

Autoriteit  
Consument & Markt



# 2022 ACM Annual Report

March 2023



# Contents

**About ACM**

**Foreword from the Board**

**Summary of ACM's activities in 2022**

**Our oversight in 2022**

The digital economy

The energy transition and sustainability transition

Housing market

What else did ACM do?

The impact of our work

ACM and the courts

**Facts and figures**

Organization

Our oversight efforts in facts and figures

2022 Annual statement of accounts of ACM

# About ACM

The Netherlands Authority for Consumers and Markets (ACM) is an independent regulator that wishes to ensure that markets function well for people and businesses, now and in the future. When markets function well, businesses compete fairly with one another, and people and businesses are not harmed by unfair practices. People and businesses know what rules apply, and how they are able to exercise their rights.

We ensure that markets work well by:

- Conducting investigations into markets and into possible problems that occur there;
- Enforcing the rules for free and regulated markets, and by promoting compliance with those rules;
- Providing information and guidance so that everyone knows the rules, and is able to exercise their rights;
- Regulating the energy, telecommunications, transport, and postal markets in order to safeguard affordability, quality, continuity, and accessibility in these markets.

In addition, we give advice to the Dutch legislature to improve rules and regulations if markets will work better as a result.

In 2022, the digital economy, the housing market, and the energy transition and sustainability transition were the focus areas in our oversight.

# Foreword from the Board



Making sure that markets work well for people and businesses, now and in the future. That is the mission of the Netherlands Authority for Consumers and Markets (ACM). In well-functioning markets, businesses are able to compete effectively on price, quality, and innovation, and consumers can be confident that they are not misled. In 2022, we again worked hard towards those goals. 2022 was a year in which we had to deal with several shocks on different markets. The developments on the energy market in particular have had an enormous impact. In this annual report, you can find out what we have done, how much it has cost, and what it has brought us.

### **New rules with robust and agile oversight**

Markets do not automatically work well for people and businesses. We have seen that people in vulnerable situations are often hit extra hard by, for example, too high prices or misleading practices. In the past few years, we also experienced how societal developments and sometimes sudden events can knock markets off-balance. Think of the COVID-19 pandemic, Russia's invasion of Ukraine, but also of the effects of climate change and an ageing population. We have seen the enormous impact

such events can have on people, businesses, and on the economy. Such situations call for an agile authority to step in in order to prevent undesired market outcomes. ACM was founded ten years ago with the idea to ensure that markets are able to work well, even in those volatile circumstances or, if necessary, after changes to the rules.

### **Looking back**

In early 2022, ACM set out three priorities: facilitating an open and fair digital economy, giving a boost to the energy transition and sustainability transition, and contributing to a well-functioning housing market. However, as a result of the rapidly rising energy costs, we devoted more attention to the energy market during the rest of the year. For example, ACM in 2022 tightened the requirements that energy suppliers must meet, and it compelled them to comply with the statutory minimum of 30 days of advance notice for price increases. ACM has given advice to lawmakers about the price cap. We also conducted additional checks to see whether energy suppliers were sufficiently prepared for the winter period. And we gave a boost to the energy transition by ensuring that grids could be utilized more efficiently.

In 2022, we also protected consumers by taking action against online misleading practices, and by giving information about online shopping. We also made sure that Apple stopped using several unfair conditions towards dating-app providers for access to its App Store. We took action against misleading sustainability claims in the clothing and energy sectors. And, for a well-functioning housing market, we informed rental websites that some of their information for consumers was missing or unclear, and we conducted a study into market power in the municipal-land market.

### **Keeping in mind all people**

ACM believes it is important that markets work well for all people, including those that find themselves in vulnerable positions. ACM has a harder time reaching those consumers in particular on whom certain problems have an outsized impact. That is why we opened an information line for counselors that help consumers with their problems. Counselors may contact us with questions about online purchases, energy bills, phone bills, warranties, and general terms and conditions. At the same time, we hope to gain a better understanding of consumer problems.

### **Looking ahead**

In 2023, we will continue devoting extra attention to the energy market. This mostly involves stepping up our oversight of energy companies. We will publish a monitor with which we seek to make the energy market more transparent, and to ensure that the market functions better.

In addition, we will continue our oversight of the digital economy and the sustainability transition. We take action against misleading practices and manipulation by large online firms so that everyone will be able to take advantage of the benefits that the digital economy offers. And for a more sustainable economy, we focus on preventing vague and misleading information about sustainable products, and on providing information about collaboration opportunities.

On April 1, 2023, it will have been 10 years since ACM was launched. Different times call for different rules. These times, for example, call for robust oversight by an agile regulator. We are currently dealing with major challenges on numerous markets. This requires new initiatives in order to ensure that markets work better for people and businesses, and to protect people better.

However, there is no one solution that will work forever and ever: we will continuously need to evolve and adapt.

*Martijn Snoep*

*Cateautje Hijmans van den Bergh*

*Manon Leijten*

# Summary of ACM's activities in 2022

## In 2022, ACM achieved the following:



We ran two awareness campaigns, enabling consumers to shop online more safely.



We took action against fraudulent practices by locksmiths, among other providers.



Rental-housing websites must inform clearly about the services they do and do not offer homeseekers.



We compelled energy suppliers to comply with the statutory minimum of 30 days of advance notice for informing consumers about any price changes.



System operators are able to connect more producers or buyers of electricity to the grid, thanks to the code decision regarding congestion management.



Postal operator PostNL was fined 2 million euros for failing to meet the statutory requirement for on-time delivery in 2019.



Telecom operators KPN and Glaspoort lowered the access tariffs for their fiber-optic networks after we had identified concerns with the higher tariffs that were charged before.



Apple adjusted its unfair conditions for the App Store after we had imposed an order subject to periodic penalty payments.



We gave the green light to a pilot project involving the distribution of hydrogen in the town of Lochem.



We tightened our oversight of energy suppliers. They must demonstrate that, when buying energy, they are sufficiently prepared for price fluctuations.



Drug manufacturer Pfizer discontinued its steering pricing structure that made the entry of new drugs to the market more difficult.



Sample letters were downloaded over 257,000 times through ACM ConsuWijzer.



We tackled the misleading sustainability claims of energy suppliers Vattenfall and Greenchoice, and of retail chains Decathlon and H&M.



# Our oversight in 2022

# The digital economy

The digital economy was one of the focus areas on ACM's Agenda in 2022. That means that ACM devoted extra attention to important topics such as online misleading practices, economic dependence, and a lack of open and fair access to digital platforms.

## **Apple changes its conditions following an order subject to periodic penalty payments imposed by ACM**

Providers of dating apps on iPhones are dependent on Apple's App Store. Apple used unfair conditions for access to its App Store. For example, it required dating-app providers to use Apple's payment method for paid services to consumers. That is why ACM imposed an order subject to periodic penalty payments on Apple. It subsequently changed several conditions. Dating-app providers are now able to use their own payment methods in their apps, or to refer customers to their own websites for payments.

Part of the order subject to periodic penalty payments has been suspended by the court until after the objection process. Depending on the outcome thereof, that part may be published once the process has been completed.

## **Guidelines 'Well-functioning markets for health care IT'**

Following a market study and a public consultation, ACM published its guidelines 'Well-functioning markets for health care IT'. ACM has found that only a limited number of health care IT suppliers are active, and health care providers often are highly dependent on them. Switching suppliers is difficult and expensive, for example, because health care

providers have already invested so much in the use of their systems, and these systems are linked to many other systems. Such a dependency may lead to vendor lock-in. That restricts the efficient exchange of data, and leads to higher prices, reduced quality of care, and less innovation.

In its guidelines 'well-functioning markets for health care IT', ACM warns suppliers of IT systems not to abuse their positions. For example, they cannot make it difficult to link systems of different suppliers, impose unfair conditions (contractual or otherwise), or charge non-transparent or excessive prices. ACM will take action if it establishes violations of the competition rules. ACM also points out to health care providers the opportunities for collaborations within the competition rules for combining their knowledge, experience, and buyer positions. Health care providers will then be able to negotiate better conditions, and to link different systems.

## **Market study into cloud services**

Providers of cloud services play a key role in the digitalization of businesses' operations. They offer businesses and organizations high-quality IT services such as computational power and storage, which means users do not need to invest in such services themselves. An ACM market study revealed that it is difficult to switch suppliers or to combine cloud services of different providers.

That is why ACM proposed to combat this problem using the new European rules (the Data Act). The proposed changes should make it easier to combine cloud services.

### **ACM protects the online consumer**

Sellers must be transparent about the way prices are formed. They must inform consumers in a fair manner, and must refrain from manipulating them. In 2022, ACM took actions against online misleading practices in various cases.

### **Preventing fake likes, fake reviews, and fake followers**

Influencers use fake likes and fake followers on a large scale, which they are able to purchase relatively easily. ACM pointed out to tens of thousands of buyers of fake likes and fake followers that they mislead consumers with such practices, and that such actions can be penalized. ACM confronted six influencers that bought fake likes on a large scale with their practices. These six influencers have since stopped with these practices.

### **Taking action against fake discounts**

International cooperation is effective in stopping unfair commercial practices. Following actions of ACM and other European consumer authorities, online platform Wish has blocked the use of personalized pricing for clothing, home decor, and electronics. Wish has also banned its merchants from using fake discounts on its platform.

### **Offering fair terms and conditions**

Having been confronted by ACM, online platform AliExpress has clarified its general terms and conditions. The rights and obligations of the online

platform and consumers are now more in balance. Consumers are entitled to rescission and their money back, and are able to exercise these rights by going to a Dutch court.

### **Easier to cancel subscriptions**

Users of Amazon Prime must be able to cancel their subscriptions with two clicks. This has been agreed by the European Commission, the consumer authorities of the EU member states (including ACM), and Amazon.

### **Misleading practices in gaming**

ACM also finalized an enforcement investigation into possible unfair commercial practices in the gaming industry. This case will roll over into 2023.

### **The Digital Regulation Cooperation Platform (SDT)**

ACM, the Dutch Data Protection Authority (AP), the Dutch Authority for the Financial Markets (AFM), and the Dutch Media Authority (CvdM) work together more closely in order to strengthen oversight of digital and online activities.

In 2022, we started designing and coordinating the future enforcement of the new European rules for the digital sector such as the Digital Services Act, the Digital Markets Act, the Data Governance Act, and the Artificial Intelligence Act. In addition, ACM uses the SDT for ensuring effective protection of people online. In that context, the way in which businesses design and present important information is crucial.

### **Access to fiber-optic**

A well-functioning digital infrastructure is a precondition for a well-functioning digital economy. Having fast and affordable broadband access is of the utmost importance. That is why ACM regulates the market for telecom and broadband connections. After ACM had identified problems in connection with the tariffs that telecom companies KPN and Glaspoort used for granting competitors access to their networks, they proposed lower tariffs for their fiber-optic networks. ACM declared these commitments binding. The tariffs were lowered sufficiently so that they stimulate competition, and leave sufficient room for investments in the network. ACM will thus enforce compliance with these commitments, and ensure that KPN and Glaspoort do not charge higher tariffs until 2030. Over the next few years, consumers will thus be able to benefit from lower prices and higher quality.

### **Safe devices with network capabilities**

People buy more and more devices that are able to connect with a home network or to the internet. If the security of a single device is not up to scratch, it could render the entire home network unsafe. That is why ACM, together with Radiocommunications Agency Netherlands (nowadays called the Dutch Authority for Digital Infrastructure, or RDI), will assess the security aspects of such devices that are sold in the Netherlands. For example, retailers must inform their customers clearly about updates for these devices' software, and about their compatibility with other devices, and software interoperability. In that way, ACM and RDI safeguard the safety of devices with network capabilities.

### **Free modem choice**

In early 2022, European regulations went into effect that mandate broadband providers to allow their customers to connect their own modems and/or routers. This free choice of modems ensures that competition on the market for such devices is stimulated, and that the barriers to switch providers are reduced. Most broadband providers complied with these rules on time, except for VodafoneZiggo. That is why ACM imposed an order subject to periodic penalty payments on VodafoneZiggo, forcing it to comply with the rules by July 1, 2022 at the latest. Otherwise it would incur a penalty of 12,500 euros per day. In June, VodafoneZiggo complied with the rules anyway.

### **Rules for platform companies**

Businesses that sell products and services online are often increasingly dependent on online platforms and search engines. Different rules apply to those situations, making it clear to businesses what is expected from them. Platform providers interpret these rules differently. ACM may be charged with enforcement of compliance with these rules (the Platform-to-Business Regulation). That is why, in provisional guidelines, ACM explained what rules platform providers must comply with.

### **ACM was Chair of BEREC**

ACM works together with telecom regulators from other EU countries in the Body of European Regulators for Electronic Communications (BEREC). Thanks to BEREC, a harmonized application of the European telecom rules is ensured across the EU. Each year, BEREC appoints a different chair. In 2022, BEREC was chaired by Annemarie Sipkes, the Director of the Telecommunications, Transport and Postal Services Department. Ms. Sipkes was supported by a team of ACM officials.

# New in 2022: the interactive Telecom Monitor

**How many fiber-optic connections has the Netherlands? And how many cable or copper connections? Is the number of voice minutes still going down, and is data consumption still going up? What shifts in market shares do we see? Answers to these questions and more can be found in the ACM Telecom Monitor, which is released four times a year. And the Telecom Monitor has a new feature this year: for the time ever, it is an interactive monitor. Take a look behind the scenes.**

## **Fast broadband connections and mobile-data consumption**

ACM enforcement officers Parham Farahani and Melin Crebas keep an eye on the trends and developments in the markets for mobile services, fixed telephony, broadband access, television services, and bundles. Parham explains: “We do so in order to get a better overview of the trends and developments in the telecom markets, for example in order to see whether the percentage of high-speed broadband connections is still going up, and to see how mobile-data consumption is evolving.” Melin adds: “On top of that, it’s an important source of information for conducting ACM market analyses.”

In December 2022, ACM published an interactive version of the monitor for the very first time. The data in the monitor is now much more accessible for interested parties such as the telecom companies themselves or, for example, sellers of telecom products, analysts, or reporters.

## **Transparency**

“Each quarter, we send out questionnaires to telecom companies, both large and small,” explains Melin. “Businesses are statutorily required to give us the information we seek. Since 2020, we also ask more and more fiber-optic providers to submit their data, between 15 and 20 providers. They have a month to submit their data. We then check the data, possibly ask follow-up questions, and then use the data to draw up a report, which is then published.” Parham adds: “We also publish the full report in order to be transparent to the outside world.”

“

*In order to get a better overview of the trends and developments in the telecom markets.”*

– Parham Farahani

# The energy transition and sustainability transition

ACM finds it important to help accelerate the energy transition with its oversight, but also to prevent vulnerable consumers in particular from running into problems because of major shocks on the energy market. In addition, ACM helps realize more-sustainable products and services, for example by taking action against misleading sustainability claims.

## **Upgrades to the grids**

In the transition from fossil fuels to renewable energy, electricity plays an increasingly important role in the energy supply. The number of solar and wind farms, electric vehicles, and heat pumps is growing exponentially. As a result, system operators need to make large-scale investments in expansions and upgrades to the grid.

ACM sets the tariffs that system operators are allowed to charge users. In addition, ACM ensures that system operators have sufficient room for necessary investments in the energy transition. ACM does so using a method that has been set for a five-year period. In that context, ACM takes into account that system operators incur additional costs because of the high energy prices.

In December 2022, the National Grid Congestion Action Program (in Dutch: Landelijk Actieprogramma Netcongestie, or LAN) was launched because of the increasing shortage of transmission capacity. ACM delivered input for the program. It is meant to expand the grid faster, utilize it more efficiently, and to stimulate public-private initiatives for smart solutions. Several activities were already started in 2022.

## **More efficient utilization of grids**

System operators need time to expand and upgrade their grids. Existing grids need to be used as efficiently as possible. That will create more room on the grid, and more wind and solar parks can be connected. That is why, after an intensive consultation round, ACM set the code decision on congestion management. ACM had launched a consultation in order to assess whether the existing grid could be utilized more efficiently, for example by introducing flexible contracts or by applying the ‘use it or lose it’ principle. This would result in reduced pressure on the grid during peak hours, and system operators would be able to connect more producers or buyers of electricity.

## **Opportunities for experiments with hydrogen**

Hydrogen is expected to play a major role in the future supply of sustainable energy. That is why it is important that consumers and businesses are able to gain experience with the use of hydrogen. In that context, consumers should not experience any difference between heating their homes using hydrogen or natural gas. ACM is open to pilot projects involving hydrogen, and has given the green light to a pilot project in the Dutch town of Lochem.

Part of the existing gas network will be used to supply hydrogen gas to approximately 10 homes. When building a national hydrogen network, the existing infrastructure for natural gas will be used where possible. In that context, approximately 1,000 kilometers of pipelines will be transferred to the operator of the hydrogen network. ACM has given advice on the transfer price of these pipelines.

### **Additional requirements for energy suppliers**

As a result of the loss of Russian natural gas in 2022, energy prices have skyrocketed in a short amount of time. ACM sees that the current statutory frameworks offer insufficient protection against such price increases. That is why, in a technical briefing in the Dutch House of Representatives, ACM argued in favor of stricter oversight of the energy market.

Until the Dutch legislature has passed all of the necessary statutory amendments, ACM will do everything within its power to protect consumers and businesses within the existing statutory frameworks. For example, ACM in October 2022, in advance of new legislation, already tightened its oversight of energy suppliers. Energy suppliers must also show that they are prepared for price fluctuations on the energy market and have sufficiently hedged their energy. In the fall of 2022, all suppliers submitted information so that ACM could check whether they were well prepared for the winter period. In general, that was the case.

### **Protecting consumers**

The high energy prices has caused energy poverty and uncertainty among many consumers. That is why ACM argued in favor of a price cap

for natural gas and electricity. In addition, ACM made sure that energy suppliers did not abuse these high prices. Energy suppliers were reminded of the mandatory 30-day notice period for price changes. That ensures that customers are informed in a timely manner about higher monthly energy bills, and will thus be able to act accordingly. ACM subsequently called on the Dutch legislature to change the rules so that consumers are able to switch before a price change. ACM also argued that consumers be well informed about the consequences of the reduced VAT rate on energy. Two energy suppliers were fined for attracting new customers using misleading practices.

### **Heat prices**

At the insistence of ACM, a price cap for heat users was also imposed. It means that the majority of households pays less than ACM's maximum price. When setting the maximum rates for 2023, ACM expressly asked the legislature again to break the mandatory link with the natural-gas price. ACM will then be able to set the maximum heat tariffs on the basis of the actual costs that heat suppliers incur.

### **Heat monitor and financial returns**

As Dutch households and businesses move away from natural gas as part of the energy transition, more and more households are connected to heat networks over the next few years. Consumers must be able to rely on reasonable prices. ACM keeps an eye on the financial returns of heat suppliers. They cannot abuse the maximum prices to earn higher returns. An analysis of all licensed heat suppliers in 2022 revealed that their prices were, on average, 18 percent below the maximum price.

In 2022, ACM also made preparations in connection with the introduction of the return assessment in order to be able to take action if a supplier's return is unreasonable. The policy rule for this return assessment was published for public consultation.

### **Secure supply of heat**

ACM ensures a secure supply of heat. Following a request for enforcement filed by residents of Duindorp, a district in the Dutch city of The Hague, ACM took action in order to ensure that the heat supplier in question made sure that the heat network worked properly. In December 2022, ACM prevented residents of Nieuw-Vennep, a town in the western part of the Netherlands, from being left out in the cold by mandating the supplier to take out a contract with the heat supplier.

### **Oversight of wholesale markets**

Russia's invasion of Ukraine has turned the energy wholesale markets upside down. ACM is therefore extra alert to businesses that take advantage of the situation on the wholesale markets. To prevent insider trading, ACM checks whether market participants comply with the requirements to publish inside information.

In addition, ACM, together with the EU Agency for the Cooperation of Energy Regulators (ACER) and our German and Austrian counterparts, created an international research group for tightening European oversight of the natural-gas market. In June 2022, ACM imposed a fine of 150,000 euros on an energy producer that had failed to comply with the obligation to publish inside information. In addition, ACM gave the Ministry of Economic Affairs and Climate Policy (EZK) advice about the filling rates of gas storage facilities, the Gas Protection and Recovery Plan (in Dutch:

*Bescherm- en Herstelplan Gas*), and the exemption for an additional LNG terminal in the port of Eemshaven. ACM also oversaw the duties of GTS, the Dutch TSO for natural gas, in emergency situations, including the duty to maintain peak supply capacity.

### **Opportunities for sustainability agreements**

Agreements between businesses often help realize public sustainability goals effectively. ACM wishes to point out to businesses the opportunities for striking such agreements. That is why we invited businesses that wish to make sustainability agreements to a joint discussion.

In 2022, various sustainability plans were evaluated positively, for example two initiatives that help make the energy sector more sustainable. The first initiative concerned the joint purchase of electricity from a wind farm by business energy users. The second initiative concerned an agreement between system operators to use the same price for CO<sub>2</sub> in the calculation models for investments in the grids.

In addition, ACM was favorable to an agreement between four soft-drink suppliers that wished to discontinue the use of plastic handles on all soft-drink and water multipacks. By removing the handles on these multipacks, they become more recyclable, and less plastic is needed.

Also, ACM reacted positively to an agreement between the members of trade association Dutch Garden Retail Sector (in Dutch: Tuinbranche Nederland, TBNL). Garden centers wish to inform each other if they find illegal pesticides on plants from a specific grower. That grower will then get a warning to stop using it, and prevent a repeat violation.



If the grower ignores that warning, they can be barred from supplying to affiliated garden centers.

Agreements between competitors for excluding certain suppliers are usually in violation of the competition rules. However, ACM is positive because it concerns competition using products have been produced illegally. Moreover, the agreement also provides for a careful process.

In all of these cases, ACM applied its 2021 draft Guidelines on Sustainability Agreements. In 2022, ACM also published specific guidelines regarding collaborations between farmers.

### **Taking action against misleading sustainability claims**

In order to be able to make sustainable choices, consumers must be able to be confident that the claims that businesses put on their products or websites are true. And businesses that wish to make legitimate investments in sustainability must be protected against businesses that compete using vague, unjustified or poorly substantiated sustainability claims. In 2021, ACM explained the rules in its guidelines on sustainability claims, and urged businesses to take a critical look at their claims.

In 2022, ACM conducted investigations into misleading sustainability claims in the energy sector and the clothing sector. Following these investigations, energy suppliers Vattenfall and Greenchoice, sporting goods retail chain Decathlon and clothing retail chain H&M made commitments promising to adjust or no longer use the sustainability claims on their websites and products, thereby reducing the risk of using misleading sustainability claims.

In addition, they each promised to donate between 400,000 and 950,000 euros to different sustainable causes to compensate for their use of unclear and insufficiently substantiated sustainability claims. ACM will enforce compliance with these commitments over the next two years.

### **Recommendations for transitioning to a more sustainable agricultural sector**

In its Agro-Nutri Monitor 2022, ACM gives the Dutch legislature several recommendations for stimulating consumer demand for more-sustainable products, for example, introducing a clear and trustworthy certification label for sustainable products, one that can be used both in supermarkets as well as in hospitality. If the added value of the more sustainable product is clearer, consumers will be willing to pay more. In addition, ACM recommends, through taxes and subsidies, making sustainable products more affordable, while making conventional products more expensive.

# Housing market

The Dutch housing market is extremely tight at the moment. Many people have a hard time finding affordable housing. That is why ACM focused on protecting consumers against unfair practices by providers on the housing market (rentals and sales). In addition, ACM assessed whether distortions of competition exacerbated the housing shortage.

## **Ruling in agency-fee case**

In April 2022, the Dutch Trade and Industry Appeals Tribunal (CBb) reversed the order subject to periodic penalty payments that ACM had imposed on rental agency Duinzigt. It forced lessee candidates to pay registration fees and administrative fees, thereby violating the rules. ACM believed that Duinzigt had carried out an unfair commercial practice, and had thus imposed the order subject to periodic penalty payments.

However, the CBb ruled that, although fees were illegally charged, ACM was not authorized to enforce that prohibition. It is up to the lessees themselves to take Duinzigt to court. As a result of this ruling, ACM has few options to take action against unlawfully charged fees if the agency has been transparent about such fees. If the legislature wants ACM or another regulator be able to take enforcement action against such practices, then it needs to enshrine this in law.

## **Rental websites**

Rental websites are websites that collect listings posted by third parties and present them in one convenient location. In some cases, people need to take out a paid subscription to such websites in order to gain

access to their listings and be able to reply. These websites present listings, but do not establish direct communication with the realtors or lessors. In 2022, ACM reminded such websites of the rules regarding giving clear information to consumers. These websites must inform consumers clearly about what they do and do not offer. Also, it is essential that relevant information about the listings such as their availability status or the duration of the lease is correct and is kept up-to-date.

## **Municipal-land market**

You cannot build anything without having the land to build it on. In 2022, ACM had a study carried out into the role that the municipal-land market plays in the shortage of new homes. In a number of mid-sized municipalities, developers and builders have significant market shares because of landownership. As a result, they have a huge say in residential development plans. This is less of an issue in larger municipalities. These are some of the conclusions of the study “Concentrations in the residential development market” (in Dutch: “*Concentraties in de nieuwbouwmarkt*”), which ACM had carried out in 2022.

# What else did ACM do?

## Consumers

### Emergency services

Previous ACM studies revealed that consumers that are in an emergency situation often end up doing business with individuals or companies that deliver bad quality, charge far too much, and sometimes act aggressively. That is why ACM launched a broad campaign against fraudulent practices of locksmiths, among other professions. ACM worked together with Dutch police and regulators in other countries, as well as with search engines such as Google, fraud and security teams of major banks, and with the trade association of locksmiths. As part of this campaign, ACM fined a locksmith company for using aggressive and misleading commercial practices. ACM imposed a fine of 200,000 euros on the company, and a fine of 50,000 euros on its executive.

ACM also took action against misleading websites for locksmiths and other emergency services. An online marketing company had to pay a penalty of 89,000 euros. It had failed to remove misleading information from its website in a timely manner, following a warning issued by ACM.

### Directory assistance services

ACM wishes to prevent people that are looking online for the phone number of government organizations or businesses from unintentionally ending up with an expensive directory-assistance service. In 2022, ACM withdrew two premium-rate numbers because of misleading practices, as these numbers connected callers to the Tax Information Line, which is a toll-free number of the Dutch Tax Administration, yet they charged

a fee for doing so. In addition, ACM asked the Ministry of Economic Affairs and Climate Policy (EZK) to tighten the rules in order to protect consumers better against these types of misleading directory assistance services. The ministry has done so, and the new rules went into effect in late 2022.

## Health Care

### Prescription-drug prices

ACM conducted an investigation into drug manufacturer Pfizer. It will no longer persuade hospitals in the Netherlands into purchasing anti-rheumatic drug Enbrel through its discount schemes. These discount schemes were a significant financial barrier discouraging hospitals from switching to other competitor drugs. Pfizer has said it would stop these practices following discussions with ACM.

### Collaborations in health care

ACM joined the health care sector in discussions about collaborations between market participants without such collaborations leading to higher prices, reduced quality, or less innovation. In that context, it is also important to prevent dominant positions. ACM issued recommendations regarding the non-renewal of the reduced turnover thresholds for merger notifications in health care. ACM also took part in a roundtable discussion in the Dutch House of Representatives on selective contracting. After various reports, ACM launched investigations into attempts by trade associations to influence individual health-care contracts between health insurers and health care providers.

Together with the Dutch Healthcare Authority (NZa), ACM issued two recommendations for the Dutch Ministry of Health, Welfare and Sport (VWS). These recommendations concerned measures that the ministry was considering for ensuring that health insurers focus less on healthy individuals for their health insurances.

In addition, ACM gave an overview of what is and what is not allowed in collaborations among employers on the health care labor market. Employers are allowed to collaborate as a way of dealing with the shortages on the health care labor market, but their collaborations cannot harm the positions of health care workers.

## **Other sectors**

### **Postal sector**

ACM imposed a fine of 2 million euros on Dutch postal operator PostNL for failing to meet the quality requirement for on-time mail delivery in 2019. In that year, PostNL delivered 94.34 percent of dropbox mail that is subject to the five-day delivery requirement on time, which is below the statutory requirement of at least 95 percent.

In a letter to the Dutch Ministry of Economic Affairs and Climate Policy (EZK), ACM in late 2022 recommended changing several elements of the bill containing amendments to the Dutch Postal Act, so that consumers, business customers and postal operators are better protected against unreasonable tariffs and conditions.

### **Aviation**

ACM had received complaints from airlines and trade associations regarding increased charges. They objected particularly to the way Schiphol wanted to settle the losses incurred as a result of the COVID-19 pandemic. ACM concluded that the charge increases were not unreasonable, and that Schiphol set the charges in accordance with the law.

### **Agriculture**

The Dutch Act regarding unfair commercial practices in the agricultural and food supply chains went into effect on 1 November 2021. The positions of farmers, growers, and fishermen vis-à-vis major buyers have been strengthened as a result of the law. In 2022, ACM ran two awareness campaigns among the target audience. Since late 2022, ACM has been conducting four investigations into possible violations of this act.

### **Media**

At the request of the Minister of Education, Culture and Science (OCW) and the Minister of Economic Affairs and Climate Policy (EZK), ACM issued two recommendations regarding media-related cases. The first concerned new services that Netherlands Public Broadcasting (NPO) wished to launch such as a podcast channel and a catch-up TV service. If NPO introduces a new or altered media channel, ACM must assess the effects thereof on competition. ACM came to the conclusion that these new services would not result in unfair competition.

The second case concerned the spectrum auctions that the ministry wanted to hold for the commercial FM radio frequencies. ACM recommended allocating a maximum of three frequencies to any one competitor. In that way, sufficient room for competition will remain, as a result of which radio advertising rates will stay competitive, and listeners will be able to choose between different radio shows on different stations.

### **Educational efforts and campaigns**

Education is a cornerstone of ACM's regulatory efforts. For example, consumers are able to download 111 different sample letters from ACM's consumer information portal ACM ConsuWijzer. In 2022, over 257,000 such letters were downloaded, which is 64 percent higher than in 2021. One of the reasons behind that enormous increase is the sample letter to energy suppliers asking them to comply with the statutory minimum of 30 days of advance notice for price changes. In 2022, ACM introduced a digital guide for making it easier to write sample letters.

ACM also launched two campaigns aimed at online consumers. One of them targeted seniors. The idea was to make them aware of the fact that companies pay for appearing at the top of search results. ACM warns that the top result is not always the best. In the other campaign, ACM, together with other organizations, called on consumers to check reviews of online stores before making a purchase.

In a third campaign called 'Who sets retail prices in stores?', ACM reminds everyone of the rule that retailers must be free to set their own retail prices. Suppliers can only suggest recommended retail prices. In that context, ACM developed a 'recommended retail price check'

to assess their situation online, and see if rules are violated. ACM also warned various suppliers that they possibly exert undue influence over the retailers' prices, for example, businesses that sell pet foods, toys, and special shoes.

### **Assessment of mergers and concentrations**

In order to prevent the creation of dominant positions, ACM assesses mergers, acquisitions, and joint ventures in advance. In 2022, ACM received a total of 144 concentration notifications from all sectors.

Some notifications require extensive investigations in order to determine whether a business does not obtain too powerful a position, and whether or not a license can be granted. Such a license was needed for the planned acquisition of IJsselland Hospital by Erasmus University Medical Center (Erasmus MC). After ACM had informed both hospitals about the provisional results of its investigation, the hospitals subsequently withdrew their application for an acquisition license. Several other investigations will be continued in 2023, for example those involving media companies RTL/Talpa, holiday-park providers Roompot/Landal, and waste-management companies AVR/AEB.

It is important that businesses notify ACM of their concentrations that meet the turnover thresholds on time. These can then be assessed before they are completed. If businesses fail to do so, ACM may impose a fine. In 2022, ACM imposed two fines on businesses that had failed to notify ACM of their concentrations on time.

# “How is this even possible?!”

**Providing information to people and businesses is a major element of ACM’s regulatory activities. Each day, ACM representatives answer a range of different questions from business owners and consumers. It should not come as a surprise that many questions in 2022 were about energy.**

“Helping people gives us a sense of satisfaction,” says Dorien van Heck, legal advisor for consumers. “In 2022, we received questions like: can a fixed-rate contract be changed into a variable-rate contract just like that? Can I be forced to switch suppliers? Each report can be a reason for us to investigate further. Even if we are not able to solve the actual problem right away, we can help people find the right information or organization that can mediate.”

## **Putting an end to a shady directory-assistance service provider**

Dorien adds: “Questions reach us through various channels: by phone, email, social media, or through the police or the Dutch Consumers Association. The complicated questions end up on our desks. These questions are usually about financial matters. People sometimes call us, completely outraged: ‘How’s this even possible?!’ If a lot of reports come in about certain topics, our colleagues in the enforcement departments are more likely to deal with them.”

However, an investigation can already be triggered by even a single report about a contract or notice period. Dorien explains: “We get many reports from people in vulnerable situations. It feels good when, for example, we put an end to a shady directory-assistance service provider or emergency service provider, thus preventing people from getting misled.”

“*Any one report can be a reason for us to launch an in-depth investigation.*”

– Dorien van Heck

# The impact of our work

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

Each year, ACM estimates how much money Dutch consumers have saved as a result of our interventions. In that calculation, we look at the expected short-term effects of our actions on consumer welfare.

ACM uses conservative assumptions in such estimates. This means that some effects that are difficult to quantify are not included. As a result, the actual savings can be either higher or lower than reported. Furthermore, we do not quantify the long-term effects, but, in some cases, we do mention it, for example, the effects of sustainability investments that affect our oversight of the energy sector of the quality in the telecom market.

In the below table, we present the savings for Dutch consumers per domain. In that breakdown, we distinguish between the activities that were completed in 2022, and activities the savings of which still lasted in 2022.

A more extensive explanation of the savings for Dutch consumers in 2022 has been published on the webpage with ACM's Annual Report.

At the international level, more and more attention is given to the calculation of consumer savings. Since 2021, the European competition authority (the Directorate-General for Competition, or DG Competition) has also estimated the savings generated by its competition oversight, using a method that is in line with ACM's calculation method. Moreover, DG Competition in 2023 will organize a workshop with the aim of drawing more attention to the calculation of consumer savings, and to strengthen the collaboration between national authorities in this area.

	Savings for consumers (in millions of euros)	Activities completed in 2022	Activities from pre- vious years	Total savings
Consumer protection		20	5	25
Competition		25	175	200
Energy		10	30	40
Telecom, Transport and Postal Services		25	0	25

## ACM and the courts

In 2022, the number of legal proceedings in which ACM was involved increased substantially. In 48 rulings, ACM was a party to the proceedings. This is an increase of 33 percent compared with 2021 where ACM was a party to the proceedings in 36 cases. In more than three quarters of cases in 2022, the courts ruled (fully or predominantly) in ACM's favor. An overview of all court rulings can be found on [ACM's website](#) (in Dutch). Several developments took place in the areas of proportionality and legal standing. In addition, ACM devoted special attention to various energy-related and heat-related cases.

### Proportionality

Like in 2021, special attention was given in 2022 to the issue of proportionality. Over the course of 2022, the Administrative Jurisdiction Division of the Council of State handed down multiple rulings, offering more guidance regarding this topic. These rulings predominantly concern the choice of instrument, which is the question of whether the chosen instrument is proportional compared with the objective that it is supposed to achieve.

This critical look on the choice of instrument could also be seen in ACM-related cases in 2022. For example, a provisional-relief judge did not agree with the full publication of a market study into health care IT. Pending the ruling in the proceedings on the merits, the provisional-relief judge ruled that publication of that study's summary was sufficient for now. In a case regarding premium-rate numbers, ACM wished to suspend temporarily the ability of several numbers to be reached because they were not used properly. The court ruled that temporary suspension was not a proportional instrument in this case, because part of the

conversations was handled in accordance with the rules. These rulings demonstrate that it is important that ACM always ask itself the question what instrument is the most appropriate for ending a specific violation.

### Legal standing

In 2022, the concept of legal standing evolved further, too. According to settled case law, a person must meet several criteria in order to have legal standing. One of those criteria is that this person must, to a sufficient degree, have a personal interest. This means that, with that personal interest, this person must be sufficiently able to separate themselves from other individuals involved.

In 2022, too, the District Court of Rotterdam and the Dutch Trade and Industry Appeals Tribunal (CBb) took a critical look at the concept of legal standing in ACM-related cases. For example, the District Court of Rotterdam pointed out to ACM that even a small financial interest can already constitute a personal interest.



For example, ACM had to handle a complaint filed by a resident who objected against a fee of 1.50 euros for receiving a paper bill instead a digital bill from a drinking water company.

In another case, the court upheld ACM's decision that merely having an energy contract is not enough for crossing the personal-interest threshold. This case involved an appeal filed by a consumer against a merger decision in which their energy supplier was involved.

We will have to wait and see how this interpretation of legal standing will further evolve in future cases, and, by extension, how the concept itself will further evolve. In any case, the rulings show that even a concept like legal standing is not set in stone. It provides consumers and businesses access to the courts. In case of doubts about the legal standing, ACM will therefore rule in favor of the consumer involved.

### **Energy-related and heat-related cases**

In 2022, the tensions on the energy market led to turbulent and hectic scenes, both in the Netherlands and abroad.

In appeal proceedings, too, ACM handled more energy-related cases last year. For example, proceedings were launched following the revocation or tightening of licenses of several energy suppliers. In addition, appeals were filed against the method decisions for electricity and natural gas, which concern the costs for the transmission of electricity and natural gas between 2022 and 2026.

In 2022, ACM also took enforcement action several times under the Dutch Heat Act. For example, ACM in several cases wished to improve

the position of consumers when measuring their individual consumptions. One of these cases concerned the interpretation of the cost allocation method. According to that method, individual consumptions need to be determined as accurately as possible. The court ruled that consumers are entitled to accurate measurements of their individual consumptions, even if such entail extra efforts on the heat supplier's part. With this ruling, consumers will get a better overview of their energy consumptions.

Another heat-related case involved a matter of principle, revolving around the question of exactly what constitutes supply of heat. That question is important because a supplier will then have to comply with the Dutch Heat Act, and heat consumers will then be able to invoke the rights laid down in that act. The court upheld ACM's opinion. In the case in question, it meant that the heat consumers would be protected better.

Other proceedings were about the supply tariffs for heat that ACM had set for 2020. The court agreed with the majority of the tariffs. However, the court did instruct ACM to adjust one element of the supply tariff and the rental tariff for heat substations using a repair decision. This will ensure that the tariffs are better aligned with the actual costs of health suppliers.

These proceedings reflect ACM's contribution towards ensuring that markets function well, and protecting the interests of citizens (vulnerable or otherwise). ACM will continue to commit itself to such goals, and will plead its case the court, if necessary.

# ‘Smoking gun’

**ACM can make unannounced visits to businesses as part of investigations. It can do so to see if businesses comply with the rules, for example when it suspects cartel activities or some other violation of the Dutch Competition Act. Yet, how do such dawn raids work?**

“Investigations into businesses often start with a report filed with one of our desks,” explains Gregory Simon, one of ACM’s forensic IT experts. His duties include preparing and executing such dawn raids. He finds out what is technically possible so that the case team will have the necessary information for the investigation quickly, and is able to conduct a dawn raid. Sometimes at five locations at the same time.

## Preparing scenarios

Gregory continues: “So for example, we find out how the computer system at the business in question has been designed. A solid preliminary investigation will help the case team understand where potentially interesting information is located in a building. We use a wide range of sources: internal computer systems, cloud technology, mailboxes, smartphones, laptops, desktops, USB memory sticks, applications, backup and archival systems.”

## The police is standing by

“Businesses are required to grant ACM access, but sometimes we are hindered by data encryption and access policies. We cannot get in, or a cabinet remains shut. That is why the police is also standing by in order to secure access for us, if necessary. Some people delete files or chats on purpose, despite our specific instructions not to. Luckily, we have means to restore those deleted files. One time, we had a case where purchase prices were discussed in a group chat discussion. With that piece of evidence, the violation was crystal clear. So with such a smoking gun, we are able to start moving.”

## Digital safeguards

“When conducting dawn raids, we work very precisely and focused, and we work in accordance with an agreed upon protocol. We collect all the necessary digital data, create digital safeguards, and process the data into an investigation data set. The case team will subsequently work on the data set. The report that we draw up will be transferred to our legal department.”

““

*Some people delete files or chats on purpose, despite our specific instructions not to.”*

– Gregory Simon

# Facts and figures

# Organization

## Diversity and inclusion

ACM works hard on creating a workplace environment where everyone feels safe and welcome, and where everyone can be themselves.

In 2022, the Board of ACM fully supports the initiatives of the Diversity & Inclusion working group, as well as employee networks such as our LGBTI employee network and our network for young employees. Each year, we celebrate Diversity Day, and other important dates such as International Women's Day and IDAHOT. The D&I working group is in close contact with the Board, the works council, the confidential advisors, HR, and all of the employee networks. Like in previous years, ACM in 2022 again participated in the Cross Mentoring program, a program for female talent, where mentees and mentors connect with each other. This program was complemented by the new Cross Cultural Mentoring program for talents from ethnic minority backgrounds. ACM is a signatory of two national charters: *Charter Diversiteit* and *Charter Talent naar de Top*.

## Confidential advisors

ACM has two independent confidential advisors for integrity issues and undesirable behavior. ACM employees can talk to the independent confidential advisors, if they experience a hostile work environment or not feel safe in the workplace in any other way. Next to counseling and support, the confidential advisors also give information and advice. ACM employees always remain anonymous. ACM employees can also contact the confidential advisors at the Ministry of Economic Affairs and Climate Policy (EZK), the Ministry of Agriculture, Nature and Food Quality (LNV), and the Ministry of the Interior and Kingdom Relations (BZK).

## Workplace safety: addressing inappropriate behavior

In close consultation with the Board, the D&I working group, and the confidential advisors, ACM in 2022 paid extra attention to inappropriate workplace behavior. This was prompted by media reports about abuse on the Dutch tv show *The Voice of Holland*. Within the organization, the Board immediately spoke out against such behavior. In addition, the two confidential advisors, the in-company social worker, and the company physician reintroduced themselves to the rest of the organization, so that co-workers are able to find them. The D&I working group also organized a workshop about micro-aggressions. Workplace safety is a permanent item on our agenda, thereby ensuring that we discuss and keep discussing this.

## Accessibility

The information on our websites must be easily accessible to everyone, including people with disabilities. In 2021, *ConsuWijzer.nl* was certified as fully accessible by the Dutch Accessibility Foundation (Stichting Accessibility). In addition, *acm.nl* has become more accessible as it became easier for website visitors to ask for accessible PDFs. Also, existing documents have been made more accessible by coding them in accordance with guidelines. Within the organization, ACM is working hard to improve accessibility in its operational processes, and seeks out solutions for the right software. ACM employees receive training and information about accessibility.

### **Absenteeism**

The absenteeism figures show an increase compared with previous years (table 5), and, as such, follow the national trend. The increase is likely connected to the COVID-19 pandemic, the impact of other influenza viruses, and the perceived increase in the workload, which is caused by the tight labor market, among other reasons. ACM wishes to offer its employees a work environment where everyone is able to do their work in a healthy manner.

### **Growth of the organization**

In 2022, ACM hired more people (table 2), partially because of new statutory regulatory duties, including the revised Telecom Act. In addition, the Energy Department and Consumer Department needed more staff. The staff increase in the regulatory departments has also led to a staff increase in the corporate departments such as IT.

### **Working together differently**

After the COVID-19 restrictions had been lifted, experiments regarding new forms of collaborations were launched. Best practices have been shared. As a result, ACM employees work in the office, on average, at least two days per week. Individual teams and departments are free to make more tailored arrangements.

### **ConsuWijzer**

In 2022, the external service provider for ACM ConsuWijzer was short-handed. Incoming calls were often not answered, and replies to emails were sent late or not at all. Customer satisfaction went down (table 27a). In late 2022, ACM decided to take back full control of ConsuWijzer's operations from January 1, 2023. It is expected

that ConsuWijzer's staff levels and service quality will be back to the desired level.

### **Reappointment**

The Dutch Council of Ministers has approved the reappointment of Cateautje Hijmans van den Bergh as Member of the Board of ACM. The new five-year term will start on January 1, 2022.

### **Multi-year funding**

ACM wishes to switch to a financing structure that befits an independent, future-ready regulator. Consultancy AEF, too, recommended this in its 2020 evaluation of ACM. A system based on multi-year funding better allows ACM to create long-term plans and to make the associated investments. And it allows ACM to be more agile if developments so dictate. Last year, ACM and EZK decided on a joint approach, which got underway in 2023. The goal is to work with a finalized multi-year framework from January 1, 2024.

### **Complaints against ACM or ACM employees**

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

Most complaints are solved through education and explaining our methods. With regard to the regular complaints, complainants were often satisfied with ACM's handling.

The number of regular complaints has risen considerably, particularly the number of complaints about ACM's actions in energy-related cases, and about the service of ACM ConsuWijzer. The number of complaints on which a formal decision is taken has risen as well.

**Table 1: Complaints against ACM or ACM employees**

	2021	2022
New complaints	193	225
Completed complaints from previous year	2	42
Complaints to be completed next year	42	7
<b>Total number of complaints</b>	<b>153</b>	<b>260</b>

## ACM staff

**Table 2: Employee utilization rate**

	1 Jan '22	31 Dec '22
Total	610	650
Fte	576.7	619.9
Men	49.2%	48.8%
Women	50.8%	51.2%

**Table 3: Age structure of staff**

	2021	2022
24 and younger	17	16
25 to 34	173	209
35 to 44	158	150
45 to 54	163	165
55 to 59	62	74
60 and older	37	36

**Table 4: Inflow and outflow of staff**

	Inflow 2021	Outflow 2021	Inflow 2022	Outflow 2022
Men	36	42	52	29
Women	54	34	69	48
<b>Total</b>	<b>90</b>	<b>76</b>	<b>121</b>	<b>77</b>

**Figure 5: Absenteeism rate (in %) in the past 5 years**

	2018	2019	2020	2021	2022
	3.4%	3.6%	3.6%	3.9%	4.4%

# Help the helper

**ACM is committed to helping consumers in vulnerable positions. Through its contacts with counselors, ACM gets a better overview of the problems that these consumers encounter. In addition, counselors are able to find the new ACM Information Desk more easily.**

“If we understand better what problems people in vulnerable positions encounter, ACM will be able to get more done,” explains coordinator H el ene de Krom. “What if they run into trouble when purchasing a product or taking out a service such as a subscription or energy contract? If they are already experiencing financial problems or less able to exercise their rights, that may lead to greater problems.”

## Information for counselors

“We as a team often venture out in order to understand those problems better,” continues David Schreuders, enforcement officer. “For example, we do so by contacting counselors to which people with problems turn first. That is why, in 2022, we started with the ‘help the helper’ approach. We built a vast network of relevant social welfare organizations, such as senior citizens’ organization ANBO, community organization DOCK, and debt-counseling organization NSR. For the counselors in particular, we launched

the ACM information desk for counselors. In that way, we provide information where it has an immediate impact, and, at the same time, we hear what’s going on. We are seeing that more and more counselors are able to find us.”

## More impact with a vast network

“Awareness of how people in vulnerable positions experience life helps ACM be more effective and have more impact,” says H el ene. “Together with colleagues who care about vulnerable people, we think about what this means for our work. What kinds of reports do we get about health care, competition or telecom, transport or postal services? What kinds of problems or developments in the energy market have an outsized impact on people in vulnerable positions? In 2023, we will continue to work on these questions.”

“

*We are seeing that more and more counselors are able to find us”*

– David Schreuders



# Our oversight efforts in facts and figures

## Investigations

ACM carries out investigations on the basis of indications, reports, and ACM's own detection efforts. Our enforcement teams assess whether a violation has been committed. If that is the case, an enforcement team can use different instruments to end the violation. For some violations, enforcement teams draw up a statement of objections, which is handed over to the fining team. This team subsequently assesses whether a fine is imposed for the violation. Not all statements of objections result in fines. In addition, some of these assessments run into the next calendar year, which means the number of statements objections is not equal to the number of fines. A breakdown of completed investigations per instrument can be found on the next two pages. The category 'other instruments' consists of, among other instruments, binding instructions, commitments, and warnings.

In 2018 and 2019, investigations under the Dutch act on competitive neutrality were included under competition. Investigations in the health care sector were included under competition in 2018. The high number of completed investigations under telecommunications and postal services in 2018 is caused by enforcement actions where ACM sent out enforcement letters to holders and users of phone numbers. The increase in the number of investigations under telecommunications and postal services in 2022 is connected to the tightened rules for directory assistance services.

**Table 6a: Number of investigations launched**

	2018	2019	2020	2021	2022
Consumer protection	31	48	108	92	104
Energy	11	11	9	9	10
Competition	11	11	5	2	3
Health care	-	3	1	1	4
Telecommunications & postal services	7	15	24	9	33
Transport	8	3	9	0	2
<b>Total</b>	<b>68</b>	<b>91</b>	<b>156</b>	<b>113</b>	<b>156</b>

**Table 6b: Number of investigations completed**

	2018	2019	2020	2021	2022
Consumer protection	81	87	119	101	99
Energy	13	8	13	5	3
Competition	22	17	5	8	2
Health care	-	4	7	1	2
Telecommunications & postal services	201	12	7	11	15
Transport	3	2	6	0	0
<b>Total</b>	<b>320</b>	<b>130</b>	<b>157</b>	<b>126</b>	<b>121</b>

## Onderzoeken afgerond per instrument

**Table 7a1: Number of statements of objections**

	2018	2019	2020	2021	2022
Consumer protection	8	8	2	8	4
Energy	0	1	3	0	0
Competition	0	6	3	4	0
Health care	0	0	1	0	0
Telecommunications & postal services	0	1	0	3	0
Transport	0	1	0	0	0

**Table 7b1: Number of orders subject to periodic penalty payments**

	2018	2019	2020	2021	2022
Consumer protection	1	6	12	3	4
Energy	0	1	0	2	1
Competition	0	1	1	1	0
Health care	0	0	1	0	0
Telecommunications & postal services	0	4	1	0	1
Transport	0	0	0	0	0

**Table 7a2: Median lead time of Statements of objections (in days)**

	2018	2019	2020	2021	2022
Consumer protection	396	618	208	239	364
Energy	-	279	604	-	-
Competition	-	473	492	405	-
Health care	-	-	706	-	-
Telecommunications & postal services	-	1568	-	209	-
Transport	-	112	-	-	-

**Table 7b2: Median lead time of Orders subject to periodic penalty payments (in days)**

	2018	2019	2020	2021	2022
Consumer protection	176	169	378	189	264
Energy	-	134	-	298	216
Competition	-	316	373	866	-
Health care	-	-	72	-	-
Telecommunications & postal services	-	112	79	-	86
Transport	-	-	-	-	-

**Table 7c1: Number of other instruments**

	2018	2019	2020	2021	2022
Consumer protection	70	70	101	106	106
Energy	12	3	12	4	3
Competition	8	3	4	0	2
Health care	-	3	4	1	2
Telecommunications & postal services	195	6	2	4	7
Transport	0	0	0	0	0

**Table 7d1: Number of investigations stopped without any intervention**

	2018	2019	2020	2021	2022
Consumer protection	2	3	4	2	2
Energy	1	3	1	0	1
Competition	14	7	2	3	0
Health care	-	1	2	0	1
Telecommunications & postal services	6	1	4	4	7
Transport	3	1	6	0	0

**Table 7c2: Median lead time of Other instruments (in days)**

	2018	2019	2020	2021	2022
Consumer protection	153	122	92	85	75
Energy	486	484	84	573	170
Competition	492	427	184	-	187
Health care	-	378	404	324	63
Telecommunications & postal services	80	182	37	28	58
Transport	-	-	-	-	-

**Table 7d2: Median lead time of investigations stopped without any intervention (in days)**

	2018	2019	2020	2021	2022
Consumer protection	75	25	69	63	39
Energy	512	682	288	-	493
Competition	171	92	96	220	-
Health care	-	132	40	-	128
Telecommunications & postal services	203	286	265	278	67
Transport	228	290	127	-	-

## Newly imposed fines

ACM can impose fines for violations of the laws it enforces. It starts with an investigation in which a statement of objections is drawn up. Based on that statement of objections, a fine can be imposed. In 2022, ACM imposed fines on 12 undertakings in 9 cases. The totals of the fines exclude orders subject to periodic penalty payments and the calculated statutory interest. In some cases, objections against publication of the fine are still pending. Fines that are highlighted in the chapter 'Our Oversight in 2022' may have been imposed in a prior year.

**Table 8a: Number of undertakings fined**

	2018	2019	2020	2021	2022
Consumer protection	3	11	3	4	6
Energy	0	1	0	0	1
Competition	0	1	10	3	4
Health care	0	0	0	1	1
Telecommunications & postal services	0	0	0	3	0
Transport	0	1	0	0	0
<b>Total</b>	<b>3</b>	<b>14</b>	<b>13</b>	<b>11</b>	<b>12</b>

**Table 8b: Number of cases completed without fines**

	2018	2019	2020	2021	2022
Consumer protection	0	0	0	0	3
Energy	0	0	0	0	0
Competition	0	0	0	0	1
Health care	0	0	0	0	0
Telecommunications & postal services	0	0	1	0	0
Transport	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>4</b>

**Table 8d: Lead times of fines (in days)**

	2021	2022
Consumer protection	56	91
Energy	-	548
Competition	86	682
Health care	235	392
Telecommunications & postal services	179	-
Transport	-	-
<b>Average</b>	<b>139</b>	<b>467</b>

**Table 8c: Number of de facto executives fined**

	2018	2019	2020	2021	2022
Consumer protection	0	4	0	1	0
Energy	0	0	0	0	0
Competition	0	0	0	3	0
Health care	0	0	0	0	0
Telecommunications & postal services	0	0	0	0	0
Transport	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>4</b>	<b>0</b>

**Table 8e: Percentage of cases where statutory lead time was met (including cases of postponement)**

	2021	2022
Consumer protection	100%	67%
Energy	-	0%
Competition	71%	50%
Health care	0%	0%
Telecommunications & postal services	0%	-
Transport	-	-
<b>Average</b>	<b>50%</b>	<b>56%</b>

**Table 8f: Newly imposed fines (in euros)**

	2018	2019	2020	2021	2022
Consumer protection	€ 620,000	€ 14,862,500	€ 2,055,000	€ 455,000	€ 2,361,000
Energy	-	€ 50,000	-	-	€ 150,000
Competition	-	€ 1,840,000	€ 82,466,999	€ 46,680,000	€ 28,811,500
Health care	-	-	-	€ 16,569,500	€ 350,000
Telecommunications & postal services	-	-	-	€ 2,014,000	-
Transport	-	€ 25,000	-	-	-
<b>Total</b>	<b>€ 620,000</b>	<b>€ 16,777,500</b>	<b>€ 84,521,999</b>	<b>€ 65,718,500</b>	<b>€ 31,672,500</b>

## Investigations completed under the Dutch Act on competitive neutrality

Government organizations (such as municipalities) are allowed to offer products and services on the market. If they do, they will compete with commercial businesses. The government organizations will have to play by the rules though in order to prevent unfair competition. These rules have been laid down in the Dutch law on competitive neutrality, the Dutch Act on Government and Free Markets. This act is part of the Dutch Competition Act. ACM enforces compliance with this law, and has the power to launch investigations into violations of that law. ACM can subsequently take enforcement action if government organizations fail to comply with the rules.

**Table 9: Number of investigations under the Dutch law on competitive neutrality**

	2021	2022
Order subject to periodic penalty payments	0	0
Enforcement decisions	3	3
Offender stops the violation	1	0
Investigation stopped	0	2
Continuing in next year	4	2
<b>Total</b>	<b>8</b>	<b>7</b>

## Concentrations

Businesses are required to notify ACM of their plans for mergers, acquisitions or joint ventures (these are all called concentrations). If ACM has been notified of a concentration, we will determine, in a so-called first phase, whether or not the concentration can go through or whether a further investigation is required. If, after the first phase, ACM is concerned about the effects on competition, the businesses in question will have to apply for a license. As some cases run into the next calendar year, the number of notified concentrations is not equal to the number of decisions. Large undertakings are, normally speaking, only allowed to merge after they have notified ACM of their planned concentration, and after ACM has completed its assessment thereof. In critical situations, ACM can grant an exemption in order to prevent irreparable damage inflicted on the undertakings involved if they had to wait for ACM's assessment. In the tables, such cases have been included under 'Exemptions granted under Section 40 of Dutch Competition Act'.

**Table 10a: Number of concentration notifications (competition)**

	2018	2019	2020	2021	2022
Concentration notifications	107	109	78	149	130
Withdrawn notifications	1	0	1	2	1

**Table 10c: License applications (competition)**

	2018	2019	2020	2021	2022
License applications	1	4	3	5	3
Withdrawn applications	0	0	0	0	0

**Table 10b: ACM decisions on concentration notifications (competition)**

	2018	2019	2020	2021	2022
Concentrations cleared	93	106	76	147	125
License requirements	3	4	3	4	3
Exemptions granted under Section 40 of Dutch Competition Act	1	1	0	0	0

**Table 10d: ACM decisions on license applications (competition)**

	2018	2019	2020	2021	2022
License granted	1	2	3	4	0
License not granted	0	1	0	0	0
Exemptions granted under Section 40 of Dutch Competition Act	0	0	0	0	0



**Table 10e: Number of concentration notifications (health care)**

	2018	2019	2020	2021	2022
Concentration notifications	-	25	11	20	14
Withdrawn notifications	-	1	0	1	0

**Table 10g: License applications (health care)**

	2018	2019	2020	2021	2022
License applications	-	3	1	3	0
Withdrawn applications	-	0	1	0	1

**Table 10f: ACM decisions on concentration notifications (health care)**

	2018	2019	2020	2021	2022
Concentrations cleared	-	21	11	15	12
License requirements	-	4	0	3	0
Exemptions granted under Section 40 of Dutch Competition Act	-	2	1	0	1

**Table 10h: ACM decisions on license applications (health care)**

	2018	2019	2020	2021	2022
License granted	-	0	3	0	0
License not granted	-	0	0	2	0
Exemptions granted under Section 40 of Dutch Competition Act	-	0	0	0	0

## Objections and appeals

If a party disagrees with an ACM decision, it can file an objection or an appeal. Each objection or appeal is counted separately. The statutory lead time for objections is 42 days. In case of postponement, that lead time can be extended to 84 days.

**Table 11a: Number of decisions on objection in objection proceedings**

	Founded	Partially founded	Unfounded	Withdrawn	Inadmissible	Direct appeal	Notices of objections
Consumer protection	0	0	6	3	5	1	16
Energy	0	0	5	3	0	0	8
Competition	0	0	3	1	0	2	6
Health care	0	0	0	0	0	0	0
Telecommunications & postal services	0	3	4	6	4	0	17
Transport	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>3</b>	<b>18</b>	<b>13</b>	<b>9</b>	<b>3</b>	<b>47</b>

**Table 11b: Percentage of cases in which statutory lead time has been met (including cases with postponement)**

	2021	2022
Consumer protection	67%	100%
Energy	0%	13%
Competition	0%	67%
Health care	-	-
Telecommunications & postal services	100%	47%
Transport	-	-
<b>Average</b>	<b>42%</b>	<b>57%</b>

**Table 12: Rulings on appeals**

	Decisions upheld	Decisions largely upheld	Decisions largely not upheld	Decisions not upheld	Number of notices of appeals
Consumer protection	2	0	0	1	4
Energy	8	1	0	3	12
Competition	10	3	0	1	16
Health care	0	0	0	0	0
Telecommunications & postal services	2	0	0	0	2
Transport	1	0	0	0	2
<b>Total</b>	<b>23</b>	<b>4</b>	<b>0</b>	<b>5</b>	<b>36</b>

**Table 13: Rulings on appeals by a higher court**

	Decisions upheld	Decisions largely upheld	Decisions largely not upheld	Decisions not upheld	Number of notices of appeals
Consumer protection	0	0	0	2	6
Energy	0	0	0	0	0
Competition	2	1	0	0	6
Health care	0	0	0	0	0
Telecommunications & postal services	0	0	0	2	4
Transport	0	0	0	0	0
<b>Total</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>4</b>	<b>16</b>

**Figure 14a: Number of completed preliminary injunctions**

	2021	2022
Consumer protection	0	4
Energy	0	2
Competition	2	1
Health care	0	0
Telecommunications & postal services	1	1
Transport	0	0
<b>Total</b>	<b>3</b>	<b>8</b>

**Table 14b: Number of civil-law proceedings (including summary proceedings)**

	2021	2022
Consumer protection	0	1
Energy	0	0
Competition	2	1
Health care	0	0
Telecommunications & postal services	0	0
Transport	0	0
<b>Total</b>	<b>2</b>	<b>2</b>

## Requests for enforcement

ACM receives many valuable tip-offs, reports, and complaints. If an official complaint is filed, it is considered a request for enforcement. We handle such requests with care. Other complaints, tip-offs, and reports are included in tables elsewhere in this annual report. The European consumer authorities work together within a network for consumer protection (Consumer Protection Cooperation, CPC). They can request each other's assistance when dealing with cross-border violations.

**Table 15a: Number of requests for enforcement**

	2018	2019	2020	2021	2022
Consumer protection	4	9	12	10	22
Energy	9	10	5	9	8
Competition	8	6	2	6	7
Health care	-	1	1	3	1
Telecommunications & postal services	5	4	6	6	4
Transport	1	11	4	0	0
<b>Total</b>	<b>27</b>	<b>41</b>	<b>30</b>	<b>34</b>	<b>42</b>

**Table 15b: Lead time of requests for enforcement (in days)**

	2018	2019	2020	2021	2022
Consumer protection	92	36	71	101	55
Energy	72	58	70	38	66
Competition	180	247	55	101	171
Health care	-	156	48	105	56
Telecommunications & postal services	230	47	140	49	23
Transport	64	121	201	-	-
<b>Average</b>	<b>128</b>	<b>111</b>	<b>98</b>	<b>79</b>	<b>74</b>

**Table 16a: Number of European requests for information**

	2018	2019	2020	2021	2022
Sent	0	1	0	2	1
Received	7	5	3	5	2
Completed	12	8	5	7	4

**Table 16b: Number of European requests for enforcement**

	2018	2019	2020	2021	2022
Sent	2	2	9	9	2
Received	13	9	15	9	10
Completed	26	12	16	15	17

## Disputes in regulated sectors

Consumers and businesses do not always agree with the methods of operators or suppliers in the energy, telecommunications, postal services and transport sectors. In such situations, disputes can be submitted to ACM. ACM seeks to resolve disputes to the satisfaction of all parties. If parties file an appeal against the dispute decision, the case will be brought before the Dutch Trade and Industry Appeals Tribunal (CBb).

**Table 17a: Number of resolved disputes in regulated sectors**

	2021	2022
Energy	13	11
Telecommunications & Postal services	10	6
Transport	2	10
<b>Total</b>	<b>25</b>	<b>27</b>

**Table 17b: Lead times of disputes (in days)**

	2021	2022
Energy	124	133
Telecommunications & Postal services	64	55
Transport	69	75
<b>Average</b>	<b>86</b>	<b>88</b>

**Table 18: Decisions in disputes in regulated sectors**

	Decisions upheld	Decisions largely upheld	Decisions largely not upheld	Decisions not upheld	Disputes inadmissible
Energy	1	0	0	1	0
Telecommunications & Postal services	1	0	0	0	0
Transport	0	0	0	0	0
<b>Toaal</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

## Licenses and exemptions

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

**Table 19a: Number of licenses and exemptions completed in 2022**

	Licenses of electricity and gas suppliers	Licenses of heat suppliers	Exemptions for closed distribution systems
Granted	10	2	5
Amended	6	1	8
Withdrawn	4	2	2
Changes to license instructions	0	0	0
Extended	-	-	14
Rejected	2	2	0

**Table 19b: Median lead times of licenses and exemptions (in days)**

	2021	2022
Licenses of electricity and gas suppliers	47	73
Licenses of heat suppliers	55	52
Exemptions for closed distribution systems	150	182

## Requests under Dutch Act on Public Access to Government Information (Wob) and the Open Government Act (Woo)

Table 20a: Number of Wob/Woo requests handled

	2021	2022
Handled Wob/Woo requests	28	33
Handled Wob/Woo requests on objection and appeal	4	6
<b>Total</b>	<b>32</b>	<b>39</b>

Table 20b: Median lead times of Wob/Woo requests (in days)

	2021	2022
Median lead time	24	28
Statutory term limit	28	28
<b>Difference</b>	<b>- 4</b>	<b>0</b>



## Reports filed by consumers

Consumers contact consumer information portal ACM ConsuWijzer for various reasons. They can ask questions, but also file complaints about a company. We refer to such questions and complaints as reports. ACM bases its oversight to a large extent on the number of reports it receives. In 2020, we did not use WhatsApp. In August 2021, we resumed the use of WhatsApp. However, in November 2022, we stopped using WhatsApp for now, due to capacity issues.

**Table 21a: Reports filed with ConsuWijzer**

	2018	2019	2020	2021	2022
Telephone	32,360	28,486	19,825	27,537	16,538
Email	23,750	25,491	50,307	41,019	37,703
Regular mail	227	123	124	142	129
WhatsApp	4,216	4,214	0	2,125	4,200
Social media	552	878	2,777	3,521	2,003
<b>Totaal</b>	<b>61,105</b>	<b>59,192</b>	<b>73,033</b>	<b>74,344</b>	<b>60,573</b>

**Table 21b: Top 5 nature of consumer reports**

	2018	2019	2020	2021	2022
Customer acquisition, and selling methods	10,897	10,159	12,089	16,035	6,816
Termination and cancellation of contracts (including unwanted ones)	5,282	3,884	14,334	9,029	4,282
Delivery issues	4,817	4,551	7,009	6,913	4,108
Faulty product/service and warranty	10,872	7,343	7,343	6,850	7,698
Bills and payments	5,591	4,366	3,266	3,257	3,816

**Table 22: Top 5 sectors of consumer reports**

	2018	2019	2020	2021	2022
Energy and heat	5,164	6,528	9,668	13,619	16,659
Retail	16,727	12,273	15,838	15,717	11,607
Services	14,709	12,155	19,327	13,143	8,890
Telecom services	3,008	2,858	2,455	2,821	1,859
Postal services	473	555	524	469	587

**Table 23a: top 3 categories of reports: Services**

	2021	2022
Consultancy, research, and specialist services	4,120	2,880
Travel agencies and travel intermediaries	3,607	1,448
Repair services	539	881

**Table 23c: top 3 categories of reports: Energy and heat suppliers**

	2021	2022
Electricity and natural-gas suppliers	6,095	13,566
Heat suppliers	539	1,485
Intermediaries	6,294	782

**Table 23b: top 3 categories of reports: Retail**

	2021	2022
Fashion	2,445	2,351
Electronics	2,393	2,090
Interior decoration	1,403	978

**Table 23d: top 3 categories of reports: Telecommunication services**

	2021	2022
Combination products	1,708	1,024
Fixed internet	354	321
Mobile telephony	298	279

**Table 23e: top 3 categories of reports: Postal services**

	2021	2022
24-hour mail (USO)	239	245
Mail delivery in general	218	326
Collection boxes	11	14

**Table 23f: top 3 categories of reports: Digital content**

	2021	2022
Download	52	44
Streaming	19	57
Cloud services	11	56

**Table 23g: top 3 categories of reports: Transport**

	2021	2022
Public transportation	13	29
Aviation	12	173
Maritime pilots	-	1

**Table 23h: top 3 categories of reports: Health care**

	2021	2022
GPs	86	86
Insurers	32	46
Specialists	27	59

## Reports filed by businesses

Businesses, too, are able to contact ACM if they have questions or complaints, for example, if they are unsure whether they comply with the rules, or if they suspect competitors having concluded illegal agreements. ACM ConsuWijzer records the reports filed by self-employed workers (independent contractors) regarding wrongful energy contracts.

**Table 24a: Number of reports filed with ACM's business desk**

	2018	2019	2020	2021	2022
Telecommunications and internet	1,677	1,275	944	1,214	1,007
Energy	1,541	839	852	788	997
Competition	668	504	513	310	334
Other	2,563	1,860	876	1,059	659
<b>Total</b>	<b>6,449</b>	<b>4,478</b>	<b>3,185</b>	<b>3,371</b>	<b>2,997</b>

**Table 25: Visits to websites**

	2021	2022
ACM ConsuWijzer.nl	2,312,431	3,579,439
ACM.nl	1,246,729	1,588,215
<b>Total</b>	<b>3,559,160</b>	<b>5,167,654</b>

**Table 24b: Number of reports filed with ACM's business desk**

	2018	2019	2020	2021	2022
Within ACM's regulation	5,225	4,071	2,508	2,717	2,864
Referrals	1,224	407	376	373	399
General questions	-	-	216	248	292
Unknown	-	-	85	33	31
<b>Total</b>	<b>6,449</b>	<b>4,478</b>	<b>3,185</b>	<b>3,371</b>	<b>3,586</b>

## Spam complaints board

ACM enforces compliance with spam regulations. Consumers receive spam through all kinds of channels, and have the opportunity to file their spam-related complaints with ACM. The 'other' category also includes reports filed over the phone and fax.

**Table 26: Number of reports filed with spam complaints board**

	2018	2019	2020	2021	2022
Email	9,850	9,891	9,786	6,054	4,222
Text messages	260	393	492	430	164
Social media	30	46	41	37	28
Other	593	792	730	530	228
<b>Total</b>	<b>10,733</b>	<b>11,122</b>	<b>11,049</b>	<b>7,051</b>	<b>4,642</b>

## Satisfaction with customer interactions

Visitors of our websites are able to submit substantive feedback immediately. With this feedback, ACM is continuously able to improve both sites. In the chapter 'Organization', the service of ACM ConsuWijzer is discussed further.

**Table 27a: satisfaction with ACM ConsuWijzer's customer interaction**

	2018	2019	2020	2021	2022
Phone*	8.2	8.1	8.2	8.2	7.2
Email	6.7	6.6	6.8	6.7	5.9
WhatsApp and other social media	8.9	8.7	9.2	9.0	8.7

**Table 27b: satisfaction with ACM's customer interaction**

	2018	2019	2020	2021	2022
Phone*	8.4	8.4	8.6	8.4	7.9
Email	6.9	6.9	7.1	6.9	6.1

\* on a scale from 1 to 10

## Registrations

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

ACM enforces compliance with the rules.

**Table 28a: Overview of registrations of various market participants**

	At end of 2021	At end of 2022
Public electronic communication network	1,015	1,028
Public electronic communication service	1,263	1,346
Related facilities	141	159
Provider of postal services	119	124
Provider of parcel delivery services	15	16

**Table 28b: Overview of new and terminated registrations**

	New	Terminated
Public electronic communication network	55	42
Public electronic communication service	140	57
Related facilities	23	5
Provider of postal services	11	6
Provider of parcel delivery services	2	1

**Table 29: Number of registrations for electronic communication**

	2021	2022
Number of new and terminated registrations	346	322
Percentage of registrations within the statutory term limit	100%	100%

# 2022 Annual statement of accounts of ACM

From a financial-administrative point of view, ACM consists of two entities: the Autonomous Administrative Authority ACM (in Dutch: zelfstandig bestuursorgaan, or ZBO) and the ACM organization itself. These two entities will be referred to as: ZBO ACM and ACM Organization, respectively.

ACM's 2022 annual statement of accounts consists of the following parts:

1. Annual statement of accounts of the ACM Organization
2. Breakdown of expenditures along market organizations
3. Annual statement of accounts of the ZBO ACM
4. Corporate affairs of the ZBO ACM

This annual statement of accounts concerns 2022 in its entirety. In the tables below, amounts are rounded up or down to the nearest euro. As a result, rounding errors may occur.

## 1. Annual statement of accounts of ACM Organization

From an administrative point of view, the ACM Organization is an integral part of the Ministry of Economic Affairs and Climate Policy (EZK) without any statutory obligation to publish an independent annual statement. The accounting check takes place at the EZK level. In addition, the so-called [Authorization Directive](#) (EU Directive 2002/20/EC) applies to the ACM Organization. The ACM Organization uses a cash-basis accounting system in the administration of EZK. There is no balance sheet or profits-and-loss account.

### System change

Until 2021, ACM had to include the calculated statutory interest of the non-irrevocable fines in the balance of the outstanding receivables (end of the accounting year). This was explained in the explanatory notes of the receivables, under fines. The Financial and Economic Affairs Department (FEZ) of the Ministry of EZK in consultation with the Central Government Audit Service have decided that, starting in the 2022 accounting year, the calculated statutory interest of non-irrevocable fines no longer need to be included in the balance of the outstanding receivables (end of the accounting year). The relevant figures over 2021 have been adjusted accordingly. The outstanding receivables (end of 2021) have gone down by 17,920 euros to a total of 66,991,179 euros. More information can be found in section 1.3.



## 1.1 Expenditures of ACM organization

The table below lists the cash expenditures for 2022 and 2021.

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

	2022	2021
<b>Personnel costs</b>		
Salary costs	54,167,808	50,522,953
Temporary employees	4,532,709	3,089,237
Travel expenses	789,727	227,170
Employee education and training	1,021,099	863,947
Other personnel costs	784,938	694,121
<b>Total personnel costs</b>	<b>61,945,192</b>	<b>55,735,107</b>
<b>Material costs</b>		
Housing	3,783,798	3,865,005
Research	1,720,149	2,178,854
IT	8,952,763	6,931,693
Catering/security/cleaning	899,140	880,594
Office furniture and supplies	771,074	844,372
Public education and events	1,431,185	1,426,715
Other material costs	379,640	244,448
<b>Total material costs</b>	<b>17,937,749</b>	<b>16,371,681</b>
<b>Total expenditures</b>	<b>79,882,941</b>	<b>72,106,789</b>

### Changes to the category Public education and events

Since 2022, the expenditures on activities of ACM's Front Office and consumer campaigns have been included in the category Public education and events instead of Research. The relevant figures from 2021 have been adjusted accordingly in the above table. In 2021, 1.4 million euros was spent and included in the category Research.

### Salary costs

In 2022, the organization's workforce grew from 610 fte to 620 fte as a result of ACM's expanded duties, and the salaries of the pay scales laid down in the Civil Servants Pay Decree (BBRA) were raised as a result of a new collective labor agreement.

### Temporary employees

The expenditures on temporary employees are connected with the necessary capacity for the execution of ACM's duties (including new ones), the implementation of strategic projects (including IT projects), open vacancies, and dealing with absenteeism and staff shortages. In 2022, the costs for temporary employees were higher because of open vacancies that were difficult to fill, especially for legal experts, data experts, and operational jobs such as online editors, recruitment, finances, and IT management. In addition, temporary extra capacity was hired for three projects: Data platforms, Digital channels, and an information management project (in Dutch: Open op Orde).

### Travel expenses

With the COVID-19-related travel restrictions lifted, more ACM employees worked in-person, which led to higher travel expenses in 2022.

### **Other personnel costs**

The increase in Other personnel costs is caused by the increase in expenditures on recruitment of new ACM employees and various staff activities following the lifting of the COVID-19-related restrictions.

### **State Advocate**

Over the past couple of years, the average costs have gone up as a result of an increase in legal questions, particularly in energy-related proceedings. In addition, expenditures on legal representation have also gone up.

### **Housing**

Despite an inflation indexation, housing costs in 2022 were lower than in 2021. This is connected to a subsequent bill of 144,000 euros for building-related service fees from the Central Government Real Estate Agency for 2018. That bill was received in 2021.

### **Research**

Research costs vary each year. This is because, in any given year, more or fewer studies are carried out in connection with ACM's duties. In 2022, the costs were lower than in 2021 because fewer studies were outsourced to third parties.

### **IT and IT-related projects**

In 2022, new and improved functionalities were added to ACM's websites. This was necessary because of more stringent requirements imposed on customer communication, and the addition of improved or new functionalities. Furthermore, various hardware components were replaced in 2022, and the license costs went up because of inflation adjustment

clauses and an increase in the number of required licenses. The above results in an increase of the IT-related costs.

### **Office furniture and supplies**

In 2022, several contracts were reviewed, which led to lower costs related to subscriptions and specialist literature.

### **Other material costs**

Starting in 2022, the costs of the activities carried out by the procurement center of EZK (In Dutch: Inkoop Uitvoeringscentrum, IUC EZK) will be passed on to the individual government organizations, including ACM. As a result, the other costs in 2022 went up.

## 1.2 Income of ACM organization

The below tables provide an overview of the income in 2022 and 2021. The levels of the income from market organizations are largely determined by the contribution scheme. The levels of the contributions from the market organizations have been laid down in the [Regulation on the passing on of costs to regulated parties](#) (in Dutch).

**Table 2: Income of ACM organization (in euros)**

	2022	2021
<b>Telecom</b>		
Electronic communication	4,107,253	4,099,929
Numbers	2,317,969	2,822,810
Arbitration services	2,054,890	1,181,653
<b>Total Telecom</b>	<b>8,480,112</b>	<b>8,104,393</b>
<b>Postal services contributions</b>		
Universal Service Obligation	76,314	114,497
Non-Universal Service Obligation	309,433	371,856
Universal Service Obligation (Cross-border parcel regulation)	1,596	13,570
Non-Universal Service Obligation (Cross-border parcel regulation)	26,226	4,878
<b>Total Postal Service</b>	<b>413,569</b>	<b>504,801</b>
<b>Energy</b>		
Distribution system operators (DSOs) electricity	2,196,187	1,555,480
Distribution system operators (DSOs)	1,762,260	1,346,375
Natural gas	3,406,692	5,435,848
Transmission system operator (TSO) electricity	1,729,638	1,455,568
Transmission system operators (TSO) natural gas	1,196,680	745,358
<b>Heat license holders</b>	<b>10,291,457</b>	<b>10,538,629</b>
<b>Merger notifications</b>	<b>2,953,700</b>	<b>2,890,300</b>
Licenses of energy providers	12,490	35,598
Receipts from Personnel / Materials	219,597	268,576
<b>Total income</b>	<b>22,370,925</b>	<b>22,342,296</b>

## General

ACM's income mostly consists of income received under the Regulation on the passing on of costs to regulated parties (in Dutch). Income per market category may vary from year to year. These fluctuations are connected to ACM's performance of its duties in the prior year.

## Merger notifications

The collected amounts for merger notifications depend on market circumstances, and thus vary from year to year.

## Licenses of energy suppliers

New energy suppliers that meet the statutory requirements are granted licenses by ACM. In 2022, ACM granted a limited number of licenses.

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

In accordance with the Regulation on the passing on of costs to regulated parties, ACM in 2022 received 0.5 million euros for its oversight of the Transport market category for the Ministry of Infrastructure and Water Management. In 2022, this income was transferred to the Ministry of Infrastructure and Water Management.

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

In accordance with the Regulation on the passing on of costs to regulated parties, ACM in 2022 received 0.1 million euros for its oversight over the Financial market category for the Ministry of Finance. In 2022, the income was transferred to the Ministry of Finance.

**Table 3a: Income from sanctions (in euros)**

	2022	2021
Sanctions (including statutory interest)	117,969,069	6,866,644
<b>Total income from sanctions</b>	<b>117,969,069</b>	<b>6,866,644</b>

**Table 3b: Repayments of sanctions (in euros)**

	2022	2021
Repaid sanctions (including statutory interest)	1,280,441	13,120,540
<b>Total repayments</b>	<b>1,280,441</b>	<b>13,120,540</b>

Sanctions that ACM imposed under the former statutory regime only need to be paid by parties after the highest court has ruled on their cases. The period between the imposition of the sanction and the actual payment can thus last multiple years, because of legal proceedings.

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

### 1.3 Outstanding receivables of ACM organization

The below tables list the outstanding receivables as of December 31, 2022 and December 31, 2021.

#### System change regarding outstanding from sanctions

In previous years, the statutory interest over outstanding receivables from sanctions were included in the total outstanding receivables from sanctions. At the instruction of EZK/FEZ, the outstanding receivables will, from 2022, be presented without the statutory interest. The relevant figures over 2021 have been adjusted accordingly.

**Table 4a: Outstanding receivables of ACM organization (in euros)**

	2022	2021
<b>Telecom</b>		
Electronic communication	-	4,875
Numbers	275,097	147,839
Arbitration services	1,724	479,364
<b>Total Telecom</b>	<b>276,821</b>	<b>632,078</b>
<b>Postal services</b>		
Non-Universal Service Obligation	4,347	-
<b>Total Postal Service</b>	<b>4,347</b>	<b>-</b>
<b>Energy</b>		
Heat license holders	-	9,628
<b>Total Energy</b>	<b>-</b>	<b>9,628</b>
Merger notifications	322,825	778,850
Licenses of energy providers	-	-
Other receipts	679,879	621,009
<b>Total outstanding receivables</b>	<b>1,283,871</b>	<b>2,041,565</b>

**Table 4b: Outstanding receivables from sanctions (in euros)**

	2022	2021
Outstanding receivables from sanctions	31,873,117	67,009,099
Calculated statutory interest in 2021 total	-	17,920
<b>Total outstanding sanctions</b>	<b>31,873,117</b>	<b>66,991,179</b>

In table 4b, the item ‘outstanding receivables from sanctions’ also includes the periodic penalty payments that are due but have not yet been paid, but over which a collection decision has already been taken.

The balance of outstanding receivables for sanctions went down by 35.1 million euros from 67 million euros as of 31 December 2022 to 31.9 million euros on December 31, 2022. This change can be explained as follows:

**Table 4c: changes to outstanding sanctions in 2022 (in euros)**

	<b>2022</b>
Balance on 31 December 2021	66,991,179
Imposed sanctions	83,124,510
Income from sanctions	-117,969,069
Decrease in receivables resulting from court rulings and non-recovery of debts	-273,503
Changes in outstanding sanctions	-35,118,062
<b>Total outstanding sanctions</b>	<b>31,873,117</b>

The amount mentioned under “Decrease in receivables resulting from court rulings and non-recovery of debts” in 2022 solely consisted of receivables resulting from court rulings.

## 2. Breakdown of expenditures along market organizations

In the [Decision on the method of passing on costs to regulated industries](#) (in Dutch) and [its amendment](#) (in Dutch), it has been laid down how ACM can pass on costs to market organizations. According to this method, the income of the year in question is based on the actual expenditure of the previous year. The market categories and the formula have been explained in more detail in the explanatory notes to the [Decision on the method of passing on costs to regulated industries](#) of October 27, 2014, and December 10, 2014, respectively, and the Decision of 18 December 2019 amending the [Decision on the method of passing costs to regulated industries](#) (in Dutch) in connection with the expansion of oversight of the postal services and aviation sectors.

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

1. Per category, the direct material costs are determined, which are the costs that can be directly attributed to this category.
2. Next, the remaining amount is determined, consisting of the indirect material costs and all direct and personnel costs. These costs are allocated based on the actual hours spent on these categories.

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

**Table 5: Total expenditures (in euros)**

	2022			2021
	ACM Organization	ZBO ACM	Total	Total
Direct material costs	3,301,299	-	<b>3,301,299</b>	3,758,023
<b>Remaining costs based on actual direct hours consisting of:</b>	-273,503			
Personnel costs	61,945,192	709,360	<b>62,654,552</b>	56,394,638
+ indirect material costs	14,636,450	2,601	<b>14,639,051</b>	12,616,227
Total personnel and indirect material costs	76,581,642	711,961	<b>77,293,603</b>	69,010,865
<b>Total expenditures</b>	<b>79,882,941</b>	<b>711,961</b>	<b>80,594,902</b>	<b>72,768,888</b>

The direct material costs in 2022 were lower than in 2021 as ACM outsourced fewer studies.

The indirect material costs in 2022 were higher than in 2021. This is primarily caused by higher expenditures on software licenses, hardware purchases, and updates to websites.

The below table gives an overview of the allocation of the total expenditures of ACM Organization and the ZBO ACM to be passed on to market organizations on the basis of the Decision on the method of passing on costs to regulated industries. The amount stated in the column 'total share' indicates the amount to be passed on to market organizations. It does not indicate the total amount of expenditures to that sector. For example, sanction procedures in one of the regulated sectors are not passed on to market organizations but to the Dutch State.

*The amount per market category may fluctuate each year. This is because more or fewer studies are needed for ACM's duties each year.*

**Table 6: Overview of the allocation of the expenditures of ACM to be passed on to market organizations (in hours and euros)**

	2022			2021	
	Direct hours (in hours)	Direct material expenditures (in euros)	Personnel and indirect expenditures based on share of hours (in euros)	Total share (in euros)	Total share (in euros)
<b>Telecom</b>					
Public electronic communication services public electronic communication networks, and related facilities	30,933	15,766	4,156,461	4,172,227	4,167,064
Numbers	19,265	-	2,588,689	2,588,689	2,532,305
<b>Subtotal Telecom</b>	<b>50,198</b>	<b>15,766</b>	<b>6,745,150</b>	<b>6,760,916</b>	<b>6,699,369</b>
<b>Postal Service</b>					
Universal Service Obligation (USO)	2,239	3,822	300,792	304,614	92,514
Non-Universal Service Obligation	2,148	-	288,662	288,662	309,413
Parcel regulation USO	225	-	30,178	30,178	1,596
Parcel regulation non-USO	204	-	27,444	27,444	30,765
<b>Subtotal Post</b>	<b>4,816</b>	<b>3,822</b>	<b>647,076</b>	<b>650,898</b>	<b>434,288</b>
<b>Energy</b>					
Distribution system operation Electricity	15,332	69,432	2,060,204	2,129,636	2,196,187
Distribution system operation Natural gas	10,135	29,244	1,361,897	1,391,141	1,762,260
Transmission system operation Electricity	25,336	171,836	3,404,382	3,576,219	3,447,192
Transmission system operation Natural gas	14,027	58,640	1,884,776	1,943,416	1,770,138
Supply of heat	10,653	131,214	1,431,452	1,562,666	1,187,052
<b>Subtotal Energy</b>	<b>75,482</b>	<b>460,367</b>	<b>10,142,711</b>	<b>10,603,078</b>	<b>10,362,829</b>
<b>Transport</b>					
Registered pilots	1,986	30,908	266,924	297,832	68,548
Aviation	3,523	-	473,401	473,401	425,371
<b>Subtotal Transport</b>	<b>5,510</b>	<b>30,908</b>	<b>740,325</b>	<b>771,233</b>	<b>493,919</b>
<b>Financial</b>					
Payment system	667	-	89,686	89,686	69,387
<b>Subtotal Financial</b>	<b>667</b>	<b>-</b>	<b>89,686</b>	<b>89,686</b>	<b>69,387</b>
<b>Total market organizations</b>	<b>136,673</b>	<b>510,863</b>	<b>18,364,947</b>	<b>18,875,809</b>	<b>18,059,791</b>
<b>Central government</b>					
State/treasury	438,549	2,790,436	58,928,657	61,719,093	54,709,096
<b>Total</b>	<b>575,222</b>	<b>3,301,299</b>	<b>77,293,603</b>	<b>80,594,902</b>	<b>72,768,888</b>

Please note: the above table may contain rounding differences.



### 3. Annual account of ZBO ACM

This financial account of the Autonomous Administrative Authority ACM (ZBO ACM) concerns the entire calendar year of 2022. The ZBO ACM concerns the Board of ACM. The ZBO ACM used a cash-basis accounting system in the administrative system of the Ministry of Economic Affairs and Climate Policy (EZK).

#### 3.1 Expenditures and income of ZBO ACM

The below table is an overview of the expenditures and income over 2022 and 2021.

**Table 7: Total expenditures and income of ZBO ACM (in euros)**

	2022	2021
<b>Personnel costs</b>		
Salary costs	685,643	651,387
Travel expenses (domestic)	2,930	508
Travel and accommodation expenses (abroad)	15,032	2,036
Various expenses	-	402
Training	5,756	5,198
<b>Total personnel</b>	<b>709,360</b>	<b>659,531</b>
<b>Material costs</b>		
Contributions and memberships	2,601	2,569
<b>Total material</b>	<b>2,601</b>	<b>2,569</b>
<b>Total expenditures</b>	<b>711,961</b>	<b>662,099</b>
Income	162,000	162,793
<b>Total income</b>	<b>162,000</b>	<b>162,793</b>

The increase in salary costs is primarily caused by the indexation of the salaries of the board members in accordance with the Executives' Pay Standards Act (in Dutch: Wet Normering Topinkomens or WNT) from 209,000 euros (2021) to 216,000 euros (2022).

In addition, the WNT standard has been exceeded by 10,812 euros. The Ministry of EZK is the body that needs to make public and account for the WNT with regard to the ZBO ACM. EZK is also responsible for the actual payment of the salaries of the three Board Members. Due to an incorrect calculation of the 2022 salaries of the three Board Members of the ZBO ACM, the WNT standard was exceeded by 3,604 euros (gross) for each member. This exceeding was qualified as unlawful, and will be corrected in March 2023.

With the government-imposed COVID-19 lockdown measures lifted, the number of trips made by individual board members went up, resulting in higher travel & accommodation expenses.

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

As of 31 December 2022, the ZBO ACM did not have any outstanding receivables.

## 4. Corporate services of ZBO ACM

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

### I Lawfulness

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

The standard laid down in the Executives' Pay Standards Act (in Dutch: Wet Normering Topinkomens or WNT) has been exceeded by 10,812 euros. The Ministry of EZK is the body that needs to make public and account for the WNT with regard to the ZBO ACM. EZK is also responsible for the actual payment of the salaries of the three Board Members. Due to an incorrect calculation of the 2022 salaries of the three Board Members of the ZBO ACM, the WNT standard was exceeded by 3,604 euros (gross) for each member. This exceeding was qualified as unlawful, and will be corrected in March 2023.

### II Establishment of non-financial policy information

Based on information at our disposal, no shortcomings have occurred in the establishment of non-financial policy information.

### III Budgetary, financial and material management

No irregularities have occurred.

### IV Other aspects related to corporate services

No irregularities have occurred.

The Netherlands Authority for Consumers and Markets,  
on its behalf

*T.M. Snoep, LL.M.*

*Chairman of the Board*