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Annual Report on Competition Policy Developments in the Netherlands

-- 2021 --

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Netherlands

1. About ACM

1. The Netherlands Authority for Consumers and Markets (ACM) is an independent regulator that wishes to ensure that markets function well for people and businesses, now and in the future. When markets function well, businesses compete fairly with one another, and people and businesses are not harmed by unfair practices. People and businesses know what rules apply, and how they are able to exercise their rights.
2. We ensure that markets work well by:
 - Conducting investigations into markets and into possible problems that occur there;
 - Enforcing the rules for free and regulated markets, and by promoting compliance with those rules;
 - Providing information and guidance so that everyone knows the rules, and is able to exercise their rights;
 - Regulating the energy, telecommunications, transport, and postal markets in order to safeguard affordability, quality, continuity, and accessibility in these markets.
3. In addition, we give advice to the Dutch legislature to improve rules and regulations if markets will work better as a result.
4. In 2021, the digital economy and the energy transition were two of the focus areas in our oversight. In addition, we gave priority to ensuring that markets work as well as possible during the coronavirus (COVID-19) pandemic.

2. Preface

5. Making sure that markets work well for people and businesses, now and in the future. That is the mission of the Netherlands Authority for Consumers and Markets (ACM). In well-functioning markets, businesses are able to compete effectively on price, quality, and innovation, and consumers can be confident that they are not misled. In 2021, we again worked hard towards those goals. In this annual report, you can find out what we have done, how much it has cost, and what it has brought us.

The foundation: prevention, enforcement, and education

First of all, in our capacity as regulator, we ensure that markets work well by performing our core duties properly. The prevention of dominance is one of those core duties. In 2021, ACM assessed many mergers: two were blocked and four were conditionally cleared. Another core duty is the enforcement of compliance with rules that protect consumers and businesses against misleading practices and abuse of dominance. Think of prohibited price-fixing agreements involving Samsung television sets, the fine imposed on pharmaceutical company Lediand for charging an excessive price, or the misleading practices vis-à-vis consumers that look for emergency services such as locksmiths. Consumer education is another core duty of ACM's. Last year, ACM ConsuWijzer responded to approximately 80,000 questions and messages from businesses and consumers (for example, about the rapidly rising energy prices).

The importance of agility

6. In 2021, COVID-19 still had an effect on markets, businesses, and consumers, but also on our organization. In many cases, we managed to take those consequences into account in our oversight, and to be clear about that, for example, by taking into account the pandemic's effects in our assessment of the late mail delivery in 2020. We also oversaw the use of travel vouchers, and we clearly explained what kinds of collaborations between health insurers and hospitals are allowed.

High energy prices

7. The second half of 2021 was marked by the energy market. Energy prices rose to historically high levels. As a result thereof, consumers had to pay more for their natural gas and electricity. Several suppliers went bankrupt because of those high prices. These bankruptcies had a major financial impact on customers. In most cases, they lost their monthly payments, and, all of a sudden, were transferred to another supplier with higher rates. It was all hands on deck for ACM in order to respond to all questions, to warn businesses, and to ensure security of supply when bankruptcies occurred. In part because of ACM's actions, customers were not left in the cold or dark. Yet, people do wonder: can we continue to rely on a security of supply that is affordable and available?

8. Consumers, lawmakers and the media have posed ACM many questions (often critical ones). How is it possible that energy companies went bankrupt, and why were consumers not better protected against such bankruptcies? Could ACM not have stepped in sooner? We take that criticism to heart. We asked outside experts to see what could be improved, given our existing statutory powers, and we will start implementing their recommendations. We also give input to the discussion on what improvements to the rules and regulations are needed to protect consumers better. Unfortunately, the world has changed since the Russian Federation's invasion of Ukraine. Gas and electricity prices have risen dramatically as a result of the war. And there is a greater sense of urgency when it comes to the energy transition.

Extra priority to the digital economy and the energy transition

9. We gave extra priority to the challenges in the digital economy and the energy transition. The digital economy offers new opportunities, but it also presents new risks for the emergence and abuse of market power. One such example is the Apple case. We were the first competition authority in the world to impose an order subject to periodic penalty payments on Apple, asking Apple to adjust its unfair app-store conditions. In addition, we ensured that the position of consumers was strengthened, for example by dealing with misleading practices online, and by pushing Amazon and Google to become more transparent about, for example, updates for smart devices, and the use of personal data for apps. In 2022, we will handle more of these types of cases.

10. ACM wishes to continue to do its best in helping realize the energy transition and to make the Netherlands more sustainable. In 2021, we looked at misleading sustainability claims, and, when setting the transport tariffs for grids, we offered room for investments in the energy transition. It remains important, especially under the current market conditions, to find the right balance between transitioning from fossil fuels to renewable energy, affordability, and security of supply, both in the short term and in the long term. Over the next few years, too, ACM will offer room for sustainability initiatives, but, at the same time, will continue to make sure the distribution of costs is transparent.

Finally

11. Markets do not automatically work well, especially not for all people. We see that people in vulnerable positions are often affected more by market problems, misleading practices, or high costs (including energy costs). Many of the laws that ACM enforces were

drawn up in a different era. Back then, the dominant thinking about human behavior centered around self-reliance and free choice. Since then, people have increasingly realized that, for many groups of people, there are limits to that self-reliance and free choice. The government must offer protection in more situations. Society's view has thus shifted. We are faced with the challenge of ensuring that markets work well for all people. That calls for constant reflection on our own actions, as well as for using all available knowledge in order to come to the most comprehensive possible opinion.

12. In 2021, we asked businesses, consumers, as well as other parties involved for their input. We also worked closely together with other regulators, both at home and abroad. It goes without saying that we will continue to do so in 2022. After all, only together will we be able to ensure that markets work well for all people and businesses.

Martijn Snoep, Manon Leijten, Cateautje Hijmans van den Bergh
Board of the Netherlands Authority for Consumers & Markets

3. Summary of ACM's activities in 2021

13. In 2021, ACM achieved the following:

- We ran three awareness campaigns, enabling consumers to exercise their rights in the digital world even better.
- We conducted strict oversight over concentrations, with 169 new notifications. We blocked 2 acquisitions in health care.
- We took action against misleading directory-assistance services that put callers through to toll-free numbers such as the police and the Public Health Service (GGD).
- We launched a follow-up investigation into misleading practices among energy suppliers attracting new customers.
- We launched the Digital Regulation Cooperation Platform (SDT), where we work together with three other regulators to strengthen enforcement and oversight.
- Samsung was fined over 39 million euros for price coordination involving television sets.
- The pay-out
- µ of COVID-19 vouchers picked up steam in 2021 in part because of our oversight efforts. Tour operators paid out unredeemed vouchers for tour packages to consumers in a timely manner and clarified their information.
- We imposed an order subject to periodic penalty payments on Apple, urging them to adjust their unfair conditions for the App Store.
- We created opportunities for energy suppliers to experiment with supplying hydrogen in built-up areas.
- Over 156,000 sample letters from ACM ConsuWijzer.
- We imposed a fine of over 19 million euros on pharmaceutical company Leadiant for charging an excessive price for an already existing prescription drug.
- We gave system operators the opportunity to include in their tariffs part of the costs of the energy transition earlier than planned.

- We conducted investigations into misleading sustainability claims in the energy, dairy, and clothing sectors.
- The total outcome of ACM for Dutch society in 2021 is estimated at approximately 525 million euros.

4. Our oversight efforts in 2021

4.1. The Digital Economy

14. The digital economy was one of the focus areas on ACM's Agenda in 2021. That means that ACM devoted extra attention to important topics in this focus area such as online misleading practices, and access to platforms.

4.1.1. Countering abuse of dominance in the digital economy

15. Through enforcement, market studies, and consumer education, ACM seeks to ensure that digital markets, too, work well for people and businesses. The digital economy offers great opportunities, but it also presents new risks, for example the creation of market power.

16. For example, dating-app providers depend on access to Apple's App Store. Apple abused that dependency by demanding that dating-app providers should use Apple's payment system when providing consumers paid services. In 2021, ACM ordered Apple to adjust this unfair condition. On pain of periodic penalty payments, Apple is required to offer dating-app providers the opportunity to use other payment systems, and to refer consumers to other payment systems outside the App Store. Throughout 2022, ACM will enforce compliance with this order.

17. In 2021, ACM closed its investigation into payment apps' access to NFC technology installed in devices such as smartphones. NFC technology offers consumers the ability to make contactless payments using smartphones. ACM does believe there are anticompetitive concerns, but the existing rules do not enable us to deal with these concerns. ACM is involved in new European legislation, such as the Digital Markets Act, which sets requirements on 'Big Tech' companies that are considered gatekeepers under said act. Such companies cannot, for example, give themselves preferential treatment on their own platforms.

4.1.2. ACM protects online consumers

18. In 2021, ACM protected consumers against online misleading practices in several cases. For example, ACM imposed an order subject to periodic penalty payments on the company behind websites such as mijnverklaring.nl and mijnonlineloket.nl. These websites referred consumers to different government agencies without being clear about their own role as intermediary or about the fees that they charged for these intermediary services. ACM also imposed an order subject to periodic penalty payments on a business that used fake followers and fake likes. In addition, ACM took action against businesses that used Google ads to mislead consumers when referring them to emergency services, including untrustworthy locksmiths. ACM requested Google to remove the online ads of such untrustworthy emergency services. ACM also had websites blocked, and also imposed an order subject to periodic penalty payments on online marketing companies.

19. ACM studied the risks of 'paid ranking' (also called sponsored ranking), and ran a consumer awareness campaign ('check before you buy'), advising consumers to check first

whether the provider is trustworthy before placing an order with them. In addition, ACM reminded businesses of the rules regarding online cancellations of subscriptions. It is easy to take out a subscription online, but businesses made it unnecessarily difficult to cancel online. That is not allowed: taking out subscriptions online also means cancelling them online.

20. ACM works closely together with other regulators (within Europe and beyond) to protect the online consumer. For example, ACM took the lead in an EU-wide call on Google to improve the protection of consumer rights on platform services such as the Playstore and Google Shopping. This concerned aspects such as certainty about the traders' identities on their platforms, as well as how the ranking of the search results is established. And thanks to a joint action by ACM and its Belgian counterpart, Ali-Express now provides consumers across the EU better information about their rights, such as about the cooling-off period and warranties.

4.1.3. Directory assistance services

21. In 2021, ACM also took action against misleading practices of directory assistance providers that forwarded callers to toll-free numbers of government agencies such as the Dutch Tax Administration or the police, while charging a per-minute fee. For example, one of those providers stopped offering its service Geenspoedwelpolitie following a request from ACM in 2021. An ACM study revealed that people also feel misled even if the directory assistance provider had been transparent about the costs, and about what they are. Many callers do not realize that they are paying for the service, and that they continue paying even after being put through. That is why ACM together with the Ministry of Economic Affairs and Climate Policy (EZK) will explore strategies on how to deal with this issue.

4.1.4. ACM helps realize high-quality, digital infrastructure

22. Having a well-functioning digital infrastructure is a precondition for a well-functioning digital economy. That is why ACM in 2021 assessed whether regulation is necessary for safeguarding access to fixed telecom networks, in particular KPN's network. Telecom companies without networks of their own are unable to offer their broadband, television and telecom services if they do not have access to a fixed telecom network. It is important that there is sufficient competition, and that consumers are able to take advantage of a good price-quality ratio. In 2022, ACM will hand down a decision.

23. ACM also published guidelines on the consumers' free choice of modems. Furthermore, ACM allowed telecom operators to work together under certain conditions in order to make efficient investments in capacity, quality, and coverage of mobile networks. Furthermore, ACM decided to deregulate the market for high-quality wholesale access because it is a well-functioning market at the moment.

4.1.5. Trends and developments in fiber-optic and mobile broadband

24. Half of households in the Netherlands have a fiber-optic connection. Also, the number of mobile connections for devices went up to 8.8 million. Think, for example, of smoke detectors, alarm systems, and smart energy meters, which exchange information with digital management systems using mobile broadband. In addition, the consumption of mobile voice minutes shifts towards data plans. This concerns calls using chat apps, for example. These are some of the findings of the Telecom Monitors that ACM published in 2021.

4.1.6. Reachability of emergency number 112 using Wi-Fi and 4G

25. In some situations still, the Dutch emergency number 112 could not be reached in 2021 using newer technologies such as 4G and Wi-Fi calling. ACM has confronted mobile telecom operators with its findings, and has urged them to achieve full compliance by the end of the 2021.

4.1.7. ACM keeps an eye out for potential risks (current and new ones)

26. ACM also conducts market surveys and studies in order to identify risks (existing and new ones). One such example is the market study into cloud services, which was launched in 2021 and will be completed in 2022. In addition, ACM has also studied the market for IP interconnection, which is essential for a well-functioning internet. This market appears to function properly, and to be competitive. However, ACM does see that economies of scale do play a major role in this market. That may make it harder for new businesses to enter the market or for smaller competitors to grow.

27. In 2021, ACM also conducted a market study into MaaS services ('Mobility as a Service'). MaaS services allow travelers to plan, book, and pay for trips from doorstep to destination. Both existing public-transport companies and newcomers develop MaaS services. It is important that all MaaS providers are able to integrate public-transportation services in their offerings. ACM has identified what public-transportation services MaaS-providers have access to, and under what conditions. ACM concluded that public-transport companies took the initiative to improve access to their services, but that there are still bottlenecks. For example, MaaS providers are only able to purchase hourly tickets or day tickets from several public-transportation companies. Such tickets are more expensive than the regular prices when riding public transport using the OV-Chipkaart (the national contactless smart card for public transport in the Netherlands), making these services less appealing for travelers.

4.1.8. Launching the Digital Regulation Cooperation Platform (SDT)

28. ACM, the Dutch Data Protection Authority (AP), the Dutch Authority for the Financial Markets (AFM), and the Dutch Media Authority (CvdM) will work together more closely in order to strengthen oversight of digital and online activities. The digital landscape is evolving rapidly, and it shapes, to an increasingly large extent, the way people work and live. It offers undeniable benefits, but it also creates new questions and risks that require action from regulators. Think of, for example, the rapid developments in Artificial Intelligence. A coherent and coordinated strategy is needed to remain effective. This collaboration allows the regulators to combine their expertise and knowledge, and to help each other in their enforcement efforts.

4.1.9. Preparing ACM's enforcement of Platform-to-Business Regulation

29. In 2020, the Platform-to-Business Regulation came into effect, containing transparency obligations for online platform companies as well as rules for effective settlement of disputes. From 2023, ACM will enforce compliance with these rules. In preparation thereof, ACM in 2021 launched a study into how platforms deal with these rules, and into the problems that businesses encounter.

4.1.10. Preventing 'vendor lock-in' in health care IT

30. In 2021, ACM conducted a sector inquiry into the extent to which health care providers are dependent on their supplier of health care information systems. ACM has found that, in many cases, hospitals are 'locked-in' with their suppliers. Switching is either

not possible or only possible with a lot of hassle or at enormous cost. This creates risks to competition with possibly negative effects on price, quality, and innovation of IT systems and applications in health care, and eventually on the quality of health care itself. In 2022, ACM will draw up guidelines that will clarify the competition rules for IT suppliers in health care and other market participants.

4.2. The Energy Transition

31. The energy transition was one of the focus areas of ACM's Agenda in 2021. ACM devoted extra attention to this daunting task that society faces, particularly to misleading sustainability claims, opportunities for alternative energy sources and energy carriers, and the effects of the energy crisis on consumers.

4.2.1. Room for the energy transition in the tariffs

32. ACM is committed to realizing a sustainable, secure, and affordable supply of energy, now and in the future. ACM regulates the revenues and tariffs of system operators. Because of the energy transition, large-scale investments need to be made over the next few years, including in expansions and upgrades to the grid. ACM created room in its method decisions for incorporating part of the costs for the energy transition in the tariffs already today. As a result, households and businesses will, on balance, not pay more, but slightly earlier than previously anticipated. In that way, the costs of the energy transition will be spread out more fairly across generations. On top of that, in the method decision for the transmission system operator for natural gas GTS, ACM explicitly took into account the reduction in natural-gas extraction from the Groningen gas field.

33. In 2021, the tariffs of the system operators were set in the new methods. The transport tariffs for natural gas and electricity for large-scale users have gone up. For consumers, the tariffs go up, in total approximately 6 euros per household.

4.2.2. High energy prices and security of supply

34. In late 2021, the energy prices rose to record levels. This has an enormous impact on businesses and consumers. Each year, ACM checks whether energy suppliers run into financial trouble. In connection with the high energy prices, ACM scheduled this check a month earlier than planned. In addition, ACM took action against unlawful unilateral cancellations of energy contracts.

35.

36. In the second half of 2021, ACM revoked the supply licenses of eight energy suppliers. Six of them had gone bankrupt, five of which as a result of the high energy prices. All the while, the supply of natural gas and electricity did not get interrupted, partially because of ACM's interventions ("supplier of last resort" procedure). The bankruptcies do have financial consequences for consumers as they lost their monthly payments, and were forcibly transferred to another suppliers, often at considerably higher prices. This has also resulted in many reports, questions, and complaints filed with ACM ConsuWijzer. ACM is reflecting on its own role in this entire process, and has commissioned an external evaluation in order to learn for the future what ACM as regulator could have done better.

4.2.3. Dealing with misleading sustainability claims

37. Following its guidelines regarding sustainability claims, ACM launched several investigations into misleading sustainability claims in the energy, dairy, and clothing sectors. ACM contacted over 170 businesses, calling on them to check the accuracy of their

sustainability claims. ACM finds it important that consumers are able to have confidence in the sustainability claims that businesses make. And businesses with honest claims cannot be affected by unfair competition by businesses that mislead consumers using incorrect claims. Follow-up investigations have now been launched into several companies in the clothing and energy sectors, where misleading claims are suspected.

4.2.4. Guidelines regarding sustainability agreements

4.2.5. ACM wishes to give businesses room for collaborations if such collaborations help towards the energy transition and help reduce greenhouse gas emissions. In 2021, ACM published a second version of its guidelines regarding sustainability agreements following a consultation. The guidelines offer businesses guidance about what is allowed under the competition rules. The rules do offer room for collaborations, but they also lay down requirements in order to prevent greenwashing and to ensure that society as a whole benefits. In a number of cases, ACM has already given individual guidance. ACM has consulted with the European Commission in order to agree on a coordinated European approach. As long as those European discussions are ongoing, ACM will not impose any fines on businesses that follow the guidelines in good faith.

4.2.6. Protecting consumers during the heat transition

38. Consumers must be able to have confidence that their homes are heated at a fair and transparent price. In 2021, ACM ordered 7 heat suppliers to send clear invoices to their customers. In addition, heat suppliers are not allowed to charge higher tariffs than the maximum tariffs that ACM sets under the Dutch Heat Act. As a result of the high gas prices, the maximum tariffs for 2022 have increased substantially. We have warned heat suppliers not to use this increase for boosting their profits.

39. In 2021, ACM carried out a study into problems with thermal-energy storage systems (TES). When taking a shower, some residents get water that is either too hot or too cold, whereas others are left without space heating as soon as the outside temperature drops below zero degrees Celsius. Furthermore, residents say that they do not receive any compensations for disruptions. ACM intensified its oversight, and examined the suppliers' improvement plans. In addition, ACM imposed orders subject to periodic penalty payments on two heat suppliers, ordering them to publish their disruption registrations. At the same time, ACM has called on lawmakers to adjust the law so that the obligations for secure supply are more clearly explained, among other provisions.

40. In its paper 'Safeguards for consumers in the district-based approach' (in Dutch: 'Waarborgen voor consumenten in de wijkgerichte aanpak'), ACM emphasized the importance of consumer protection in the process of phasing out natural gas in districts. Consumers should not experience the transition from natural gas to a new heat source as a step backward. That is why it is important that they are able to exercise their rights if the quality of their heat supply falls short.

41. Offering its input for the policy choices that need to be made in a new heat act, ACM outlined three possible systems for the organization of the Dutch heat market in its publication 'Market systems for the market for district heating, and the role of network companies'. For each of these systems, ACM has outlined in what ways public interests such as affordability, security of supply, and sustainability are properly safeguarded.

4.2.7. Hydrogen and alternative energy carriers

42. ACM finds it important that more experience is gained with using hydrogen and alternative energy carriers. In 2021, ACM announced it would not stand in the way if system operators experimented with hydrogen in built-up areas, as long as consumer interests and safety are safeguarded properly. ACM has also called on the Ministry of Economic Affairs and Climate Policy to introduce new regulations regarding the role of system operators in such experiments.

43. In 2021, ACM also published the Guidelines regarding network companies and alternative energy carriers. It explains what network companies can and cannot do. Network companies are allowed to create and operate transmission networks for alternative energy carriers such as hydrogen, heat, and cold. However, they cannot generate, trade, or supply alternative energy carriers.

44. ACM has argued in favor of a gradual development of infrastructure for the transmission of hydrogen. In order to keep the energy transition affordable, it is important that overinvestments in hydrogen infrastructure are avoided as much as possible. ACM is in favor of a flexible yet predictable regulatory regime for hydrogen infrastructure. In that context, it is important that the prevention of harmful effects of market power are prevented.

4.2.8. ACM's market scan into impediments to construction of electricity storage systems

45. In 2021, ACM published its 'Market scan regarding power storage' in which it identified what impediments exist to the construction and development of power storage systems. ACM wishes to stimulate new opportunities for power storage, and to ensure that power storage is able to compete with other flexibility services on a level playing field. That is why ACM will launch a follow-up study into possible tariff-related impediments.

4.2.9. System operators and congestion management

46. In 2021, ACM issued its draft decision regarding amendments to the Grid Code in connection with congestion management. This decision seeks to enable system operators to use congestion management more often, and thus to utilize their existing grids better. In the draft decision, it is clearly explained how, when and under what conditions system operators must use congestion management. At the same time, the system operators also work on plans for expanding the grids. In late 2021, ACM received the draft investment plans, in which the system operators presented their planned investments to ACM.

4.2.10. Transparency for consumers regarding charging sessions for electric cars

47. As a result of a call to charging-card and charging-station providers, as well as actions taken against four of such providers, it has become clearer (in apps and on websites) for consumers what they pay when charging electric vehicles at charging stations.

4.2.11. ACM taking action against misleading practices with regard to energy contracts

In 2021, ACM investigated misleading customer-acquisition practices with regard to energy contracts. It is often unclear to consumers what company is reaching out to them, and essential information about tariffs is missing. In addition, sellers sometimes present expected energy-consumption levels that are lower than they are in reality. As a result, it

seems as if consumers will save money, whereas afterwards they will have to pay a lot more. Some companies deliberately choose to recruit vulnerable consumers. ACM will launch follow-up investigations, and will take enforcement action if it establishes misleading commercial practices. Several energy suppliers have promised to improve their practices.

4.3. The effects of the coronavirus pandemic

48. In 2021, the COVID-19 pandemic dealt another blow to the economy. Restrictions to stop the spread of the virus hit many sectors such as hospitality, live events, and retail. On the other hand, other sectors performed well. In 2021, we gave priority to combating the negative effects of the pandemic by taking them into account in our oversight, and by offering certainty to businesses and consumers.

4.3.1. Voucher refund processes for package tours

49. Many trips were cancelled in 2020 as a result of the COVID-19 pandemic. ACM allowed the travel industry to issue vouchers instead of a full refund to which travelers were entitled. One important condition was that tour operators actively had to pay back consumers the full amounts within a period of 12 months if their vouchers had not been redeemed. In addition, tour operators had to provide clear information about all of this. ACM conducted strict oversight, and confronted non-compliant tour operators, after which they adjusted their practices. In 2021, the refund operation regarding unredeemed vouchers picked up steam. For example, tour operators refunded unredeemed vouchers for package tours on time, and clarified their information about this process.

4.3.2. Mandatory information on risks when traveling to destinations with risk level orange

50. In 2021, travelers took risks when traveling to areas with risk level orange. Local COVID-19 restrictions could affect the holiday experience. Moreover, consumers cannot cancel their bookings free of charge. ACM asked tour operators to inform consumers properly about these risks in advance. In that way, everyone will be able to make a well-informed decision before making a booking.

4.3.3. ACM blocks premium-rate number of directory assistance provider regarding paid COVID-19 tests

51. During the pandemic, many were looking for the toll-free number of the Public Health Service (GGD) to make an appointment to get tested. Online they easily found a number that forwarded them to the GGD. This directory assistance provider charged 90 cents per minute. Yet, the callers believed that their call was toll-free. ACM investigated this matter, and found that the directory assistance provider did not comply with the rules. The number was blocked, and consumers were refunded.

4.3.4. Oversight over health care sector during the pandemic

52. In 2021, too, there were still many uncertainties about the impact of the pandemic on hospitals and health insurers. In order to guarantee the continuity of health care, health insurers in 2021 could again make arrangements with hospitals regarding financial assistance. In that context, ACM drew extra attention to catch-up care and expensive prescription drugs. In addition, health insurers were allowed to distribute the additional costs of the effects of the COVID-19 crisis among each other if such distribution was necessary for the continuity of health care.

4.3.5. Postal services and the COVID-19 pandemic

53. The COVID-19 pandemic had a significant effect on the postal and parcel market. In 2021, ACM published its annual Postal and Parcel Markets Scan. It revealed that the volume of shipped parcels increased by 35% in 2020. Lockdown restrictions in the retail industry are likely to have played a major role. The volume of consumer dropbox mail went up 8 percent. Postal operator PostNL must deliver at least 95 percent of dropbox mail on time. Because of the pandemic, PostNL managed to deliver 94.3 percent on time. ACM found that this was a case of force majeure, and therefore did not take any action against PostNL.

4.3.6. Effects of the pandemic on urban livability

54. In 2021, ACM sat down with retail chains and other market participants about the possible effects of the pandemic on retail markets. Many retailers are in the midst of combining their online and brick-and-mortar stores into a single entity. The brick-and-mortar store plays a different role in each industry. The pandemic may have accelerated this process because online sales have increased dramatically, and local retailers have received more attention.

55. Against expectations, retail vacancy rates went down in 2021. That has likely been caused by a decrease in supply. More and more retail spaces are reclassified, for example into residential spaces. In that process, municipalities are taking on a more sympathetic attitude. Various discussion partners also mentioned the rigidity in rental rates of retail spaces in a free-market context. They argued that rental rates adjusted relatively slowly to current demand. ACM did not receive any reports that the rules it enforces impeded any product sales in brick-and-mortar stores.

4.3.7. Extra attention for vulnerable consumers

The COVID-19 pandemic has had a bigger impact on some people than on others. ACM in 2021 devoted extra attention to reaching consumers that were in vulnerable positions (temporarily or for a longer period of time), for example because of language barriers or socio-economic problems. Discussions with parties involved such as senior-citizen organizations and legal-aid professionals have resulted in a ‘help-the-helper’ approach, which will be rolled out in 2022 through, among other channels, a help desk for social workers.

4.4. What else did ACM do?

4.4.1. Education

Educating consumers and businesses

56. Education is a cornerstone of ACM’s oversight efforts. People can, for example, ask for information, file reports or complaints, or share their opinions. ACM has a special website for consumers: ConsuWijzer.nl. It contains, for example, information about warranties, consumer rights when shopping online, automatic subscription renewals, and unsolicited follow-up shipments after free samples. Businesses can contact ACM for general information about the rules that ACM enforces, for example about rules about selling to consumers and telemarketing rules. In 2021, too, ACM ConsuWijzer and ACM’s Business Desk (in Dutch: Bedrijvenloket) were important sources of information for consumers and businesses. We will highlight three aspects of our educational efforts in 2021.

Campaigns

57. In 2021, ACM ran three awareness campaigns targeting online consumers: ‘You have more rights than you think’ (‘Je hebt meer rechten dan je denkt’), ‘Telemarketing’ and ‘Check before you buy’ (‘Eerst checken, dan bestellen’). The latter campaign called on consumers to check the trustworthiness of online stores. The campaigns attracted approximately 55 million views.

Customer interactions

58. The number of interactions with consumers and businesses (almost 80,000 interactions) went up approximately 3 percent compared with 2020. It already went up considerably in 2020 as a result of the COVID-19 pandemic. In 2021, particularly during the final months, additional questions and comments were submitted due to the high energy prices and bankruptcies of energy suppliers. As a result thereof, ConsuWijzer could not be reached easily. Despite those issues, customer satisfaction was predominantly good in 2021. Consumers gave customer interactions through ACM ConsuWijzer, on average, an 8.2 (on a scale from 1 to 10) for interactions over the phone, a 6.7 for interactions over email, and interactions over social media and WhatsApp were particularly well received with an average score of 9 (on a scale from 1 to 10). Businesses, too, were satisfied, and gave a 6.9 for interactions over email, and an 8.4 for interactions over the phone.

Sample letters

59. Consumers can download over 110 different sample letters from ACM ConsuWijzer. In 2021, they did so over 156,000 times, which is an increase of 50% compared with 2020.

4.4.2. Health care

Merger and acquisitions in health care

60. Through its assessments of mergers and acquisitions in the health care sector, ACM wishes to contribute towards the quality, affordability, and accessibility in health care. The basic principle is that patients, insured, and buyers continue to have sufficient options.

61. In 2021, ACM cleared 15 concentrations in the health care sector, including the merger between care providers Thebe and Ruitersbos in the south of the Netherlands. In addition, ACM definitively cleared the merger between care providers Vrijwaard and Omring in the northern city of Den Helder, after they had complied with the condition that three locations of Vrijwaard had to be transferred to a third party.

62. In 2021, ACM blocked two concentrations. ACM decided that Bergman Clinics could not acquire Mauritskliniek. Following an investigation, ACM found that Bergman Clinics already had too strong a position vis-à-vis health insurers. The acquisition would have made that position even stronger. It would have allowed Bergman Clinics to charge higher prices. Also, ACM did not clear the acquisition of Eurocept Homecare by Mediq. Through the acquisition, Mediq would gain a very strong position in the market for ambulatory infusion pumps for patients that receive care at home. ACM came to the conclusion that the acquisition would have led to higher prices and reduce quality.

63. In 2021, ACM came to the conclusion that a further investigation was needed into the effects of the acquisition of IJsselland Hospital by Erasmus University Medical Center.

Drug manufacturer Leadiant fined

64. ACM enforces compliance with competition rules in the prescription drug sector too. In 2021, ACM established that drug manufacturer Leadiant abused its dominant position by charging an excessive price. After a small, low-risk investment, Leadiant implemented a huge price increase for a drug that had already existed for years, and which is used for the treatment of patients with a rare hereditary metabolic disorder. The price increase offers Leadiant a very high return, but it offers patients very few additional benefits, and it drives up the costs to society. ACM found this to be a very serious violation, and thus imposed a fine of 19,569,500 euros.

65. In 2021, ACM organized a well-attended webinar about the future of biosimilar markets in the Netherlands as part of its oversight activities in these markets, and as a follow-up to its previous sector inquiry into TNF alpha inhibitors.

Request for enforcement sent to European Commission

66. For the first time ever, the Netherlands, together with various other European countries, in 2021 requested the European Commission to launch an investigation into an acquisition that does not meet the turnover thresholds. This case concerned the acquisition of GRAIL by Illumina. GRAIL is a small company with no turnover. However, GRAIL does have promising technologies and products for early detection of cancer. ACM had concerns that this acquisition may lead to higher prices or less innovation.

Opportunities for collaborations

67. Regional collaborations can be one of the ways for ensuring that health care continues to be of high-quality, accessible, and affordable, now and in the future. In its response to the government's memo "Care for the Future" (in Dutch: Zorg voor de Toekomst), ACM in 2021 drew attention to the necessity of making clear choices with regard the power to overrule, opportunities for and limits to collaborations, and opportunities for differentiation. On its website, ACM gave more explanations and practical guidance regarding the five criteria in ACM's Policy Rule on the Right Care in the Right Place (JZOJP). ACM also published a real-world example about transferring certain types of basic care from a university hospital to a general hospital in the city of Leiden. ACM concluded that health insurer Zorg en Zekerheid properly applied the five criteria in this regional collaboration, with an eye to the patients' interests.

Consultation of study into nursing home care

68. In 2021, ACM completed an empirical study into the relationship between, on the one hand, concentrations, and, on the other hand, quality, accessibility, and affordability in nursing home care. The most important finding was that such a relationship hardly exists, at least not on the basis of the indicators used. ACM invited providers, clients (patient organizations), regional health care offices, and other interested parties to share their opinions about the study's conclusions. ACM is considering a different approach to its oversight on concentrations in the nursing home sector, with more emphasis on the options for clients, and less on the effects on health care procurement.

2021 Health care monitor

69. Consumers use comparison websites more and more often to switch health insurance plans. Consumers also see such sites as trustworthy. These are some of the conclusions of the 2021 Health care monitor, which looks at switching behavior on the health insurance market. In order to be able to serve all insured, comparison websites must

be clear. Everyone must be able to find relevant, objective, and accessible policy information. Both health insurers and comparison websites can help realize that goal.

4.4.3. The housing market

Rental agency fees

70. If an agency acts as an agent for a lessor, it cannot charge the lessee any agency fees, no matter what it calls such fees like commission, administrative fees, contract fees, or registration fees. Three agencies were fined because they did charge lessees agency fees.

71. Study into the functioning of the municipal-land market for residential construction

72. Many people in the Netherlands have a hard time finding affordable housing. ACM sees that the functioning of the municipal-land market has an effect on the residential-construction market. Only a limited number of market participants have the financial resources to take strategic positions in the municipal-land market for new residential construction. That may lead to market power. Following a preliminary study, ACM in 2021 announced it would launch an in-depth study. In this new study, ACM will also look into the fact that landowners sometimes do not execute their residential development plans straight away, as well as into potential interventions by governments.

Ground lease

73. Until January 2020, Amsterdam homeowners had had the opportunity to participate in a special scheme offering more favorable conditions for switching ground-lease plans. ACM received reports from Amsterdam residents that felt misled by the lack of sufficient information about the temporary conditions. That is why ACM in 2021 carried out a preliminary study. This preliminary study revealed that the municipality had made tremendous efforts to inform these residents on time and properly, but that some elements could have been clearer. ACM confronted the municipality with these findings. ACM did not establish any violation. The municipality of Amsterdam will create a second-chance scheme so that Amsterdam residents will still have the opportunity to switch to perpetual ground-lease under the conditions that had been in effect until January 2020.

4.4.4. Agriculture

Release of second Agro-Nutri Monitor

74. The main obstacle to making the agricultural sector more sustainable is the higher prices of sustainable products, which many consumers are currently not willing to pay if a cheaper, regularly produced alternative is available. This has been revealed by a study carried out into the price-formation process in the food chain for regular and sustainable products, as well as into obstacles to the transition to a more sustainable agricultural sector.

Unfair commercial practices in the agricultural sector

75. Since November 1, 2021, farmers, growers, fishermen, and many processors of food have been able to report unfair commercial practices with ACM. The new Dutch Act regarding unfair commercial practices in the agricultural and food supply chain strengthens their positions, and it offers the opportunity to file reports, also anonymously. ACM enforces compliance with these rules, and launched a campaign in November and December 2021 to raise awareness.

4.4.5. Public transportation

76. In 2021, the Dutch Trade and Industry Appeals Tribunal (CBb) dismissed ACM's appeal in the case involving Dutch Railways NS's abuse of its dominant position in the 2014 tender process for the public-transport contract in the southern Dutch province of Limburg. The CBb acknowledges that NS's 100% market share could indicate NS having a dominant position. However, unlike ACM, the CBb believes that, at the time of the tender process, there was sufficient competition.

ACM clears operation of three new train services by Arriva

77. Railway company Arriva was granted clearance by ACM to operate three new train services that will be offered as so-called open-access services, starting in 2023. These concern weekly night services between the northern Dutch city of Groningen and Amsterdam Schiphol Airport, and between the southern city of Maastricht and Amsterdam Schiphol Airport, as well as a daytime service between two cities in central Netherlands, Apeldoorn and Amersfoort, which will run five times a day. Following an investigation, ACM did not find a substantial negative effect on the existing public service contract.

Sustainable municipal public transport company

78. Each year, ACM compares the three municipal transport companies in the three largest Dutch cities. ACM looks at several parameters: cost effectiveness and efficiency, sustainability, and quality. HTM, which is active in the city of The Hague, is the most sustainable, while RET (in Rotterdam) is the most cost-effective and efficient.

4.4.6. Other sectors

Assessment of concentrations

79. In order to safeguard competition and choices for consumers, ACM assesses concentrations (mergers, acquisitions and joint ventures) in advance. In 2021, ACM received 169 concentration notifications, almost twice as much as in 2020. Since October 2021, we streamlined our processes, for example by creating a digital alternative for concentration notifications, as well as clear opportunities for informal contact. Most concentrations have been cleared, sometimes after attaching additional conditions. For example, publishers Sanoma and Iddink had to offer other publishers access to the Magister learning management system. And Dela/Yarden (mortuary services), Plus/Coop (supermarkets) and Ahold/Deen (supermarkets) had to sell several locations in order to safeguard competition in certain regions.

Fine imposed on Samsung

80. In 2021, ACM fined Samsung over 39 million euros. Between January 2013 and December 2018, Samsung influenced the online retail prices of television sets sold by seven retailers, which is not allowed. Samsung disrupted competition, which led to higher prices for consumers. Under the pretense of 'price recommendations', Samsung made sure that retailers increased their prices to the market price that Samsung desired. The retailers followed Samsung's recommendations because Samsung also consistently confronted other retailers if they charged too low prices. With its campaign "Who pays the price?" ('Wie bepaalt de prijs?'), ACM in 2021 drew attention to these kinds of violations. In addition, numerous manufacturers and retailers were contacted about which many reports had been filed.

Used cooking oil

81. Cartel agreements harm competition and also suppliers. In 2021, ACM imposed fines, totaling almost four million euros, on two major collectors of used cooking oil, for making cartel agreements regarding the purchase of used cooking oil. The companies colluded in order to keep purchase prices as low as possible. Small hospitality businesses in particular, such as restaurants and snack bars, were harmed by the cartel agreements.

Notary paper

82. Following a court ruling, ACM in 2021 was finally able to publish its decision in a 2017 cartel case involving notary paper. Three suppliers of official paper for deeds concluded, in secret, illegal price-fixing agreements in order to keep the price high. ACM fined them for that conduct.

Customer acquisition over the phone

83. In 2021, ACM ConsuWijzer received relatively many reports from consumers that were forced to pay for contracts concluded over the phone. ACM calls on consumers to say 'no' if it does not feel right, and to hang up.

84. New rules regarding telemarketing and oversight

85. On July 1, 2021, new telemarketing rules went into effect. Businesses can only call consumers that have consented in advance to such calls, that are customers or that had been customers until recently. ACM enforces compliance with these rules.

Behavioral study

86. ACM conducted a behavioral study into the compliance programs and compliance cultures in four regulated businesses. In that study, it was not only examined whether everything was all right 'on paper', but employees and management, too, were asked about rules and regulations that ACM enforces. The study revealed that compliance culture in the companies that were studied is in order.

4.5. The impact of our work

87. ACM wishes to be an effective and efficient regulator. We want to step in wherever we can truly make a difference for people and businesses. That is why we pay attention to the impact of our work.

4.5.1. Outcome in 2021: 525 million euros

88. Each year, ACM estimates how much money Dutch consumers have saved as a result of our interventions. In that calculation, we look at the expected short-term effects of our actions on consumer welfare.

89. The total outcome of ACM for Dutch society in 2021 is estimated at approximately 525 million euros:

90. 50 million euros from activities that ACM completed in 2021;

91. 475 million euros from activities in previous years, the impact of which still lasted in 2021.

92. ACM uses conservative assumptions in the outcome calculation. This means that some effects that are difficult to quantify are not included. As a result, the actual outcome

can be either higher or lower than reported. Furthermore, we do not quantify the long-term outcome, but, in some cases, we do mention it, for example, the effects of sustainability investments that affect our oversight of the energy sector of the quality in the telecom market.

93. In the below table, we present the savings for Dutch consumers per domain. In that breakdown, we distinguish between the activities that were completed in 2021, and activities the impact of which still lasted in 2021.

Table 1. Savings for Dutch consumers per domain

Consumer protection	2.2	44	46
Competition	40	122	162
Energy	0.8	297	298
Telecom, Transport and Postal Services	2	19	21
ACM	50	475	525

94. A more extensive explanation of the savings for Dutch consumers in 2021 has been published on the webpage with ACM's Annual Report.

95. ACM is not the only authority that publishes its outcome. Starting this year, the European competition authority (the Directorate-General for Competition) will also estimate the outcome of its competition oversight, using a method that is in line with ACM's calculation method.

4.5.2. Impact assessments

96. ACM monitors the conduct of companies. In that process, we assess what effects have been realized after the market intervention. We call this impact assessment. With such assessments, we gain more insight into the real-life consequences of interventions and decisions. We are then able to take that into account in upcoming interventions and decisions. Impact assessments are attracting more and more attention at ACM. We discuss one example from 2021 that has led to new insights, which had a direct effect on the assessment of a planned merger.

Impact assessment of the merger between health care providers Bergman Clinics and NL Healthcare

97. In late 2018, ACM has cleared the merger between health care providers Bergman Clinics and NL Healthcare Clinics. Some time later, ACM conducted a study into the merger's impact on prices. ACM looked at how the prices of Bergman Clinics and NL Healthcare Clinics evolved between 2017 and 2020 (before and after the merger), compared with prices of other health care providers.

98. For both groups, ACM compared the pre-merger prices with the post-merger prices. Using the average change in price, ACM estimates the merger's effect on the price of Bergman Clinics.

99. On the basis of that study, ACM believes that, as a result of this merger, Bergman Clinics has gained an even stronger bargaining position vis-à-vis health insurers. Bergman Clinics was consequently able to demand higher prices. That is why prices relatively went up.

100. Various sensitivity analyses confirm this general picture of the price increase. Health insurers, too, confirm that the post-merger prices went up. They say it is very likely that prices went up because of the fact that Bergman Clinics had obtained a stronger bargaining position.

101. If one market participant already has such a strong bargaining position, a merger will be too much quite easily. Through this study, ACM has gained new insights into price effects, and is able to use these insights in these types of concentration cases. That is why ACM blocked the merger between Bergman Clinics and Mauritskliniek. It is the first time that ACM directly used the results of an impact assessment in a merger assessment.

4.6. ACM and the courts

102. In 2021, court proceedings were able to take place despite the COVID-19 restrictions that were in place. Proceedings were held using special equipment. In some cases, a live connection with the court was established. In 2021, the courts handed down 36 rulings on ACM decisions. In three in four cases, the contested decision was either upheld in its entirety or most of it was upheld.

4.6.1. Introduction

103. In 2021, ACM started publishing on its site an overview of all court rulings. For each ruling, the current status is given, and ACM also explains whether or not it will appeal the court's rulings. In this way, ACM is more transparent about its cases before the court. In 2021, the courts handed down 36 rulings in cases involving ACM. In approximately three in four of those rulings, the court upheld (in full or largely) ACM's decisions.

4.6.2. Duration of legal proceedings

104. Legal proceedings are known to be quite lengthy at times. In 2021, a number of particularly lengthy proceedings came to an end such as the appeal filed by H&S Coldstores as well as the appeal filed by Koninklijke Joh. Enschedé B.V. against fines that were imposed in 2015 and 2017 for cartel activities. The appeals against both of these fining decisions were ruled in ACM's favor.

105. There are often lengthy discussions with market participants about the question of whether or not the decisions contain any confidential information. Such discussions may delay the publication of those decisions. In 2021, ACM published summaries of its decisions on its website in a number of cases. With these summaries, ACM can offer insight into its actions sooner. Apple went to court, calling ACM's publication regime into question. The court allowed ACM's publication regime. That is why ACM was quickly able to announce the order subject to periodic penalty payments that it imposed on Apple in 2021.

106. The duration of such legal proceedings affects all parties involved. That is why ACM is pleased to see that the courts, together with market participants, are actively looking for ways to speed up proceedings, for example, by organizing pre-trial reviews in which all parties jointly discuss how to handle possible procedural obstacles, the submission of file documents, and the order of legal discussion points.

107. ACM continues to look for ways to prevent legal proceedings from taking too long. For example, in 2021, ACM agreed to direct appeals against its decisions in eight cases. In two of these cases, ACM also agreed to the judge in the provisional-relief proceedings rendering a verdict on the merits immediately, thereby providing parties with an outcome

sooner. This promotes legal certainty for all parties involved as well as for the market at large.

4.6.3. Fines and proportionality

108. In 2021, special attention was given in the legal profession to the issue of proportionality. The courts take a critical look at this aspect, particularly in ACM's fining decisions.

109. In a number of cases, the court lowered several fines because ACM was insufficiently able to substantiate as to why the fines were proportional. This happened, for example, in four cases in which ACM had imposed fines on telecom operators for misleading information on their websites. In a cartel case, on the other hand, the CBb ruled that a serious violation had been committed, and that the imposed fine was proportional and necessary.

110. Proportionality continues to be an important issue, which ACM will expressly take into consideration when assessing cases, including future ones, especially when assessing whether a measure is proportional to the seriousness of the violation.

4.6.4. European law

111. In a number of cases, the courts tackled with the question on how to interpret European law. In the case involving Crown van Gelder, the question was about whether a market participant (Crown) that was not directly connected to Dutch transmission system operator TenneT's high-voltage grid would be able to go to ACM for dispute settlement. ACM was of the opinion that Crown could not because of the absence of a direct link between it and TenneT. CBb asked a pre-judicial question about this very aspect. The European court found ACM's interpretation too narrow. That is why the CBb ruled that ACM still had to hear the dispute between Crown and TenneT.

112. In the Illumina/Grail case, the question was whether the European Commission was allowed to assess acquisitions that did not meet the turnover thresholds. ACM believed the Commission could do so, and was planning to support a referral request filed by France. The merger parties, however, sought to prevent this by applying for a preliminary injunction with the District Court in The Hague. That court turned down their request. No appeal was filed. However, interim proceedings were started with the Court in Luxembourg, which ACM is a party to. This case is still pending at the time of writing.

4.6.5. Civil-law proceedings

113. ACM's actions are checked by the courts. This is usually the administrative court. In a number of cases, the parties involved need to turn to the civil-law court as the so-called residual court. It is not always immediately clear what jurisdictions the administrative court and the residual court exactly have.

114. The company RM filed an objection against an ACM decision aimed at PostNL. ACM handed down an interim decision, allowing RM to file the objection. PostNL argued that RM did not have that right. The administrative court accepted ACM's interim decision as a decision that could be contested before it. The administrative court ruled in RM's favor. In that way, certainty could be given by the administrative court, which also ultimately rules on the decision on objection, which, at the time, ACM still had to hand down. That option of going to the administrative court during proceedings usually is not available if a dispute arises regarding the use of ACM's powers when performing investigation activities. In that case, the parties involved should go to the civil-law court.

115. In 2021, ACM received a writ of summons in a civil case regarding the application of its Procedure for the inspection of digital data. The court dismissed the parties' objections. ACM is allowed to scroll through WhatsApp conversations to determine whether or not a specific chat falls inside the scope of the investigation, and to use names of competitors to select certain chats. The provisional-relief judge also found the expansion of the investigation lawful. An appeal against this ruling is still pending.

116. ACM was also taken to court by several real-estate traders. They hold ACM liable for the harm that they claim to have suffered as a result of ACM's actions against arrangements they made with regard to foreclosure auctions. The fines that ACM imposed in 2011 and 2013 were reversed in 2017 by the CBB. The civil-law court in 2021 dismissed the traders' claim because the harm had also been caused by their own actions, and the harm had not sufficiently been substantiated on several points.

5. Facts and Figures

5.1. Organization

5.1.1. Diversity and inclusion

117. At ACM, diversity is one of the key elements of our strategy: diversity in our teams, in the sectors that we oversee, in our projects, and in our staff's specialisms. Inclusion is another key element. We aim to create an inclusive workplace environment where everyone feels welcome and included. That is why ACM fully supports the initiatives of the ACM working group on Diversity & Inclusion, as well as those of employee networks such as our LGBTI employee network and our network for young employees.

118. The Diversity & Inclusion working group seeks to foster even more awareness among ACM staff about focusing less on differences or limitations, and more on connections. In 2021, the working group organized an online townhall meeting on hybrid working. At the working group's suggestion, ACM again participated in the Cross Mentoring program, a program for female talent, where mentees and mentors connect with each other. This program was complemented by the new Cross Cultural Mentoring program for talents from ethnic minority backgrounds. Each year, we organize a Diversity Week, and we celebrate important dates such as International Women's Day and Diversity Day.

5.1.2. Confidential advisors

119. ACM has two independent confidential advisors for integrity issues and undesirable behavior. ACM employees can talk to the independent confidential advisors in a safe and informal manner, if they are faced with any undesirable behavior. The confidential advisors are visible within the organization, and inform the Board at least once a year about the reports that have been filed. Employees that file reports remain anonymous. In addition, ACM employees can also contact the confidential advisors at the Ministry of Economic Affairs and Climate Policy (EZK), the Ministry of Agriculture, Nature and Food Quality (LNV), and the Ministry of the Interior and Kingdom Relations (BZK).

5.1.3. Continuity during the COVID-19 pandemic

120. For ACM and its consumer information portal ACM ConsuWijzer, it was 'business as usual' during the pandemic, including unannounced dawn raids and interrogations in investigations into violations by businesses. In those activities, ACM complied with the government's COVID-19 guidelines in order to safely hear individuals, enter premises, and

search homes. In 2021, the pandemic hardly led to any delays in ACM's ongoing proceedings. It did have an effect on the organization, such as on salary costs and IT facilities. For example, it was necessary to prioritize the mobile-workspace project in support of the work-from-home mandate. In addition, the absenteeism rate in 2021 was 3.9 percent, which was higher than in previous years.

5.1.4. Financial stability and agility

121. ACM wishes to transition to a different funding system. This was also recommended by consulting firm AEF in its 2020 evaluation of ACM. A multi-year lump-sum funding system will allow ACM even better to make long-term investments, and to be more agile if developments require us to be so. In 2021, we started discussions about this with the Ministry of EZK.

5.1.5. Accessibility

122. The information on our websites must be easily accessible to everyone, including people with disabilities. In 2021, ConsuWijzer.nl was certified as fully accessible by the Dutch Accessibility Foundation (Stichting Accessibility). In addition, acm.nl has become more accessible as it became easier for website visitors to ask for accessible PDFs.

5.1.6. Complaints against ACM or ACM employees

123. If an individual feels that they are not treated properly by an ACM employee, they have the opportunity to file a complaint. ACM handles complaints in accordance with its Complaints procedure. This procedure is based on the Dutch General Administrative Law Act (Awb). Our complaints officer handles the complaints, and gives the board advice about them. If necessary, the board has the final say.

124. Complaints are mostly solved through education and explaining our methods. With regard to the regular complaints, complainants were often satisfied with ACM's handling. The number of regular complaints has been stable (44 in 2021 and 40 in 2020), but the number of complaints on which a formal decision is taken has risen (5 in 2021 and 3 in 2020). Complaints about ACM ConsuWijzer 's service, about the heat tariffs, and ACM's invoices were the most common.

125. In the final months of 2021, ACM received 149 complaints (in addition to the regular complaints) about the revocation of energy suppliers' licenses and about the effects on the monthly payments that consumers pay to their new suppliers. ACM has personally called almost all complainants, and explained the whole process. A large share of these complaints (116) was still handled in 2021, while the remaining complaints (33) will be handled in the first half of 2022.

Table 2. Complaints against ACM or ACM employees

New complaints	40	193*
Completed complaints from previous year	4	2
Complaints to be completed next year	2	42
Total number of complaints	42	153

5.2. ACM staff**Table 3. Employee utilization rate and gender diversity**

Total	588	610
Fte	554.4	576.7
Men	51.0%	49.2%
Women	49.0%	50.8%

Table 4. Age structure of staff

24 and younger	11	17
25 to 34	161	173
35 to 44	161	158
45 to 54	162	163
55 to 59	55	62
60 and older	38	37

Table 5. Inflow and outflow of staff

	Inflow 2020	Outflow 2020	Inflow 2021	Outflow 2021
Men	33	38	36	42
Women	28	35	54	34
Total	61	73	90	76

Table 6. Absenteeism rate

2017	2018	2019	2020	2021
3.2%	3.4%	3.6%	3.6%	3.9%

5.3. Our oversight efforts in facts and figures**5.3.1. Investigations**

126. ACM carries out investigations on the basis of indications, reports, and ACM's own detection efforts. Our enforcement teams assess whether a violation has been committed. If that is the case, an enforcement team can use different instruments to end the violation. For some violations, enforcement teams draw up a statement of objections, which is handed over to the fining team. This team subsequently assesses whether a fine is imposed for the violation. Not all statements of objections result in fines. In addition, some of these

assessments run into the next calendar year, which means the number of statements objections is not equal to the number of fines. A breakdown of completed investigations per instrument can be found on the next two pages.

Table 7. Number of investigations launched

	2020	2021
Consumer protection	108	92
Energy	9	9
Competition	5	2
Health care	1	1
Telecom & postal services	24	9
Transport	9	0
Total	156	113

Table 8. Number of investigations completed

	2020	2021
Consumer protection	119	101
Energy	13	5
Competition	5	8
Health care	7	1
Telecom & postal services	7	11
Transport	6	0
Total	157	126

5.3.2. Investigations completed per instrument

Table 9. Statements of objections

	2020	2021
Consumer protection	2	8
Energy	3	0
Competition	3	4
Health care	1	0
Telecom & postal services	0	3
Transport	0	0

Table 10. Median lead time of Statements of objections (in days)

	2020	2021
Consumer protection	208	239
Energy	604	-
Competition	492	405
Health care	706	-
Telecom & postal services	-	209
Transport	-	-

Table 11. Orders subject to periodic penalty payments

	2020	2021
Consumer protection	12	3
Energy	0	2
Competition	1	1
Health care	1	0
Telecom & postal services	1	0
Transport	0	0

Table 12. Median lead time of Orders subject to periodic penalty payments (in days)

	2020	2021
Consumer protection	378	189
Energy	-	298
Competition	373	866
Health care	72	-
Telecom & postal services	79	-
Transport	-	-

Table 13. Other instruments

	2020	2021
Consumer protection	101	106
Energy	12	4
Competition	4	0
Health care	4	1
Telecom & postal services	2	4
Transport	0	0

Table 14. Median lead time of Other instruments (in days)

	2020	2021
Consumer protection	92	85
Energy	84	573
Competition	184	-
Health care	404	324
Telecom & postal services	37	28
Transport	-	-

Table 15. Stopped without any intervention

	2020	2021
Consumer protection	4	2
Energy	1	0
Competition	2	3
Health care	2	0
Telecom & postal services	4	4
Transport	6	0

Table 16. Median lead time of Stopped without any intervention (in days)

	2020	2021
Consumer protection	69	63
Energy	288	-
Competition	96	220
Health care	40	-
Telecom & postal services	265	278
Transport	127	-

5.3.3. Investigations completed under the Dutch Act on competitive neutrality

127. Government organizations (such as municipalities) are allowed to offer products and services on the market. If they do, they will compete with commercial businesses. The government organizations will have to play by the rules though in order to prevent unfair competition. These rules have been laid down in the Dutch law on competitive neutrality, the Dutch Act on Government and Free Markets. This act is part of the Dutch Competition Act. ACM enforces compliance with this law, and has the power to launch investigations into violations of that law. ACM can subsequently take enforcement action if government organizations fail to comply with the rules.

Table 17. Number of investigations under the Dutch Act on competitive neutrality

	2020	2021
Order subject to periodic penalty payments	0	0
Enforcement decisions	1	3
Offender stops the violation	1	1
Investigation stopped	1	0
Continuing in next year	5	4
Total	8	8

5.3.4. Concentrations

128. Businesses are required to notify ACM of their plans for mergers, acquisitions or joint ventures (these are all called concentrations). If ACM has been notified of a concentration, we will determine, in a so-called first phase, whether or not the concentration can go through or whether a further investigation is required. As some cases run into the next calendar year, the number of notified concentrations is not equal to the number of decisions.

Table 18. Concentration notifications

	2020		2021	
	Health care	Competition	Health care	Competition
Concentration notifications	11	78	20	149
Withdrawn notifications	0	1	1	2
Concentrations not subject to notification requirement	0	0	0	0

Table 19. ACM decisions on concentration notifications

	2020		2021	
	Health care	Competition	Health care	Competition
Cleared	11	76	15	147
License requirements	0	3	3	4
Exemptions granted*	1	0	0	0

Note: Exemptions granted under Section 40 of Dutch Competition Act. Large undertakings are, normally speaking, only allowed to merge after they have notified ACM of their planned concentration, and after ACM has completed its assessment thereof. In critical situations, ACM can grant an exemption in order to prevent irreparable damage inflicted on the undertakings involved if they had to wait for ACM's assessment.

Table 20. License applications

	2020		2021	
	Health care	Competition	Health care	Competition
License applications	1	3	3	5
Withdrawn applications	1	0	0	0

Table 21. ACM decisions on license applications

	2020		2021	
	Health care	Competition	Health care	Competition
License granted	3	3	0	4
License not granted	0	0	2	0
Exemptions granted*	0	0	0	0

Note: Exemptions granted under Section 40 of Dutch Competition Act. Large undertakings are, normally speaking, only allowed to merge after they have notified ACM of their planned concentration, and after ACM has completed its assessment thereof. In critical situations, ACM can grant an exemption in order to prevent irreparable damage inflicted on the undertakings involved if they had to wait for ACM's assessment.

5.3.5. Newly imposed fines

129. ACM can impose fines for violations of the laws it enforces. It starts with an investigation in which a statement of objections is drawn up. Based on that statement of objections, a fine can be imposed. These totals exclude orders subject to periodic penalty payments and the calculated statutory interest.

Table 22. Undertakings fined

	2020	2021
Consumer protection	3	4
Energy	0	0
Competition	10	4
Telecom & postal services	0	3
Transport	0	0
Total	13	11

Table 23. Cases completed without fines

	2020	2021
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Consumer protection	0	0
Energy	0	0
Competition	0	0
Telecom & postal services	1	0
Transport	0	0
Total	1	0

Table 24. De facto executives fined

	2020	2021
Consumer protection	0	1
Energy	0	0
Competition	0	3
Telecom & postal services	0	0
Transport	0	0
Total	0	4

Table 25. Newly imposed fines (in euros)

	2020	2021
Consumer protection	€ 2,055,000	€ 455,000
Energy	-	-
Competition	€ 82,466,999	€ 63,249,500
Telecom & postal services	-	€ 2,014,000
Transport	-	-
Total	€ 84,521,999	€ 65,718,500

Table 26. Median lead time of fines (in days)

	2020	2021
Consumer protection	199	56
Energy	-	-
Competition	238	86
Telecom & postal services	-	179
Transport	-	-
Average	219	107

Table 27. Percentage of cases where statutory lead time was met

	2020	2021
Consumer protection	33%	100%
Energy	-	-
Competition	33%	71%
Telecom & postal services	-	0%
Transport	-	-
Average	33%	57%

5.3.6. Objections and appeals

130. If a party disagrees with an ACM decision, it can file an objection or an appeal. Each objection or appeal is counted separately. The statutory lead time for objections is 42 days. In case of postponement, that lead time can be extended to 84 days.

Table 28. Number of resolved objections in 2021

	Founded	Partially founded	Unfounded	Withdrawn	Inadmissible	Direct appeal
Consumer protection	-	1	7	3	1	-
Energy	1	1	5	12	-	-
Competition	-	1	5	-	1	8
Health care	-	-	-	-	-	-
Telecom & postal services	-	-	-	1	1	-
Transport	-	-	-	-	-	-
Total	1	3	17	16	3	8

Table 29. Percentage of cases in which statutory lead time was met

	2020	2021
Consumer protection	100%	67%
Energy	30%	0%
Competition	60%	0%
Health care	-	-
Telecom & postal services	75%	100%
Transport	-	-

Average	66%	42%
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Table 30. Rulings on appeals

	Decisions upheld	Decisions largely upheld	Decisions largely not upheld	Decisions not upheld
Consumer protection	2	1	-	-
Energy	5	1	-	1
Competition	5	2	1	-
Health care	-	-	-	-
Telecom & postal services	-	1	-	1
Transport	1	-	-	-
Total	13	5	1	2

Table 31. Rulings on appeals by a higher court

	Decisions upheld	Decisions largely upheld	Decisions largely not upheld	Decisions not upheld
Consumer protection	-	-	-	-
Energy	-	-	-	-
Competition	1	-	-	1
Health care	-	-	-	-
Telecom & postal services	-	1	-	-
Transport	-	-	-	-
Total	1	1	0	1

Table 32. Completed preliminary injunctions

	2020	2021
Consumer protection	1	0
Energy	0	0
Competition	0	2
Health care	-	0
Telecom & postal services	-	1
Transport	-	0

Total	1	3
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Table 33. Civil-law proceedings (including summary proceedings)

	2020	2021
Consumer protection	0	0
Energy	1	0
Competition	2	2
Health care	-	0
Telecom & postal services	-	0
Transport	-	0
Total	3	2

5.3.7. Requests for enforcement

131. ACM receives many valuable tip-offs, reports, and complaints. If an official complaint is filed, it is considered a request for enforcement. We handle such requests with care. Other complaints, tip-offs, and reports are included in tables elsewhere in this annual report. The European consumer authorities work together within a network for consumer protection (Consumer Protection Cooperation, CPC). They can request each other's assistance when dealing with cross-border violations.

Table 34. Requests for enforcement

	2020	2021
Consumer protection	12	10
Energy	5	9
Competition	2	6
Health care	1	3
Telecom & postal services	6	6
Transport	4	0
Total	30	34

Table 35. Median lead time of requests for enforcement (in days)

	2020	2021
Consumer protection	71	101

Energy	70	38
Competition	55	101
Health care	48	105
Telecom & postal services	140	49
Transport	201	0
Average	98	66

Table 36. European requests for information

	2020	2021
Sent	9	9
Received	15	9
Completed	16	15

Table 37. European requests for assistance

	2020	2021
Sent	9	9
Received	15	9
Completed	16	15

5.3.8. Disputes in regulated sectors

132. Consumers and businesses do not always agree with the methods of operators or suppliers in the energy, telecommunications, postal services and transport sectors. In such situations, disputes can be submitted to ACM. ACM seeks to resolve disputes to the satisfaction of all parties. If parties file an appeal against the dispute decision, the case will be brought to the Dutch Trade and Industry Appeal Tribunal (CBb).

Table 38. Resolved disputes in regulated sectors

	2020	2021
Energy	14	13
Telecom & postal services	11	10
Transport	0	2
Total	25	25

Table 39. Median lead time of disputes (in days)

	2020	2021
Energy	119.5	124
Telecom & postal services	80	64
Transport	-	69
Average	100	86

Table 40. Decisions in disputes in regulated sectors

	Decisions upheld	Decisions largely upheld	Decisions largely not upheld	Decisions not upheld	Disputes inadmissible
Energy	3	0	0	1	0
Telecom & postal services	0	1	0	0	0
Transport	0	0	0	0	0
Total	3	1	0	1	0

5.3.9. Licenses and exemptions

133. ACM grants licenses and exemptions in the energy sector. For the supply of electricity and natural gas, suppliers need to have a license. All providers that supply heat to consumers and small-scale users, too, have a license requirement. This obligation does not apply to small heat providers and providers that own or rent out the building to which heat is supplied. Owners of grids or gas transmission networks must designate a system operator. Sometimes there may be circumstances in which it is unreasonable to require the designation of a system operator. Owners can then apply for an exemption with ACM.

Table 41. Number of licenses and exemptions

	Licenses of electricity and gas suppliers	Licenses of heat suppliers	Exemptions for closed distribution systems
Granted	7	2	5
Amended	8	0	8
Withdrawn	18	1	2
Changes to license instructions	0	0	0

Table 42. Median lead times to licenses and exemptions (in days)

	Licenses of electricity and gas suppliers	Licenses of heat suppliers	Exemptions for closed distribution systems
2020	77	45	189
2021	47	54.5	149.5

5.3.10. Requests under the Dutch Act on Public Access to Government Information (Wob)

Table 43. Number of Wob requests

	2020	2021
Completed Wob requests	14	28
Completed Wob requests on objection and appeal	2	4
Total	16	32

Table 44. Median lead time of Wob requests (in days)

	2020	2021
Median lead time	27	24
Statutory lead time	28	28
Difference	-1	-4

5.3.11. Reports filed by consumers

134. Consumers contact consumer information portal ACM ConsuWijzer for various reasons. They can ask questions, but also file complaints about a company. We refer to such questions and complaints as reports. ACM bases its oversight to a large extent on the number of reports it receives.

Table 45. Number of reports filed with ACM ConsuWijzer

	2020	2021
Telephone	19,825	27,537
Email	50,307	41,019
Regular mail	124	142
WhatsApp*	0	2,125
Social media	2,777	3,521
Total	73,033	74,344

Note: We resumed using WhatsApp in August 2021.

Table 46. Top 5 reports, nature of consumer complaints

	2020	2021
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Customer acquisition, and sellings methods	12,089	16,035
Termination and cancellation of contracts (including unwanted ones)	14,334	9,029
Delivery issues	7,009	6,913
Faulty product/service and warranty	7,343	6,850
Bills and payments	3,266	3,257

Table 47. Top 5 sectors among consumer reports

	2020	2021
Retail	15,838	15,717
Energy and heat	9,668	13,619
Services	19,327	13,143
Telecom services	2,455	2,821
Postal services	524	469

Table 48. Top 3 categories of reports: Services

	2020	2021
Consultancy, research, and specialist services	3,067	4,120
Travel agencies and intermediaries	7,096	3,607
Hotels, and holiday accommodations	1,965	820

Table 49. Top 3 categories of reports: Retail

	2020	2021
Fashion	2,380	2,445
Electronics	2,611	2,393
Interior decoration	1,297	1,403

Table 50. Top 3 categories of reports: Energy and heat suppliers

	2020	2021
Intermediaries	4,551	6,294
Electricity and natural-gas suppliers	3,791	6,095

System operator	-	539
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Table 51. Top 3 categories of reports: Telecommunications services

	2020	2021
Combination products	1,342	1,708
Fixed internet	345	354
Mobile telephony	382	298

Table 52. Top 3 categories of reports: Postal services

	2020	2021
24-hour mail (USO)	185	239
Mail delivery in general	321	218
Collection boxes	15	11

Table 53. Top 3 categories of reports: Digital content

	2020	2021
Download	83	52
Streaming	16	19
Cloud services	25	11

Table 54. Top 3 categories of reports: Transport

	2020	2021
Public transport	19	13
Aviation	168	12
Maritime pilots	2	-

Table 55. Top 3 categories of reports: Health care

	2020	2021
GPs	69	86
Insurers	28	32
Specialists	15	27

5.3.12. Reports filed by businesses

135. Businesses, too, are able to contact ACM if they have questions or complaints, for example, if they are unsure whether they comply with the rules, or if they suspect competitors having concluded illegal agreements. ACM ConsuWijzer records the reports filed by self-employed workers (independent contractors) regarding wrongful energy contracts.

Table 56. Number of reports filed with ACM's business desk

	2020	2021
Telecommunications and internet	944	1,214
Energy	852	788
Competition	513	310
Other	876	1,059
Total	3,185	3,371

Table 57. Nature of reports filed with ACM's business desk

	2020	2021
Within ACM's regulation	2,508	2,717
Referrals	376	373
General questions	216	248
Unknown	85	33
Total	3,185	3,371

Table 58. Visits to websites

	2020	2021
ACM ConsuWijzer.nl	2,975,439	2,312,431
ACM.nl	1,136,044	1,246,729
Total	4,111,483	3,559,160

5.3.13. Spam complaints board Spamklacht

136. ACM enforces compliance with spam regulations. Consumers receive spam through all kinds of channels, and have the opportunity to file their spam-related complaints with ACM. The 'other' category also includes reports filed over the phone and fax.

Table 59. Number of reports filed with spam complaints board

	2020	2021
Email	9,786	6,054
Text messages	492	430
Social media	41	37
Other	730	530
Total	11,049	7,051

5.3.14. Satisfaction with customer interactions

137. Visitors of our websites are able to submit substantive feedback immediately. With this feedback, ACM is continuously able to improve both sites.

Table 60. Satisfaction with ACM ConsuWijzer's interaction (on a scale from 1 to 10)

	2020	2021
Phone	8.2	8.2
Email	6.8	6.7
WhatsApp and Social Media	9.2	9.0

Table 61. Satisfaction with ACM's interaction (on a scale from 1 to 10)

	2020	2021
Phone	8.6	8.4
Email	7.1	6.9

5.3.15. Registrations

138. All providers of electronic communication services and postal services in the Netherlands are required to register themselves with ACM. ACM enforces compliance with the rules.

Table 62. Overview of registrations of various market participants

	End of 2020	End of 2021
Public electronic communication network	995	1,015
Public electronic communication service	1,217	1,263
Related facilities	131	141

Provider of postal services	126	119
Provider of parcel delivery services	16	15

Table 63. Overview of new and terminated registrations

	New	Terminated
Public electronic communication network	63	43
Public electronic communication service	135	89
Related facilities	13	3
Provider of postal services	7	14
Provider of parcel delivery services	1	2

Table 64. Number of registrations for electronic communication

	2020	2021
Number of new and terminated registrations	331	346
Percentage of registrations within the statutory term limit	100%	100%

5.3.16. Numbers and issuance

139. ACM manages the supply of all phone numbers in the Netherlands. Telecom operators and businesses can apply for numbers with ACM. ACM maintains a register of which telecom operator and business holds which numbers. Each series of numbers must be used for a specific purpose. For example, numbers in the 0800 series are meant for toll-free information services, numbers in the 06 series are for mobile numbers. ACM assigns numbers, and conducts active oversight over the use thereof.

Table 65. Number of assigned and withdrawn numbers

	Assigned	Withdrawn	Number applications
Other numbers	4,986,053	1,616,139	166
Business numbers	241,500	191,500	1,431
0800 series	362	498	626
0900 series	88	800	442
0909 series	21	197	75

0906 series	22	79	51
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Table 66. Overview of percentages of free numbers

Number series	% available numbers on 31-12-2020	% available numbers on 31-12-2021
0900 series (short)	64.43%	67.25%
0800/0906/0909 series (short)	79.10%	79.21%
0800/0900/0906/0909 series (long)	99.89%	99.90%
Mobile numbers	12.37%	12.47%
Business numbers	64.43%	63.91%
18XX subscriber information services	59.60%	59.60%

5.4. 2021 Annual statement of accounts ACM

140. ACM's 2021 annual statement of accounts consists of the following parts:

- Annual statement of accounts of the ACM Organization
- Breakdown of expenditures along market organizations
- Annual statement of accounts of the Autonomous Administrative Authority ACM (ZBO ACM)
- Corporate affairs of the Autonomous Administrative Authority ACM (ZBO ACM)

141. This annual statement of accounts concerns 2021 in its entirety. In the tables below, amounts are rounded up or down to the nearest euro. As a result, rounding errors may occur.

5.4.1. Annual statement of accounts of ACM Organization

142. From an administrative point of view, the ACM Organization is an integral part of the Ministry of Economic Affairs and Climate Policy (EZK) without any statutory obligation to publish an independent annual statement. The accounting check takes place at EZK level. In addition, the so-called [Authorization Directive](#) (EU Directive 2002/20/EC) applies to the ACM Organization. The ACM Organization uses a cash-basis accounting system in the administration of EZK. There is no balance sheet or profits-and-loss account.

Expenditures of ACM organization

The table below lists the cash expenditures for 2021 and 2020.

Table 67. Cash expenditures of ACM organization (in euros)

	2021	2020
<i>Personnel costs</i>		
Salary costs	50,522,953	50,762,500
Temporary employees	3,089,237	2,789,141

Travel expenses	227,170	481,011
Employee education and training	863,947	814,729
Other personnel costs	694,121	633,894
State Advocate	337,680	217,774
<i>Total personnel costs</i>	<i>55,735,107</i>	<i>55,699,049</i>
<i>Material costs</i>		
Housing	3,865,005	3,664,709
Research	3,589,734	3,172,458
IT	6,931,693	5,165,536
Catering/security/cleaning	880,594	884,683
Office furniture and supplies	844,372	799,862
Public education and events	15,835	2,814
Other material costs	244,448	96,420
<i>Total material costs</i>	<i>16,371,681</i>	<i>13,786,481</i>

Explanatory notes to table 67

Coronavirus (COVID-19) pandemic has had an effect on total expenditures

143. For the second year in a row, the coronavirus (COVID-19) pandemic has had an effect on multiple items of ACM's budget. As most of ACM's employees worked from home, travel expenses were lower than budgeted. On the other hand, items such as other personnel costs (ergonomic equipment and remote-working costs reimbursements), IT costs, and office supplies went up.

Salary costs, temporary employees, and other personnel costs

144. In 2021, the organization's workforce grew as a result of ACM's expanded duties, and the salaries of the pay scales laid down in the Civil Servants Pay Decree (BBRA) were raised as a result of a new collective labor agreement. Despite these changes, the salary costs went down because, in 2020, a one-time payment to each employee was made in connection with the transition from vacation pay and the end-of-year bonus to the so-called Individual Choice Budget (in Dutch: *Individueel Keuze Budget* or *IKB*).

145. The expenditures on temporary employees are connected with the necessary capacity for the execution of ACM's duties (including new ones), the implementation of strategic projects (including IT projects), open vacancies, and dealing with peak absenteeism. In 2021, the costs for temporary employees were higher because of open vacancies and additional capacity (including temporary) for concentration assessments and projects.

146. Besides by pandemic-related expenditures, the increase in the item Other personnel costs is also caused by expenses associated with hiring individuals with special needs, and by partial payment of the remote-working costs reimbursements as agreed upon in the collective labor agreement.

State Advocate

147. The expenditures of the State Advocate fluctuate from year to year. This is because more or fewer legal proceedings are launched in one year than in another year as a result of ACM's execution of its duties. In 2021, the expenditures were higher than in 2020.

Housing

148. The rise in housing expenses in 2021 was caused by a higher lease rate and by a subsequent bill for building-related service fees from the Central Government Real Estate Agency for 2018. That bill was received in 2021.

Research

149. Research expenses vary from year to year. This is because more or fewer studies are launched in one year than in another year as a result of ACM's execution of its duties. In 2021, the expenditures were higher than in 2020.

IT and IT-related projects

150. In 2020, the prioritization and execution of IT projects were revised. As a result of the COVID-19 pandemic, it was necessary to prioritize the mobile-workspace project in support of the work-from-home mandate. This meant that other planned expenditures were deferred. Furthermore, IT-related framework agreements that expired at the end of 2020 have led to some expenditures be carried over to early 2021. In addition to these carry-overs, it turned out that the expenditures for the new IT framework agreements for licenses and hardware maintenance contracts were higher than before. In addition, additional costs were made in connection with an update to the website. All of these factors combined resulted in higher IT expenditures.

Office furniture and supplies

151. In 2021, more was spent on office furniture and supplies. In addition, ACM has made the necessary investments in making the offices even more COVID-19-proof.

Other costs

The other costs in 2021 went up because of an additional bill for exceeding the work-related costs scheme (WKR) in 2020.

Income of ACM organization

152. The below tables provide an overview of the income in 2021 and 2020. The levels of the income from market organizations are largely determined by the contribution scheme. The levels of the contributions from the market organizations have been laid down in the Regulation on the passing on of costs to regulated parties (in Dutch).

Table 68. Income of ACM Organization (in euros)

	2021	2020
<i>Telecom</i>		
Electronic communication	4,099,929	3,904,006
Numbers	2,822,810	2,332,977
Arbitration services	1,181,653	1,916,831
<i>Total Telecom</i>	<i>8,104,393</i>	<i>8,153,815</i>
<i>Postal services contributions</i>		

Universal Service Obligation	114,497	26,803
Non-Universal Service Obligation	371,856	852,860
Universal Service Obligation (Cross-border parcel regulation)	13,570	47,084
Non-Universal Service Obligation (Cross-border parcel regulation)	4,878	12,993
<i>Total Postal Service</i>	<i>504,801</i>	<i>939,740</i>
<i>Energy</i>		
Distribution system operators for electricity	1,555,480	1,009,110
Distribution system operators for gas	1,346,375	1,307,654
Transmission system operator for electricity	5,435,848	4,869,665
Transmission system operators for gas	1,455,568	1,930,493
Heat license holders	745,358	1,083,884
<i>Total Energy</i>	<i>10,538,629</i>	<i>10,200,806</i>
<i>Other</i>		
Merger notifications	2,890,300	1,675,200
Licenses of energy providers	35,598	12,990
Receipts from Personnel / Materials	268,576	98,866
Total income	22,342,296	21,081,417

Explanatory notes to table 68

General

153. Income per market category may vary from year to year. These fluctuations are connected to ACM's performance of its duties. Depending on the number of investigations that are conducted in a particular year, the income may go up or down. The income in 2021 is largely based on the expenditures to the market category as calculated in 2020.

Telecom

154. The income from Electronic communication is in line with the Regulation on the passing on of costs to regulated parties. The increase in the income from Numbers can be explained by high net receivables at the end of 2020, most amounts of which were received in 2021. At the same time, subsequent bills were received in 2021, relating to 2020.

155. The income received for the arbitration service for the deaf and hard of hearing was lower than the previous year. That is because, in 2020, payments were received for invoices that were sent in late 2019.

Postal services

156. The income from the Postal services market category is in line with the Regulation on the passing on of costs to regulated parties.

Energy

157. The income from the Energy market category is in line with the Regulation on the passing on of costs to regulated parties.

Merger notifications

158. The collected amounts went up in 2021 compared with 2020. That increase is caused by an increase (particularly in the first six months of 2021) in the number of merger notifications compared with 2020.

Transport (not included in the table because the balance was zero)

159. In accordance with the Regulation on the passing on of costs to regulated parties, ACM in 2021 received 0.5 million euros for its oversight of the Transport market category for the Ministry of Infrastructure and Water Management. In 2021, this income was transferred to the Ministry of Infrastructure and Water Management.

Financial (not included in the table because the balance was zero)

In accordance with the Regulation on the passing on of costs to regulated parties, ACM in 2021 received 0.1 million euros for its oversight over the Financial market category for the Ministry of Finance. In 2021, the income was transferred to the Ministry of Finance.

Table 69. Income from sanctions (in euros)

	2021	2020
Sanctions (including statutory interest)	6,866,644	106,581,161
Total income	6,866,644	106,581,161

Table 70. Repayments of sanctions (in euros)

	2021	2020
Repaid sanctions (including statutory interest)	13,120,540	990,000
Total repayments	13,120,540	990,000

Explanatory notes to tables 69 and 70

160. Sanctions that ACM imposed under the former statutory regime only need to be paid by parties after the highest court has ruled on their cases. The period between the imposition of the sanction and the actual payment can thus last multiple years, because of legal proceedings. As a result, receipts from sanctions can greatly vary from year to year.

161. Under the Streamlining Act, ACM can demand payment of the sanctions within 6 or 24 weeks. In general, ACM receives payment of the fine on behalf of the Dutch State within these term limits, barring any ongoing legal proceedings. If the court hands down a ruling in a case and either lowers or reverses the fine, ACM will have to make repayments on behalf of the Dutch State. Such a situation can also occur years after the procedure, which means the Dutch State runs the risk of fluctuations to this part of its income. In order to provide more insight, a distinction has been made between income and repayments.

Outstanding receivables of ACM organization

162. The below tables list the outstanding receivables as of December 31, 2021 and December 31, 2020.

Table 71. Outstanding receivables of ACM Organization (in euros)

	2021	2020
<i>Telecom</i>		
Electronic Communication	4,875	5,186
Numbers	147,839	330,021
Arbitration services	479,364	193,149
<i>Total Telecom</i>	<i>632,078</i>	<i>528,356</i>
<i>Postal services contributions</i>		
Non-Universal Service Obligation	-	-
<i>Total Postal services contributions</i>		-
<i>Energy</i>		
Heat license holders	9,628	-
<i>Total Energy</i>	<i>9,628</i>	-
<i>Other</i>		
Merger notifications	778,850	523,520
Licenses of energy suppliers	-	-
Other receipts	621,009	517,233
Total	2,041,565	1,569,109

Table 72. Outstanding receivables from sanctions (in euros)

	2021	2020
Sanctions (including statutory interest)	67,009,099	11,692,505
Total	67,009,099	11,692,505

163. The amount of outstanding receivables for sanctions increased by 55.3 million euros from 11.7 million euros in 2020 to 67 million euros on December 31, 2021. This change can be explained as follows:

Table 73. Total expenditures (in euros)

	2021
<i>Balance on 31-12-2020</i>	<i>11,692,505</i>
Imposed sanctions	69,203,873
Income from sanctions (including statutory interest)	-6,866,644
Decrease in receivables resulting from court rulings and non-recovery of debts	-6,062,205
Decrease in statutory interest	-958,430
<i>Total changes in 2021</i>	<i>5,316,594</i>

5.4.2. Breakdown of expenditures along market organizations

164. In the Decision on the method of passing on costs to regulated industries (in Dutch) and its amendment (in Dutch), it has been laid down how ACM can pass on costs to market organizations. According to this method, the income of the year in question is based on the actual expenditure of the previous year. The market categories and the formula have been explained in more detail in the explanatory notes to the Decision on the method of passing on costs to regulated industries of October 27, 2014, and December 10, 2014, respectively, and the Decision of 18 December 2019 amending the Decision on the method of passing costs to regulated industries (in Dutch) in connection with the expansion of oversight of the postal services and aviation sectors.

165. Per sector, ACM calculates the expenditures to be passed on to the relevant categories. For each category, ACM has one or more timekeeping codes. This will ensure that ACM is able to allocate the costs to the right category. ACM calculates the amount to be passed on per category as follows:

166. 1. Per category, the ‘direct material costs’ are determined, which are the costs that can be directly attributed to this category.

2. Next, the remaining amount is determined, consisting of the indirect material costs and all direct and personnel costs. These costs are allocated based on the actual hours spent on these categories.

The below table provides a breakdown of the cash expenditures for ACM Organization and for the Autonomous Administrative Authority ACM (Dutch abbreviation: ZBO ACM).

Table 74. Total expenditures (in euros)

	2021		2020	
	ACM Organization	ACM ZBO	Total	Total
Direct material costs	3,758,023	-	3,758,023	3,800,612
<i>Remaining costs based on actual direct hours consisting of:</i>				
personnel costs	55,735,107	659,531	56,394,638	56,336,591
+ indirect material costs	12,613,659	2,569	12,616,227	9,988,191
<i>Total personnel and indirect material costs</i>	<i>68,348,766</i>	<i>662,099</i>	<i>69,010,865</i>	<i>66,324,782</i>
Total expenditures	72,106,789	662,099	72,768,888	70,125,394

Explanatory notes to table 74

167. The indirect material costs in 2021 were higher than those in 2020. This is primarily caused by higher expenditures on software licenses, hardware maintenance contracts, and updates to websites.

Explanatory notes to table 75

168. Table 6 gives an overview of the allocation of the total expenditures of ACM and to be passed on to market organizations on the basis of the Decision on the method of

passing on costs to regulated industries. The amount stated in the column ‘total share’ indicates the amount to be passed on to market organizations. It does not indicate the total amount of expenditures to that sector. For example, sanction procedures in one of the regulated sectors are not passed on to market organizations but to the Dutch State.

169. The amount per market category may fluctuate each year. This is because more or fewer economic and technical studies are needed for ACM’s duties each year. This also affects the number of hours that is needed for ACM’s duties. Those are the reasons behind any differences in the total share of costs per market category over the years.

In 2021, with regard to Energy, the allocation system of the direct hours to market categories was revised within the existing statutory boundaries.

Table 75. Overview of the allocation of the expenditures of ACM to be passed on to market

	2021				2020
	Direct hours	Direct material expenditures	Personnel and indirect expenditures based on share of hours	Total share	Total share
<i>Telecom</i>					
Public electronic communication services, public electronic communication networks, and related facilities	31,525	289,422	3,877,641	4,167,064	4,162,892
Numbers	20,505	10,137	2,522,168	2,532,305	2,566,167
<i>Subtotal Telecom</i>	<i>52,031</i>	<i>299,560</i>	<i>6,399,809</i>	<i>6,699,369</i>	<i>6,729,059</i>
<i>Postal Service</i>					
Universal Service Obligation (USO)	724	3,497	89,016	92,514	130,697
Non-Universal Service Obligation	2,516	0	309,413	309,413	371,828
Universal Service Obligation (Cross-border parcel regulation)	13	0	1,596	1,596	13,570
Non-Universal Service Obligation (Cross-border parcel regulation)	250	0	30,765	30,765	4,917
<i>Subtotal Postal service</i>	<i>3,502</i>	<i>3,497</i>	<i>430,791</i>	<i>434,288</i>	<i>521,011</i>
<i>Energy</i>					
Distribution system operation for Electricity	17,664	23,481	2,172,706	2,196,187	1,562,438
Distribution system operation for Natural gas	14,116	26,021	1,736,239	1,762,260	1,364,924
Transmission system operation for Electricity	25,866	265,649	3,181,543	3,447,192	5,476,348
Transmission system operation for Natural gas	14,072	39,304	1,730,834	1,770,138	1,496,068
Supply of heat	9,250	49,305	1,137,747	1,187,052	754,486
<i>Subtotal Energy</i>	<i>80,967</i>	<i>403,759</i>	<i>9,959,069</i>	<i>10,362,829</i>	<i>10,654,263</i>
<i>Transport</i>					
Registered pilots	557	0	68,548	68,548	96,483
Aviation	3,458	0	425,371	425,371	449,127
<i>Subtotal Transport</i>	<i>4,016</i>	<i>0</i>	<i>493,919</i>	<i>493,919</i>	<i>545,609</i>
<i>Financial</i>					
Payment system	564	0	69,387	69,387	139,139
<i>Subtotal Financial</i>	<i>564</i>	<i>0</i>	<i>69,387</i>	<i>69,387</i>	<i>139,139</i>
Total market organizations	141,080	706,817	17,352,975	18,059,791	18,589,081
<i>Central government</i>					
State/treasury	419,979	3,051,206	51,657,890	54,709,096	51,536,313
Total	561,059	3,758,023	69,010,865	72,768,888	70,125,394

organizations (in hours and euros)

Note: Please note that this table contains rounding differences.

5.4.3. Annual account of ZBO ACM

170. This financial account of the Autonomous Administrative Authority ACM (ZBO ACM) concerns the entire calendar year of 2020. The ZBO ACM concerns the Board of ACM. The ZBO ACM used a cash-basis accounting system in the administrative system of the Ministry of Economic Affairs and Climate Policy (EZK).

Expenditures and income of ZBO ACM

171. Table 75 is an overview of the expenditures and income over 2021 and 2020.

Table 76. Total expenditures and income of ZBO ACM (in euros)

	2021	2020
<i>Personnel costs</i>		
Salary costs	651,387	612,919
Travel expenses (domestic)	508	3,944
Travel and accommodation expenses (abroad)	2,036	3,970
Various expenses	402	13,654
Employee training	5,198	3,055
<i>Total personnel</i>	<i>659,531</i>	<i>637,543</i>
<i>Material costs</i>		
Contributions and memberships	2,569	2,322
Social allowance	-	-
<i>Total material</i>	<i>2,569</i>	<i>2,322</i>
Total expenditures	662,099	639,865
Income	162,793	162,000
Total income	162,793	162,000

Explanatory notes to table 76

172. The increase in salary costs is primarily caused by changes in the collective labor agreements. The government-imposed COVID-19 lockdown measures have had an effect on the number of trips made by individual board members, which has resulted in reduced travel & accommodation expenses. In contrast to 2020, no farewell ceremonies were organized, which is one of the reasons as to why the Various expenses have gone down.

173. The item ‘income’ concerns the receipts from market organizations, as laid down in the [Decision on the method of passing on costs to regulated industries](#) (in Dutch).

174. As of 31 December 2021, the ZBO ACM did not have any outstanding receivables.

Corporate services of ZBO ACM

175. This section on corporate services lists all relevant points of attention in the operations of ZBO ACM. In accordance with the Government Accounts Act 2016, the corporate-services section is organized as an exception report. The information included in this section has been collected from the management control system of the ZBO ACM and from information coming from the audit of the Central Government Audit Service. The corporate-services section consists of four mandatory elements: lawfulness, establishment of policy information, financial and material management, and other aspects related to corporate services.

- Lawfulness

176. Based on information at my disposal, no irregularities with regard to the accountable lawfulness of the expenditures of the ZBO ACM that have exceeded the relevant reporting tolerance thresholds have occurred.

- Establishment of non-financial policy information

177. Based on information at my disposal, no shortcomings have occurred in the establishment of non-financial policy information.

- Budgetary, financial and material management

178. No irregularities have occurred.

- Other aspects related to corporate services

No irregularities have occurred.