

## Netherlands

12 December 2022



An increasingly assertive Dutch competition watchdog is feeding a talented bar of antitrust lawyers with more behavioural work.

### Elite

Kees Schillemans steers **ALLEN & OVERY**'s Dutch competition practice, which includes fellow partner Yvo de Vries, counsel Marinus Winters and 16 associates. The team acts for Samsung in its appeal against a decision by the Netherlands' Authority for Consumers and Markets (ACM) to fine it €39.8 million for coordinating the prices of its televisions with seven online retailers in September 2021. The fine marked the ACM's first-ever vertical restraints infringement decision. The firm also assisted PostNL on its €130 million purchase of rival Sandd, which the ACM blocked in September 2019, before the Dutch Trade and Industry Appeals Tribunal confirmed that the deal was unlawful in June 2022. The practice also continues to counsel RTL Nederland in its proposed merger with Talpa Network, which the ACM sent to Phase II.

**DE BRAUW BLACKSTONE WESTBROEK**'s team of six partners, two counsel and 24 associates is led by Jolling de Pree. The firm promoted Arjan Kleinhout to partner and poached counsel Marieke Bredenoord-Spoek from Stibbe in April 2022. The team advised NN Group on its acquisition of MetLife's businesses in Poland and Greece, which the European Commission cleared without remedies in April 2022. Other deal work includes advising Dutch mobility provider Pon on its joint acquisition with Volkswagen and Attestor of Europcar, which the EU's competition watchdog approved unconditionally in May 2022. The team continues to defend PACCAR's subsidiary DAF against claims that follow on from the EU *Trucks* cartel, and British Airways against several claims stemming from the *Air Cargo* decision. Elsewhere, it continues to defend DS Smith against a damages claim brought by Unilever, stemming from the Italian Competition Authority's decision to fine several packaging companies €287 million for colluding to fix prices and allocate customers in two separate markets.

Winfred Knibbeler and Paul van den Berg head up **FRESHFIELDS BRUCKHAUS DERINGER**'s Dutch competition team, which also includes fellow partner Onno Brouwer, one counsel and 10 associates. The practice advised Talpa Network on its merger with Dutch commercial television station operator RTL Nederland, which the ACM sent to Phase II in January 2022. It also assisted FUNECAP on its acquisition of seven crematoriums and two funeral homes from rival DELA, following the agency's conditional clearance of the latter's tie up with Yarden in July 2021. Other notable work includes representing VodafoneZiggo in

its appeal against ACM regulation ordering it to open up its fixed networks to other providers. The firm also acts for Japan Tobacco International Company Netherlands in its appeal against the ACM's decision to fine it for exchanging information with three other tobacco manufacturers in April 2022.

**STIBBE's** Amsterdam-based antitrust team is led by Rein Wesseling, who works alongside three other partners, two counsel – including Elske Raedts, who joined from Freshfields in May 2022 – and 18 associates. The practice largely focuses on behavioural and litigation work, including advising Apple as it appeals against an ACM decision finding it abused its dominance in the market for dating apps available on its App Store by imposing “unreasonable” terms and conditions on application developers. Apple paid a combined €50 million fine for failing to comply with the order and amended its terms in June 2022, though the team still defends the company against three separate standalone class action claims seeking damages on behalf of Dutch consumers that were harmed by the company's actions. The team also acts for Credit Suisse in its appeal against the European Commission's decision to fine it for exchanging information and coordinating prices for SSA bonds. Meanwhile, the team represents British American Tobacco as it appeals against the ACM's tobacco information exchange cartel decision in April 2022 and continues to defend MAN against *Trucks* follow-on claims. On the plaintiff side, the team advises Macedonian Thrace Brewery on its follow-on claim seeking €100 million in damages from Athenian Brewery after the Hellenic Competition Commission fined it for abusing its dominance in the Greek beer market.

## Highly recommended

Partners Diederik Schrijvershof and Martijn van de Hel co-head a team of seven associates at competition boutique **MAVERICK ADVOCATEN**, which says it is the only firm solely focused on antitrust matters in the Netherlands. The team – which lost counsel Leyla Bozkurt in January 2022 when she left to become an independent lawyer in Rotterdam – is known for its work in the healthcare sector. It secured unconditional clearance from the ACM for OneMed's acquisition of MediReva Groep in December 2021, and assisted Erasmus MC in its merger with IJsselland Hospital – although the latter deal collapsed following the Dutch enforcer's Phase I review in February 2022. Elsewhere, the team acted for online real estate portal funda as the ACM launched, and subsequently dropped, a preliminary investigation into complaints alleging it abused its dominance by imposing unfair conditions on agents and brokers. Other notable work includes advising residential property companies seeking a combined €10 million in damages from the ACM as a result of its decision to fine 61 real-estate dealers €6.3 million for forming a cartel that rigged house auctions in 2013. The Trade and Industry Appeals Tribunal revoked those fines in 2017 and the Dutch agency has already settled with the rest of the dealers.

**STEK's** antitrust group is led by partners Ruben Elkerbout and Berend Reuder, who are assisted by four associates. The integrated competition litigation team defends Dutch tour operator Corendon against a competition damages claim by its former online travel agent Prijsvrij, which is currently pending before the Court of Appeal. It also defends Samsung against *Cathode Ray Tube* cartel follow-on claims brought by Vestel, Itautec, IGB and Cemaz, as well as EasyJet before the Dutch Trade and Industry Appeals Tribunal in challenging a decision from the ACM that found Royal Schiphol Group's airport charges are neither discriminatory nor unreasonable. On the merger control side, the team helped grid operator Enexis win EU unconditional clearance for the sale of its subsidiary Fudura to investment firms PGGM and DIF in August 2022. The firm also intervened on behalf of the Netherlands Audiovisual Producers Alliance in RTL Nederland's merger with Talpa Network over concerns that the combined entity could enforce higher prices. In January 2022, the ACM blocked the deal after a Phase II review revealed it would harm competition in the advertising and television channel distribution markets. Other notable work includes advising Netbeheer Nederland, Alliander, Stedin and Enexis on an ACM-approved sustainability initiative.

## Recommended

Partner Frank Kroes steers **BAKER MCKENZIE's** Dutch competition group, which lost its former head Christiaan van der Meer in August 2022 after he stepped down to become an independent lawyer. Although a number of the firm's high-profile cases are confidential, public work includes defending Shell against claims seeking €65 million in damages stemming from the European Commission's *Bitumen* cartel decision. The team also represented pension fund manager APG as T-Mobile appealed against the ACM's Phase I clearance of its fibre optic joint venture with KPN. The Rotterdam District Court dismissed T-mobile's challenge in March 2022.

**BARENTSKRANS'** practice is helmed by Joost Fanoy, who works alongside fellow partner Martijn van Maanen and eight associates. The team won unconditional Phase I ACM clearance for logistic services provider Groupe STERNE's purchase of nox NachtExpress in March 2022. It is also advising the Port of Rotterdam, Gasunie and EBN on a sustainability initiative seeking to capture and store CO<sub>2</sub> in a depleted natural gas field under the North Sea, which is being informally reviewed by the Dutch authority. On the plaintiff side, the practice is bringing a follow-on class action claim before the District Court of Amsterdam against the *Trucks* cartel on behalf of hundreds of owners and lessors. It also represents a large group of claimants

seeking damages from KONE for its role in the EU elevators cartel. Additionally, the firm assists Macedonian Thrace Brewery as it seeks €100 million in damages from Athenian Brewery following on from an abuse of dominance decision by the Hellenic Competition Commission.

Pauline Kuipers guides **BIRD & BIRD**'s Dutch antitrust team, which is based in The Hague and includes fellow partners Janneke Kohlen and Hein Hobbelen, plus five associates. Regular client T-Mobile tapped the firm to steer its appeal against a joint venture between leading Dutch telecoms operator KPN and pension fund manager APG. The company also turned to Bird & Bird to help in its €5.1 billion acquisition by private equity groups Apax and Warburg Pincus, which the European Commission and Dutch Ministry of Economic Affairs and Climate Policy cleared in November 2021. Successful antitrust litigation work includes acting for PostNL in its appeal before the Trade and Industry Appeals Tribunal against a judgment by the Rotterdam District Court in May 2018, which held that the company had violated sector-specific antitrust rules by failing to make its rates and conditions transparent. In April 2022, the tribunal ruled in favour of PostNL, finding it had not breached Dutch competition rules.

Competition and regulatory boutique **BRINKHOF** is led by Pepijn van Ginneken, who oversees three partners, one counsel and eight associates. The practice helped leading pharmaceutical distributor Mosadex secure EU approval for its joint venture with Ace, and also advised Wadinko on its partnership with Ahold Delhaize. The ACM ultimately cleared the latter joint venture without conditions after the EU competition watchdog had referred it to the Dutch agency after concluding that the merger could raise competition issues in the Netherlands. Litigation work includes assisting Crédit Agricole in its appeal against the European Commission's foreign exchange market cartel decision and defending Global Steel Wire against a claim brought by Deutsche Bahn that follows on from the European Commission's steel cartel decision. The team also assists Heineken, Diageo and AB InBev in *Trucks* follow-on claims, as well as defending Toshiba against an action following on from the *Cathode Ray Tube* cartel decision.

Bas Braeken leads **BUREAU BRANDEIS**' office in Amsterdam, supported by fellow partner Hans Bousie. Braeken's team intervened on behalf of speed skaters Niels Kerstholt, Mark Tuitert and an athletes' rights association in the International Skating Union's appeal against an EU decision that found the union's eligibility rules to be anticompetitive. The practice also advises Prijsvrij in a claim before the Court of Appeal of Amsterdam against tour operator Corendon, which is accused of abusing its dominance by unlawfully terminating its contract. Elsewhere, the firm acts for online news aggregator Blendle in an abuse of dominance claim against DPG Media, accusing it of unlawfully withdrawing its supply of newspaper content. Blendle failed in its initial request for interim measures in March 2022, but has now appealed against that decision to the Amsterdam Court of Appeal. The practice also counsels Philip Morris as it appeals against the ACM's decision to fine it €27.5 million for colluding with three other tobacco manufacturers for exchanging information. Meanwhile, partner Bousie is advising Stichting Truck Cartel Recovery in its *Trucks* follow-on claim, which is seeking up to €200 million in damages.

The Dutch competition practice at **CMS** is steered by Edmon Oude Elferink. Fellow partner Robert Bosman retired in May 2022, but still acts as a legal advisor at the firm. The team is currently advising AEB on its €450 million acquisition by waste-to-energy plant operator AVR, which the ACM sent to Phase II in April 2022. Other notable deal work includes helping the Louwman Dealer Group secure approval from the ACM for its acquisition of Orange Motors and Orange Schade in May 2022. It also acts for taxi operator BIOS-groep in its appeal against an ACM decision that found the company colluded with a rival and refused to grant the company access to certain evidence. A first-instance court sided with the taxi operator in March 2022, but the company has appealed against that decision too. CMS also continues to defend Japanese airline All Nippon Airways against damages claims before the European Court of Justice that follow on from the *Air Cargo* cartel.

Partners Marc Wiggers and Gert-Wim van de Meent co-lead the competition team at **LOYENS & LOEFF**, which includes counsel Marc Custers and six associates. The team is known for its work in the life sciences and technology sectors, having successfully advised Dutch pharmacy trade association VNA on a gun-jumping investigation by the ACM in October 2021. The company's negotiations with the Dutch agency enabled it to lower its fine from several million euros to €350,000. In other merger control work, the practice is assisting Vesa on its acquisition of PostNL, and Santander on its purchase of motor vehicle leasing company Riemersma Leasing.

The antitrust group at **PELS RIJCKEN & DROOGLEEVER FORTUIJN** is led by partner Erik Pijnacker Hordijk, who is assisted by three associates. The team helped the Dutch enforcer during an unsuccessful appeal against its decision to conditionally clear a merger between a publisher of schoolbooks and a distributor of educational material. The team also advises the City of Amsterdam, which owns waste-management company AEB, on its sale to rival AVR, which the Dutch enforcer sent to Phase II in April 2022. In private litigation, the practice defends Mercedes-Benz against *Trucks* follow-on claims, and Scandinavian Airlines against an action brought by Equilib, East-West Debt and Stichting Cartel Compensation on behalf of a large number of indirect purchasers who suffered losses as a result of the *Air Cargo Cartel*. The team additionally defends UBS against claims following on from the European Commission's foreign exchange benchmark cartel decision.

Firm	Head(s) of competition	Size	No. WWL nominees	Clients
Elite				

Allen & Overy	Kees Schillemans	2 partners, 1 counsel, 16 associates	2	KLM, KPN, Booking.com, Aegon, PostNL, RTL Nederland, Samsung Electronics, Pon Holdings, Leaseplan, Cargill
De Brauw Blackstone Westbroek	Jolling de Pree	6 partners, 2 counsel, 24 associates	5	AkzoNobel, AholdDelhaize, Just Eat Takeaway.com, Booking.com, Philips, PACCAR/DAF Trucks, SHV Group / Nutreco, NN Group, PON Holdings B.V., Consortium of EQT Partners/ Stonepeak Infrastructure Partners, GrandVision, Intertrust, British Airways, DS Smith, Nederlandse Gasunie, Parcom Capital
Freshfields Bruckhaus Deringer	Winfred Knibbeler, Paul van den Berg	3 partners, 1 counsel, 10 associates	3	ABB Group, AB InBev, Blackstone, Canada Pension Plan Investment Board (CPPIB), Infinitas/Noordhoff, JTI, Volkswagen, Talpa Holding, ThyssenKrupp, VodafoneZiggo, Talpa, Van Drie, Atlas Copco, Funecap
Stibbe	Rein Wesseling	4 partners, 2 counsel, 18 associates	2	Air France-KLM, Apple, British American Tobacco, Credit Suisse, Heineken, MAN, Nederlandse Spoorwegen (NS), RWE, Viatris (former Mylan), AVR, Vodafone-Ziggo, Lanxess, Firmenich, Prysmian, Dutch Bar Association (NOVA)
<b>Highly Recommended</b>				
Maverick Advocaten	Diederik Schrijvershof, Martijn van de Hel	2 partners, 7 associates	1	Funda, Erasmus MC, Mediq, Eneco, SPIE, Achmea, KNMP, DPG Media, Bayer, Novartis, ABMD, OneMed, MKB Multifunds
Stek	Ruben Elkerbout, Berend Reuder	2 partners, 4 associates	1	Evides, Samsung SDI, Corendon, easyJet, Calcasa, Netbeheer Nederland, Enexis, Nestlé, PVH, L'Oréal, NCP, Alliander, Elderly healthcare providers (De Wever, Thebe, St. Franciscus and Mijzo), LitFin Capital
<b>Recommended</b>				
Baker McKenzie	Frank Kroes	2 partners, 5 associates	0	Abbott, Accenture, APG, Daimler, Hitachi, IDEXX, Merck, Royal De Heus, Schneider Electric, Shell

BarentsKrans	Joost Fanoy	2 partners, 8 associates	1	Global (the Media & Entertainment Group), Selecta, EBS, Dura Vermeer, Macedonian Thrace Brewery, BMW, Claims Funding Europe, Canon, Oshkosh Defense, Dell, Groupe Sterne, Stichting Sint Antonius Ziekenhuis, Marlink, Stichting Elevator Cartel Claim (SECC), Port of Rotterdam, Porthos, Pure Development and Wayland Real Estate
Bird & Bird	Pauline Kuipers	3 partners, 5 associates	1	T-Mobile Netherlands B.V., Cellnex Telecom S.A., Salta (formerly NCOI) Holding B.V. / Computrain Opleidingen B.V., Tempur Sealy, PPG, Marshall Land Systems Ltd., Blackboard International B.V., Corbion N.V., NLDigital, Epson, PostNL, Ottobock Benelux
Brinkhof	Pepijn van Ginneken	4 partners, 1 counsel, 8 associates	1	Heineken, Google, Mosadex, Vestel, Wadinko, FedEx, Glasdraad, AB InBev, Toshiba, Eurofiber, NFA, Diageo, AB Inbev, Global Steel Wire, Crédit Agricole
bureau Brandeis	Bas Braeken	4 partners, 7 associates	1	Walt Disney, Aegon, Prijsvrij.nl, Cleary Gottlieb/Philip Morris, Bastion Hotels, ENGIE, Bosch Siemens Household Appliances, Blendle/Cafeyn, Multi Tank Card, Tix.nl, European Elite Athletes Association, Stichting FX Claims, Stichting Truck Cartel Recovery, Netherlands Online Gambling Association, Fapricela
CMS	Edmon Oude Elferink	1 partner, 2 counsel, 2 associates	0	Amazon, Porsche Italia, IMG, ALD Automotive/Société Générale, York Capital, Portals, Strix Group, Seram, Waterland Private Equity Investments, Porsche Financial Services, Apollo Vredestein
Loyens & Loeff	Marc Wiggers, Gert-Wim van de Meent	2 partners, 1 counsel, 6 associates	1	Banco Santander, HSF Logistics Group, Zilveren Kruis, BNP Paribas, Medtronic, Phoenix/Brocacef, DPG Media, Bol.com (Ahold-Delhaize), MSD, Lekkerland, Vesa, Zorgverzekeraars Nederland, Stichting Verenigde Nederlandse Apotheken (VNA), Amlon, DIF Capital Partners

Pels Rijcken & Droogleever Fortuijn	Erik Pijnacker Hordijk	1 partner, 3 associates	1	Dutch State, Ministry of Economic Affairs, Royal FloraHolland, Scandinavian Airlines, ArcelorMittal, Mercedes-Benz Group, Royal Cosun, City of Amsterdam, UBS AG, EPS, Dutch Competition Authority, Dutch Healthcare Authority, Dutch Data Protection Authority
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