

Financial Sector Monitor 2003

Views of NMa on Competition in the Financial Sector

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Foreword

Last year the Minister of Finance, Mr G. Zalm, and the former Director-General of the Netherlands Competition Authority (NMa), Mr A.W. Kist, agreed that NMa would extend its supervision of compliance with the Competition Act in the financial sector. This agreement underlined the realisation by both the Minister of Finance and the Director-General of NMa that structural attention to the financial sector was of considerable importance.

At the beginning of this year, with the support of the Minister of Finance, this resulted in the setting up of the Financial Sector Monitor. The Financial Sector Monitor consists of a group of specialists within NMa assigned the task of monitoring the financial sector on a permanent basis from the perspective of competition and, where possible, communicating the results of this to the outside world. This kills two birds with one stone. On the one hand, monitoring and publicising the insights obtained has an autonomous enforcement effect. After all, it makes companies more aware of the norms set by the Competition Act and the importance of complying with these. On the other hand, monitoring results in adequate prioritisation and conducting concrete investigations into infringements of the Competition Act. The monitoring function also supports NMa's supervision of concentrations, namely the assessment of mergers and acquisitions in the financial sector.

NMa will publish a Monitor annually, which will contain its view of competition in the financial sector. This publication is the first of these. Needless to say, NMa is neither able nor wishes to give a formal opinion on its role as the enforcer of the Competition Act. NMa will also not enter into the area of operation of the other supervisors of the financial sector. NMa's aim is to share its knowledge and insights with all interested parties. It is my firm belief that by promoting good interaction with the sector NMa will be able to operate more proactively and it will be made possible for the sector—in the interests of healthy competition—to understand NMa's opinion and approach better. I would therefore like to invite you to respond to the contents of this publication.

Mr. P. Kalbfleisch

Director-General of the Netherlands Competition Authority

1. Monitoring is exercising supervision

1.1. Introduction

In a nutshell, NMa's mission is to make markets work. The proper functioning of the market system, in which supply and demand are combined effectively and fairly, contributes to sustainable economic growth. Markets which operate well promote the competitive strength of the private sector in the Netherlands. This results in efficiency, innovation and a strong position on international markets. Consumers and business customers benefit from this.

NMa realises this mission, for instance, by formulating objectives for general competition supervision. These objectives are based on tasks assigned to NMa in the Competition Act. NMa is required to act against cartels, abuses of dominant positions and against mergers and acquisitions which may result in anti-competitive dominant positions. NMa's area of operation embraces all sectors of the Dutch economy.

Within this broad working field, NMa sets priorities, in which the economic importance of markets and the risk of behaviour that restricts competition are deciding factors.

1.2. The financial sector as the object of competition supervision

The financial sector is of exceptionally great importance to the Dutch economy. In addition to the importance of its own activities (with a balance-sheet total of more than EUR 1000 billion in 2001), the sector makes an important contribution to the proper functioning of the economy in general. Banks ensure that payments can be made properly and that the temporary capital surpluses and deficits of their customers are matched through the savings and credit function. The securities sector has a facilitating role for market players who wish to carry out money or capital market operations for their own account and risk. Insurers contribute not only to the stability of the finances of companies and individuals in the event of unforeseen setbacks, but also provide future security for, for instance, (supplementary) pensions. The proper operation of the market in the financial sector, and therefore also sufficient competition, is of considerable importance. If there is insufficient competition in the sector, this may result in substantial social losses due to high prices and a lack of innovation.

The financial sector, however, is also a sector which generally carries an increased risk of restrictions on competition. This increased risk relates partly to the generally high degree of concentration, cross-shareholdings and specific regulations which affect the behaviour of market players. These circumstances explain why NMa has intensified the supervision of competition in the financial sector, partly due to various reports which it has received. The Ministry of Finance, partly as a result of the findings of the Wellink Working Group on Payments,¹ is also an outspoken proponent of this.

The Netherlands does not occupy an exceptional position internationally with regard to its intensive supervision of the financial sector. Several years ago, for instance, an extensive study of competition in

the British banking sector² was commissioned by the Chancellor of the Exchequer. This gave rise to intensified supervision of the sector in the United Kingdom. In other European countries, competition authorities have also closely scrutinised the financial sector. Examples of this are Italy, where competition research has been carried out into the insurance sector (see chapter 4) and Austria, where research brought to light a banking cartel (the 'Lombard Club').

Against this background, NMa has given priority to the financial sector and has strengthened its enforcement activities in relation to the sector, including supervision, investigations and the assessment of concentrations. It is well known that focused investigations have been carried out in relation to payments (Interpay) and to the insurance sector.

1.3. Financial Sector Monitor

The *Financial Sector Monitor* was initiated at the beginning of 2003 to increase the effectiveness with which the Competition Act is enforced. NMa has given form to its permanent supervision of the financial sector in the *Financial Sector Monitor*. The idea behind this is that monitoring may have an autonomous enforcement effect. The signal which this gives may result in greater awareness within the sector of the norms imposed by the Competition Act and may result in a change in behaviour in accordance with these norms. In addition, monitoring provides better insight into the areas in which investigations and market research can best be focused in relation to merger control. In combination with NMa's other instruments, effective supervision is therefore of considerable importance for the adequate enforcement of the norms set out in the Competition Act. This contributes to healthy competition in the financial sector.

Aims

The permanent supervision of the financial sector carried out by the Financial Sector Monitor is aimed especially at identifying and eliminating structures and practices in the financial sector that restrict competition. Within this framework, the financial sector is defined broadly as markets varying from traditional banking products and securities to insurance and pensions. The Financial Sector Monitor will contribute to setting the priorities for specific investigations in the sector. After all, the studies carried out by NMa within the framework of the Financial Sector Monitor will generate results which increase insight into possible infringements of the Competition Act. The number of promising investigations in the sector is expected to increase as a result. The insights obtained through the Financial Sector Monitor will also provide support in NMa's assessment of concentrations.

However, not all restrictions on competition can be attributed to infringements of the Competition Act. Sometimes they are caused by other factors, such as sector-specific legislation and regulations and sector-specific supervision. The insights which the Financial Sector Monitor obtains with regard to these will be reported to the respective public authorities. The Financial Sector Monitor will publicise its view of competition in the financial sector annually, or more frequently if this is opportune.

Activities

The activities carried out by the Financial Sector Monitor therefore focus on:

- signalling the shortcomings of competition in the financial markets and analysing and reporting on the causes of this (both the structure of the market and the behaviour of players);
- analysing vulnerabilities (risks) with regard to competition as a starting point for concrete investigations and market research in relation to the supervision of concentrations;
- mobilising knowledge in the area of financial markets to increase NMa's pro-activeness; and
- communicating its findings and insights to relevant external parties.

Organisation

Within NMa the Financial Sector Monitor is carried out by a research group which at present consists of eight researchers and information analysts. Most of the researchers have a general economic background. A number of employees also have extensive knowledge of Dutch and European competition law. Experience in the financial sector (both banks and insurers) is also represented.

The initial focus of the Financial Sector Monitor is on banking services and insurance (life insurance and non-life insurance, excluding health insurance) for private individuals and the small and medium-sized enterprise (SME) sector. The Financial Sector Monitor plans to start monitoring the securities sector in 2004.

Not all research will be carried out by the Financial Sector Monitor. Part of the research will be outsourced to external research firms. In recent months research into specific areas, such as the development of rates and the timing of product innovation, was carried out by third parties on behalf of the Financial Sector Monitor.

The Financial Sector Monitor builds on a network of market players, policymakers, supervisors and academics in the Netherlands and abroad. During the symposium entitled 'The Situation with Regard to Competition in the Financial Sector' [*De stand van de mededinging in de financiële sector*] organised by NMa in The Hague on 26 November 2003, these contacts were strengthened further. At this symposium, which was opened by the Minister of Finance, Mr G. Zalm, a discussion on the situation with regard to competition in the financial sector in the Netherlands was held under the leadership of the former European Commissioner for Competition, Prof. K. van Miert. The information that was shared will be used for the further activities of the Financial Sector Monitor.

International embedding

Within the international context, the Financial Sector Monitor participates in the Insurance Network of the Directorate-General for Competition of the European Commission. The aim of this is to intensify contacts between national competition authorities and to exchange sector-specific information. Some issues, such as the Block Exemption for Insurers (the partial exemption from the prohibition on cartels), after all, are topical in numerous Member States of the European Union. Within this framework, with due care and confidentiality, national affairs are discussed which may provide insights

for possible research in relation to competition law in other Member States. As such, the Insurance Network is a precursor of similar European networks still to be set up for competition supervision in other sectors. The Financial Sector Monitor also has contacts at the European level with researchers of other competition authorities which monitor the financial sector. At present similar monitoring functions exist in the United Kingdom and in Ireland. Other countries in the EU are expected to follow shortly. This development promotes international benchmarking in the sector and the exchange of information. NMa will intensify these European contacts in the coming year with the aim of further increasing the effectiveness of supervision.

High ambitions

In summary, it may be said that the Financial Sector Monitor supplements NMa's enforcement activities in the financial sector in important ways. Through the Financial Sector Monitor, NMa stresses the fact that the financial sector receives its special attention. NMa deploys the necessary human and financial resources in order to exercise effective and proactive supervision. The Financial Sector Monitor has high ambitions, namely to uncover and understand everything that is relevant.

1.4. Design of the monitor

This first Monitor serves as a means of determining what the present situation is and provides a basis for subsequent annual publications. The Monitor aims to provide insight into the perspective and approach of the Financial Sector Monitor and provides a basis for discussion.

The structure of the Monitor is as follows. Chapter 2 discusses empirical research into the degree of competition in the financial sector. The conclusion, which may be drawn on the basis of this, is that there is evidence that competition is relatively limited within the sector as a whole, but that further analysis is necessary at a more detailed level. For this reason, a number of case studies will be discussed, in which the emphasis lies on the payments market (chapter 3) and non-life insurance (chapter 4). On the basis of an analysis, mainly of economic structural characteristics, an estimate is given of the risks of limited competition. Banking and insurance activities then converge in a chapter on the effects of the minority shareholdings of financial conglomerates (chapter 5). Finally, the addendum contains overviews of relevant indicators, case law and research reports.

Box 1 The framework of competition law in which NMA operates

NMA's mission is derived from its statutory tasks and succinctly put is 'to make markets work'. To achieve this, NMA's activities in the area of general competition law are focused primarily on the supervision and enforcement of the Competition Act. The Competition Act includes:

- the prohibition on cartels;
- the prohibition on the abuse of dominant positions; and
- the supervision of concentrations.

Prohibition on cartels

The prohibition on cartels relates to agreements between undertakings. These agreements may relate, for instance, to prices, the division of markets or joint production. In essence, this means that competitors cannot simply make agreements on important elements which may affect competition between them. Such agreements, after all, reduce the incentives of undertakings to be innovative and often result in higher prices for consumers.

Prohibition on the abuse of dominant positions

The prohibition on the abuse of a dominant position is intended as a means of preventing undertakings which have a very large or dominant market share from abusing this, for instance by excluding competitors from the market or confronting customers with unreasonably high prices.

Merger control

Merger control is an assessment of mergers and acquisitions before they occur. The aim of this assessment is to determine whether a dominant position will emerge or be strengthened as a result of the notified transaction. This assessment is aimed at determining whether a dominant position will emerge or be strengthened as a result of the notified transaction. The aim of this preventive assessment is to ensure that undertakings do not find themselves in a position in which they can behave independently of competitors and buyers and can significantly influence or eliminate competition on a particular market.

2. Competition in the banking and insurance sectors

2.1. Introduction

As was mentioned in chapter 1, the banking and insurance sector is a very important sector for the Dutch economy. Simply because of its economic importance, the proper operation of market forces within the financial sector is of considerable importance. After all, healthy competitive relationships in the financial sector form the basis for structural growth in other sectors, both within and beyond the national borders of the Netherlands.

We will review below what conclusions have been drawn in academic research in relation to competition in the financial sector. First competition will be discussed from a national perspective and then a discussion of international comparative research will follow.

2.2. Competition from a national perspective

In a ground-breaking article on the fact that the dynamics of growth in the Netherlands have lagged behind, Kremers considered the banking and insurance sectors to be the least dynamic sectors in the Netherlands.³ Kremers' economic intuition proved to be correct because although he only had qualitative information at his disposal at the time, later econometric research confirmed his assessment. In this study of the lagging functioning of the market mechanism the Netherlands, by means of the so-called 'inertia ratio' the banking and insurance sector was identified in 1993 as one of the three important problem sectors.⁴ The inertia ratio measures the extent to which prices (or margins) respond to overcapacity and undercapacity, although capacity utilisation cannot be defined unambiguously for every segment of the money and capital market. For some specific banking and insurance activities, however, a yardstick such as this may be relevant (take, for instance, large head offices, excessive ICT overheads etc.). On the other hand, regulations issued by supervisors with regard to capital adequacy requirements result in distortions of data which are specific to the financial sector.

For this reason it is important that other research confirms the picture, as appears from Table 2.1. This table provides a summary of Dutch comparative empirical research into the operation of market forces at the meso and micro levels. The general findings of these academic publications is that from the perspective of competition the financial sector must be considered one of the sectors most at risk. The quantities assessed in this research are as follows:

- the inertia ratio, which measures whether prices respond to capacity utilisation;
- a price inertia yardstick, which measures whether prices are flexible or rigid;
- a cost yardstick for the extent to which increases and decreases in costs are passed on to consumers;
- a market-demand determinant, which gives expression to whether sudden peaks in demand result in higher prices;
- a compound indicator, which expresses what the risk of market failure is;

- market power, in other words a yardstick for the elasticity of demand;
- company demography, in other words, entries and exits in the form of new companies, bankruptcies and companies which develop other core activities;
- relative capital intensity in combination with the orientation of the sector towards exports.

Table 2.1 Findings of econometric studies which make empirical statements about the operation of market forces in the banking and insurance sectors

Assessment quantity	Research period	Number of sectors	Ranking	Normalised score
Inertia ratio	1971-1992	19	4	97.0%
Price inertia	1970-2000	19	5	90.3%
Cost effects	1970-2000	19	2	80.2%
Market-demand determination	1970-2000	19	3	57.1%
Market failure of insurers	1998/ 1999	105	1	100.0%
Market failure of banks	1998/ 1999	105	2	89.7%
Market power of insurance	1990/ 1991	29	3	79.3%
Market power of banks	1990/ 1991	29	1	100.0%
Company demography of insurers	1990/ 1991	29	11	76.9%
Company demography of banks	1990/ 1991	29	4	84.6%
Capital intensity/ orientation towards exports of insurance	1990/ 1991	29	5	83.9%
Capital intensity/ orientation towards exports of banks	1990/ 1991	29	1	100.0%
Weighted average			3 to 4	87.0%

Sources: J.C. Wijnstok, *Prijsaanpassing en marktstructuur*, 1995, Erasmus University; M. Verkoulen, *Prijzen na het kartelparadijs*, 2002, Utrecht University; P.A.G. van Bergeijk and R.C.G. Haffner, *Privatization, Deregulation and the Macroeconomy*, Cheltenham, 1996; EIM, *Scorekaart marktfaalen*, 2000; G.B. Dijksterhuis, H.J. Heeres and A.J.M. Kleijweg, 'Indicatoren voor dynamiek', *Economisch Statistische Berichten*, 19 July 1995, pp. 652-657.

In this way the characteristics of the market mechanism in the financial sector are viewed from a large number of different perspectives. The first column of Table 2.1 shows the yardstick for testing used to order the outcomes per sector of the respective study. Subsequently, a number of key quantities of the respective studies are given, such as the period of the research and the number of sectors studied.

The key data (from the perspective of competition economics) is contained in the last two columns, which contain a concise summary of the findings of the studies. In the first place, the sectors are ordered on the basis of each assessment quantity in decreasing order of their risk rankings. The first place is for the sector with the highest risk. The place in the resulting ranking gives an impression of the extent to which competition is lacking. The table shows, for instance, that the financial sector is in fourth place in terms of the inertia ratio measured in relation to the lack of competition. The banking and insurance sector, on average, occupies a place amongst the top-five sectors with the greatest risk.

More important than the ranking, of course, is actual performance in comparison to other sectors. After all, the proverbial hare may generally be expected to perform well in the sprinting events, but whether there is serious competition for gold depends on whether he is running against a tortoise or an antelope in the race. For this reason, a separate score is calculated in the last column of Table 2.1 for each study. This normalised score reflects the place which the banking and insurance sector occupies amongst the sectors which perform best and worst. A score of nil shows that in comparison to other sectors there are hardly any problems. With a score of 100, the banking and insurance sector would be the sector with the worst performance. On average, the score for the financial sector is striking in this regard: on average, the operation of market forces lags 87% behind the Dutch

benchmark for best performance, or on average performs 13% better than the sector with the worst performance.

All things considered, the overview in Table 2.1, allows for only one conclusion: the banking and insurance sector is characterised by a high risk of inadequate operation of market forces. This conclusion is justified firstly in the light of the large number of research methods and databases used and the lengthy period covered by the various studies. Furthermore, the studies discussed often repeated analyses from earlier research, but applied these to different data and periods. Results were therefore repeatedly obtained which could be compared well to those of earlier analysis. In addition, further information is used which in individual cases can be studied in greater depth.

On the basis of the Dutch studies, it can therefore be concluded that the operation of market forces in the financial sector is remarkable. From the perspective of competition, this conclusion is particularly relevant if and in so far as it does not relate to conditions imposed by the government which give rise to this lack of market dynamics. It is possible, for instance, that low entry and exit is caused by high demands imposed by the government on new banks and insurers (because the stability of the financial sector or public confidence in the sector may otherwise be undermined). Legal regulations with regard to investments and finance and capital requirements also may play a role.

2.3. Competition from an international perspective

Although national research itself gives cause to be alert, it is also useful to adopt an international perspective. An international comparative study may show whether the sector in the Netherlands is also out of line with its 'counterparts' abroad. From now on, we will concentrate on the banking sector since a relatively large amount of international and empirical research into imperfect competition concentrates on this sector.

2.3.1. Bank rates

The measurement of transaction prices (interest rates) and price/cost margins on the money and capital market is complicated and may be misleading. The actual interest rates which customers pay depend, for instance, on lives to maturity, up-front fees and risk premiums. These are not reflected in the official rates. A simple comparison of (actual) interest rates may also result in misleading conclusions because cross-subsidisation between various markets may have a distorting effect. Finally, published interest rates often provide an average and are therefore not suitable for analysing developments on relevant markets. In conclusion, international overviews of interest rates are difficult to interpret unambiguously.

Fortunately a relatively large amount of econometric research has been done into the extent to which banks respond to their immediate competitors. In the studies, it emerges repeatedly that the Netherlands occupies an eccentric position. Research by Bikker shows that in the period from 1992 to 1996 competition in the banking sector in the Netherlands was the most limited of the 15 EU countries studied.⁵ One of the consequences that can be expected is that prices on local markets where there are only few suppliers will be higher than those on markets with considerable competition. The Center of

Economic Policy Research has confirmed this hypothesis. Dutch families and companies appear to be charged higher banking rates than in Belgium, France, Germany, Spain and the United Kingdom.⁶ Studies also show that changes in relevant costs are only translated to a limited degree into changes in the rates charged to customers. The rate at which official money market rates, for instance, are translated into adjustments in market interest rates is relatively low in the Netherlands. Table 2.2 shows that the Netherlands deviates in a negative sense from the EMU average with regard to savings accounts and mortgages.⁷ For instance, the knock-on effect of a change in the money market rates on the interest on savings accounts in the Netherlands is only a third of the European average.

Table 2.2 Correlation of initial differences between the money market interest rates and bank rates, 1988-1998*

	Netherlands	Euro area
Savings account	0.15	0.47
Current-account SME	0.66	0.32
Mortgages	0.21	0.35

* The initial differences are the differences between consecutive observations; this therefore relates to the correlation between changes in both parameters. If the correlation is 1, changes in the money market interest rate are accompanied by equally large changes in the bank rate.

Source: B. Mojon, *Financial Structure and the Interest Rate Channel of ECB Monetary Policy*, ECB Working Paper No. 40, 2000.

Recent studies by the Central Planning Bureau (CPB), Utrecht University and the University of Groningen confirm that there is a remarkable pattern on the mortgage market in the spread of rates and asymmetric price adjustment.⁸ Both effects, which can be found in national studies, confirm the impression that competition risks exist. Whatever the situation, the speed of the monetary transmission mechanism depends largely on the nature of the national financial system and the extent to which banks meet the capital requirements. A recent study by the European Central Bank (ECB) is also important in this regard.⁹ In this study, a direct link is established with the high degree of concentration in the Dutch banking sector from a European perspective and supracompetitive margins.

2.3.2. Operations

Too little competition makes entrepreneurs lazy. If the market exercises insufficient discipline, the management is given too little incentive to offer the best possible product at the lowest possible price. It is therefore self-evident that the operational efficiency which is achieved should be considered in more detail. The yardstick which is used in this regard is the so-called 'x inefficiency yardstick'. X inefficiency is a form of inefficiency in which the cost level is too high due to a lack of competition. To determine this yardstick, the actual operations and the resulting cost levels are compared to that which would be possible on the basis of best practices occurring within the market. To determine the x inefficiency properly, it is necessary to carry out international comparative research. Table 2.3 summarises the findings. The first column of the table gives the x inefficiency. A striking feature of this is that the Netherlands is in line with the European average, if one considers costs on the input side (labour, capital etc). In this sense, there is no exogenous explanation for the remarkable rates in the Netherlands (see the previous paragraph) on the basis of objective cost differences. In a qualitative sense, this conclusion does not depend on whether the analysis is corrected for differences in the structure of the banking sector, as appears from the second and third columns.

Table 2.3 X inefficiency and cost differences in the banking sector, 1990-1997

	X inefficiency	Cost difference relative to European average	
	1990-1997	Without corrections	Corrected for structural differences
Ireland	20%	-23%	-17%
Germany	26%	0%	-3%
Finland	31%	-16%	-14%
Portugal	32%	-8%	-9%
United Kingdom	33%	-7%	-12%
Netherlands	36%	4%	-1%
Denmark	40%	14%	13%
Sweden	41%	0%	-6%
Italy	42%	17%	15%
France	43%	17%	16%
Spain	45%	24%	21%
Belgium	48%	15%	16%
Greece	50%	32%	46%

* The mix of savings, banking, investment banking, commercial banking etc. differs per country and may affect the average cost ratios. Corrections have been made for these in the right-hand column.

Source: J.A. Bikker, *Efficiency and Cost Differences across Countries in a Unified European Banking Market*, DNB Research Series Supervision No. 34, 2001.

It is also important that the x inefficiency in the Dutch banking sector appears to have increased sharply during the nineties (both in absolute terms and in comparison to other countries), as appears from Figure 2.1.

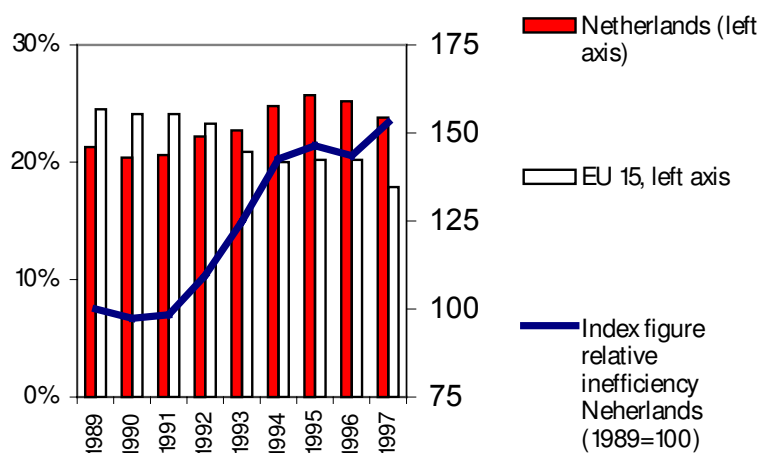


Figure 2.1 X-inefficiency of the banking sector in the Netherlands and the EU, 1989-1997

Source: Y. Altunbas, E.P.M. Gardener, P. Molyneux and B. Moore, 'Efficiency in banking', *European Economic Review*, 2001, pp. 1931-1955 (own reworking of the figures).

2.4. Conclusion

This chapter calls for an analytical caveat. There are various economic indicators that competition in the financial sector is lagging behind. For a definitive conclusion, however, this is not sufficient. In the first place, the inadequate operation of market forces is not by definition a competition problem. It is

more important, however, that analyses made on the basis of aggregated sector data cannot simply be applied to market segments. Therefore, the next chapters focus in on the market segment level. The payments market and the market for non-life insurance are considered as case studies.

Box 2 Opportunities and threats to competition

The studies discussed in this chapter deal with the present and the recent past. Whether competition in the financial sector will increase or decrease in the future depends on many factors. Three important developments are reviewed below on their potential consequences for competition.

Focus on core business

During the past years adventures in new geographical markets and product segments have on more than one occasion ended in disappointment. Companies have responded to this by once again concentrating on the regions and product segments in which they have traditionally been strong and have a considerable presence. Small activities (segments in which considerable growth was expected several years ago) are divested. Volume is given priority above diversification. The sale of Dexia's Internet broker, Alex, to Rabobank fits within this framework, as does the recent acquisition of a large part of the Dutch activities of Zurich Financial Group by SNS Reaal.

Threat: This development may result in greater concentration in market segments if the activities to be divested are sold to parties who consider these to be their core business. A higher degree of concentration often leads to less fierce competition.

Opportunity: If institutions abandon a broad range of activities, they become more dependent on the result achieved from their core activity. This may provide an incentive to do whatever is necessary to strengthen their market position in this core activity. In this way, an increased focus may result in fiercer competition. If new suppliers emerge as a result of the divestment of non-core activities, this may enhance competition.

Basel II

In the case of banks, new solvency directives will take effect in several years' time (Basel II). This will affect many parts of the banking sector. It will mean, for instance, that the cost of capital for maintaining capital adequacy (and accompanying costs) will be reduced substantially in for a number of products with relatively low credit risk, such as mortgage loans. In addition, the cost of capital in relation to interbank credits will become dependent on external credit ratings (such as Standard & Poor's and Moody's). Institutions may anticipate Basel II by adjusting prices and product options early and by investing in advanced credit scoring and credit allocation systems. In the insurance market, a somewhat similar development (Solvency II) is taking place, the consequences of which for competition, however, are expected to be less great.

Threat: The credit rating of an institution will have even more of an effect on company results than is the case at present. This may result in the elimination of institutions that are smaller and financially less strong, by large and strong players. As a result, the degree of concentration will increase, which may result in less competition.

Opportunity: Basel II lowers the barrier to entry due to lower capital adequacy requirement for some product markets. An increase in competition may result from this.

Business Process Outsourcing

After a wave of outsourcing of ICT systems, a development is now underway to outsource entire business processes to third parties (Business Process Outsourcing, BPO). This relates mainly to back-office processes for certain products in which the ICT component is considerable. Due to economies of scale, companies specialised in a certain business process can often operate more cheaply than the financial institution itself. This development results in standardisation of products (including acceptance frameworks, service, pricing policy etc.) on the market, due to the limitations of the processes and systems of the external back-office specialist. Some financial institutions are considering entering this derived market by converting their best back offices into profit centres, which may also work for third parties. Stater (previously the back office for mortgage loans of Bouwfonds) is one of the pioneers on the BPO market in the Netherlands.

Threat: Since this phenomenon relates to services in which economies of scale are decisive, only a small number of players will be active on the BPO market. In addition, if a financial institution decides to outsource part of its back-office activities, reversing the decision is not easy. The possibility therefore cannot be excluded that new dominant positions will arise with possible negative effects on competition.

Opportunity: Due to vertical disintegration, the existing market structure of large integrated financial service providers will possibly be disrupted. This will give rise to new (derived) markets and competition will emerge in areas where this did not occur in the past.

3. Payments market

3.1. Introduction

The payments market is receiving considerable attention, partly as a result of the discussion in relation to the introduction of bank and giro account number portability¹⁰ (that is, the possibility of taking one's account number to a different provider) and the final report of the Wellink Committee.¹¹ The payments market has a central role within the banking sector. It functions as the basis on which all sorts of derived product markets (independently) rely and which gives rise to various network Effects. The payments market is of considerable economic importance. In 2001, there were more than 22 million current accounts which generated 3.1 billion giro transfers with a total estimated value of EUR 3500 billion. In addition, Interpay processed approximately one billion debit-card transactions through point-of-payment terminals and approximately 165 million cash dispenser transactions in 2002.¹²

3.2. Structure of the payments market

The important structural characteristics of the payments market in the Netherlands are its high degree of concentration, the linking of all sorts of banking products and services to the current account, the presence of barriers to entry and its lack of transparency.

3.2.1. Degree of concentration

In the Netherlands, the degree of concentration on the market on which current accounts are offered to private individuals and companies has been exceptionally high for years. The market is dominated by four large banks, namely ABN AMRO, ING, Rabobank and Fortis. In 2000, ING was the largest supplier of current accounts to private individuals, followed by Rabobank. Within the business segment, ABN AMRO is the largest player, closely followed by ING and Rabobank.¹³

Various foreign and specialised providers are active on the credit and savings markets, as well. Nevertheless, these markets are also characterised by a large degree of concentration, as appears from Table 3.1.

Table 3.1 Concentration yardsticks of banks for several banking facilities

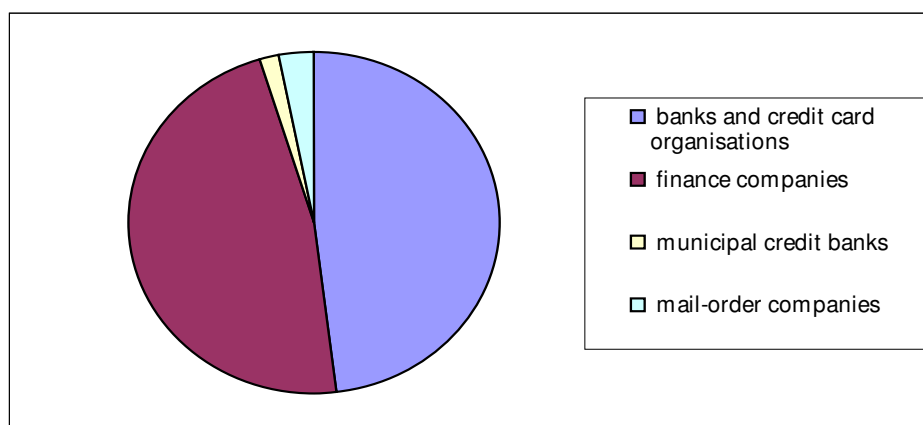
	C3*	C4	HHI
Current accounts	83	93	2558
Consumer credit	78	90	2264
Savings accounts/deposits	80	94	2386

* C3 and C4 stand for the combined market share of the three or four largest player's respectively. HHI stands for the Herfindahl-Hirschmann Index, namely the sum of the squares of the market shares. If the HHI is below 1000, the concentration of the market may be considered low, between 1000 and 1800 moderate and above 1800 high. See *Guidelines for Horizontal Agreements*, Commission Notice of 6 January 2001, OJEC 2001, C3, p. 2. Sources: NEI, *Fusies en overnames in het Nederlandse bankwezen*, July 2000. For further studies of the degree of concentration in the banking sector in the Netherlands, see, for instance, JA. Bikker and JM. Groeneveld, 'Competition and Concentration in the EU Banking Industry', *Kredit und Kapital*, 2001, pp.

62-98; J.A. Bikker and K. Haaf, *Competition, Concentration and Their Relationship: An Empirical Analysis of the Banking Industry*, 2001, DNB Staff Reports 68, De Nederlandsche Bank; J.A. Bikker and A.A.T. Wesseling, 'Intermediatie, integratie en internationalisering: een overzicht van het Europese bankwezen', *Maandschrift Economie* 2003, pp. 287-311.

With regard to the provision of credits, the traditional banks have had a large market share for years. If a broader definition of consumer credit is assumed (in other words, including property-related credits), the market share of traditional banks, however, is considerably lower. Figure 3.1 illustrates this.

Figure 3.1 Aggregated market shares for the provision of credit (2002)*



Source: Dutch Bankers' Association, *Annual Report for 2002*

3.2.2. Relationship to other banking products

Banks offer many different services to their private and business customers which are linked to a current account. These include, for instance, the settlement of payments (processing credits and debits and sending copies of bank statements), issuing debit cards, smartcards and credit cards for payments and withdrawals, providing safe deposit boxes and granting credit facilities (loans and mortgages).

In the case of companies, this also applies to cash deposits and cash management services (through which the cash position of the company is managed). Through this link and also as a result of the frequency of the number of transactions and the amounts involved, business customers generally have an (even) more intensive relationship with their company banker than private individuals.

Competition authorities generally distinguish between the private and business markets for current accounts.¹⁴ Banks often regard private current accounts as a gateway for selling other banking products, such as savings products and credit cards. In the case of business customers, the current-account is usually part of a broader package of banking services, which also include the provision of credits, leasing, invoicing etc. Depending on market conditions, banks may compete with packages of services rather than separate products such as current accounts, particularly in providing services to business customers.

Banks often refer to the fact that offering current accounts is not very profitable and is even a loss-making activity. Profit is therefore generated through the related products and services.

3.2.3. Barriers to entry

To enter the payments market, banks must at least have a banking licence issued by the Central Bank of the Netherlands (DNB) or by the Central bank of their country of origin (in the case of other EU Member States the home country control principle applies to this). In addition, they must have access to the Interpay circuit in order to effect payments. In principle, these (exogenous) barriers to entry are not insurmountable barriers for *bona fide* potential entrants. Dell'Aricea shows that if the exogenous barriers to entry are eliminated, information asymmetry (as a result of a lack of knowledge about payment behaviour, risk profile and the like) on the part of banks entering the market constituted a considerable (endogenous) barrier to entry.¹⁵ The endogenous barriers to entry, which have resulted in the fact that the entry of new players to the payments market in the Netherlands has been limited—in contrast to the savings market¹⁶ and credit markets¹⁷—will be examined.

For a bank, it is almost impossible to enter the payments market with only one or a few banking products linked to a current account. In addition, the margins that can be obtained from this individual activity are too small. The need for potential entrants to offer an integrated range of products is a high endogenous barrier to entry,¹⁸ according to Central Planning Bureau (CPB). A bank will sooner enter the savings or credit market and then extend its activities to the payments market.¹⁹

Competition on the payments market relates mainly to acquiring new account holders who enter the market, such as the youth, students and start-up companies. In this regard, reputation and brand recognition are important assets for a bank. The necessary investments in time and funds may be regarded as an endogenous barrier to entry. As was mentioned, the relationship of banks with companies is (even) more intense than that with private individuals. Since the reputation and brand recognition of a bank is of considerable importance, it is not easy for foreign entrants to establish relationships with business customers.²⁰

Gual argues that the branch network which large established domestic banks have, gives them such a position on the market that it may be regarded as a potential barrier to entry for new entrants.²¹ However, in the light of recent closures of branch offices of banks, the lack of a branch office network will be regarded as an ever decreasing endogenous barrier to entry. After all, as a recent study by the Dutch Bankers' Association (NVB) showed, banks are increasingly closing their branch offices (particularly in sparsely populated areas).²² Furthermore technological advances in the area of new software applications and the emergence of the Internet have resulted in the emergence of new payment instruments in the form of electronic money and Internet banking. As a result, the necessity of having branch offices has also decreased.²³

The high cost of switching current accounts (in contrast to savings accounts) results in a different barrier to entry.²⁴ These switching costs result from the fact that this incurs administrative costs and from the linking of other products and services to the current account. Due to the absence of account

number portability,²⁵ switching involves considerable administrative bother for customers and companies. According to the consumer organisation, Consumentenbond, and research institute Nyfer, companies are confronted with even higher switching costs due to the more intensive contact with their company banker and more frequent use of their current account than private individuals if they switch bankers/ current accounts.²⁶ The costs include, for instance, the cost of informing all their business partners, working temporarily with two account files, adjusting computerised systems and direct debit authorisations, and changing letterheads.

The linking of other services to the current account creates an additional barrier to switching providers. In the case of SME companies, the linking of credit facilities to the current account obstructs switching.²⁷ The intensive contact between the company and its banker means that the banker is able to make a better assessment of the profitability of the business activities, the risk profile, the payment behaviour and the creditworthiness of the company than other providers. The company's banker will therefore generally offer more favourable credit conditions.²⁸ The incentive for private individuals and companies to switch to a different provider of current accounts is low for the reasons stated above, even if rates are lower.²⁹

3.2.4. Lack of transparency

In principle, the rates of the various banks are easy to obtain. However, banks often link numerous products to a current account or offer them as a package, which results in a range of different products and rates. The actual rates to be paid are not fixed in the case of companies. They are the result of bilateral negotiations between the bank and the company. The diversity of services linked to the current account and the method of pricing the services, which often differs from one bank to the next, makes it difficult for private individuals and business customers to make a choice between the offerings of the various providers.

Transaction-related rates are not or are hardly ever charged for transactions by private individuals. Direct pricing in the case of consumers is limited to an annual contribution for the possession of a debit card or credit card. Indirect rates are mainly charged in the form of assigning value dates and a loss of interest income on positive current-account balances. Although companies are partly confronted with transaction-related rates (for instance, for the transmission of data in the case of debit card and credit card payments and cash deposits and the withdrawal of change), they are also confronted with indirect rates in the form of a loss of interest income and the assignment of value dates.³⁰

In the light of the above, it may be concluded that the transparency of the payments market for consumers and companies is limited.

Box 3 Transparency of the savings and credit markets

Savings market

The savings market may be characterised as a very transparent market. Various national daily newspapers regularly publish lists of the most favourable savings products, including the accompanying interest rates. In addition, comparative articles appear with some regularity in consumer (financial) guides and there are various comparative sites on the Internet. The current interest rates of the providers of savings products can also easily be obtained from their Internet sites. In addition, the published savings tariffs are not window rates, but fixed rates which are not negotiable.

Credit market

The conditions and tariffs for consumer credit can be compared well with each other. In addition, the products of the various providers can be substituted fairly easily. For this reason, the market for consumer credit to private individuals may also be characterised as a transparent market. The provision of credit to companies involves more customisation than the provision of credit to private individuals. The rates are therefore usually the result of negotiations (about packages) with the bank. The basic conditions and rates for (standardised) credits, however, can be compared well to each other and the products of the various suppliers can be substituted fairly easily. The market for business credit may therefore be characterised as a moderately transparent market. This does not apply, however, to mortgage loans. This market is not very transparent. Mortgage lenders have various negotiable (window) tariffs, whereby a distinction is made between types of mortgages, lives to maturity and amounts. Some mortgage lenders even charge different tariffs for the same mortgage product, depending on the financial position of the customer: a low rate for new customers and a slightly higher renewal rate for existing customers whose fixed-interest term expires. Since the customer does not know what the mortgage lender's policy will be at the moment that his fixed-interest term expires, this information asymmetry reinforces the lack of transparency on the mortgage market.

Sources: Consumentenbond, *Weggaan of blijven?*, 2002; Switching Costs Working Group of the Market Forces, Deregulation and Legislative Quality Project, *Kosten noch moeite. Drempels voor de switchende consument*, June 2003. See also CPB Discussion Paper 21, *Price-Setting and Price Dispersion in the Dutch Mortgage Market*, 2003; L.A. Toolsema, *On Competition and Banking*, Ph.D. thesis, University of Groningen, February 2003, chapter 7.

3.3. Behaviour on the payments market

How do the structural characteristics, which incur risk, translate into the behaviour of market players? To examine this, the development of a number of rates charged by banks has been analysed.

3.3.1. The development of rates

The rates for the use of a current account relate, for instance, to the following:

- the use of various bank cards;
- current-account credit facilities;
- the use of a debit-card outside the Netherlands; and
- the receipt of bank statements with a certain frequency.

The existence of an all-in-one account makes it difficult to make a direct comparison due to the fact that these accounts are a combination of various facilities with differing quality levels. The annual rate calculated is not transparent in so far as it is unclear what is charged for the various components.

The use of a current account for business purposes corresponds partly to the facilities offered with a private current account. In addition, these accounts offer special services which are only important in a business context and for which private individuals have no need, such as depositing cash and banknotes and cheques.

Cruickshank analysed the prices directly charged to customers for current accounts in a number of countries.³¹ If these rates are contrasted to the average (gross) price charged directly to customers by Dutch banks for a current account (EUR 6.80 according to the statements issued by the Dutch Bankers' Association), it may be concluded, according to the Dutch Bankers' Association, that the total cost to Dutch consumers for a current account is amongst the lowest in the world.³² The rates charged for payments in the Netherlands were also analysed in the final report of the Wellink Working Group. It appears from these statements that no Dutch banks impose direct charges on customers. This is in contrast to companies, which are required to pay for both incoming and outgoing transfers.³³ In the case of some business payment products, the bank's (window) rates showed considerable differences. In addition, it is notable that on the whole the window rates have remained the same in nominal terms despite sharp increases in productivity and technological developments.³⁴

Research by ECORYS-NEI shows that up until 1999, certain functions of private current accounts (debt collection forms, direct debits, withdrawal of money from cash dispensers, transfers and weekly statements) were provided free of charge by Dutch banks.³⁵ In the period from 1999 to 2002, banks³⁶ started charging for sending weekly statements. The amount charged varies from one bank to the next, as appears from Table 3.2.

Table 3.2 Rates for bank statements (in EUR)

		ABN AMRO	Generale Bank	VSB	Fortis Bank	ING Bank	Post-bank	Rabobank	SNS Bank
1999	Every 2 weeks	No charge	No charge	No charge	-	No charge	No charge	No charge	No charge
	Weekly	No charge	No charge	No charge	-	17.70	No charge	No charge	No charge
	Daily	Not known	Not known	Not known	-	Not known	Not known	Not known	Not known
	Copy	1.36	No charge	2.27	-	2.72	1.82	Differs per branch	0.23
2000	Every 2 weeks	No charge	-	-	No charge	No charge	No charge	No charge	No charge
	Weekly	10	-	-	No charge	17.70	No charge	No charge	9.1
	Daily	30	-	-	13.50	230.52	27.23	71.76	118.65
	Copy	1.60	-	-	2	2.27	1.82	Differs per branch	0.23
2003	Every 2 weeks	No charge	-	-	No charge	No charge	No charge	3.22	No charge
	Weekly	10	-	-	17.50	17.70	No charge	9.43	9.1
	Daily	30	-	-	25	230.52	27.20	48.76	118.65
	Copy	2.50	-	-	2	2.27	1.80	Differs per branch	0.23

Source: ECORYS-NEI, *Parallele ontwikkeling van bancaire tarieven*, August 2003.

Table 3.3 gives the rates for a debit card. A striking feature of this is that all banks charge for debit cards. At present, all banks, with the exception of Postbank, charge rates for the purchase of a debit card ranging from EUR 10 to EUR 11.50. On the basis of the market shares of the banks in 2000, the weighted average price increase was approximately 60% in the period 1999 to 2003.³⁷ Since Dutch consumers have a total of approximately 20 million current accounts, this increase in rates means that the total cost incurred by cardholders for the use of debit cards increased by several tens of millions of euros during this period.

Table 3.3 Annual cost of debit-card use (money withdrawals, in EUR)

Payment function	ABN AMRO	ING Bank	Rabobank	Postbank	SNS Bank	Fortis Bank
1999	9.08	7.94	7.94	No charge	9.08	-
2000	9.08	7.94	Not known	No charge	9.08	Not known
2002	11.00	10.00	7.92	7.00	11.25	9.00
2003	11.50	10.00	10.00	7.00	11.25	11.00

Source: ECORYS-NEI, *Parallele ontwikkeling van bancaire tarieven*, August 2003.

The analysis of the rates charged by banks for transactions using a debit card in the Netherlands and in other countries, or in euro countries and non-euro countries, shows that no price increases have occurred since 1999 (see Table 3.4).

Table 3.4 Rates for payments via cash dispensers using a debit card (in EUR)

		ABN AMRO	Generale Bank	VSB	Fortis Bank	ING Bank	Postbank	Rabobank	SNS Bank
1999	Netherlands	No charge	Not known	No charge	-	No charge	No charge	No charge	No charge
	Other countries	0.16	Not known	0.11	-	0.13	0.11	0.11	0.16
2000	Netherlands	No charge	-	-	No charge	No charge	No charge	No charge	No charge
	Other countries	0.16	-	-	0.11	0.13	0.11	0.11	0.16
2002	Euro countries	No charge	-	-	No charge	No charge	No charge	No charge	No charge
	Non-euro countries	0.15	-	-	0.11	0.13	0.11	0.11	0.16
2003	Euro countries	No charge	-	-	No charge	No charge	No charge	No charge	No charge
	Non-euro countries	0.15	-	-	0.11	0.13	0.11	No charge	0.15

Source: ECORYS-NEI, *Parallele ontwikkeling van bancaire tarieven*, August 2003.

In the case of business payments, the rates charged by the various banks for giro credits and debits were also examined. In the period 1999 to 2003, these tariffs showed few changes, with the exception of giro deposits by means of giro collection forms with an addendum, as appears from Table 3.5. The spread between the various rates which the banks charge for this is also small.³⁸ If, however, Table 3.6 is considered, in which the tariffs for sealbag deposits (cash deposits) and withdrawals of change are analysed for the period 2000 to 2003, it is notable that considerable price increases occurred across the board in this regard. Recent research by the Association of Retailers shows the same picture.³⁹ The rates for sealbag deposits have increased by several hundred percentage points per deposit in the case of all banks, depending on the quality ('clean' banknotes and the amount). Due to the different methods of charging, it is not possible to express an opinion on the spread between the various tariffs.

Table 3.5 Development of rates for giro debits (per payment in EUR), 1999-2003

	Bank giro transfer		Giro collection forms		Direct debits/ authorisations	
	1999	2003	1999	2003	1999	2003
ABN AMRO	0.56	0.70	0.54	0.54	0.09	0.09
ING Bank	0.72	0.80	0.54	0.54	0.09	0.09
Rabobank	0.56	0.70	0.45	0.45	0.09	0.09
Postbank	0.72	0.72	0.54	0.54	0.09	0.09

Source: ECORYS-NEI, *Parallele ontwikkeling van bancaire tarieven*, August 2003.

Table 3.6 Development in charges for sealbag deposits, 2000-2003

	2000		2002		2003	
Rabobank*	< NLG 25,000 NLG 25,000 – NLG 50,000 > NLG 50,000	NLG 3.50 NLG 4.50 No charge	< EUR 11,500 < EUR 11,500 - EUR 23,000 > EUR 23,000	EUR 2.00 EUR 2.00 No charge	< EUR 3,000 < EUR 3,000 - EUR 7,500 EUR 7,500 - EUR 12,000 > EUR 12,000	EUR 3.00 EUR 4.50 EUR 7.00 From EUR 10.00
ABN AMRO			Per transaction + turnover commission	EUR 1.10 0.07%	Per transaction	EUR 10.00
ING Bank					Per transaction + turnover commission	EUR 1.80 0.1%
SNS Bank**					Per transaction + turnover commission	EUR 2.30 0.1%

* The rates charged by Rabobank in 2003 for 'quality' deposits (i.e. Banknotes which can be processed automatically or dry banknotes without tears and dog-ears). Double rates apply to 'non-quality' deposits.

** The rates charged by SNS Bank for 2003 applied to 'clean deposits' (i.e. the Rabobank's 'quality' category). The rate for 'dirty' deposits amounts to EUR 5.70 + a turnover commission of 0.1%.

Source: ECORYS-NEI, *Parallele ontwikkeling van bancaire tarieven*, August 2003.

3.3.2. Introduction of new products

It emerged from research carried out by Statistics Netherlands into innovation in the financial sector in the period from 1998 to 2000, that the financial sector regards Internet banking as the most important product innovation in the area of current accounts.⁴⁰ A further examination of data relating to the introduction of Internet banking shows that at the end of the nineties all traditional banks launched Internet banking on the market in relatively quick succession. In doing so, the banks built on products which they had already introduced within the context of electronic banking. At present, banks offer many different services under the common denominator of Internet banking, such as Internet savings and investments through the Internet.

In applying Internet banking all banks seem to make clear differences between business payments and private payments, by charging different rates. Furthermore, the level and method of charging within business and private Internet banking differ from one bank to another, as appears from Table 3.7.⁴¹

Table 3.7 Current rates for Internet banking, end of September 2003

Bank	Private	Business
ABN AMRO	None	EUR 2 per month
Rabobank	EUR 10 one-off	EUR 10 one-off
Postbank	EUR 1.82 per month	EUR 2.95 per month (free after 1 year)
Fortis Bank	EUR 15 one-off + EUR 1 per month	Not available
ING Bank	None	None
SNS Bank	EUR 9.05 one-off	EUR 9.50 one-off + EUR 2 per month

Source: Websites of banks.

3.4. Conclusion

In order to typify the operation of market forces on the payments market in the Netherlands, a number of structural characteristics of this market were examined by means of a static analysis. This showed, for instance, that the degree of concentration is high and that there are considerable (endogenous) barriers to entry, particularly in the form of high switching costs for customers. The conclusion is

therefore justified that the payments market in the Netherlands has structural characteristics which may be characterised as risks to competition.

The switching costs may decrease if account number portability would be introduced. In the case of business customers, the relationship between the current account and credits granted and the information asymmetry mentioned above nevertheless make it difficult to switch to a different service provider.

Box 4 Multilateral interbank charges: SOGA and Telegiro

In processing payments, banks provide customers and other banks with numerous services. Well-known examples are transfers and guest use of cash dispensers. For transactions such as this, an interbank charge is often imposed to cover the cost of the services banks provide each other. To ensure that banks do not agree rates bilaterally, attempts have been made to agree multilateral interbank charges. The prohibition on cartels (Section 6) in the Competition Act will usually apply to such agreements because these are agreements which may affect competition. On the other hand, agreements such as this may also contribute to the efficiency with which payments are processed. It is therefore possible to apply for an exemption from the prohibition on cartels.

In recent years, NMa considered a number of applications for exemption in relation to these multilateral interbank charges received from the banking sector. Two of these applications for exemption, the Agreement in Relation to Charges for Payment Advice through Telegiro (hereinafter "Telegiro") [*Overeenkomst Vergoeding Dooradvisering Telegiro*] and the Joint Operating Agreement in Relation to Cash Dispensers [*Samenwerkingsovereenkomst Geldautomaten*] (hereinafter "SOGA"), are discussed below. This discussion will deal with the content of the applications for exemption and the reasons for the decision taken by the Director-General of NMa and the way this decision was taken.

The SOGA agreement relates to the introduction of a multilateral interbank charge for guest use of a cash dispenser by a debit card holder of a different bank which participates in the agreement. This charge is determined on the basis of the average of normalised cost prices per transaction of the participants who have a distributed national network of their own which they contribute to the joint venture. A continuity charge is added to this.

The Telegiro agreement, which took effect in 2002, relates to the introduction of a multilateral interbank charge for express payments. A Telegiro is an express payment or transfer for both the business and private market in which the amount transferred is placed at the recipient's disposal the same day. In the case of a Telegiro payment, if the payer so wishes, the bank which receives an express payment notifies the beneficiary (by telephone) of the deposit. This notification is referred to as 'payment advice'. In the former situation, it was not possible to opt for Telegiro payments without payment advice. Payment advice occurred automatically. The agreement has introduced an option for the customer which, in fact, is a form of product differentiation. In addition, the multilateral interbank charge also introduces charges for this service. Previously there was no mutual settlement between the banks of the cost of providing payment advice. In summary, two important new elements have

been added in the Telegiro agreement, namely the option of payment advice or no payment advice and a multilateral interbank charge.

An agreement, which falls within the scope of Section 6 of the Competition Act, may be eligible for an exemption from this prohibition if it meets four cumulative conditions set out in Section 17 of the Competition Act:

- the agreement must contribute to an improvement in production or distribution or must promote technical or economic progress;
- a fair share of the benefits arising from this must accrue to the user;
- no restrictions may be imposed which are not indispensable for achieving these objectives;
- and
- the agreement may not offer the possibility of eliminating competition to a significant degree in relation to the products or services involved.

According to the Director-General of the NMa, the application for exemption for SOGA met the conditions of Section 17 of the Competition Act. In this regard, it was important, for instance, that the notified agreement improved distribution and facilitated entry to the relevant market, and it was plausible that users would benefit from the advantages obtained. The application for exemption was rejected in relation to the 'continuity charge' included in the agreement because this charge went further than was necessary to achieve the advantages. For the remainder, an exemption was granted for a period of five years, although a reporting obligation was linked to this exemption.

In the case of the Telegiro agreement, the application for exemption was rejected entirely, because the applicants had not provided sufficient arguments, according to the Director-General of the NMa, in support of the fact that the agreement met each of the cumulative conditions of Section 17 of the Competition Act.

The Telegiro agreement did comply with the first condition of Section 17 of the Competition Act. Half of the users of the Telegiro service appeared to have no need for payment advice in relation to their express payment. The introduction of product differentiation therefore supposedly resulted in cost savings.

The Director-General of the NMa, however, thought it not plausible that a fair share of the benefits obtained through the introduction of the multilateral interbank charge would benefit customers, firstly because insufficient reasons were given to explain what cost advantages the introduction of the multilateral interbank charge would have and how users of the service would benefit compared to the existing situation, in which there was no multilateral interbank charge or a bilateral charge. According to the Director-General of the NMa, it was not plausible that the mechanism of competitive pressure between the banks would ensure that this occurred in this case, due to the limited role of Telegiro in the total package of services offered by the banks. As a result it was not likely that a customer would open an account with a different bank simply because of a lower rate for the Telegiro service.

In addition, according to the Director-General of the NMa, the criterion of indispensability was not met. In this regard, the Director-General of the NMa noted firstly that banks never charged each other

in the past for payment advice. On the basis of the information provided, there was no reason, according to the Director-General of the NMa, why a multilateral interbank charge was necessary if customers had the option of whether or not to include payment advice. Secondly, the Director-General of the NMa was of the opinion that the introduction of the multilateral interbank charge was not necessary to achieve cost savings due to the introduction of the new option of payment advice. Thirdly, according to the Director-General of the NMa, it could not be deduced from the data provided that the introduction of a multilateral interbank charge was necessary to pass on cost savings to the user.

As appears from these cases, it is not self-evident that a multilateral interbank charge is eligible for exemption by the Director-General of the NMa. Only after a detailed analysis of the way the multilateral interbank charge works and the arguments for introducing it, can a proper assessment be made.

- 1 The first relates to the Decision of the Director-General of the NMa of 13 August 2003, Case No. 3035, *Telegiro*. An administrative appeal was lodged against this decision. The Director-General of the NMa has not yet taken a decision on the administrative appeal. The second relates to the Decision of the Director-General of the NMa in Case No. 84 of 24 October 2002, *Samenwerkingsovereenkomst Geldautomaten (SOGA)*. An administrative appeal was also filed against this decision. The Director-General of the NMa has not yet taken a decision on the administrative appeal.
- 2 According to the banks, this charge included a payment for costs, which was not further specified in relation to business risk. The Director-General of the NMa regarded these costs as fixed and variable costs relating to cash withdrawals from cash dispensers, which were not actually incurred, and did not consider this charge necessary.
- 3 The answer to the question of whether there was sufficient residual competition was not answered, because none of the three preceding cumulative conditions of Section 17 of the Competition Act had been met.

4. Non-life insurance market

4.1. Introduction

In chapter 3, the payments market was examined as an important market segment of the banking sector. This chapter examines whether an important market segment of the insurance sector in the Netherlands, namely the non-life insurance sector, presents a similar picture and therefore, from the perspective of competition, should also be considered a risk segment.⁴²

The insurance sector represents an important part of the economy of the Netherlands. The total turnover of the insurance sector was approximately EUR 43 billion in 2001. The contribution of the non-life sector to total turnover amounted to approximately EUR 18 billion in 2001. Households in the Netherlands had on average 9.8 insurance policies in their insurance portfolios in 2000.

In the following paragraph, we will consider which products are offered on the non-life insurance market. We will then discuss the structure of the market. Finally, we will provide an initial estimate of the possible risks resulting from the inadequate operation of market forces.

4.2. Non-life insurance products

The non-life market may be subdivided into types of products and product segments.⁴³ A relevant distinction in this regard is the subdivision into non-life business insurance and non-life personal insurance. Table 4.1 provides insight into the products and segments in the non-life market. Further research must show whether certain segments may be regarded as separate product markets. Given the limited opportunities for supply substitution, this may be the case, in particular in relation to niche markets which require a high degree of specialist knowledge.

Table 4.1 Subdivision of the non-life insurance market according to products and segments

	Private individuals	Companies
Accident and health	Health insurance	Group health insurance
	Disability insurance	Continued salary payment insurance <i>Pemba</i> insurance (disability insurance)
Motor vehicle	Motor vehicle third-party liability insurance	Motor vehicle third-party liability insurance
	Motor vehicle all-risks insurance	Motor vehicle all-risks insurance
Transport	Not applicable	All-risks insurance Goods-in-transit insurance Consequential loss insurance Liability insurance
Fire	Personal house and house contents insurance	Buildings and inventory insurance Fire and operational risk insurance
Miscellaneous	Personal liability insurance Personal legal aid insurance Travel insurance	Company liability insurance Company legal aid insurance Export credit insurance
Indirect business insurance (reinsurance)	Between insurers	

Source: Assurantiemagazine Jaarboek 2003

Since large business risks are often (re)insured under a policy marketable internationally on insurance exchanges and therefore have a considerably larger (geographical) scope than the Netherlands, they fall outside the scope of this chapter. Health insurance will also not be taken into account, due to the very specific nature of the healthcare market.

4.3. Structure of the market

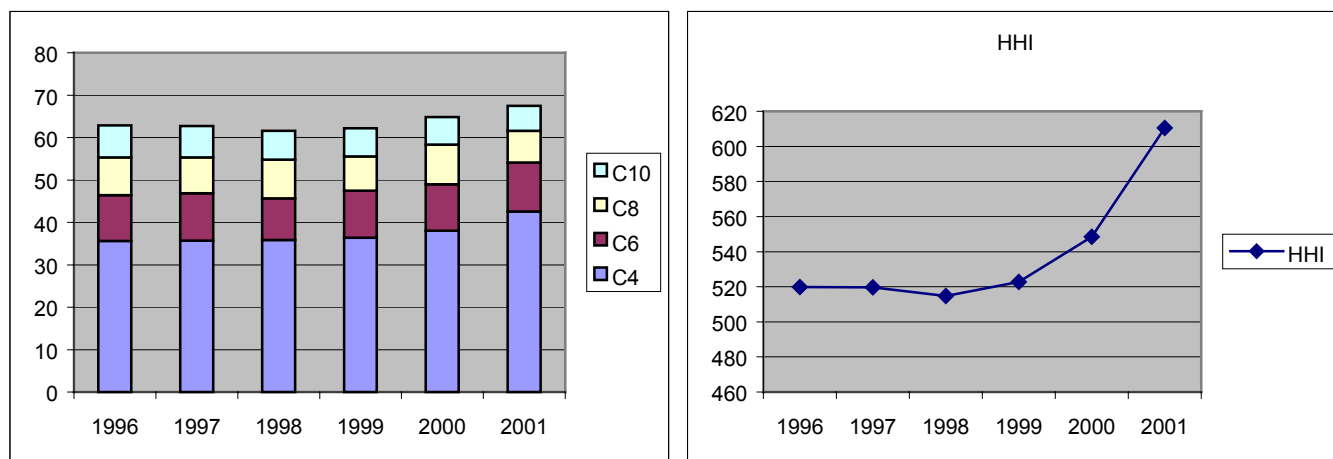
4.3.1. Degree of concentration

From data provided by the Pensions & Insurance Supervisory Authority of the Netherlands (PVK), it appears that 981 non-life insurers were active in the Netherlands in 2001:

- 262 companies with a licence from the PVK; of these 16 insurance companies originated from outside the EU; they are active in the Netherlands through a branch office;
- 180 new (fire) insurers operating regionally which are exempted from supervision by the PVK and which have a marginal gross premium turnover;
- 539 admitted foreign insurers from EU Member States, who are subject to supervision in their home countries; they operate in the Netherlands on the basis of notification of the PVK.

All data on market shares and turnovers provided by the PVK is only based on the business data relating to the first category of 262 companies based in the Netherlands. The premium income of the other two groups of insurers has not been included in the statistics used. The extent of the activities of both of these groups, however, is very small. In reality, the actual degree of concentration will at most be a fraction lower than the data presented below.

Figure 4.1 Concentration yardsticks for the entire non-life insurance market (% of gross premium income)



Source: Assurantiemagazine Jaarboek2003/PVK.

Figure 4.1 shows that the concentration yardsticks in the years from 1996 to 1999 were at a stable, low level. The HHI fluctuates around 520, which points to a low degree of concentration. The four largest insurers have approximately 35% of the market (C4). From 2000, however, the concentration

increases. This increasing concentration can partly be attributed to the takeover of ASR by Fortis in December 2000. Nevertheless, the degree of concentration within the entire non-life insurance sector in the period from 1996 to 2001 may (still) be characterised as low.

Table 4.2 gives the degree of concentration for each product type for 1996 and 2001. This table modifies the impression that the non-life insurance market is a market with low concentration. It appears, for instance, that the markets for legal aid and export credit insurance (in which a small number of insurers are active) are highly concentrated. The qualification 'average concentration' applies to transport insurance and other miscellaneous insurance (including travel insurance). The remaining non-life insurance products distinguished in the table confirm the impression of a market with a low degree of concentration.

Table 4.2 Degree of concentration of various products

	1996				2001			
	C4	C8	C10	HHI	C4	C8	C10	HHI
Motor vehicle third-party liability	45.1	70.7	79.3	773.0	47.3	74.5	80.8	805.0
Motor vehicle all-risks	43.2	67.8	76.4	705.4	43.7	70.5	77.8	732.3
Accident/health	39.9	61.0	67.9	643.1	47.1	68.0	75.0	751.6
Transport	38.0	64.8	72.8	638.5	47.5	71.0	79.1	1034.2
Fire	43.5	65.9	72.8	688.7	47.7	69.7	75.9	751.1
Liability	50.0	75.5	83.5	936.9	50.2	75.7	81.3	916.4
Export credit	99.9	100.0	100.0	8387.7	95.6	100.0	100.0	6691.7
Legal aid	85.7	95.6	96.8	2159.8	77.2	91.6	95.0	1723.0
Miscellaneous	42.7	59.8	65.8	677.2	56.3	74.0	80.3	1023.8
Indirect business	51.0	79.0	85.4	811.9	50.1	76.0	83.8	883.3

Source: *Assurantiemagazine Jaarboek 2003*

4.3.2. Barriers to entry

On the basis of data on insurers from the *Assurantiemagazine Jaarboek*, it appears that a relatively large number of entries and exits has occurred. Usually, however, this relates to existing insurers who continue under a different name or are absorbed into a (different) insurance conglomerate as a result of mergers and acquisitions. In addition, in the period from 1996 to 2001, we see that tens of insurance companies of foreign origin, which were active on one or more market segments in the Netherlands, entered other market segments. In contrast to the reasonably stable development in aggregated degrees of concentration (see Table 4.1), it may be concluded that the entry and exit process did not bring about considerable changes in market relationships.

Exogenous barriers to entry

In order to enter the non-life insurance market in the Netherlands, insurers must have a licence. Within the EU, the so-called single licence principle applies, whereby an insurer is granted a licence in its home country for the entire European market and business economic supervision is only carried out in the home country (home country control). The insurance company may enter the Dutch market with this licence obtained elsewhere and only needs to inform the PVK that activities are being

conducted (notification procedure). Insurance companies from outside the EU must apply for a licence from the PVK.⁴⁴

In addition, insurers are obliged by law to maintain a minimum solvency margin. Within the EU there is a directive in relation to this, but Member States may impose higher solvency requirements.⁴⁵ Due to the principle of home country control, however, this may not be an obstacle to the entry of European insurance companies to the Dutch market. The solvency requirements may well be an obstacle to companies which are not yet active on the insurance market.

Endogenous barriers to entry

In general, newcomers to the insurance market have a knowledge deficit compared to existing players with regard to determining specific risks. In the Netherlands, the Centre for Insurance Statistics [*Centrum voor Verzekeringsstatistiek (CVS)*], prepares statistics on the basis of data supplied by affiliated insurers. The aim of the European Commission's Block Exemption regulation,⁴⁶ which allows for the joint collection of statistics, is that these must be made available subject to fair and non-discriminatory conditions to every insurance company which requests them, even if it is not active on the Dutch market.⁴⁷

Distribution

Insurance products are sold through various distribution channels. As appears from Table 4.3, the degree of penetration of the 'direct' and 'insurance broker' distribution channels is approximately at the same level for the entire non-life and life insurance market (84% as compared to 85%). There are, however, differences between these markets. The small sensitivity of non-life insurance products to advice and the fact that they can be compared well explains the high degree of penetration of direct writers in the non-life insurance market in comparison to the life-insurance market. Eight out of ten households in the Netherlands has purchased one or more non-life products directly from an insurer.⁴⁸

Table 4.3 Penetration of distribution channels in households, 2000

Distribution channel	Life insurance	Non-life insurance	Total life and non-life insurance
Direct	34%	79%	85%
Through a bank	20%	21%	33%
Through an insurance broker	56%	73%	84%
Through the employer*	3%	52%	53%

* The high degree of penetration of employers in the non-life insurance market is due mainly to products such as healthcare insurance and disability insurance which are often taken out through one's employer.

Source: GfK PanelServices Belux, *Totaal onderzoek financiële diensten*, 2000.

A study by ESI-VU shows that in 1999 non-life and life insurers did business with an average of 2261 insurance brokers and 29 agents.⁴⁹ An insurance broker works on average with 11 non-life insurers. Due to the increase in vertical integration on the insurance market (captives)—through which insurers obtain control of insurance brokerage firms through acquiring shares—the interdependence of brokers and insurers has increased. It appears from a recent article in *Assurantiemagazine* which refers to the

fact that the large insurers have become more reserved about acquiring shareholdings in insurance brokerage companies.⁵⁰

The new Financial Services Act [*Wet op de financiële dienstverlening*], will oblige insurance brokerage firms to inform their customers of this control by insurers. Since insurance brokers still account for a large part of the sale of non-life insurance and are also strongly focused on Dutch players, it is more difficult for foreign insurers to enter the non-life insurance market through this channel. Foreign insurers will have to offer insurance brokers an easily accessible back-office that operates quickly, a competitive incentives arrangement and a certain minimum service level, if they wish to access this distribution channel. This may constitute an (endogenous) barrier to entry. However, new entrants may also approach customers directly.

It appears from research carried out by *Verzekeringsblad* that approximately 75% of all households consider it (very) important to take out insurance with a well-known company.⁵¹ Having a good reputation and brand recognition is of considerable importance to insurance companies. New and/or smaller and/or less well-known companies experience a disadvantage as a result.

In contrast to life insurance, non-life insurance does not have a safety-net scheme.⁵² The potential loss which the insured may suffer as a result of the bankruptcy of their insurance company is generally much lower in the case of non-life insurance and is limited at most to the annual premium of the insurance in question or any claims still to be paid out. The importance which consumers attach to a well-known brand is therefore lower in the case of non-life insurance than in the case of life-insurance due to the more limited extent of the risk borne by the consumer in this regard. The lack of brand recognition in the case of foreign insurers may therefore not simply be regarded as an (endogenous) barrier to entry to the non-life insurance market.

4.3.3. Maturity of the market

For most non-life insurance products the market is saturated.⁵³ As a result of the growth in the number of households, the number of homes and cars, there is still some autonomous growth with regard to fire, liability and motor vehicles insurances. The degree of penetration of most non-life insurance is very high. This is due to the fact that certain non-life insurance—such as fire or motor vehicle insurance—is obligatory. In the light of the generally saturated nature of the non-life insurance market, it is plausible that competition occurs largely in relation to price.

The real growth markets are the disability insurance and legal aid insurance markets. The degree of penetration in the case of legal aid insurance is currently approximately 15%. Research has shown that the degree of penetration of this market may grow from 40% to 45%.⁵⁴ In the area of disability insurance, growth is largely due to reforms to the social insurance system. The Eligibility for Permanent Invalidity Benefit (Restrictions) Act [*Wet verbetering poortwachter*], which took effect on 1 April this year transfers responsibility and the financial risk of reintegrating sick employees to the employer.

4.3.4. Switching costs

From research carried out by the Switching Costs Working Group of the Market Forces, Deregulation and Legislative Quality Project (MDW-werkgroep overstapkosten),⁵⁵ it appears that a customer who wishes to switch non-life insurance policies from one provider to another incurs various types of switching costs:

- the time and trouble involved in finding information on alternative insurers;
- the inconvenience of terminating the previous insurance policy (this is now often done by the new insurer);
- uncertainty with regard to the quality of alternative providers; this relates mainly to uncertainty about the way the new insurer will deal with claims (in which cases it will and will not pay out) and the speed with which claims are paid;
- the administration costs which will be charged for the new policy;
- contractual clauses with regard to the contractual term and the period of notice of the current insurance; in general, insurers do not grant premium restitution in the event of the premature termination of an insurance policy;
- premium increases in other insurance policies, if the consumer obtains package discounts for combined insurance policies and switches one part of this package.

Switching costs reduce the dynamism of the non-life insurance market. Switching to an alternative provider costs time and money on a one-off basis and creates the necessary uncertainty. In principle, this makes it less attractive to leave one's present provider, all the more because a customer will often assume that the insurer, after years without any claims, will be more inclined to accept claims than when the insurance commences shortly prior to the claim. In addition, in the case of many private non-life insurance policies, the annual premiums are relatively small (with the exception of motor vehicle insurance). Nevertheless the switching costs for most customers are not the main obstacle. The complaints about non-life insurance received by the Dutch Insurance Ombudsman [*Klachteninstituut Verzekeringen*] relate mainly to the refusal by insurers to pay out claims and not to the existence of switching costs.⁵⁶

Box 5 Motor vehicle insurance

The premium discount (increasing to 80%), which insurers offer their customers on motor vehicle insurance, based on the number of claim-free years, may constitute a substantial barrier to switching. However, since the number of claim-free years is a good indicator of the risk profile of the customer both for the present and the alternative provider, all car insurers (including those in other EU Member States and non-EU Member States) now take over the claim-free years of other insurers and there is therefore, in principle, not a substantial barrier to switching.

The most serious barrier to switching, that of the contractual term and period of notice, has now also been restricted. Not only is a Bill presently being processed in the Netherlands which prohibits unreasonably long periods of notice, but the Dutch Association of Insurers [*Verbond van Verzekeraars*] earlier advised its members to allow policyholders of private non-life insurance to opt for one-year contracts. Since 1 January 2000, policyholders with existing long-term contracts must be given the

opportunity to opt for a different contractual period.⁵⁷ After several initial problems, this advice is now widely followed. A policyholder may therefore always terminate non-life insurance in one to two years at most.

4.4. Market behaviour of non-life insurers

How do the structural characteristics discussed above translate into the behaviour and results of market players? The price-setting behaviour, product innovation and profitability of the non-life market have been analysed in more detail to answer this question.

4.4.1. Price-setting behaviour

Premium composition

The most important part of the premium for non-life insurance consists of the risk premium, which may be divided into a pure risk premium and a safety premium. The remaining components of the premium are the (individual) loading for recurrent costs and sales expenses, investment income on premiums received in advance and the profit margin.

The pure risk premium is determined on the basis of an estimate of future risk and reflects the expected claims. The level of this premium is mainly based on the data calculated by CVS, but in addition to this insurers also build in their own risk factors. The safety premium, for instance, offers the insurer compensation in the event that it has not correctly estimated the actual development of claims within the insured group. Direct premium differentiation between non-life insurers may be included both in the risk premium, the cost loading and the calculated profit margin.

According to the consumer association, Consumentenbond, the policy conditions of non-life insurance are largely standardised. The trend towards increasing standardisation in non-life insurance is partly the result of statutory provisions (for instance, in the case of third-party liability and motor vehicle insurance), criteria of reinsurers, cost efficiency, but also the availability of standard policy models developed by the Dutch Association of Insurers.⁵⁸ An increasing number of business processes are outsourced to third parties. Due to economies of scale, companies that are specialised in certain business processes may often operate more cheaply than the insurance companies themselves.

It appears from figures from Statistics Netherlands that the average total insurance premium paid for non-life insurance per inhabitant in the Netherlands is considerably higher than in other European countries. Each inhabitant of the Netherlands paid an average of EUR 960 per annum in 1999, while the average for the EU was EUR 672. This can be attributed to the number of insurance policies per inhabitant and (in some cases) a higher average premium per insurance.⁵⁹

According to MKB Nederland, the umbrella organisation of small and medium-sized enterprises, companies have been confronted in past years with considerable increases in premiums. This appears to be the case, particularly in relation to business fire insurance. Interpolis, for instance, has indicated that it wishes to tighten up its prevention and acceptance policy for business fire insurance. The

insurer cannot exclude premium increases of more than 50%. Companies which refuse to do anything about prevention will be confronted with a very high insurance excess or even exclusion.⁶⁰

Box 6 Premium increases for business fire insurance

Premium increases

The sharp increases in business fire insurance premiums appear to have numerous causes:

- A sharp increase in claims and an increasing average amount per claim. This assertion is in line with the statistical data on the number of fires. In the period from 1997 to 2001, the number of fires with claims in excess of EUR 1 million increased from 82 to 126 and the total amount of the claims increased from EUR 284 million to EUR 509 million.
- An increase in the reinsurance premiums (by 20% in 2002). Reinsurance is used most frequently in the fire insurance segment. Approximately 30% of the gross premiums disappears to foreign reinsurers.
- The fall in the number of players on the insurance exchanges in Rotterdam and Amsterdam, where many fire insurance policies are traded. In Rotterdam, for instance, the number fell from 25 (15 years ago) to approximately 10 at present.
- Premiums which were set too low in past years (due to the fact that investment income realised in the nineties was high): "in past years five insurers have opted for turnover rather than the quality of the insured risks. This has resulted in lower premiums, little attention to prevention, the disappearance of knowledge and considerable losses (...) Now that the investment results have evaporated and the technical results count once more, insurers once again have to start insuring."

1 *Verzekeringsblad*, 30 May 2002, p. 529: *Resultaat brand bedrijven 10% negatief* [Results of Business Fire Insurance 10% in the Red].

2 *Verzekeringsblad*, 2 May 2002, p. 431: *Assurantiebeurs is begonnen aan wederopbouw* [Insurance Exchange Starts to Recover].

3 *Verzekeringsblad*, 3 April 2003: *Verzekeraars kennen hun eigen risico's niet* [Insurers do not know their own risks].

4.4.2. Innovation⁶¹

Research was carried out by Statistics Netherlands into the innovativeness of the entire financial sector compared to other sectors.⁶² It appears from research carried out in 1998 that there is fairly little innovation in the financial sector. The number of companies that launch new products on the market is fairly small: 17% as opposed to 48% in industry and 21% in the sector comprising all companies. The turnover obtained from these new financial products is fairly small. The companies with new products obtained 17% of their turnover from the new products, as opposed to 30% in industry and 27% in the sector comprising all companies. Companies in the financial sector referred to the long lead time for the development of products as a bottleneck.

A further cause of the low level of product innovation in the financial sector may be the fact that innovation, in contrast to other sectors, does not result in long-lasting advantage. Innovation in the sense of new products and product conditions may, after all, be copied immediately. Furthermore, no intellectual property rights can be acquired in relation to financial innovations. In addition, the effective protection of financial products is difficult or impossible.⁶³

It emerges from the research by Statistics Netherlands, referred to above, that in the area of non-life insurance the financial sector itself regards insurance packages as the most important product innovation. Research conducted by Decisio shows that non-life insurers have launched many new product variants on the market in past years.⁶⁴ These include, in particular, insuring living expenses (in the event of disability), continuous travel insurance and insurance packages. No insurer can be identified which takes the lead in these innovations.

4. Profitability

The technical result is (in brief) the balance of premium income minus benefits, operating costs and additions to the technical reserves. Interest and investment yields are not part of the technical result included in the net result. Consequently an insurer with a negative technical result may still make a profit on that product, in the sense of a positive net result. In the tables below, the net result of a number of types of non-life insurance is given for all Dutch non-life insurers.

Table 4.4 Net result as a percentage of gross premium income

	1996	1997	1998	1999	2000	2001
Motor vehicle insurance (third-party and all-risks)	3.10	7.26	4.04	-0.18	-0.53	-0.21
Accident/ health	4.63	3.85	-0.57	1.15	2.99	0.35
Transport	5.05	1.57	2.76	2.82	-2.07	2.98
Fire	4.54	4.49	4.77	6.43	3.11	3.75
Other branches	12.85	11.28	9.55	17.07	18.72	7.60

Source: Assurantiemagazine Jaarboek 2003

A striking feature is the fact that the other branches, in contrast to the other product segments distinguished, achieved high profit margins during the entire period from 1996 to 2001, while motor vehicle insurance still showed negative operating results in recent years. If the category of other branches is not taken into account, fire is the market segment with the highest and most stable yields in past years.⁶⁵ The net profit of 3.75% in 2001 amounts to approximately EUR 100 million. Within the fire segment, the net result in the business sector—where the largest increases in premiums are reported—was negative in 2000.

4.5. Conclusion

The structural characteristics of the non-life insurance market in the Netherlands do not present the same picture as those of the payments market in the Netherlands. The non-life insurance market is characterised entirely by a low degree of concentration, limited presence of barriers to entry, a high degree of saturation and low barriers to switching. If transparency with regard to the composition of the premium and price-setting policy and the sector's moderate profitability are taken into account,

the conclusion is that the market for non-life insurance as a whole cannot be characterised as a risk from the perspective of competition on the basis of these indicators.

If, on the other hand, the same analysis is carried out at the product level, there is strong evidence that certain product segments are characterised by a moderate to high degree of concentration, a low saturation level, high profitability and possibly, in the case of certain niche markets, barriers to entry and switching. For these product segments of the non-life insurance market in the Netherlands, the risk of a lack of competition is therefore greater than for the market as a whole. To determine whether this is the case, further analysis is necessary at the level of the relevant market.

Box 7 The Italian insurance case

Making the right assessment of risks relating to insurance requires a minimum of historical information. To determine a cost efficient net premium, it may therefore be necessary for insurers to share this information with each other. A form of cooperation of this sort may limit competition and therefore falls within the scope of the EC Treaty and national competition rules, which naturally also apply to the insurance sector.

Due to the specific character of the sector, there is a European Block Exemption, which determines, for instance, that agreements between insurance undertakings, which are necessary in order to assess the risk to be insured or to calculate the net premium properly should be exempt under certain conditions from the application of European competition rules.

The limits of this block exemption were at issue in a case in relation to motor vehicle insurance which, in accordance with Italian competition law, was handled by Autorità Garante della Concorrenza e del Mercato (hereinafter "the Italian Competition Authority").

From a market analysis based on random samples carried out by the Italian Ministry of Finance, it appeared that uniform behaviour occurred amongst, for instance, motor vehicle insurers. On the basis of this, the Italian Competition Authority started an investigation into a large group of motor vehicle insurers. From material found during searches it appeared that information was shared through a commercial consultancy firm, RC Log. The car insurers exchanged current information through RC Log with regard, for instance, to prices, discounts, debt collection, costs of accidents and distribution. The activities of RC Log included, for instance, setting up, importing, processing and analysing data supplied by the car insurers in special databases, the so-called '*osservatoria*'. In addition, databases were set up by the national sector organisation, based on statistics which only contained the history of claims and provided no insight into commercial price setting. According to the consultancy firm, RC Log's *osservatoria*, however, this enabled car insurers to monitor developments in the sector and the competitive position of market leaders and to obtain price and product data relating to competitors easily.

This market behaviour pointed to the fact that the companies wished to eliminate competition as far as possible. Through the exchange of commercially sensitive information, the behaviour was made

transparent in an artificial way, which could seriously frustrate competition. The conclusion of the Italian Competition Authority was that the exchange of information through RC Log went further than was necessary to determine the risk and net premium. The consequence of the frequency and systematic nature of this exchange of information was that every company could predict the behaviour of its competitors to a considerable degree. Setting up an extensive information system and the parallel behaviour of motor vehicle insurers resulting from this were deliberately aimed at avoiding the normal risks associated with competition, in the opinion of the Italian Competition Authority.

The Italian Competition Authority ruled in its decision that the Block Exemption did not apply, due to the fact that the exchange of information between the insurers went further than was necessary to calculate a net premium corresponding to the risk. Furthermore the Italian Competition Authority ruled that the practices which took place through RC Log could be regarded as an illegal cartel agreement due, for instance, to their interests, the frequency with which information was exchanged and the sensitivity of this information.

The Italian Competition Authority imposed sanctions for this infringement in the form of fines up to a maximum of almost EUR 50 million. In addition, the insurers were required to cease the systematic exchange of commercially sensitive information.

- 1 Commission Regulation (EEC) No 3932/92 of 21 December 1992 on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector, *OJEC* L398 of 31 December 1992. As of 1 April 2003 this regulation was replaced by 358/03 of 27 February 2003, *OJEC* L053 of 28 February 2003.
- 2 The exchange of information with regard to commercial premiums (i.e. the net premium to cover the risk plus a business-specific commercial loading) does not fall within the scope of the block exemption.
- 3 Decision No. 8546 of l'Autorità Garante della Concorrenza e del Mercato of 28 July 2000, motor vehicle third-party liability insurance.
- 4 In this case, in addition to the exchange of information between insurers, the refusal of insurers to underwrite insurance for fire and theft other than in combination with motor vehicle legal liability insurance policy was also at issue.
- 5 In addition, there was also direct exchange of strategic information between the insurers involved.

5. Minority shareholdings in the financial sector

5.1. Introduction

The consequences of minority shareholdings between competitors, which do not result in direct control, cannot always be clearly identified in relation to competition law.⁶⁶ Only if the minority shareholdings result in direct control of the strategic and commercial behaviour of companies are they viewed in the Dutch situation as a concentration in terms of Section 27 of the Competition Act. Particularly in markets with relatively high concentration, minority shareholdings may affect the oligopolistic nature of the market and the market power of companies, despite the fact that they do not result in direct control. This is explicitly acknowledged by the European Commission, for instance in the case of Nordbanken/ Postgirot.⁶⁷ According to the commission, there was a considerable risk that the structural link between Postgirot and Bankgirot (in which Nordbanken had a substantial minority shareholding) would result in the coordination of prices and conditions.

The financial sector in the Netherlands as a whole is an example of a relatively concentrated market in which the most important players have minority shareholdings in each other's companies without these minority shareholdings affording control (in terms of competition law). It appears from a report by the European Central Bank that the market concentration of banks in the Netherlands, where the five largest players have 83% of the market, is high compared to 10 other important European countries.⁶⁸ The Dutch HHI, for instance, ranks third, behind in Finland and Switzerland.

As was stated earlier in this Monitor, some market segments of the Dutch financial sector have very high concentration indices.⁶⁹ The HHI exceeds the value of 1800 relevant for competition control in many of the markets that are distinguished.⁷⁰ In a recent report, The Central Planning Bureau also refers to retail banking as an example of an oligopolistic market.⁷¹

Table 5.1 gives an overview of the subsidiary interests which a large number of players on the markets for financial services in the Netherlands have in each other's companies.. ABN AMRO is a striking case, as roughly 40% of its shares are held by its immediate competitors.

Table 5.1 Notified shareholdings of financial institutions in each other's companies

Shareholder	Interest in					
	Rabobank	ABN AMRO	ING	Fortis	Aegon	Dexia
Rabobank		5.64%	-	-	-	-
ABN AMRO	-		5.12%	-	-	-
ING	-	12.93%		6.71%	-	-
Fortis	-	5.70%	6.15%		-	-
Aegon	-	9.99%	6.25%	-		-
Dexia	-	6.79%	-	-	-	

Source: Website of Het Financieel Dagblad, WMZ-monitor (situation at the end of September 2003).

The question that arises is what the reasons may be for these cross-shareholdings. The Central Planning Bureau notes in this regard in its report on competition and stability in the banking sector that minority shareholdings or cross-shareholdings between competitors may be a subtle way of

weakening mutual competition and exchanging information without arousing the suspicions of the competition authority.⁷² Another reason which is mentioned mainly by the sector itself is that shareholdings are a natural way of diversifying risks. This may be to the advantage of the banking sector. Shareholdings in competitors, however, only diversify business-specific risk, which could also be hedged by investments in other sectors. Sector-specific risks, which affect all banks equally, cannot be hedged by this means. Shareholdings may possibly have the effect of increasing such risks.

The interwovenness in the financial sector extend further, of course, than simply minority shareholdings in competing companies. Formal consultative bodies exist, such as the Netherlands Bankers' Association (NVB), in which the most important market players regularly meet each other, but informal meetings also occur.⁷³ In addition, it is possible that banks occupy positions in each other's supervisory boards, have financial interests in the same non-financial companies or that risks are underwritten by the same reinsurer. These forms of interwoven interests are not taken into account here, but are not insignificant in assessing (oligopolistic) market structures.

All in all, there seem to be sufficient reasons to establish what the economic consequences are of minority shareholdings and what role shareholdings play in the rulings of the European Commission.

5.2. Economic analysis

There is an extensive literature on the economic effects of minority shareholdings.⁷⁴ If a company has shareholdings in other companies active on the same market, profits or losses result from these shareholdings which are directly related to the profits or losses of these competitors. Customers lost by a company as a result of a price increase may switch to a competitor. However, the additional profit this competitor makes as a result, will also benefit the company through its shareholdings. By the same mechanism, customers are attracted by a price reduction at the company's own expense. Shareholdings therefore have a strategic effect. In other words, they affect the strategy with which the company maximises its profit on the basis of its expectations with regard to developments on the market and the behaviour of competitors.

In the literature, these findings are supported and quantified using models based on game theory, from which two generally accepted conclusions are drawn. Firstly, minority shareholdings result in profit maximisation behaviour which deviates from the behaviour in a competitive situation without minority shareholdings. Companies therefore compete less fiercely with each other, which results in higher profits. Secondly, much used concentration yardsticks, such as C3, C4, C5 and HHI, underestimate the actual market power if minority shareholdings exist. These yardsticks are based on a situation in which shareholdings are absent. They also do not take into account the strategic effects of shareholdings. An example of this is the electricity sector in the Scandinavian countries, where minority shareholdings occur frequently. In response to this, the Nordic competition authorities indicated they also wished to take into account minority shareholdings in determining the degree of market concentration. This resulted in a proposal to use an adjusted HHI, the effect of which is significant in this market and has resulted in a doubling of the degree of concentration in one case.⁷⁵

A number of studies have been carried out to establish the extent to which these conclusions are supported by empirical evidence. Two studies analyse the phenomenon of shareholdings in the companies of competitors in relation to six large financial *keiretsu* groups in Japan.⁷⁶ The conclusion is that cross-shareholdings may be interpreted as a means of supporting co-operative behaviour. According to researchers, this support, however, is less effective in markets undergoing rapid growth and in the case of strong international competition. A more recent study examines the effects of horizontal integration in the financial sector in the Netherlands.⁷⁷ This study concludes that minority shareholdings may result in significantly higher margins and therefore in market power.

The possibility that the holders of a minority shareholding can exercise direct influence on decisions of the management is not taken into account in the above approaches. An example of this is the consequence of free-rider behaviour amongst small shareholders. This means that in the case of small shareholders the cost of intervention in the event of underperformance by the management does not outweigh the benefits, while they benefit without incurring any cost if others take action. Small shareholders therefore have an incentive to align their voting behaviour to that of the large shareholders. A different possibility is that the voting behaviour of minority shareholders may cause a minority of votes in the general meeting of shareholders to become a majority, the so-called 'swinging vote'. These two examples show that minority shareholdings may also have a significant immediate effect on the behaviour of companies.

It emerges from these considerations that minority shareholdings may affect the behaviour of companies in two ways. Firstly, minority shareholdings have an effect through financial incentives, which can be quantified. The exchange of commercially sensitive information and the influence of minority shareholders on the company's management have a second potential affect on the degree of competition, which is more difficult to quantify.

5.3. Legal analysis

Competition concerns with regard to the effects of minority shareholdings can be found in a number of decisions taken by the European Commission. These often relate to mergers and acquisitions in relation to which the Commission expresses concerns about the emergence of *de facto* direct control through a minority shareholding. The rulings of the Commission are based on the economic theories discussed above only to a limited extent. The financial sector, however, appears to be precisely a sector in which the Commission emphasises the economic effects of minority shareholdings, possibly because minority shareholdings occur more often in this sector than in other sectors. The following are five striking examples of this.

Nordbanken/ Postgirot

The first example is the case of Nordbanken/ Postgirot, which has already been mentioned.⁷⁸ Due to the high degree of concentration on the market for giro payment systems with only two providers and the significant commonality of interest of the four largest banks, there was a considerable risk, in the opinion of the Commission, that the structural link between Postgirot and Bankgirot, in which

Nordbanken had a large minority shareholding, would result in the coordination of prices and conditions. The Commission only approved the concentration after several remedies had been proposed by the parties. The Commission ruled that the companies could guarantee the continuation of two independent giro payment systems and technical support at the present level by severing their structural links. This prevented the emergence of a joint dominant position.

AXA/GRE

The same situation applied in the case of AXA/GRE (insurance market).⁷⁹ These parties both had links to third parties. This involved the structural links between AXA and Le Foyer, a Luxembourg insurer in which GRE had a minority shareholding. In the opinion of the Commission, the merger of AXA and GRE had the effect of limiting competition on the Luxembourg insurance market. To exclude the emergence or strengthening of a dominant position, the parties undertook to amend their mutual structural links or to make suitable divestments. The number of large companies that actually competed with each other as independent providers on the non-life insurance market remained the same as a result.

Thyssen/Krupp

In the case Thyssen/Krupp⁸⁰ (production of escalators and lifts), the commission feared links in the form of interlocking directorates. In addition, the merger could have resulted in a situation where the merged company would take into account the strategic interests of the competitor. As a result, the two competitors could start showing parallel strategic behaviour. Through certain changes to the relationship between Krupp and Kone, however, the merger was allowed.

Newscorp/Telepiu

In the case of Newscorp/Telepiu⁸¹ (media sector), the minority shareholding could theoretically have had the effect of restricting competition, according to the Commission. The Commission ruled, however, that there was insufficient evidence that these effects would actually occur after the proposed concentration.

Airtours

In the well-known Airtours case,⁸² the situation occurred where 30% to 40% of the shares of Airtours, First Choice and Thomson (three of the four leading tour operators) were held by a single group of institutional investors. This could have contributed to the emergence of a joint dominant position. The Court of First Instance, however, was of the opinion that this was not plausible for as long as it could not be shown that these investors exercise direct control over the companies in question, were involved in the management of them, or gave cause to exchange sensitive information between the

companies. The judgement was that the existence of a financial affect, as a result of a minority shareholding, was not plausible.

Taking into consideration the case law and past decisions of the Commission, we draw the conclusion that the Commission attributes considerable weight to *de facto* control and gives less attention to the reduction in the incentives to compete resulting from minority shareholdings.

5.4. Conclusion

The financial markets in the Netherlands are concentrated and, in addition, are interwoven to a considerable degree. Minority shareholdings are of relative importance in this regard. The resulting incentives for competitive behaviour deserve additional attention due to the negative effects predicted by economic theory. It is therefore worthwhile analysing the networks of minority shareholdings and other interrelationships. In addition, further research should be carried out into how these can be taken into account in assessing effects on competition. This is of importance for future assessments of joint operating agreements or mergers and may also play a role in investigations in relation to competition law.

Notes

¹ Wellink Working Group, *Tariefstructuren en infrastructuur in het Nederlandse massale betalingsverkeer*, March 2002.

² D. Cruickshank, *Competition in UK Banking*, March 2000.

³ J.J.M. Kremers, 'Naar een sterkere binnenlandse groeidynamiek', *Economisch Statistische Berichten*, 11 December 1991, pp. 1228-1232.

⁴ P.A.G. van Bergeijk and R.C.G. Haffner, 'Op zoek naar dynamiek', *Economisch Statistische Berichten*, 20 January 1993, pp. 52-56.

⁵ J.A. Bikker, 'Beperkte concurrentie in het bankwezen', *Economisch Statistische Berichten*, 5 February 1999, pp. 84 *et seq.*

⁶ J. Gual and D.J. Neven, *Deregulation of the European Banking Industry*, CEPR Discussion Paper 703, 1992.

⁷ The rate at which interest rates adjust in the case of current accounts in the SME sector is quicker. The problem of market forces which occurs here was recognised in the mid-nineties and dealt with. See P.A.G. van Bergeijk, C. van Gent, R.C.G. Haffner and A.J.M. Kleijweg, 'Mobiliteit en concurrentie op de kapitaalmarkt', *Economisch Statistische Berichten*, 6 September 1995, pp. 780-784.

⁸ W. Hassink and M. van Leuvenstein, *Price-Setting and Price Dispersion in the Dutch Mortgage Market*, Central Planning Bureau Discussion Paper No. 21, 2003; L.A. Toolsema and J. Jacobs, *Why Do Prices Rise Faster Than They Fall? With an Application to Mortgage Rates*, SOM, University of Groningen, CCSO Working Paper 200106, 2001.

⁹ "Average contractual rates on customer loans in (...) e.g. the Netherlands or Finland are estimated to be about 120 basis points higher than in (...) Portugal, Spain or Belgium. The difference would be 100 basis points for short-term loans and 240 basis points for mortgages. Demand deposits would be remunerated with an interest rate that is 140 basis points lower in the more highly concentrated market. In contrast, higher concentration in savings and time deposits results in 280 basis points higher remuneration of savings deposits and 100 basis points for time deposits." See S. Corvoisier and R. Gropp, *Bank Concentration and Retail Interest Rates*, ECB Working Paper No. 72, 2001.

¹⁰ Switching Costs Working Group of the Market Forces, Deregulation and Legislative Quality Project, *Kosten noch moeite. Drempels voor de switchende consument*, June 2003.

¹¹ Wellink Working Group, *Tariefstructuren en infrastructuur in het Nederlandse massale betalingsverkeer*, March 2002.

¹² *Annual Report Interpay*, Amsterdam, 2002; Wellink Working Group (*op. cit.*).

¹³ NEI, *Fusies en overnames in het Nederlandse bankwezen*, July 2000.

¹⁴ See for an overview, LEGG, *Study of Competition in the Provision of Non-investment Banking Services in Ireland*, Phase 1 Report, 21 August 2003.

¹⁵ G. Dell'Araccia, *Asymmetric Information and Market Structure of the Banking Industry*, IMF Working Paper, June 1998.

¹⁶ Due to new entries, the number of suppliers of savings products and the number of savings products has increased in past years. The emergence of Internet savings accounts—which means that a branch office network with national coverage is no longer necessary to offer savings products—has also facilitated entry to the savings market. The Collective Guarantee Scheme [*Collectieve Garantie*

Regeling] (which offers account holders guaranteed cover up to a maximum of EUR 20,000 for banks which are no longer able to meet their liabilities) also facilitates entry.

¹⁷ The considerable importance which consumers attach to reputation and brand recognition results in the traditional banks having a strong position on this market. Nevertheless, through advertising campaigns and (aggressive) marketing, other specialised credit institutions have acquired a position on this market.

¹⁸ See, for instance, Central Planning Bureau, *Tight Oligopolies*, February 2003, pp. 92-93.

¹⁹ To illustrate this, a foreign bank which has a Dutch banking license and which already offers savings products in the Netherlands regards payments as expensive and complex (*Volkscrant*, 'Turkse prijsvechters slaan hun vleugels uit', 23 July 2003). The Belgian banking and insurance group Argenta also intends to enter the market in November 2003 with an integrated range of savings, credit and payment products (*De Telegraaf*, 2 September 2003, 'Argenta opent jacht op Nederlands spaargeld').

²⁰ See, for instance, J Gual, *Deregulation, Integration and Market Structure in European Banking*, IESE, Barcelona, 1999; Central Planning Bureau, *Competition and Stability in Banking*, December 2001, paragraph 5.3; Central Planning Bureau, *Tight Oligopolies*, February 2003; Switching Costs Working Group of the Market Forces, Deregulation and Legislative Quality Project, *Kosten noch moeite. Drempels voor de switchende consument*, June 2003.

²¹ J Gual, *Deregulation, Integration and Market Structure in European Banking*, IESE, Barcelona, 1999, p. 9.

²² Dutch Bankers' Association (NVB), *Toegankelijkheid en bereikbaarheid van bankdiensten*, Amsterdam, May 2002.

²³ P. van Cayseele and H. Degryse, 'De nieuwe economie en bancaire marktstructuren', *Leuvense economische standpunten* 2000/98, CES, September 2000. See also D. Heremans and P. van Cayseele, 'Concentratie en concurrentie in de Belgische financiële sector', *Leuvense economische standpunten* 1996/82, CES, June 1996, pp. 19-20 and *NBV Bulletin*, No. 2, July 2002, p. 5.

²⁴ Savings products which are not linked to a specified term are very flexible, so that savings can generally be transferred to a different account without incurring costs (the duration of the transfer may incur costs due to the assignment of value dates for the calculation of interest). In the case of savings balances deposited for a fixed term, these may also be transferred easily to a different supplier of savings products—on payment of a penalties/ administration charges.

²⁵ The Ministries of Economic Affairs and Finance have also started a process within the framework of the Working Group of the Market Forces, Deregulation and Legislative Quality Project in order to achieve account number portability (that is the possibility of transferring one's account number to a new supplier). The Switching Costs Working Group of the Market Forces, Deregulation and Legislative Quality Project, *Kosten noch moeite. Drempels voor de switchende consument*, June 2003, p. 89.

²⁶ Consumentenbond, *Weggaan of blijven*, February 2002, paragraph 3.1; Nyfer, *Geld moet rollen*, September 2000, paragraph 2.1.

²⁷ Consumentenbond, *Consument en geld*, February/March 2001, pp. 32-34.

²⁸ The consumer credit market is also characterised by a close relationship between banks and their customers. L. A. Toolsema, *On Competition and Banking*, 2003, chapter 3.

²⁹ G. Dell'Araccia, *Asymmetric Information and Market Structure of the Banking Industry*, IMF Working Paper, June 1998.

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- ³⁰ Wellink Working Group, *Tariefstructuren en infrastructuur in het Nederlandse massale betalingsverkeer*, March 2002, chapter 3.
- ³¹ D. Cruickshank, *Competition in UK Banking*, March 2000, p. 299.
- ³² Dutch Bankers' Association (NVB) *Annual Report 2002*, Amsterdam, pp. 26-27.
- ³³ A few exceptions to this relate to a special services, such as express payments, withdrawals from cash dispensers using credit cards and cross-border euro transactions in other EU countries.
- ³⁴ Wellink Working Group, *Tariefstructuren en infrastructuur in het Nederlandse massale betalingsverkeer*, 2002, chapter 3.
- ³⁵ ECORYS-NEI, *Parallele ontwikkeling van bancaire tarieven*, August 2003.
- ³⁶ With the exception of Postbank. ING Bank began this in 1999. In January 2002, ABN AMRO and SNS Bank followed. Rabobank and Fortis Bank started charging in 2003.
- ³⁷ The market shares are derived from NEI, *Fusies en overnames in het Nederlandse bankwezen*, July 2000, annex F. In calculating the price increase, Fortis has not been taken into account due to a lack of data. In addition, with regard to the private customers of ING, it is assumed that one quarter bank with ING Bank and three quarters with Postbank.
- ³⁸ See also *Hoofdbedrijfschap Detailhandel* (Dutch Association of Retailers), *De kassa rinkelt niet voor niets, afrekenen kost ook geld!*, Editie 1999.
- ³⁹ K. Jaarsma, *Contant? Duurder! De invloed van bancaire tarieven op de kosten van het contant betalingsverkeer bij zelfstandige supermarkten*, EIM, 2003; *Hoofdbedrijfschap Detailhandel, E-day voor de betaalautomaat*, June 2002.
- ⁴⁰ Statistics Netherlands, *Innovatie-enquête 2000*. For insight into the relationship between competition and innovation, see, for instance, Statistics Netherlands Memorandum 23, *Concurrentie en innovatie: implicaties voor marktwerkingsbeleid*, 10 January 2002.
- ⁴¹ See also Elsevier theme handbook *Geld & Beleggen*, November 2002.
- ⁴² M. Waterson carried out a similar comparative study in which a comparison was made between the British payments market and the British market for motor vehicle insurance. See M. Waterson, 'The role of consumers in competition and competition policy', *International Journal of Industrial Organisation*, 2003, pp. 129-150.
- ⁴³ In the discussion which follows, the sector and product categorisation as used in the sector's statistics will be applied. This is a pragmatic choice as it makes it possible to use available statistical data from public sources directly. For a further market definition, see NERA, *Assessing Mergers in the Insurance Sector in the Netherlands*, July 1999.
- ⁴⁴ See www.pvk.nl for more information.
- ⁴⁵ At the moment of writing, new tighter solvency regulations (Solvency II) are being designed by the European Commission.
- ⁴⁶ Commission Regulation (EC) No 358/2003 of 27 February 2003 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector, L53/8.
- ⁴⁷ Regulation 358/2003, Article 3 (2)(c).
- ⁴⁸ See also W. Graafmans and M. Smulders, 'Trends in distributie: de opmars van de banken', *Tijdschrift voor Marketing, Airport 2002*, pp. 14-17.
- ⁴⁹ ESI-VU, *Tussenpersonen in de financiële sector*, December 2001. Of the more than 23,000 intermediaries listed in the Insurance Agency and Brokerage Act register (that is, everyone who acts as

an intermediary, other than on the basis of a contract of employment, with regard to the sale of insurance—see Section I (b) of the Insurance Agency and Brokerage Act [*Wet assurantiemiddelingsbedrijf*] more than 11,000 are actually active. Kluwer/ CBS, *Assurantiejaarboek*, 1999. An authorised agent is anyone who is authorised to represent an insurer and does business for his own account and risk (Section 1 (d) of the Insurance Agency and Brokerage Act).

⁵⁰ 'Verzekeraars zetten rem op participaties in kantoren', *Assurantiemagazine*, 31 January 2003, p. 4.

⁵¹ *Verzekeringsblad*, Insurance Barometer (*Verzekeringsbarometer*), 24 October 2002, p. 1091.

⁵² The Insurance Companies (Supervision) Act [*Wet toezicht verzekeringswezen*] has a so-called safety-net scheme for life insurers. This provides the PVK with the possibility of requiring a life insurer with a deficit with regard to the (legally required) capital to reinsure its portfolio or to transfer it to the so-called safety-net public limited liability company. The life insurers jointly provide this safety net public limited liability company with sufficient capital to settle its liabilities with the insured. A condition for a scheme such as this is that the portfolio is still 'viable', in other words that the rights of policyholders can be guaranteed in the future after the restructuring plan has been implemented.

⁵³ A. Oosenbrug *et al.*, *Schadeverzekering in Nederland*, 1996, p. 27; W. Graafmans and M. Smulders, 'Trends in distributie: de opmars van de banken', *Tijdschrift voor Marketing*, April 2002, pp. 14-17.

⁵⁴ *VVP*, 13 April 2003, *SFK positioneren als kwaliteitslabel*, pp. 12-13.

⁵⁵ Switching Costs Working Group of the Market Forces, *Deregulation and Legislative Quality Project, Kosten noch moeite, Drempels voor het slechten voor de switchende consument*, June 2003.

⁵⁶ This is in contrast to the complaints about life insurance. Dutch Insurance Ombudsman (*Stichting Klachteninstituut Verzekeringen*), 2001: *Annual Report 2000*, pp. 27-39 and p. 12.

⁵⁷ Dutch Insurance Ombudsman, *Annual Report 2000*, p. 36.

⁵⁸ *Verzekeringsblad*, 30 May 2002, 'Resultaat brand bedrijven 10% negatief', p. 529 and *Verzekeringsblad*, 3 April 2003, 'Verzekeraars kennen hun eigen risico's niet'. See also A. Oosenbrug *et al.*, *Schadeverzekering in Nederland*, 1996, p. 207.

⁵⁹ Statistics Netherlands, *Statistisch Jaarboek 2002*, p. 468.

⁶⁰ *Verzekeringsblad*, 3 April 2003, 'Interpolis, we weten te weinig van onze risico's', p. 275.

⁶¹ This paragraph only deals with product innovation and not process innovation in the sector, which is also important in its own right.

⁶² Statistics Netherlands, *Innovatie-enquête*, figures for 1998.

⁶³ W. Klok and J.H. van Dalen, *De commerciële activiteit van banken*, Twynstra & Gudde, Amersfoort, 1998.

⁶⁴ Decisio BV, *Introductie en navolging van nieuwe bank- en verzekeringsproducten*, July 2003.

⁶⁵ See also PricewaterhouseCoopers, *Trends bij verzekeringsmaatschappijen, Ondernemingsanalyses*, 2003, p. 30.

⁶⁶ The terms 'minority shareholding', 'minority interest' and 'minority investments' are synonyms for shareholdings which do not result in control.

⁶⁷ Decision of the European Commission of 8 November 2001 in Case No. IV/M.2567-Nordbanken/ Postgirot.

⁶⁸ ECB Working Paper No. 72, *Bank Concentration and Retail Interest Rates*, July 2001. According to more recent research, market concentration has now risen to 88%, see J.A. Bikker and A.A.T. Wesseling, 'Intermediatie, integratie en internationalisatie: een overzicht van het Europese bankwezen', *Maandschrift economie*, 2003, pp. 297-311.

⁶⁹ NEI, *Fusies en overnames in het Nederlandse bankwezen: een instrument voor NMa*, Rotterdam, July 2000.

⁷⁰ The market shares were determined on the basis of expert opinions.

⁷¹ Central Planning Bureau, *Tight Oligopolies*, February 2003.

⁷² Central Planning Bureau, *Competition and Stability in Banking*, December 2001.

⁷³ *Het Financieële Dagblad* of 10 July 2003, for instance, makes mention of an informal periodic consultation between the six large Dutch insurers.

⁷⁴ See, for instance, D.P. O'Brien and S.C. Salop, 'Competitive Effects of Partial Ownership: Financial Interest and Corporate Control', *Antitrust Law Journal*, 2000, pp. 559-614.

⁷⁵ Joint report of the Scandinavian competition authorities, *A Powerful Competition Policy*, 2003.

⁷⁶ E. Berglöf and E. Perotti, 'The Governance Structure of the Japanese Financial *Kaizetsu*', *Journal of Financial Economics*, 1994, pp. 259-284; D. Flath, 'Indirect Shareholdings within Japan's Business Groups', *Economics Letters*, 1992, pp. 223-227.

⁷⁷ E. Dietzenbacher, B. Smid and B. Volkerink, 'Horizontal Integration in the Dutch Financial Sector', *International Journal of Industrial Organization*, 2000, pp. 1223-1242.

⁷⁸ Decision of the European Commission of 8 November 2001 in Case No. IV/M.2567-*Nordbanken/ Postgirot*.

⁷⁹ Decision of the European Commission of 8 April 1999, in Case No. IV/M.1453-*AXA/GRE*

⁸⁰ Decision of the European Commission of 2 June 1998, in Case No. IV/M.1080-*Thyssen/Krupp*.

⁸¹ Decision of the European Commission of 29 December 2002, in Case No. IV/M.2876-*NewsCorp/ Telepiu*.

⁸² Court of First Instance of the European Communities 6 June 2002, Case No. T-342/99, *Airtours/ First Choice*. See also the note by E.J. Kloosterhuis in *Markt en Mededinging*, 2002, No. 8, pp. 266-271.

Addendum 1: Suggestions for further reading

Research reports

- Consumentenbond, *Weggaan of blijven?*, February 2002.
- Central Planning Bureau, *Competition and Stability in Banking*, December 2001.
- Central Planning Bureau, *Tight Oligopolies*, February 2003.
- Cruikshank, *Competition in UK Banking*, March 2000.
- Dutch Central Bank (DNB), *Intermediation, Integration and Internationalisation: A Survey on Banking in Europe*, 2003.
- European Central Bank (ECB), *Structural Analysis of the EU Banking Sector 2001*, November 2002.
- ECORYS-NEI, *Werking betaalmarkt*, November 2002.
- EIM, *Contant? Duurder! De invloed van bancaire tarieven op de kosten van het contant betalingsverkeer bij zelfstandige supermarkten*, 2003.
- ESI-VU, *Tussenpersonen in financiële sector*, December 2001.
- Group of Ten, *Report on Consolidation in the Financial Sector*, January 2001.
- Dutch Association of Retailers (HBD), *De kassa rinkelt niet voor niets, afrekenen kost ook geld!*, 1999.
- Dutch Association of Retailers (HBD), *Afrekenen in winkels 2002*, oktober 2002.
- Kluwer, *AM Jaarboek*, annual publication.
- LECG, *Study of Competition in the Provision of Non-Investment Banking Services in Ireland*, 21 August 2003.
- Switching Costs Working Group of the Market Forces, *Deregulation and Legislative Quality Project, Kosten noch moeite, Drempels voor het slechten voor de switchende consument*, June 2003.
- NEI, *Fusies en overnames in het Nederlandse bankwezen*, July 2000.
- NERA, *Assessing Mergers in the Insurance Sector in the Netherlands*, July 1999.
- Nyfer, *Geld moet rollen*, September 2000.
- OECD, *Competition and Related Regulation Issues in the Insurance Industry*, 1999.
- A. Oosenbrug *et al.*, *Schadeverzekering in Nederland*, 1996.
- PricewaterhouseCoopers and Reed Business Information bv, *Ondernemingsanalyses 2003 - Trends bij banken*, 2003.
- PricewaterhouseCoopers and Reed Business Information bv, *Ondernemingsanalyses 2003 - Trends bij verzekeringsmaatschappijen*, 2003.
- SEO, *Toegang van consumenten tot financiële diensten*, May 2002.
- The Committee of Wise Men: Lamfalussy *et al.*, *Final Report on the Regulation of European Securities Markets*, 15 February 2001.
- L.A. Toolsema, *On Competition and Banking*, February 2003.
- Twynstra & Gudde, *De commerciële activiteit van banken*, 1998.
- Werkgroep Wellink, *Tariefstructuren en infrastructuur in het Nederlandse massale betalingsverkeer*, March 2002.

Supervisors and branch organisations

- Financial Markets Authority <http://www.autoriteit-fm.nl>.
- Dutch Central Bank, <http://www.dnb.nl>.
- European Central Bank, <http://www.ecb.int>.

European Commission, <http://europa.eu.int>.

Netherlands Competition Authority, <http://www.nmanet.nl>.

Dutch Bankers' Association, <http://www.nvb.nl>.

Pensions & Insurance Supervisory Authority of the Netherlands, <http://www.pyk.nl>.

Dutch Association of Insurers, <http://www.verzekeraars.nl>.

Addendum 2: Case law

The overview below contains a selection of several interesting Dutch and European cases in the area of competition law in relation to financial institutions and markets. Concentration cases have not been included. In this overview, in all cases the present numbering of the EC Treaty is used.

Banking sector

European cases

1. Decision 92/212/EC of 25 March 1992, *OJEC* No. L 095 of 09/04/1992 pp.0050-0067: Eurocheque: Helsinki Agreement.

The Helsinki agreement, in which French banks and financial institutions agreed that foreign traders would accept Eurocheque's under the same conditions as a Carte Bleue or Eurocard, and the introduction of a further commission was found to be contrary to Article 85 (1) of the EC Treaty. This agreement was not eligible for an exemption, pursuant to Article 85 (3) of the EC Treaty, because it did not meet the conditions. A fine of 5 million ECU was imposed on Groupement des Cartes Bancaires "CB" and a fine of one million ECU on Eurocheque International.

2. Combined cases T-39/92 and T-40/92, 23/2/1994, *ECR* 1994 II-00049: *Groupement des Cartes Bancaires and Europay International SA vs Commission*.

This related to an appeal to have Decision 92/212/EC of the Commission of 25 March 1992 declared null and void, in which the Helsinki Agreement was found to be contrary to Article 85 (1) of the EC Treaty. The Court of First Instance declared Articles 1 and 3 null and void in so far as it related to Europay International. The Court set the fine imposed on Groupement des Cartes Bancaires CB at 2 million ECU. The Court dismissed the rest of the appeal by Groupement des Cartes Bancaires CB.

3. Decision 96/454/EC of 24 June 1996, *OJEC* L188 of 27 July 1996: Banque Nationale de Paris/ Dresdner Bank.

Notification was given of a joint operating agreement and a negative clearance was sought. The agreement provided for general, and in principle exclusive, global cooperation between the two banks in the area of banking activities. An exemption was granted pursuant to Article 81 (3) of the EC Treaty for a period of 10 years.

4. Notice in Case No. IV 36.120, La Poste/ SWIFT+GUF, IP/97/870 and *OJEC* C-335 of 6 November 1997.

A complaint brought by the French state company La Poste against the refusal to grant it access to the network of the Society for Worldwide International Financial Telecommunications (SWIFT). SWIFT, a cooperative of 2000 banks, manages an international telecommunications network specialised in providing transmission and data processing services to financial institutions throughout the world and has a dominant position due to the fact that it is the only organisation which offers this service. Notice was given by the Commission that it ceased its investigation after SWIFT declared its willingness to

provide full access to every institution that satisfies the criteria for admission to systems for domestic payments determined by the European Monetary Institute.

5. Judgement of the Court in the combined cases C-215/96 and C216/96 of 21 January 1999, Carlo Bagnasco *et al.* vs Banca Popolare di Novara soc. coop. and Cassa di Risparmio di Genova e Imperia SpA, *ECR* 1999 p. I-00135.

Application in relation to a preliminary ruling on the interpretation of Articles 81 and 82 of the EC Treaty in relation to certain uniform bank conditions which Associazione Italiana imposes on its members on entering into contracts in relation to opening current account credits and general surety. The uniform bank conditions do not fall within the scope either of Article 81 or Article 82 of the EC Treaty.

6. Decision 1999/687/EC of 8 September 1999 *OJEC* L271 of 21 October 1999: Nederlandse Vereniging van Banken (Dutch Bankers's Association), Nederlandse Postorderbond, VNU, NOTU, NCRV. Notification of an agreement in relation to the Joint Depositing and Giro Collection Form Procedure (*Gemeenschappelijke Stortings- en Acceptgiroprocedure*) (the GSA agreement), with the request for negative clearance or an exemption. This agreement includes a multilateral interbank charge. The Commission found no cause pursuant to Article 81 (1) of the EC Treaty to take action against the notified agreement.

7. Decision 2001/696/EG of 31 July 2001 *Identrus*, *OJEC* 2000 L249 of 19 September 1999.

In the *Identrus* case, the Commission approved the agreements in relation to the creation of a network of financial institutions, with the aim of operating as certifying institutions for trusted transactions in the area of e-commerce, only in relation to business-two-business transactions.

8. Notice of the European Commission in relation to cases COMP/34.324, *Maestro*, COMP/34579, *Europay* and COMP/35578, *Membership and licence rules of Europay*, *OJEC* 2002 C089 of 13 April 2002. The Commission intends to adopt a favourable standpoint in relation to the notified agreements. This notice does not relate to the settlement commission and rules in relation to cards for cash withdrawals from cash dispensers.

9. Notice of the European Commission in the case COMP/36571, *Austrian banks*, IP/02/844 of 11 June 2002.

A fine was imposed due to the infringement of competition rules by eight Austrian banks which participated in a price cartel, the so-called Lombard Club. This cartel covered the entire territory of Austria and related to all banking products and services, including interest rates and advertising activities. The cartel had been set up before Austria joined the European Economic Area. The Commission could only impose a fine for the period after Austria joined the European Union in 1995. The maximum fines imposed amounted to more than EUR 37 million.

10. Decision 2002/914/EG of 24 July 2002 *OJEC* L318 of 22 November 2002, *Visa International*.

Notification of rules and regulations with which the VISA association and its members must comply. This case relates to multilateral settlement commission, which the banks are required to pay each other for each intraregional transaction by means of a Visa card within the EU. An exemption was

granted pursuant to Article 81 (3) of the EC Treaty for a period of five years, subject to conditions and an obligation to report.

National cases

11. Decision of the Director-General of NMa in Case 81 of 4 July 2001, Agreement in Relation to a Joint Deposit Giro Collection Form Procedure [*Overeenkomst inzake de Gemeenschappelijke Acceptgiroprocedure*].

Application for exemption by Interpay on behalf of the participating banks for the Agreement in Relation to a Joint Deposit Giro Collection Form Procedure whereby a multilateral interbank charge was introduced for costs incurred by a bank in relation to giro collection forms. An exemption was granted by the Director-General of NMa for a period of five years.

12. Decision of the Director-General of NMa in Case 82 of 24 July 2002, Agreement in Relation to a Joint Debt Collection Procedure [*Overeenkomst inzake de gemeenschappelijke incassoprocedure*].

Application for exemption for an agreement between banks in which agreements were reached in relation to transfers. The crediting bank under the agreement would pay the debiting bank a multilateral interbank charge for the transactions carried out and the costs incurred. The Director-General of NMa granted an exemption for a period of five years. The exemption is subject to an obligation to report.

13. Decision of the Director-General of NMa in Case 84 of 24 October 2002, Joint Operating Agreement in Relation to Cash Dispensers [*Samenwerkingsovereenkomst Geldautomaten*].

Application for an exemption for an agreement which governs guest use of cash dispensers of a different bank. As payment for the guest use, the banks were to pay each other a multilateral interbank charge. The Director-General of NMa did not grant exemption for the continuity charge included in the agreement, because this goes further than is necessary to achieve the advantages. An exemption was granted for the other provisions of the agreement for a period of five years. The exemption is subject to an obligation to report.

14. Decision of the Director-General of NMa in Case 2978 of 28 April 2003, Superunie vs. Interpay Complaint submitted by Coöperatieve Inkoopvereniging Superunie B.A. against Interpay.

Interpay allegedly abused its dominant position by charging companies which compete with each other different rates for the same services and granting Ahold a special discount. According to the Director-General of NMa, prohibited discrimination in terms of Section 24 of the Competition Act had not been proven. The complaint by Superunie was therefore rejected.

15. Decision of the Director-General of NMa in Case 3035 of 13 August 2003, Agreement on Telegiro Payment Advice [*Overeenkomst Dooradvisering Telegiro*].

Application for exemption for an agreement governing express payments by means of Telegiro. The participating banks have agreed that they will pay each other a multilateral interbank charge if the customer opts to have the recipient advised of deposits. The Director-General of NMa rejected the

application for exemption since it did not satisfy each of the conditions of Section 17 of the Competition Act.

Insurance sector (life and non-life, excluding health)

European cases

1. Judgement of the Court in Case 45/85 of 27 January 1987, *Verband der Sachversicherer vs. European Commission*, *ECR* 1987 p. 00405.

Appeal to have a decision by the Commission declared null and void, in which the Commission rejected an application for negative clearance and an exemption for a recommendation made by the association to its members. The Court was of the opinion that a recommendation by an association of undertakings, which is a true reflection of the will of the association to coordinate the behaviour of its members on the market, is a decision of an association of undertakings in terms of Article 81 (1) of the EC Treaty. The recommendation, in which a premium increase is imposed, may have an adverse effect on trade between Member States, even if it remains limited to the territory of a Member State. This premium increase may also obstruct entry to the national market. Since the premium increase not only includes cover for the costs incurred by insured occurrences, but also the operating costs of the insurance company, they may limit competition more than was necessary to restructure the sector. The appeal was rejected.

2. Judgement of the Court in the combined cases C-159/91 and 160/91 of February 1993, *Christian Poucet vs Assurances Générales de France and Caisse Mutuelle Regionale Du Languedoc-Roussillon and Daniel Pistre vs Caisse Autonome Nationale De Compensation De L'Assurance Vieillesse Des Artisans*, *ECR* 1993 p. I-00637.

Application for a preliminary ruling. The concept of an undertaking, in terms of Articles 81 and 82 of the EC Treaty, includes any entity which carries out an economic activity. This does not therefore include bodies which cooperate in managing a public service in relation to social security, which carry out a task of a purely social nature and carry out an activity based on the principle of national solidarity without any profit objective.

3. Judgement of the Court in the combined cases C-430/93 and C-431/93 of 14 December 1995, *Van Schijndel and Van Veen vs Stichting Pensioenfonds voor Fysiotherapeuten*, *ECR* 1995 p. I-4705.

Application for a preliminary ruling in relation to the question of whether the national civil court is required to apply Articles 81 and 82 if parties to proceedings do not appeal to these articles. A court has an *ex officio* obligation to apply competition rules, even if the parties do not appeal to these rules.

4. Judgement of the Court in Case C-67/96 of 21 September 1999, *Albany International B.V. vs Stichting Bedrijfspensioenfonds Textielindustrie*, *ECR* 1999 p. I-05751

Application for a preliminary ruling. Due to its nature and aim, a contract entered into in the form of a collective agreement, whereby a supplementary pension plan is provided within an industry, which is managed by a pension fund, affiliation to which may be made compulsory by the government, falls outside the scope of Article 85 (1) of the EC Treaty. Such a pension fund may be deemed to be an

undertaking. Neither the absence of a profit objective, nor its aim to achieve a social objective, are sufficient to deny such a fund its capacity as an undertaking in terms of the competition rules contained in the EC Treaty.

National cases

5. Decision of the Director-General of NMa in Case 21 of 19 October 1998, Interpolis and Cobac.

Application for exemption for a number of agreements in relation to cooperation between Interpolis and Cobac in the area of credit insurance. No exemption was required because the notified agreements did not infringe the prohibition contained in Section 6 of the Competition Act.

6. Decision of the Director-General of NMa in Case 1157 and 1096 of 10 August 1999, Millennium policy Dutch Association of Insurers [*Verbond van Verzekeraars*] and BCCI vs Dutch Association of Insurers.

The millennium policy of the Dutch Association of Insurers included a recommendation to its members to include certain clauses in relation to the millennium problem to cover millennium claims. In addition, a safety-net provision was created of NLG 1 billion. An exemption was not required for the millennium policy of the Dutch Association of Insurers. The recommended clause does not fall under the Competition Act but under the European block exemption for the insurance industry. Nor was an exemption required for the safety-net construction.

7. Decision of the Director-General of NMa in Case 597 of 15 November 2001, Stichting Schadegarant. Application for exemption for a number of standard agreements between Stichting Schadegarant, a cooperative venture of insurers, on the one hand, and dealers and car repair companies, on the other. The application also related to cooperation between one-life insurers and with Stichting Schadegarant, which comprises the same non-life insurers. An exemption was granted for a period of five years.

8. Decision of the Director-General of NMa in Case 469 of 15 November 2001, Royal Nederland Schadeverzekering N.V.

Application for an exemption for the *Topherstel* system. *Topherstel* is a cooperative venture involving 10 insurers, including Royal Nederland, with more than 300 selected car repair companies. The Director-General of NMa ruled that the agreements entered into by the parties in relation to their cooperation did not have an appreciably restrictive effect on competition and were therefore reconcilable with Section 6 of the Competition Act.

9. Decision of the Director-General of NMa in Cases 1979 and 2502 of 19 July 2002, Barbara-Dela Uitvaartverzorging B.V.

Application for exemption for the joint venture between St. Barbara and Dela Verzorging involving the setting up of Barbara-Dela Uitvaartverzorging BV and an application for a decision to be taken pursuant to Section 56 of the Competition Act in relation to this cooperative venture. The Director-General of NMa was of the opinion that the joint venture involving St. Barbara and Dela Verzorging did not have the effect of restricting competition on the relevant markets. An exemption was not required for the joint venture because Section 6 of the Competition Act was not infringed.

10. Decision of the Director-General of NMa in Case 1184 of 19 October 2000, GlasGarage Rotterdam vs. Carglass.

GlasGarage complained about the discount system used by Carglass in its contracts with insurers. Through a system of discounts and bonuses, Carglass allegedly tied insurers to it and obstructed access of competitors to these insurers. According to NMa, most of the volume discounts are not transparent because they are agreed by word-of-mouth and the group bonuses contain certain loyalty elements which are not permissible, because they bind insurers to Carglass. Carglass has promised to include the volume discounts in writing in contracts and to abolish the system of group bonuses. As a result, the discount system was amended in line with the Competition Act. If a dominant position had existed, Carglass had adjusted its discount system in such a way that there was no question of abuse. The Netherlands Competition Authority decided against imposing a fine or an order subject to a penalty.

Addendum 3: Quantitative indicators

Explanation

The quantitative Addendum contains data which may give an indication of the market structure of the financial sector. Only publicly available sources have been used. For the banking sector, the data originate from the Dutch Central Bank, the Netherlands Bankers' Association, Ernst & Young, EIM and *Hoofd Bedrijfschap Detailhandel (HBD)* [Dutch Association of Retailers]. Data relating to market shares and degrees of concentration in the various product segments of the banking sector are not available from public sources in the Netherlands. To obtain these data, research was carried out by NEI on behalf of NMa under the title *Mergers and Acquisitions in the Banking Sector in the Netherlands* [*Fusies en overnames in het Nederlandse bankwezen*], in which market shares were estimated on the basis of expert panels. C4, the sum of the market shares of the four largest players, and the HHI index, the sum of the squared market shares of the various players, were used as indicators of the degree of concentration. On the basis of the European Commission's Guidelines for Horizontal Agreements (*OJEC*2001, C3, p. 2, paragraph 29), market concentration may be considered low if the HHI is below 1000, moderate if it is between 1000 and 1800 and high if it is above 1800.

For the insurance sector, market shares are available from public sources. *Assurantiemagazine Jaarboek*, the almanac for the insurance industry, provides an overview of the gross premium income per insurance company. NMa aggregated these figures to the conglomerate level in order to calculate C4 and the HHI, since it may be assumed that competition between two insurance companies, which are part of the same conglomerate, will be much less strong than between two conglomerates. Other sources, which were used for the insurance sector, are data from Statistics Netherlands, the Pensions & Insurance Supervisory Authority of the Netherlands and the Dutch Association of Insurers. Separate tables are provided in many cases for the life and non-life-insurance sectors.

Key data banking sector

Table 1 Number of general banking licences¹ in the Netherlands

	1996	1997	1998	1999	2000	2003 (Sept.)
Domestic ²	60	60	62	65	68	74
EU ²	131	150	166	190	214	269
Non-EU	9	9	9	9	9	9
Total	200	219	237	264	291	352

¹ Calculated at the group level. In other words banks have been combined if they operate under numerous licences with the same brand name. For instance, ING Bank N.V. (licensed pursuant to Section 6 of the Credit System Supervision Act of 1992) and ING Belgium (licensed pursuant to Section 31 of the Credit System Supervision Act of 1992) are regarded as one and the same institution. However, Achmea Bank Holding and Staal Bank N.V. both hold a licence pursuant to Section 6 of the Credit System Supervision Act of 1992, but are included separately in this overview because they operate under a different name.

² Calculated on the basis of the year in which the licence was granted by the Dutch Central Bank. Exiting in this manner cannot be traced.

Source: Dutch Central Bank (own reworking of the data at the group level).

Table 2 Market shares (2000)

	ABN Amro Holding	Fabobank Group	ING Group	Fortis	Other
Products for private customers					
Current accounts	20	28	35	10	10
Consumer credit	30	25	23	12	9
Mortgage bonds	20	22	25	12	11
Savings accounts/ deposits	25	30	25	14	8
Portfolio management	30	25	12	15	4
Products for small and medium-sized companies					
Current-account plus current-account credit	27	28	30	12	1
Foreign payments	30	25	28	12	1
Export finance and documentary credits	30	25	30	10	2
Products for large companies					
Foreign payments	38	15	25	15	8
Export finance and documentary credits	45	15	25	10	5
Commercial paper, medium-term notes	50	10	25	10	5
Medium and long-term credit	40	20	20	10	10
Bonds, convertible bonds and share issues	40	20	20	10	11

¹ Based on expert opinions on market shares. Average estimate per product.

Source: NEI

Table 3 Concentration yardsticks¹ (2000)

	C4	HHI
Products for private customers		
Current accounts	93	2558
Consumer credit	90	2264
Mortgage bonds	79	1702
Savings accounts/ deposits	94	2386
Portfolio management	82	2090
Products for small and medium-sized companies		
Current-account plus current-account credit	97	2561
Foreign payments	95	2469
Export finance and documentary credits	95	2534
Products for large companies		
Foreign payments	93	2528
Export finance and documentary credits	95	2979
Commercial paper, medium-term notes	95	3350
Medium and long-term credit	90	2525
Bonds, convertible bonds and share issues	90	2500

¹ Based on expert opinions on market shares. Average estimate per product.

Source: NEI

Table 4 Key data payments market

x 1m	2000	2001	2002
Total number of current accounts	22.4	22.6	22.6
Number of bank cards	21	21.1	21.6
Number of credit cards	4.5	4.7	4.8
Number of cash dispenser transactions	470	490	480
Number of point-of-payment transactions	801	950	1070
Number of transfers, of which:	247	245	239
Giro collection forms	198	192	182
Standing orders	49	53	57

Source: Dutch Bankers' Association (NVB)

Table 5 Market shares Internet banking (retail)

As percentages	2003
Rabobank group	30.0
Postbank	30.0
ABN Amro	27.0
SNS Bank	4.6
Fortis	2.8
ING	2.8
C4	91.6
C6	97.2
HHI	2565.8

Source: Ernst & Young - Trends in ICT (2003)

Table 6. Payment instruments which consumers have at their disposal (2002)

As percentages	
Bank/ debit card	99
Bank/ debit card with point-of-payment facility	97
Bank/ debit card with smartcard	67
Credit card	38

Source: Consumer research, Dutch Association of Retailers (HBD)

Table 7 Composition of payments in the established retail trade

Percentage of total number of transactions	1998	2001	2002 (exp.)
Cash	87.1	84.6	82.1
Cheque/ giro cheques	1.2	0.1	-
Debit card (PIN) (incl. Maestro)	9	13.2	15.7
Smartcard	0.2	0.1	0.2
Credit card	0.4	0.4	0.5
Bank transfers (giro)	2.1	1.6	1.5
Other			
Total	100	100	100

Source: Estimate EIM (2002)

Key data insurance sector general

Table 1 Key data general

	1999	2000	2001
Number of companies			
Life insurance companies	253	254	261
Pension funds	10 14	986	961
Funeral insurers-in-kind	57	54	47
Non-life insurance companies	1049	1008	981
Gross premium income in billions of euros			
Life insurers and savings funds	21.1	23.8	25.8
Pension funds	10.3	10.8	12.6
Non-life insurers	15.5	16.5	18.2
Insurance payments in billions of euros			
Life insurers and savings funds	11.6	14.1	13.7
Pension funds	11.3	12.5	12.8
Non-life insurers	10.8	11.3	12.7
Costs and commission in billions of euros			
Life insurers and savings funds	2.9	3.0	4.3
Non-life insurers (excluding health insurance)	3.4	3.9	4.7

Source: Pensions & Insurance Supervisory Authority of the Netherlands/ Statistics Netherlands

Table 2 Growth in the number of insurance policies (index figures, reference year 1998)

	1999	2000	2001	2002
Life insurance	103	100	108	not known
Car insurance third-party liability claims	110	114	115	116
Car insurance all-risks claims	113	117	120	122
Fire insurance claims	102	105	107	108
Company liability insurance claims	111	121	125	134
Company legal-aid insurance claims	105	111	119	123

Source: Pensions & Insurance Supervisory Authority of the Netherlands/ Statistics Netherlands

Key data non-life insurance market

Table 1 Gross premium income for segments of the non-life insurance market, as percentages of total gross premium income

As percentages	1995	1999	2000	2001
Accident and health insurance	42.0	46.3	45.9	46.9
Motor vehicle insurance	23.7	22.3	22.8	22.2
Fire insurance	19.0	16.5	16.0	15.7
Transport	4.1	3.1	3.1	3.0
Other	11.2	11.7	12.1	12.2
Total	100	100	100	100

Source: Statistics Netherlands

Table 2 Market shares of 10 non-life insurance groups¹ in the Netherlands

As percentages	1996	1997	1998	1999	2000	2001
Achmea	12.1	12.1	12.2	12.3	11.7	11.8
Fortis (since 2001 including ASR)	4.8	4.7	4.3	4.3	5.2	11.4
ASR (up to and including 2000)	5.7	5.9	5.9	6.1	6.1	
ING	10.7	11.1	10.8	11.0	10.8	10.6
Delta Lloyd	6.7	6.7	6.9	7.1	9.4	8.8
Rabo-Interpolis	5.2	5.3	5.6	5.8	5.8	6.1
Allianz	6.2	5.9	5.5	5.3	5.1	5.5
Univé	3.9	3.7	3.6	3.8	4.2	4.3
Aegon	3.7	3.6	3.4	3.5	3.2	3.2
AXA (since 1998 successor of UAP)	3.4	3.2	3.3	3.1		
UAP (until 1997)	4.1	3.8				
VGZ Ziekenfonds	2.8					
C4	35.6	35.7	35.8	36.4	38.0	42.5
C6	46.4	46.9	46.9	47.5	49.0	54.1
C8	55.3	55.3	54.8	55.6	58.3	61.6
C10	62.9	62.7	61.6	62.2	64.8	67.5
HHI	519.8	519.6	514.8	522.8	548.4	610.5

¹ The categorisation at the conglomerate level is based on the subdivision as known in 2003. For instance Centraal Beheer and Groene Land are included from 1996 onwards with Achmea.

Source: AM Jaarboek (own reworking of the figures at the conglomerate level)

Table 3 Degree of concentration on the basis of various products

	1996				2001			
	C4	C8	C10	HHI	C4	C8	C10	HHI
Motor vehicle insurance:								
Third-party liability	45.1	70.7	79.3	773	47.3	74.5	80.8	805
All-risks	43.2	67.8	76.4	705.4	43.7	70.5	77.8	732.3
Accident/health insurance	39.9	61	67.9	643.1	47.1	68	75	751.6
Transport insurance	38	64.8	72.8	638.5	47.5	71	79.1	1034.2
Fire insurance	43.5	65.9	72.8	688.7	47.7	69.7	75.9	751.1
Liability insurance	50	75.5	83.5	936.9	50.2	75.7	81.3	916.4
Export credit insurance	99.9	100	8387.7	95.6	100	6691.7		
Legal aid insurance	85.7	95.6	96.8	2159.8	77.2	91.6	95	1723
Miscellaneous	42.7	59.8	65.8	677.2	56.3	74	80.3	1023.8
Indirect insurance business	51	79	85.4	811.9	50.1	76	83.8	883.3

Source: AM Jaarboek

Table 4 Profitability of the top 10 non-life insurance groups in the Netherlands

As percentages	Technical result ¹		Net result ²	
	2000	2001	2000	2001
Achmea	2.7	3.4	4.1	3.3
Fortis	2.8	3.8	6.3	5.2
ING	-3.2	2.8	1.8	4.6
Delta-Lloyd	-1.4	0.2	0.3	2.0
Rabobank	1.5	1.6	4.6	4.0
Allianz	1.1	-0.9	6.5	0.4
Univé	-0.5	-0.2	0.4	1.6
AEGON	1.9	2.4	7.5	9.0
AXA	-0.4	-3.5	1.2	-6.9
Goudse	0.7	0.5	5.6	2.6

¹ Technical result as a percentage of gross premium income.

² Result as a percentage of gross premium income.

Source: AM Jaarboek (own reworking of the data at the conglomerate level)

Table 5 Net result as a percentage of gross premium income

	1996	1997	1998	1999	2000	2001
Motor vehicle insurance (third-party liability and all-risks)	3.1	7.3	4.0	-0.2	-0.5	-0.2
Accident/health insurance	4.6	3.9	-0.6	1.2	3.0	0.4
Transport insurance	5.1	1.6	2.8	2.8	-2.1	3.0
Fire insurance	4.5	4.5	4.8	6.4	3.1	3.8
Other branches	12.9	11.3	9.6	17.1	18.7	7.6

Source: AM Jaarboek

Table 6 Non-life insurance market—distribution channels per product group

As percentages	1996	2002
Direct	25.4	30.3
Through a bank	12.9	12.7
Through an insurance broker	54.3	49
Through the employer	3	3.1
Other	4.4	4.9
Total	100	100

Source: Dutch Association of Insurers

Table 7 Development of non-life insurance distribution channels

As percentages	Direct		Bank		Insurance Broker	
	Number of policies	Premium Volume	Number of policies	Premium Volume	Number of policies	Premium Volume
1996	38	52	12	7	51	41
1997	39	48	16	10	44	42
1998	39	51	14	7	48	42
1999	42	50	14	9	44	41

Source: Dutch Association of Insurers

Table 8 Non-life insurance market. penetration¹ of types of insurance policies per distribution channel

As percentages	Insurance broker	Direct writing	Bank	Employer	Other
Motor vehicle insurance					
1996	32.9	24.4	5.8	5.1	2.2
2002	32.6	29.9	6.4	5.7	3.4
House contents insurance					
1996	60.4	20.8	11.8	1.3	2.5
2002	58.4	25.5	10.9	1.3	1.8
Building insurance					
1996	24.3	9.2	8.6	0.7	3.6
2002	27.9	13.6	7.5	1	3.3
Personal liability insurance					
1996	59	20.7	11.8	1.5	2.2
2002	57	25.4	11.1	1.7	1.7
Legal-aid insurance					
1996	9	4.6	1.9	0.6	0.4
2002	14.4	10.7	4.2	1.4	1.6

¹ Percentage of households which have taken out a non-life insurance policy in the specified product segment through the specified distribution channel.

Source: Dutch Association of Insurers

Key data life insurance

Table 1 Gross premium income of life insurance segments. as a percentage of total gross premium income

As percentages	1999			2001		
	Risk insurer ¹	Risk policy holder ²	Total	Risk insurer	Risk policyholder	Total
Periodic premium payments						
Personal (without profit-sharing)	8.0	15.7	23.7	11.7	18.1	29.8
Personal (with profit-sharing)	15.7	1.5	17.2	8.5	1.2	9.7
Group (without profit-sharing)	0.3	0.6	0.9	0.3	0.2	0.6
Group (with profit-sharing)	8.5	6.9	15.4	6.6	6.3	12.9
Single premium (lump sum)						
Personal (without profit-sharing)	3.3	7.9	11.1	1.8	5.3	7.1
Personal (with profit-sharing)	13.3	1.9	15.2	14.6	1.6	16.2
Group (without profit-sharing)	0.1	0.3	0.4	0.1	0.2	0.3
Group (with profit-sharing)	7.2	6.8	14.0	9.7	12.2	21.9
Total indirect underwriting			2.2			1.5
Grand total			100			100

¹ Policyholder's risk; policyholder carries the investment risk.

² Insurer's risk; the policyholder receives a fixed amount at the end of the insurance term. Insurer carries the investment risk.

Source: Statistics Netherlands/ AM Jaarboek

Table 2 Market shares of life insurance groups in the Netherlands

As percentages	1996	1997	1998	1999	2000	2001
ING	25.6	25.5	24.4	23.1	24.1	22.4
Aegon	12.8	12.5	12.3	15.2	13.1	13.3
Fortis (since 2001 including ASR)	6.6	6.9	8.6	6.7	6	13.3
ASR (until 2000)	4.7	5	5.7	4.2	5.9	
Delta Lloyd	8.2	8.8	9	10.2	10.4	10
Rabo-Interpolis	6.6	7.6	7.8	8	8.5	8.2
Achmea	8.1	7.4	6.9	9.6	7.1	7.2
SNS Reaal	4.9	5	4.7	3.7	4.8	4.8
Zwitserleven	4.4	4.4	3.7	4.7	4.3	4.7
AXA (in 1996 and 1997 still UAP)	2	1.7	3.6	2.3	2.9	2.5
Allianz	1.6					
Other	16.1	15.2	13.3	12.3	12.9	12
C4	54.7	54.4	54.3	58.1	56.1	59
C6	67.9	68.7	69	72.8	69.2	74.4
C8	77.5	78.7	79.4	81.7	79.9	83.9
C10	84.8	85.5	86.7	87.7	87.1	88
HHI	1129.1	1078.6	1103.1	1145.6	1114.9	1152.7

¹ The categorisation at the conglomerate level is based on the subdivision, as known in 2003. For instance, Centraal Beheer and Groene Land are included from 1996 onwards with Achmea.

Source: *AM Jaarboek* (own reworking of the figures at the conglomerate level)

Table 3 Profitability of life insurance groups in the Netherlands

As percentages	Technical result ¹ 2000	2001	Net result ² 2000	2001
ING	6.8	7.0	1.0	9.6
Aegon	13.7	13.2	17.0	12.8
Fortis	7.7	8.7	17.1	11.8
Rabo-Interpolis	4.3	3.7	5.5	4.3
Achmea	2.4	-0.1	14.3	10.6
Delta Lloyd	8.2	4.5	14.4	12.2
SNS Reaal	4.8	6.4	6.6	6.4
Zwitserleven	2.6	3.2	1.9	2.1
ABN AMRO	-0.4	-0.7	-0.1	0.2
AXA	10.0	11.3	10.4	9.7

¹ Technical result as a percentage of gross premium income.

² Result as a percentage of gross premium income.

Source: *AM Jaarboek* (own reworking of the data at the conglomerate level)

Table 4 Life insurance market—distribution channels per product group

As percentages	1996	2002
Through an insurance broker	58	53.2
Direct	20.6	25
Through a bank	9.3	12.1
Through the employer	1.2	1.8
Other	10.8	7.9
Total	100	100

Source: Dutch Association of Insurers

Table 5 Development of life insurance distribution channels

As percentages	Direct		Bank		Insurance Broker	
	Number of policies	Premium Volume	Number of policies	Premium Volume	Number of policies	Premium Volume
1996	23	16	19	24	58	60
1997	20	13	21	26	59	61
1998	24	14	20	30	56	56
1999	18	14	17	20	64	66

Source: Dutch Association of Insurers

Table 6 *Life insurance market—penetration¹ of insurance per distribution channel*

As percentages	Insurance Broker	Direct writing	Bank	Employer	Other
Total number of insurance policies					
1996	86.9	81	43.9	59.9	33.8
2002	82	82	41.8	58.2	36
Life insurance policies					
1996	33.2	11.8	13.9	11.8	8.2
2002	35.5	14.3	18.4	14.3	8.1

¹ See footnote to Table 8 *Key data non-life insurance market*.

Source: Dutch Association of Insurers

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