Research Partnership Platform
9th meeting

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# Legal and Regulatory Challenges of the Sharing Economy

Presentation by

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# Legal and Regulatory Challenges of the Sharing Economy

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# 9th Meeting of the UNCTAD Research Partnership Platform

11 July, 2018
Geneva

# Collaborator: One Belt One Road Programme
## Faculty of Law, University of Oxford

# A Comparative Analysis

- Case studies from the transportation sector
  - Uber in the UK
  - Didi in China

- Regulatory challenges and societal implications
  - Competition law
  - Labour law
  - Consumer protection law
  - Data protection law

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# Uber driver held after fatal shooting of passenger in Denver

CNN World
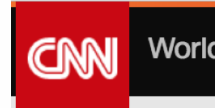
## Uber accused of silencing women who claim sexual assault by drivers

The Guardian
UK edition ∨

## Customer accused of raping Uber driver near uptown Charlotte

FOX19 NOW

**Uber driver's wife bursts into tears as he is convicted of grabbing a drunk customer, 27, on her doorstep before carrying her back to his car and raping her on the back seat**

Mail Online

Uber driver arrested over murder of British embassy worker Rebecca Dykes

The Telegraph
News

*Killing Spurs Didi, China's Ride-Hailing Giant, to Revamp Its Service*

The New York Times

onomy.com/not-cool-uber-194198bed715

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| BOOK

# NotCoolUber.com

Uber has jumped the shark. It is now painfully apparent that it doesn't care for
its drivers and it doesn't pay them well

· · ·

- *Uber had cut pay to drivers in Detroit to 24 a mile and 24 cents a minute.
  That is crazy low.*

- *Uber is paying some of their workforce **less than minimum wages** for their
  shifts. This is a big issue because **45%** of drivers have families and **48%** of all
  driving work is done by full time drivers.*

- ***Hundreds of thousands** have been offered an Uber car loan that now is up to
  2x as difficult to pay off*

- Uber has increased their take of the pie by up to 130% while cutting rates
  to drivers by up to 45%. There have been *no* reported cuts in the amount of

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NotCoolUber.com – From the ... | Women Against Uber (@WomA ...

Twitter, Inc. [US] https://twitter.com/womagainstuber?lang=en

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| Tweets | Following | Followers | Likes |
|--------|-----------|-----------|-------|
| **1,233** | 1,991 | 2,853 | 1,320 |

Follow

**Women Against Uber**
@WomAgainstUber

📍 Brisbane, Queensland

📅 Joined June 2016

**Tweet to Women Against Uber**

📷 308 Photos and videos
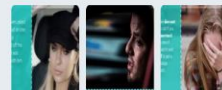
**Tweets**  **Tweets & replies**  **Media**

**Women Against Uber** @WomAgainstUber · 12h
We're fuming & crying at the same time. Why is this still happening?!

> **Ryan Pitkin** @pitkin_ryan
> The man arrested today for raping an Uber driver over the weekend was
> arrested twice in 2016. Once for violating a domestic violence protective
> order and another for second-degree rape.

💬    3    ♡ 1

Women Against Uber Retweeted

**Christopher Scott** @TheRealCSW76 · 20h
Hey @uber a driver in Charlotte was raped today by a guy who just got out of
prison for...rape. I drive for @lyft and wanted to ask both companies a question:

💬 3    4    ♡ 2

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**Soul Cab** @TheSoulCab
Follow

**WW ANTI UBER SOCIET...**
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👥 Find people you know

**Trends for you** · Change

# Challenges Regulating Disruptive Tech

- Regulate or innovate?
  - UK: 'Global centre for the sharing economy'
  - Anti-competitive practice
  - Precarious working conditions
  - Inapplicability of current laws

# Legal Characterisation of Uber

- UK Competition Law and Employment Law
  - Online info intermediary, transportation service provider, or both?
  - Aslam & Farrar v Uber 2015: contractor or employee?
  - Banned from operating in London September 2017
  - Granted temporary licence June 2018

# Further Considerations

- Legal and regulatory issues to be addressed
    - New rules or extend the application of existing ones?
    - Proactive or reactive regulation?
    - Regulation: hard, soft, or collaborative?
    - Creating rules for different areas and sectors
    - Worker's legal status and rights
    - Regulating on a case-by-case basis

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A case study: Didi

# Sharing economy in China

The amount of financing reached about US$ 32.54 billion in 2017

Transport

(Non-financing sector)
Everyday life services

Knowledge and skills

DiDi

Demand

Data
Algorithm management
Utilise resources across platforms

Supply

Source: *National Development Report of Sharing Economy* 2018

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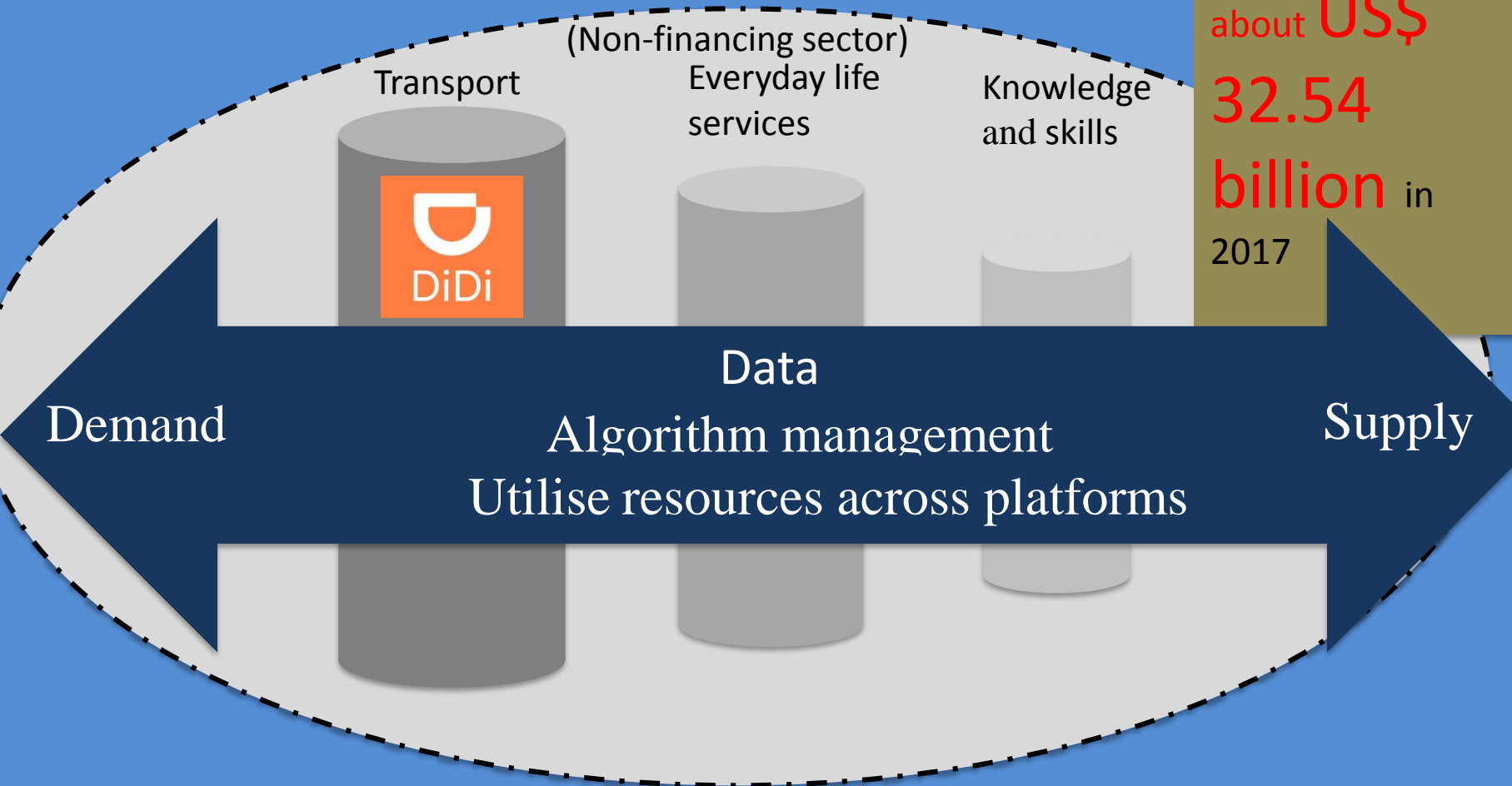
# Didi in national and global sharing economy

**Domestic success**

⬇

**International investors**

⬇

**Global expansion**

⬇

**AI to drive green and smart cities**



DiDi's Global Expansion

■ Domestic Operation
■ Overseas Investment

**Sept 2015**
Invested $100m in Lyft
**Apr 2016**
Launched overseas service w/ Lyft
**Nov 2016**
Partnered Avis Budget Group

**Sept 2015**
Invested $25m in India's ridesharing leader Ola

**Apr 2017**
Raised $5.5b for global efforts and self-driving

**Aug 2017**
Partnered Taxify, ride-hailing co. in Europe & Africa

**Jan 2017**
Invested in 99, Brazil's largest rideshare co.

**Aug 2015 & Aug 2016**
Invested in SE Asia's ridesharing leader Grab
**July 2017**
Teamed w/ SoftBank to invest ~$2b in Grab

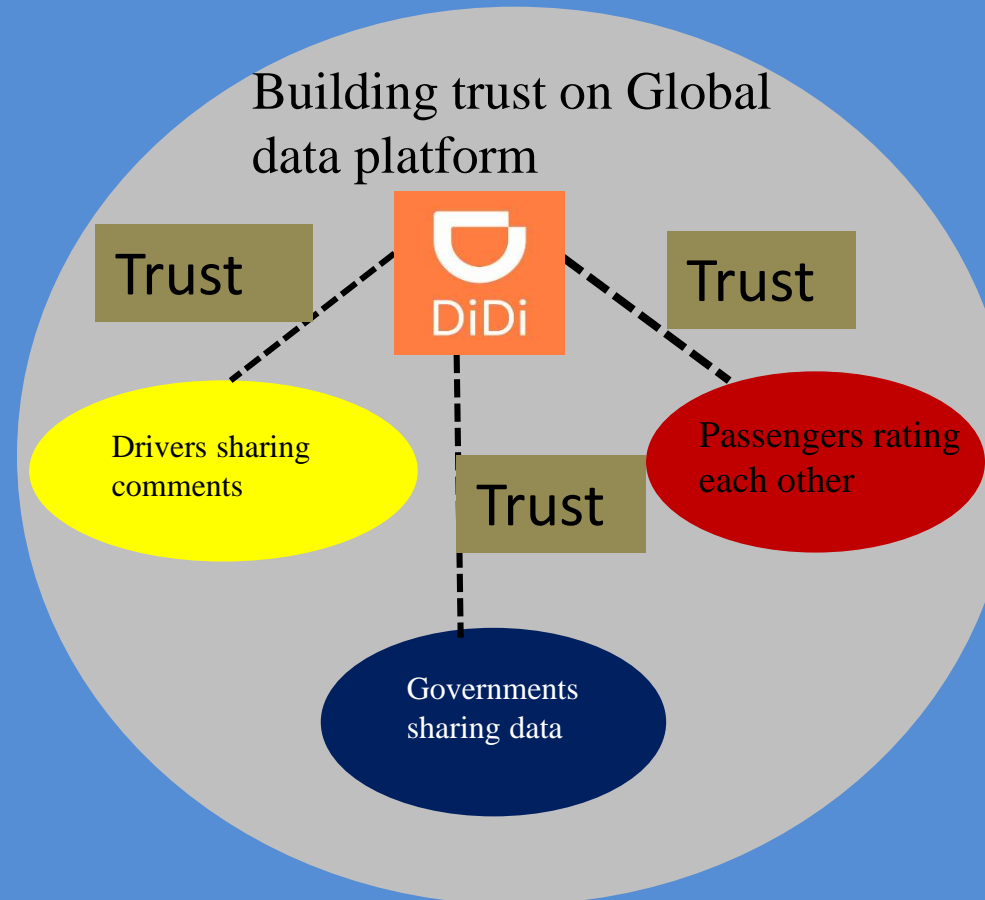Source: Didi Chuxing, Taxify, Grab, DT Caijing

Forbes

Didi has grown as **the largest riding-hailing market** in the world - it has reached **over 14 million private drivers** and **300 million active users** by summer of 2016.
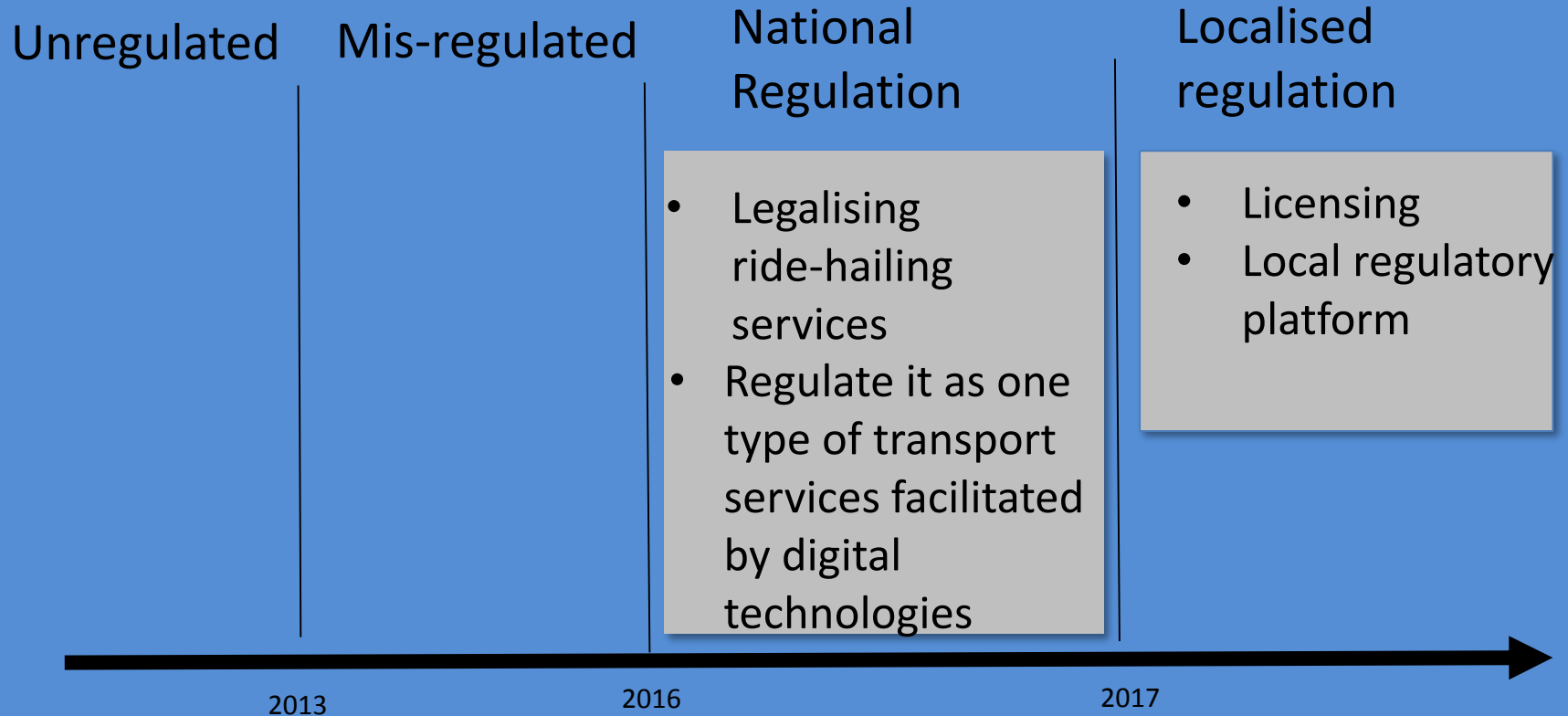
# Trust building: From mobility solution supplier to travel oriented all-in-one platform

- A combination of labor platform and capital platform
- Didi has developed hybrid different services, such as Taxi, Express, Premier, Luxe, Hitch, Bus, Minibus, Designated Driving, Enterprise Solutions, Bike, and food delivery
- Transform technology-enabled mobility services
- Build travel oriented comprehensive services, including financing, information services, driver's clubs

Building trust on Global data platform

Trust

Trust

Trust

DiDi

Drivers sharing comments

Passengers rating each other

Governments sharing data

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# Regulation in development:
# From non-regulation to fragmented regulation

Unregulated

Mis-regulated

National Regulation

Localised regulation

- Legalising ride-hailing services
- Regulate it as one type of transport services facilitated by digital technologies

- Licensing
- Local regulatory platform

2013

2016

2017

# A recent case

- The passenger, Li Mingzhu, 21, a flight attendant, was raped and killed on late night of May 6 after using Didi Hitch service in Zhengzhou, a northern Chinese city.

- The case results in active online debate, ceasing services of Didi Hitch, and more stringent self-regulation.

- Su Shiya, 21, a student in southern China, examined her Didi profile and found that drivers had tagged her as an "intellectual beauty" and a "sweetheart."
- "These comments are open to all the Didi drivers," she said. "They all know what I look like." She said she found the comments chilling, and has since replaced her image with that of an animated dog.

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# Regulatory implications

- What data could Didi collect
- How to share with other governmental departments such as police forces for regulatory and law enforcement purposes
- To which degree should Didi mediate information such as price, distance, comments, which matters to fair trade, riding safety

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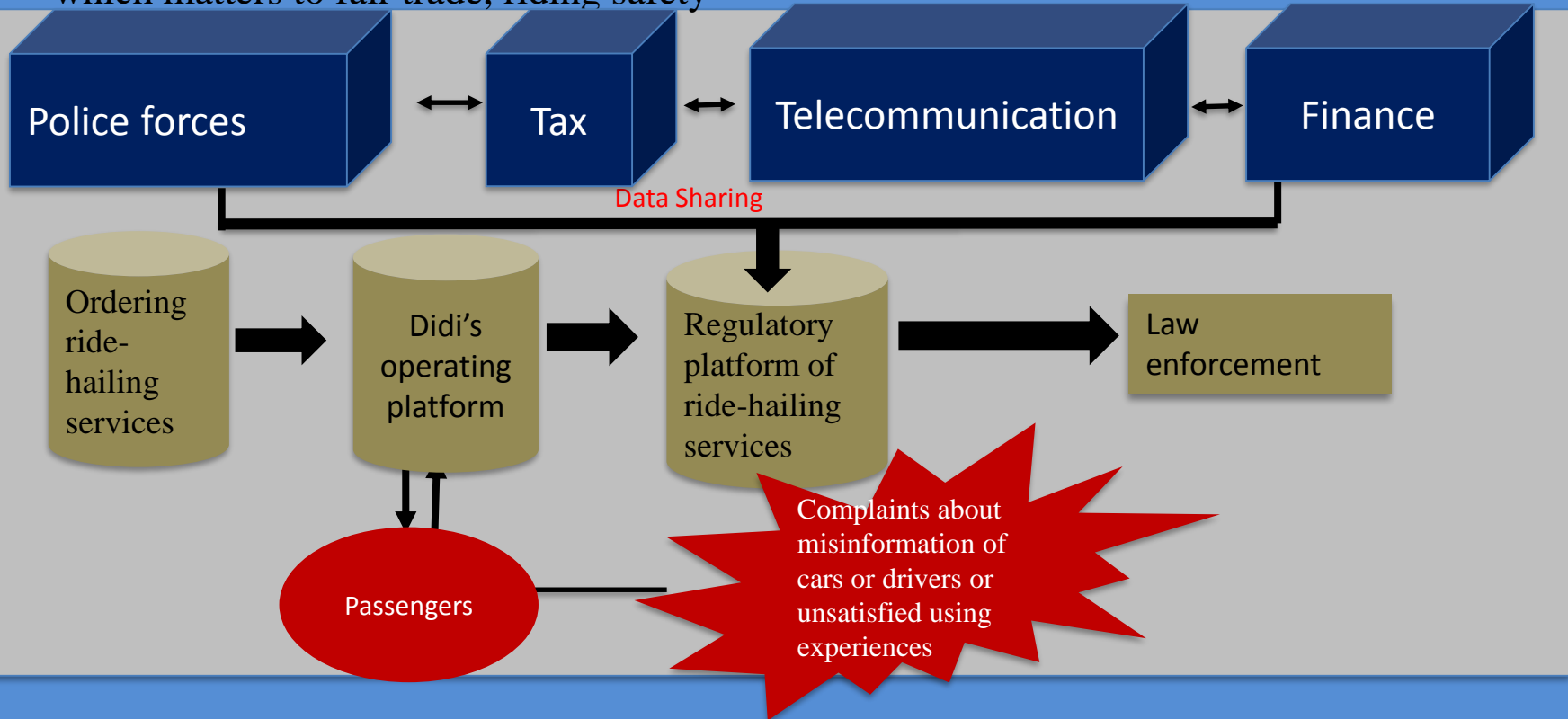
# Regulatory dilemma

- A contract-based trade
- Matching information between providers and users
- Introducing social interaction - encourage using users' and drivers' comments and online interaction to increase consumption loyalty
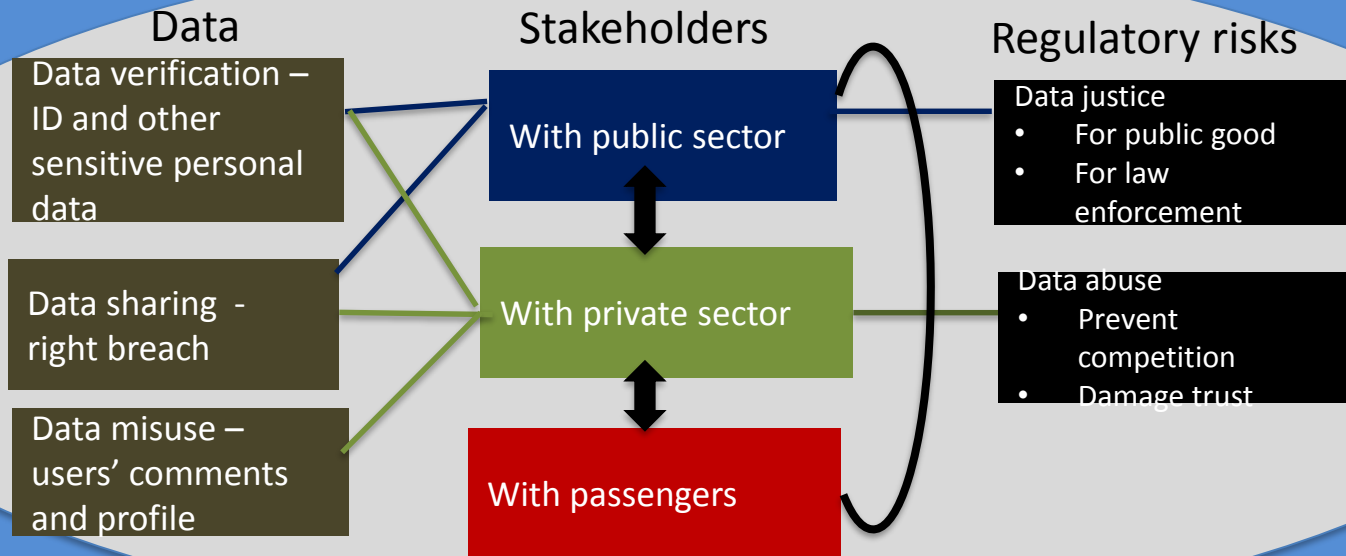
- Voluntary behaviour on both sides; platform should not take joint liability

- The platform should assume partial joint ability such as verifying information and ethical use of drivers' and passengers' personal data

- Social interaction is not suitable for building trust for all kinds of services

Principles for emerging regulatory and governance models

# Thank you!

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