



Why postal competition failed in the Netherlands: a view from the Bench

Barbera Bastein
Judge

The **Supreme Court for Economic Administrative Law**, in Dutch: het College van Beroep voor het bedrijfsleven (**CBb**)



Financial supervision

Food quality

Competition law

Consumer protection

Health law

Economic and Agricultural Subsidies

Regulation of markets

Article 9 Postal Act as of April 1, 2009

- 1) If a postal service provider that has a network capable of delivering postal items to all addresses in the Netherlands on at least five days a week provides postal services under special conditions and rates using that network, it provides these postal services to other postal service providers on a non-discriminatory and transparent basis with regard to other senders and postal service providers. (...)
- 2) (...)
- 3) A postal service provider as referred to in the first paragraph ensures that the applicable special conditions and rates are known to everyone.
- 4) (...)
- 5) (...).

Postal market until 2009



since 2012



Postal Market from 2009

NetwerkVSP



Postal market 2011



Postal market 2012 – the big four



Postal market 2017



sandd.

Postal market 2019



Postal market 2023 – back to square one



Three cases

*Postal rates as
of January 2015*




City of Rotterdam



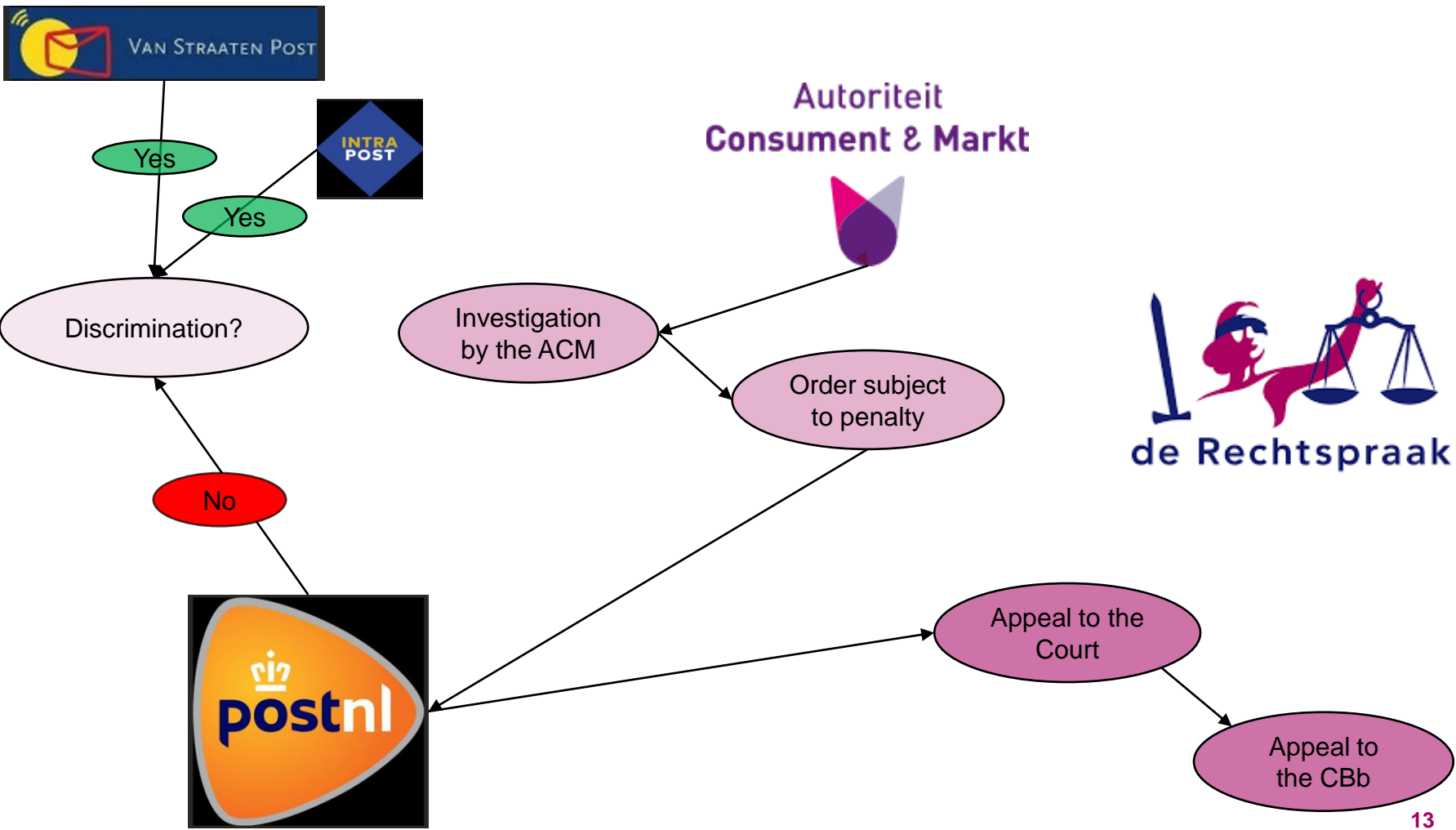
The Dutch regulator

Autoriteit
Consument & Markt



The Netherlands Authority for Consumers and Markets (ACM) is charged with:

- Competition oversight
- Sector-specific regulation of several sectors (telecommunications, postal services, energy, health care, transport)
- Enforcement of consumer protection laws



**Marktanalysebesluit
24-uurs zakelijke post**

BESLUIT

**Autoriteit
Consument & Markt**



*Market analysis
decision 24 hour
business mail*

2023: the competition whiped out



NetwerkVSP



sandd.

INTRA
POST



Why postal competition failed in the Netherlands?

The competitors were not strong enough?

PostNL, as an ex-monopolist with its own network, was too strong voor competitors anyway?

PostNL thwarted its rivals?

The ACM should have investigated better?

The judge was too harsh on the ACM?

Article 9, which was meant to get more competition in the postal market, was not strict enough?