

*Please note that, although every effort has been made to ensure this translation is accurate and consistent, it is for informational purposes only. In case of any dispute or inconsistencies, the Dutch version is authentic.*

## **ACM Publication Procedure**

*[published in the Dutch Government Gazette No 21331 on July 17, 2015]*

### *Introduction*

On August 1, 2014, the Act regarding the amendment of the Establishment Act of the Netherlands Authority for Consumers and Markets of June 26, 2014 came into force, along with several other acts in connection with the streamlining of the market oversight tasks that the Netherlands Authority for Consumers and Markets (Dutch Bulletin of Acts and Decrees 247) has been charged with. As a result thereof, the Netherlands Authority for Consumers and Markets (ACM) has a uniform publication regime regarding decisions and other documents since that date.

This procedure provides insight into the way ACM publishes the decisions it takes in connection with the tasks it is charged with, taking into consideration this new regime.

### **General principles**

1. When executing its statutory tasks, ACM shall aim for the highest possible level of transparency, taking into consideration existing legal safeguards.
2. On its website ([www.acm.nl](http://www.acm.nl)), ACM shall publish its decisions and other documents. On this website, interested parties are able to subscribe to an email service. Subscribers shall be able to select about what topics and the frequency they wish to receive emails from ACM with regard to its publications.
3. ACM shall publish a decision only after its recipient has already been informed thereof. In the public version of the decision, ACM shall indicate its legal status, among other aspects.
4. ACM shall not publish any information about dawn raids, unless the market organization under investigation itself has made such information public and/or has confirmed this to the media. If it is unclear how the information about a dawn raid has been made public, ACM shall decide on a case-by-case basis whether or not it will provide information about this dawn raid.
5. ACM shall not publish any investigation reports (within the meaning of Section 5:48, paragraph 1, of the Dutch General Administrative Law Act) either.

### **Publication**

#### *Sanction decisions and sanction-related decisions*

1. ACM shall publish any decision regarding the imposition of an administrative sanction or binding instruction. ACM shall additionally publish any decision in which ACM declares a commitment binding.
2. ACM shall publish such a sanction-related decision in a separate publication decision.
3. In order come to such a publication decision, ACM shall draw up a draft version from which any information it deems confidential has been removed. ACM shall then give the market organization or individual under investigation the opportunity to indicate what other

information it might deem confidential, too.

4. In the publication decision, ACM shall finalize the public version of the sanction-related decision, accompanied by its final assessment of the information that the market organization has designated as confidential. In addition, ACM shall announce when the public version will be published on its website, and, if such is the case, that a press release will be published.

#### *Other decisions*

1. ACM may also publish decisions other than sanction-related decisions. These include concentration decisions, method decisions, market analysis decisions, tariff decisions, and supply licenses.
2. ACM shall announce in advance its intention of publishing such other decisions.
3. Prior to such publication, ACM shall request the recipient to indicate what information he may consider confidential. ACM may include in such a request a draft version from which any information it deems confidential has been removed.
4. ACM shall subsequently finalize the public version of the decision, and shall inform the recipient of its final assessment of the information that the market organization has designated as confidential. In addition, ACM shall announce when the public version will be published on its website, and, if such is the case, that a press release will be published.

#### **Press releases**

##### *Basic principles with regard to press releases*

1. ACM may publish a press release about decisions, investigation results or other activities that it deems important.
2. ACM shall publish press releases on its website, and, if they are relevant to consumers, also on ConsuWijzer.
3. ACM may also publish English translations of press releases on the English-language version of its website.

##### *Procedure with regard to press releases*

1. ACM shall inform the market organization involved prior to the publication of a press release about its contents and the expected time of publication on ACM's website.
2. If the market organization involved is a listed company, and if the press release contains price-sensitive information, ACM shall publish the press release when the stock exchange is closed. For the Amsterdam stock exchange, this means after it has closed (after 6 p.m. CET) or before it opens (9 a.m. CET). If the market organization involved is listed at a different stock exchange, ACM shall then publish the press release outside of the trading hours of that particular stock exchange.

#### **Final provisions**

1. This decision shall be cited as: ACM Publication Procedure [in Dutch: *Werkwijze Openbaarmaking ACM*].
2. This decision shall enter into force from the date of publication in the Dutch Government Gazette in which it is published, and shall apply retroactively from August 1, 2014.
3. The ACM Communication Procedure [in Dutch: *Werkwijze Communicatie ACM*] (Dutch

Government Gazette 2013, No 15785) shall be repealed.

The Netherlands Authority for Consumers and Markets,  
On its behalf,

In accordance with the decision taken by the Board of ACM on July 1, 2015,

F. J. H. Don,  
Member of the Board