

## Public consultation on Call-in Powers Act for the Dutch Authority for Consumers and Markets

# CCIA Europe response

April 2025

The Computer & Communications Industry Association (CCIA Europe) welcomes the [public consultation](#) run by the Dutch Authority for Consumers and Markets (ACM) on the potential amendment to the Competition Act in connection with the expansion of merger control (Call-in Powers Act for ACM).

CCIA Europe supports a merger control framework that ensures effective and harmonized competition enforcement, and legal certainty. As competition authorities reassess their approach to below-threshold transactions following the Illumina/GRAIL ruling,<sup>1</sup> maintaining predictability in merger control is crucial. While we recognize the ACM's objectives, we believe that any new framework must balance enforcement powers with the fundamental principle of legal certainty and harmonisation among European member states. In response to this consultation, CCIA Europe thus offers the following recommendations:

1. Maintain the *status quo* in merger control rules
2. Provide additional safeguards to the potential new call-in powers of ACM

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## I. Maintain the *status quo* in merger control rules

CCIA Europe maintains that the existing legal framework for merger control is sufficient to address concerns around anti-competitive transactions. In our view, there is no enforcement gap that would justify amending the Dutch Competition Act, nor is there evidence of a rising trend in below-threshold mergers—such as so-called “killer acquisitions”—that would warrant such a change.

Indeed, recent academic research suggests the opposite: there is no indication that killer acquisitions have become more frequent or more likely to harm competition. On the contrary, studies show that “acquired products are often not killed but scaled,”<sup>2</sup> that post-merger industry output often increases, and that relevant markets remain dynamic following such transactions.

From a legal certainty and EU harmonisation perspective, the proposal raises additional concerns. It would grant the ACM broad discretionary powers to determine which below-threshold transactions to call in, without clearly defined criteria. This would leave merging parties with considerable uncertainty, not only as to whether their transaction may be reviewed, but also regarding the timing and implications of such a review.

Furthermore, the proposal could undermine the integrity of the EU's one-stop-shop merger regime, which ensures a coherent and efficient system across Member States. In contrast, the current trend of national competition authorities adopting their own call-in powers risks

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<sup>1</sup> Case 611/22 P - Illumina v Commission, Judgment - 03/09/2024, available [here](#).

<sup>2</sup> M. Ivadi, N. Petit, S. Uenekbas, “Killer acquisitions in digital markets may be more hype than reality”, available [here](#).

creating a fragmented framework of 27 different systems. In fact, an already inconsistent scheme of call-in mechanisms exists across the EU, contributing to legal uncertainty for companies. Some Member States apply lower or alternate thresholds (e.g. in Norway, acquisitions of more than 5% of shares in strategic companies must be notified; in Ireland, the test is whether the transaction may affect competition, with no threshold at all), and time limits for exercising call-in powers vary as well: some countries set no limits (e.g. Sweden, Cyprus), while others apply strict deadlines (e.g. Italy, Denmark, Hungary). Adding a new call-in regime with its own criteria and timelines would only deepen this fragmentation.

CCIA Europe is concerned that this trend toward national differentiation in merger control could lead to:

- Increased costs and complexity: merging parties—including startups—may be forced to navigate overlapping national reviews, increasing legal and administrative burdens.
- Harm to small businesses and innovation: the added complexity, cost, and uncertainty are likely to discourage legitimate transactions.
- A reduced buyer pool and depressed valuations: a fragmented and stricter merger regime may deter potential acquirers, reduce valuations of innovative firms, and ultimately disincentivize early-stage investment—making Europe a less attractive environment for entrepreneurship and growth.

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## II. Provide additional safeguards to the potential new call-in powers of ACM

While call-in powers for national competition authorities already exist in several European jurisdictions, CCIA Europe believes that these frameworks include more robust checks and balances than those currently proposed in the ACM’s consultation. In this regard, should the ACM deem necessary to amend the Competition Act, CCIA Europe respectfully offers the following recommendations:

1. Clarify the substantive threshold: CCIA Europe believes the current threshold, which refers to mergers that “significantly harm competition” to be too vague. To promote legal certainty, we believe the ACM should define more precisely the types of transactions it intends to prioritise. This could include concrete examples to serve as benchmarks, to be included in the legislation itself, or in additional guidelines.
2. Establish a clear territorial nexus: the call-in power should be grounded in well-defined criteria that ensure a strong territorial link to the Netherlands. This is essential for providing legal certainty, especially for companies operating globally. For example, it should be required that the target company is either already active in the Netherlands, or has concrete, near-term plans to enter the Dutch market.
3. Ensure transparent and efficient voluntary consultations: the ACM should implement a clear, structured consultation process, including defined information requirements and response timelines.

Finally, CCIA Europe suggests to await the outcome of the Nvidia/Run:AI case before the EU General Court before proceeding with amendments to its Competition Act, as this judgment will likely have implications for the future use of call-in powers across the EU, and should inform national implementation.

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## Conclusion

As digital markets evolve, it is crucial to strike a balance between effective merger control and preserving innovative and attractive digital markets. The ACM's approach to below-threshold mergers will play a key role in shaping these objectives.

We commend the ACM's initiative to consult on this fundamental issue, and suggest the authority to prioritize legal certainty, EU harmonization, and a fact based approach in its final decision. We believe the current system works already and is well placed to address current competition concerns. Should the ACM nonetheless decide to amend its Competition Act, we believe it is fundamental that it ensures additional clarity, and consistency with other EU legislations. These principles are not just procedural necessities—but quintessential to fostering a competitive and innovative European digital economy.

## About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

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