



Please note that, although every effort has been made to ensure this translation is accurate and consistent, it is for informational purposes only. In case of any dispute or inconsistencies, the Dutch version is authentic.

AKD N.V.

[xxx]

Marsveldplein 5
1050 Brussels

Sent only by email to: **[xxx]**

The Hague, July 1th, 2026

Our reference : ACM/UIT/671123

Subject : ACM/26/200516 Informal guidance regarding the Digital Collaboration program as part of the Maritime Master Plan

Dear **[xxx]**

The Dutch Maritime Network (in Dutch: Stichting Nederland Maritiem Land, and hereafter: NML) has requested informal guidance regarding the Digital Collaboration program (in Dutch: programmalijn Digitaal Samenwerken) as part of the Maritime Master Plan (in Dutch: Maritiem Masterplan). NML represents and brings together businesses, knowledge institutions, government organizations, and other stakeholders within the maritime chain. NML is committed to, among other objectives, innovation, knowledge development, and the sustainability transition within the maritime sector.¹

The Maritime Master Plan focuses on the development, construction, and operation of vessels, with the sustainability transition, the acceleration of the energy transition, and resilience as its objectives. To that end, it is essential that market participants also collaborate digitally effectively.² The Digital Collaboration program focuses on strengthening and improving digital collaborations between chain partners within the maritime sector (hereafter: the initiative).

You have indicated that the Initiative can be designed and implemented in a manner that is compatible with the competition rules. On behalf of NML, you have asked the Netherlands Authority for Consumers and Markets (ACM) whether it can follow that conclusion.³ ACM has informally assessed the Initiative in accordance with the Policy Rule regarding ACM's oversight of sustainability agreements (the Policy Rule).⁴ NML has indicated that the initiative is still in development, and that it does not know with regard to each and every aspect what the exact implementation of the arrangements will be. On the basis of the information provided by NML, ACM follows the conclusion that it is plausible that the initiative can be worked out and implemented without appreciably restricting competition. In the context of that phase (working out and implementing the initiative), ACM does highlight several points of attention. NML will have

¹ NML's self assessment, ACM/IN/1080992, p. 3.

² NML's self assessment, ACM/IN/1080992, p. 9.

³ NML's self assessment, ACM/IN/1080992, p. 17, 22-25, Minutes of meeting with NML, ACM/UIT/670691, p. 7.

⁴ ACM, 4 October 2023, [Policy Rule regarding ACM's oversight of sustainability agreements](#).

to assess themselves whether a further competition-law analysis (self-assessment) is needed in the working-out and implementation phase.

In the below sections, ACM will first provide a summary of the Initiative. After that, ACM will explain its informal assessment of the Initiative.

1. The initiative

1.1 Objectives

Maritime Master Plan

NML says that the objectives of the Maritime Master Plan are accelerating the global energy transition in the maritime sector, realizing the climate goals, enhancing the Netherlands' and Europe's strategic autonomy, protecting Dutch and European security interests, and strengthening the Dutch economy. The Maritime Master Plan is a National Growth Fund project. This means that the Dutch government invests in this project, because it contributes to the Netherlands' sustainable and structural economic growth.

As part of the Maritime Master Plan, approximately 30 reliable, competitive, and modular⁵ ships are developed, constructed, and operated in the Netherlands, with a reduced burden on the environment, in a cyclical⁶ maritime innovation chain. These are vessels that emit less CO₂, nitrogen, and particulate matter compared with vessels that run on fossil fuels. The vessels are equipped with, among other components, powertrains based on hydrogen, methanol, or LNG with carbon capture. According to the advisory committee of the National Growth Fund and NML, this is only possible if market participants also collaborate digitally more efficiently.⁷ These collaborations are worked out in greater detail within the Digital Collaboration program.

The Maritime Master Plan encompasses multiple programs, as depicted in the below figure.⁸ The request for informal guidance only concerns the Digital Collaboration program.

⁵ By 'modular vessels', the following is meant: vessels of which some parts can be individually adjusted or replaced, so that any adjustment does not require the entire vessel to be adjusted or replaced.

⁶ By 'cyclical innovation chain', the following is meant: an innovation chain consisting of multiple organizations (including suppliers) that work together on innovations with regard to a ship, where new insights are tested, the lessons learned from those insights are incorporated in the innovations, new tests are carried out, and the new lessons learned are incorporated in the innovations once more.

⁷ NML's self-assessment, ACM/IN/1080992, p. 2, 7-9.

⁸ NML's website, visited on 3 June 2026: [Wat levert het Maritiem Masterplan op? - Maritiem Masterplan](#) (in Dutch).



Digital Collaboration program

At the moment, market participants (for example, manufacturers, suppliers, repair companies, shipping companies, and knowledge institutions) use different metrics, data formats (form), and terminology/semantics. In addition, there is no secure, trusted, and efficient manner in which chain partners (third parties) obtain access to data. As a result, the sharing of information within the chain is not a smooth process, and information cannot be reused. For example, what sometimes happens is that market participants that are involved in the construction or repairing of the same vessel share the schematics with each other over email, and need to manually convert these into the format they seek, which is sensitive to errors and not efficient.⁹

In order to realize improved digital collaborations, the Ministry of Infrastructure and Water Management (I&W) has appointed NML to carry out the initiative by way of a decision regarding a service of general interest (in Dutch: Dienst van algemeen economisch belang-besluit).¹⁰ This is a decision in which a business is appointed to carry out public services by order of the government. The initiative is funded by public money, because it would not have come about without such funding. In that context, it is indicated in the decision regarding a service of general interest that, by design and nature, the initiative is loss-making, and will therefore not be realized by the market. Because of this market failure, it is thus logical that the initiative is designated as a service of general interest.¹¹

In the decision regarding a service of general interest, it is stated that, according to I&W, improved digital collaborations are essential for achieving the objectives of the Maritime Master Plan.¹² In the decision, the initiative's objectives are described as follows:

Making it easier to share knowledge and technologies, and stimulating the reuse of data

- *“The digital exchange of knowledge and collaborations are essential to the development and construction of sustainable powertrains on board of vessels, as well as to the testing of the real-world reliability of such systems. In addition, this form of digital exchange and collaborations is*

⁹ Minutes of meeting with NML, ACM/UIT/670691, p. 2-3; NML's self-assessment, ACM/IN/1080992, p. 9.

¹⁰ Decision regarding a service of general interest for NML (in Dutch: DAEB-aanwijzingsbesluit NML), Dutch Government Gazette 2025, 9574.

¹¹ NML's self-assessment, ACM/IN/1080992, p. 12 and 23.

¹² NML's self-assessment, ACM/IN/1080992, p. 11; See also, NML's answers to questions, and brochure, ACM/IN/1104890.

essential for increasing the effectiveness of the collaboration between maritime chain partners. In part because of that, [the initiative]¹³ is critical for the realization of the following public interests:"

Accelerating the global energy transition, and realizing the climate goals

Vessels with a lower burden on the environment

- *"By signing national and international agreements, the Netherlands has committed itself to a climate-neutral maritime sector by 2050. The Netherlands thus contributes to the goals that have been set in the Paris Agreement and the European Climate Law. For the Netherlands and Europe, that commitment is important, because the maritime sector is responsible for large quantities of greenhouse gas emissions The [initiative] makes it possible to focus on this transition in the short term through the Dutch Maritime Cluster¹⁴. The energy transition calls for major investments from maritime companies, which, moreover, can only prove themselves in practice, since prototypes cannot be used in ship-building (the prototype phase is missing) because of their size."*

¹³ In the decision, the term 'DS-JMDP' is used to refer to the initiative.

¹⁴ By 'the Dutch Maritime Cluster', the following is meant: the collection of organizations that are active in various segments of the maritime sector, including ship-building, vessel operation, seaports, maritime services, and maritime suppliers.

Market failure

- *“Until 2030, the technologies that are required for this transition still have an unprofitable top, which cannot be borne by the market alone. The [initiative] helps make new powertrains economically profitable by focusing on cyclical and modular production, a wider dissemination of knowledge and information, unequivocal digital data standards, the sharing and reusing of operational data of vessels underway, and strengthening the sector’s innovativeness. These will help increase the efficiency of the Dutch climate-neutral ship-building sector as well as the effectiveness of the cooperation within the Dutch Maritime Cluster. This focus on increased efficiency and effectiveness alone will make it economically attractive for businesses over the next few years to start focusing on the energy transition. As a result, [the initiative] creates economies of scale that would not be possible through other interventions (such as subsidies to cover, on a limited scale, the unprofitable top in the initial years). As such, the initiative substantially contributes to the acceleration of the global energy transition from the Netherlands, as well as to the realization of the European climate goals.”*

Reducing emissions

- *“In addition, this focus is important for the Netherlands and Europe, since the maritime sector emits large quantities of greenhouse gases. Reducing these greenhouse gas emissions will benefit the well-being of Dutch citizens;”*

Promoting a modal shift to water

- *“Promoting the modal shift to water: as [the initiative] actively contributes to a higher efficiency and effectiveness of vessels (ship designs that get better and better, and the ability to sail more efficiently in terms of carbon neutrality), [the initiative] thus also contributes to making the transportation of goods and individuals over water even more attractive compared with other modes of transport. Compared with other transport modalities, transport over water has a higher energy efficiency per unit of weight transported. Therefore, a ‘modal shift’ to water contributes to a higher energy efficiency, as well as to a reduction in greenhouse gas emissions by the transport sector as a whole. By transporting more goods over water, the pressure on roads is also reduced.”*

Strengthening the Dutch and European strategic autonomy, protecting national and European security interests, and strengthening the Dutch economy

Strategic autonomy

- *“The Netherlands wishes to evolve into the frontrunner in carbon-neutral vessels. However, European manufacturers in the maritime sector increasingly face competition from manufacturers based in low-wage countries outside the EU. As [the initiative] raises the quality and efficiency of Dutch manufacturing, [the initiative] makes it more attractive in the long term to have ship manufacturing or ship retrofits (meaning the modification of vessels during their lifespans) take place within Europe. This specifically applies to the production and retrofitting of vessels with sustainable powertrains, where the development and investments costs are currently still substantially higher than the benefits (in other words, the investment cannot be fully recouped: there is quite a substantial ‘unprofitable top’).”*

Security interests

- *“Depending on the vessel type and sailing activity concerned, it can also contribute to the protection of European and national security interests, by ensuring a standardized, fully secure exchange of information within the Dutch maritime sector.”*

Strengthening the Dutch economy

- *“Finally, [the initiative] also strengthens the innovativeness within the Netherlands Maritime Cluster. It also contributes to a strengthening of the Dutch and European strategic autonomy.”*

1.2 Arrangements regarding digital collaborations

Contents of the arrangements

In order to strengthen and improve digital collaborations in the chain, arrangements will be made with the sector.¹⁵ NML has indicated that the development phase has yet to start, and that it does not know with regard to each and every aspect what the exact implementation of the arrangements will be.¹⁶ Only in the development phase will NML gain insight into the obstacles with regard to digital information exchanges, and then will it be able to make concrete arrangements.¹⁷

According to NML, it is necessary to make arrangements about the rules regarding data exchanges, references for vessel architecture, and digital building blocks.¹⁸ These arrangements have various objectives:

1. Making it possible to exchange information in an unequivocal manner¹⁹

At the moment, NML is conducting a further investigation into the problems with regard to digital collaborations. Discussions in that context are about the standardization of the way in which information about vessels is recorded, and the meaning that such information has. Arrangements that might be made in that context concern the use of the same metrics, semantics, and the use of data formats that can be read by different manufacturers in their own IT systems. For example, information is not recorded in a uniform manner at the moment. If, for example, a length of 100 is recorded, it could be 100 centimeters but also 100 meters.²⁰

2. Drawing up rules regarding the exchange of information²¹

NML wishes to draw up rules regarding the exchange of data. That means: practical arrangements about how market participants exchange data, arrangements about what data can be exchanged, and legal arrangements about responsibilities, rights, and data use. In addition, requirements are set that are needed for exchanging data in an unequivocal manner, for example with regard to the standards to be used (see arrangements under 1), safety, and cybersecurity, accessibility, user profiles, technical and organizational pre-conditions.

Participants will agree that the owner of information determines themselves who has access to what information. Participants can categorize information (similar to arrangements made in other sectors) in their systems as *black box*, *grey box*, and *white box*.

- *Black box*: information that can only be accessed by market participants with the required access rights; for example, these can be two market participants that are jointly working on the development of a component, and that wish to make all data about that project only accessible to each other.
- *Grey box*: information that is partially visible for everyone; for example, this can be basic specifications of a component such as dimensions, capacity, and usage, but where information about the detailed design of a component is not publicly accessible.
- *White box*: information that is accessible to everyone, such as public data and models from public sources and knowledge institutions that can be used by everyone as a starting point.

In order to ensure that participants are aware of their rights and obligations under the competition rules *and* to give market participants guidance when categorizing their data as *black box*, *grey box* and *white box*, NML will develop a competition protocol. NML emphasizes that participants themselves also remain responsible for compliance with the rules and regulations, including the competition rules.

¹⁵ Minutes of meeting with NML, ACM/UIT/670691, p. 3.

¹⁶ Minutes of meeting with NML, ACM/UIT/670691, p. 5 and email from ACM to AKD, ACM/UIT/676708.

¹⁷ Minutes of meeting with NML, ACM/UIT/670691, p. 3.

¹⁸ Minutes of meeting with NML, ACM/UIT/670691, p. 3.

¹⁹ Minutes of meeting with NML, ACM/UIT/670691, p. 2, 3, 4, 12.

²⁰ Minutes of meeting with NML, ACM/UIT/670691, p. 2, 3, 4; NML's self-assessment, ACM/IN/1080992, p. 10.

²¹ NML's self-assessment, ACM/IN/1080992, p. 10, 12.

3. Making efficient, trusted, and secure access to information possible²²

Finally, NML wishes to enable participants to share data through their own existing IT environments. In that way, data remains with its owner, and this owner can grant others controlled access to only the data that is necessary. This manner of collaboration is also referred to by NML as a federated approach. Instead of building a single central platform and centralizing the data in one platform, organizations will retain their own systems and data. That means that organizations can continue using their own IT systems – as long as these are in line with the agreed upon frameworks.²³ This enhances, NML argues, the flexibility of organizations, and it prevents the sector from becoming dependent on a single platform or supplier.²⁴ NML claims that this is how the sector can keep control over digital collaborations. NML does not yet have a picture of the concrete form that the digital solution that will be selected will take. NML possibly opts for *Application Programming Interface specifications* (API, a digital intermediary with which different software programs are able to communicate with each other and exchange data), based on open standards. In that case, NML says that market participants (or their IT service providers) can integrate these API specifications into their own software.²⁵ In that situation, the actual data exchange takes directly place between the IT systems of the participating market participants without any intermediation by a platform. NML facilitates the process, and, in that capacity, is involved in the exchange of information, but it is not a participant itself that shares information in the implementation phase of the initiative.

Process for making arrangements

NML coordinates the decision-making within the initiative for making arrangements, under supervision of a steering group.²⁶ NML indicates that it wishes to develop the arrangements within the initiative together with the participants on the basis of input from all stakeholders within the sector. Participants come from all segments within the sector, for example, shippers, maritime consulting firms, wharves, offshore and maritime suppliers, government, and knowledge institutions. NML says that it expects predominantly Dutch participants, but that, considering the prominently international dimension of the sector, several European chain partners might also participate.²⁷

Market participants that participate voluntarily in the broader Maritime Master Plan also agree with participation in the development phase of the Digital Collaboration program. These concern participants that contribute to the development of vessels with a reduced burden on the environment, and that receive a subsidy for their participation.²⁸ Other market participants can participate in the development phase and implementation of the system on an entirely voluntary basis.

The plan is to organize the arrangements using real-world cases from the sector (*use cases*). These use cases should be able to tell where the obstacles with regard to data exchange are, and what specific arrangements need to be made for sharing data in the maritime sector in an unequivocal, secure, trusted, and efficient manner. The market participants that have submitted these use cases will, in any case, participate in the development of the arrangements within the initiative.²⁹ In addition, NML will have the arrangements validated in the development phase by other market participants involved.³⁰ Market participants that have not submitted use cases, too, may want to offer input during the development phase (at specific moments), for example, on the basis of interim results.³¹ In that context, NML indicates that it seeks to have as many market participants as possible take part (eventually). It says that the more maritime market participants take part in this system, the greater the added value is to the sector as a whole and to

²² Minutes of meeting with NML, ACM/UIT/670691, p. 3, 4; NML's self-assessment, ACM/IN/1080992, p. 10, 12.

²³ NML's self-assessment, ACM/IN/1080992, p. 17, 24.

²⁴ NML's answers to questions, and brochure, ACM/IN/1104890, p. 3 brochure.

²⁵ Minutes of meeting with NML, ACM/UIT/670691, p. 5.

²⁶ The steering group consists of members of the government (Director-General for Aviation and Maritime Affairs from I&W, the directors of the Ministry of Economic Affairs and Climate, and the Ministry of Defense), representatives from the sector (chair of NML, director of the Royal Association of Netherlands Shipowners (KVNR), and the director of Netherlands Maritime Technology, now Maritime & Offshore NL, and members from knowledge institutes (director of MARIN, and director of TNO).

²⁷ Minutes of meeting with NML, ACM/UIT/670691, p. 6.

²⁸ NML's self-assessment, ACM/IN/1080992, p. 22.

²⁹ Minutes of meeting with NML, ACM/UIT/670691, p. 4; NML's self-assessment, ACM/IN/1080992, p. 11.

³⁰ NML's self-assessment, ACM/IN/1080992, annex 1, p. 17.

³¹ NML's self-assessment, ACM/IN/1080992, annex 1, p. 17.

individual market participants.³² After the development phase, NML will give the participants access to the agreed upon standards, rules, and the API specifications to information exchanges.³³ According to NML, the system of arrangements will be published, similar to how this is done with other systems of arrangements. The exact form of this publication is not yet known.³⁴

Finally, after the development phase (around 2030), management and further development of the system of arrangements (through NML) will be carried out by the sector itself. In that way, it is guaranteed that the sector itself keeps control over digital collaborations.

2. ACM's informal assessment

As part of the Initiative, competitors will also collaborate with one another. As such, the cartel prohibition is applicable. Also, there is likely a potential cross-border effect. In that case, the Initiative is also subject to the European competition rules.³⁵

ACM has assessed whether the Initiative is a sustainability agreement, and whether there is a risk of an appreciable restriction of competition. In that context, ACM relies on the information provided by NML, and has not carried out an investigation of its own.

1.3 Sustainability agreement

ACM agrees with NML that the initiative pursues a sustainability objective within the meaning of the Policy Rule. According to NML, the initiative is an indispensable part of the Maritime Master Plan. The Maritime Master Plan could, according to current projections, save 230 megatons of CO₂ emissions through 2050.³⁶ In addition, the Maritime Master Plan will also contribute to a cumulative reduction in particulate matter and nitrogen. When taking these aspects into consideration, ACM agrees that the initiative (as an indispensable part of the Maritime Master Plan) pursues a sustainability objective within the meaning of the Policy Rule.

As mentioned above, the Maritime Master Plan also pursues various objectives that can strengthen the resilience of the Netherlands and Europe, such as strengthening the strategic autonomy and the protection of security interests (see section 1.2). ACM has explicitly named resilience (or the promotion thereof) as one of its key priorities, and is therefore open to issuing informal guidance regarding collaborations that pursue resilience objectives.³⁷ Since the collaboration at hand also pursues sustainability objectives, and the request for informal guidance has been based on said objectives, ACM assesses the current initiative solely on the basis of the sustainability objectives.³⁸

1.4 No appreciable restriction of competition

In its self-assessment, NML comes to the conclusion that the initiative can be worked out and implemented in a way that is compatible with the competition rules.³⁹ NML asks ACM whether it can follow this

³² Minutes of meeting with NML, ACM/UIT/670691, p. 6-7; NML's self-assessment, ACM/IN/1080992, p. 25.

³³ Minutes of meeting with NML, ACM/UIT/670691, p. 4.

³⁴ Minutes of meeting with NML, ACM/UIT/670691, p. 4.

³⁵ Article 101 of the Treaty on the Functioning of the European Union. See also section 9 of the [Guidelines on the applicability of Article 101](#) of the Treaty on the Functioning of the European Union to horizontal cooperation agreements, 17 July 2023, C/2023/4752. (hereafter: the Guidelines).

³⁶ NML's self-assessment, ACM/IN/1080992, p. 9.

³⁷ As announced in ACM's 2025 Annual Report and ACM's 2026 Agenda. ACM notes that resilience collaborations can also serve sustainability objectives, and the other way round, see also footnote 365 of the Guidelines on horizontal agreements. For example, the transition to powertrains that do not use fossil fuels can contribute to both sustainability and resilience as a result of reduced dependence on those fuels.

³⁸ ACM, 4 October 2023, [Policy rule regarding ACM's oversight on sustainability agreements | ACM](#). Sustainability is about the ability of society to consume and use available resources without jeopardizing the ability of future generations to meet their own needs. It encompasses activities that support that economic, ecological, and social development (including labor rights and human rights).

³⁹ Also taking into account the market failure identified by NML; NML's self-assessment, ACM/IN/1080992, p. 22-23, and minutes of meeting with NML, ACM/UIT/670691, p. 2. NML's self-assessment, ACM/IN/1080992, p. 3.

conclusion, in which context NML particularly asks for ACM's assessment of the possible risks with regard to standardization and the exchange of competition-sensitive information.

On the basis of the current information, ACM follows NML's conclusion that the initiative can be worked out and implemented without appreciably restricting competition.⁴⁰ ACM does give NML several points for attention when it works out and implements the initiative. ACM will explain these in section 2.3.1 (standardization) and 2.3.2 (prevention of exchanges of competition-sensitive information).⁴¹

Standardization arrangements as part of the Digital Collaboration program

Part of the initiative is that participants make arrangements that, according to NML, are necessary for exchanging data in an unequivocal, secure, trusted, and efficient manner. Such arrangements might lead to the setting of sustainability standards and/or other forms of standardization.⁴² Standardization is often beneficial to competition, but it can also be potentially harmful, for example with price increases or quality reductions, foreclosed access to innovative standards, technologies (because these are not in line with the agreed upon standard), or exclusion or discrimination of businesses that have no access to the standard. On the basis of the currently available information, it is plausible that the initiative can be worked out and implemented without having aforementioned harmful effects. In that context, ACM finds the following circumstances important, while also pointing out several points for attention for when the initiative is worked out and implemented:

i. There is a transparent process and access to the results

After the development phase, NML will offer participants access to the agreed upon standards, rules, and the technical solution to information exchanges.⁴³ The system of arrangements will, according to NML, be published, similar to how other systems of arrangements do this. The exact form of this publication is not clear yet.⁴⁴

ACM finds it important that, after the development phase, NML will publish, but it does offer as a point for attention that, during the development phase too, there must be a transparent process. This applies to both the process for making the arrangements as well as to the publication of interim results.⁴⁵ In that way, it becomes clear how NML will ensure high-quality decisions with broad support from the sector (see below under point v), where it is clear in what way and at what moments market participants are able to give input. In that way, market participants are able to determine if and at what point they are willing to give input. This will help prevent exclusion of potential participants.

ii. Participation in the Digital Collaboration program is open to everyone in the sector

According to NML, participation in the development of the initiative is open to any organization in the maritime sector that could be affected by the initiative.⁴⁶

NML wishes that, also after the development stage, the initiative is able to continue to exist in the long term and is open to anyone. To that end, NML will ensure that participation in the user phase is possible under fair, reasonable, and non-discriminatory conditions.⁴⁷ NML indicates that the details thereof are not yet known at the moment, since these will be developed in the next couple of phases.

⁴⁰ Now that the initiative will be worked out further, ACM will not be able to perform an assessment under paragraph 3 of these articles. In this letter, ACM will thus not discuss the application of other statutory provisions, such as Section 24 of the Dutch Competition Act and Article 102 TFEU, because NML does not see any risks in that context, Minutes of meeting with NML, ACM/UIT/670691, p. 2; NML's self-assessment, ACM/IN/1080992, p. 3.

⁴¹ The points for attention are given on the basis of the current information position, and cannot be regarded as an exhaustive list.

⁴² Guidelines on horizontal agreements, section 7 (7.3.1) and section 9 (see 525 and 9.3.2.2).

⁴³ Minutes of meeting with NML, ACM/UIT/670691, p. 4.

⁴⁴ Minutes of meeting with NML, ACM/UIT/670691, p. 4.

⁴⁵ Guidelines on horizontal agreements, section 7 (marginals 451, 453, 467-471).

⁴⁶ Minutes of meeting with NML, ACM/UIT/670691, p. 4, 5 and 6; NML's self-assessment, ACM/IN/1080992, p. 11, 22, 24.

⁴⁷ NML's self-assessment, ACM/IN/1080992, p. 16, 24-25.

ACM finds it important that participation is open to everyone that could be affected by the initiative. Should NML indeed set conditions to participation, ACM in that situation finds it important that such conditions are, in any case, fair, reasonable, objective, transparent, and non-discriminatory.⁴⁸ On the basis of the preceding, ACM assumes NML will do so.

- iii. **Voluntary participation in the development phase, and application of the arrangements**
According to NML, the basic principle is that market participants participate in the Maritime Master Plan on a voluntary basis, such as the initiative. However, participants that receive a subsidy for participating in the program in which ships are developed are required to participate in the initiative as well.⁴⁹ ACM considers this objectively justified in light of the initiative's goals. After all, being able to develop these ships requires strengthening and improving digital collaborations.

NML additionally says that the arrangements form a basis for digital collaborations, but that participants remain free to forge other collaborations.⁵⁰ That can, for example, be about sharing data in different manners, developing other standards, or making farther-reaching arrangements regarding sustainability and resilience. Since NML describes there is a market failure, which, according to ACM, is plausible, considering the substantiation of the unprofitable top as well as the description in the decision regarding a service of general interest, ACM does not expect such alternative collaborations to get off the ground in the short term. Considering those aspects, the collaboration offers innovation and technological development, according to ACM.

- iv. **Making access to information without exclusion effects technically possible**
NML wishes that participants in the initiative are able to exchange information with each other using their own IT systems, possibly using an *Application Programming Interface (API)*.⁵¹ This will result in participants not becoming dependent on a single IT system, while being able to realize information exchanges from their own systems using the API.

As long as NML makes sure that, when making access to information technically possible, participants (potential or actual) are not excluded, and that the selected solution is interoperable, ACM agrees with NML that the likelihood of harmful effects is small.⁵² For example, NML can ensure that the rules that are agreed on will be written based on the function of the solution. It is additionally important that, when a supplier needs to be involved (because of NML or a participant) in the provision of the chosen digital solution (or services related to that solution), it is possible to switch suppliers, and exclusion of other suppliers is avoided. Finally, if suppliers need to be selected for the technical solution (or for providing services related to that technical solution), NML and the participants could take into account resilience in their choice of a supplier.⁵³

⁴⁸ Guidelines on horizontal agreements, section 7 (marginals 451, 452, 465, 473) and 9 (549).

⁴⁹ NML's self-assessment, ACM/IN/1080992, p. 22.

⁵⁰ Minutes of meeting with NML, ACM/UIT/670691, p. 6; NML's answers to questions, and brochure, ACM/IN/1104890, p. 4 folder; Guidelines on horizontal agreements, section 7 (marginals 451,464) and section 9 (marginal 549).

⁵¹ NML's self-assessment, ACM/IN/1080992, p. 17, 24.

⁵² Guidelines on horizontal agreements, section 7 (marginals 441, 443, 465) and 9 (549).

⁵³ See also ACM's Focus on the digital economy 2026.

v. Arrangements based on best available knowledge

NML's aim is to have the arrangements be supported by the entire sector, which means it makes sure that the arrangements are made based on the best available knowledge.⁵⁴ NML has taken various measures to safeguard this in the decision-making process (for example the steering group, reviews). This contributes to the quality of the arrangements. ACM underscores the importance of these measures.

Considering the arrangements as described in section 1.2 (having as their goal the exchange of information in an unequivocal, secure, trusted, and efficient manner) in combination with the abovementioned factors, the initiative is not expected to lead to appreciable price increases, quality reductions, impediments to innovation, exclusion, or discrimination. Considering the market failure described by NML, the initiative is actually expected to result in innovation and improved quality. In addition, the initiative is also expected to lead to a more efficient process in terms of developing, constructing, and operating the vessels with reduced harm to the environment.

Preventing the exchange of competition-sensitive information as part of the development and implementation of the initiative

For the development and the implementation of the initiative, participants (which can also be competitors of each other) work together, and exchange information with one another. That is why there is a risk that participants in the initiative exchange competition-sensitive information with each other, either directly or indirectly.⁵⁵ Competition-sensitive information can, in this situation, consist of, for example, quantities or future prices of vessel parts. According to NML, the initiative can be worked out and implemented without any competition-sensitive information being exchanged. ACM can, in principle, follow this. In that context, ACM finds the following circumstances important, while also pointing out several points for attention for when the initiative is worked out and implemented:

i. Selection of use cases

In the development phase of the initiative, NML says that no *use cases* will be selected that urge participants to exchange competition-sensitive information. For example, think of *use cases* where competitors gain access to each other's strategic documents, such as future plans with regard to product development.⁵⁶

ii. Rules regarding data exchanges

According to NML, the initiative will be designed in such a way that the risk of exchanging competition-sensitive information will be reduced. Basic principles of the system include that data remains at the source, only data that is needed will be shared (data minimization), and the data owner keeps control over access and use. Participants determine themselves what information they make available, for whom, and under what conditions the data can be used on the basis of the *black box*, *grey box* and *white box* system (see section 1.2).⁵⁷

iii. Drawing up a competition protocol

NML has indicated it will draw up a competition protocol. In that way, NML wishes to ensure that participants are aware of their rights and obligations under the competition rules when it comes to information exchanges. In addition, NML wishes to give participants guidance when they categorize their data as *black box*, *grey box*, or *white box*.⁵⁸

⁵⁴ Minutes of meeting with NML, ACM/UIT/670691, p. 4-7; NML's self-assessment, ACM/IN/1080992, p. 11, 17, 25 and annex 1, p. 17; Guidelines on horizontal agreements, section 7 (marginals 451, 453, 467-471).

⁵⁵ As a result, the uncertainty for a business over what competitors will do will be reduced, thereby reducing competition. This can lead to, for example, higher prices and reduced quality; Guidelines on horizontal agreements, section 6 (6.2.2).

⁵⁶ NML's self-assessment, ACM/IN/1080992, p. 26.

⁵⁷ NML's self-assessment, ACM/IN/1080992, p. 26.

⁵⁸ NML's self-assessment, ACM/IN/1080992, p. 26.

NML's measures as described above evidently contribute to reducing the risk of exchanging competition-sensitive information. It obviously remains important that, in practice, NML also continues to ensure that risks of the exchange of competition-sensitive information are reduced.

This is all the more important, since the manner in which NML wishes to facilitate the exchange of information deviates from the current practice that is common in the sector. At the moment, information is mostly shared over email. In the proposed system, the data remains with its owner (which is different from sharing over email). The owner grants access rights to certain information within their own system. With the system used in the initiative, it is possible to make information simultaneously available to a larger group (sometimes unnamed), for example in the context of the white box. Such frameworks can lead to participants being less aware of with whom their information is shared. After all, making it available in the *white box* does not require any action vis-à-vis all recipients. Considering this, it is especially important that sufficient measures are taken to reduce the risks of exchanging competition-sensitive information. For example by ensuring that all participants understand the rules and the competition protocol, and by incorporating sufficient '*checks and balances*' in the technical solution that is selected to facilitate information exchanges (think of account security or logging). All of this is to prevent competition-sensitive information from accidentally ending up at another participant, and to be able to track down any irregularities.

If, in the future, it turns out to be necessary to exchange competition-sensitive information after all for the purpose of a sustainability objective, participants will have to determine whether such is compatible with the competition rules. Should it be required, ACM will, at that point, and if so requested, be able to perform another informal assessment under the Policy Rule.

3. Conclusion

On the basis of the information of NML, ACM concludes that it is plausible that the initiative can be worked out and implemented without appreciably restricting competition. That is why ACM will not conduct a (further) investigation into the sectoral agreement at the moment.

ACM points out that this assessment has an informal character. ACM assumes that the information that was submitted by NML is correct. ACM did not conduct an investigation of its own.

ACM may still decide to investigate the initiative in greater detail at some point in the future, for example, if ACM receives a complaint about the initiative. After such an investigation, it may turn out that the initiative is, in fact, at odds with the competition rules. In that case, ACM will not impose a fine if NML has informed ACM in good faith, and if NML cooperates with a subsequent adjustment process to bring the initiative in line with said rules. It is a policy choice on ACM's part not to impose a fine in such a situation. Other authorities (competition authorities or otherwise) are not bound by this policy choice or by the contents of this informal assessment.

Yours sincerely,

The Netherlands Authority for Consumers and Markets,
on its behalf,

D.I. Bos
Director
Competition Department