



# Europe, Middle East and Africa Antitrust Review

2025

**Netherlands: Big tech under scrutiny  
amid stricter merger control**

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# Netherlands: Big tech under scrutiny amid stricter merger control

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## IN SUMMARY

The Dutch competition authority, the Authority for Consumers and Markets (ACM), is a driving force on key issues such as promoting sustainability and competition in the digital economy. The ACM also vigorously enforces the behavioural competition rules, while the Dutch courts remain a venue of choice for follow-on litigation. In merger control, the ACM appears to be leaning towards a stricter approach, although it has also suffered some noteworthy court losses. In the meantime, the ACM is pushing for an expansion of its powers. This article explores these developments in detail.

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## DISCUSSION POINTS

- The ACM's current agenda focuses on the interface between competition law and sustainability, the energy transition and competition in the digital economy
  - The ACM has been vigorously enforcing the behavioural competition rules, with notable cases on resale price maintenance and abuse of dominance in the pharmaceutical sector and digital markets
  - In merger control, the ACM is leaning towards stricter scrutiny, with more Phase II cases, although it has also faced two noteworthy court losses
  - The ACM is pushing to extend its powers to include a market investigation tool and the possibility of calling in mergers that do not meet the national filing thresholds
  - The Netherlands remains a popular jurisdiction for bringing follow-on damages claims, with the focus slowly shifting to abuse of dominance cases against big tech
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- ACM, 14 February 2024, [ACM launches investigation into an online platform](#)
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- Amsterdam Court of Appeal, 5 March 2024, [ECLI:NL:GHAMS:2024:451](#)(Elco Foundation v Rabobank and others)
- Amsterdam District Court, 24 May 2023, [ECLI:NL:RBAMS:2023:3450](#)(Air Cargo)
- Amsterdam District Court, 28 February 2024, [ECLI:NL:RBAMS:2024:1119](#)(Trucks)

## ACM'S POLICY AGENDA AND AMBITIONS

Sustainability, the energy transition and the digital economy are the ACM's top policy priorities for 2024.<sup>[1]</sup> These are consistent with its policy agenda and activities for 2023.

For some time, the ACM has been leading the charge to create more leeway under the competition rules for agreements between undertakings that contribute to sustainability. Back in 2020, the ACM published draft policy guidelines that ventured a broader interpretation of the exemption under article 101(3) of the Treaty on the Functioning of the European Union (TFEU), in particular for the 'fair share for consumers' test. According to the ACM, this test should be interpreted as not only including individual use value benefits (ie, those experienced by the consumer buying the product), but as also extending to broader positive externalities experienced by other consumers.<sup>[2]</sup> The European Commission (the Commission) has not followed this approach. In its 2023 guidelines on horizontal co-operation agreements,<sup>[3]</sup> the Commission clarified that only individual use benefits are recognised under the fair share for consumers test. The ACM duly fell in line with the Commission's approach in its 2023 guidelines on sustainability initiatives.<sup>[4]</sup> Nevertheless, the ACM's ambitions in this area remain unabated. It has already applied its new guidelines in two cases. It granted soft comfort to a sustainability initiative of the Dutch Waste Management Association and several of its members to always offer new corporate clients a contract for at least two sorted waste streams.<sup>[5]</sup> However, it declined (for the time being) to allow a collective price-fixing agreement among supermarkets about the surcharge to be paid by consumers for plastic packaging.<sup>[6]</sup>

Another key policy ambition of the ACM is to promote an open and fair digital economy for all. This includes 'combating the market power of tech companies'. The ACM has been a vocal proponent of the Digital Markets Act (DMA) and is eagerly looking forward to its role in supporting the enforcement of this Act.<sup>[7]</sup> It has no qualms against taking on big tech. Recently, it took action against Apple's App Store, imposing interim measures, and opened a new investigation into Bol, a Dutch online commercial platform. We consider these cases in detail in the section on behavioural enforcement.

The ACM has also weighed in on the interface between competition law and certain socially relevant issues. In 2023, it published updated guidelines on agreements between self-employed workers.<sup>[8]</sup> The guidelines consider, in particular, when collective bargaining and other collective arrangements between self-employed workers are permissible under competition law. The ACM also published guidelines for industry associations on supporting their members (healthcare providers or health insurance companies) as regards contracting in the healthcare sector.<sup>[9]</sup>

In the meantime, the ACM is looking to extend its powers. It has been actively campaigning for a call-in power to review mergers that do not meet the Dutch turnover thresholds (much like the Commission's power under article 22 of the European Union Merger Regulation (EUMR)) and for the introduction of a market investigation tool that would enable it to address market failures that cannot be addressed under competition law. To realise its broad ambitions, the ACM has increased its staff. The ACM Annual Report 2023 reveals that the authority saw a net increase in numbers by 102 employees (102 full-time equivalent) between December 2022 and December 2023.<sup>[10]</sup>

## BEHAVIOURAL ENFORCEMENT

### Enforcement Against Anticompetitive Agreements

The ACM issued four cartel infringement decisions in 2023 and took one infringement decision in the first quarter of 2024. The ACM's investigation into resale price maintenance (RPM) for the retail sale of televisions stands out. In 2021, the ACM imposed a fine on Samsung of €40 million which was followed in 2023 by a fine for LG of €8 million.<sup>[11]</sup> Samsung's fine was upheld by the Rotterdam District Court.<sup>[12]</sup> A key question before the court, was the extent to which the ACM had to prove an element of coercion. The District Court ruled that this is not a condition for proving RPM. Arguably, this risks blurring the line between prohibited RPM and permissible pricing recommendations. This also seems to run contrary to the JCB Services judgment of the General Court (Case T-67/01), which implies that a degree of coercion is required. Another key question in the case is to what extent – following the Super Bock judgment of the Court of Justice of the European Union (CJEU)<sup>[13]</sup> – a competition authority must prove that RPM affected inter-brand competition to establish a by-object infringement. The District Court held that such an analysis is not required to establish that the conduct restricts competition by its object. Samsung has appealed and this case may well be a candidate for a reference for a preliminary ruling to the CJEU. In the wake of these cases, as a warning to others, the ACM has launched a campaign against RPM.

The year 2023 also saw infringement decisions against several cartels of small or medium-sized enterprises (SMEs), active on mostly regional or national markets. The ACM fined three egg-product companies for fixing the prices at which they purchased farmers' eggs.<sup>[14]</sup> Another infringement related to the growth, production and sale of carrots, and presents a textbook example of illegal price-fixing agreements between competitors.<sup>[15]</sup> Two decisions on bid-rigging cartels were based on leniency applications. One concerned the public procurement of traffic sign contracts (signage for highways and county roads),<sup>[16]</sup> the other the public procurement of a construction contract for the outdoor area of a school.<sup>[17]</sup> It is clear that small cartels, too, can face enforcement action by the ACM.

### Enforcement Against Abuse Of Dominance

The ACM's enforcement against abuse of dominance has focused on the pharmaceuticals and digital markets. In June 2023, the ACM closed its investigation into abuse of dominance in the pharmaceutical sector, lowering the fine of €19.6 million it had initially imposed on Lediand by roughly €2.5 million.<sup>[18]</sup> The ACM had found that Lediand abused its dominant position by charging excessive prices for its prescription drug 'CDCA'. The ACM considered that Lediand was dominant because it held an official marketing authorisation with market exclusivity in the period from June 2017 to December 2019, while no alternatives for CDCA were available. However, on Lediand's administrative appeal, the ACM conceded that Lediand did not have a dominant position between 1 April 2018 and 26 July 2018 when a pharmacy-prepared compound version of the drug was temporarily available. The ACM considered that Lediand had a special responsibility to actively and effectively negotiate with Dutch health insurers to reach a price that was not excessive. The practical implication is that pharmaceutical companies should negotiate in earnest and not walk away from the negotiation table too quickly. The ACM has, in the meantime, also acted against Pfizer's pricing structure for the drug 'Enbrel'.<sup>[19]</sup> The ACM's investigation focused on a clause that enabled Pfizer to reduce discounts to hospitals, giving it the power to significantly increase its price if the purchased volume were to drop below a certain level. According to the ACM, this could prevent hospitals from switching to biosimilars offered by competitors. Pfizer gave

a commitment to drop the discount clause, causing the ACM to close its investigation in July 2022.

The ACM has taken enforcement action against Apple, alleging that it imposed unfair trading conditions on dating app providers for the use of its App Store. In particular, the ACM took issue with the obligation to use Apple's in-app purchases system, a prohibition on referencing payment options outside the app (an anti-steering condition) and a third condition that remains confidential. In 2021, the ACM imposed interim measures on Apple, requiring it to drop these conditions. In July 2023, the ACM imposed €50 million in penalties for non-compliance with the interim measures. Objections raised by Apple were dismissed<sup>[20]</sup> and it has started complying with the ACM's requirements. Apple has appealed the ACM's decision. The ACM's decision notably predates the Commission's abuse of dominance action against Apple for applying unfair trading practices to the use of its App Store, specifically in relation to music streaming providers such as Spotify.<sup>[21]</sup> In 2024, the ACM also started an investigation against the Dutch online retail platform Bol following reports that this platform was giving preferential treatment to itself and to certain business users.<sup>[22]</sup> The ACM did not reveal the identity of the target online platform, but this was soon revealed when Bol issued a statement of its own, on the same day.<sup>[23]</sup> This investigation fits the ACM's policy agenda for 2024, as in January 2024 the authority specifically announced that it would be conducting investigations into online platforms that abuse their dominant positions.<sup>[24]</sup>

## MERGER CONTROL

In 2023, the ACM approved 115 notified mergers and considered that a second phase investigation was necessary in only one case.<sup>[25]</sup> The majority of the notified mergers were cleared in Phase I, without any questions being asked by the ACM. In contrast, four second phase investigations that the ACM concluded in the past year were thoroughly reviewed. Three of those investigations took over 500 days from the moment of filing up to the final decision. The ACM prohibited two concentrations and cleared one subject to commitments. The fourth second phase investigation was concluded with an unconditional approval. Recently, more thorough review is seen across the board, especially in sectors where the ACM is wary of consolidation. For example, the notifying parties in multiple seemingly unproblematic transactions in the automotive sector received comprehensive questionnaires, delaying the transaction and imposing more intense information-gathering requirements.

### Recent Prohibitions

The two concentrations that the authority prohibited in 2023 concern the intended purchase of the waste processing company AEB by its competitor AVR from the municipality of Amsterdam and the intended takeover of the Dutch multimedia company Talpa Network by the international RTL Group.

#### AVR/AEB

AVR and AEB are companies active in the operation of waste treatment plants. AEB is owned by the municipality of Amsterdam and is primarily active in that region. The ACM blocked the acquisition of AEB by AVR on the grounds that the merger could restrict competition on the markets for the treatment of lightly contaminated hazardous waste treatment and for the treatment of domestic waste. The ACM confined the geographical scope of the latter to the west of the Netherlands. With combined market shares of 80–90 per cent and of 50–60 per cent respectively, the ACM found that insufficient alternatives to the combination would

remain available. In particular, the ACM had concerns that AVR and AEB could increase the price level at which they participate in tenders for the treatment of domestic waste in the west of the Netherlands. Competitors of AVR and AEB are located further away and therefore have to charge higher transport costs.

#### **RTL/Talpa**

The ACM also prohibited the acquisition of Talpa Network by RTL Group, in March 2023.<sup>[26]</sup> Both parties are multimedia conglomerates, involved in various activities on different markets in the audiovisual sector, such as the sale of advertising space and wholesale broadcasting transmission services. The parties had submitted that the concentration was necessary in light of market developments – the decreasing relevance of cable television and the shift to online content. However, the ACM prohibited the transaction because it feared that combining the number one and number two players in the market for the sale of advertising space would restrict competition and that the negotiating position of telecom companies concerning Talpa and RTL on the (national) wholesale market for the distribution of television channels would be overly affected. The parties had proposed behavioural commitments to allay the ACM's concerns, including the exclusive subdivision of the sale of advertising space to a third party (Mediahuis) for 10 years. Based on surveys among advertisers and distributors, the ACM concluded that the behavioural remedies offered by RTL and Talpa were insufficient. The ACM made clear that it favours structural remedies over behavioural ones, because these have a more durable effect on market structure and, in principle, are less burdensome for the authority because less oversight of implementation and compliance is required.

#### **Landal/Roompot Cleared With Remedies**

The ACM cleared a consolidation of the two largest holiday park chains in the Netherlands, namely the acquisition of Landal GreenParks by its competitor Roompot.<sup>[27]</sup> The ACM cleared the transaction after Roompot committed to divest 30 holiday parks to the holiday accommodation chain Dormio Group. Dormio is active in the Netherlands but does not yet have a significant foothold. Roompot and Landal also entered into the commitment not to acquire any direct or indirect economic interest in the divested parks for 10 years. The ACM considers that Dormio can grow to become a sufficiently strong competitor to allay its concerns.

#### **KPN/Youfone Cleared Without Remedies**

In March 2024, the ACM cleared the acquisition of the low-cost mobile phone subscriptions provider Youfone by the major Dutch telecom provider KPN.<sup>[28]</sup> Youfone does not own a network infrastructure and solely uses KPN's network infrastructure. Youfone is considered a rapidly growing low-cost provider and an important driver of competition. The ACM had referred the case to the second phase based on fears that the consolidation would limit competition in the budget segment of the mobile telecommunications market, but it ultimately cleared the transaction. In the second phase, it found that sufficient parties would remain active on the market. Additional economic research also revealed that the price effect of the takeover would only be between -0.4 per cent and 0.7 per cent. The ACM's initial opposition to the transaction had been received as a surprise, as the authority approved of the acquisition of mobile provider Simpel by T-Mobile (now Odido) in 2020 without further investigation. That concentration concerned a similar transaction, with the key difference being that Simpel was a considerably larger player than Youfone.



## Merger Cases In Court

The ACM has suffered two notable losses in court, both in the healthcare sector. The first case concerns the intended acquisition of Mauritskliniek, an independent treatment centre with five locations, by Bergman Clinics, a chain of independent treatment centres. The court annulled the ACM prohibition in May 2023, finding it to be inadequately substantiated.<sup>[29]</sup> In March 2023, the Rotterdam District Court had annulled the ACM decision prohibiting the takeover of Eurocept Homecare, a provider of medical home care, by the international healthcare company Mediq, on the grounds of errors in law in the ACM's market definition.<sup>[30]</sup> Following these losses, the ACM commissioned an external review of its working methods.<sup>[31]</sup> An important conclusion from this review was that the ACM must ensure that the result of its (ex post) market investigation indeed correspond with the historical (ex ante) empirical evidence. The ACM's key takeaway from this report was that a more robust reasoning of its merger control decisions and underlying investigation is the main area for improvement. In January 2024, the ACM publicly stated its aim of achieving a multi-year track record of 75 per cent court wins as part of its strategic goals and plans for 2024.<sup>[32]</sup>

## INITIATIVES FOR NEW ENFORCEMENT POWERS FOR THE ACM

Globally, there is a trend towards the introduction of wider merger control powers and potentially new competition tools in response to digitalisation, globalisation and increasing market concentration. In this context, the ACM is actively calling for new instruments, applying new theories of harm.

### Plans For A Call-in Power To Review Mergers Below Thresholds

Member states such as Italy, Ireland, Sweden, Iceland and Norway have already enabled their respective national competition authorities to review concentrations falling below their national turnover thresholds. The ACM is now also seeking a call-in power to review mergers and acquisitions that remain below the turnover thresholds of the Dutch Competition Act. This would allow the ACM to investigate certain acquisitions that can cause competition problems but escape scrutiny under the current framework because parties remain below notification thresholds.<sup>[33]</sup> Specifically, the ACM chairman refers to 'killer' acquisitions, as well as 'roll-ups' seen in sectors such as healthcare and childcare, where private equity firms increase their market power in a certain sector by successive acquisitions of smaller targets. The call-in power would give the ACM the ability to investigate such transactions. To reduce uncertainty, the ACM suggests companies could obtain clarity beforehand through voluntary notification. Use of the call in-power would be limited in time to a few (the chairman himself mentions three) months from the announcement of the acquisition.

The ACM's ambitions come at a time when the Commission's approach to reviewing sub-threshold mergers is in peril. If the CJEU follows the opinion of the Advocate General in the Illumina/Grail case,<sup>[34]</sup> the Commission's current practice of calling in sub-threshold mergers under article 22 EUMR is no longer viable. The ACM has been a staunch supporter of the Commission's call-in practice, backing the referrals to the Commission of the reputed 'killer' acquisitions of the web application Figma by Adobe, and of Autotalks by Qualcomm. Both acquisitions have since been called off.

### A New Competition Tool

In August 2023, the ACM chairman called upon the Dutch government to grant the ACM the power to carry out market investigations and impose remedies to address certain

market failures that do not involve a breach of competition law.<sup>[35]</sup> In Germany and the United Kingdom such powers already exist and the Commission considered – but ultimately shelved – plans for a ‘new competition tool’ at an EU level.<sup>[36]</sup> The Dutch Ministry of Economic Affairs is currently investigating the possibility of introducing such a tool in the Netherlands, following an academic report that was supportive of granting the ACM a general market investigation power akin to the CMA.<sup>[37]</sup> Further developments on the new competition tool are expected in 2024, as the Ministry intends to present a proposal as soon as the new government is in place.

## DEVELOPMENTS IN COMPETITION DAMAGES LITIGATION BEFORE THE DUTCH COURTS

### Assuming Jurisdiction On The Basis Of Anchor Defendant

The Netherlands has long been an attractive jurisdiction for claimants in competition damages proceedings. Its popularity as a forum in competition damages proceedings hinges on the willingness of Dutch courts to accept jurisdiction on the basis of a Dutch anchor defendant.

Exemplary of this development is a case in which the Amsterdam Court of Appeal recently assumed jurisdiction against several financial institutions for their alleged collusion in respect of interest rates EURIBOR and Japanese yen LIBOR (JPY LIBOR).<sup>[38]</sup> Although Rabobank was the only defendant based in the Netherlands, the court also assumed jurisdiction to hear claims against the other defendants. It found that Rabobank qualified as an anchor defendant on the basis that the claims against Rabobank and the other defendants in relation to JPY LIBOR were closely connected because:

- the claims against all defendants are based on the same facts;
- the relevant period largely overlapped; and
- although the law applicable to the claims has not yet been determined, the claim alleges an infringement of the EU cartel prohibition, which constitutes an unlawful act under the national laws of both EU member states and, most likely, non-EU member states.<sup>[39]</sup>

In this context, the court also refers to its preliminary ruling request to the CJEU in the Power Cables case submitted in 2023. This request seeks to clarify, inter alia, whether the court should consider the issue of attribution of liability when assessing whether it has jurisdiction.<sup>[40]</sup> In the EURIBOR/LIBOR proceedings, the court deems this question irrelevant as the claim is based on an alleged infringement of EU competition law by object, for which the foundation provides substantiation from which it is not apparent from the outset that it should be disregarded entirely.<sup>[41]</sup>

However, another recent judgment shows that there is a limit to using an anchor defendant to establish jurisdiction of the Dutch courts. The foundation Gran Petro claimed damages for an infringement of Brazilian competition law by Raizen from Raizen itself and its parent company Shell Brazil, both based in Brazil, and the Dutch parent company of Shell Brazil, Royal Dutch Shell, then based in the Netherlands.<sup>[42]</sup> The court declined jurisdiction to hear claims against Raizen, on the grounds that the foundation’s main aim in involving the Shell entities was to avoid initiating lengthy proceedings in Brazil. It considered the involvement of Dutch entities that were not involved in the relevant competition law infringement and that were not jointly and severally liable under the applicable Brazilian law to be an abuse of process.<sup>[43]</sup>

### Shift Of Focus To Follow-on Cases On Abuse Of Dominance Decisions Against Big Tech

In recent competition damages proceedings before the Dutch courts, abuse of dominance damages cases have taken centre stage, rather than follow-on cartel damages cases.<sup>[44]</sup> This shift in focus can be attributed to the Commission's changing priorities. While it has been some time since the Commission successfully investigated a large cartel suitable for follow-on damages cases, it has recently been successful in enforcing against abuse of dominance. Whereas pharmaceutical companies often seem to escape competition damages proceedings, big tech companies face an increasing number of damages claims. These cases extend beyond competition law, as class actions with respect to privacy and data protection are also on the rise.<sup>[45]</sup> The landscape is expected to change even further now that several big tech companies have been designated as 'gatekeeper' under the DMA, which requires them to comply with a series of obligations. The Commission seems eager to enforce the DMA, having announced investigations under the Act into several big tech companies less than three weeks after the deadline for compliance. With all eyes on big tech, a new wave of private enforcement actions may therefore be expected soon.

### Progressing Cases That Directly Impact The Scope Of The Claim

In recent proceedings, the Amsterdam District Court has been looking for ways to progress proceedings while awaiting appeals or requests for preliminary rulings on other topics, such as the determination of the applicable law, or jurisdiction.<sup>[46]</sup> The obligation to furnish facts, which, in front of Dutch courts, is governed by Dutch law, seems to be the holy grail.

In the Air Cargo proceedings, proceedings were initiated by two claim vehicles. Many purchasers of air freight services assigned their claims to these claim vehicles. On 24 May 2023, the Amsterdam District Court ruled that the two claimants had not fulfilled their obligation to furnish facts and burden of proof to substantiate that each assignor purchased at least one transaction in the relevant period.<sup>[47]</sup> The court emphasised that the burden of proof applies to each individual claim, irrespective of the bundling of claims through a claim vehicle.<sup>[48]</sup> In its judgment, the court evaluated the provided substantiation for each assignor and concluded that around 80 per cent of the assignors cannot participate in the proceedings anymore. This judgment is currently under appeal.

Perhaps not coincidentally, the assessment of the obligation to furnish facts may also directly impact the scope of the claim at an earlier stage of proceedings. In the Trucks judgment of 28 February 2024, the Amsterdam District Court ordered the claimants to substantiate each individual transaction as much and as concretely as possible. The court justified this amongst others by noting that the nature of the proceedings involves a certain degree of case management. Ultimately, the court emphasised that knowledge of the number of trucks involved, and the volume of commerce is essential for assessing the alleged damage and potentially reaching a settlement.<sup>[49]</sup>

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#### Endnotes

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<sup>[2]</sup> ACM, 27 September 2023, [What is a fair share for consumers in Article 101\(3\) TFEU?](#).

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- [12] \_\_\_ Rotterdam District Court 13 November 2023, [ECLI:NL:RBROT:2023:10490](#) (in Dutch).
- [13] \_\_\_ Court of Justice of the European Union, 29 June 2023, Case C-211/22, [ECLI:EU:C:2023:529](#) (Super Bock Bebidas).
- [14] \_\_\_ ACM, 22 December 2022, [Sanction decision against three egg-product companies for prohibited price fixing](#) (in Dutch).
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- [18] \_\_\_ ACM, 22 June 2023, [Summary of the decision on objection on abuse of dominance by Leadiant](#). The full text of the decision has not yet been published.
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- [20] \_\_\_ ACM, 2 October 2023, [Summary of decision on objection regarding abuse of dominance by Apple](#). As of yet, only a summary is available.

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- [23] [Bol](#), 14 February 2024, [Bol receives questions from the ACM about platform structures for sales partners](#).
- [24] [ACM's focus areas for 2024](#).
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- [26] [ACM](#), 3 March 2023, [Prohibition of acquisition of media company Talpa by rival company RTL](#).
- [27] [ACM](#), 12 April 2024, [ACM clears Roompot to acquire Landal GreenParks after selling 30 holiday parks to Dormio Group](#).
- [28] Announcement of [ACM decision granting a permit for the proposed merger between KPN and Youfone](#). The decision itself has not yet been published.
- [29] [Rotterdam District Court](#), 12 May 2023, [ECLI:NL:RBROT:2023:4010](#) (in Dutch).
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- [31] [Luc Gyselen](#), [Advice to the ACM on Mediq and Bergman](#), 14 July 2023 (in Dutch).
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- [33] Article 29 of the Dutch Competition Act provides that notification is mandatory when the total turnover of parties exceeds €150 million and the turnover in the Netherlands of at least two of the parties involved exceeds €30 million in the preceding calendar year.
- [34] [Opinion of Advocate General Emiliou](#), 21 March 2024, Joined Cases C-611/22 P and C-625/22 P, [ECLI:EU:C:2024:264](#) (Illumina, Inc v Commission and GRAIL LLC v Commission).
- [35] See [Martijn Snoep](#) (chairman of the ACM), [Blog: More tools against market power, please](#) (ACM Website, 29 August 2023, in Dutch).
- [36] [Inception Impact Assessment](#), New Competition Tool, Ref. Ares (2020)2836004, 2 June 2020.
- [37] [TILEC](#), Tilburg University, ['Can abuses of a dominant position be tackled more effectively?'](#), 15 May 2023.
- [38] [Amsterdam Court of Appeal](#), 5 March 2024, [ECLI:NL:GHAMS:2024:451](#) (-Stichting Elco/Rabobank et al.). See also [Amsterdam District Court](#), 31 May 2023, [ECLI:NL:RBAMS:2023:3441](#) (Wolfson/Google), where the court also assumed jurisdiction on the basis of a Dutch anchor defendants (both in Dutch).
- [39] [Amsterdam Court of Appeal](#), 5 March 2024, [ECLI:NL:GHAMS:2024:451](#) (Stichting Elco/Rabobank et al), paragraph 4.10.

[40] Amsterdam Court of Appeal, 19 September 2023, [ECLI:NL:GHAMS:2023:2570](#) (Power Cables). Similar questions have been referred to the CJEU in other proceedings. See Supreme Court 23 June 2023, [ECLI:NL:HR:2023:965](#) (AB and Heineken/MTB) and Amsterdam Court of Appeal 25 April 2023, [ECLI:NL:GHAMS:2023:957](#) (Smurfit/DS et al.).

[41] Amsterdam Court of Appeal, 5 March 2024, [ECLI:NL:GHAMS:2024:451](#) (Stichting Elco/Rabobank et al.), paragraph 4.11.

[42] The Hague District Court, 17 May 2023, [ECLI:NL:RBDHA:2023:7099](#) (Gran Petro/Raizen et al.) (in Dutch).

[43] The Hague District Court, 17 May 2023, [ECLI:NL:RBDHA:2023:7099](#) (Gran Petro/Raizen et al.), paragraph 6.16.

[44] See eg, Wolfson Capital Limited/Google Netherlands BV, Google LLC and Alphabet Inc before the Amsterdam District Court, case number C/13/722072 / HA ZA 22-674; proceedings on behalf of 30 European media organisations against Google, [announced](#) on 28 February 2024.

[45] Stichting Bescherming Privacybelangen/Alphabet Inc., Google LLC, Google Ireland Limited and Google Netherlands BV before the Amsterdam District Court, see the [writ of summons](#) that was published (in Dutch).

[46] There are currently three requests for a preliminary ruling pending before the CJEU from the Dutch courts: Supreme Court, 23 June 2023, [ECLI:NL:HR:2023:965](#) (AB and Heineken/MTB); Amsterdam Court of Appeal, 25 April 2023, [ECLI:NL:GHAMS:2023:961](#) (Power Cables); Amsterdam Court of Appeal 25 April 2023, [ECLI:NL:GHAMS:2023:957](#) (Smurfit/DS et al) (all in Dutch).

[47] Amsterdam District Court, 24 May 2023, [ECLI:NL:RBAMS:2023:3450](#) (Air Cargo) (in Dutch).

[48] Already in 2019, the court explicitly tasked the claimants with this obligation.

[49] Amsterdam District Court, 28 February 2024, [ECLI:NL:RBAMS:2024:1119](#) (Trucks), paragraph 3.6 (in Dutch).

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