The attached note is submitted by the Dutch Delegation to the Committee on Competition Law and Policy FOR DISCUSSION at its forthcoming meeting on 24-25 October 2000.
I. Introduction

1. There is widespread agreement that collaborative practices can generate significant private as well as social benefits, such as: sharing risk associated with investments that serve uncertain demand or involve uncertain technology; synergies arising when venturers share complementary skills or assets; or the attainment of economies of scale and scope in production, procurement or logistics. The disadvantages come from the risk of a consortium reducing output and increasing prices or reducing competition on adjacent markets. By means of illustration, take a look at alliances: a small alliance can increase competition by (internalising the reaction of companies outside the alliance to this change) increasing output, but a big alliance (or a small alliance in a concentrated industry) can reduce competition by (internalising the reaction of companies outside the alliance) decreasing output. The task of the competition authority is to investigate which situation is at hand. The number of firms in a sector is a crucial parameter in this regard.

2. An alliance for example, can be implemented by setting up a production joint venture that sets transfer prices in such a way that output in final good markets is influenced in a desirable way. Variations on this mechanism are:

   (a) Fixed costs (investments) at the intermediate good increase the incentive to co-operate. Alliances then tend to be larger and thus more anti-competitive. When one can balance the efficiency gains from joint production and the losses due to increased “market power” (rather: strategic behaviour), the gains may well dominate.

   (b) If marginal costs are decreasing at the intermediate stage, the case is more difficult, because the members of larger alliances now truly have lower marginal costs and thus an incentive to expand output. This works opposite to the strategic effect. Larger alliances are then not only more efficient, but also induce more aggressive behaviour than smaller alliances

3. In this contribution attention will be paid to some literature on joint ventures and other forms of co-operation. Furthermore the legal framework and the practice of competition assessment in the Netherlands are described, followed by international aspects. The issues paper as prepared by the OECD and the questions raised there, provide the structure of this contribution.

II. Definition

I. Definition of Joint Venture or Strategic Alliance

4. Joint ventures (JV’s) and strategic alliances (SA’s) occur in a large variety of shapes, ranging from agreements between independent firms and joint ventures with joint managerial control to nearly full mergers of (equal) partners into a new entity. One way to define a SA is: ‘a coalition where partners remain independent firms which co-ordinate some of their activities while being competitors in other areas’. Generally the term ‘strategic’ is used if firms take some action in an earlier stage in order to influence behaviour at a later stage. A strategic alliance should therefore be defined as: the co-operation of at least two actual or potential competitors in an oligopolistic market with perceived interdependence,
where strategic investments are co-ordinated and/or the alliance contract is used as a device to change the incentives in the following stages.

2. Evidence indicating a marked change in the last few years in the incidence of JV’s and SA’s

5. Since the NM.a has started only at January 1, 1998, too little experience has been gained to answer this question.

III. Why do firms engage in JV’s and how do competition authorities deal with them?

6. As mentioned in the introduction, co-operation between firms can generate significant private and social benefits. However, co-operation can also have detrimental effects due to reduced competition. Below some brief considerations from economic theory are given. These considerations can provide further guidance on how to assess the effects of joint ventures by adding parameters such as externalities, transaction costs characteristics etc. Within the limited set-up of this contribution the descriptions are necessarily rather short.

R&D joint ventures:

7. Many joint ventures are set up for co-operation in the fields of Research and Development (R&D). Externalities are frequently claimed to be the motive for such co-operation. The three most commonly mentioned externalities are (i) technological spillovers, (ii) pecuniary externalities and (iii) environmental externalities. These will be briefly described while relating them to private and social benefits.

(i) Technological spillovers: when information produced by some firm becomes available to some other firm without the latter having to pay for it.

An R&D JV is a way to internalise the full benefits of R&D activities (social rates of return are likely to exceed private returns) and to avoid free-riding by competitors. They therefore tend to increase R&D spending in sectors where spillovers are large.

(ii) Pecuniary externalities(PE): when the actions of one firm directly affect the profits of one of its rivals (by affecting the latter’s cost or demand).

Positive (risk sharing) PE’s tend to stimulate R&D, whereas negative PE’s generally discourage R&D (for example pre-emptive R&D in so called patent races that are meant to keep potential competitors out of a new – developing - market). Consequently, R&D JV’s between producers of complementary products are more likely to increase ‘long run’ R&D than when producers of substitute products engage in joint R&D activities.

Since knowledge embodied in specific products is often too use-specific to spill over, so that spillovers are likely to be relatively larger than negative pecuniary externalities arising from output markets in the case of research activities than with development activities.

(iii) Environmental externalities

When the actions of one firm affect the behaviour of some other firm (strategic behaviour).
8. In general certain R&D joint ventures will tend to be pro-competitive if they are:

- non-exclusive agreements;
- concern complementary skills, or
- firms producing complementary products;
- if research efforts will be felt in many output markets.

9. Other elements that have to be taken into consideration:

- alternative methods of appropriation;
- determinants of imitation costs and imitation time;
- size of spillovers (EC block exemption speaks of “know how and patents which result from the research contribute substantially to technical and economic progress”).

**Transaction cost economics: an alternative approach of economic analysis**

10. In an “applied price theory” approach the firm is regarded as a production function which natural boundaries are technologically determined. The allocation of economic activity between firm and market is mainly seen as a result of production technologies. This can lead to a rather strict anti-trust approach to forms of co-operation between undertakings, which can not be explained by technological factors such as economies of scale. A transaction cost economics (TCE) approach can help to explain the allocation of activities between firm and market by taking other factors into account.

11. Rather than focus on technology and price-to-cost margins, TCE focuses on (1) the attributes of transactions (frequency, uncertainty and asset specificity) and (2) the attributes of governance structures (safeguards, incentive intensity and adaptability), the object being to effect a discriminating alignment between transactions and governance. Low frequency, a high degree of uncertainty and asset specificity can make the market as a governance structure for the transaction unsuitable because of the risk of opportunistic behaviour. In turn, the form of the organisational structure, whether it is a simple market transaction or a complicated strategic alliance, can partly be explained by needs for safeguards, incentives and adaptability to changing circumstances. TCE can provide a complementary explanation for the choice between the market and the firm with the dimensions of these attributes. Vertical integration, for example, can also be explained as a means to encourage investments in transaction specific capital, there being greater confidence that adaptive, sequential decision making will proceed effectively and information exchanges between stages can be facilitated thereby permitting investment benefits. While integration can improve adaptability, a counterbalancing effect can occur if taking the transaction out of the market significantly diminishes the incentive for efficient production. Hybrid or intermediate forms such as JVs, franchising and the like, support incentive intensity and adaptability of intermediate degrees. Hereby transactional economies (dealing with asset specificity problems, adaptability or uncertainty) are introduced next to the technological economies (economies of scale) of the applied price theory.

12. In sum TCE can provide additional economic reasoning to explain governance structures by looking at attributes such as frequency, uncertainty and incentive intensity. This should not be taken as a catch-all excuse for co-operation between firms but can provide a valuable additional instrument for anti-trust authorities for competitive assessment of forms of co-operation.

3. **Which types of competitive restraints are subject to summary (per se) condemnation**

13. Under the exemption regime (i.e. appraisal of agreements under article 6 Netherlands Competition Act (CA) there are some hard-core restrictions which are prohibited, e.g. directly or indirectly
fixing purchase or selling prices. In this regard the NMa follows the European competition law and its development via case law etc. In combination with an appraisal of the economic context (e.g. (potential) competitive conditions on the relevant market) decisions are taken. The example below can illustrate this.

**Case 1011 KPN Telecom - SNT - Telecom Teleservices**

14. KPN is the former monopolist supplier of telephone services, SNT is the biggest call center company, with a market share of [20-40 percent]. Parties want to (i) reach economies of scale and (ii) bundle knowledge, both to increase cost efficiency in (only) the production of call center services. Marketing will be done independently by each partner. Both gains will lead to a cost reduction that can be passed on to consumers through lower prices.

15. Elements of the agreement: SNT and KPN will:

   - exchange information before bidding on large projects;
   - not approach each others customers;
   - exchange information about their customers;
   - KPN and SNT are preferred suppliers of Telecom Teleservices for a number of subcontracting services.

16. The four conditions in article 6 CA are satisfied since:

   - production or distribution are improved and/or technological or economic progress is promoted, since productive activities are concentrated in one new enterprise which increases cost efficiency and enables economies of scale;
   - in view of competitive pressure, it is expected that cost efficiencies will be passed on to consumers;
   - necessity of restrictions: SNT is experienced in managing call centers, KPN has extensive experience with and knowledge of technical issues;
   - because of the number of competitors remaining, their market shares, low entry barriers and the high growth rate, competition is not eliminated.

4. **What kind of evidence do you require to determine if anti-competitive clauses are reasonably linked to the JV’s pro-competitive effects and necessary to achieve the JV’s positive impact?**

17. Parties are asked to motivate the why and how of parameters of anti-competitive clauses such as the duration, the size of the exclusive territory, the set-up and extent of fining clauses related to a premature/early break-up of the JV. For a concentrative JV this is used to determine if such clauses qualify as ancillary restraints as set out in the Notice on ancillary restraints with concentrations of 1990. Agreements which are assessed under article 6 CA follow a similar line of reasoning as set out in the Elopak/Metal Box- Odin decision “where specific provisions of the agreement which are no more than is necessary to ensure the starting-up and proper functioning of the JV do not fall under Article 81 of the EC Treaty”. Sometimes (potential) competitors are asked to give their opinion or a research agency is employed for providing additional information. General guidelines are hard to give, since account must be taken of the specific circumstances of each individual case.
5. **Do you encourage JV’ers to make commitments designed to enhance the pro-competitive nature of a JV?**

18. During the investigation of cases, the parties concerned sometimes, after consultation with the NMa or otherwise, voluntarily change some of the provisions of the agreement or merger which are deemed to be anti-competitive and would probably prevent non-opposition, the granting of a licence or an exemption. Another possibility for commitments is incorporating these in the formal decision, e.g. issuing a licence for the concentration subject to restrictions and/or conditions. An example of the aforementioned is the decision on the licence for Friesland Coberco Dairy Foods’ acquisition of Zuivelfabriek De Kievit. There parties agreed to segregate De Kievit’s farm milk trading before the take-over and to transfer them to a subsidiary of De Kievit shareholder Hoogwegt, which would continue the activities and integrate them with its activities.

6. **Does your JV policy apply only if they have a particular legal form or a certain degree of permanence?**

19. Under Dutch law, the difference between co-operative and concentrative joint ventures, as it existed under the EU Merger regulation until 1998, still exists. Whereas the current EU Merger regulation incorporates the test of article 81 of the EC Treaty if a co-operative joint venture is concerned, this is not the case in the Netherlands. That is: within the EU merger regulation it is investigated if the co-operative joint venture satisfies the following cumulative conditions:

   i) the joint venture must provide a significant contribution to improvement of production or distribution of goods/services or the promotion of technical or economic progress;
   ii) a fair share of the benefits must go to consumers;
   iii) the co-operative agreement must be indispensable;
   iv) competition must not be eliminated in the relevant market.

20. Under the Netherlands Competition Act, a concentrative joint venture is investigated (merely) for the existence or strengthening of a dominant position. If the notified merger is not declared a concentration because of a perceived risk for co-ordination between any of the parents and the joint venture, the case will be transferred to the department dealing with exemptions, which applies the same conditions as in article 81 EC Treaty. Consequently, there is not yet any possibility, to weigh the advantages and disadvantages as is possible under article 81 EC Treaty, within the Dutch concentration control framework of assessment. Instead, this investigation whether the conditions for exemption are satisfied is done within the separate exemption regime with its own procedural obligations and provisions.

21. Since the degree of permanence of a JV is one of the factors which determines whether a joint venture qualifies as a full function operation or not, it indirectly also determines under what regime – merger control or exemption – it will be assessed. The legal form of a JV is also important in the sense that weaker – not formalised in a legal body- forms of co-operation are seldomly considered as full function joint ventures. Consequently these would be assessed under the exemption regime.

7. **Identify and summarise empirical research showing that competition policy towards JV’s is too liberal or strict.**

22. In general little or no research has been done on the effects and restrictiveness of competition policy with regard to joint ventures and strategic alliances. One of the main causes of this deficiency are the problems one is confronted with, when estimating demand and supply functions. Recently, some methodological progress has been made, however, in evaluating the impact of market structure on prices...
and welfare. Park and Zhang [2000] and Pinkes and Slade [2000] have made interesting contributions. Park and Zhang investigate the effects of several international airline alliances on demand (sign of higher quality), equilibrium prices, quantities and welfare. Their model estimates show that complementary alliances tend to increase output, lower prices and consumer surplus, whereas parallel alliances tend to reduce total output and consumer surplus. Alliances in other sectors could be studied in a similar way. Pinkes and Slade apply an innovative structural model to the British beer market and study the effects of product differentiation and concentration on prices.

8. Does your agency balance pro- and anti-competitive effects of a JV using a different ‘surplus’ standard than it applies to mergers?

23. Under Dutch Law, there exists no possibility to allow for an efficiency defence, as under the US system, for clearing a merger. Consequently, there is no surplus standard in merger policy applied to (concentrative) joint ventures. As far as ancillary restraints in combination with concentration filings are concerned, the assessment is merely based on the indispensability of the constraint for accomplishing the transaction. This is not the same as an assessment to determine if the four cumulative conditions as applied to exemptions are fulfilled.

24. Co-operative joint ventures have to fulfil the cumulative criteria for exemption as set out in article 17 of the CA (compare with art. 81.3 EC) if the JV falls under article 6 of the CA. This means amongst others that competition must not be eliminated and the JV must be indispensable for achieving its goal.

9. Are there plans in your jurisdiction to modify procedures applied to JVs? Why?

25. At the moment there are no plans to modify procedures applied to JVs. The review of the Competition Act in 2001-2002, however, might lead to modifications.

10. Describe in detail one or more recent JV cases

26. Competition policy frequently interacts with – sometimes extensive – sectoral regulation by the government in certain industries. Health care is one example, retirement saving and public transportation two others. Such cases are particularly interesting because they show the limits competition authorities are confronted with as a result of supplementary (usually sector specific) regulation by governments. The following two cases are specifically interesting because they deal with this interaction. They can be qualified as concentrative joint ventures; more precisely a production JV and a production and marketing JV. After that some examples of joint purchasing and joint production, which where assessed under the provisions for exemption from Article 6 CA, are presented. Finally the special regime for crisis cartels is briefly covered.

Concentrative joint ventures

Case 1201 ABP-PGGM-NIB (production joint venture)

27. ABP and PGGM are the two biggest Dutch pension funds. In March 1999 they planned to take a 50 percent stake each in investment bank NIB.
28. The following facts were available when the case was assessed:

- parties declared that NIB’s parents will not be active on markets where NIB itself would be present: production and distribution of investment products, investing for own risk and account, investment and asset management for third parties. Consequently, there was no risk for co-ordination between the parents and the JV.
- ABP and PGGM asserted that they actually were no competitors since Dutch law does not allow for any real freedom of choice for the customers of both ABP and PGGM.

29. The NMa is confronted with this line of argument in several state-monopolised or regulated industries: since there is no competition, parties argue that a merger between them will not actually change the competitive conditions on the relevant markets. In the decision, this issue was could be left unanswered, because all the activities that NIB engages in and are important from the perspective of an investor-pension fund are supplied by a large number of competing firms.

Case 1383 NS – Arriva – NoordNed (production and joint marketing)

30. In August 1999, NS and Arriva intended to bundle bus and train transportation into one company that would provide integrated transportation. NS is the incumbent national monopolist provider of railway transportation services; Arriva is a British multinational that, among other things, arranges all public transportation in the city of Groningen and (regional) bus, taxi and car services in the northern part of The Netherlands.

31. Because this case concerned a so called concentrative JV (the parents were withdrawing from the markets where the JV would be active, so there was no risk of co-ordination between the parents or a parent and the JV), the only issue to be investigated was whether the transaction threatened to create or to strengthen a dominant position on any influenced market. The JV agreement provided for the following:

- it would get a five-year concession to supply bus and train transportation in the northern provinces, with an option for another five years;
- NoordNed would get access to the national rail network.

32. Parties, among other things, stated that the combination would imply a combination of two regional monopolies, one in bus transport and the other in railway transport, but that competition would not be affected since the existing regulation (rail) and practices (bus) did not allow for any competition between them(this argument was in many ways similar to that in the ABP-PGGM-NIB case).

33. It was ruled that there was no risk for a dominant position in view of that fact that:

i) bus and rail services constitute complementary services due to differences in price (train +20-40 percent), travelling time, routes and distance between stops;
ii) there was no overlap between the activities of the parties;
iii) the (at that time) proposed (but by now accepted) Law on Personal Transportation is not likely to aim at compulsory tendering of bus transport within at least a number of years ;
iv) there is not yet a law proposal that envisages competition in rail transportation;
v) parties thus cannot compete with each other on the markets for regional public transportation outside their concession areas since current regulation does not allow for competition yet;
vi) since competition is most likely to be introduced only in the field of bus services, any risk for co-ordination will only concern Arriva and NoordNed (since Arriva could participate in the same bus tenders as NoordNed);
vii) the first new competitor of NS would be formed.
What can we conclude from this experience?

34. Despite a strict competition law, supplementary regulation poses limits to the relevance of a competition test. As long as sector specific regulation allows that government imposed monopolies are continued, a competition test is unlikely to lead to an improvement of competitive conditions.

Assessment under Article 6 CA; joint purchasing

35. Generally speaking joint purchasing agreements in itself are not considered as limiting competition by object, on the basis of efficiency and countervailing power arguments. Nevertheless such agreements can have harmful effects on competition depending on the structural characteristics of the relevant markets and the position of the joint purchasing co-operative and the provisions of the agreement.

36. When assessing joint purchasing agreement attention must therefore be paid to restrictions of competition, like restriction of sales opportunities on upstream markets or restrictions of competition on the downstream market between the members of the joint purchasing co-operative. Below two applications for exemptions of joint purchasing agreements, on which the Netherlands Competition Authority took a formal decision, are described.

Case 169 Hout Import Combinatie (HIC)12

37. The HIC is an alliance for purchasing pinewood. The agreement encompassed that the three undertakings concerned would jointly import pinewood. Each party is free to buy pinewood independently, in as far as this involves domestic purchases (i.e. the intermediate trade). The agreement could not be qualified as a concentrative joint venture. In the relevant markets, the market for the importation of pinewood and the market for pinewood wholesaling, the market share of HIC is less than 10 per cent. Furthermore, the large number of undertakings active in this market, the absence of significant access and expansion barriers and the negotiation power of customers, lead to the conclusion that the market is very competitive. Therefore the agreement did not give rise to an appreciable restriction of competition in the markets concerned. The same applied to the exclusive take-up commitment, which was contracted for an indefinite period jointly with the joint purchasing agreement.

Case 224 Multizorg13

38. The Multizorg co-operative purchases hearing aids, respirators, stoma articles, diabetic materials, incontinence materials and maternity care for its members. Ten care providers, who offer private care insurance, are affiliated to this co-operative. The members operate on a national scale and are free to buy care from other sources. In addition, Multizorg’s purchases of aids and maternity care accounted only for a very small share of these markets. Therefore the conclusion was reached that joint-purchasing via Multizorg did not give rise to any appreciable effect on competition in the markets for purchasing of care, to restriction of sales opportunities of care providers or a restriction of competition between these care providers. The accompanying exit scheme on the basis of which the members were charged for costs when they withdrew from the co-operative lead to the same conclusion.

Assessment under Article 6 CA; Joint production

39. Below, two examples of decisions on applications for exemption for joint production are given. In both cases the co-operation agreement was found to be pro-competitive because it enabled a new competitor to enter the market.
Case 21: Interpolis & Cobac

Interpolis (a fully consolidated subsidiary of Rabobank and affiliated companies), Cobac (part of the Euler group which is connected to the Allianz group) and Cobac services (a 49 percent subsidiary of Cobac) set up the joint venture Interpolis kredietverzekeringen, which offers credit insurance. Interpolis is an insurer, which is not active in the Dutch credit insurance market. The Euler group is active in the field of credit insurance. Cobac has a limited market share of about five percent on the Dutch credit insurance market while Cobac Services is not independently active on this market. The joint venture is not totally independent, e.g. Cobac determines the size of the insured credit and the terms from which the credit insurance policy starts, bases on risk assessment via its own specific database. Additionally, Cobac provides acceptance and other activities for the joint venture. Interpolis provides its distribution channels to the joint venture. In other words, the joint venture is dependent on Interpolis and Cobac for important and essential parts of her activities and can therefore be classified as co-operative (as opposed to concentrative).

In the competitive assessment account was taken of the effect of the set up and maintenance of the joint venture on competition on the relevant market and between the parent companies within the economic context of the relevant market. The dominant player in this market is NCM with a market share of more than 80 percent. The very specific nature of credit insurance as a service, whereby the set-up of a database is a very time-consuming and costly process lead to the conclusion that this market is characterised by high entry barriers. The combination of the distribution channels of Interpolis (including Rabobank’s subsidiaries) with the technical expertise and experience in this market of Cobac, creates synergy effects in the joint venture which give it the possibility to credibly put pressure on NCM’s position in the market. Without the co-operation between Interpolis and Cobac this would not have been possible. Cobac could not achieve that by itself, since developing a large channel of distribution could not have been realised as quickly and efficiently as the JV could. Neither could Interpolis offer credit insurance independently without the necessary knowledge, experience and technical expertise. Combining this with the very strong position of the dominant player lead to the conclusion that the entry of the new undertaking Interpolis kredietverzekeringen can be expected not to limit but instead to improve competition on the relevant market. Therefore no exemption was necessary. Ancillary agreements could be qualified as being directly related to the set-up and maintenance of the joint venture and consequently did not need an exemption either.

Case 427: K.O. Bus Bedrijven Groep Nederland

This application for exemption concerns an alliance of 43 construction companies operating on a local and regional scale. This alliance, the K.O. Bus Karwei Onderhoudsdienst related to the maintenance of buildings. The alliance aimed at increasing sales of maintenance services by enabling its individual members to provide a more attractive service to national buyers of such services, by working together. Such national customers would not do business with individual K.O. Bus members. Since the K.O. Bus members do not (and can not) compete in the national market for maintenance services the agreement does not restrict competition but actually increases it because a new provider enters the national market. Furthermore the market share of K.O. Bus Karwei Onderhoudsdienst is very small. Taking this all into consideration no exemption was required.

Assessment under Article 6 CA; joint reduction of capacity: crisis cartels

The European Commission applies special principles to crisis cartels. These principles are a set of strict conditions, which must be fulfilled in order to qualify for approval for agreements in a sector, designed to solve structural problems through a co-ordinated reduction of overcapacity. The economic
reasoning behind this is that after the restructuring, healthy competition can be restored in an improved market situation. Such agreements (or parts thereof) are prohibited if they restrict individual decision making freedoms and competitive conditions too severely and do not comply with the conditions for exemption of Article 81.3 EC Treaty (Article 17 Competition Act). The application for exemption of the Foundation of the Pig Slaughterhouses Restructuring Fund is an example of application of these principles by the Netherlands competition Authority. In this case the application for exemption was rejected for the provisions which included restrictions on production for the (remaining) capacity of the slaughterhouses concerned.

IV. International aspects of JV’s and international co-operation among competition authorities

1. Describe any international JV cases where there have been differences in treatments accorded by CA’s.

44. The NMa has no experience of such cases so far.

2. Would facilitating information exchange or assistance in other jurisdictions’ investigations have contributed to more similar solutions being adopted in your country?

45. To give an example: the Dutch notification form for concentration requires parties to submit a relatively small amount of information on their activities, e.g. no information is requested on adjacent/related markets. Consequently, the NMa could profit from exchanging information with other EU member states, which require more extensive information for notification of a concentration such as information about adjacent markets. Of course the NMa also has the possibility to ask the parties involved additional questions e.g. in order to obtain information about up- or downstream markets.

3. Give some examples of international co-operation: what are costs and benefits

46. The following general observations can be given. An impediment to international co-operation is the lacking of a legal basis for the exchange of (confidential) information. Moreover, the merger and exemption application procedures differ between competition authorities, resulting in different information requirements, definitions and procedural provisions such as deadlines for taking a decision etc. Language and physical distance are other impediments to international co-operation. With regard to merger procedures the strict rules for taking a decision within a set period necessitate fast and flexible co-operation. These factors should be taken into account if international co-operation is to be facilitated. Benefits could be harmonisation of application of merger and cartel control between different countries. In the field of merger control international JVs have to notify in an increasing number of countries, co-operation between countries would greatly reduce the administrative burden on business for filing in different countries with different procedures etc. Assistance could also help investigation into effects on relevant markets outside the national borders.

4. Present evidence of across country differences in policies towards JV’s that have prevented companies from making better use of international JV’s or have led to competitive distortions

47. Such evidence was not available.
References

Jorde/Teece (eds.), Antitrust, Innovation and Competitiveness, Oxford 1992
Netherlands Competition Authority, NMa and DTe Annual Report 1999, The Hague, April 2000, also available on www.nma-org.nl
NOTES


2. So called Stackelberg leadership.


6. An elaborate explanation of TCE can be found in *The economic institutions of capitalism* by Oliver E.Williamson, Free Press, New York 1985.


9. Decision of d-g NMa *FCDF/De Kievit*, casenumber 1132, dd. 7 July 1999


11. See Williamson (1988) for some alternative surplus measures.

12. Decision d-g NMa, casenumber 169, *Hout Import Combinatie*, dd. 3 December 1999


15. Decision d-g NMa, casenumber 427, *K.O. Bus Bedrijven Groep Nederland*, dd. 1 July 1999


17. Decision d-g NMa, *Pig Slaughterhouses Restructuring Fund*, casenumber 374, dd. 23 March 1999