better options to solve imbalances. It thus becomes easier for shippers to become active in the gas market as suppliers. The introduction of the new balancing regime has three benefits for the creation of the European gas market. It stimulates liquidity in the trading of gas that is needed on that day, the so-called within-day gas market. As a result, shippers are able to balance more efficiently and cheaper. Moreover, it lowers the barriers to entry for shippers without gas storage facilities of their own. With the new balancing regime, they are now able to purchase balancing gas on the gas market, and use that towards balancing. Finally, cross-border trade is promoted. After all, the Dutch balancing regime is more aligned with the balancing regimes of neighboring countries.

### More border capacity for natural gas becomes available

In late-2013, ACM established a code amendment with regard to congestion management and capacity allocation, also known as the [CAM CMP decision](#) (in Dutch). This was the implementation of European rules aimed at improving access to gas networks. With capacity allocation mechanisms (CAM), network operators of cross-border connections are required to allocate their transmission capacity through auctions. In that context, the [first capacity auctions](#) took place in the Netherlands in 2014 on the Prisma platform.

The rules on congestion management procedures (CMP) ensure that no contractual congestions occur on cross-border transport connections. Contractual congestion can occur if a market participant does not use all of the transmission capacity on the gas network that he had contracted. If other market participants would like to use that capacity but have no access thereto, it is considered

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contractual congestion. In 2014, the first ‘overbooked capacity auctions’ were held, where more capacity is offered than technically available. That way, congestion on the Dutch-Belgian border was solved.

#### **5.1.4 New rules with regard to heat**

ACM sets the heat tariffs, and gives the Minister of Economic Affairs advice on implementation problems.

##### **Heat cannot cost more than natural gas**

Since January 1, 2014, ACM enforces the new Dutch Heat Act. Hot water directly enters homes through heat networks, without the use of central-heating boilers. Heat prices are based on all costs that users would have incurred if they had had a natural-gas connection and consumed the same amount of heat. Users on the heat networks therefore do not pay more than they would have paid on gas networks.

##### **The new Heat Act raised a lot of questions among suppliers and buyers**

Over the course of 2014, ACM received many indications. The Dutch Heat Act contains inconsistencies, and financial/technical parameters in the legislation do not properly correspond with real-life values. Among other consequences, it resulted in changes in the amounts buyers had to pay for their supply of heat. ACM has established that the implementation of the Dutch Heat Act has raised many questions among both buyers and suppliers, as well as other market participants. ACM finds the uncertainty over the rules regarding the Dutch Heat Act undesirable, because it hampers the implementation of the Dutch Heat Act. In addition, it is crucial that consumers have confidence in their heat supply, because the heat consumption by consumers may help realize sustainability objectives.

In 2014, ACM aimed for a more unequivocal interpretation of the Dutch Heat Act, and for a reduction of the implementation problems. ACM did so by answering hundreds of questions, and by sitting down with the Ministry of Economic Affairs and market participants to discuss the identified problems. In addition, ACM handled a number of enforcement requests. The Minister is already planning to implement several amendments to the Dutch Heat Act.

##### **ACM sets 2014 heat tariffs**

In December 2014, ACM set the [maximum price](#) for heat supply in 2015. As a result, the heat tariffs for average households decrease by EUR 20.



## 5.2 Regulation of the telecom market

Because of the high investments costs involved, the telecommunication market has always had a limited amount of competing networks. Every three years, ACM analyzes the various telecom markets in order to see whether there is still enough competition. If some companies do enjoy powerful market positions, ACM takes measures to stimulate competition. ACM then subsequently oversees the implementation of and enforces compliance with these measures.

In addition, the Dutch Telecommunication Act contains rules for the protection of consumers and businesses, and for ensuring well-functioning telecommunication markets (such as the issuance of telephone numbers). ACM enforces compliance with these rules. Furthermore, ACM enforces compliance with European rules on [roaming](#). ACM can take action if ACM is [obstructed in its regulatory work](#).

### 5.2.1 ACM enforces compliance with obligations laid down in the telecom market analyses

In recent years, ACM has sanctioned KPN multiple times because KPN failed to comply with the obligations laid down in the market analysis decisions. That is why KPN had been placed under intensified supervision by ACM. KPN has taken various measures to improve compliance with the regulations. In mid-2014, ACM therefore no longer placed KPN under intensified supervision.

#### ACM publishes fines because KPN failed to comply with the obligations in the market analyses

In the telecommunication market analysis decisions, ACM imposes obligations on KPN. Among other obligations, KPN is required to give competitors access to its network. And KPN must treat everyone that wishes to have access equally. The objective of these obligations is that other telecommunication providers are able to compete with KPN in a fair manner, trying to attract consumers and businesses as customers.

Since December 2011, KPN had been under intensified supervision. KPN's behavior in the 2006 and 2010 tender processes of fixed-telephony services for various government organizations (OT2006 and OT2010) was a major reason behind the decision to place it under intensified supervision:

- [OT2006](#): it was prohibited for KPN to make selective offers to a single customer. All customers must be given the same offer. In the OT2006 case, KPN only made a special offer to the government, and not to other large business customers. As a result, they were unable to take advantage of this offer. The fine for this violation was set at EUR 900,000.
- [OT2010](#): KPN is required to give itself and its competitors access to its network for fixed telephony under equal conditions. At a crucial stage in the tender process, KPN withheld tariff information about a discount scheme, which it was required to share with its competitors. As a result, KPN put these competitors at a disadvantage in the tender process. The fine for this violation was set at almost EUR 30 million.



In these tender processes, KPN's behavior deviated considerably from what had been agreed upon by KPN and ACM in the so-called Compliance Charter of April 2008. That charter governed the rules of conduct that KPN had to comply with vis-à-vis ACM.

In addition, KPN in 2014 was fined for its [business call-forwarding service \\*21 online](#). KPN is required to inform in advance competitors that use its network about what services KPN will offer to its own business customers. KPN must in a timely manner give competitors the opportunity to make a similar offer to their business customers. These requirements are to prevent unfair competition. KPN failed to meet these requirements when it put its business call-forwarding service \*21 online in the market. That is why ACM imposed a fine on KPN.

#### **KPN no longer placed under intensified supervision**

Since July 1, 2014, ACM scaled down its supervision on KPN to normal levels, thereby longer placing it under intensified supervision. Since the decision to place [the company under intensified supervision](#), KPN had taken several measures to improve its compliance with the various laws and regulations. Moreover, KPN demonstrated it took a constructive attitude towards ACM. For example, KPN suspended its legal proceedings against the fines for OT2006 and OT2010, and it promised ACM it would no longer automatically legally challenge publication of ACM fines. In addition, ACM and KPN agreed on a [new Compliance Charter](#) (in Dutch), replacing the 2008 Compliance Charter.

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#### **5.2.2 Disputes between KPN and its competitors settled efficiently**

KPN had cancelled all contracts with customers using KPN phone connections (copper), which is called Wholesale Line Rental (WLR), and offered each customer a new contract. A dispute over the cancellation and the new contract erupted between KPN and the customers (which are its competitors such as Tele2, Esprit and Pretium), which was submitted to ACM. ACM asked parties to settle the dispute themselves. That was successful. After negotiations, KPN offered all competitors new and improved contracts.

#### **Competition problems as a result of worse offer for WLR**

Competitors procure their own telephone service offerings from KPN. These include telephone connections (Wholesale Line Rental) and large volumes of voice minutes. The latter is called carrier pre-selection (CPS). This way, KPN's competitors are able to offer all possible telephone services to consumers and businesses.



KPN wanted to cancel the existing contracts with its competitors for the provision of WLR, and replace them with new contracts. Competitors refused to accept the new contracts, because the new conditions were worse than their existing ones. They would be able to compete with KPN less effectively. That is why they filed multiple disputes with ACM. In addition, they also brought proceedings against KPN before the court.

According to ACM, KPN was allowed to cancel the contracts. However, ACM did establish that KPN is required to negotiate with its competitors first in order to see whether they can come to a reasonable agreement. ACM has therefore asked all parties to negotiate.

#### **KPN reaches agreement with competitors about provision of WLR and CPS**

After negotiations, KPN and its competitors reached an agreement about [a better offer for WLR and CPS](#). The offer is for any telecom provider that wishes to take advantage thereof. With this agreement, all disputes and proceedings with the court have come to an end.



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#### **5.2.3 It becomes easier for business customers to switch providers**

In the small and medium-sized business telecom market, it becomes easier for end-users to switch providers. Telecom providers have promised to eliminate switching barriers. The Ministry of Economic Affairs (EZ) and ACM invited market participants to make such arrangements so that it becomes easier for business customers to switch telecom providers. This creates more competition in the business telecom market.

##### **Switching problems for business customers**

Businesses switch telecom providers less easily than do consumers. This is because businesses need services that are more complicated than those that consumers need. In addition, the rules that protect consumers do not apply to businesses. Smaller firms in particular are affected by switching problems. Switching problems include the provision of information to consumers, and delivery reliability.

##### **Arrangements for improving the switching process for business customers**

The consumer market has a switching service for telecom service. This switching service means that the new telecom provider cancels all previous contracts on behalf of the consumer. This makes



switching easier. It has now been agreed to introduce a similar switching service for smaller firms, which is projected for 2016. Additional arrangements have been made with regard to what information the previous provider is required to give a potential new provider in cases of switching. Furthermore, the provision of information to customers about current services and contracts has been improved. These improvements will be realized in 2015. Finally, it has been laid down in law that smaller firms, like consumers, will have the opportunity to cancel the contract each month if the contract has been renewed automatically. This reduces the barriers for small-business customers to switch providers, thereby promoting competition.



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#### **5.2.4 Market analysis decision on unbundled access: competition is promoted by access to KPN's telecom network**

For the next three years, Dutch telecom company KPN must continue to offer its competitors [access to its copper and fiber-optic networks](#). If ACM were not to step in, there would be too little choice. In 2014, ACM published the 'draft market analysis decision on unbundled access,' in which this is proposed. The final decision will enter into force in the spring of 2015.

##### **KPN must continue to give access to its copper and fiber-optic networks**

ACM wishes to continue to give KPN's competitors the opportunity to use the home connection. It concerns the connection point inside one's home to the point where the copper or fiber-optic line connects to KPN's core network. This is called 'unbundled access' to the home connection. Building their own lines to people's homes is simply too expensive for these competitors. They are thus dependent on access to KPN's copper or fiber-optic line.

By buying this 'unbundled access,' market participants such as Vodafone and Tele2 are able to offer broadband services and fixed-telephony services, but also triple-play bundles (internet access, fixed telephony and television). As a result, they are able to compete with KPN and UPC/Ziggo, and end-users have more choice.

##### **ACM does not impose any additional obligations on UPC/Ziggo in the market analysis**

In October, the European Commission cleared [the acquisition](#) of cable company Ziggo by Liberty Global subject to conditions. As a result of the acquisition, a single, major cable company emerges in the Netherlands. This development means that there are two companies in the Netherlands with their own fixed-telephony network that has nationwide coverage (or almost nationwide): KPN and



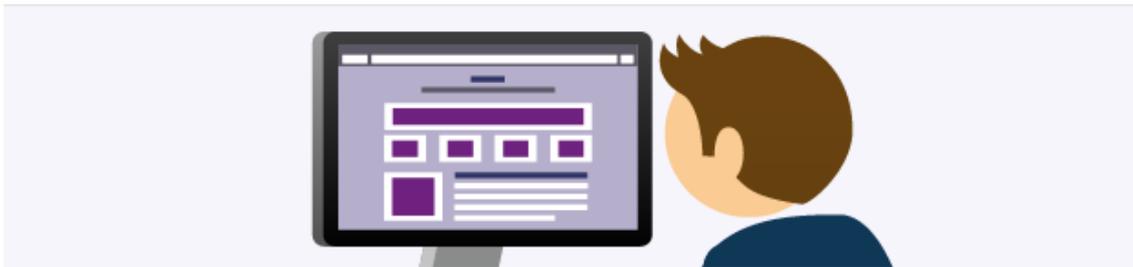
UPC/Ziggo.

KPN has a strong position in the business markets. In order to promote competition in the business markets, KPN is required to offer its competitors unbundled access.

To that end, ACM must find the right design for granting access to the telecommunication network that will lead to the best form of competition. The best way to achieve that is through access to the home connection using KPN's network. In terms of technology, the coaxial cable does not have the same ability as do KPN's copper or fiber-optic lines of granting other telecommunication providers access. UPC/Ziggo is unable to offer this type of access. That is why ACM decided not to impose any additional obligations on UPC/Ziggo in the market analysis decision.

### **KPN is allowed to acquire fiber-optic company Reggefiber**

ACM's market analysis coincided with the assessment of the acquisition of fiber-optic company Reggefiber by [KPN](#) (in Dutch). In late-October, ACM decided to clear the full acquisition of Reggefiber by KPN. As a result, KPN gains full control of Reggefiber's fiber-optic network.



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### **5.2.5 ACM makes sure phone numbers are used correctly**

ACM oversees the use of phone numbers. ACM takes action in case of abuse or if phone numbers are not used as intended. In addition, ACM oversees the supply of new phone numbers by calling attention to shortages.

#### **Incorrect use of mobile-phone numbers**

ACM forced Dutch telecom company [Tele2](#) to ensure that it stopped using mobile numbers for other purposes than mobile calls. ACM had established that mobile numbers issued to Tele2 were sometimes used for text messages between equipment at fixed locations and mobile phones. Numbers other than the regular numbers for mobile phones (06-numbers in the Netherlands) are available for these purposes (which are the 097-numbers). Tele2 had filed an objection against ACM's decision. ACM turned down the objection.

#### **097-numbers makes growth in Machine-to-Machine communication possible**

The 097-numbers are meant for automated applications, and are also called Machine-To-Machine (M2M) numbers. These 097-numbers can be used for tablets, smart energy meters or navigation systems. M2M-communication is growing rapidly. The special 097-number series makes this growth possible. If telecom providers continue to use 06-numbers for M2M-communication, the number of



available 06-numbers becomes depleted. For consumers, this could mean that longer numbers or different number series must be used for mobile telephony, which is an undesirable situation.

### **Reducing the switching barriers for Machine-to-Machine users**

Until March 2014, users had to change sim cards in order to switch mobile providers. Changing sim cards proved to be a major switching barrier, especially for large-scale business users of M2M-applications such as navigation systems.

In March 2014, the number plan was changed. Since then, other parties besides telecom providers have been able to request so-called Mobile Network Codes (MNCs). As a result, these parties are able to switch mobile network operators without having to change their sim cards. In 2014, ACM worked on the preconditions for granting shared MNCs. In 2014, ACM was the first authority in the world to grant a shared MNC, which was awarded to network operator Enexis for the roll-out of sim cards in smart energy meters.



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### 5.3 Regulation of transport markets

Transport markets tend to have little room for multiple market participants. That is why special laws exist to promote competition in the markets or to protect passengers. ACM enforces these laws. These include the Dutch Pilotage Act, the Dutch Aviation Act, the Dutch Railway Act, and the Dutch Passenger Transport Act. In addition, ACM gives advice to the Ministry of Infrastructure and the Environment when these laws are amended.

#### 5.3.1 ACM sets pilotage tariffs

Maritime pilots enjoy a monopoly position in the Dutch ports. ACM annually sets the pilotage tariffs, based on a tariff proposal submitted by the Dutch Pilots' Corporation (NLc). In December 2014, ACM assessed these tariffs and [set them](#). The tariffs that Dutch pilots are allowed to charge shipping companies when guiding ships in and out of port will decrease by almost 2 percent compared with 2014.

#### ACM assesses the pilots' tariff proposal

ACM annually sets the pilotage tariffs, in accordance with the 2008 Registered Pilots Oversight Act. NLc submits a tariff proposal halfway through the year, which ACM then assesses. ACM may deviate from NLc's proposal if it believes that the proposal is insufficient to facilitate the pilots operating properly and efficiently.

#### Pilotage tariffs decreased because of more vessel passages

The decrease in the tariffs for 2015 is possible because more vessel passages are projected based on recent global trade forecasts. The more vessel passages that are made, the lower the tariffs can go. That is because the fixed costs of the pilots, such as for buildings and ships, can be spread over more vessel passages. In addition, the tariff surcharge for financing the pre-pensions scheme was lowered. That, too, is reflected in the tariffs.



#### 5.3.2 ACM gives advice about aviation legislation and rail legislation

At the request of the Ministry of Infrastructure and the Environment (I&M), ACM made several recommendations in so-called feasibility and enforcement tests. With regard to aviation, it was particularly about improving the efficiency of major investments at Amsterdam airport Schiphol. With regard to rail, ACM carried out eight feasibility and enforcement tests, including about the introduction of European rules for rail access.



### Recommendations for better efficiency incentives for Schiphol

The Ministry of I&M prepared an amendment to the Dutch Aviation Act with regard to the commercial exploitation of Amsterdam airport Schiphol. ACM tested the bill on feasibility and enforcement.

In the Dutch Aviation Act, a so-called bonus–malus arrangement applies to Amsterdam airport Schiphol. In a nutshell, it means that, if Schiphol is able to realize major large investments cheaper than planned, the airport is allowed to keep part of the saving temporarily. On the other hand, if Schiphol realizes these investments less efficiently, it must bear the losses itself. Schiphol is not allowed to pass them on to airlines by including them in the tariffs that airlines pay for using the airport infrastructure.

ACM is of the opinion that the currently proposed bonus-malus arrangement offers Amsterdam airport Schiphol too little incentive to invest efficiently. ACM therefore recommends the period that Schiphol is allowed to keep the saving or that it must bear the loss itself be made longer than proposed.

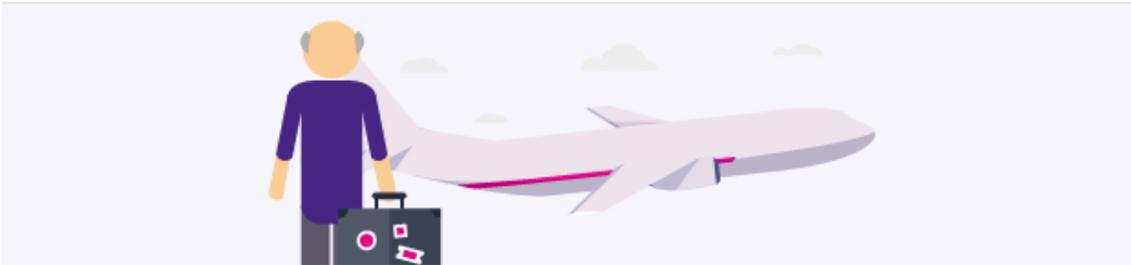
In addition, ACM also enforces compliance with part of the Dutch Aviation Act. For example, ACM assesses [the calculation method](#) (in Dutch) Schiphol uses to calculate the costs airlines pay for using the airport infrastructure such as the [concourses](#) (in Dutch) and terminals, baggage-handling facilities, and the runways.

### Recommendations for the new tasks regarding rail regulation

The Ministry of I&M is working on the implementation of the European Recast Directive in the Dutch Aviation Act. In addition, the Ministry gave further interpretations of the Dutch Railway Act by drafting Orders in Council (AMvBs). One key objective is to have new railway undertakings get easier access to services and facilities that are offered by companies such as Dutch Railways NS and network infrastructure manager ProRail. These include access to employee break rooms, trip information, and ticket machines. Another key point is that new rules will be introduced regarding the fee that railway undertakings pay ProRail for the use of the railway infrastructure. In both cases, ACM is granted more powers because of said European directive. ACM has provided the Ministry with several proposals for improving the feasibility and enforceability of these new powers.

ACM also regulates the railway industry based on existing rail regulations. For example, ACM in 2014 launched an investigation into a complaint filed by transport company Veolia regarding the tender process for public transport services in the southern Dutch province of Limburg.

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## 5.4 Regulation of the postal services market

ACM enforces compliance with the Dutch Postal Act 2009. This act imposes, among other things, requirements on the delivery of Dutch postal company PostNL, and on the universal postal service, including the stamp rate. ACM can analyze the postal services market, and may impose obligations on companies in case of dominant positions in order to increase and improve competition.

### 5.4.1 ACM regulates PostNL

The Dutch Postal Act mandates, among other things, that PostNL collect and deliver mail at least five days a week. In addition, PostNL must deliver 95% of the letters that fall under the universal postal service the next delivery day. Every year, ACM assesses whether PostNL has met these requirements. ACM also assesses whether PostNL allocates costs to the universal postal service correctly. It is then able to calculate the room that PostNL is given to change the rates of, among other products, stamps.

#### PostNL delivered enough letters on time in 2013

In 2014, ACM assessed whether PostNL in 2013 met the statutory requirement of delivering at least 95 percent of letter-size mail the next workday. ACM concluded that [PostNL's delivery performance was 95.8 percent](#) of letter-size mail that had been dropped in their mailboxes. This is an improvement over 2012, when PostNL's performance was 93.9 percent.

With regard to its location policy, PostNL in 2013 also met the statutory requirements. These requirements concern the range of products and services offered at PostNL locations, the number of locations, and their geographic distribution. PostNL is required to have at least 2,000 service locations. For at least 95 percent of Dutch citizens, a service location must be within a 5-kilometer radius.

#### PostNL is allowed to raise stamp rate to 69 cents

ACM assesses the maximum room that PostNL is given to change the tariffs of the universal postal service. To that end, it looks into the underlying cost allocation system of PostNL first. This assessment was not yet finished in September. That situation triggered a transitional regime. In early-September, PostNL submitted a proposal to ACM. PostNL intended, among other things, to raise the tariffs of the universal postal service from January 1, 2015. Among other products, the [stamp rate was raised from 64 to 69 eurocents](#). ACM has concluded that this increase was in accordance with the provisions of the transitional regime.

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#### 5.4.2 ACM proposes measures to improve competition in the business postal market

ACM has been given new powers allowing it to impose obligations on postal companies that have significant market power so that other market participants get a fair chance to compete. ACM has established that PostNL enjoys a dominant position in the business postal market. PostNL is required (at a charge) to deliver the mail of regional postal companies outside one's own region the next day. In 2014, ACM released the [draft market analysis decision of the postal services market](#), in which this obligation was laid down. The final decision will enter into force at a later time in 2015.

##### **PostNL has a dominant position in the delivery of business mail**

In this decision, ACM assessed the business mail market. Business mail involves the transport of mail of companies. Postal companies collect mail at the businesses themselves, or these businesses go drop-off locations of postal companies. Businesses are responsible for the lion's share of mail in the Netherlands. In recent years, the volume of mail sent by businesses has declined tremendously. However, that does not mean that businesses do not have any interest in the ability to choose between postal companies.

With a market share of 80 to 90 percent, PostNL is, by far, the largest mail company of business mail. ACM has established that PostNL has a dominant position. Next to PostNL, Sandd is the only other market participant that delivers business mail throughout the Netherlands. Sandd delivers mail twice a week, not five times a week like PostNL. Various smaller postal companies also deliver five days a week, but only operate in certain regions in the Netherlands. For next-day delivery outside one's own region, these regional postal companies rely on PostNL's national network.

##### **Obligation to deliver mail of regional postal companies**

With the draft decision, ACM gives regional postal companies the opportunity to have their business mail delivered outside their own regions the next day. ACM does so by requiring PostNL to deliver this mail of its competitors. PostNL is not allowed to discriminate against mail of its competitors' customers in favor of mail of its own customers.

As a result of this decision, ACM ensures that regional business-mail companies are guaranteed to have access to PostNL's network of drop-off locations, sorting centers, and mail carriers under

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reasonable conditions. Businesses that wish to have next-day delivery can therefore also choose a regional postal company.



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## 5.5 Regulation of drinking water

In 2014, ACM gave advice to the Dutch Human Environment and Transport Inspectorate (ILT) about the drinking water tariffs for a second time. ILT oversees the drinking water industry, and ACM gives ILT advice on drinking water tariffs. There are 10 drinking water companies in the Netherlands. For each company, ACM drew up a report. In these reports, ACM gave advice about the degree to which the drinking water companies complied with the regulatory and legal requirements. In addition, ACM gave ILT a list of points for improvement with regard to the calculation methods of the drinking water tariffs. ILT subsequently writes its own opinion, based in part on ACM's recommendations. Once ILT has informed the Minister of Infrastructure and the Environment, ACM's recommendations and reports will be published.

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## 6 Outcome of ACM's work

ACM believes it is important that it explains and provided insight into the effects and the effectiveness of its actions. The outcome of ACM's work for consumers is EUR 1.2 billion in 2014.

ACM's work spans consumer protection, competition oversight, and sector-specific regulation of energy, telecommunications, postal services, and transport. In its work, ACM particularly looks at the anticipated short-term effects (calculated in a relatively easy manner) of its actions to consumer welfare. The calculation method for these effects is explained in the working paper "[Outcome of ACM – Calculation method of the outcome of ACM](#)" (in Dutch)

When calculation the outcome of ACM, the following basic principles are used:

- The effects must be calculated in a relatively easy manner.
- The effects must be quantifiable (in monetary terms) with a reasonable degree of certainty.
- The outcome calculation refers to the expected future effects for consumers.
- To prevent an overestimation of the effects, conservative assumptions are used.
- The effects are presented for each individual case as much as possible. However, this is not always possible because of confidentiality.

The total outcome for consumers is over EUR 1.2 billion in 2014 of which EUR 1.1 billion is the result of the activities of ACM (or of its predecessors) in 2013 and 2012. The remaining EUR 110 million comes from activities that ACM completed in 2014. The amounts are expressed in 2014 euros.

At the request of ACM, the Netherlands Bureau of Economic Policy Analysis (CPB) tested whether the outcome calculations for 2014 are plausible. The CPB assessed both the calculation method and the calculation results in terms of care and reasonableness.

The CPB's conclusion was that the outcome calculation was carried out thoroughly, using rules of thumb that are sufficiently supported in economic literature. In addition, the CPB also notes that, because of the significant uncertainties in the calculation, it casts doubt on the final results.

First, the CPB says that more thorough examination is needed in sector-specific regulation of how the effects of shifting market conditions (for example interest rate changes) must be taken into account in the calculation. This requires further examination.

Second, the CPB is critical of the outcome calculation if empirical literature is lacking to corroborate the effect. This particularly concerns consumer protection cases. ACM agrees with the CPB on this: the lack of empirical literature makes it more difficult to calculate the outcome. That is why in 2015 ACM will carry out studies in order to be able to corroborate several assumptions empirically. It should be noted that the calculated outcome in these specific cases are relatively small.

Finally, the CPB comments that a cautious interpretation is needed because other effects may exist that have not been taken into account in the calculations. In that regard, the CPB thinks of effects

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such as dynamic efficiency, the deterrent effect of anticompetitive agreements, and oversight costs. As a result, the actual effect could be different: higher or lower. ACM agrees with the CPB on the importance of a cautious interpretation. The effects mentioned by the CPB may indeed occur. However, their effects are difficult to estimate.

In order to gain more insight into the deterrent effects of competition oversight, ACM in the past had studies into this topic carried out. In 2015, ACM together with British regulator CMA and the European DG Competition will organize a conference about this issue. Furthermore, ACM carries out ad hoc studies that look into the dynamic and long-term effects of ACM's actions, such as Mulder (2015) and Petit et al.

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## 6.1 Outcome of consumer protection

The outcome of ACM's consumer protection is over EUR 18 million for 2014. More than EUR 3 million comes from cases carried out in 2013, of which their effects still continue in 2014.

Outcome has been calculated for 9 activities concerning consumer protection. There were 4 cases of unfair commercial practices, 2 cases in which a rapid intervention was carried out, one violation of the Aviation Regulation, and 2 cases regarding tariffs. The decision in one case has not yet been published. The outcome of the latter case has been included in the total, but the case itself cannot be described for confidentiality reasons.

With regard to the calculation of the outcome of consumer protection, ACM does note that, for many of the activities in this department, it is difficult to calculate the outcome. After all, many of the effects of these activities cannot easily be expressed in monetary terms. For example, it is tricky to calculate the annoyance over unsolicited phonecalls or over unauthorized cookie walls. The actual effect of competition oversight is therefore larger than what is presented here.

### 6.1.1 Regulation of electricity and gas tariffs in the consumer markets

ACM is charged with the statutory task to assess the reasonableness of the tariffs for the supply of electricity and natural gas to small-scale users. Suppliers of electricity and natural gas submit their tariffs to ACM, after which the tariffs are assessed on reasonableness. If ACM believes that a tariff is unreasonable, it can impose a price cap on the supplier. This is also called safety net regulation. In most cases, the mere threat of imposing a price cap is enough to have suppliers reduce their tariffs 'voluntarily.' ACM in 2014 announced twice that it found the energy suppliers' proposals unreasonable. In both cases, the suppliers subsequently adjusted the tariffs.

The tariff reductions have a directly measurable price effect. The price effect per buyer is the difference between the tariff that the supplier submitted to ACM first and the reduced tariff that is actually charged after ACM's intervention.

For the contracts in question, ACM knows how many households took out each of them. This group just benefits from ACM's intervention. Without it, they would have paid more. When calculating the outcome, we use the energy consumption of an average household (kWh).

The duration of the effect depends on the contract length of the tariffs with regard to which the intervention was made. If the tariff proposals concern a three-year contract, the intervention will also have a three-year effect. If not enough data is available, it is assumed that the effect lasts a year. In both cases, the period was six months.

The outcome of safety net regulation for 2014 is more than EUR 725,000.



### 6.1.2 Unfair commercial practices, violation of Aviation regulation, and rapid interventions

The outcome of unfair commercial practices, the violation of the Aviation regulation, and rapid interventions in 2014 is over EUR 14.2 million. Due to confidential information, the outcome is not reported for each individual case. The cases in question are briefly explained below.

#### Violation of the Aviation regulation by KLM

ACM imposed a fine of EUR 200,000 on Dutch airline KLM for displaying its airfares on its website incorrectly. On its website, KLM displayed airfares that did not include the booking costs. The booking costs were EUR 10 per ticket, and were thus unavoidable and foreseeable. This means that the airfares should have included the booking costs. The price that consumers actually paid was higher than the original advertised price. It thus became more difficult for consumers to actually compare prices. That is a violation of consumer protection regulations.

For the outcome calculation, an estimate was made for the turnover that KLM generates in the Netherlands through online ticket sales. Because of uncertainty over the final airfare that they need to pay, consumers are faced with additional search costs. Moreover, it is possible that consumers make the wrong choice (too expensive). We assume that these additional search costs and wrong choices concern 0.75% of the realized turnover. We also assume that this effect existed in 2014 and in 2015.

#### Unfair commercial practices of World Ticket Center

ACM imposed a fine of EUR 350,000 on World Ticket Center B.V. (WTC) for displaying its airfares and trip prices on its website incorrectly. WTC failed to include all mandatory and unavoidable costs in the base price of its airfares. Neither did it include the booking costs (which apply to each booking) in the airfares in a clear, transparent and unequivocal manner. Finally, optional extras such as travel and cancellation insurances were pre-selected.

The price that consumers actually paid was higher than the original advertised price. It thus became more difficult for consumers to actually compare prices. That is a violation of consumer protection regulations. Because of the lack of transparency, consumers are faced with additional search costs. Moreover, it is possible that consumers make the wrong choice (too expensive). We assume that these additional search costs and wrong choices concern 0.75% of the realized turnover. We also assume that this effect existed in 2014 and in 2015. For the outcome calculation, an estimate was made for the turnover that WTC generates in the Netherlands through online ticket sales.

#### Unfair commercial practices by rental agencies

ACM sat down with several rental agencies. ACM had established that these rental agencies often routinely charged lessees agency costs, while sometimes also charging lessors agency costs. Charging these costs twice is in violation of existing regulations in this industry.

Following these formal enforcement talks rental agencies Rots-Vast, Direct Wonen Verhuurmakelaars B.V. and NederWoon Verhuurmakelaars B.V promised to change their



commercial practices no later than January 1, 2015. This is in accordance with [ACM's interpretation](#) of Section 7:417, paragraph 4 of the Dutch Civil Code (the prohibition of charging private lessees agency costs in case of double agency activities).

The outcome has been calculated by multiplying the average agency costs per lessee by the number of rental transactions (individual units) per year of the rental agencies in question. We assume that this effect existed in 2014 and in 2015.

#### **Unfair commercial practices of Simyo**

ACM sat down with Simyo. Prepaid customers of Simyo reported that they unexpectedly faced substantial negative balances. Simyo decided to cap negative balances for its customers. In addition, Simyo promised to update the information on its website about this topic.

The outcome has been calculated using Simyo's data from several weeks prior to the commitment. The average negative balance per customer per day has been multiplied by the average number of customers with negative balances. This has subsequently been multiplied by 365 to calculate the outcome on an annualized basis. The calculation has been done using data from after the commitment. It is conceivable that the group of prepaid customers affected is larger than is the case based on this data. The improved information on the website may have helped some of the prepaid customers change their behavior. We assume that this effect existed in 2014 and in 2015.

#### **Unfair commercial practices of Bellio**

ACM issued a public warning about Dutch online shop Bellio, which sells design furniture. ACM had received dozens of indications through consumer information desk ConsuWijzer from consumers. Their complaints concerned incorrect information about delivery times, failure to deliver the purchased items, and failure to refund the cancelled orders. Shortly after the public warning, Bellio suspended its operations.

The outcome has been calculated by multiplying the average harm per consumer (based on the complaints ACM received) by the number of complaints times 20, in accordance with the method specially designed for this.

#### **Rapid interventions**

Rapid interventions are aimed at contacting businesses fast in order to end a violation (presumed or otherwise) of consumer protection regulations. In addition, rapid interventions may lead to compensation for the consumers that have been harmed, where possible. Many businesses do wish to stop the violation (presumed or otherwise), but would rather keep the press out of it. Since the objective of rapid interventions is to stop the violation, ACM agreed to this.

In 2014, various rapid interventions were carried out. Due to confidential information, the rapid interventions cannot be explained in greater detail. The outcome has been calculated for each rapid

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intervention by multiplying the average harm per consumer by the number of harmed consumers (somewhat estimated).

### **6.1.3 Adjustment of 2013 outcome**

The effect of the fine that ACM imposed on energy supplier Greenchoice in 2011 was included in the outcome calculations for 2013. ACM had fined Greenchoice for sending its final bills too late, or even failing to send any final bills at all, to customers that had cancelled their contracts and who were entitled to overpayment refunds. ACM assumed that the effect of this intervention would last at least two years (through 2013).

However, the Dutch Trade and Industry Appeals Tribunal (CBb) in 2014 ruled that Greenchoice's appeal against these fines were allowed. That ruling thus means that the previously calculated level of the total outcome in 2013 must be adjusted. The total outcome of consumer protection for 2013 is therefore EUR 5.7 million.

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## 6.2 Outcome of competition oversight

The outcome of ACM's competition oversight is over EUR 260 million for 2014. This includes antitrust cases and concentration control cases.

The outcome with regard to antitrust cases in 2014 concerns two commitment decisions. The outcome of antitrust cases for 2014 was almost EUR 180 million. The cases from 2014 contributed over EUR 9 million. The remaining EUR 170 million concerns cases from 2012 and 2013. The additional fines in the 'flour cartel' did not lead to any outcome in 2014 since these have already been included in 2010.

No new concentration cases from 2014 were eligible to be included in the outcome calculation. No mergers were blocked, adjusted or withdrawn in 2014 as a result of ACM's actions. However, some concentration cases, which were completed in 2012, are eligible to be included in the outcome for 2014. The adjustments imposed on certain merger plans in 2012 still have an effect in 2014. In total, this effect was EUR 81 million.

Due to confidential information, ACM cannot specify the outcome per case.

### 6.2.1 Buma/Stemra

Dutch copyright collecting society Buma/Stemra promised to offer composers and songwriters more options in the management of their music copyrights. This commitment was made following an ACM investigation into possible abuse of dominance by Buma/Stemra in music copyright management.

ACM found that composers and songwriters had little choice and basically no opportunity to sell their lyrics or compositions online. That is because Buma/Stemra worked with copyright transfers in some sort of all-in-one package, both online and offline management.

On the initiative of ACM, Buma/Stemra made the copyright management system simpler, more flexible, and more accessible. Composers and songwriters were thus given more choice about what rights they wish to transfer to Buma/Stemra. With this new structure, it is likely that more ways to stream and download music are introduced. Composers and songwriters will thus benefit, as will listeners.

The rule of thumb of 5 percent of the relevant turnover (for abuse of a dominant position) of Buma/Stemra in the market for online copyrights was used in the calculation of this price effect.

### 6.2.2 MasterCard

Over the next two years, financial-services company MasterCard will lower the tariffs that banks charge each other for processing domestic credit-card payments. These tariffs apply to all credit card payments, both online and offline.

ACM received indications from businesses, in particular from retailers, that they thought that the



tariffs that credit card companies charged for credit card payments were too high. ACM subsequently investigated these indications.

ACM expressed its concerns to MasterCard about these interbank tariffs. MasterCard on June 1, 2014 subsequently adjusted the interbank tariffs from 0.9 percent to 0.7 percent. And from January 1, 2015, it will be 0.5 percent, and from January 1, 2016, it will be 0.3 percent. Businesses such as in retail and the hospitality industry will incur lower costs for credit-card payments.

For the calculation of the price effect, the actual cost saving for businesses was used as a result of the gradual decrease of MasterCard's tariffs.

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## 6.3 Outcome of energy regulation

The outcome of ACM's energy regulation is over EUR 777 million for 2014.

The key activities of 2014 that have contributed to this saving are: the tariff reduction as a result of the auction revenues TenneT used towards its lower tariffs, the inspection of the financial accounts of the regional operators, the cap on the tariffs for supplying heat, and several subsequent calculations in the calculations of the transmission system operators and the regional network operators. These activities contributed EUR 85 million to the total outcome of 2014. In addition, the savings as a result of the method decisions and grid code amendments from 2013 also have an effect in 2014 (and 2015). Their combined contribution to the outcome is EUR 692 million. Furthermore, other activities have been undertaken that are not easily expressed in monetary terms. The total effects are thus greater than the figure presented here.

### 6.3.1 Auction revenues

Interconnectors link the Dutch grid to other grids in Europe such as Germany, Belgium and Norway. Demand for capacity on these interconnectors exceeds available capacity. In other words, capacity is scarce. The reason behind this scarcity is, among other reasons, lower electricity prices in Germany, as a result of which demand for import capacity is high. In order to distribute the scarce capacity, transmission system operator TenneT auctions the interconnection capacity among traders. That way, the scarce capacity will be awarded to those market participants that are willing to pay the most for it. In recent years, a considerable amount of money has been raised through these auctions. TenneT is required to invest these revenues in projects that solve cross-border capacity problems, or to use these revenues towards a tariff reduction.

According to ACM, the auctions generated more than enough revenues to safeguard the investments (current and future) in interconnectors. Like last year, ACM decided that part of the auction revenues can thus be used in the setting of the tariffs that TenneT charges its buyers. In the tariff proposal, TenneT assumed for 2015 that EUR 21 million of auction revenues could be used for the tariffs. ACM believed that additional funds from the available auction revenues could be used towards the tariff reduction. In response thereto, TenneT raised its proposal to EUR 45 million, which is considered revenue.

### 6.3.2 Financial accounts of regional network operators

ACM inspected the financial accounts of the regional network operators. It turned out that the costs that the network operators had claimed were not always correct. The identified errors were mostly caused by the complexity of the financial accounts of network operators, as a result of which costs are not always allocated correctly. Correcting these errors lead, on balance, to a reduction of the costs.

As a result of this inspection, the revenues that the network operators are allowed to earn have been adjusted for the period 2011-2016. After all, the cost basis on which these allowed revenues are based has changed. The recalculated revenues have led to an adjustment of the tariffs of the



network operators in 2015 and 2016. The inspection thus generated an annual saving of EUR 30 million for consumers and businesses.

### 6.3.3 Decision on the maximum tariffs for the supply of heat

Like in 2014, ACM set the maximum tariffs according to the Dutch Heat Act for the supply of heat for 2015. Consumers that are connected to the heat network will not pay more than they would have paid if they had had a natural-gas connection. This is called the 'No More Than Otherwise' principle (in Dutch: Niet Meer Dan Anders). This way, ACM tries to protect consumers, since heat users often do not have access to a gas network.

For an average household, the tariffs set for 2015 led to a EUR 20 decrease in the maximum tariff on an annualized basis. In its calculation method, ACM follows the calculation method used for the revenues in the method decisions and tariff decisions for energy: without an ACM intervention, prices follow inflation. ACM expects that this decrease leads to a saving for consumers of at least EUR 10 million. For this calculation, we used the number of customers with suppliers of which it is known that they currently charge the maximum tariff. If more suppliers already use the maximum tariff, more than we are currently aware of, and need to lower that tariff, the saving could be even higher.

### 6.3.4 Subsequent calculations

In 2013, ACM issued several decisions about the method for calculation revenues, which the transmission system operators and the regional network operators for natural gas and electricity are allowed to charge consumers and businesses. In these decisions, ACM used estimates of certain cost items, among other things. Based on new, actual expenditures, which became available in 2014, such as the expenditures on local costs, ACM made several adjustments to the previously calculated revenues of the network operators. In addition, several adjustments have been implemented following court rulings. The annual saving has thus been lowered by more than EUR 9 million. As a result, the saving for 2014 because of the methods decisions is now EUR 688 million. The savings in 2013 and 2015 will be affected by the adjustments, too.

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## 6.4 Outcome of regulation of telecom, transport and postal services

The outcome of regulation of telecom, transport and postal services concerned 2 cases: a violation of the Roaming Regulation by KPN, and the assessment of the pilotage tariffs. The outcome for 2014 is EUR 145 million. Almost EUR 2 million concerned activities that were carried out in 2014. The effects of activities that were carried out in 2012 and 2013, and which continued throughout 2014 contributed to the remaining EUR 143 million. In those years, the market decisions in particular contributed the most to the revenues. Due to confidential information, the effects cannot be described per case.

### 6.4.1 Fining decision concerning KPN's violation of the Roaming Regulation

Mobile telecom providers cannot use roaming tariffs (tariffs for the use of mobile services abroad) that are higher than the maximum that has been laid down in the so-called Roaming Regulation. ACM enforces compliance with this regulation. In 2010, 2011, and 2012, KPN used roaming tariffs that were higher than allowed. ACM thus imposed a fine on KPN. KPN has already compensated the harmed customers by repaying their overpayments. The outcome of this fining decision is the temporary overpayment of these users. The effect is final.

### 6.4.2 Pilotage tariffs decrease in 2015

ACM regulates the tariffs that maritime pilots are allowed to charge for their services. Simultaneously with the assessment of the submitted tariff proposal, ACM's projection model was also examined. Using this projection model, the pilots project the number of pilotage passages for 2015. Upon closer examination, an error in the model was discovered. After correcting this error, the projected number of pilotage passages was higher. The effect of this adjustment is that the tariffs are 1% lower than those in the tariff proposal as a result of the correction of this error. The effect is final and lasts for 1 year. Due to other changes in the costs of the pilotage passages, the pilotage tariffs decrease by another 1%, as a result of which the tariffs decrease by 2% compared with 2013. That additional 1% had already been included in the pilots' tariff proposal, and is thus not included in the outcome calculation.

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## 7 ACM and the courts in 2014

In 2014, the District Court of Rotterdam and the Dutch Trade and Industry Appeals Tribunal (CBb) issued 90 rulings about the 21 different laws that ACM enforces. This is a similar number to the previous year. The [rulings](#) (in Dutch) are very diverse. Taken together, they give an idea of how the courts judge the work of ACM.

The task of the courts is to review ACM's actions, and to offer legal protection. The rulings reveal that the courts take a critical look at the use of ACM's powers and instruments. They look at ACM's interpretation of legal provisions, and the appraisal of evidence. The courts also check whether ACM as a regulator did not overstep any legal boundaries in the execution of its tasks, and whether it properly explained its choices in them. In many of its tasks, ACM is faced with European legal standards and frameworks. In the past year, the courts were able to give more direction to ACM in that area too.

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## 7.1 Use of powers and instruments

The courts take a close look at the use of powers and instruments by ACM. In that assessment, the text of the legal provisions plays a crucial role. That was revealed by, among other rulings, the ruling about the fine for breaching a seal. In a case against KPN about demanding information, ACM was supported by the CBb. Another case was about the questions whether or not a statutory open standard can be specified by ACM using a binding instruction.

### 7.1.1 Sealing off rooms in dawn raids

The instrument of sealing off rooms in dawn raids ran up against the phrasing of Section 70b of the Dutch Competition Act. In the CBb's opinion, it follows from that section that fines for breaching a seal can only be imposed on those that have actually breached the seal. The undertaking that is the subject of a dawn raid and where the seal was placed, is not directly responsible on account of carelessness. It is only responsible if the breach can be attributed to it using the criteria of functional perpetration (under Dutch law). In the case of a hired security guard of a multi-tenant building breaching the seal combined with the precautionary measures that had been taken, ACM was not allowed to impose a fine on the [Dutch National Association of General Practitioners \(LHV\)](#) (in Dutch).

### 7.1.2 Demand for information

The CBb however gave a broad interpretation of several [demands for information](#) (in Dutch). The CBb abruptly ended the refusal on KPN's part to disclose the names of employees involved. As part of its power to demand information and possibly to interrogate individuals, ACM is allowed to demand the names of these employees. According to the court, it is not up to a regulated party to decide to whom and how ACM is allowed to direct its request for information. The court based its decision on the principle of proportionality. Privacy concerns on the employees' part did not play a decisive role in that decision.

### 7.1.3 Binding instruction

The CBb was critical of the use of the instrument of binding instructions laid down in Section 5 of the Dutch Electricity Act. ACM was not allowed to use the binding instruction in the imposition of a [“five second rule”](#) (in Dutch) on network operator Liander. The rule was imposed on Liander in order to improve the safety of old lampposts, making sure that humans and animals are not harmed. ACM should, as an interpretation of the statutory open standard, have determined a safety standard for the entire industry first before it could give just Liander an instruction to adjust its network (a binding line of conduct). The court ruled that ACM had to reimburse Liander the costs it had made for complying with the binding instruction.

Another binding instruction was about the absence of [functional separation](#) in the Shared Service Center (SSC) of energy supplier Nuon and network operator Liander. Prior to the introduction of the supplier model, ACM was not allowed to demand costly, further measures from Liander with regard to the functional separation of competition-sensitive information flows in the SSC for just a short period of time.



## 7.2 Scope of statutory provisions

The courts' task is to review ACM's actions, and to offer legal protection. Discussions about and differences in opinion about the interpretation of the statutory provisions and standards were key issues in several appeal procedures. Different interpretations can have far-reaching consequences for ACM's enforcement practices.

### 7.2.1 Greenchoice

In the [Greenchoice](#) (in Dutch) case, the CBB used in the appeal a more narrow interpretation of the statutory standard than ACM and the court did. For several years, Greenchoice sent its final bills too late, or even failed to send any final bills at all, to customers that had cancelled their contracts. ACM considered this a violation. Under the [Dutch Gas Act](#) (in Dutch) and the [Dutch Electricity Act](#) (in Dutch), suppliers are required to ensure the supply of energy in a reliable manner at reasonable tariffs and under reasonable conditions. The general terms and conditions state that, when cancelling the contract, the energy supplier must send a final bill. Suppliers that fail to do so thus violate the conditions of the contract. That is why ACM imposed fines on Greenchoice and on two de facto executives. However, the CBB ruled that ACM lacked the power to impose administrative fines on anyone that failed to comply with these provisions. Energy suppliers must have reasonable conditions in their contracts. However, if they act contrary to the rules with these conditions, ACM does not have the power to impose fines on them under the Dutch Gas Act and the Dutch Electricity Act.

### 7.2.2 Telemarketing, spam and malware

It appears that there is sometimes a difference between who the regulator believes needs protection, and who needs protection according to the letter of the law. In the [spam and telemarketing cases](#) (in Dutch), ACM interpreted the term 'subscriber' in Section 11.7 of the Dutch Telecommunication Act broadly in order to be able to protect consumers properly, and to reduce the problem of annoyance over unsolicited communication as much as possible. In the CBB's opinion, ACM under the statutory provision can only offer protection to the [subscribers](#) (in Dutch). By now, the legislature has already adjusted the spam prohibition. Since 2012, 'subscribers' and 'users' are now protected.

#### Spam

The spam prohibition applies to the senders of electronic messages. For effective enforcement, it is crucial that the interpretation of this term fits situations in real life. In a provisional ruling, the court said that the term [sender](#) (in Dutch) not only refers to the actual sender, but also to the individual giving the order to send, and, in certain situations, also the provider of an electronic communication service. The ruling in the [Serinco Benelux](#) (in Dutch) case of the CBB reveals that helpers, too, can be considered senders if, in the public's mind, they carry responsibility over the sending of the messages.



## Malware

Sending email messages and installing unwanted software (malware) does not stop at the border. In two cases about malware, ACM's legal power came up. In the [Links4all case](#) (in Dutch), the CBb was of the opinion that only Dutch users were protected by the prohibition of installing unwanted data on one's computer.

The court issued a ruling covering the reverse situation too. The court ruled that ACM has the power to act against violations of the spam prohibition committed in the Netherlands by a Belgian undertaking with an office in the Netherlands.

### 7.2.3 Consumer protection

For the enforcement of the Dutch Act on Enforcement of Consumer Protection, ACM was given a clarification of the scope of the material standard. The way ACM interpreted certain standards largely passed the legal test.

For example, the court, following ACM, ruled that the hotel discount card that [Hotel Group International](#) (in Dutch) sold to consumers fell under the timeshare regulations. It is considered a long-term holiday product.

In the [ticket shops](#) case, the CBb largely subscribed to ACM's opinion. ACM demanded that, when reselling tickets issued by the Royal Netherlands Football Association (KNVB) and certain concert tickets, the ticket shops in question indicate on their websites that consumers may be denied admission to the event for which they had bought a ticket. The CBb ruled that the invalidity of these tickets is not a foregone conclusion nor is it completely certain, and it is still a matter of legal debate. It is up to the civil-law judge to decide whether or not resold tickets offer admission to the event in question. The CBb then comes to the conclusion that the order subject to periodic penalty payments imposed by ACM has been formulated too broadly. The CBb therefore reversed the primary decision insofar the ticket shops were given the order to include in a clear, easy-to-understand and unequivocal manner in the request to make a purchase on its website information about the "fact that the ticket was invalid". The CBb ruled that the phrase in quotation marks be dropped from the order. With regard to the other points, the CBb upheld the court's decision.

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## 7.3 Appraisal of evidence

Reviews of fining decisions, particularly with regard to competition law, revealed that both the CBb and the District Court of Rotterdam assess all pieces of evidence very carefully, both separately and together. They do so in order to determine whether they are able to support the establishment of the violation.

### 7.3.1 Importance of concrete pieces of evidence

With regard to an illegal agreement between [two home care providers](#) (in Dutch) about not entering each other's areas in the region of Midden-IJssel, not enough evidence was found. The court attaches little value to the circumstance that, at the time, a free-market system was introduced within the Exceptional Medical Expenses Act (AWBZ), and that ACM had to be critical of certain practices. What counts, are the concrete pieces of evidence. Despite the text of the non-compete clause, these turned out to be insufficiently able to establish an anticompetitive agreement.

### 7.3.1 Leniency statements

Leniency statements are important pieces of evidence to establish cartels. However, a leniency statement in itself is not enough as evidence. This was revealed by the ruling in the [cartel case regarding insulated glass](#). If leniency statements are contested by fellow cartel members, ACM must put forward sufficient additional evidence. As such was missing in the insulated-glass case, there was insufficient evidence of participation in the cartel by two non-leniency applicants. At the same time, the court pointed out to ACM that it be more critical of the way such statements given. Asking closed questions carries a risk of influencing statements, which is inadmissible.

The first batch of [rulings](#) (in Dutch) concerning the [foreclosure auction cartels](#) (in Dutch) revealed that the court actually attached great evidentiary value to [leniency statements](#) (in Dutch). It provided insight into how a specific group of traders at foreclosure auctions had influence over the purchase prices of properties in their favor. Next to the leniency statements, additional evidence was available. It convinced the court that each of the traders involved took part in a joint scheme to influence the auction prices. Each of them did so with different frequencies, at different scales, and each from their own perspective.

### 7.3.2 Cartels

Over time, cartels may become very intricate. Participation in cartels is not easily proven. The Dutch courts thus subscribe to the concept of "a single and continuous infringement" that is used in European competition law. Different forms of market behavior exhibited by companies can be considered a single and continuous violation if the basis for the behavior is an anticompetitive plan or objective.

The CBb considered the manipulation of tender processes for [tree nursery products](#) (in Dutch) for many years as "a single and continuous infringement" of the cartel prohibition. The affected turnover generated over the entire period that the cartel was active could be used in the calculation of the fine.



The CBb turned down limiting the turnover to the last five years that the cartel was active, which is what the court had earlier deduced from Section 64 of the Dutch Competition Act.

In the [silverskin onions](#) (in Dutch) and [flour](#) (in Dutch) cases, the court confirms that very dissimilar practices can constitute a single violation. After all, each of these practices can individually be an implementation of the same, common plan/objective to coordinate various market practices instead of determining these by themselves. In these cases, the court goes one step further in the interpretation of the concept “a single continuous infringement”.

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## 7.4 Regulation and justification of choices

In 2014, the CBb reviewed numerous regulatory decisions for dominant telecom providers and energy providers. With such decisions, ACM regularly sets conditions and tariff calculation methods. The analysis and choices that ACM makes as part of these decisions, are reviewed thoroughly. As long as ACM applies the law carefully, it has some room in its assessment as to how the envisaged objectives can be realized best.

### 7.4.1 Telecom

The market analysis decisions that ACM set in 2012 under the Dutch Telecommunication Act have been upheld almost entirely. ACM had ruled that [wholesale market for low quality broadband](#) (in Dutch) has become competitive. This opinion was shared by the CBb. The [decision on fixed telephony for the period 2012-2015](#) (in Dutch) was upheld almost entirely. ACM is to conduct further analysis into just two elements. In addition, the proceeding with regard to the regulation of fixed telephony for the period 2008-2011 has been completed, too. The appeal against the [repair decision](#) (in Dutch) was turned down by the CBb. In another ruling, the CBb ruled that the tariffs that KPN is allowed by ACM to charge consumers for [fiber-optic connections](#) (in Dutch) are not too high.

### 7.4.2 Energy

With regulatory questions, too, it is established practice that the CBb strictly reviews whether ACM is authorized or not. This was done in 2014 too. For example, ACM, in the interest of consumers, placed the incentive for reducing the losses in gas transport with the gas network operators. They are able to operate the networks the most efficiently. However, the general standard from the Dutch Gas Act was not precise enough a basis for taking this [regulatory measure](#) (in Dutch).

The CBb upheld the [efficiency-stimulating tariff cuts](#) (in Dutch) for network operators of electricity and natural gas. ACM had set the tariff cuts for the period 2011-2013 and the cuts for 2011 and 2012.

### 7.4.3 Transport

The District Court of Rotterdam ruled in ACM's favor in its assessment of the [access conditions for Transavia to the H-pier at Amsterdam airport Schiphol](#) (in Dutch). Dutch airline Transavia had filed a request with Schiphol to have its passengers board and disembark its aircraft using the H-pier through so-called 'disconnected handling'. That means that passengers board and disembark the aircraft themselves using mobile staircases. The court ruled that ACM correctly established that Schiphol's rejection of Transavia's request violated the Dutch Aviation Act. The court did not agree with ACM that Schiphol had to review and justify all conditions when airlines file requests.



## 7.5 European standards and frameworks

European frameworks, standards, and concepts often are the basis of ACM's actions. Their substance and tenor may lead to complicated discussions in concrete cases, which the national courts may submit to the European court. That is how it is safeguarded that European standards and frameworks are uniformly applied in the different Member States.

If the explanation of the underlying European laws is not evident, the national court can ask questions to the European Court of Justice. These are called prejudicial questions. It is striking that the CBb asks prejudicial questions more often with regard to regulatory questions. Among other things, the CBb has asked for an explanation of the applicability of European statutory provisions regarding [interoperability between networks](#) (in Dutch). In the case regarding [tariffs for the handling of phone calls](#) (in Dutch), the CBb also asked questions. In these cases, the question is to what extent recommendations of the European Commission are compelling.

In the competition-law case *the Dutch State v. FNV Kiem*, the referral decision of the Court of Justice was received in late-2014. The final ruling of the District Court of The Hague will follow in 2015. The answer of the [Court of Justice](#) reveals that independent service providers must be considered undertakings within the meaning of competition law. As such, the prohibition laid down in Section 6 of the Dutch Competition Act thus applies to them. That is why ACM was allowed to take into consideration their positions in its vision document *Determining tariffs under collective labor agreements for independent service providers, and the Dutch Competition Act*. The exception for collective labor agreements only applies to pseudo-independent service providers. The vision document does not apply thereto.

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## 8 Monitors

ACM gives a structural overview of the developments and trends in a number of markets. By actively monitoring these markets, ACM offers more insight into the latest trends that can be observed in these markets. These insights are published below.

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## 8.1 Energy monitor

ACM is charged with monitoring the energy market. In 2014, it did so by publishing the liquidity report, the biannual retail monitors, and the monitor on smart energy meters.

### 8.1.1 Liquidity report

The [2014 liquidity report](#) offers an overview of the trends in liquidity on the wholesale markets for natural gas and electricity in the period of 2009-2013. With this report, ACM wishes to help increase transparency in the wholesale markets for natural gas and electricity.

#### What is liquidity and why is it important?

Liquid energy exchanges at the wholesale level are a critical condition for well-functioning energy markets, and thus help enhance social welfare. In liquid markets, normal transactions can, in general, be processed swiftly. In such markets, higher volumes per transaction can be traded without any appreciable effect on prices. Increased liquidity means that energy prices reflect supply and demand fundamentals better. Such energy prices that are the logical result of supply and demand makes entry into the small-scale user market easier for new entrants, and, in addition, they send out relevant signals regarding investments in production capacity, transport capacity, and storage capacity.

#### Trading volumes on the wholesale markets for natural gas and electricity continued to grow in 2013

On both wholesale markets, the increases in volume can be explained by the increase in traded volumes of term products. For natural gas, quarterly and seasonal products in particular have increased, while for electricity, it has been annual, quarterly and monthly products in particular. Higher volumes and improved liquidity help the wholesale markets function better, and enable market participants to make efficient decisions when buying or selling natural gas or electricity.

#### New balancing regime gives boost to within-day gas trade

Under the new balancing regime, transmission system operator GTS buys and sells all the natural gas to maintain the pressure on the transmission system on the within-day market. This gives a boost to liquidity on this market.

#### Electricity prices in Northern Europe diverge more and more

A comparison between the Over The Counter (OTC)-price in the Netherlands, the UK, Germany and France confirms the trend of diverging prices, which started in 2012. OTC refers to transactions that are not done on the exchanges, but that are concluded between two parties directly. The price of electricity in the United Kingdom is substantially higher than in Germany. The Dutch price level is in between these two countries, in part because of the import of cheap electricity from Germany.

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### 8.1.2 Biannual retail energy monitors

In 2014, ACM released '[Trend Report on Competition and Consumer Confidence in the Energy Market second half of 2013](#)' and the '[Trend Report on Competition and Consumer Confidence in the Energy Market first half of 2014](#)'. In these trend reports, ACM presents the trends of a number of core indicators of the consumer energy market. It provides readers with an up-to-date overview of the most important trends in consumer behavior and the consumer energy market. The reports give an overview of demand trends, prices, concentrations, switching, and satisfaction. In addition, they also give an overview of consumer confidence in the energy market, and the number of indications thereof received by ConsuWijzer.

#### More energy consumers switch

Over the past ten years, 55 percent of all Dutch consumers have switched energy contracts at least once. Between July 1, 2013 and July 1, 2014, 12.7 percent of all consumers switched. Almost all switchers indicate they are satisfied with the switching process. Of all switchers, 65% have switched twice or more times.

#### Lower energy costs

Consumers that have switched are more likely to switch again. A large majority of consumers believe that their energy bill is high or very high. Lower energy costs are still, by far, the most important reason for switching. Consumers are not always aware that the special discount expires at the end of the contract of the special offer.

#### Misconceptions about the energy market result in non-switchers

Consumers that look around for other energy providers but who then decide not to switch do so because, in their perception, there is little difference between the various providers. In addition, they are worried that they will not get what they had asked for, and they think that switching involves a lot of time and hassle. In reality, the differences between providers are actually quite large. Those that have never switched before are able to get the highest savings of up to EUR 390.

#### Green power

In late-2013, 63 percent of Dutch consumers had a green-power contract. That percentage is slowly on the rise. In 2012, it was 61 percent. For 14 percent of all switchers, the choice for green power is important for the decision to switch. Three in four consumers say they are not prepared to pay more for green power. One in four consumers is willing to pay up to EUR 12 per month more for green power compared with brown power.

### 8.1.3 Monitor of smart energy meters

At the request of the Ministry for Economic Affairs, ACM drew up [a report on the rollout of the smart meter](#). In late-2013, the small-scale rollout of the smart meter in the Netherlands was completed. ACM subsequently published its findings and recommendation based on the experience gained from the small-scale rollout of the digital energy meters in 2012 and 2013.



ACM is of the opinion that the introduction of the smart meter is progressing well. ACM concludes that consumers are satisfied with the installation and with the role of the network operators. Based on these conclusions, ACM does not see any obstacles for the large-scale rollout of smart meters for all small-scale users in the Netherlands. However, a number of points for attention have been identified.

#### **Equal opportunities for companies offering energy-saving services**

Network operators are responsible for the installation of the meters, and this is a precondition for offering energy-saving services to consumers. ACM has recommended that network operators provide more insight into the rollout schedule in a timely manner, and into which households already have a smart meter at the zip code level. As a result, all companies will, simultaneously and in the same manner, have access to the households that are able to or are willing to take advantage of energy-saving services.

#### **Choices for consumers**

The energy-saving options of smart meters are currently underutilized. This is caused in part because of the currently limited availability of attractive energy-saving services, and real-time overviews of the costs of energy consumption. Accelerating the introduction of the smart meter is necessary to increase the range of energy-saving services. In addition, ACM published a [checklist](#) (in Dutch) on ConsuWijzer to raise awareness among consumers about privacy concerns when using the smart meter, and to offer guidelines when exercising their rights.

In late-2013, ACM sent its final report to the Minister of Economic Affairs. The Minister sent the report, together with a letter and the decision to launch the large-scale rollout, to the Dutch House of Representatives in March 2014. The large-scale rollout of the smart meter is expected to begin in 2015.

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## 8.2 Telecom Monitor

Every quarter, ACM publishes the Telecom Monitor. Based on data from the most important players in the telecom industry, the Telecom Monitor gives an overview of the trends and developments in the various telecom markets, which are:

- mobile services
- fixed telephony
- broadband
- television
- business network services
- bundles

The Telecom Monitor is an important source of information for ACM's market analyses. In these analyses, ACM determines whether there is enough competition in the telecom markets.

### **Mobile-data usage is growing strongly**

In the mobile markets, a shift can be observed in the services that consumers use: more mobile internet, and fewer text messages. Mobile data traffic has increased by 83 percent in the space of a year. One of the reasons is that the number of devices with mobile internet access has grown substantially. In addition, individuals make use of mobile internet more and more often. And with the roll-out of 4G-networks, download speeds of mobile internet becomes faster and faster. That in turn also leads to a growth in data usage.

In the space of two years, the number of sent text messages has halved. To a significant extent, this drop can be attributed to the rise of WhatsApp and similar messaging services. In addition, the number of mobile voice minutes has grown modestly. Mobile calls have partially replaced landline calls.

### **Download speeds of fixed broadband connections become faster and faster**

The number of internet connections has grown slightly. A shift from the copper network to the fiber-optic network and cable network can be observed. In total, almost two million homes were connected to the fiber-optic network in mid-2014, of which almost 600,000 were in use. Download speeds of internet services have risen, too. The share of internet connections with download speeds of 30 Mbps or higher has risen from 38% to 44%.

The number of fixed telephony connections among consumers has remained steady. The number of voice minutes over landlines, however, has dropped. One of the reasons is that more mobile calls are made.

Consumers increasingly buy all their fixed services from a single telecom provider. The number of households that buy broadband access, television, and fixed telephony from a single provider has increased by 1 million. In mid-2014, more than 4 million households have such service bundles.



The market shares of KPN and UPC/Ziggo for broadband access, television and fixed telephony are increasingly converging. KPN has a higher market share in the fixed-telephony market, whereas UPC/Ziggo is a larger player in the television market. In the broadband access market, both parties have almost similar market shares. The combined market share of the other market participants in these markets has dropped in recent quarters.

#### **Decrease of business services over fixed networks**

In the business market, the number of connections has decreased. Businesses are increasingly more critical about whether or not a fixed connection is still necessary. This drop is mostly observed in business telephony, and in business network services (connections between businesses, and between businesses and data centers).

In fixed telephony, the share of older technology (ISDN) is shrinking, and the share of newer technology (Voice over Broadband/Voice over IP) is growing. In business network services, the use of traditional leased lines is decreasing, and the number of newer services such as virtual private networks, is growing.

The number of business parks that are connected to a fiber-optic network is steadily growing.

KPN continues to be the largest provider of business services, but its market share is slightly decreasing. The market share of UPC/Ziggo is limited. The main reason is that many business parks are not connected to a cable network. Tele2 and Eurofiber are KPN's most important competitors in this market.

[Telecom Monitor Q4 2013](#)

[Telecom Monitor Q1 2014](#)

[Telecom Monitor Q2 2014](#)

[Telecom Monitor Q3 2014](#)



### 8.3 Rail Monitor

In 2014, ACM published the sixth edition of the [Rail Monitor](#). Its purpose is to present a picture of how railway network users experience the Dutch rail capacity market.

#### Growth of rail transport

The Rail Monitor revealed that the railway infrastructure has been utilized better in the past few years. One of the reasons is that the operating performance, in terms of train kilometers, of Dutch Railways NS, the railway undertaking on the main railway network in the Netherlands, and of the regional rail undertakings such as Arriva and Veolia has improved.

#### Freight rail undertakings believe they are put at a disadvantage

Freight rail undertakings, passenger rail undertakings, and maintenance undertakings use the railway infrastructure. In that context, they request capacity from the railway infrastructure managers ProRail and Keyrail, which is the manager of the Betuweroute. As railway capacity is scarce, tensions arise between freight transport, passenger transport, and maintenance. That capacity must be allocated in a fair manner.

ACM concluded that satisfaction with the capacity allocation process varied considerably among freight rail undertakings and passenger rail undertakings. Freight rail undertakings believe that they are put at a disadvantage, and that ProRail gives preferential treatment to passenger rail transport. When ProRail carries out maintenance works on the tracks, freight rail transport usually loses out. Maintenance works are often carried out at night, which is when freight trains run. As a result, these trains have to make detours and are late, and freight rail undertakings incur more losses. According to freight rail undertakings, traffic control often undeservedly gives way to passenger trains in case of delays. On the other hand, passenger rail undertakings are satisfied with the capacity allocation process.

In addition, freight rail undertakings are dissatisfied with the level of the infrastructure charge and how it is set. The infrastructure charge is the fee that rail undertakings pay the managers in order to be able to use the rail networks. Passenger rail undertakings are satisfied with the infrastructure charge.

If rail undertakings feel they are put at a disadvantage, they can report this to ACM. ACM has the power to handle disputes about capacity allocation or complaints about the infrastructure charge.

#### Satisfaction with services and facilities has risen

User satisfaction with the selection of rail-related services and facilities of ProRail and Keyrail has risen compared with the previous Rail Monitor. Rail undertakings need these rail-related services and facilities in order to be able to use the tracks. Examples include overhead lines, railyards and switchyards or platforms.



## 8.4 Postal Monitor

ACM is charged with the task of identifying the trends and developments on the postal market, as well as the effects of liberalization of that market. In 2014, ACM published the [market monitor for the postal services market](#) (in Dutch) for 2013.

### Less mail was sent

In 2013, consumers and businesses sent 5 to 10 percent less mail compared with 2012. This is predominantly caused by the shift towards electronic alternatives such as email, social media, and the use of tablets and smartphones. In 2013, consumers and businesses sent approximately 3.5 to 4 billion pieces of letter-size mail. Turnover was between EUR 1 and 1.5 billion. Businesses sent, by far, the most mail. Approximately 90 to 95 percent of all mail in the Netherlands is sent by businesses.

### PostNL is the market leader, while Sandd is growing

PostNL is handling less and less mail for consumers and businesses. PostNL is able to partially offset the decrease in turnover by raising its tariffs.

Only PostNL delivers consumer mail throughout the entire country. In the business mail market, PostNL in 2013 delivered 75 to 80 percent. PostNL thus continues to be the largest market player in that market. The only other mail company with nationwide coverage is Sandd, which has a market share of 20 to 25 percent in the business mail market. Despite the drop in mailpieces, the number of mailpieces delivered by Sandd has risen in 2013.

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## 9 Key figures

By publishing these key figures, ACM offers insight into its activities it carried out in 2014, in a transparent and quantifiable way, for example detecting and fining cartels, issuing rulings on mergers and acquisitions, and taking decisions in energy, telecommunication, postal services, and transport cases.

### Lead times

In addition to the way ACM completes its cases, ACM wishes to be open about the lead times of its completed cases (in number of days). The term limits that apply to ACM are mostly from the Dutch General Administrative Law Act. Considering the complexity of the fields in which ACM operates, it believes that not all term limits are useful for application to ACM. That is why, in this annual report, ACM has decided to provide insight into the realized lead times, and not to compare them with a standard. Given the diversity in ACM's cases, and ACM's oversight philosophy that is aimed at solving market problems with tailor-made interventions that vary per case, ACM focuses on lead times in individual cases, and currently does not use any general standards with regard to lead times in investigations.

In order to correct any outliers in the lead times, it has been decided to use the median. The median is the middle value in a list of numbers. If we list the lead times of 11 cases in ascending order, the median is the lead time of case 6. Suppose case 6 has a lead time of 80 days, then the median is 80 days. This means that 50% van all cases have lead times that are shorter than 80 days, while the other 50% have lead times of longer than 80 days. The median of the lead times has been calculated if there are three or more cases.

In its work, ACM aims to carry out its work as efficiently as possible, and to keep lead times of investigations, objections, sanctions, and other cases as short as possible. ACM examines in what areas it can improve its work processes in order to shorten lead times. The Streamlining Act affects the processes and their lead times. In addition, ACM wishes to improve the quality and the reliability of the measurement of lead times, for example by using uniform rules for defining starting date and the closing date, and the processing of possible lead times.

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## 9.1 Investigations

		Consumer protection	Energy	Competition	Telecom & Postal	Transport
Number of resolved requests/complaints		-	11	8	3	1
	Lead time (days)	-	198	184	176	n/a
Number of resolved reports on data leaks		348	-	-	-	-
Number of European requests for information concerning consumer protection	Sent	1	-	-	-	-
	Received	6	-	-	-	-
	Completed	1	-	-	-	-
Number of European enforcement requests	Sent	4	-	-	-	-
	Received	20	-	-	-	-
	Completed	8	-	-	-	-

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In 2014, ACM received 348 reports on data leaks. In 7% of these cases (23), it turned out there was no violation. In 50% of the violations (164), the company in question informed its customers. In 38% of the violations (124), it concerned personal information that had been encrypted. In those cases, companies were not required to inform customers.

ACM is a member of the [Consumer Protection Cooperation](#) (CPC), a European collaboration between consumer protection authorities. These regulators in the different Member States are able to call each other for help when dealing with cross-border violations. For the handling of European requests, ACM is dependent on other parties. Many requests that were received last year were the result of the attention within the CPC network for unclear prices in the travel industry. The requests themselves varied from information about an undertaking to a request for launching an investigation and to take enforcement actions. ACM handles these requests as quickly as possible, but also as carefully as possible. The requesting Member State closes the request if it accepts ACM's answer.

Disputes	Consumer protection	Energy	Competition	Telecom & Postal	Transport
Energy disputes *	-	18	-	-	-
Telecom disputes *	-	-	-	27	-

\*Includes completed in objection & appeal (higher appeal) proceedings



ACM handles disputes that parties file with regard to energy and telecom. In its handling of disputes, ACM believes it is important that the disputes be solved in a manner that satisfies all parties. ACM's objective is that the parties involved ultimately decide not to file any objection of appeal against ACM's decisions following the submitted disputes.

Investigations	Consumer protection	Energy	Competition	Telecom & Postal	Transport
Number of investigations launched	47	8	9	14	5
Number of investigations completed by way of a statement of objections	3	1	3	5	
Lead time (days)	169	n/a	367	337	n/a
Number of investigations completed by way of an order subject to periodic penalty payments without a statement of objections	9	-	-	4	-
Lead time (days)	144	-	-	261	-
Number of investigations completed by way of another instrument	25	8	3	7	-
Lead time (days)	168	366	244	101	-
Number of investigations suspended without any intervention	1	5	1	2	2
Lead time (days)	n/a	442	n/a	n/a	n/a

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ACM carries out investigations into compliance with statutory or other obligations. Lead times of investigations depend on the nature, type and scope of each investigation, and on the instrument that was used. As a result, lead times of investigations can thus vary significantly, and they cannot be compared properly on all aspects.

With regard to the use of its instruments, ACM has, besides the ability to draw up statements of objections, a broad range of instruments at its disposal to solve market problems. The different instruments each have their own dynamism. Lead times are heavily dependent on the instrument used. For example, in a statement of objections, which ACM is able to draw up as the completion of an investigation, ACM lays down the suspicion of a violation. Such statements of objections must meet quite many legal requirements. It must not only offer ACM a sound basis for the imposition of a fine, but it must also, after the sanction has been imposed, be legally tenable before the courts. Undertakings have the opportunity to file objections against sanctions. In situations where ACM chooses to use a different instrument, it must also operate with great care, and, for example, apply



the principle of audi alteram partem. Any other instrument should also be legally tenable. In addition, ACM, when issuing a warning for example, includes in the lead time the time that is needed to check whether the violation has ended. ACM closes the case only if after this check it has been established that the violation has actually been ended. This raises lead times.

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## 9.2 Concentrations

Concentrations		
	Notifications of mergers, acquisitions and joint ventures (concentrations)	75
	Concentration notifications that did not have to be notified	4
	Withdrawn notifications	7
	Exemption from the waiting period	9
	Decisions on notifications of concentrations	72
	License required for concentration	2
	License applications	3
	License applications withdrawn	
	Decisions on license applications	1
	Proceeds of notifications and licenses	EUR 1,182,500

In 2014, ACM completed 100% of all merger cases within the statutory term limits. The term limit is 28 days and 13 weeks. The 'clock' can be stopped when information is asked from the merging parties. The merger is cleared if the term limit for the merger assessment has been exceeded.

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### 9.3 Sanctions

Sanctions	Consumer protection	Energy	Competition	Telecom & Postal	Transport
Fine (in millions of euros)	0.60	1.59	2.17	3.19	-
Number of cases in which a fine was imposed	3	1	1	4	-
Lead time (days)	132	n/a	n/a	152	-
Number of times that undertakings were fined	3	-	3	4	-
Number of fines imposed on de facto executives	-	-	-	-	-

In 2014, ACM did not impose any fines on de facto executives. In many cases, parties filed objections or appeals against the sanction decisions listed above.

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## 9.4 Objections and appeals

Number of completed objections against decisions (including fining decisions)

Objections	Consumer protection	Energy	Competition	Telecom & Postal	Transport
Founded	1	2	2	-	1
Unfounded	2	36	7	3	2
Withdrawn	-	13	3	5	-
Inadmissible	1	6	4	-	-
Direct appeal	-	1	1	4	-
Partially allowed	2	2	3	-	-
Total number of resolved objections	6	60	20	12	3
Lead time (days)	248	183	370	88	150

ACM has completed a relatively substantial number of extended competition-law objection cases. This affects ACM's lead time performance. Market participants often file objections against regulatory decisions with regard to electricity and natural gas. ACM postpones (sometimes at the request of market participants) objections until after the CBb has ruled in a different case of ACM that influences the regulatory decisions. After the ruling, ACM then launches the substantive review of the objections or the objection is withdrawn. This 'waiting period' is included in the lead times.

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Appeals		Consumer protection	Energy	Competition	Telecom & Postal	Transport
Number of resolved appeals	Founded	2	7	3	6	-
	Unfounded	-	18	6	10	-
	Withdrawn	1	5	1	9	2
	Inadmissible	-	7	-	3	-
	Partially allowed	1	-	3	-	1
Number of resolved appeals to a higher court *	Founded	3	4	4	2	-
	Unfounded	2	-	2	3	-
	Withdrawn	1	-	2	5	-
	Inadmissible	-	-	2	-	-
	Partially allowed	1	-	-	-	-
Total number of resolved appeals (including higher appeals)		11	41	23	38	3
Number of resolved provisional injunctions		1	1	5	8	-



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

For the processing of appeals, ACM is dependent on the schedule of the courts.

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## 9.5 HR

HR key figures 2014				
Personnel expenditures				
				2014
Salary costs				38,427,320
Average salary				77,399

Employee utilization rate				
Date		FTE	Men (in %)	Women (in %)
1 January 2014		494.83	51,3	48,7
31 December 2014		498.14	49,5	50,5
Staffing structure of ACM		553.3		

Job market				
		Men	Women	Total
Inflow		15	25	40
Outflow		11	21	32

Age structure of staff on 31 December 2014				
Age category				Total
24 years and younger				10
25 through 34 years				121
35 through 44 years				209
45 through 54 years				125
55 through 59 years				33
60 years and older				25

Absenteeism				
		Verbaan rate		2014
Absentee rate		3.4		3.8

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

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## 9.6 Organization

	Number
Complaints against ACM employees (chapter 9 Awb)	9
Number of completed Wob-requests*	31
Number of completed Wob-requests on objection and appeal	12
Defaults	3
Number of allowed periodic penalty payments	

\* Wob = Dutch Act on Public Access to Government Information

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## 9.7 Indications received from consumers and businesses

Indications submitted by consumers and businesses are a valuable source of information for ACM's work.

In 2014, consumers and businesses became very familiar with finding ConsuWijzer and ACM. We have received 64,103 questions and complaints from consumers through ConsuWijzer. We have registered and processed 5,211 questions and indications from businesses. ACM enforces compliance with the rules on spam. In 2014, ACM received 17,619 questions about spam.

Consumers are satisfied with ConsuWijzer, and gave a mark of 7.5 (on a scale from 1 to 10) for customer satisfaction. In 2014, ACM carried out a study into the way its target audiences use the website [www.acm.nl](http://www.acm.nl).

### 9.7.1 Indications from consumers

In 2014, ConsuWijzer received 64,103 questions and complaints from consumers.

Indications	Total
Telephone	42,119
Email	21,505
Letter	479
Total	64,103

Several lists can be found below:

- the five most used sales channels that businesses used to offer their products and services to consumers
- the five sectors that consumers dealt with the most, based on the indications received
- the five most named topics, based on the indications received.

#### Sales channel

Internet	9,926
Shops (including markets)	8,023
Telephone	7,769
Mail order	1,561
Doorstep / Sales demonstration	1,007

The sales channels that generated the most indications were internet, shops (brick and mortar), and telephone. Compared with 2013, it turns out that the number of indications about the sales channel 'telephone' has dropped considerably. The main reason behind that drop was the decrease of

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approximately 40% in the number of indications about the Do-Not-Call-Me Register.

A lot of indications concerned electronically-signed agreements. This is in line with the steady growth in the number of online shops and in their turnover figures, which we also observed in 2013. A considerable share of these indications concern delivery times and purchasing issues, for example late deliveries or non-delivery of purchased products.

**Sector**

Telecom	4,965
Energy	4,538
Electronics and domestic appliances	3,358
Home decor retailing	2,587
Travel agencies / travel organizations	1,604

Compared with last year, we have observed a decrease in the number of indications about telecom companies. Indications about energy companies, on the other hand, increased though. That is because the Dutch Heat Act came into force in 2014, after which ConsuWijzer received a lot of questions from consumers about this subject. In addition, many questions with regard to energy and telecom were about unclear bills.

**Topic / nature of complaint**

Faulty product/service and warranty	12,496
Advertising, customer recruitment, and selling methods	7,747
Bills and payments	6,801
Questions about legislation, competition and privacy	5,201
Termination and cancellation of contracts	4,949

Compared with 2013, nothing has changed in the order of these topics. Number 1 is still the topic of faulty products/services and warranty. Consumers continue to experience warranty and conformity regulations as complicated. ACM continuously focuses on high-quality consumer education on ConsuWijzer about this topic. In early-2015, consumer information about this topic will be further adjusted. For example, a new informational video will be released about returning faulty products.

In 2014, more indications about selling methods with regard to kitchens were received. Consumers do not always realize that, if you sign an offer in a store, it actually means you accept the offer, and that there is no cooling-off period (or grace period). Signing an offer is not free of obligations. Examples of other selling methods include involuntarily transferring consumers to another provider, unsolicited shipments of products, sending spam, and calling consumers that are registered in the

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Do-Not-Call-Me Register.

The number three in the list is the category 'bills and payments'. Most of the indications within this category (40%) concern situations where consumers say that their bills are incorrect. The majority of these indications relates to online purchases.

### 9.7.2 Indications submitted by businesses

In the year after the launch of ACM, businesses are better at finding us for submitting indications. In 2014, 5,211 indications and questions were centrally registered and processed for the purpose of ACM's oversight duties. The top 3 categories are listed below.

#### Top 3 indications

Telecom and internet	1,356
Energy	1,329
Competition	1,143

The indications about telecom and internet predominantly concerned legislation, codes, and decisions. Half of the indications about energy were about heat. Fueled by the introduction of the Dutch Heat Act, ACM received many questions and complaints from consumers about this topic. Approximately 60% of the indications about competition concerned anticompetitive arrangements and abuse of dominant positions (almost equally).

### 9.7.3 Spam complaints board Spamklacht

ACM oversees compliance with spam regulations. On the website of spam complaints board [www.spamklacht.nl](http://www.spamklacht.nl), consumers are able to file complaints about spam. In 2014, ACM received 17,619 spam-related complaints.

Indications to spam complaints board	
Email	16,537
Text messages	685
Fax	16
Phone	149
Social media	29
Other	203
<b>Total</b>	<b>17,619</b>

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#### 9.7.4 Customer satisfaction of websites of ACM and ConsuWijzer

Consumers expressed their satisfaction in 2014 too with ConsuWijzer. The mark for customer satisfaction is a 7.5, and is slightly higher than in 2013 (7.3). The main contributor to that mark is the increased satisfaction with contact over the phone.

Customer satisfaction with the website ACM.nl was not measured again in 2014. However, a study was carried out into how ACM's target audiences use ACM's website. It turned out that users were impressed with the amount of content, but believed that searchability could be improved. The website was adjusted in 2015.

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## 9.8 Numbers and registrations

In 2014, ACM carried out various preventative actions for the purpose of enforcement such as education about and verifying indications about maximum tariffs, various actions against number abuse, education about number portability, education about and verification of registration and turnover-related contribution of market participants.

Number of assigned and withdrawn numbers	Assigned	Withdrawn
0800 numbers	633	1,233
0900 numbers	463	1,394
0906 numbers	73	1,969
0909 numbers	480	444
Business numbers	287,900	54,300
Other numbers*	8,099,125	2,680,126
<b>Total</b>	<b>8,388,674</b>	<b>2,739,466</b>

\* As a result of the introduction of M2M-numbers in 2011, among other things, the number of assigned "other numbers" has increased considerably compared with last year.

Number series	% available numbers
Short 0900-numbers	46.9%
Short 0800/0906/0909-numbers	79.7%
Long 0800/0900/0906/0909-numbers	99.8%
Mobile numbers	9.3%
Carrier selection (4 digits)	50.0%
Business numbers	68.9%
18xy – subscriber information service numbers	53.5%

\*\* The percentage of available numbers in the number series 0800/0900/0906/0909 long as reported in the 2013 annual report (98,1) is incorrect. This was the result of an incorrect calculation.

Registration of market parties	As of January 1, 2014	New registrations	Terminated registrations	As of December 31, 2014
Provider of a public electronic communication network	731	55	46	740
Provider of a public electronic communication service	608	119	66	661
Provider of related facilities	24	2	2	24
Provider of qualified certificates	7	0	0	7
<b>Category Postal</b>				

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Postal delivery providers	118*	10	11	117

<b>Number of registrations (including termination)</b>	290
Percentage of registrations within Awb term	100%

\*In last year's annual report (2013), the number of registered parties as postal delivery providers was 116. This has been corrected to 118.

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