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Recap of the online meeting on sustainability and merger control

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How can sustainability play a role in European and Dutch merger control practices? This question was discussed by the Netherlands Authority for Consumer and Markets (ACM) on 27 October 2025 during an online meeting on sustainability and merger control with over 40 representatives from businesses and law firms, as well as advisors in the field of sustainability and merger control. The meeting produced valuable insights into how sustainability aspects can play a role in the assessment of mergers and acquisitions.

Purpose of the meeting

The European Commission is working on the review of its merger guidelines, and has asked stakeholders to provide their views on the principles that should underpin its revised Guidelines. One of the topics in this consultation concerns “sustainability and clean technologies”. ACM organized this meeting as part of its role as “rapporteur” on this topic. In that role, ACM gathers input from competition authorities from other EU member states in order to identify what issues they encounter in this area, what the different insights are, and whether common positions can be taken.

The online meeting was aimed at collecting input from Dutch stakeholders. ACM will draw the EU Member States’ and the European Commission’s attention to the different views and ideas.

Short summary

A short summary of the meeting can be found below. Please note that this is a brief summary, and it does not necessarily reflect ACM’s position.

Extra information from the European Commission

During the online meeting, the European Commission first gave an update regarding the current state of play of the review. The European Commission said it was happy with the scope of the reactions as well as with the breadth of stakeholders and the number of responses. One follow-up step in the process is the organization of two technical workshops for which experts and other stakeholders can sign up (on EUSurvey - Survey), as well as the organization of a conference, which will be held in 2026. Prior to publishing the final merger guidelines, the European Commission will publish a draft version.

Discussions on the basis of two provocative statements

After the extra information given by the European Commission, discussions were held on the basis of two statements. These statements were introduced by ACM based on its own input to the consultation. ACM’s response can be found here: ACM’s response to consultation of European guidelines for mergers and acquisitions | ACM. Both statements were also introduced by an external speaker.

Statement 1: ACM can block concentrations that slow down sustainable innovations, so long as the traditional analysis based on market definitions and market shares offers sufficient leads

- *Results of the instant poll*: a large majority of attendees agreed with this statement, as revealed by an instant poll. Of those that voted , 94 percent were in favor, while 6 percent were against.

- *Taking into account sustainability in concentration control practices*: attendees discussed how sustainability considerations could be part of a theory of harm. Attendees argued that the competition rules offer scope for taking into account sustainability effects, so long as the effects touch on a competition parameter (innovation, price, quality, etc.). It was also noted that sustainability in itself can qualify as a competition parameter, so long as it can be demonstrated that consumers attach value to it.

- *Quantifying harm to sustainability, and metrics*: attendees discussed how sustainability effects (positive and negative) can be quantified. It was suggested that some sustainability effects can be properly estimated, such as the costs of CO2 per ton. With regard to consumer surveys, some attendees were more critical, because these can lead to biases.

- *Drawing the line between competition law and the public interest*: attendees also discussed the question of whether the instrument of concentration control may be stretched too far if sustainability considerations are taken into account in concentration assessments. According to attendees, that question mostly arises in situations where sustainability is not a clear competition parameter.

Statement 2: In the efficiency assessment, collective benefits can act as compensation for the harm caused by the merger if consumers on the relevant market receive some of those benefits

- *Results of the instant poll*: The majority agreed with this statement (82 percent of the voters were in favor, 12 percent against, and 6 percent chose “other”).

- *A fair share of the benefits for consumers, and collective benefits*: multiple attendees suggested that it can be sufficient if consumers receive “a share” of the collective benefits. However, there was a discussion about what that “a share” would mean in practice, and to what extent the collective benefits are received by the consumers on the relevant market.

- *Internalizing the externalities*: the attendees discussed the possibility of certain transactions helping internalize the externalities (by way of a price increase). They also discussed the question of why ACM should clear transactions that pass on the costs of greenhouse gas emissions to those that reap the benefits of consumption. In that context, too, a discussion was held about where the line is drawn between competition and the public interest.

- *Remedies*: Possible remedies, such as the imposition of price caps, were mentioned in connection with mergers where the sustainability benefits outweigh the higher costs (such as harm to sustainability). In that context, it was also noted that the government can solve such situations by way of sector-specific regulation.