Authority for Consumers & Markets

Muzenstraat 41
2511 WB The Hague
+31 (0)70 722 20 00
www.acm.nl

Public

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.

[Confidential]
[Confidential]
[Confidential]
[Confidential]

Sent by email (to [Confidential])

The Hague, 12 January 2026

Our reference : ACM/UIT/666670
Subject : ACM/25/197605 Informal guidance pallet return system for masonry bricks

Dear [Confidential],

Within the Royal Dutch Construction Ceramics Association (KNB), a group of seven masonry brick manufacturers has jointly created a standardized, reusable pallet for masonry bricks. They wish to have these pallets produced, and to create a pallet return system for these pallets (the Initiative). The objective is to reduce the impact of pallet usage on the environment.

You have indicated that the Initiative is compatible with the competition rules. On behalf of KNB, you have asked the Netherlands Authority for Consumers and Markets (ACM) whether it can follow that conclusion.[1] ACM has informally assessed the Initiative in accordance with the Policy Rule regarding ACM's oversight of sustainability agreements (the Policy Rule).[2] On the basis of the provided information, ACM finds this conclusion to be plausible, and, at this point, does not see any risk of an appreciable restriction of competition as a result of the Initiative.

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

The Initiative

Objective of the Initiative: making pallet usage more sustainable

According to KNB, masonry bricks are currently predominantly transported using wooden pallets, which are often disposed of and burnt after a single use. The reusing or recycling of pallets only takes place sporadically.[3] In order to make the sector more sustainable, masonry brick manufacturers wish to switch to a return system with more-robust, standardized pallets, made from 100% recycled[4] plastics, and

[1] KNB's self-assessment of 29 July 2025 with reference ACM/IN/1015325, p.1.
[2] ACM, 4 October 2023, Policy Rule regarding ACM's oversight of sustainability agreements.
[3] For example, there is one masonry brick manufacturer that uses a closed return system with its client. The wooden pallets in that return system are used two to three times. According to KNB, this masonry brick manufacturer's closed system is not scalable for the entire sector. Minutes of meeting with KNB of 15 September 2025 with reference ACM/UIT/657920, p.6.
[4] According to KNB, these pallets are made from 100% recycled plastics. Minutes of meeting with KNB of 15 September 2025 with reference ACM/UIT/657920, p.2.

manufactured using green power (the return pallet). KNB expects these return pallets to last approximately ten years or 20 rotations.

The participants

KNB expects that all masonry brick manufacturers in the Netherlands will participate in the Initiative.[5] That covers eleven companies, which own a combined 27 masonry brick manufacturing plants. Each year, they use a total of approximately [Confidential] pallets.[6]

From a controllability perspective and to gain experience, the Initiative, for the time being, focuses on the Netherlands. Both Dutch and foreign masonry brick manufacturers are able to use the return pallet, however, regarding any sales outside of the Netherlands, it should be noted that the pallets cannot be collected there. That is why KNB expects masonry brick manufacturers only to use the return pallets for their sales within the Netherlands, or delivered in Belgium through closed logistics channels. The introduction of the Initiative does not change anything for buyers abroad. If the return system proves to be successful in the Netherlands, the Initiative will be expanded to (in any case) Belgium.

Expansion into other sectors is not planned. According to KNB, the return pallet is only suitable for masonry bricks. Its dimensions and load capacity, among other elements, have been specifically tailored to masonry bricks, not to any other products, not even paving bricks.[7]

The Cooperation and the return system

The Initiative means in practice that a cooperation is founded (the Cooperation). All participants in the Initiative must be members of the Cooperation[8], and the Cooperation only carries out activities for its members.

In anticipation of the establishment of the Cooperation, the group of seven masonry brick manufacturers has developed a mold for the production of the return pallet in collaboration with a pallet manufacturer. After its establishment, the Cooperation contracts a pooling partner to ensure confidentiality and prevent the exchange of competitively sensitive information. Participants inform the pooling partner of their pallet needs. The pooling partner subsequently places an order for return pallets with the pallet manufacturer on behalf of the Cooperation. The Cooperation becomes the owner of the pallet pool. A pallet return and deposit fee system (the return system) will be created for reusing the return pallets. This return system will be managed by the pooling partner. The Cooperation gives the return pallets on loan to the pooling partner. The pooling partner subsequently makes the return pallets available to the masonry brick manufacturers on payment of a deposit fee. The deposit fee consists of the amount of the purchase price of the return pallet plus a surcharge. The surcharge goes to the Cooperation, and can be used for granting the pooling partner a loan for, among other purposes, financing the pallet inventory (by the pooling partner on behalf of the Cooperation). The deposit value must facilitate an effective return flow.

The participants pay a depreciation fee to the Cooperation for the purchase of new return pallets, as well as a fee for maintaining the return system. The Cooperation is a not-for-profit organization, and only raises revenue in order to ensure the continuity of the return system. In addition, the Cooperation will have legal ownership of the return pallets as well as the intellectual property rights to the pallet mold. More specifically, these intellectual property rights will initially be owned by the pallet manufacturer, and will subsequently be transferred to the Cooperation under the condition that a certain volume of pallets has been purchased.[9]

[5] KNB's answers to additional questions of 9 December 2025 with reference ACM/IN/1059390.
[6] KNB's self-assessment of 29 July 2025 with reference ACM/IN/1015325, p.2.
[7] KNB's answers to additional questions of 10 November 2025 with reference ACM/IN/1049463, p.5.
[8] Decisions are taken by majority vote, except for reappointments of executives, for which a 75% majority vote is needed. See: KNB's answers to additional questions of 10 November 2025 with reference ACM/IN/1049463, p.4.
[9] Email of KNB of 15 December 2025 with reference ACM/IN/1060722.

The participants sell and deliver masonry bricks on the return pallet to their buyers.[10] The masonry brick buyers keep the return pallets on loan, and can return the return pallet (or have them returned) to the pooling partner. The buyers will then get the deposit fee back. A sufficiently high deposit fee acts as an incentive for buyers to return used pallets. The pooling partner collects the pallets, inspects them, cleans them, and redistributes the pallets to the masonry brick manufacturers.

Reasons for the collaboration

According to KNB, a collaboration between masonry brick manufacturers is needed for developing a return pallet and for setting up a return system. KNB believes that individual masonry brick manufacturers would not be willing (or able to) make the necessary investments, and that they are each individually too small to establish and maintain a return system.[11] By working together, the return system can be organized more efficiently: pallets are interchangeable, transport movements are optimized, and economies of scale can lead to a lower purchase price of pallets.[12]

ACM's informal assessment

The Initiative is a collaboration between competitors. As such, the cartel prohibition is applicable. There is a potential cross-border effect. If so, the Initiative is also subject to the European competition rules.[13]

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 KNB, and has not carried out an investigation of its own.

Sustainability agreement

ACM agrees with KNB that the Initiative pursues a sustainability objective within the meaning of the Policy Rule. According to KNB, the Initiative will result in fewer pallets having to be manufactured and burnt. KNB says that the return pallet will be made from 100% recycled plastics, and the return pallet itself will also be fully recycled. In addition, for the production of the return pallet only green power is used. Finally, the return pallets have been designed in such a way that, when empty, they can fit together, so that a truck can transport larger quantities at the same time. According to KNB, all of these elements combined will result in a reduction of CO2 emissions, which contributes towards the sustainability transition.

No appreciable restriction of competition

In its self-assessment, KNB comes to the conclusion that the Initiative does not pose any risks to competition. ACM agrees with KNB that it is plausible that the Initiative does not appreciably restrict competition. Below, ACM explains which circumstances it considers important in that context.

i. The Initiative is open to competing masonry brick manufacturers. All masonry brick manufacturers that are active in the Netherlands can participate in the Initiative. No other admission requirements are in place. For example, KNB membership is not a requirement. For practical reasons, KNB limits the Initiative to the Netherlands in the startup phase. According to ACM, this will not result in significant risks of exclusion of competitors because non-Dutch masonry brick manufacturers are able to participate in the Initiative for their sales in the Netherlands.

[10] No arrangements are made regarding this, see KNB's answers to additional questions of 10 November 2025 with reference ACM/IN/1049463, p.14.
[11] KNB's self-assessment of 29 July 2025 with reference ACM/IN/1015325, p.7-8, and minutes to meeting with KNB of 15 September 2025 with reference ACM/UIT/657920, p.5.
[12] KNB's self-assessment of 29 July 2025 with reference ACM/IN/1015325, p.8, and KNB's answers to additional questions of 10 November 2025 with reference ACM/IN/1049463, p.2
[13] 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).

ii. Participation in the Initiative is on a voluntary basis. No one is required to participate. Furthermore, participants are free to buy and use other pallets, separate from the return system. As such, multisourcing is possible. Also, there is no minimum purchase requirement.

iii. Competition-sensitive information is not shared among competitors. Safeguards have been created for those situations where information exchanges are necessary for a proper functioning of the return system. For example, the pallet pooler needs to know how many pallets each participant requires. This offers insight into the volumes per participant. That information is only shared between the participant and the pooling partner, according to KNB. The pooling partner keeps this information secret. The information will only be shared with the Cooperation at an aggregated level, if so necessary, so that the Cooperation only sees the total pallet volumes, and not a breakdown per participant. If confidential information needs to be shared with the Cooperation, for example for the members' account, it will only be shared with the independent administrative secretary and the independent accountant, according to KNB.

iv. The Initiative does not seem to have any other negative effects on competition with regard to pallets. For example, it is plausible that:

a. The joint purchases of return pallets do not result in buyer power vis-à-vis the pallet manufacturers. The participating masonry brick manufacturers have a position of (well) below 15% in the purchasing of pallets, as estimated by KNB.[14] This applies to both the first year, when more pallets will need to be purchased for setting up the Initiative including inventory, and to subsequent years. Based on these assumptions, ACM agrees with KNB that there is no buyer power.[15]

b. Competition will continue to exist between pallet manufacturers and between pallet poolers. According to KNB, the Cooperation will sign individual contracts with both the pallet manufacturer and with the pallet pooler, most likely for five years.[16] That is, in principle, a contract duration that is permitted,[17] which ACM can follow, also taking into account the (high) investments that the pallet manufacturer and pallet pooler will make. The pallet manufacturer and pallet pooler are selected through a tender process. When the contract expires, the Cooperation will organize a new tender process for the production and for the role of pooler, for which other pallet manufacturers and pooling partners are able to submit bids.[18] In that way, competition is possible, at least every five years. The Cooperation will obtain the intellectual property rights of the pallet mold after a certain volume of pallets has been purchased by the pallet manufacturer. According to KNB, that volume, which is yet to be agreed on, is likely to be equal to the total volume of the pallet pool, which means that the intellectual property rights will be transferred once the pallet pool has been set up. This ensures that the Cooperation is actually able to put the production of the return pallet out to tender after five years.

c. There is no significant risk for impediments to pallet innovations. The Initiative offers sustainability benefits as described above under the header "sustainability agreement". At the same time, the Initiative should not be seen as the maximum when it comes to making pallets

[14] The participants have an estimated market position of [0-5]% (based on turnover) in buying wooden pallets, according to KNB. See: KNB's self-assessment of 29 July 2025 with reference ACM/IN/1015325, p.7-8. In buying plastic pallets, KNB expects the participants to have a market position of [10-15]% in the first year, which, over a 10-year period, results in, on average, a position of [0-5]% per year (based on volumes). ACM has calculated these percentages on the basis of figures submitted by KNB. See: KNB's answers to additional questions of 10 November 2025 with reference ACM/IN/1049463, p.10.
[15] Guidelines, marginal 291 and further.
[16] Article 2 in conjunction with Article 5, paragraph 1 a of Commission Regulation (EU) 2022/270 of 10 May 2022 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices.
[17] Article 2 in conjunction with Article 5, paragraph 1 a of Commission Regulation (EU) 2022/270 of 10 May 2022 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices.
[18] KNB's answers to additional questions of 10 November 2025 with reference ACM/IN/1049463, marginal 21.

more sustainable. It should therefore be prevented that the Initiative leads to fewer incentives for the participating masonry brick manufacturers to make the return pallets even more sustainable.

According to KNB, the Initiative is not an impediment to (more) sustainable alternatives. That is because, on the one hand, the return pallet is, in its opinion, the most sustainable option. Among other things because, as KNB argues, the return pallets are made from 100% recycled materials, and for the production process only green power is used. On the other hand, participants are free to purchase and use other pallets (as well). As indicated above, there is no minimum purchase requirement for participating in the Initiative. At the same time, KNB does not expect the participants to be able and willing to make the investments that are needed for making the pallets (even) more sustainable.

ACM therefore imposes the condition that it needs to be ensured that the Initiative cannot have any negative effects (now and in the future) on investments to make pallets more sustainable. In that context, ACM assumes that, also in the future, the pallets will continue to be made from 100% recycled materials[19], the pallets will be recycled once their lifespan has been reached, and all power used in the production process of the pallets will come from green sources. In addition, ACM expects the participants to continue to invest in efforts to make the return pallet (even) more sustainable, and that, for example when the production contract is put out to tender again, they will make their purchases also on the basis of the best available knowledge on sustainability and technology at that point in time.

d. As described above, the participating masonry brick manufacturers have a small market position in potential purchasing markets for pallets. Pallet manufacturers will thus continue to have an incentive to innovate (including for other sectors).

v. The Initiative does not seem to have any other negative effects on competition with regard to masonry bricks. In that context, it is plausible that:

a. There is no cost increase for masonry brick manufacturers. In fact, the Initiative will, KNB argues, even lead to a cost reduction of [Confidential] eurocents per pallet. According to KNB, these projected cost savings depend on certain assumptions, such as market coverage, pallet lifespan, and the purchase price. KNB foresees sufficient market coverage for cost savings at the launch of the Initiative. One of the relevant factors in that context is that stakeholders in the production chain (contractors and construction material traders) have also expressed the desire to see return pallets used, as a result of which masonry brick manufacturers have an additional incentive to participate in the Initiative.

b. There is no price increase for buyers of masonry bricks. The costs of the pallet are normally included in the price of masonry bricks. KNB thus expects cost savings to be passed on to buyers in the form of lower prices for masonry bricks because of competition between masonry brick manufacturers. According to KNB, masonry brick manufacturers will each decide for themselves whether or not to pass on the deposit fee to their buyers.[20] Buyers may thus pay a deposit fee, but will get that back when returning the pallets. According to KNB, the return costs for buyers are lower than the disposal costs for single-use pallets.

c. Joint purchasing does not lead to harmonization of the costs of masonry brick manufacturers, because the pallets themselves represent only a fraction of the total costs of a pallet plus masonry bricks (approximately [0-5]% according to KNB).[21]

[19] According to KNB, the pallet is made from 100% recycled plastics. Minutes of the meeting with KNB of 15 September 2025 with reference ACM/UIT/657920, p.2.
[20] KNB's answers to additional questions of 9 December 2025 with reference ACM/IN/1059390.
[21] The Guidelines, marginal 297 and further.

d. There is no reduction in the quality of pallets (or that of masonry bricks). In fact, KNB argues the return pallet is of higher quality than the pallets that the participants predominantly use at the moment. KNB expects the return pallet to last approximately ten years, and to be used twice a year, whereas the pallets that are currently used are mostly single-use pallets. According to KNB, buyers of bricks are also positive about the reduction of waste at construction sites, as a result of the Initiative.

e. Innovation in masonry bricks continues to be possible. Masonry brick manufacturers will continue to have an incentive to innovate their own production processes, and to make them more sustainable. The Initiative does not affect the bricks themselves (nor the production thereof).

Conclusion

On the basis of the information provided by KNB, ACM comes to the conclusion that it is plausible that the Initiative does not appreciably restrict competition on the Dutch market. That is why ACM will not conduct a (further) investigation into the Initiative at the moment.

ACM points out that this assessment has an informal character. ACM assumes that the information that was submitted by KNB 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 KNB informed ACM in good faith, and if it cooperates with a subsequent adjustment process to bring the Initiative in line with said rules. It is a policy choice of ACM not to impose a fine in such a situation. Other (competition) authorities are not bound by this policy choice or by the contents of this informal assessment.

Your sincerely,

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

D.I. Bos
Director Competition Department