

Kluwer Competition Law Blog

Main Developments in Competition Law and Policy 2024 – The Netherlands

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Introduction

In 2024, the Netherlands Authority for Consumer & Markets (“ACM”) in the Netherlands made some steps in shaping the landscape of competition law and policy. The year was marked by a series of impactful initiatives and enforcement activities aimed at encouraging a sustainable economy, promoting a fair digital economy, and accelerating the energy transition. The efforts of the ACM included (amongst others) a research in oil price dynamics in the energy sector and the endorsement of sustainability initiatives to make asphalt production more sustainable, standardise sustainability reporting among Dutch banks, enhance recycling efforts for coffee capsules, and introduce a sustainability fee for farmers producing under the On the Way to PlanetProof label.

Notably, the ACM also flagged the competition issues among Dutch banks in the saving market, imposed fines on companies for anti-competitive practices, and navigated complex mergers and acquisition cases.

Year 2024 at a glance

In 2024, the ACM set ambitious [goals](#) by [focussing](#) on three key areas :

1. **Energy transition:** Accelerating the transition to sustainable energy
2. **Digital economy:** Promoting an open and fair digital economy
3. **Sustainability:** Contributing to a more sustainable economy

Energy transition

The ACM conducted research on oil price dynamics, and investigated how wholesale prices for electricity and gas are reflected in consumer tariffs.

Oil price dynamics

The ACM researched oil price drops. This research revealed that consumers do not fully benefit from oil price drops due to the phenomenon known as “rockets and feathers.” This term refers to the idea that companies pass on cost increases to consumers more quickly than cost decreases. This asymmetry has cost consumers between 2.2 and 4.8 euro cents per Liter from 2007 to 2023. The research of the ACM also suggests that improving price transparency could help to address this issue. Measures such as requiring gas stations to automatically disclose their prices digitally could enhance market transparency and reduce consumer search costs. The ACM currently lacks the tools to solve this market problem, however.

Wholesale prices for electricity and gas

The ACM also conducted an investigation into how wholesale prices for electricity and gas are reflected in the energy prices paid by consumers. The ACM investigated six energy suppliers, but found no evidence that the six energy suppliers passed on cost increases more quickly than cost decreases during the period from 2021 to June 2023. This means that the suppliers, including the three largest ones, did not increase their margins by passing on wholesale price increases faster than decreases during the energy crisis. In other words, there is no evidence of the so-called “rockets and feathers” phenomenon in the data examined.

Digital economy

The ACM initiated an investigation into an online platform for preferential treatment, published guidelines for compliance with the Digital Services Act (“**DSA**”) and endorsed the need for enhanced technological knowledge among regulators.

Investigation online platform

The ACM has launched an investigation into an online platform after receiving reports of preferential treatment towards itself and certain businesses. This investigation follows after complaints by several companies that their offerings are less visible on the platform, despite providing the best price or quality. They claim that the platform prioritises its own products or those of specific businesses. There are also concerns that the platform is using data from businesses to strengthen its own position. The ACM has requested information to determine if any laws are being violated.

Guidance DSA

The ACM has published guidelines to help businesses comply with the DSA, which came into force in February 2024. These guidelines clarify the services covered by the DSA, the specific rules businesses must follow, and practical compliance steps. On 21 November 2024, the ACM

also **hosted** a webinar for small and medium-sized enterprises (SMEs), emphasising accessibility, clear reporting systems, and predictable terms. The webinar highlighted the reduced regulatory burden for smaller businesses and provided compliance guidance as they grow. ACM staff explained the obligations and exceptions for micro and small businesses under the DSA, which applies to online services that transmit, store, or distribute user content. Businesses with fewer than 50 employees and less than EUR 10 million in annual turnover face fewer regulations. The ACM also discussed coordination with the European Commission on DSA enforcement and clarified that unclear terms and conditions on large platforms fall under the DSA. Additional resources and guidance were provided to help businesses understand and comply with the DSA. The designated supervisor for the DSA in the Netherlands, the ACM, will begin enforcement once the national implementation law is in place. However, businesses and consumers can already report non-compliance to the ACM.

Need for enhanced technological knowledge

Lastly, the ACM **endorsed** a statement by the International Competition Network (ICN) emphasising the need for enhanced technological knowledge and capacity among regulators. During the ICN's Technology Forum, experts from competition and consumer authorities gathered to exchange insights and develop principles aimed at boosting digital capabilities. The ACM recognises the importance of collaboration with other regulators to elevate technological expertise and ensure effective oversight in the digital economy.

Sustainability

The ACM approved and assessed initiatives to make asphalt production more sustainable, standardise sustainability reporting among Dutch banks, enhance recycling efforts for coffee capsules, and introduce a sustainability fee for farmers producing under the On the Way to PlanetProof (OPP) label.

Asphalt production

The ACM has **approved** an initiative by *Bouwend Nederland* to make asphalt production more sustainable by transitioning from hot mix asphalt (HMA) to warm mix asphalt (WMA), which is produced at lower temperatures, reducing energy consumption and CO2 emissions. The ACM **concluded** that this collaboration aligns with competition rules and does not significantly restrict competition. The initiative is voluntary, allowing asphalt producers to choose their production methods freely. It is unlikely to cause noticeable price increases due to the competitive market. The ACM emphasised transparency and fairness, noting that participation is open and producers can adopt higher sustainability standards if they choose.

Standardise sustainability reporting among Dutch banks

The ACM has [assessed](#) the collaboration among Dutch banks, facilitated by the Dutch Banking Association (“**NVB**”), to standardise and enhance their sustainability reporting. This initiative involves a data project to clarify part of the Environmental, Social, and Governance (“**ESG**”) requirements that banks must report on. The initiative aims to improve the comparability of sustainability reports by establishing common data requirements and reliable calculation methods, thereby supporting transparency and accountability in the banking sector. The ACM’s [assessment](#) focused on several aspects. Firstly, the initiative is voluntary and open to all banks, ensuring no direct or indirect obligations are imposed on participants. This voluntary nature prevents any coercion or undue pressure on banks to join the initiative. Secondly, the collaboration does not involve the exchange of commercially sensitive information. Thirdly, the initiative is unlikely to lead to price increases or reductions in quality, as it focuses solely on standardising reporting practices rather than influencing market behaviour or pricing strategies. The ACM also considered the broader market impact and concluded that the initiative would not create barriers to entry or disadvantage smaller banks.

Coffee capsules

The ACM has [assessed](#) a collaboration among nine coffee capsule producers, facilitated by the Royal Dutch Coffee and Tea Association (*Koninklijke Nederlandse Vereniging voor Koffie en Thee*, “**KNVKT**”). The collaboration wants to enhance recycling efforts for plastic and aluminium capsules. The producers, representing 90% of the market, aim to invest in technologies like sorting machines to help waste processors recycle coffee capsules more efficiently. The ACM concluded that the initiative does not significantly restrict competition, as it is voluntary, does not involve the exchange of sensitive competitive information, and focuses on improving recycling practices without affecting market behaviour or pricing strategies. The initiative is open to all producers and does not create barriers to entry or disadvantage smaller producers.

Sustainability fee for farmers

The ACM has [informally](#) approved the initiative of *Stichting Milieukeur* (“**SMK**”). This initiative wants to introduce a sustainability fee for farmers producing vegetables and fruits under the *On the Way to PlanetProof* (OPP) label. This fee aims to compensate farmers for the additional costs incurred to meet the OPP label’s sustainability standards. SMK, the independent manager and owner of the OPP label, aims to establish a scheme where buyers compensate producers for the sustainability costs associated with the OPP label. This initiative addresses the uncertainty producers face regarding compensation for OPP production, enabling them to continue or start producing under the OPP label. The ACM [concluded](#) that the initiative does not significantly restrict competition, as it is transparent and voluntary, with no direct or indirect obligations imposed on participants. The sustainability fee is based on independent research to cover the additional costs producers incur, ensuring fair compensation without leading to price increases for consumers. Farmers and supermarkets remain free to set their own prices, and the fee does not create barriers to entry or disadvantage smaller producers. Additionally, the collaboration avoids the exchange of commercially sensitive information.

Enforcement activities by the ACM

Refusal to investigate

The ACM rejected enforcement requests against *PostNL* for alleged anti-competitive practices and found no grounds for further investigation into the collaboration between hospitals and health insurers in the Groningen region.

No investigation into PostNL

The ACM rejected enforcement requests from [DHL](#) and [GLS](#) against PostNL for alleged violations of Articles 6 and 24 Dutch Competition Act. DHL and GLS claimed that PostNL's exclusivity agreements with certain retail points in the Netherlands were anti-competitive. However, the investigation of the ACM revealed that both DHL and GLS have sufficient alternative options for establishing service points, and PostNL's conduct does not exclude them from the parcel delivery market. The ACM defined the relevant market as parcel delivery services in the Netherlands, including both business-to-consumer (B2C) and business-to-business (B2B) segments. The ACM assessed PostNL's market power, noting its significant share but also the presence of competitors like DPD and GLS, indicating a competitive market environment. The ACM found that PostNL's exclusivity agreements did not completely foreclose the market to competitors, as retail points could still choose to work with other parcel delivery services, and the number of service points for competitors had increased over time. The ACM concluded that PostNL's practices did not create significant barriers to entry or expansion for other parcel delivery services, as evidenced by the growth of service points for PostNL's competitors. It also determined that PostNL's agreements did not lead to higher prices or reduced service quality, as competitive pressure from other parcel delivery services ensured that consumers continued to benefit from competitive prices and service options.

No investigation into collaboration between hospitals and health insurers

The ACM [concluded](#) that the collaboration between three hospitals and three health insurers in the Groningen region does not exclude independent treatment centres (“ZBCs”) from the regional healthcare market. Health insurers Menzis, Zilveren Kruis, and VGZ, along with hospitals UMCG, Ommelander Ziekenhuis, and Martini Ziekenhuis, initiated a collaboration focusing on movement care, cardiological care, rectal surgery, and plastic surgery. The goal was to maintain a sustainable healthcare access in the Groningen region amidst rising demand and staff shortages. Media reports suggested that this collaboration might aim to exclude ZBCs, prompting Zelfstandige Klinieken Nederland (“ZKN”) to file an enforcement request with the ACM in December 2023. The ACM found in its preliminary investigation no evidence of agreements among the six collaborating parties to exclude ZBCs. The parties publicly emphasised their commitment to including ZBCs that can contribute to regional healthcare solutions. The ACM noted that the collaboration involved the healthcare system's “triangle”: insurers, providers, and patient organisations. The ACM highlighted that the Dutch Competition Act does not prohibit collaborations in healthcare that benefit patients. Collaborations should involve all relevant parties, including patients, healthcare purchasers, and other providers, and set clear, measurable, and verifiable healthcare goals. The ACM found no grounds for further investigation and therefore rejected ZKN's enforcement

request.

Warnings ACM / market research

The ACM identified a lack of competition among Dutch banks on the savings market and issued warnings to several suppliers for pressuring retailers to maintain higher sales prices.

Lack of competition on the Dutch savings market

The ACM **identified** a lack of competition among Dutch banks as a significant factor contributing to low savings rates for consumers. Despite the presence of multiple banks in the Netherlands, most Dutch savers hold accounts with one of the three major banks—ABN AMRO, ING, and Rabobank—resulting in insufficient competitive pressure to raise savings rates. The market investigation of the ACM revealed that these banks have not followed the European Central Bank’s higher interest rates, potentially due to tacit coordination rather than explicit agreements. This behaviour, while not prohibited under competition law, has similar effects to a cartel, resulted in this case not to lower interest rates for consumers. The chairman of the ACM, emphasised that the current lack of competition in the Dutch savings market is evident and that lowering switching barriers would help consumers benefit from higher interest rates. The ACM recommends lawmakers to reduce barriers to switching banks to increase competition in the savings market. Suggested measures include prohibiting the tying of checking and savings accounts, creating a mandatory switching service, and improving information provision. The ACM’s findings are based on information from banks, sector regulators, and other relevant parties. The Ministry of Finance had requested the ACM to investigate the savings market due to the low interest rates compared to the ECB’s rates. Following a consultation period where stakeholders could provide feedback, the ACM released the final report on the Dutch savings market on 16 July 2024. The **final report** includes clarifications and adjustments based on the feedback.

Warnings to suppliers for RPM

The ACM has issued **warnings** to several suppliers across various sectors, e.g. building materials, bicycle and car accessories, batteries, and personal care products, for pressuring retailers to maintain higher resale prices. The investigation of the ACM indicated that these suppliers had pressured retailers, which prevented retailers from setting their own resale prices. In response to the warnings, the suppliers have conducted internal investigations, enhanced compliance training, revised agreements, and adjusted communications to ensure adherence to competition laws. The ACM emphasised that suppliers may only provide non-binding price recommendations to retailers, allowing them to compete fairly and offer the best prices to consumers. Failure to comply with these regulations could result in fines of up to EUR 900,000 or 10% of the supplier’s annual turnover.

Enforcement decisions

The ACM imposed fines on LG Electronics Benelux Sales B.V. (“**LG**”) for influencing online retail prices and found contractors Den Ouden and Bloem Infra guilty of bid rigging.

ACM upholds fine LG

The ACM **upheld** the **fine** it imposed on LG of EUR 7,943,500 for influencing online retail prices of televisions sold by seven retailers between 2015 and 2018. LG contested the fine, but the ACM rejected its objection. LG presented several arguments in its defence. It claimed that its actions were merely advisory and did not constitute binding agreements or coordinated practices. LG also argued that there was no evidence of pressure or threats to make retailers comply. It pointed out that strong competition in the TV market would prevent significant negative effects from their pricing advice. Additionally, LG believed its recommendations helped prevent free-riding on services provided by retailers. LG further argued that the fine was disproportionate, given the lack of significant anti-competitive effects and their compliance efforts. Despite these objections, the ACM upheld its decision. The ACM emphasised that LG’s actions restricted retailers’ freedom to set their own prices independently. The coordination of LG involved direct communication between LG and the retailers, where LG monitored and influenced the pricing strategies of the retailers to ensure compliance with the prices LG suggested. This coordination violated both Dutch and European competition laws. Consequently, the ACM maintained the fine of EUR 7,943,500. LG has the option to appeal this decision at the District Court of Rotterdam.

Fine for bid-rigging

In February 2024, the ACM **concluded** its **investigation** into the tender process for the schoolyard of Yuverta Roermond, finding that contractors Den Ouden and Bloem Infra violated the cartel prohibition by engaging in bid rigging. This anti-competitive practice involved exchanging confidential bidding information to ensure Den Ouden’s bid was non-competitive, allowing Bloem Infra to win the contract. Den Ouden, who first disclosed the illegal agreement, avoided a fine, while Bloem Infra, which cooperated with the investigation, received a reduced fine of EUR 59,000.

Merger control

The ACM was (like in 2023) quite active on merger control. The ACM approved several second phase mergers, but also determined that further investigation is needed for several other acquisitions, including those involving Foresco, FincoEnergies, DPG Media, and Glaspoort.

Withdrawal referral investigation into Microsoft – Inflection

The ACM withdrew its request to the European Commission to investigate Microsoft’s acquisition of the AI startup Inflection. The ACM’s concerns focus on the potential negative impacts on innovation and consumer choice in the AI sector in the Netherlands. In March 2024, Microsoft

acquired a significant portion of Inflection’s staff, including two of its three co-founders, and obtained the intellectual property rights for Inflection’s AI model and chatbot, Pi. Despite the acquisition not meeting the revenue thresholds for mandatory notification, the ACM argued that the deal warranted investigation due to concerns that it could eliminate an innovative market entrant, reducing consumer choice and stifling innovation in the AI chatbot market. Multiple member states had also requested the European Commission to examine the acquisition. However, a recent ruling by the European Court of Justice in the Illumina-Grail case clarified that the European Commission cannot handle requests from member states that lack jurisdiction over the acquisition. The ACM Chairman **emphasised** the necessity of new powers for the ACM to investigate such acquisitions and prevent market dominance.

Approval KPN’s acquisition of Youfone

The ACM has **approved** KPN’s acquisition of Youfone after a second phase merger control investigation. KPN and Youfone both offer mobile telecommunications services, with Youfone being a small but a fast growing provider of low-cost mobile phone subscriptions using KPN’s network. The investigation of the ACM concluded that the acquisition would not reduce competition, as consumers would still have plenty of choices for low-cost mobile phone subscriptions. An economic study estimated the price effect of the acquisition to be between -0.4% and 0.7%, indicating no significant negative impact on prices. The ACM also found that the acquisition would not significantly affect KPN’s incentive to provide network access to other mobile providers without their own networks (MVNOs). Although MVNOs face significant switching barriers, they have effectively used the threat of switching to other networks like Odido or VodafoneZiggo to negotiate better terms with KPN.

Approval acquisition of Stichting voor medische en verpleegkundige zorgverlening St. Jans Gasthuis (“SJG”) by Academisch Ziekenhuis Maastricht (“MUMC+”)

The ACM has **approved** the proposed acquisition of SJG by MUMC+. MUMC+ is a university medical centre providing specialised patient care, scientific research, education, and training. SJG offers general hospital care in the Weert region in the Netherlands. The competition law **assessment** of the ACM concluded that the acquisition would not significantly impede competition. The activities of MUMC+ and SJG overlap in basic care but not geographically, and there is only limited overlap in complex care. The ACM determined that sufficient alternatives remain for patients and insurers in the regions where there is overlap. Additionally, the ACM found that the parties do not have a strong negotiating position to significantly restrict competition by transferring bargaining power to another market. Other hospitals in the region are not financially dependent on referrals from MUMC+ and SJG to the extent that shifting patient flows would significantly impede competition. Therefore, the ACM concluded that the proposed acquisition would not lead to a significant impediment to competition, and MUMC+ and SJG do not need a permit to proceed with the concentration.

Further investigation required for acquisition of DWP and Vierhouten by Foresco

The ACM has **decided** that further investigation is needed into the acquisition of pallet sellers DWP and Vierhouten by their competitor Foresco. Both Foresco and DWP-Vierhouten are active

in the production and sale of new wooden pallets, including custom-made pallets, EPAL and CP pallets, as well as the sale of used wooden pallets and plastic pallets. Foresco has been pursuing a growth strategy through acquisitions, primarily in the Netherlands and Belgium, resulting in the acquisition of sixteen companies since 2019. The ACM is concerned that this strategy could lead to price increases. According to the ACM, Foresco has been acquiring several smaller competitors that did not meet the notification threshold. The acquisition of DWP and Vierhouten would further strengthen Foresco's market position in the sale of new wooden pallets, potentially leading to negative consequences for buyers. The competition law [assessment](#) of the ACM raised concerns that the acquisition could significantly impede competition in the Dutch market for the sale of new custom-made wooden pallets and new EPAL and CP pallets. The merger could strengthen Foresco's already dominant position in these markets, potentially leading to higher prices and reduced competition. Additionally, the ACM noted that Foresco's strategy of acquiring smaller competitors could further affect competition by eliminating market players and reducing the disciplining effect of competition. Given these concerns, the ACM concluded that further investigation is necessary to assess the potential anti-competitive effects of the merger. Therefore, Foresco and DWP-Vierhouten must apply for a permit to proceed with the acquisition.

Further investigation required for acquisition of Oliehandel Klaas de Boer by FincoEnergies

The ACM has [determined](#) that further investigation is required into the acquisition of Oliehandel Klaas de Boer by FincoEnergies. Both companies are active in the supply of marine fuels and lubricants, with overlapping activities primarily in the supply of gas oil to business end-users in various Dutch ports. Additionally, FincoEnergies supplies gas oil to Klaas de Boer as a wholesaler. The ACM is concerned that the acquisition could lead to FincoEnergies becoming the dominant supplier in Dutch ports, potentially resulting in higher prices and reduced service for customers such as fishermen, ferries, and tug services. The competition law assessment of the ACM identified several concerns. The merger could significantly impede competition in the local markets for the supply of gas oil to port-bound end-users in the ports of Harlingen, Lauwersoog, Eemshaven-Delfzijl, and Den Helder, as well as to the fishing industry in IJmuiden. The combined entity post transaction would hold a dominant position in these ports, with market shares ranging from 70% to 100%. The preliminary [findings](#) of the ACM indicate that customers in these ports have few or no alternatives for marine fuel suppliers, necessitating further investigation into the potential negative impacts on competition. Therefore, FincoEnergies and Klaas de Boer must apply for a permit to proceed with the merger. Further investigation will be conducted to assess the potential anti-competitive effects more thoroughly.

Further investigation required for acquisition of RTL Nederland by DPG Media

The ACM has [determined](#) that further investigation is necessary regarding the proposed acquisition of RTL Nederland by DPG Media. This case involves DPG Media B.V. and RTL Nederland Holding B.V. along with RTL Nederland Media Services S.A. DPG Media is a media company active in newspapers, magazines, radio, and online services. RTL Nederland is involved in television broadcasting, online news, and streaming services. DPG Media intends to acquire RTL Nederland, creating a cross-media company with activities spanning television, radio, newspapers, magazines, and online platforms. The competition law [assessment](#) of the ACM highlights several

concerns. Firstly, the merger could reduce competition in the general news market, potentially decreasing the variety and quality of news available to consumers. Additionally, the combined entity (DPG Media and RTL Nederland) could gain significant bargaining power over press agencies like ANP, potentially leading to higher costs for other news providers. The merger might also strengthen DPG's position in hiring journalists, possibly leading to worse conditions for freelance journalists and a reduction in news quality and diversity. In terms of non-horizontal effects, the combined entity could offer bundled advertising packages across multiple media channels, potentially disadvantaging competitors who cannot match this cross-media offering. Furthermore, the merger would enhance DPG's data capabilities, allowing for more targeted advertising, which could further entrench its market position.

Further investigation required for the acquisition of a part of the fiber networks of DELTA Fiber Netwerk B.V. (“DELTA”) by Glaspoort B.V. (“Glaspoort”)

The ACM has [decided](#) that further investigation is necessary regarding the acquisition of a part of the fiber networks of DELTA by Glaspoort, a joint venture between KPN B.V. and Drepana Investments Holding B.V. (APG). Glaspoort aims to acquire fiber networks from DELTA in various municipalities in the Netherlands, covering approximately 200.000 households. Glaspoort was established in 2021 to accelerate KPN's fiber rollout plans, with the goal of reaching 80% of Dutch households by 2026. The [competition law assessment](#) of the ACM raised concerns about the potential anti-competitive effects of the acquisition. The ACM concluded that the acquisition could significantly impede competition in the market for fixed telecom networks. Currently, KPN competes in these local areas with its copper network against DELTA's fiber network and VodafoneZiggo's cable network. The acquisition would reduce competition locally, making telecom providers without their own network entirely dependent on KPN/Glaspoort for wholesale access. This could also restrict competition in the wholesale market for access to fixed networks and the downstream retail market for internet access. Additionally, the ACM noted that the acquisition could have significant national effects on competition. KPN already holds a large market share in the national wholesale market for access to fixed telecom networks. Further acquisitions could strengthen KPN's potentially dominant position in the national wholesale market, further reducing competition. The ACM also expressed concerns that the acquisition could be part of a strategy by KPN to gradually acquire smaller competing networks, which could cumulatively lead to a significant impediment to competition. As a result, the ACM concluded that further investigation is necessary to assess the potential anti-competitive effects of the acquisition. Therefore, Glaspoort and DELTA must apply for a permit to proceed with the acquisition.

Court rulings in 2024

In 2024, there have been several court rulings regarding the enforcement actions of the ACM and more specifically on decisions of the ACM to refuse to start an investigation. Several court rulings in 2024 addressed also other issues such as the right to have standing for third parties, the legal framework around the publication of decisions to impose fines. The Trade and Industry Appeals Tribunal finally upheld the decision of the ACM to impose fines for bid rigging by roofing companies.

Publication decision to fine

On 12 February 2024, the Rotterdam District Court **upheld** the decision of the ACM to publish its decision to impose fines related to the egg cartel. The ACM imposed fines on three companies that purchase eggs (Interovo, Wulro and Global) for concluding illegal price-fixing agreements with regard to the purchase of eggs from farmers. The duration of the cartel spanned from April 2015 to August 2019. The companies argued that the publication of the fines, including the names of their suppliers and customers, would expose commercially sensitive information and damage their market positions. They also argued that the ACM's decision to publish the fines was inconsistent with previous cases where similar information was kept confidential and that the ACM had not adequately considered the potential harm to their businesses. The court assessed whether the ACM's decision to publish the fines, excluding the specific amounts, was justified. The court found that the ACM had acted within its mandate, anonymised certain sensitive information, and that the remaining details were necessary for public awareness and enforcement of competition law.

Standing for third parties

On 19 February 2024, the Rotterdam District Court **ruled** that plaintiffs lacked the necessary standing to appeal the ACM's decision to grant a permit for the acquisition of Landal by Roompot. The ACM had granted the permit on 12 April 2023, after a second phase review, with specific conditions to address competition concerns in the markets for vacation accommodation rentals (B2C) and rental mediation and marketing services (B2B). To mitigate these issues, the ACM required Roompot and Landal to divest two vacation park brands (Hogenboom and Largo) and thirty vacation parks to Dormio Group B.V., in order to create a new competitor and ensure competitive prices. The plaintiffs, owners of vacation accommodations managed by Landal, argued that they should be considered stakeholders in the decision of the ACM. They claimed that as consumers of Landal's rental mediation, management, and marketing services, they had a vested interest in maintaining competition in the B2B market. The plaintiffs contended that the remedies imposed by the ACM did not adequately address the competition issues identified in both the B2B and B2C markets. However, the court found that the plaintiffs' interests were too general and not directly impacted by the ACM's decision. The court noted that the plaintiffs were among many consumers of Landal's services, and their interests did not stand out as sufficiently distinct, current, and certain. The court pointed out that one of the plaintiffs did not currently rent out their property, and the agreements for the services provided by Landal to the other plaintiff were secured until 2031, beyond the typical five-year assessment period for the effects of such a concentration by the ACM. As a result, the court ruled the plaintiffs lacked the necessary standing to appeal, declaring the appeal inadmissible.

Bid rigging by roofing companies

On 27 February 2024, the Trade and Industry Appeals Tribunal (CBb) **confirmed** a fine of EUR 24.000 imposed by the ACM on several roofing companies for cartel activities, specifically bid-rigging. The **case** originated from a complaint received by the ACM in 2017 regarding a possible

cartel among roofing companies involved in the renovation and maintenance of bituminous and synthetic roofs. A company in Amsterdam organised a tender to have a roof renovated and invited four parties to compete for the contract. Two roofing companies, Schadenberg and Van Venrooy, secretly made agreements about their bids before the tender. The investigation of the ACM focused on potential agreements made from 2010 onwards about contracts or the exchange of competitively sensitive information before submitting bids for tenders. The investigation revealed that several roofing companies had coordinated their bids for a tender issued in mid-2016 for the renovation of a roof. The ACM concluded that this coordination constituted an agreement or concerted practice aimed at restricting competition. Some roofing companies argued that the ACM had not sufficiently investigated the case and that there was no agreement or concerted practice. They claimed that their quote was independently calculated and that the ACM's evidence was insufficient to prove otherwise. They also contended that the fine of EUR 6.000 imposed by the ACM was disproportionate. The court found that the ACM had provided sufficient evidence to support its conclusion that the roofing companies had coordinated their bids. The court noted that an email between the roofing companies contained detailed instructions on how to prepare the quote, and to match these instructions.

Parent company liable for anti-competitive actions subsidiary

On 5 November 2024, the Trade and Industry Appeals Tribunal issued a [ruling](#) in the appeal case where the ACM had fined Samskip in 2015 for a cartel violation by its former subsidiary. Samskip's activities involved the storage and logistics of fish products in cold storage facilities. Samskip, through its subsidiaries Samskip Logistics International B.V., Samskip Transport Services B.V. (formerly Samskip B.V.), and Samskip Holdings B.V., was involved in the storage of fish in cold storage facilities. The ACM found that these entities had engaged in anti-competitive practices, specifically price-fixing and market-sharing agreements. Samskip argued in appeal that the fine was disproportionate and that the ACM had not adequately proven the existence of the cartel. Samskip also argued that the parent company should not be held liable for the subsidiary's actions, claiming that the subsidiary acted autonomously. However, the court found that the parent company had decisive influence over the subsidiary, making it liable for the anti-competitive behaviour. The CBb confirmed that the ACM was justified in fining Samskip. Samskip was held liable for the actions of its subsidiary because they were part of the same economic unit and engaged in coordinated anti-competitive practices. The CBb upheld the fine but reduced it from EUR 901,000 to EUR 856,000 due to the lengthy duration of the legal proceedings.

Refusal to investigate – Order of Registered Advisors in the Netherlands

On 8 October 2024, the Trade and Industry Appeals Tribunal [ruled](#) on the [appeal](#) by the Order of Registered Advisors in the Netherlands (“OvRAN”) against the [decision](#) of the ACM to reject OvRAN's enforcement request regarding anti-competitive practices by the Nederlandse Beroepsorganisatie van Accountants (“NBA”) and the four largest accounting firms in the Netherlands, collectively known as the “Big Four.” OvRAN alleged that the NBA and the Big Four were engaged in anti-competitive practices by imposing unnecessary regulations on competitors while exempting themselves. OvRAN also claimed that the NBA, influenced by the Big Four, established professional rules that imposed high compliance costs on accountants and their

organisations. They claimed these regulations resulted in higher burdens for all NBA members, while the Big Four could circumvent them by structuring their operations to avoid employing NBA members in certain departments, thus gaining a competitive advantage. The ACM conducted a preliminary *investigation* and found no evidence supporting OvRAN's claims. The ACM concluded that the influence of the Big Four within the NBA was insufficient to impose rules favouring them over other accountants. The NBA's general assembly included significant representation from smaller firms, counterbalancing the Big Four's influence. The CbB upheld the ACM's decision, finding no undue influence by the Big Four in the NBA's decision-making process. The court noted that the NBA's regulations were established democratically, and the Big Four's representation in the general assembly was only 5.2%, not enough to dominate decisions. OvRAN's arguments about the Big Four's ability to influence votes were dismissed due to lack of evidence. Additionally, the court rejected OvRAN's claims regarding Article 24 Dutch Competition Act, as the NBA's activities did not constitute economic activities, and there was no indication of a collective dominant position between the NBA and the Big Four. The CbB concluded that the ACM had appropriately assessed the situation and that OvRAN's allegations were unfounded.

Refusal to investigate – AVR-Afvalverwerking

On 18 September 2024, the Rotterdam District Court handed down a *ruling* in which it concluded that the ACM correctly rejected the enforcement request of AVR-Afvalverwerking B.V. (“**AVR**”) based on the prioritisation policy of the ACM. The case before the court involved AVR filing a request for enforcement against the municipalities that own the company Twence Holding B.V. (“**Twence**”). Both AVR and Twence are involved in the processing of household waste. AVR alleged that the municipalities favoured Twence by awarding it a contract for waste processing without a public tender and by paying excessively high rates for this service. By directly awarding the contract to Twence, the municipalities circumvented the competitive bidding process, which should have been followed to ensure market conformity and fair competition. AVR also claimed that the rates paid to Twence were above market rates, giving Twence an unfair advantage over other competitors, including AVR. The ACM initially *rejected* the request for enforcement of AVR, based on the prioritisation policy of the ACM. The ACM *argued* that investigating the market conformity of Twence's rates would require extensive economic research and specialised knowledge, which were scarce resources. Additionally, the ACM suggested that the European state aid rules might apply, and in such a case, the ACM would not be the appropriate authority to conduct the investigation. AVR appealed the ACM's decision, but the court upheld the rejection of the ACM. The court found that the ACM had appropriately applied its prioritisation policy, which considers the harm to consumer welfare, the societal interest in ACM's intervention, and the ACM's capacity to act effectively and efficiently. The court upheld the ACM's decision, agreeing that the ACM had appropriately applied its prioritisation policy and that the investigation would be resource-intensive. The court also noted that if the conduct likely constituted state aid, the European Commission would be the appropriate body to investigate, not the ACM.

Refusal to investigate – leasehold policy

On 16 September 2024, the Rotterdam District Court *ruled* on a dispute between an individual (the

claimant) and the ACM, with the municipality of Amsterdam as a third party. The claimant requested the ACM to take enforcement action against the municipality regarding its leasehold (*erfpacht*) policy, alleging unfair commercial practices and competition law violations. The claimant argued that unilateral adjustments to the calculation methods for determining land value and lease percentages resulted in significantly higher costs for leaseholders. These adjustments included changes to market value, depreciation, VAT surcharge, and risk surcharge, making the leasehold terms two to four times more expensive than initially agreed upon. The claimant argued that these practices were contrary to the original intent of the parties, the market conformity established in 2002, and the consistent policy line since 2000. Furthermore, the claimant alleged that the municipality pressured the Amsterdam Real Estate Agents Association to adopt these more expensive calculation methods, compromising the independence of valuation experts. The ACM **initially** rejected the claimant's request for enforcement, based on its prioritisation policy. The ACM argued that investigating the municipality's leasehold policy would require extensive resources and that the potential application of European state aid rules might make the European Commission the appropriate authority to investigate. The claimant appealed the **decision** of the ACM, but the court upheld that decision. The court found that the ACM had appropriately applied its prioritisation policy and that the investigation would be resource-intensive. The court also noted that the ACM had already conducted a preliminary investigation and found no grounds for further action.

Disclosure of information

On 11 June 2024, the Trade and Industry Appeals Tribunal **ruled** that the ACM correctly refused a request to disclose documents. The case involved an appeal by Entity 1 B.V. ("**Entity 1**") against the ACM's decision not to disclose certain information related to fines imposed on Entity 2 B.V. ("**Entity 2**"). The background of the case involves the ACM imposing fines on Entity 2 for competition law violations. Entity 1 sought information on whether these fines had been reduced or if there had been any deviations from standard payment arrangements. The ACM rejected the request, citing articles 12u, 12v, and 12w of the *Instellingswet Autoriteit Consument en Markt* ("**Iw**"). Entity 1 argued that the ACM's refusal was unjustified and that disclosure was necessary for transparency and public information. The court examined the legislative intent behind these provisions and concluded that articles 12u and 12v apply only to decisions establishing a violation, not to decisions regarding the modification of payment obligations. Therefore, the ACM was correct in its interpretation that these articles did not mandate the disclosure of the requested information. The court also assessed the use of the discretionary power of the ACM to disclose other documents if deemed necessary for public information and transparency. The court found that the ACM had reasonably exercised its discretion by determining that the disclosure was not necessary. The ACM had already made public the original sanction decisions and provided sufficient information about its enforcement practices on its website.

Legislation and policymaking by the ACM

Policy

In 2024, the ACM made some steps in enhancing transparency and efficiency in its regulatory

processes. By consulting with representatives from businesses and the legal profession, the ACM improved the reporting [process](#) for mergers and acquisitions, making it more transparent for both companies and the ACM itself. This new process requires companies to fill out an intake [form](#) on the ACM website approximately a week before the official notification. The form provides information about the transaction and the activities of the involved companies, allowing the ACM to be informed earlier about the companies' plans. Additionally, the ACM updated key documents, including the “*Werkwijze bij concentratiezaken*” and the “*Meldings- en vergunningsformulier*,” to align with the new intake procedure and other process improvements. An initial meeting with the notifying companies is now part of the process, occurring before the permit application. The ACM also clarified the procedures around the hearing phase and participation.

Legislation

As of 8 November 2024, the ACM was [designated](#) as the supervisory body for the enforcement of the P2B Regulation. The P2B Regulation aims to ensure that platforms treat businesses that offer their products or services through them fairly. It addresses issues such as transparency in terms and conditions, ranking criteria, and dispute resolution mechanisms.

The [DSA](#), which came into effect on 17 February 2024, aims to create a safer and more reliable online environment. As of 4 February 2025, the ACM was [officially](#) designated as the supervisory body for the enforcement of the DSA. The DSA establishes a legal framework with rules for digital service providers on transparency, consumer protection, and combating illegal online content. The DSA adopts a risk-based approach, imposing stricter requirements on intermediary service providers with significant societal impact, known as ‘Very Large Online Platforms’ (VLOPs) and ‘Very Large Online Search Engines’ (VLOSEs), compared to smaller service providers. The DSA initially applied to online providers that store, transmit, or publicly distribute user content. The DSA is already applicable to the 19 largest [online platforms and search engines](#) (such as Google, Amazon, Facebook, etc.). The ACM had already urged business to prepare for compliance with the DSA.

What to expect in 2025?

In 2025, the ACM will continue to focus on stimulating an open and fair digital economy, accelerating the energy transition, and fostering a more sustainable economy. One thing is for sure, we will see more of the ACM in 2025. With the DSA and P2B Regulation being enforced by the ACM, we will definitely see an active ACM in the digital economy.

The ACM keeps up its pace and it has already launched five new market investigations in 2025 to identify and address market problems in various sectors. These investigations will focus on veterinary practices, digital learning materials, algorithmic consumer pricing, the budget segment for fixed internet, and the hydrogen market. By conducting these market studies, the ACM aims to uncover deeper causes and effects of market dysfunctions and propose solutions to improve market performance. A key tool in the ACM's strategy for 2025 might be the [new competition tool](#) which allows the ACM to impose obligations on companies to improve competition if (for instance) market research reveals a lack of competition in that specific market.

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The image is a promotional graphic for a survey report. It features a dark background with a circular inset showing a gavel resting on a glowing digital circuit board. The text is white and blue. At the top left, it says '2024 Future Ready Lawyer Survey Report'. Below that is the main title 'Legal innovation: Seizing the future or falling behind?'. A blue button with white text says 'Download your free copy →'. At the bottom left is the Wolters Kluwer logo. At the bottom right is the 'Future Ready' logo with 'LAWYER' written below it.

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