

## Netherlands

15 December 2023



Merger control work continues to dominate the invoices that local antitrust lawyers are sending to clients, although the Netherlands' Authority for Consumers and Markets (ACM) is increasingly steering more behavioural work to the best in the bar.

### Elite

Kees Schillemans steers **ALLEN & OVERY**'s Dutch competition practice, which includes fellow partner Pieter Huizing, who joined the firm in May 2023 following the departure of Yvo De Vries to Houthoff. Investment firm KKR and its portfolio business Roompot tapped the team to steer its acquisition of rival holiday park provider Landal, which the ACM cleared in April 2023 after a fix-it-first divestiture – the first of its kind. The team also advised LeasePlan on its merger with ALD, winning approval from the European Commission in November 2022 after the parties agreed on various divestments across multiple member states. Additionally, the practice advised RTL Nederland on its planned merger with Talpa Network, which the ACM blocked in March 2023 following a lengthy Phase II probe after warning it would leave advertisers with few alternatives.

**DE BRAUW BLACKSTONE WESTBROEK**'s team of six partners, two counsel and 24 associates is led by Jolling de Pree. The firm advises British Airways in multiple follow-on damages claims in the Netherlands stemming from the air cargo cartel. The team secured a win in June 2023 when the Amsterdam District Court ruled in favour of the UK flag carrier and other airlines by removing claims from certain special litigation vehicles due to insufficient facts and evidence. Other recent highlights include acting as lead counsel for PACCAR/DAF in trucks cartel follow-on claims and advising AkzoNobel on its acquisition of Kansai Paint's decorative coatings business. The team 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 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 prohibited in March 2023 following a Phase II probe. The team also advises Glencore-backed agribusiness Viterra, together with its shareholders, on its merger with Bunge. Other notable work includes representing VodafoneZiggo in its successful appeal against ACM regulation ordering it to open up its fixed networks to other providers. In July 2023, the agency adopted draft decisions to reject

YouCa's requests for access to VodafoneZiggo's network, which is now subject to consultation. Elsewhere, the firm successfully defended HP against a claim from online web shop Digital Revolution alleging the company infringed competition law by operating a selective distribution system for its printing solutions.

**STIBBE**'s Amsterdam-based antitrust team is led by Rein Wesseling and Jeroen Kortmann, who work alongside fellow partner Branda Katan, two counsel and 18 associates. Partner Floris ten Have left the firm in January 2023. The practice largely focuses on behavioural work and litigation and continues to advise Apple on appeals against the ACM's finding that it abused its dominance by imposing unreasonable conditions for app developers to sell online content via its App Store. In October 2023, the Dutch agency rejected Apple's objection to a fine totalling €50 million for failing to comply with its orders – although the tech company has appealed against that decision. The team also represented British American Tobacco in its appeal against an ACM cartel decision that led to fines totalling more than €82 million being issued to the company and three other major cigarette manufacturers for exchanging information on the future prices of cigarettes. The Rotterdam District Court dismissed the appeals in July 2023 after concluding the ACM's fine was proportionate. Stibbe continues to defend MAN against trucks cartel follow-on claims and Credit Suisse in the appeals before the EU General Court against the European Commission's forex cartel decision.

## Highly Recommended

Partner Marc Wiggers leads the competition team at **LOYENS & LOEFF**, after former co-head Gert-Wim van de Meent retired in January 2023. The firm assisted media group DPG on the sale of its Aldipress business to Bpost, which the ACM approved in September 2022. The firm also advised supermarket chain Jan Linders on its strategic partnership with rival Albert Heijn, winning approval from the ACM in September 2023 subject to a divestment package to address local competition concerns. Other merger control work includes helping DIF Capital Partners acquire 50% of French drinking water supplier Saur together with PGGM, which the European Commission approved in March 2023. The firm is also instructed on some impressive confidential matters.

Competition boutique **MAVERICK ADVOCATEN** is led by partners Diederik Schrijvershof, Martijn van de Hel and Cyriel Ruers – who joined the team from Allen & Overy in January 2023. The firm says it is the Netherlands' sole antitrust boutique – and it is known for its work in the healthcare sector. Mediq tapped the firm to appeal against the ACM's prohibition of its Eurocept Homecare acquisition. In March 2023, the Rotterdam District Court annulled the block, ruling that the ACM had defined the relevant product market too narrowly. The team also helped DHL steer its acquisition of e-commerce specialist Monta, winning approval in October 2023. Meanwhile, the team advised the shareholder of Scholle IPN on its sale to SIG Combibloc.

**STEK**'s antitrust group is led by Ruben Elkerbout, who is assisted by two counsel and three associates. The Royal Dutch Football Association (KNVB) recently brought in Stek to help fend off claims from Pro-Agent, the European Football Agents Association and two football agents that it is breaching EU competition law. In May 2023, KNVB and FIFA won in preliminary proceedings, which the claimants have appealed. Elsewhere, the team defends Samsung SDI against cathode ray tube cartel follow-on claims brought by Vestel, Itaotec, IGB and Cemaz. The firm also advised De Marq on Thebe Housing and Care Foundation's planned accession to the cooperative. In June 2023, the ACM closed its investigation into the concentration after the merger notification was revoked. Egg product manufacturer Global Food Group has also instructed the firm to challenge ACM fines stemming from an investigation into an alleged buying cartel in the agricultural sector.

## Recommended

Partners Frans Muller and Frank Kroes lead **BAKER MCKENZIE**'s competition group, which includes five associates. While a number of the firm's high-profile cases are confidential, public work includes defending Barclays against a forex cartel follow-on damages action by litigation vehicle Stichting FX Claims. In March 2023, the Amsterdam District Court ruled that just two Dutch pension funds – Aegon and Stichting Pensioenfond Medisch Specialisten – could proceed with their damages claims against Barclays and a group of banks because the other claimants were based abroad and it thus lacked jurisdiction. The team also continues to defend Shell against claims seeking €65 million in damages stemming from the European Commission's bitumen cartel decision.

**BARENDSKRANS**' practice is led by Joost Fanoy who works alongside fellow partner Martijn van Maanen, one counsel and eight associates. The firm acted for Interovo in a probe by the ACM, which resulted in the Dutch authority ordering the company and rival egg purchasers Wulro and Global Food Group in May 2023 to pay undisclosed fines for entering into illegal price-fixing agreements. On the plaintiff side, the team continues to represent Macedonian Thrace Brewery in its multimillion follow-on suit against Heineken and its Greek subsidiary Athenian Brewery, which stems from an abuse of dominance decision by Greece's Competition Commission. In April 2023, the Dutch Supreme Court said it would refer the matter to the European Court of Justice for preliminary questions concerning jurisdiction. The practice also represents special purpose vehicle Chapelton in a follow-on class action claim before the District Court of Amsterdam against the trucks cartel on behalf of hundreds of owners and lessors.

Pauline Kuipers guides **BIRD & BIRD**'s Dutch antitrust team, which benefits from the expertise of fellow partners Janneke Kohlen and Hein Hobbelen, plus six associates. Much of the technology-focused practice's work is confidential, while public work skews towards merger control. The team continues to advise long-standing family food business Royal A-ware on several merger filings before the ACM – most recently steering its takeover of grated cheese producer Noordhoek past a review in August 2022.

Competition and regulatory boutique **BRINKHOF** is led by Pepijn van Ginneken, who works with two other partners, one counsel and eight associates. The firm is assisting Google as it fends off a claim by a class of Dutch app store users seeking damages for alleged breaches of EU antitrust rules. The Stitching app store claims argue that Google and Apple abused their dominant positions by blocking users' ability to pay for apps and in-app purchases other than through their own payment systems, which include a 30% commission. Other litigation work includes assisting Crédit Agricole in its appeal against the European Commission's forex cartel decision and assisting Heineken in trucks cartel follow-on claims. The team also continues to defend Toshiba against an action following on from the cathode ray tube cartel decision.

Bas Braeken leads **BUREAU BRANDEIS**' office in Amsterdam, supported by fellow partners Hans Bousie, Marc Barennes and Sarah Subrémon, along with seven associates. The practice advises Pro Agent and the European Association of Football Agents in their legal battle against FIFA's new football agent regulations, which impose a cap on the fees that football agents can charge their clients. In May 2023, the District Court for the Central Region of the Netherlands rejected an interim application from the agents associations to stop FIFA from implementing the regulation, ruling that the request lacked sufficient urgency. Elsewhere, the firm represents Stichting FX in follow-on claims against Natwest, UBS, Barclays, Citi, JPMorgan, and MUFG stemming from the EU forex cartel. The team also continues to advise Stichting Truck Cartel Recovery in its trucks cartel follow-on claim, which is seeking up to €200 million in damages. In June 2023, a hearing was held on the applicable law and validity of the claim vehicles.

The competition practice at **CMS** is steered by Edmon Oude Elferink, who works alongside two counsel and four associates. Waste-to-energy company AEB tapped the firm to steer its planned €450 million sale to AVR, but the ACM blocked the deal in May 2023 following a Phase II probe. Other notable work includes assisting industrial equipment manufacturer Atlas Copco in its takeover of Lewa and Geveke, which closed in August 2022 after securing unconditional Phase I clearance from the ACM. The practice also continues to defend Japanese airline All Nippon Airways against damages claims before the ECJ that follow on from the air cargo cartel.

Daniella Strik heads up the litigation-focused competition team at **LINKLATERS**, which includes two counsel and eight associates. The firm continues to defend Goldman Sachs against damages claims that follow on from the European Commission's power cables cartel decision and Air France against claims stemming from the global air cargo cartel. On the merger control side, the team advised TDR Capital and LeasePlan on their sale to ALD – Societe Generale's car leasing division, which the European Commission cleared in November 2022 following substantive divestment remedies.

The antitrust group at **PELS RIJCKEN & DROOGLEEVER FORTUIJN** is steered by partner Erik Pijnacker Hordijk, who is assisted by three associates. The team advised the City of Amsterdam on the sale of its waste-management company AEB to rival AVR, which the ACM prohibited in May 2023 following an in-depth probe. In private litigation, the practice defends Daimler against trucks cartel follow-on claims and defends UBS against claims stemming from the European Commission's forex cartel decision. In the latter, the firm scored a major win in April 2023 when the District Court of Amsterdam denied jurisdiction for a large part of the claims against the Switzerland-based bank.

Firms	Head(s) of competition	Size	No of WWL Nominees	Clients
<b>Elite</b>				
Allen & Overy	Kees Schillemans	2 partners, 1 counsel, 8 associates	3	Scania, RTL, Leaseplan, KLM, Korean Air, DSM, KPN, PostNL, Samsung, Prosus
De Brauw Blackstone Westbroek	Jolting de Pree	6 partners, 2 counsel, 24 associates	5	Aegon, AkzoNobel, Ahold Delhaize, Booking.com, Just Eat Takeaway.com, Nederlandse Gasunie, PACCAR/DAF Trucks, PON Holdings, Royal Philips, SHV Group/Nutreco

Freshfields Bruckhaus Deringer	Winfred Knibbeler, Paul van den Berg	3 partners, 1 counsel, 10 associates	4	Hal Investments, HP Nederland, AVR- Afvalverwerking, RWfE, Talpa Holding, Visa Europe, Vitera, VodafoneZiggo, Canada Pension Plan Investment Board, APG
Stibbe	Rein Wesseling, Jeroen Kortmann	3 partners, 2 counsel, 18 associates	3	Air France-KLM, Apple, British American Tobacco, Credit Suisse, Firmenich, Heineken, MAN, NS, Viatris, VodafoneZiggo
<b>Highly Recommended</b>				
Loyens & Loeff	Marc Wiggers	1 partner, 10 associates	1	Santander, DPG Media, bol.com/Ahold Delhaize, Alliander, Sun Chemical, Zilveren Kruis, Medtronic, VESA, DIF, Orpea
Maverick Advocaten	Diederik Schrijvershof, Martijn van de Hel, Cyriel Ruers	3 partners, 6 associates	2	FMN, Erasmus MC, Mediq, Eneco, DHL, Funda, KNMP, DPG Media, Bayer, Novartis
Stek	Ruben Elkerbout	1 partner, 2 counsel, 3 associates	1	KNVB, Coolblue, Corendon, easyJet, Enexis, Evides, Foresco Group, L'Oréal, Samsung SDI, Netbeheer Nederland
<b>Recommended</b>				
Baker McKenzie	Frans Muller, Frank Kroes	2 partners, 5 associates	0	Accenture, Barclays, FSN Capital, Google, Hitachi Transport System, Egeria, Merck, Mitsubishi, Royal De Heus, Shell
BarentsKrans	Joost Fanoy	2 partners, 1 counsel, 8 associates	1	KPN, Dura Vermeer, BMW, Canon, Global (the Media & Entertainment Group), EBS, Selecta, Claims Funding Europe, Dell EMC, Oshkosh Defense
Bird & Bird	Pauline Kuipers	3 partners, 6 associates	2	T-Mobile Netherlands, Cellnex Telecom, Salta. / Computrain Opleidingen, Tempur Sealy, Open Dutch Fiber, Marshall Land Systems, Blackboard International, Corbion, NLDigital, Epson
Brinkhof	Pepijn van Ginneken	3 partners, 1 counsel, 8 associates	1	FedEx, Expedia, Diageo, Google, Dolby, Crédit Agricole, Heineken, Ikea, Global Steel Wire, Mediahuis

Bureau Brandeis	Bas Braeken	4 partners, 7 associates	1	Pro Agent, TUI, Stichting FX Claims, European Elite Athletes Association, Walt Disney, Noordhoff publishers, Bosch Siemens Household Appliances, Bastion Hotels, Tix, Cleary Gottlieb/ Philip Morris
CMS	Edmon Oude Elferink	1 partner, 2 counsel, 4 associates	0	All Nippon Airways, Atlas Copco, Coca-Cola Europacific Partners, Brenntag, Hill International, Diageo, AEB, Volker Wessels, Louwman Group, Kubota-Kverneland
Linklaters	Daniella Strik	1 partner, 2 counsel, 8 associates	0	Air France, Goldman Sachs Group, LeasePlan Corporation, DELA Holding, Cummins, Triton Partners, WSP Group Holdings, ArcelorMittal, ING Bank
Pels Rijcken & Droogleever Fortuijn	Erik Pijnacker Hordijk	1 partner, 3 associates	1	Dutch State, Royal FloraHolland, Scandinavian Airlines, ArcelorMittal, Daimler, Royal Cosun, City of Amsterdam, Dutch Central Bank, Euro Pool System, Dutch Competition Authority