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The Hague, 6 October 2026

Our reference : ACM/UIT/1123772

Subject : ACM/26/203090 Informal guidance regarding joint bids in offshore wind farm tender process(es) IJmuiden Ver Gamma-A and Gamma-B

Dear [confidential],

Your client, [confidential] (hereafter: the applicant), wishes to collaborate with another developer of offshore wind farms with the goal of submitting joint bids in one or two tender processes (hereafter: the Initiative). You have indicated that the Initiative does not have as its objective a restriction of competition. On behalf of the applicant, you have asked the Netherlands Authority for Consumers and Markets (ACM) whether it shares this conclusion.¹

ACM has informally assessed the Initiative in accordance with the Policy Rule regarding ACM's oversight on sustainability agreements (the Policy Rule).² The successful construction of offshore wind farms contributes to the transition from fossil to sustainable energy as well as to the realization of the climate goals.³ In addition, the wind farms in the North Sea make a valuable contribution to the Netherlands' own energy supply.⁴ On the basis of the information submitted by the applicant as well as the expected market conditions, ACM finds it not plausible that the Initiative has as its objective the restriction of competition, or that it will lead to a restriction of competition.

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 Self-assessment, ACM/IN/1132402, p.2, 9-10; Answers to questionnaire 1, ACM/IN/1141795, p.1.

² ACM, 4 October 2023, [Policy Rule regarding ACM's oversight on sustainability agreements](#).

³ Self-assessment, ACM/IN/1132402, p.2.

⁴ "Dutch cabinet increases financial aid for new North Sea wind farms IJmuiden Ver Gamma", original news item in Dutch: [Kabinet verhoogt steun voor nieuwe Noordzee-windparken IJmuiden Ver Gamma | Rijksoverheid.nl](#), 15 June 2026.

1 The Initiative: joint bids in tender process(es)

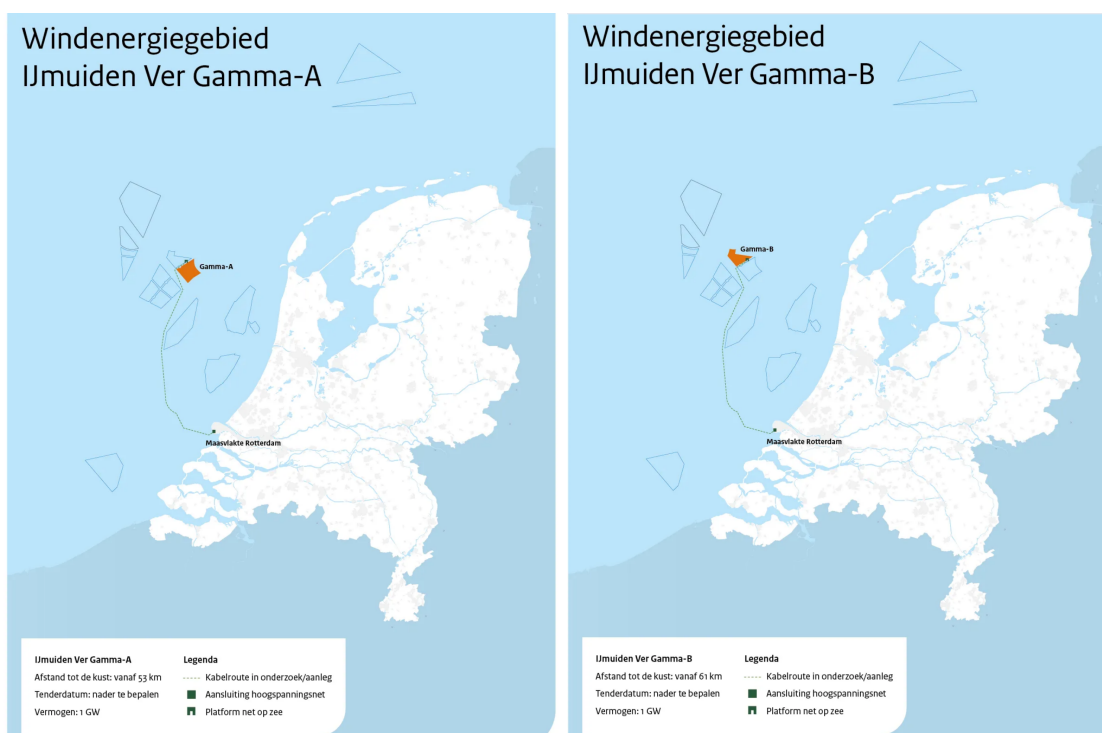
Background of the Initiative

The applicant is a developer of offshore wind farms. It wishes to collaborate with another developer, most likely [confidential] (hereafter: the partner)⁵, with the goal of submitting joint bids in one or two tender processes. The applicant also wishes to subsequently develop and perform the operational management of (hereafter: operate) the wind farm together with its partner, where each will own and be responsible for half of the projects.⁶ For the purpose of this informal guidance, ACM will assume a collaboration between these two parties.

Wind farms IJmuiden Ver Gamma-A and IJmuiden Ver Gamma-B

The Initiative is about two tender processes for the permits and subsidies for the construction of wind farms in the Dutch part of the North Sea: IJmuiden Ver Gamma-A and IJmuiden Ver Gamma-B (Figure 1). The tender processes will be organized by the Netherlands Enterprise Agency (RVO), and will be awarded on the basis of the lowest price; each contract will be awarded to the party that requests the lowest subsidy.⁷

Figure 1: Locations of sites IJmuiden Ver Gamma-A (left) and Gamma-B (right)⁸



Parties involved

The applicant and the partner (together: the parties) are large undertakings, and are internationally active in the construction of offshore wind farms. The applicant's global position is approximately [confidential]% on the market for operational offshore wind farm capacity, while the partner has a position of less than [confidential]%, according to the applicant.⁹ [confidential].¹⁰

⁵ Since the applicant, at the time of ACM's assessment, is unable to confirm with certainty that [confidential] will indeed be the definitive partner, this concerns the applicant's likely/intended partner.

⁶ If the contract(s) is/are won, the collaboration is most likely to be in the form of the creation of a joint venture [confidential]. Self-assessment, ACM/IN/1132402, p.7; Answers to questionnaire 1, ACM/IN/1141795, p.6; Answers to questionnaire 2, ACM/IN/1149767.

⁷ [Permit for IJmuiden Ver Wind Farm Site Gamma-A | RVO.nl](#); [Permit for IJmuiden Ver Wind Farm Site Gamma-B | RVO.nl](#); Minutes of meeting with RVO of 7 July 2026, ACM/UIT/683841, p.3.

⁸ Illustrations come from RVO's website: [Permit for IJmuiden Ver Wind Farm Site Gamma-A | RVO.nl](#); [Permit for IJmuiden Ver Wind Farm Site Gamma-B | RVO.nl](#).

⁹ Answers to questionnaire 1, ACM/IN/1141795, p.7.

¹⁰ Overview of RVO tender processes from 2016, ACM/IN/1129864 and Overview of tender processes and ACM's analysis, ACM/INT/1074871.

In theory, the applicant and the partner both have the knowledge and experience to submit individual bids for large-scale and expensive offshore wind farm projects, such as the two tender processes involved in this request. [confidential].¹¹

Development of offshore wind farms under pressure

Since several years, the development of offshore wind farms has come under pressure, according to the applicant. According to the applicant, the costs of wind farm construction have risen significantly between 2021 and 2025.¹² As a result of the current market circumstances, the applicant cannot reasonably assume at the time of submitting its bid that, should it be awarded the contract, it is able to resell the wind farm or a part thereof (called a *farm-down*), or that funding by a third-party investor will be available in the required short term – against acceptable terms (for example, a suitable spreading of risks).¹³ In previous tender processes for offshore wind farms [confidential]. In addition, the most recent Dutch tender process involving offshore wind was unsuccessful. In 2025, no bids were submitted for the permit for the site Nederwiek I-A.¹⁴ That is why, in the upcoming tender processes, subsidies are again granted to stimulate the construction of offshore wind farms.¹⁵

Request to collaborate for joint bid

Despite this subsidy, the applicant wishes to collaborate with a partner in order to increase its chances of a successful bid and realization. The applicant indicates that, on its own, it is not likely to be able to submit a competitive bid, considering the (financing) risks for such large-scale projects with high investment values.¹⁶

According to the applicant, the Initiative enables it to submit a more competitive bid. With the collaboration, it seeks to spread and thus reduce the risks. These risks are financial risks, investment risks, and construction risks. As a result of the collaboration, the project's scope and risks for each party are smaller. The applicant could therefore submit a more competitive bid, meaning a lower and more reliable bid. According to the applicant, that will improve the competitive process. In addition, the collaboration can help increase the likelihood of a successful (on-time) realization of offshore wind farms, as well as improve the viability of the projects.¹⁷

It should be noted that both the applicant and the licensing authority RVO expect sufficient bids to be submitted for the permits for IJmuiden Ver Gamma-A and Gamma-B, including other joint bids (consortia).¹⁸

¹¹ Overview of RVO tender processes from 2016, ACM/IN/1129864; Overview of tender processes and ACM's analysis, ACM/INT/1074871; Answers to questionnaire 1, ACM/IN/1141795, p.1; Minutes of meeting with RVO on 7 July 2026, ACM/UIT/683841, p.2.

¹² Answers to questionnaire 1, ACM/IN/1141795, p.3. [confidential]

¹³ Answers to questionnaire 1, ACM/IN/1141795, p.3-4. Response to check of the facts, ACM/IN/115614; [confidential].

¹⁴ [Permit for wind farm Nederwiek I-A | RVO.nl](#). As a result of increasing costs and lower demand for long-term electricity-consumption contracts, the development of offshore wind farms has come under pressure, according to RVO. See also: Answers to questionnaire 1, ACM/IN/1141795, p.4; Minutes of meeting with RVO on 7 July 2026, ACM/UIT/683841, p.2-3. and Overview of RVO tender processes from 2016, ACM/IN/1129864.

¹⁵ Starting next year, this subsidy is in the form of *contracts for difference*. The winner gets a 15-year subsidy. The subsidy is designed in such a way that it always complements the market price to the price that is needed. Is the market price for electricity low? In that case, the government pays the difference with an agreed-upon price to the developer. Is the market price high? In that case, the developer must pay the difference with an agreed-upon price to the government. Is the market price between these agreed-upon prices? In that case, the developer can keep the income. [Tweerichtingscontracten voor zonne- en windenergie | RVO.nl](#) (in Dutch). See also: Minutes of meeting with RVO on 7 July 2026, ACM/UIT/683841, p. 2; Minutes of meeting with RVO on 28 August 2026, ACM/UIT/1120791.

¹⁶ RVO additionally indicates that these concern very large projects. For example, a company must be large enough to be able to do it on its own. As soon as the wind farm has been built, half of the farm is often resold to other companies (a *farm-down*). In that context, the applicant also points out the short time between the first bidding phase and the final investment decision, as a result of which it is difficult to find a partner (financial or otherwise) afterwards. [confidential]. See: Minutes of meeting with RVO on 7 July 2026, ACM/UIT/683841, p.2; Self-assessment, ACM/IN/1132402, p.3 and 6.; Answers to questionnaire 1, ACM/IN/1141795, p.4.

¹⁷ Self-assessment, ACM/IN/1132402, p.2; Answers to questionnaire 1, ACM/IN/1141795, p.1 and 7; Answers to questionnaire 2, ACM/IN/1149767. Response to check of the facts, ACM/IN/115614.

¹⁸ Minutes of meeting with RVO on 7 July 2026, ACM/UIT/683841; Minutes of meeting with RVO on 28 August 2026, ACM/UIT/1120791; Self-assessment, ACM/IN/1132402, p.11.

Despite the fact that joint bids for offshore wind farm contracts are quite common¹⁹, the applicant argues that it is insufficiently clear under what circumstances it can collaborate in light of the competition rules, particularly in situations where two parties wish to collaborate, even though (in theory at least) each could submit individual bids. That is why the applicant has requested informal guidance from ACM.

2 ACM's informal assessment

The Initiative is a collaboration between two companies that compete with each other on the development of offshore wind farms. A question is whether these companies actually compete with one another in these specific tender processes. If two companies are unable to submit individual bids, because they fail to meet the qualification criteria and/or they are realistically unable to perform the contract themselves, they cannot be considered to be actual competitors for those tender processes.²⁰ In that case, the collaboration cannot restrict competition.

As the Initiative concerns one or two tender processes, which are IJmuiden Ver Gamma-A and/or Gamma-B, separate assessments need to be carried out for both tender processes to see whether the applicant and the partner are able to submit individual bids, and are thus competitors of each other.²¹ In these assessments, at least the following aspects are of importance: the size and capacity of each company, the financial risk, the level of the necessary investments, and the current and future capacity of the company on the basis of their portfolios.²²

The applicant indicates that, for the assessment, ACM should assume that it and the partner are (potential) competitors.²³ Considering that assumption, ACM cannot rule out in advance that the Initiative restricts competition. There may be a potential cross-border effect. In that case, the Initiative is also subject to the European competition rules.²⁴

In the situation where one or both parties are able to submit individual bids, the collaboration may result in an illegal restriction of competition. This can be the case if the collaboration has as its objective the restriction of competition or if the collaboration has as its effect an appreciable restriction of competition.²⁵ In its self-assessment, the applicant comes to the conclusion that the Initiative does not have as its objective the restriction of competition, and has asked ACM whether it can share that conclusion. ACM has assessed whether the Initiative has as its objective or effect a restriction of competition.

Restriction by object

On the basis of the information submitted by the applicant and of the expected market circumstances, ACM currently finds it not plausible that there is a restriction by object. In that context, ACM finds, among other things, the following circumstances to be of importance:

The collaboration's objective

According to the applicant, the Initiative's objective is spreading and, therefore, reducing risks (such as financial risks, investment risks and construction risks). According to the applicant, that can contribute to a

¹⁹ Overview of RVO tender processes from 2016, ACM/IN/1129864.

²⁰ [Guidelines regarding horizontal co-operation agreements \(2023\)](#), marginals. 352-353: "A bidding consortium agreement – irrespective of its legal qualification – will not restrict competition within the meaning of Article 101(1) if it allows the parties to participate in projects that they would not be able to undertake individually. In that scenario, the parties to the bidding consortium agreement are neither actual nor potential competitors for the implementation of the project."

²¹ Horizontal Guidelines, marginal 354.

²² Horizontal Guidelines, marginal 353.

²³ Self-assessment, ACM/IN/1132402, p.8; Answers to questionnaire 1, ACM/IN/1141795, p.1.

²⁴ Article 101 of the Treaty on the Functioning of the European Union. See also the Horizontal Guidelines. In addition, ACM has looked at the 2013 Policy rule regarding combination agreements (in Dutch: Beleidsregel combinatieovereenkomsten 2013), and the April 2015 Guidance regarding combination agreements (in Dutch: Handleiding Combinatieovereenkomsten) of the Ministry of Economic Affairs and Climate Policy (EZK).

²⁵ Horizontal Guidelines, marginals 355 and 357.

more competitive and more reliable bid. Moreover, it increases the likelihood of a successful (on-time) realization of offshore wind farms, with improved viability of the projects.²⁶

The investments that are needed for the construction of a wind farm are very large, and the development of offshore wind farms has come under pressure - considering the market circumstances.²⁷ In the past, it turned out that [confidential] is not always able to secure the necessary funding, after winning the contract. In certain cases, this has led to the suspension or even the cancellation of the construction of wind farms.²⁸ According to the applicant, it is thus unlikely that it could successfully submit a competitive bid and secure funding on its own.²⁹ By forging a collaboration with another wind farm developer from the beginning of the bidding process, and by agreeing that, if the contract(s) has/have been won, both parties will partially be owners, the applicant spreads the risks (including the financial risks), increases its resale opportunities (of part of the wind farm), and boosts the chances of securing the contract, as well as successfully constructing and operating the wind farms.

One important element in the assessment is that the collaboration between the applicant and partner is aimed at submitting a joint bid *and*, if the contract(s) has/have been won, at jointly developing and operating the wind farms.³⁰ For the development and operation of the wind farms, the collaborating parties wish to combine and use, in an efficient manner, their (complementary) capacities, resources, and experiences. The applicant cites as an example the potential utilization or expansion of existing facilities of one of the parties, such as the operational and management facilities, ports, and supply chain.

In addition, the collaborating parties plan to have activities be carried out by the party that is the most suited for that activity, given that party's expertise. This means that the applicant and partner are able to divide amongst each other certain activities for the development and operation of the wind farms.³¹ Such a collaboration may lead to efficiency gains, which, in turn, can lead to a more competitive bid in the bidding phase.

What this collaboration exactly will entail, depends on how the collaboration with the partner will be implemented and fleshed out further.³² Considering the above, ACM assumes that, at a later stage in the process, the parties can achieve a significant degree of integration of resources and activities so that the collaboration can offer benefits.³³

No secret agreement

Manipulation of the tender processes has not been found. Manipulation occurs if a secret or tacit agreement is made between potential participants in order to coordinate their seemingly individual decisions regarding participation in the tender process.³⁴ In this case, the collaboration is transparent, according to the applicant.³⁵ That is to say that it will be clear to RVO (the licensing authority) that the bid entails a collaboration between this applicant and a partner.³⁶

²⁶ For example, a lower risk premium can be used for the funding. Self-assessment, ACM/IN/1132402, p.2-3; Answers to questionnaire 1, ACM/IN/1141795, p.1 and 7; Answers to questionnaire 2, ACM/IN/1149767.

²⁷ Minutes of meeting with RVO, 7 July 2026, ACM/UIT/683841, p.2.

²⁸ Answers to questionnaire 1, ACM/IN/1141795, p.4. and [confidential].

²⁹ Self-assessment, ACM/IN/1132402, p.6.

³⁰ Policy rule regarding combination agreements EZK, marginal 41; Self-assessment, ACM/IN/1132402, p.7; Answers to questionnaire 1, ACM/IN/1141795, p.6; Answers to questionnaire 2, ACM/IN/1149767.

³¹ Answers to questionnaire 2, ACM/IN/1149767.

³² According to the applicant, no competition-sensitive information has been shared with the partner so far, and no agreement has been reached regarding a detailed integration of production activities, resources, execution of the projects, or partnership structure. Answers to questionnaire 2, ACM/IN/1149767.

³³ See also Horizontal Guidelines, marginal 357 (a). The basic principle is that the greater the integration of resources and activities (think of businesses with complementary assets, expertise, and experience), the likelier it is that the collaboration does not have as its objective a restriction of competition. This integration also forms the basis for potential synergy effects.

³⁴ Horizontal Guidelines, marginals 348-349.

³⁵ Answers to questionnaire 1, ACM/IN/1141795, p.1.

³⁶ It is important that, when bids are submitted, the licensing authority or contracting authority is aware of the fact that a joint bid (consortium) has been submitted.

The scope of the collaboration

This collaboration is an ad hoc collaboration for one or two of the following projects: the IJmuiden Ver Gamma-A and Gamma-B tender processes. A restriction by object is more likely to occur if a collaboration aimed at submitting joint bids covers a higher number of tender processes or even an indefinite number of tender processes for an indefinite amount of time. In this case, it is about two parallel tender processes in the sense that RVO holds them simultaneously and under the same conditions. ACM assumes that, within the Initiative, no agreements are made about future tender processes.³⁷ In addition, ACM finds it important that, for both tender processes, the applicant assesses separately whether cooperation is permitted. In this informal guidance, ACM assumes, for example, that the objective of collaboration and the expected competitive pressure are similar for both tender processes.

The competitive landscape

Generally speaking, a collaboration is more likely to have as its objective the restriction of competition if that collaboration eliminates virtually all competition. The size of the expected competitive landscape, or the expected number of (independent) bids and the competitive pressure that is exerted by these bids, is therefore of importance. The applicant expects sufficient competition. RVO, too, which organizes these tender processes, expects sufficient bids. In its estimate, RVO also explicitly takes into account joint bids (in consortia).

In addition, a collaboration between two parties that individually would have submitted the most competitive and the second-most competitive bid will be more likely to harm competition, because, as a result of the collaboration, they will no longer expect any close competition from each other. The competitive pressure that is eliminated because of the collaboration will be higher in such a case. Although the applicant does consider the partner to be one of the competitors in the Netherlands³⁸, ACM does not expect the partner to be the applicant's closest competitor in this case, considering the fact that the partner [confidential].³⁹ [confidential].⁴⁰

Appreciable effects

If the Initiative does not have as its objective the restriction of competition, the Initiative's effects on competition must be assessed. Whether a joint bid has any appreciable anticompetitive effects depends on, among other factors, the market power of the parties involved, and how the market would realistically evolve without the joint bid.⁴¹ If the parties involved have, for example, a combined market share of less than 15 percent, and there is no restriction by object, it is unlikely that the collaboration has any anticompetitive effects.⁴² ACM did not assess whether the collaboration represents a less than 15 percent market share on the relevant market. For the assessment of this request, ACM did not conduct an extensive investigation of its own, and an exact market definition is not necessary.⁴³

This is the case, because the four circumstances (as discussed in the section on restriction by object, including the expected competitive landscape) do not, at first glance, indicate that the Initiative can have an appreciable anticompetitive effect. As already indicated, ACM, in that context, finds it relevant what the expected market circumstances are, and what the (expected) competitive position is vis-à-vis the other potential bidders. Previous (and comparable) tender processes can help in that regard.⁴⁴

³⁷ Policy rule regarding combination agreements EZK, marginal 42 and Self-assessment, ACM/IN/1132402, p.10.

³⁸ Answers to questionnaire 1, ACM/IN/1141795, p.7.

³⁹ [confidential]. Overview of RVO tender processes from 2016, ACM/IN/1129864, and Overview of tender processes and ACM's analysis, ACM/INT/1074871.

⁴⁰ Self-assessment, ACM/IN/1132402, p.11.

⁴¹ Horizontal Guidelines, marginal 357 sub c.

⁴² Horizontal Guidelines, marginals 339-340.

⁴³ ACM does find it plausible that the competitive pressure is predominantly exerted by wind farm developers that are active in Europe (and therefore not necessarily worldwide). For determining the relevant product market and geographic market for tender process, see Commission Notice on the definition of relevant market for the purposes of Community competition law, marginals 108 and 113, among other marginals.

⁴⁴ For example, historical data on bids and results in similar (previous) tender processes are especially valuable to estimate and assess the competition, bidders (potential or otherwise), and market positions. See the [Commission Notice on the definition of the relevant market for the purposes of Union competition law](#), marginals 35, 64, 69, 108, 113 (footnote 164), and [Draft](#)

Whether the Initiative will also not have any anticompetitive effects, cannot be definitively determined in advance, considering the uncertain factors and the nature of the tender process (bidding process).⁴⁵ For example, the final number of bids and what businesses have submitted bids are only known afterwards, so after the bidding process. Despite this uncertainty that is inherent to any tender process, ACM does expect that, on the basis of available information, parties make an estimate of the market circumstances and (potential) bidders, and, as such, of the relevant competitive landscape.⁴⁶

Although there are currently no indications that the Initiative will have any anticompetitive effects, the parties can, in that case (should it turn out at a later point in time that the Initiative did lead to an appreciable restriction of competition), still demonstrate that the exemption ground of Section 6, paragraph 3 of the Dutch Competition Act (Mw) and/or Article 101, paragraph 3, TFEU, applies. For the sake of completeness, ACM offers guidance for that situation, too, in the next section.

Exemption from the cartel prohibition – four conditions

In order to qualify for this exemption (in the above case), the collaboration must offer benefits that offset the harm to competition. For each tender process, this needs to be assessed separately. The collaboration must meet four conditions:⁴⁷

- i. The collaboration must offer efficiency gains (such as the mentioned synergy gains);
- ii. The collaboration must be necessary for achieving these benefits. In other words, the collaboration must be indispensable for the ability to submit the more competitive bid;
- iii. The buyer (the licensing authority) must receive a fair share of the resulting benefits; and,
- iv. Sufficient competition must remain.

The benefits of the collaboration may come in the form of lower prices, better quality, a greater selection, or a faster and more reliable realization of the products or services involved in the tender process. These benefits must be passed on to RVO (the licensing authority). This is easier when there are sufficient other bidders that exert competitive pressure, and if competition is not eliminated.⁴⁸ Considering the cited circumstances, it is expected that sufficient competition will remain, because multiple, relevant (potential) competitors will remain. In this assessment, the number of (potential) bidders as well as their competitive power are of importance, and also the competitive pressure (closeness) of the partner that is eliminated as a result of the collaboration.

In this case, it would be of importance that the parties are able to demonstrate that the benefits of the collaboration, such as synergy effects or reduced risk, have actually resulted in a more competitive bid for RVO (better price and/or quality). As a result, offshore wind farms can, in the case of a more competitive bid for example, be realized with fewer government subsidies. In addition, the parties - if they win the contract(s) - can demonstrate that the collaboration has resulted in a more reliable bid, meaning an on-time realization of the wind farm and an improved viability of the projects.⁴⁹ According to the applicant, potential benefits for the realization and operation of the wind farms come from i. combining and efficiently utilizing (complementary) capacities, resources, and experience, ii. the efficient distribution of activities, and iii. the sharing of risks between the applicant and partner. This can eventually increase the chances of a successful (and on-time) realization of the wind farms, at lower costs compared with individual development and operation, according to the applicant.⁵⁰

[guidelines on the assessment of mergers](#), marginals 144-147. See also: Overview of tender processes and ACM's analysis, ACM/INT/1074871.

⁴⁵ Self-assessment, ACM/IN/1132402, p.9.

⁴⁶ This estimate is important in determining whether the joint bid has no appreciable effects on competition. In that process, parties can also present different hypothetical scenarios.

⁴⁷ See also Example 6 on bidding consortia in the Horizontal Guidelines, marginal 365.

⁴⁸ Horizontal Guidelines, marginal 358.

⁴⁹ Should parties in such a case not be able to demonstrate that the exemption to the cartel prohibition applies, the Minister of Economic Affairs and Climate Policy may potentially decide to revoke the license. See Offshore Wind Energy Act (in Dutch: Wet Windenergie op Zee), Section 17, paragraph 1a.

⁵⁰ Answers to questionnaire 2, ACM/IN/1149767.

In order for a joint bid to qualify for the exemption ground of Section 6, paragraph 3 of the Dutch Competition Act and/or Article 101, paragraph 3 of the TFEU, the parties would have to demonstrate and substantiate the above benefits of the collaboration.⁵¹ As already discussed, this is not necessary for this request, because ACM finds it plausible that the Initiative does not have as its objective or effect the restriction of competition.

Exchange of competition-sensitive information

When preparing a joint bid, competitors exchange information with each other. The applicant expects that this will also concern information with a competition-sensitive nature.⁵² The applicant argues that various measures are taken in order to ensure that competition-sensitive information from both parties will only be used for the joint bid.⁵³

It will additionally work with a clean-team. This is because, if the applicant decides to submit an individual bid after all, working with a clean-team will ensure that the applicant cannot use the information it has obtained from the partner in determining its bid and market behavior. If one of the parties withdraws from the collaboration, it has been agreed that the other party can submit an individual bid or one together with a different partner.⁵⁴ The fact that the applicant takes measures and works with a clean-team helps reduce the risk of exchanges of competition-sensitive information. It obviously remains important that the applicant takes sufficient measures to prevent the exchange of competition-sensitive information or to limit such exchanges to what is objectively necessary for and proportionate to the collaboration's objective.

3 Conclusion

On the basis of the information provided by the applicant as well as on the expected market conditions, ACM comes to the conclusion that it is not plausible that the Initiative has as its objective or effect a restriction of competition.

ACM points out that this assessment has an informal character. ACM assumes that the information that was submitted by the applicant is correct. ACM did not conduct an extensive 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 the applicant informed ACM in good faith, and if they cooperate with achieving a solution that is appropriate in light of competition rules. Just to be clear: it is ACM's own decision to use its discretionary power on imposing fines in this manner. Other (competition) authorities are not bound by this 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

⁵¹ It is important that the bidders are already able to substantiate and demonstrate such benefits at the time of bidding.

⁵² As a result, a company's uncertainty over what its competitors will do will be reduced, thereby reducing competition. This can lead to, for example, higher prices and reduced quality; Horizontal Guidelines, section 6 (6.2.2).

⁵³ Answers to questionnaire 1, ACM/IN/1141795, p.7-8; Self-assessment, ACM/IN/1132402, p.8, 10.

⁵⁴ Answers to questionnaire 1, ACM/IN/1141795, p.8; Self-assessment, ACM/IN/1132402, p.10.