

Autoriteit
Consument & Markt



Introduction ACM and rail regulation

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23 May 2014 | Podgorica | Montenegro | SEETO

Who we are

- Authority for Consumer & Markets (ACM)
- Market oversight and consumer protection
- Mission: “Promoting opportunities for consumers and business”
- Independent Governmental organization (ZBO)
- 600 employees (mostly lawyers, economists)

What we do?

General competition law, consumer protection law and sector regulation (telecoms, post, energy and transport).

- Decisions in individual cases (breach of relevant legislation –e.g. cartels).
 - Decisions affecting all players in the market (promoting competition in regulated sectors).
 - Informing and empowering consumers (Consuwijzer).
 - Advice (ministries), market scans, monitoring, guidance
- Benefits of ACM's oversight to consumers EUR 1.85 billion.

How we are organized?



Background

- January 2004: start office Transport regulation as department in Dutch Competition authority and Energy regulation (NMa, founded in 1998)
- February 2011; decision in parliament to merge regulators telecom, post, energy, water and transport
- April 2013: Consolidation of the Netherlands Consumer Authority (CA), the Netherlands Competition Authority (NMa), and the Netherlands Independent Post and Telecommunications Authority (OPTA) in Authority for Consumers & markets (ACM)

Rationale

- Financial motive:
 - Structural cost reduction: 1,5% 2016-2018: total 4,5 %
 - Cost reductions in housing, market funding, investigations
 - Less FTE's for new tasks
- Increasing efficiency and effectiveness of 3 organizations (all tasks geared towards improving consumer welfare by means of promoting competition and protecting consumers)
 - Better exchange of information
 - opportunities employees to increase skills in different markets
 - More career perspectives
- Total costs in 2013: 60 million Euro
- Total collection of fines in 2013: 20 million Euro

How we operate?

- Careful analyses of consumer harm
- Effective & efficient solutions
- Different techniques – “problem solving approach”
- Advocacy & consultation
- (Inter)national cooperation



*IRG-Rail: cooperation with European regulators
ACER: distribution of cross border gas/electricity,
BEREC: internal telecoms market, European
Commission: policy and individual competition
cases (ECN), Railfreight corridors*

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Competences Transport regulation

- Rail regulation
- Regulation tariffs of pilots
- Regulation tariffs of airport Schiphol (Amsterdam)
- Public transport
- Advises to ministry of Transport about legislation
- Monitoring markets
- 12 FTE; 6 dedicated to Rail Regulation; 1 expert, 3 lawyers, 2 economists
- 1,2 million Euro budget

Rail Regulation: tasks

- Competences in Railway act 2005
- Based on European directives (2012/34/EC)
- Regulation 913/2010 (Railfreight corridors)
- Competition Act (article 102)
- In general:
 - Non-discriminatory access to infrastructure and services
 - Content network statement, capacity allocation, user charge principles, service facilities, framework agreements
 - Ex-officio investigations
 - lead management
 - Complaints
 - Monitoring the Market



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Rail regulation international

- Exchanging experiences with international stakeholders (rail regulators in IRG-Rail (founded in 2011 and 25 members), European Commission in European Network Rail Regulatory Bodies)
- ACM is vice chair of IRG-Rail with Luxembourg as chair (next year Chair)
- Participation in working groups access, new legislative proposals, market monitor and user charge
- Cooperation in railfreight corridors 1,2 and 8
- Contact with European Commission (ENRRB)

Rail regulation: recent examples

- Market scan passenger transport in 2011 and 2013
- Access to services (stations)
- Opinion about operational control centre Rail (OCC)
- Principles of user charge (directly incurred cost)
- Rail market monitor 2013
- Monitoring the corridor OSS (transparency procedures)
- Advises to ministry about concession main network and concession for management of infrastructure
- Feasibility test about implementation RECAST: challenge because new tasks and competences
- Investigation of international border crossing trains (NL-GER)

Rail market in the Netherlands

Freight

- Liberalized for freight in 1998
- 20 operators
- Doubled transported volume since 2000
- Recovery growth in 2013 from crisis
- 90% international freight
- 35 million ton transported volume



Passengers

- Direct award main network 2015-2025
- Tenders for regional lines (23)
- 7 operators
- Liberalized international passenger market
- 17 billion passenger km in 2013

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map railnetwork

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Rail Regulation: experiences

- Transparency of access
→ Check Network statement
- Published 5 rail monitors
- Account management
- Advocacy
- Inform rail sector about competences
- Advises to ministry of Transport
- 15 complaints since 2005
- About 20 ex-officio investigations
- 25 unofficial signals per year (problem solving)

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Cases (1)

- Transparency of access conditions and prices in network statement

Article 27 (2012/34/EC) and annex IV

The infrastructure manager shall, after consultation with the interested parties, develop and publish a network statement which shall be obtainable against payment of a fee which shall not exceed the cost of publication of that statement. (...)

checked by Regulator based on criteria:

- Completeness
- Clarity
- Accuracy

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Cases (2)

Complaints about maintenance roster

- Request for maintenance roster in annual time table (possessions on tracks during 2 nights of the week)
- More time reserved than needed for maintenance
- ProRail (managers) has to deliver made-to-measure to balance maintenance capacity need vs. traffic
- Planning in annual timetable

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Cases (3)

Quick scan passenger market (published Dec 2013)

- Regional operators dependent of incumbent operator for crucial services
 - Control and ownership of stations by incumbent resulted in discrimination of new entrants
 - Travel information controlled by incumbent leads to potential discrimination in quality and prices
 - Control of ticket system by incumbent lead to problems with revenue allocation

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Cases (3)

Solution:

Now ministry intends to solve these problems in new legislation (recast) and new legislation (e.g. obligation to publish access conditions in network statement for stations)

Advise: introduce independent entity as owner of national ticket system and for revenue allocation

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Cases (4)

Railfreight corridors

- Active participation with regulators in corridor groups
- Cooperation agreement with regulators on the corridor 1 and 2 (8)
- Support of framework for capacity allocation
- Monitoring CID/C-OSS/Traffic management and maintenance/works
- Challenge: cooperation about combining corridors



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Cases (5)

Recast Implementation

- Implementation directive in national legislation by ministry of Transport
- In Railway act and several by-laws
- Informal advises by ACM
- In June formal advise in feasibility test
- Attention of IRG-Rail for harmonized implementation



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Cases (6)

Market monitor

- 6th monitor will be published in June
- Monitor of national market
- Assessment of infrastructure managers
- Increases transparency
- Getting acquainted with the market: interviews
- Visibility Regulator



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Questions?

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