

The Netherlands Authority for Consumers and Markets (ACM)

Authority for
Consumers & Markets



Anita Schilperoort

Determining the TAC: the regulator's perspective

INTRODUCTION

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Responsible for the regulatory decisions of ACM
concerning the method for calculating track access
charges and mark-ups



AGENDA

- Introduction of ACM
- International cooperation
- Role of ACM in TAC
- Role of ACM in Mark-ups
- Challenges



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INTRODUCTION OF ACM

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INTRODUCTION OF ACM

- ACM is an independent authority
- Responsible for:
 - Competition: cartel cases, and cases of abuse of dominant positions
 - Merger control
 - Sector-specific regulation: energy, telecommunications, postal services, transport and health care
 - Consumer protection
- Independent, open and professional
- Our aim is to increase consumer welfare



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INTERNATIONAL COOPERATION

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INTERNATIONAL COOPERATION

- Cooperation with EU regulators
 - IRG RAIL: www.IRG-rail.eu
 - Working group Charges
 - Working group for Service Facilities
 - Working group Access
 - Working group Legislative developments
 - Working group Market Monitoring
 - European Commission:
 - ENRRB
 - Rail Market Monitoring Scheme



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ROLE OF ACM IN TAC

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ROLE OF ACM IN TAC

- Dutch IM needs ex-ante approval of method for calculating TAC from ACM
- ACM assesses if IM's method meets criteria of EU and NL laws and regulations
- Legal framework;
 - Directive 2012/34/EU
 - Implementing Act 2015/909
 - Dutch Railway Act
 - Dutch implementing directive 2012/34/EU
- Costs directly incurred as a result of operating the train service: Direct costs

ROLE OF ACM IN TAC

- Other relevant criteria of ACM for ex-ante approval:
 - *Integrity*
 - *Causality*
 - *Proportionality*
 - *Market conformity*
 - *Transparency*
- Decision expected in spring 2018 for TAC >2020



ROLE OF ACM IN TAC

ACM assesses method of calculating TAC in 6 steps:

Step 1: Total estimated costs of minimum access package

- *Quality of budget plan*

- *Split between costs in/out of minimum access package*

Step 2: Split between costs of train services in minimum access package

Step 3: Calculation of Direct costs

Step 4: Allocation to user categories

Step 5: Indexation of Track Access Charges

Step 6: Correction mechanisms

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ROLE ACM IN MARK-UPS

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ROLE OF ACM IN MARK-UPS

- Dutch IM ProRail needs ex-ante approval of Method for calculating mark-ups from ACM
 - Directive 2012/34/EU: possibility for mark-up
 - Dutch Implementing Directive 2012/34/EU
- ACM assesses:
 - *“What the market can bear”* test: Ramsey-Boiteux pricing method
 - Method ProRail for determining mark-ups for each market segment



ROLE OF ACM IN MARK-UPS

- Consensus between EU regulators of economic method for calculating *what the market can bear*.
- The application of Ramsey-Boiteux pricing model allows covering the total costs of the monopolist, but considers an optimized reduction of quantities and consumer surplus by taking price elasticities of consumer groups (i.e. market segments) into account.
- Decision expected in spring 2018 for Mark-ups



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CHALLENGES

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CHALLENGES

Costs directly incurred as a result of operating the train service:

- On what level should there be a relation (causal or otherwise) between costs and users?
- Should there be a correction mechanism to adjust estimated costs if realisations deviate?
- Determination of direct costs; discussion of complexity of infrastructure. Different interpretations among EU countries
- Period of approval; stable long term tariffs vs fluctuating tariffs directly related to costs

Thank you for your attention

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