

The background of the slide is a photograph of two white birds, likely herons or egrets, in flight over a body of water. The birds are captured in a dynamic, mid-flight pose, with their long necks curved and wings spread wide. The lighting is soft, highlighting the texture of their feathers. The water in the background is slightly blurred, creating a sense of depth.

FOREST FLINT

Een eerlijk speelveld voor E-commerce
op de (online) levensmiddelenmarkt
Acht maanden later...

Vertrouwelijk – 5 april 2025

Brief ACM: belang concurrentie & innovatie bij dispensatie

- 17 juni 2024 – Brief ACM aan Minister SWZ:

*(D)e ACM (wil) met deze brief aandacht vragen om in uw afweging ook rekening te houden met **het publieke belang van concurrentie, innovatie en keuzemogelijkheden voor de consument in de supermarktsector***

De effecten van een nieuwe cao kunnen voor de bestaande grote supermarktketens die slechts voor een relatief beperkt deel van hun omzet afhankelijk zijn van online bezorging mogelijk anders zijn dan voor de online supermarkten die hun bedrijfsmodel volledig gebaseerd hebben op online bezorging.

*De ACM vindt het van belang **dat dit soort effecten worden meegewogen bij de vraag in hoeverre de nieuwe CAO LMB verbindend wordt verklaard of dat dispensatie wordt verleend voor een partij als Picnic, nu maatwerkafspraken nog niet gemaakt zijn.***

- 2 juli 2024 – wisseling van de wacht: Kabinet Schoof beëdigd

Sinds dispensatie wordt deur dichtgehouden

- 1 mei 2024: Vereniging E-commerce krijgt dispensatie voor de CAO LMB 2022-2023 vanwege de lopende gesprekken

Ik heb vernomen dat gezocht wordt naar een onderlinge oplossing vanuit de werknemerspartij bij de cao voor het Levensmiddelenbedrijf en partijen bij de cao E-commerce. Dit streven waarbij caopartijen en nieuwe spelers naar elkaar toewerken om tot een oplossing te komen, moedig ik aan.

Ik acht het positief dat sociale partners zoeken naar een toekomstbestendige oplossing voor de gehele sector voor het Levensmiddelenbedrijf inclusief E-commerce-activiteiten

Om aan alle betrokken partijen de mogelijkheid te bieden om deze samenwerking vanuit de eigen positie nader te verkennen en gestalte te geven aan een dergelijke cao waarbij ook onderbieding wordt tegengegaan en arbeidsrust wordt gecreëerd, is het volgende besloten. De cao voor het Levensmiddelenbedrijf wordt algemeen verbindend verklaard. Daarbij wordt dispensatie verleend aan de leden van de VEN. Deze dispensatievrijstelling geldt enkel voor gedurende het onderhavige avv-besluit voor het Levensmiddelenbedrijf wegens voornoemde bijzondere omstandigheden, en zodat alle betrokken partijen de ruimte krijgen om gezamenlijk met behulp van de bemiddelaar tot een onderlinge oplossing te kunnen komen

- VGL, Vakcentrum, AH en CNV: streek van Picnic, er is geen sprake van "mediation". En dus: bezwaar tegen dispensatie

27 november 2024: bezwaar afgewezen, dispensatie overeind want "geconcludeerd kan worden dat sprake was van een lopend overleg waarbij het streven was om toe te werken naar een toekomstbestendige oplossing voor de sector Levensmiddelenbedrijf inclusief e-commerce activiteiten"

- Gesprekken met Picnic worden sinds zomer 2024 afgehouden; de deur is dicht.

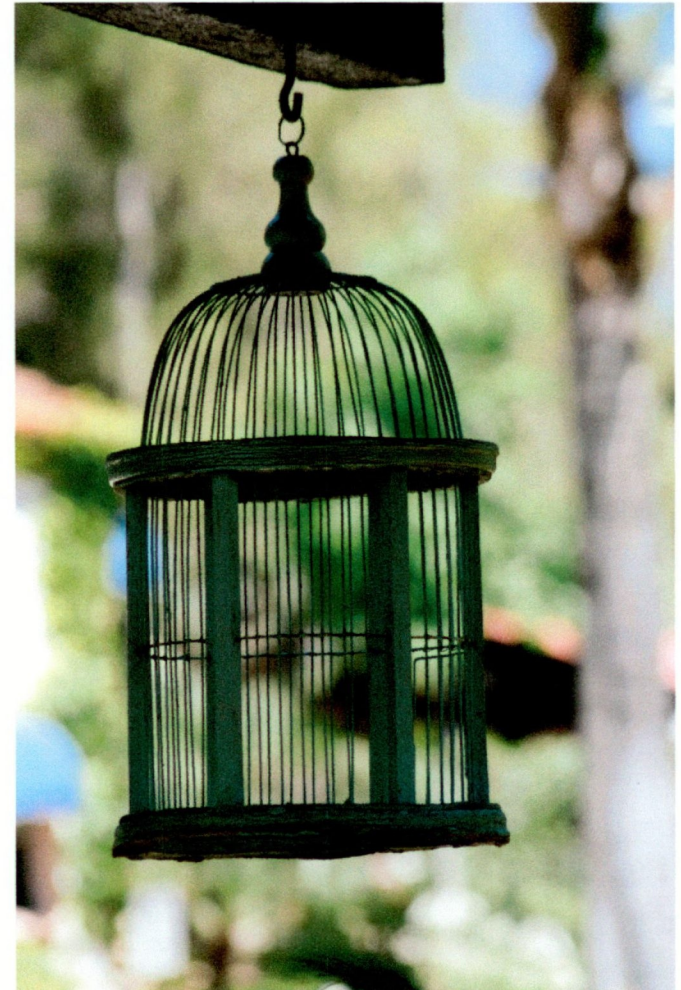


E-commerce niet betrokken bij nieuwe CAO LMB

- CAO LMB 2023-2024 liep af in juli 2024
- Akkoord nieuwe CAO LMB pas in december 2024
 - Looptijd 21 maanden tot 2026
- Hoewel ruime gelegenheid (> 6 maanden!) heeft geen enkel gesprek met Picnic plaatsgevonden; dit wordt bewust uit de weg gegaan en er wordt geen informatie aan Picnic verschaft
- Fait accompli – wat staat er in de nieuwe CAO over E-commerce?
 - geen module / aparte afspraken voor E-commerce (er is zelfs niet over gesproken)
 - *"er zal gekeken worden of en hoe de activiteiten van online supermarkten worden ingepast in de cao"*
 - *"wij zullen gedurende de looptijd van de cao hier met elkaar over praten"*
- Maar: aanvraag algemeen verbindend verklaring CAO LMB is op 21 maart 2025 [aangevraagd](#), mét de (aangepaste en brede) werkingssfeer
- Afhouden gesprekken met Picnic sinds zomer 2024 goed verklaarbaar: het voeren van gesprekken vergroot – kennelijk – het risico op voortdurende dispensatie

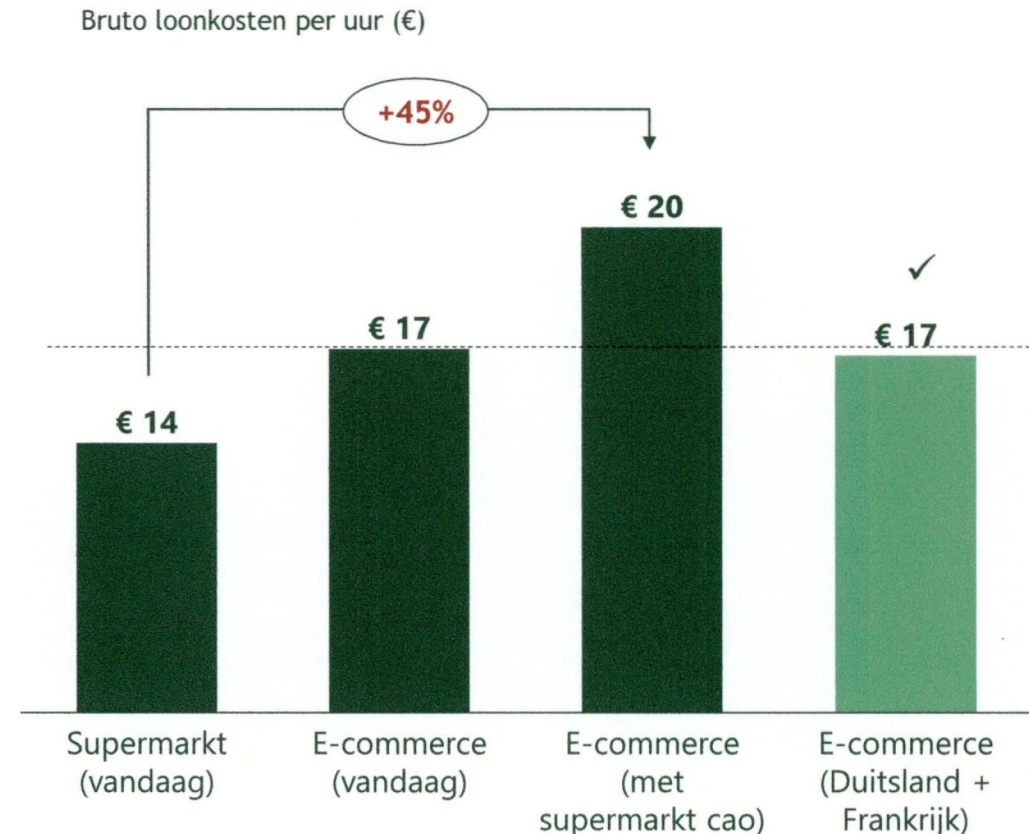
En dus: een *de facto* cordon sanitaire

- Standpunt VGL/Vakcentrum/AH/CNV: we willen wel praten **maar:**
 - alleen als alle juridische procedures door de Vereniging E-commerce worden gestaakt (bezwaar algemeen verbindend verklaren, geen dispensatieverzoek etc)
 - vooraf zullen geen garanties worden gegeven of en hoe E-commerce ooit invulling krijgt binnen de supermarkt CAO
- 3 maart 2025: brandbrief Picnic aan CNV
 - Voortbestaan E-commerce in gevaar; 25.000 banen op het spel
 - Bijlage met stappenplan voor duurzame inpassing E-commerce in CAO landschap
- Reactie?
 - Variaties op een thema: kan niet (CNV), wil niet (AH)
 - Vanuit AH en Jumbo druk op CNV: geen gesprekken faciliteren, wél handhaven op toepassing bestaande CAO door E-commerce spelers

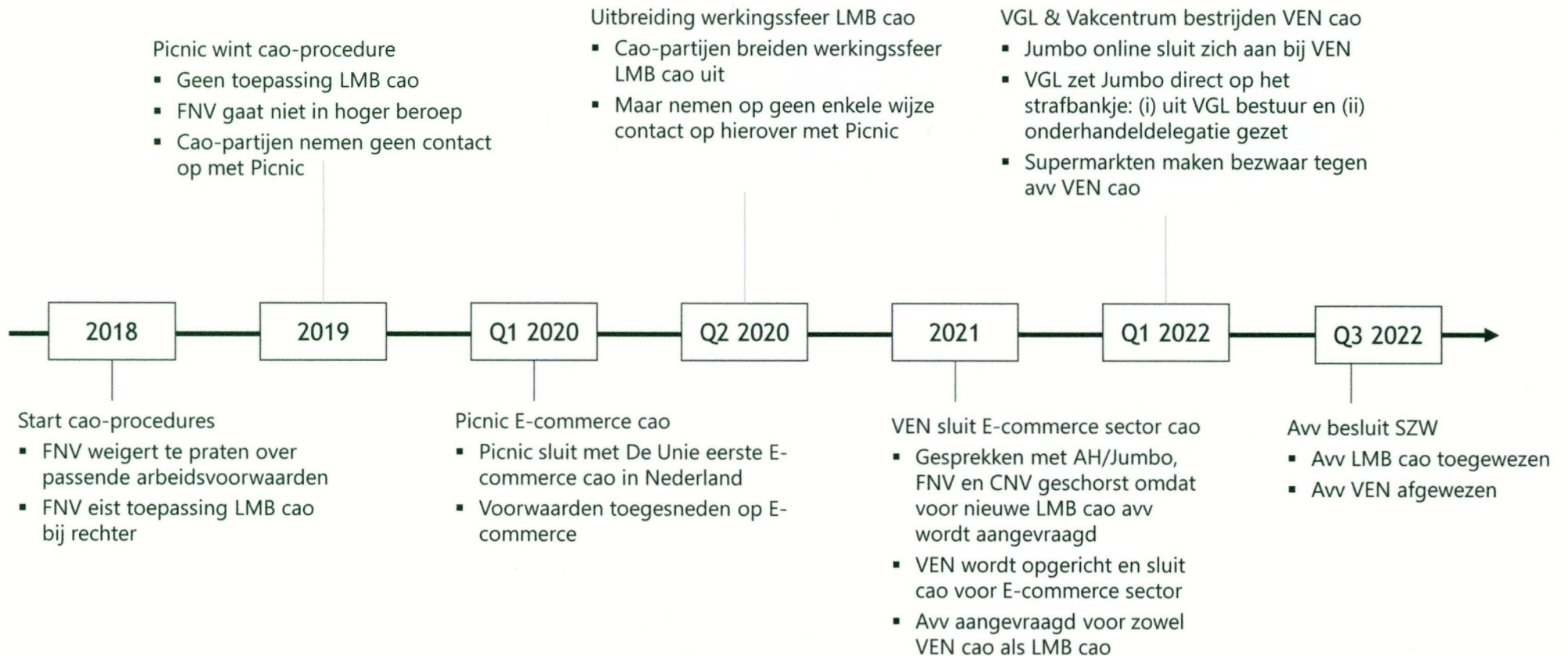


E-commerce kan in Nederland niet bestaan met zulke loonkosten

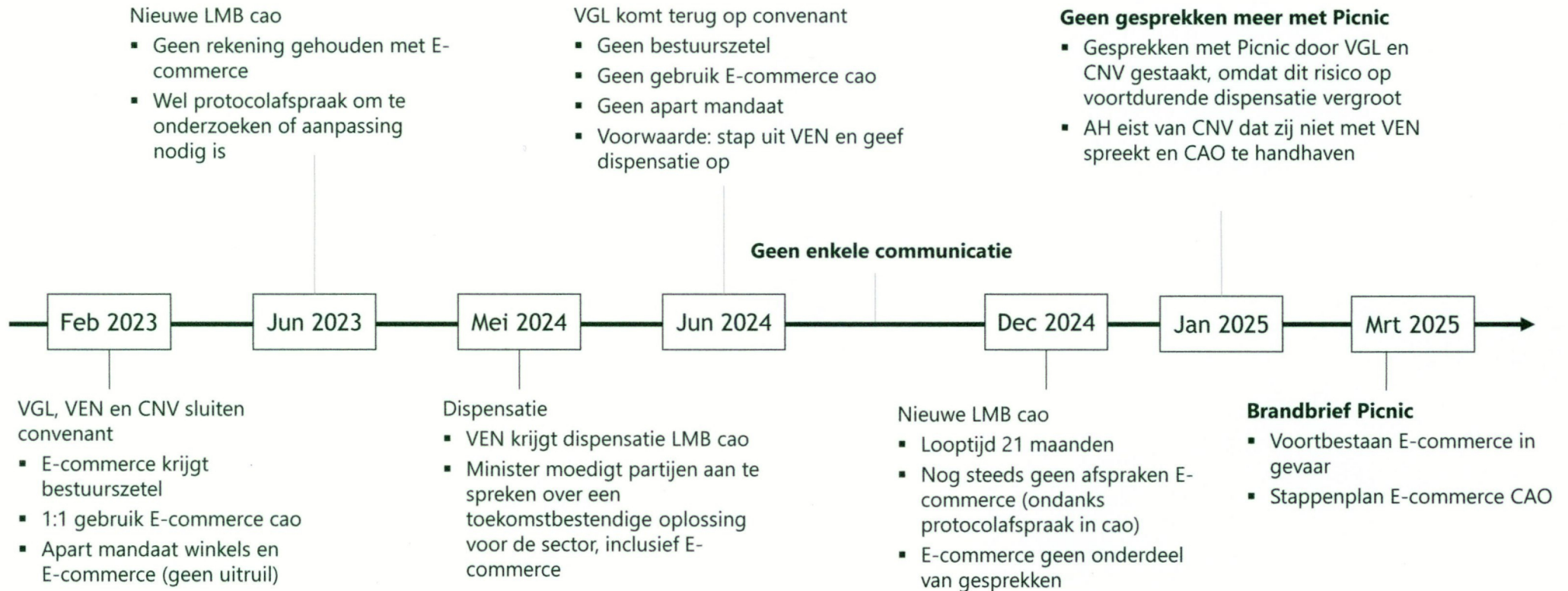
- De huidige € 17 per uur aan bruto loonkosten is in lijn met andere sectoren en landen.
- Als E-commerce de CAO LMB zou moeten toepassen zou dit stijgen naar € 20 per uur
- Dit is 45% meer dan de gemiddelde loonkosten van traditionele supermarkten
 - Traditionele supermarkten kunnen dit hoge loon voor E-commerce compenseren met de inzet van goedkope jongeren in hun winkels
- E-commerce kan in Nederland niet bestaan met zulke hoge loonkosten.



VGL & Vakcentrum bestrijden E-commerce CAO op alle manieren



Partijen komen terug op afspraken sinds dispensatie



Supermarkten kunnen online verliezen subsidiëren

- Online boodschappen segment is, mede door de hoge arbeidskosten, verlieslatend voor traditionele supermarkten
- Traditionele supermarkten kunnen deze verliezen kruissubsidiëren met de winsten uit winkels
- Die subsidie mogelijkheid bestaat niet voor (pure) E-commerce aanbieders, het maakt het model structureel verlieslatend
- Het vragen van bezorgkosten wordt soms als oplossing genoemd, maar biedt geen soelaas:
 - Bezorgkosten leiden tot hogere prijzen voor online boodschappen, waardoor klanten terug zullen gaan naar de winkel
 - Dit is precies wat de traditionele supermarkten willen, een duur en klein online kanaal en derhalve veel klanten in hun winkels

Albert Heijn zit niet in de maag met verlies op e-commerce

28/01/2023, 12:00 ACTUEEL



Topvrouw Marik van Egmond van Albert Heijn vindt het 'niet relevant' hoe rendabel de tak onlineboodschappen op zich distributiecentrum voor online winstgevendheid van e-commerce

Wissel: 11 januari 2023 18:25
 'We kijken naar de totale winst bestelde boodschappen zijn vi mede door de forse investering opening van een gemeenschap in op de groei van e-commerce van online.

722 miljoen online omzet voor Jumbo, maar niet winstgevend



dat inmiddels in heel Nederland beschikbaar is.

De vraag naar het thuisbezorgen van online bestelde boodschappen is bij Jumbo in 2023 gegroeid met 8 procent tot 722 miljoen euro, circa 7 procent van de totale omzet. Het concern moet echter toegeven dat het uitdagend blijft om dit kanaal winstgevend te maken.

Wel ziet Jumbo een stijgende lijn in de hoeveelheid klanten die zowel in de winkel als digitaal hun boodschappen doen. Juist in die combinatie zit potentiële winstgroei, want dit type klant is zeer loyaal en geeft meer uit aan de boodschappen bij Jumbo, aldus het winkelconcern. Dat geldt ook voor het groeiend aantal abonnees van Jumbo Bezorgeloos, een aantrekkelijk geprijsd abonnement op thuisbezorging

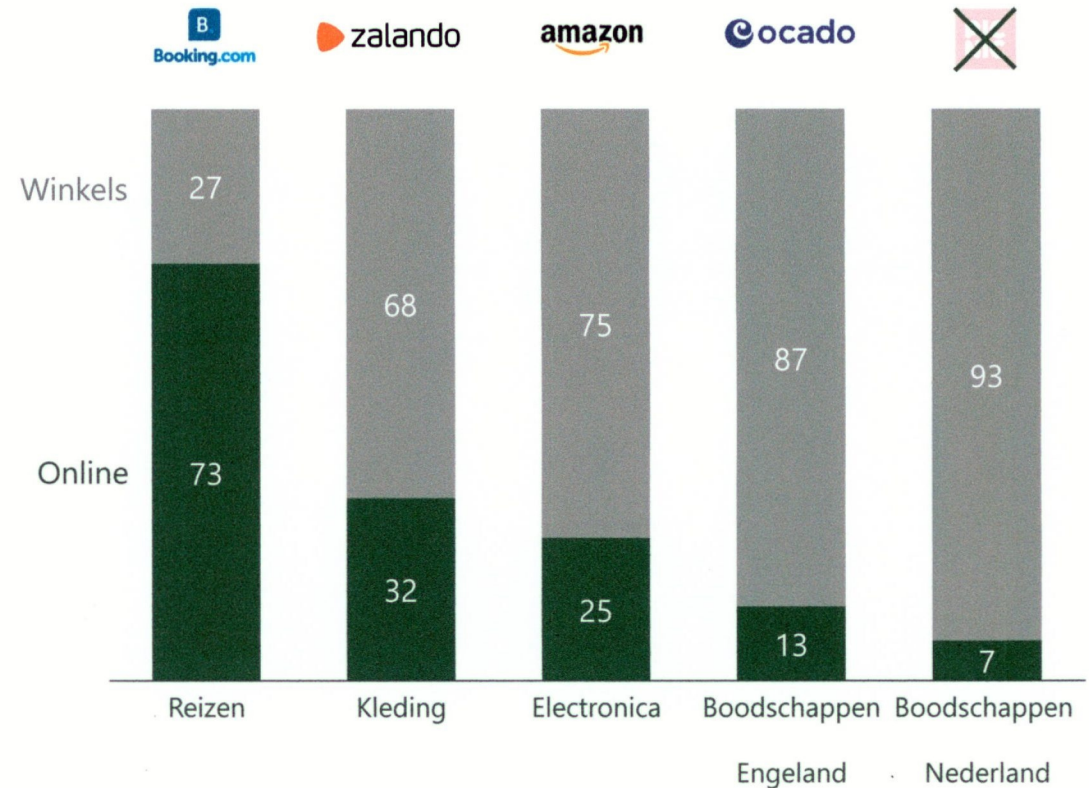
Koninklijke Jumbo Food Groep heeft 2023 afgesloten met een totaalomzet van 11,02 miljard euro, een toename van 7,3 procent ten opzichte van 2022, het jaar waarin voor het eerst de 10 miljard omzetgrens werd gepasseerd. De consumentenomzet onder de Jumbo formule steeg afgelopen jaar met 7,1 procent en kwam uit op 10,89 miljard.

Het totale winkelbestand van Jumbo is eind 2023 uitgekomen op 725, een stijging van 13 winkels ten opzichte van de 712 winkels eind 2022. Tot de nieuwe winkels behoren onder meer tien voormalige Jan Linders supermarkten in Noord-Brabant, Limburg en Gelderland. Verder zijn tientallen winkels aangepast aan de nieuwste wensen en behoeften van de consument.

Meer nadruk op het onderscheidend vermogen van de formule geldt nu als uitgangspunt. Daardoor stond het afgelopen boekjaar voor een groot deel in het teken van transitie. In 2024 zal Jumbo 'vastberaden' voortbouwen op deze ingeslagen koers.

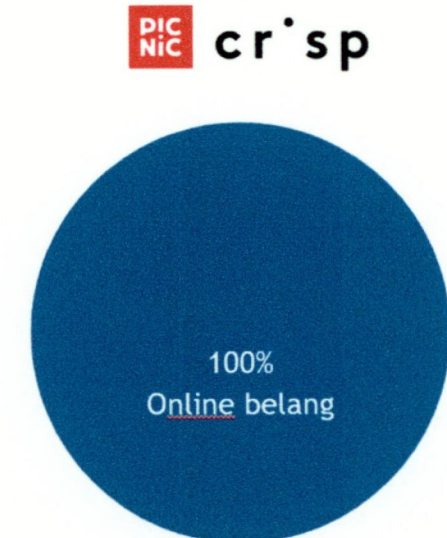
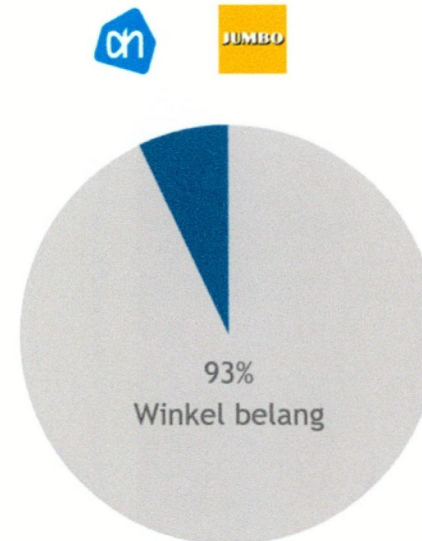
Hoe minder nieuwe spelers, hoe kleiner het E-commerce segment

- Het zijn over het algemeen nieuwe innovatieve spelers die de adoptie van E-commerce in een traditionele markt aanjagen:
 - Markt voor reizen: 73% online, aangejaagd door Booking
 - Markt voor kleding: 32% online, aangejaagd door Zalando
 - Markt voor electronica: 25% online, aangejaagd door Amazon
- Maar bij online boodschappen?



AH en Jumbo hebben voor 93% een tegenstrijdig belang

- AH en Jumbo zeggen de belangen van E-commerce te kunnen behartigen, omdat ze zelf ook online hebben
 - Online is 7% van hun omzet
 - Winkels zijn 93% van hun omzet
- De groei van klanten online betekend het verlies van klanten in winkels
- Er is dus voor 93% een tegengesteld belang



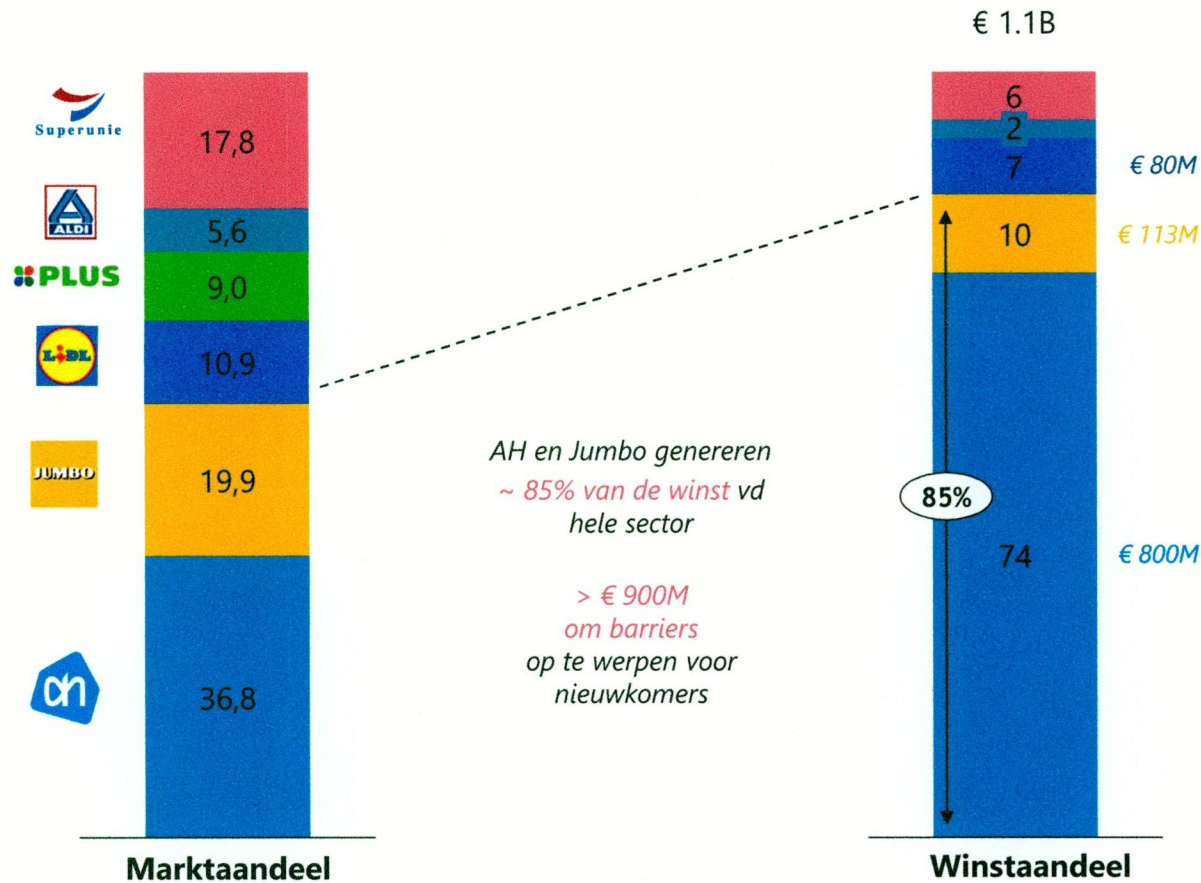
=
93% tegenstrijdig belang
+
andere arbeidspopulatie
(resulteert in lege loonschalen)

Opstelling supermarkten in strijd met mededingingsrecht

- Frustreren een aparte E-commerce CAO
 - Jumbo werd in 2020 uit bestuur van VGL gezet toen Jumbo.com zich aansloot bij E-commerce cao
- Sluiten E-commerce spelers uit van deelname aan het jaarlijkse arbeidsvoorwaardenoverleg
- Weigeren gesprek met E-commerce spelers, terwijl daar door de minister op wordt aangedrongen
 - Supermarkten eisen zelfs van vakbonden dat ze niet langer met E-commerce spreken, zodat kans op dispensatie kleiner wordt, en dat de vakbonden actief gaan "handhaven" op de CAO LMB

En dus: klassiek misbruikgedrag en mogelijk overtreding van het kartelverbod (onderling afgestemde feitelijke gedragingen) door AH en Jumbo

AH en Jumbo zijn almachtig in sterk geconcentreerde supermarktsector



Met 37% marktaandeel maakt AH 74% van de totale winst in de supermarktsector

Analyse van ALP Economics bevestigt anti-competitief gedrag

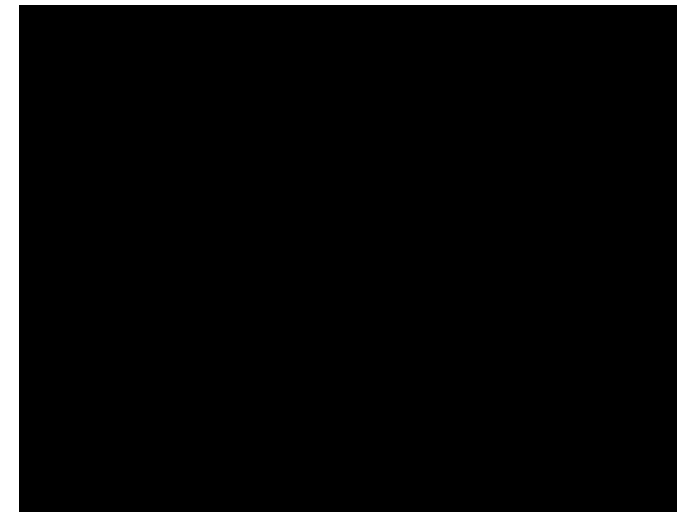
- Analyse van ALP Economics van de economische perspectieven van het AVV verklaren van de CAO LMB
- Conclusies:

“The labour costs imposed by the CLA are preventing the development of pure online groceries delivery businesses in the Netherlands”

“Traditional supermarkets seek to impose high labour costs on online grocers to stunt these competitors’ growth and protect their own dominant position”

“Supressing online grocers prevents the Netherlands from developing innovative technology and globally successful businesses”

Economic assessment of the attempted imposition of the Supermarket Collective Labour Agreement to Dutch online grocers by established supermarket chains



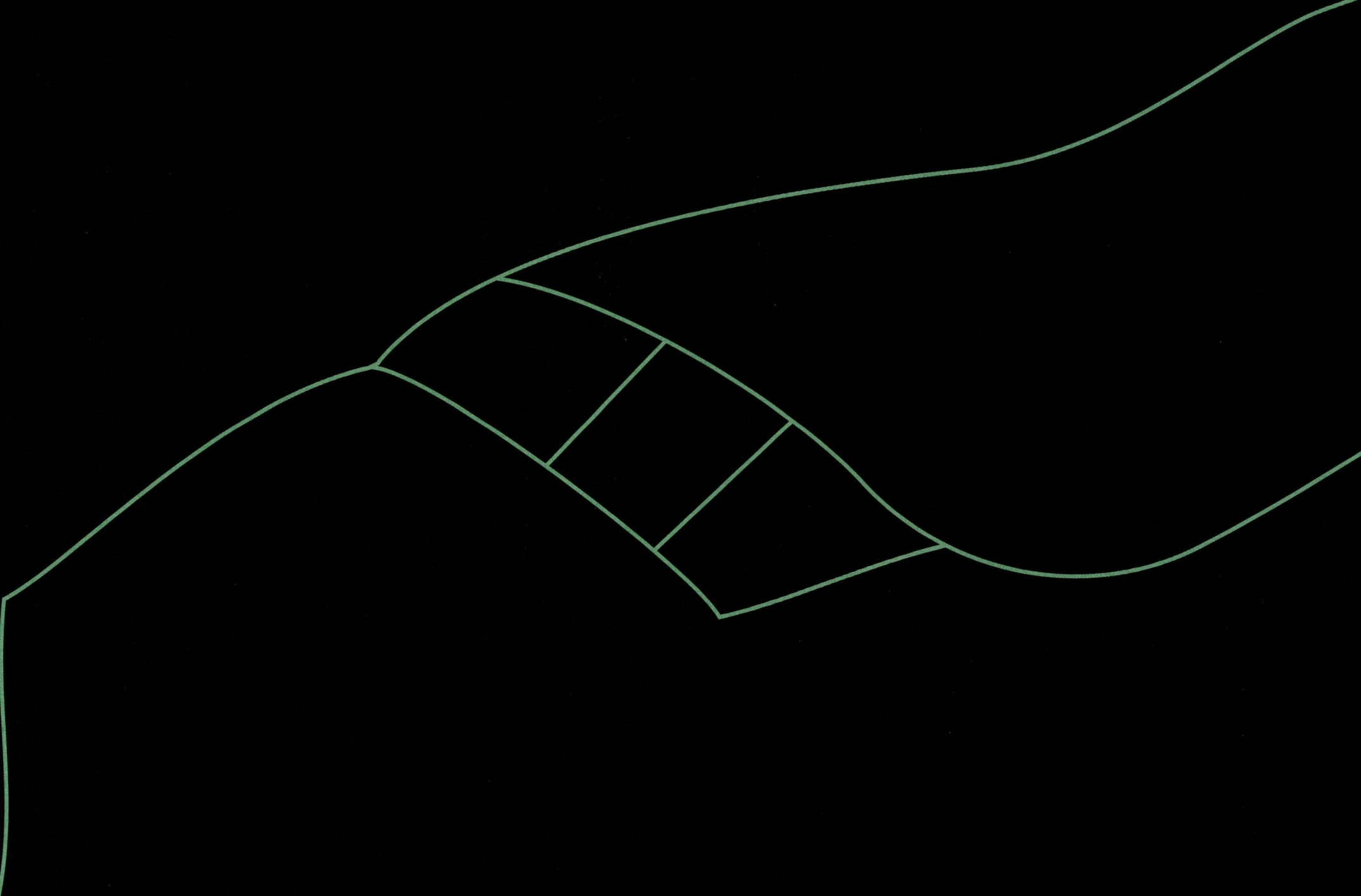
2 April 2025

En staat bovendien haaks op het Draghi rapport (2024)

*"The problem is not that Europe lacks ideas or ambition. We have many talented researchers and entrepreneurs filing patents. But innovation is blocked at the next stage: we are failing to translate innovation into commercialisation, and innovative companies that want to scale up in Europe **are hindered at every stage by inconsistent and restrictive regulations**" (p. 6)*

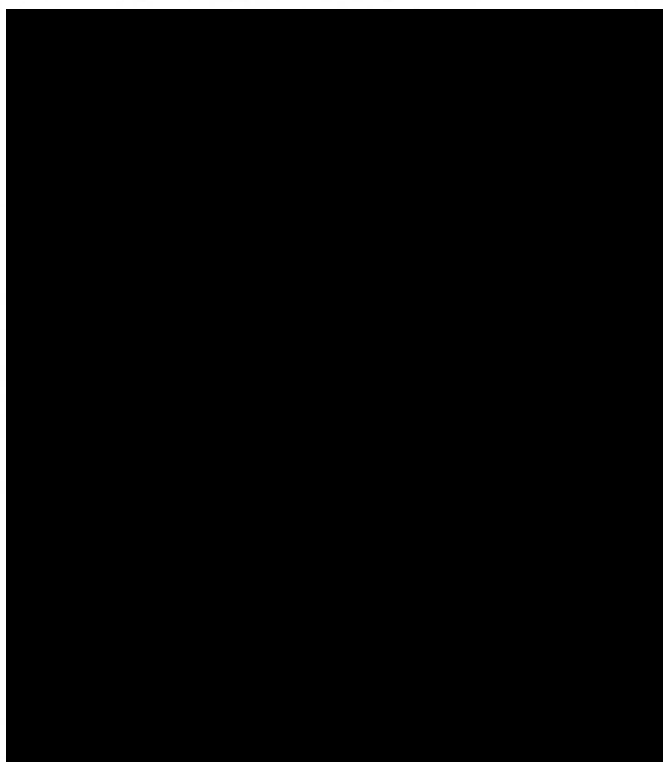
*"This objective [closing the innovation gap] will entail accelerating significantly technological and scientific innovation, improving the pipeline from innovation to commercialisation, **removing barriers that prevent innovative companies from growing** and attracting finance, and undertaking concerted efforts to close skills gaps" (p. 16)*

*"For priority sectors, the EU should aim as far as possible to be competitively neutral and **regulation should be designed to facilitate market entry**. The evidence is overwhelming that **competition stimulates productivity, investment and innovation**." (p. 17)*





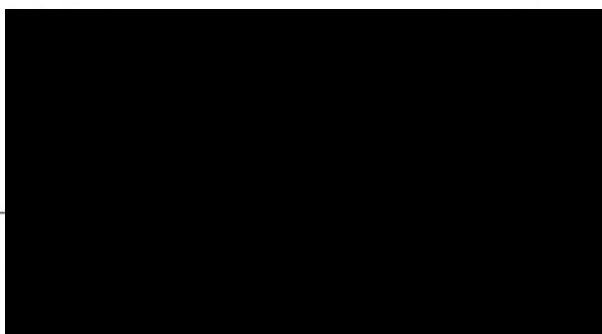
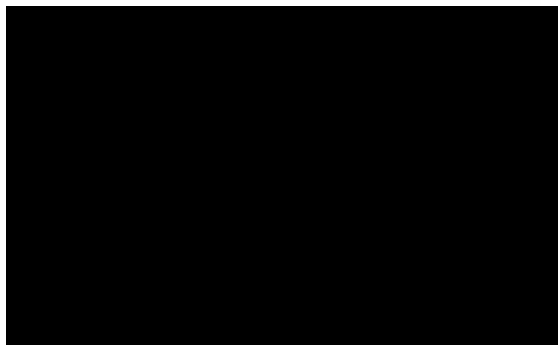
**Economic assessment of the attempted imposition of the
Supermarket Collective Labour Agreement to Dutch online grocers
by established supermarket chains**



2 April 2025

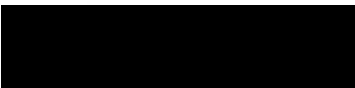

1 Executive Summary

1. This report, prepared by PhD economists with significant experience in the competition space, demonstrates how established supermarket chains (the “Incumbents”) can jointly raise the costs of pure online grocers (the “Online Grocers”). This would prevent them from scaling and so protect the Incumbents’ own market share and scale in the retail groceries sector.
2. Artificially higher costs are imposed by forcing Online Grocers to abide by the supermarket Collective Labour Agreement (the “Supermarket CLA”) tailored to labour relations mostly for brick-and-mortar stores, which will drive up average labour cost per hour to roughly 45% above the level of traditional supermarkets¹. Due to the high price sensitivity of online groceries delivery customers, charging higher prices (for individual products or through delivery fees) to compensate for such higher labour costs would greatly decrease demand and deprive Online Grocers of the minimum efficient scale.
3. In contrast, Incumbents prefer to keep online operations small and expensive to protect their in-store sales. Their incentives are to prevent the emergence of efficient Online Grocers that would threaten their in-store sales.
4. An inability to offer an online groceries delivery service at a price that generates demand at scale will keep the service underdeveloped in the Netherlands compared to neighbouring markets where Online Grocers effectively compete with Incumbents and their online operations. The entrenchment of the dominance of established brick-and-mortar supermarkets, with limited or no activities online, and the suppression of the deployment of innovative technologies and business models is contrary to the current aim of promoting globally competitive businesses in the Netherlands and in the EU.



¹ pwc, “Work on Own Collective Agreement for E-Commerce: An Analysis from an Economic Perspective,” May 2020, 16.

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3 Introduction

3.1 Mandate

5. Picnic International BV (“Picnic”) has mandated ██████████ PhD and ██████████ ██████████, PhD (“we”, “our” or “us”) to assess the rationale and impact of the attempted imposition by Incumbents of a CLA framework tailored to labour relations for brick-and-mortar stores in the Dutch supermarket sector (the Supermarket CLA) onto Online Grocers, which are thus far governed by framework tailored to e-commerce (the “E-Commerce CLA”).

6. In the present report, we document our analyses and present our conclusions.

3.2 ALP Economics

7. This report was prepared by ██████████, PhD and ██████████, PhD, both ██████████ at ALP Economics². Both have considerable experience conducting assessments of pro- and anti-competitive conducts in various industries and sectors, across geographies.

8. Neither ██████████ nor ██████████ has any conflict in relation with the assessed conduct because of any prior relationship with Picnic, the Incumbents or their respective counsels. The present report has been prepared in full independence of Picnic and their counsel and reflects our genuine opinion based on the documents and facts at our disposal. Our remit and opinion are limited to economic matters and should not be construed or interpreted as addressing any question of law.

9. ALP Economics is a new entrant among economic consulting firms, benefitting from the vast experience its founders have gained over the last 25 years. Short biographies for ALP Economics’ founders are provided in Section [8](#).

3.3 Materials considered

10. In preparing this report, we relied upon data and other materials received from Picnic and its counsel, as well as various academic publications and other publicly available materials. Where appropriate, part of these materials is referenced in our footnotes.

3.4 Structure

11. The remainder of the report is structured as follows:

- a. In Section 4, we explain why the high labour costs resulting from the Supermarket CLA would prevent the development of Online Grocers in the Netherlands.
- b. In Section 5, we detail why we believe Incumbents seek to impose such high labour costs on Online Grocers.
- c. In Section 6, we conclude by noting that suppressing Online Grocers prevents the Netherlands from developing innovative technology and globally successful businesses.

² Company in formation expected to be headquartered at Cours d’Orval 15, 1348 Louvain-la-Neuve, Belgium.

- 4 **The labour costs imposed by the Supermarket CLA would prevent the development of Online Grocers in the Netherlands**
- 4.1 **Online Grocers' operations cannot be profitable in the Netherlands under the Supermarket CLA**
12. The high labour cost per hour foreseen in the Supermarket CLA will make Online Grocers structurally unprofitable as they will not be able to achieve the necessary scale needed to achieve profitability.
13. The effective delivery of online grocery delivery services needs specialised infrastructure for storing and transporting fresh and frozen products to customers homes. Produce is typically stored in automated fulfilment centres from which they are delivered to consumers' premises. Fulfilment centres are also fitted with different temperature zones (chilled, frozen and ambient) and special vehicles are purchased to deliver fresh and frozen products without deterioration. Even with a 'hub and spoke model' there needs to be sufficient centres to be able to deliver fresh produce in time.
14. Investments are substantial. For example, Picnic raised about EUR 1.5 billion between 2017 and 2024 mostly for investments in automated fulfilment centres, electric vehicles, and technology and software development³. The infrastructure enabled by such investment requires scale to operate efficiently. In the case of groceries, scale means competitive pricing because of customers' significant sensitivity to prices.
15. In turn, labour costs are instrumental for cost and price moderation. This is particularly the case for Online Grocers as their operations are more labour-intensive than those of Incumbents. The share of labour costs in the total costs of an Online Grocer in the Netherlands is about 16%, roughly double the 8% share of labour costs of Incumbents^{4,5}. The high labour share is mostly due to groceries being delivered to the customers' premises rather than picked up at the store by the customers themselves. Unlike brick-and-mortar supermarkets in the Netherlands, which largely rely on young, low-salaried staff, Online Grocers cannot hire very young workers for deliveries. They require adult individuals with driving licenses.
16. Under the E-Commerce CLA (which sets an average hourly wage for Online Grocers such as Picnic at about EUR 17), Online Grocers pay hourly wages in line with other retail segments like non-food retail sector and hospitality, and also in line with hourly wages in

³ Tracxn, "Picnic - Raised \$1.48B Funding from 8 Investors," March 11, 2025, <https://rb.gy/1pas8g>.

⁴ Vishwa Chandra et al., "Achieving Profitable E-Grocery Order Fulfilment," State of Grocery North America (McKinsey & Company, May 24, 2022), <https://www.mckinsey.com/industries/retail/our-insights/achieving-profitable-online-grocery-order-fulfillment#/>; Marshoek BV, "Benchmark Supermarkten 2023" (Utrecht, June 2024), <https://www.marshoek.nl/nieuws/benchmark-supermarkten-2023>; Ralf W. Seifert and Richard Markoff, "Tesco and Ocado: Competing Online Models - IMD Business School for Management and Leadership Courses," Case study (Lausanne, Switzerland, January 26, 2024).

⁵ Although Ocado, a pure online grocer in the UK, does not publish labour costs, its distribution costs comprising mostly deliveries represented about 26% of its revenues in 2021. (We do not use higher 2022 cost figures due to the possible large effect of energy prices that year).

neighbouring countries like Germany and France, which exhibit comparable levels of minimum wages^{6,7}.

17. With these hourly wages Online Grocers can become profitable through efficient automation and delivery logistics (e.g. efficient delivery routes). The E-Commerce CLA allows for the type of growth that can take the online penetration rate in the Netherlands to that of more mature markets such as the UK and France.
18. Picnic illustrates this path to profitability. With investment in automation and technology in its fulfilment centres, Picnic has achieved the efficiency and scale required for an Online Grocer to operate at profit. In 2023, its sales in the Netherlands were EUR 796M and the company broke even for the first time in this market⁸. Picnic’s run-rate 2023 EBITDA in the Netherlands shows that they likely achieved profitability for the first time that year. The necessary revenue for Picnic to reach profitability in the Netherlands at current costs and level of investments is therefore around EUR 800-900M.

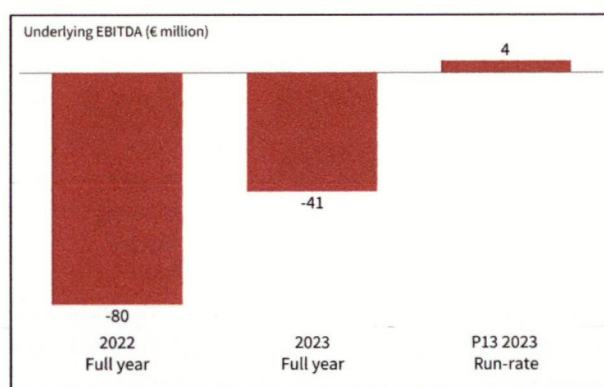


Figure 1. Picnic’s EBITDA (Earnings Before Interest, Tax, Depreciation and Amortisation) in 2022, 2023 and the last period of 2023. Source: Picnic⁹.

19. If Online Grocers such as Picnic were to be brought under the Supermarket CLA, the substantial increase in labour costs would inevitably make them unprofitable since, as explained in Section 5.1., raising prices to compensate for costs increase is not a viable mitigation strategy, as this would deprive them of the efficient scale needed to recover fixed costs.

4.2 The online operations of the Incumbents are and will likely remain unprofitable

20. **The online operations of Incumbents are unprofitable and inefficient.** Incumbents generally run their online segment by at least to some extent leveraging their brick-and-

⁶ The Online Grocers’ average hourly wage is approximated with Picnic’s average hourly wage based on internal company data.

⁷ Ministerium für Arbeit, Gesundheit und Soziales des Landes Nordrhein-Westfalen, “Tarifbereich/Branche Einzelhandel - Mit Tankstellen- Un Garagenwerbe” (Tarifregister Nordrhein-Westfalen, September 24, 2024), <https://www.tarifregister.nrw.de/material/einzelhandel2.pdf>; “Avenant N°88 Bis Du 22 Septembre 2023 Relatif Aux Salaires Minima Conventionnels - Convention Collective Nationale Du Commerce de Détail et de Gros à Prédominance Alimentaire Du 12 Juillet 2001” (Légifrance, September 22, 2023), <https://rb.gy/bz1jex>.

⁸ Picnic Nederland B.V., “Annual Report 2023” (Amsterdam, Netherlands, June 27, 2024).

⁹ Picnic Nederland B.V., 6.

mortar operations. They have different degrees of automation and new technology as they lack fully automated inhouse developed fulfilment operations.

21. Incumbents still operate the online segment at a loss with ineffective delivery systems and fulfilment centres that are not designed for online services. Data shows that European retailers' investment rate is about half of that of their U.S. counterparts¹⁰. European Incumbents invest less than half in IT than the leading Online Grocers in Europe¹¹.
22. In the Netherlands, Incumbents appear to have come to terms with their unprofitable online segment. For example, Jumbo has online sales that account only for 7% of total sales and predicts that "*it would be challenging to make the channel profitable as investment would need to be increased*"¹². Albert Heijn CEO Marit van Egmond believes "*it is irrelevant how profitable the online grocery branch is*" because they "*look at the total profitability as Albert Heijn*"¹³. Generally, Incumbents struggle to generate profits in e-commerce¹⁴.
23. **Incumbents cross-subsidise their offline businesses.** The Incumbents' in-store sales benefit from economies of scale and low labour costs to achieve profitability. Incumbents in the Netherlands staff their stores with younger staff with limited experience and pay them low wages. They use this younger staff for tasks such as manually shelving and check-out, which are legally permissible for their age bracket.
24. In fact, despite the high wages for adult employees set out in the supermarket CLA, the average hourly wage paid at supermarkets in the Netherlands is much lower at about EUR 14/hour^{15,16}.
25. Online Grocers do not have the possibility to use such cheap labour to compensate for higher wages. Online Grocers require more mature workers with driving licenses for distribution or the ability to operate machines in fulfilment centres. For example, 64% of employees at a supermarket shop are 18 years old or younger, versus only 7% at an Online Grocer like Picnic¹⁷.
26. Incumbents get their profitable in-store segment to subsidise their inefficient online segment. They can leverage their warehouses and other fixed cost investments to serve the online demand, albeit inefficiently.

¹⁰ McKinsey & Company and EuroCommerce, "Transforming the EU Retail and Wholesale Sector," October 2022, 7, <https://www.mckinsey.com/industries/retail/our-insights/transforming-the-eu-retail-and-wholesale-sector>.

¹¹ McKinsey & Company and EuroCommerce, 7.

¹² Dayeeta Das, "Dutch Retailer Jumbo Exceeds €11bn In Sales In Full-Year 2023," ESM Magazine, January 4, 2024, <https://www.esmmagazine.com/retail/jumbo-exceeds-e10bn-in-sales-in-fy-2023-256507>.

¹³ "Albert Heijn zit niet in de maag met verlies op e-commerce," Zaanstad Nieuws, October 28, 2023, <https://zaanstad.nieuws.nl/actueel/albert-heijn-zit-niet-in-de-maag-met-verlies-op-e-commerce>.

¹⁴ McKinsey & Company and EuroCommerce, "Transforming the EU Retail and Wholesale Sector," 36.

¹⁵ The average hourly wage for supermarkets in the Netherlands is calculated using wages from the Dutch supermarket CLA and Dutch minimum wage scales (where these exceed the CLA) for the age division of worked hours in supermarkets at the start of 2024. The age distribution for hours worked in supermarkets is taken from the Marshoek 2018 Report. Surcharges of 10.8% are applied for overtime and Sunday work in the sector based on Picnic's own data.

¹⁶ FNV, "CAO Levensmiddelenbedrijf," August 28, 2023, <https://rb.gy/sufxri>; Rijksoverheid, "Bedragen Minimumloon 2024," accessed March 18, 2025, <https://www.rijksoverheid.nl/onderwerpen/minimumloon/bedragen-minimumloon-2024>; Marshoek BV, "Benchmark Supermarkten 2023."

¹⁷ pwc, "Work on Own Collective Agreement for E-Commerce: An Analysis from an Economic Perspective," 12.

- 5 **Incumbents seek to impose high labour costs on Online Grocers to stunt these competitors' growth and protect their own dominant position**
- 5.1 **Service fees that compensate for labour costs would stunt growth and deprive online grocery deliveries services from the minimum necessary scale**
27. **Raising prices for Online Grocers leads to substantially lower demand.** Higher product prices or service fees to compensate for higher labour costs are not compatible with the rate of penetration needed to achieve the required scale that makes Online Grocers profitable.
28. Overall, consumers are price conscious when it comes to groceries. About 47% of groceries shoppers in the Netherlands look for ways to save money when shopping¹⁸. A 2023 survey found that 89% of Dutch shoppers worry about food prices with 75% adjusting their behaviour by shopping around and buying cheaper alternatives¹⁹.
29. In a market for groceries that is already very price sensitive, price levels have been shown to be even more important for online than brick-and-mortar retailers^{20,21}. Online Grocers' customers value reliable and timely delivery services but have little appetite for paying for these services^{22,23}. In fact, 39% of people who never shop online list the need to pay fees as a reason for not using the service²⁴.
30. The main challenge for Online Grocers is to square the circle of high expectations in the quality of the service, reasonable costs of delivering this service, and customer's value perception and willingness to pay^{25,26}. Therefore, a key consideration in their growth strategy is to maintain affordability of the service, as growth can only happen at attractive prices^{27,28}.
31. **Higher prices would prevent the efficient scale for profitability.** To achieve greater scale, Online Grocers are seeking to expand demand from a subset of young, affluent, urban families to a wider set of customers including the young and the elderly²⁹. Therefore, Online

¹⁸ McKinsey & Company and EuroCommerce, "The State of Grocery Retail 2024 - Europe: Signs of Hope," August 4, 2024, 10, <https://www.mckinsey.com/industries/retail/our-insights/state-of-grocery-europe-2024-signs-of-hope>.

¹⁹ Deloitte Branchegroep Retail, "Consumentenonderzoek 2023," September 2023, 5, <https://rb.gy/8f5jpk>.

²⁰ McKinsey & Company and EuroCommerce, "The State of Grocery Retail 2024 - Europe: Signs of Hope."

²¹ "In addition, UK consumers see promotions as more important than price for offline store selection, while for online, price is more important than promotions."

²² Seifert and Markoff, "Tesco and Ocado," 2.

²³ "European shoppers prioritized fast, reliable delivery, but there was a stark disconnect between the costs of picking and shipping grocery orders and the market's readiness to pay."

²⁴ Deloitte Branchegroep Retail, "Consumentenonderzoek 2023," 5.

²⁵ Seifert and Markoff, "Tesco and Ocado," 2.

²⁶ "Amid this tension between service expectation, cost and customer value perception, the online grocery supply chain could be configured according to several different distribution models [...]"

²⁷ McKinsey & Company and EuroCommerce, "The next S-Curve of Growth: Online Grocery to 2030," March 29, 2022, <https://www.mckinsey.com/industries/retail/our-insights/the-next-s-curve-of-growth-online-grocery-to-2030>;

McKinsey & Company and EuroCommerce, "The State of Grocery Retail 2024 - Europe: Signs of Hope," 35.

²⁸ "We are acutely aware of the importance of affordability for both meal and grocery deliver [...] the key challenge is to find ways to create an affordable customer offering." (Niklas Östberg, CEO Delivery Hero)

²⁹ McKinsey & Company and EuroCommerce, "The next S-Curve of Growth: Online Grocery to 2030," 2.

Grocers must be able to service less affluent and more price sensitive customers to achieve revenue growth and profitability^{30,31}.

32. High product prices or even significant delivery fees that would be necessary to compensate for high labour costs would be sufficient to suppress demand. The labour share of total costs for an Online Grocer like Picnic is approximately 19%³². An increase in wages of 20% would require an overall price increase of 3.8% to recover the additional costs. Such an increase would be sufficient to prevent Online Grocers from achieving price parity with in-store shopping, which would likely turn many customers away.
33. The scale and volume of sales required for Online Grocers' profitability is therefore inconsistent with higher prices or service fees charged to customers. In fact, it has been argued and shown that free shipping is the optimal strategy for mass consumer online ecommerce^{33,34}.

5.2 Incumbents can live with service fees because they have no incentive to grow their online businesses, and see home delivery as an additional service

34. Incumbents have all set up online delivery services as those are now expected by consumers. But, absent competition, Incumbents have limited incentives to grow their online operations.
35. **Incumbents' online segment has lower margin than in-store sales.** Because of underinvestment resulting in inefficient fulfilment logistics, Incumbents' margins on online delivery services are lower than on in-store sales. It is less profitable for Incumbents to deliver groceries to a remote place than to provide in-store services^{35,36}.
36. The lower profitability results from the fact that Incumbents have built their online operations on top of their in-store operations. Incumbents' online operations often involve goods being picked up from the shelves of a store and then shipped for deliveries. These operations, which avoid investment in specialised online fulfilment centres, are loss-making as the cost of picking and delivering the groceries eats up the in-store profit margins³⁷.

³⁰ McKinsey & Company and EuroCommerce, "The next S-Curve of Growth: Online Grocery to 2030"; McKinsey & Company and EuroCommerce, "The State of Grocery Retail 2024 - Europe: Signs of Hope," 35.

³¹ "It may sound paradoxical, but the single biggest driver of profitability in our industry is still growth. [...] As the business grows, the share of sales allocated to marketing can be reduced. And as increasing volume enables us to weave denser delivery networks, delivery cost goes down." (Niklas Östberg, CEO Delivery Hero)

³² Picnic Nederland B.V., "Annual Report 2023."

³³ Michael Lewis, Vishal Singh, and Scott Fay, "An Empirical Study of the Impact of Nonlinear Shipping and Handling Fees on Purchase Incidence and Expenditure Decisions," *Marketing Science* 25, no. 1 (January 2006): 51-64; Marco Bertini and Luc Wathieu, "Attention Arousal through Price Partitioning," *Marketing Science* 27, no. 2 (March 2008): 236-46; Mehmet Gümüş et al., "Shipping Fees or Shipping Free? A Tale of Two Price Partitioning Strategies in Online Retailing," *Production and Operations Management* 22, no. 4 (July 2013): 758-76.

³⁴ "[T]he optimal strategy for retailers with a large segment of shipping-charge skeptics is to offer free shipping to their customers. The same [pricing] strategy should be ideal for retailers selling low-priced products and products associated with high levels of cost uncertainty."

³⁵ McKinsey & Company and EuroCommerce, "The next S-Curve of Growth: Online Grocery to 2030"; McKinsey & Company and EuroCommerce, "The State of Grocery Retail 2024 - Europe: Signs of Hope," 29.

³⁶ "The average Auchan shopper has 30 products in their cart, including heavy packs of bottled water, frozen products, and ready meals. That's a lot of variety, and it's hard to handle in terms of logistics. To make things even more difficult for us, most of our online customers want home delivery." (Yves Claude, CEO Auchan Retail)

³⁷ Chandra et al., "Achieving Profitable E-Grocery Order Fulfillment."

37. In 2022, a comparison of the profitability of a USD 100 grocery basket at a grocer in the United States put the net profit at USD 4 for the case where the customer walks the aisle and at USD -13 for the case of a delivery order³⁸.
38. **Incumbents likely want Online Grocers to remain a niche and expensive segment to protect their profitable brick-and-mortar businesses.** There is a high degree of substitution of online groceries delivery for in-store shopping: as online groceries delivery gains more acceptance, in-store sales are expected to fall^{39,40}. Although a high level of service convenience is likely to increase overall demand for groceries, much of the online sales represent lost sales for brick-and-mortar stores.
39. Because of the difference in profitability and the patterns of substitution observed between in-store and online, Incumbents have no incentive to entice customers to shop online to grow that segment (e.g. very little advertisement for online services).
40. Instead, Incumbents have an incentive to limit online groceries delivery services to those customers who value it highly and are willing to pay a high price. They have an incentive to drive the more price sensitive customers to their more profitable stores.
41. It is estimated that Incumbents in Europe will need to invest about EUR 70 billion until 2030 for sustainability, digitalisation, and automation^{41,42}. The fixed investments they need for their in-store operations will require that they keep operating these stores at sufficient scale.
42. In sum, there are few incentives for Incumbents to develop unprofitable operations, and the conditions are not conducive to large investment in specialised online fulfilment centres necessary for the profitability of the online segment. Rather, Incumbents will direct investments to ensure the continued profitability of their in-store operations.
- 5.3 Incumbents have an incentive to foreclose the entry of Online Grocers by imposing high labour costs**
43. It is rational for Incumbents to collectively seek to prevent the entry or growth of Online Grocers. The current strategy of imposing high labour costs is aligned with the economic incentives of Incumbents: (i) because they employ mostly young staff in their store operations, they would not suffer much from these costs; and (ii) an expansion of Online Grocers' segment would lower in-store sales, while Incumbents with high market shares would recoup a large part of the sales lost by Online Grocers because of service fees.

³⁸ Chandra et al.

³⁹ McKinsey & Company and EuroCommerce, "The next S-Curve of Growth: Online Grocery to 2030," 5.

⁴⁰ "Online growth will have significant implications [...] Overall, grocery stores might need less physical space and might need to reduce costs as offline formats lose sales volumes."

⁴¹ McKinsey & Company and EuroCommerce, "The State of Grocery Retail 2023 - Europe: Living with and Responding to Uncertainty," April 18, 2023, 16, https://www.eurocommerce.eu/app/uploads/2023/05/State-of-grocery-2023_Low-res.pdf.

⁴² "The level of required investments for grocery retailers is increasing, putting additional pressure on the industry. Between now and 2030, the industry needs cumulative additional investments of €70 billion to €125 billion to drive sustainability, digitalization, IT improvements, and automation."

44. By contrast, high labour costs as imposed by the Supermarket CLA are wholly incompatible with Online Grocers' business model, which depends on the scale granted by affordable prices.

6 Suppressing Online Grocers prevents the Netherlands from developing innovative technology and globally successful businesses

45. Online groceries delivery in the retail groceries market is still relatively young in the Netherlands. The market share of the online channel in the Netherlands was 7.8% in 2023 compared to an estimated 11-13% in the United Kingdom and 9.4% in France⁴³. Experts estimate that such leading markets could reach 18-30% market share of groceries purchases by 2030⁴⁴. Other markets appear to be lagging with the market shares of the online segment standing at 3.9% for Germany or 4% in Belgium⁴⁵.

46. It is estimated that the groceries sector in Europe will require investments in digitalisation between EUR 155-230 billion until 2030 to remain globally competitive⁴⁶. The role of Online Grocers in developing demand for online groceries deliveries and spurring investment in efficient online delivery services is well recognised^{47,48}.

47. One of the problems facing EU countries is the inability to produce highly innovative companies that scale at global level. Part of the problem has been the prevalence of institutional barriers that protect incumbents. The weaponisation of the Supermarket CLA by Incumbents to impede the emergence of innovative, efficient Online Grocers in the Netherlands is a manifestation of this problem. By impairing the development of pure online players and suppressing market competition, the Netherlands risks being left behind in the development of global innovative champions.

⁴³ McKinsey & Company and EuroCommerce, "The State of Grocery Retail 2024 - Europe: Signs of Hope," 26; Mintel, "UK Online Grocery Retailing Market Report 2024-29," accessed March 11, 2025, <https://rb.gy/ad35bv>.

⁴⁴ McKinsey & Company and EuroCommerce, "The next S-Curve of Growth: Online Grocery to 2030," 2.

⁴⁵ McKinsey & Company and EuroCommerce, "The State of Grocery Retail 2024 - Europe: Signs of Hope," 26.

⁴⁶ McKinsey & Company and EuroCommerce, "Transforming the EU Retail and Wholesale Sector," 11.

⁴⁷ McKinsey & Company and EuroCommerce, "The next S-Curve of Growth: Online Grocery to 2030," 3.

⁴⁸ "Overall, countries that have been slower to adopt online offerings will see increasing penetration, thanks to the ability of disruptive players to change customers' expectations and behaviors across propositions."

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8 Biographies

