

Towards an Asia-Pacific Digital Economy Governance Regime?

RIETI-ANU Symposium, 23 March 2021

Dr Peter Lovelock

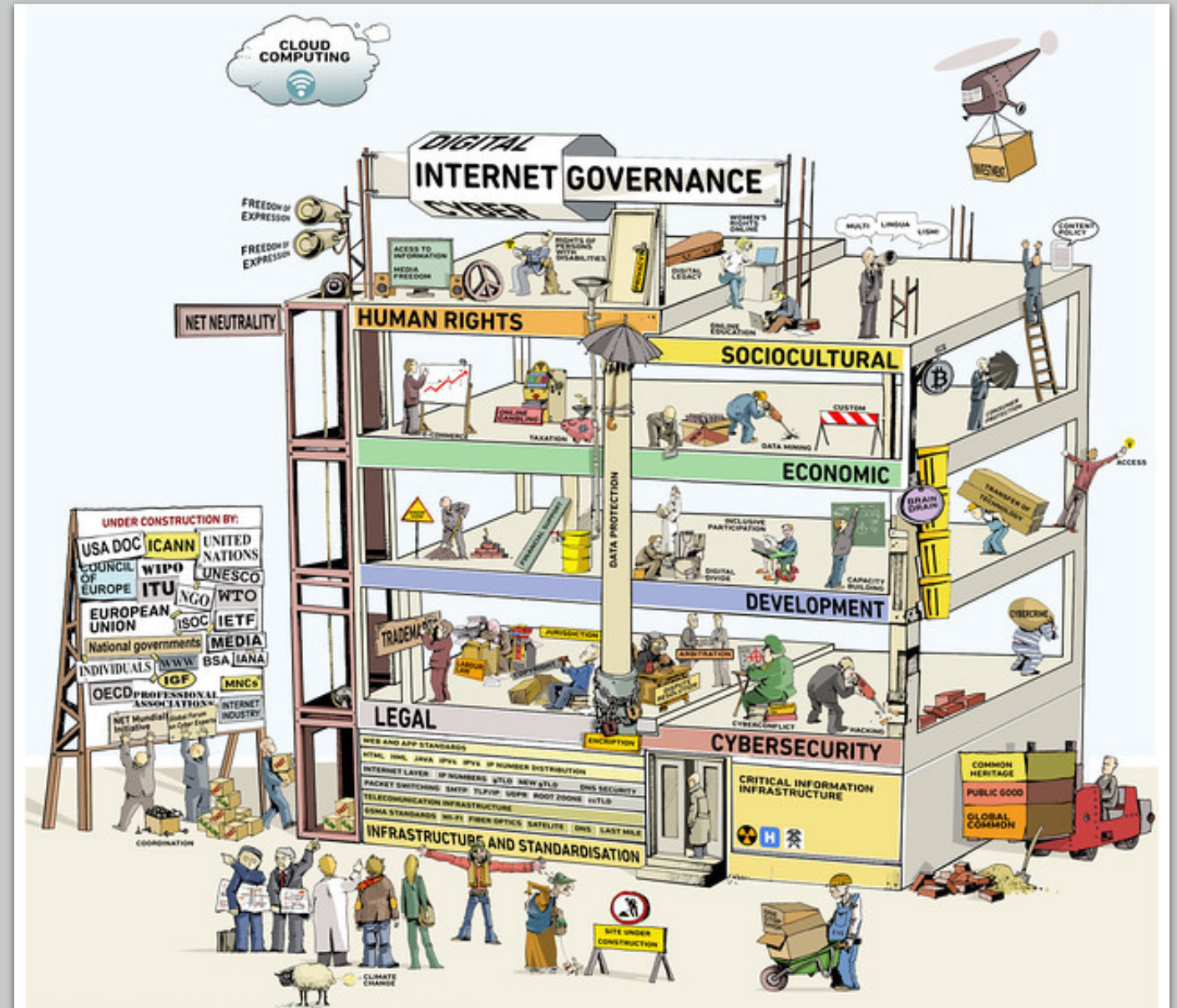
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Agenda

- How does digital challenge governance?
- Is there really a problem?
- What problem are we trying to solve?
- Moving Forward: a Digital Economy Governance Framework Proposal



“like Lucien Freud designing for Pokemon” *Wired*



“Non-fungible tokens are revolutionising the art world” *The Guardian*

“NFTs solve the IP problem in a digital world... unlike an image file an NFT can't be duplicated, giving it a similar cachet to an original artwork...”

“... while the technology of NFTs prevents them from being duplicated without permission, there's nothing inherent that controls who can make an NFT in the first place – a fact that has caused dismay to some artists who have found their work in the 'control' of people who had nothing to do with its creation.”






“It's a blank slate... you can pour anything of value into an NFT — even assets linked to the real world like houses and cars — and it will be worth whatever someone is willing to pay to acquire it. Most important, it is verified and transparent. It's also the obvious next step as our world becomes ever more virtual.”

“Bitcoin for art”

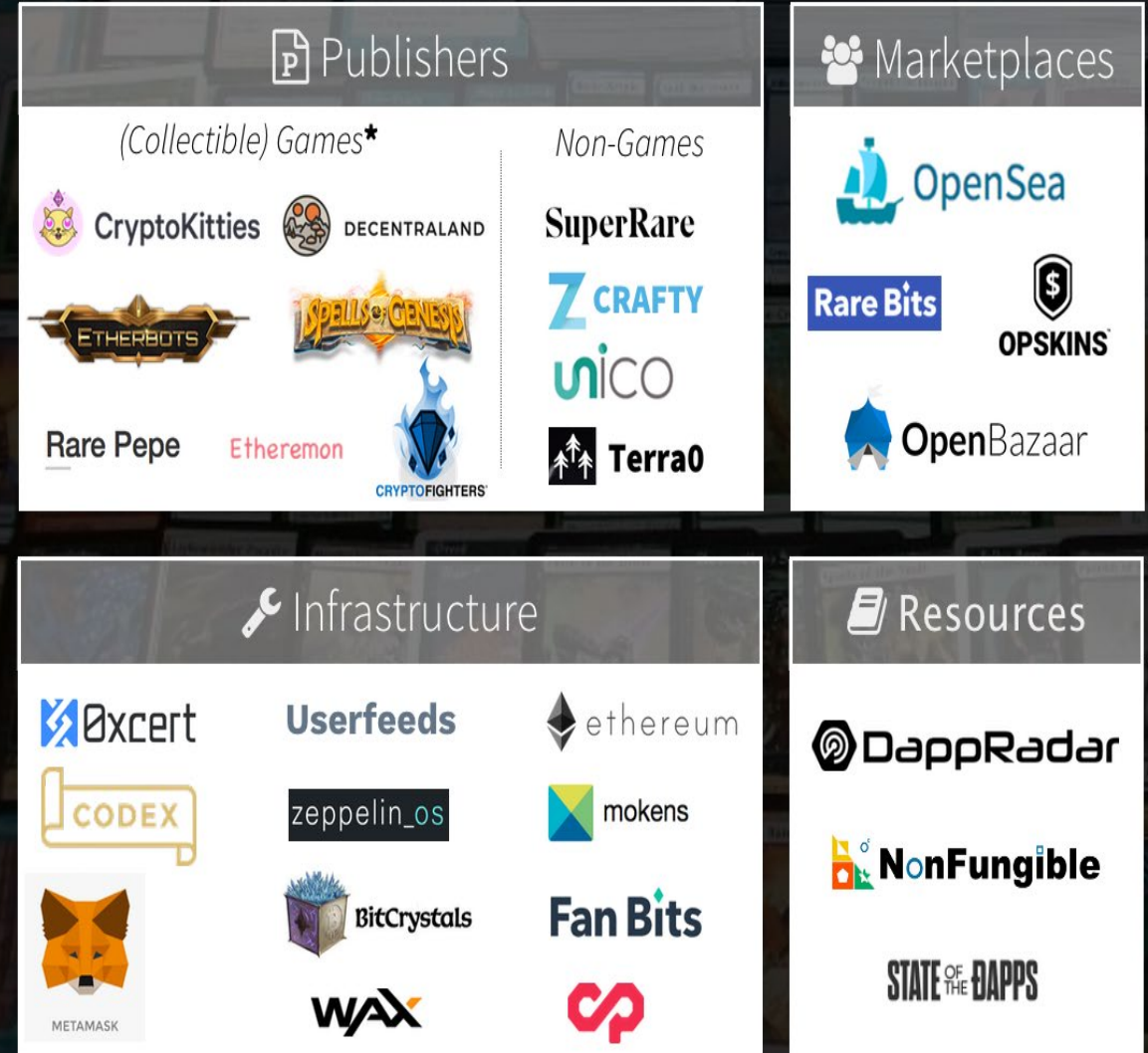
“The idea of buying something which isn't there is just strange...”

“everything that can be digitized will be digitized” Kara Swisher, New York Times

Examples of Fungible & Non-Fungible Tokens

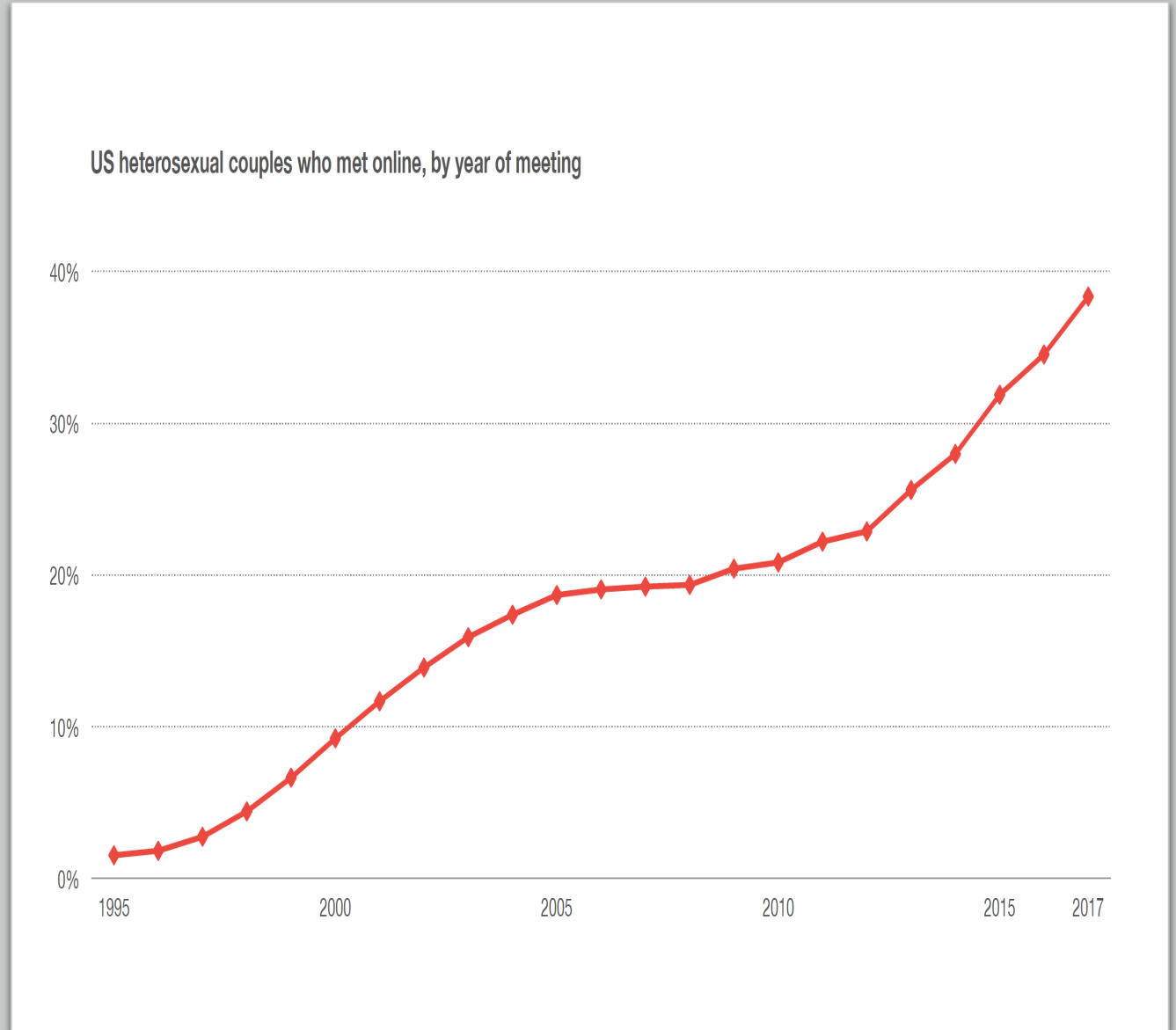
Fungible	Non-Fungible
Dollar 	Cryptokitties 
Bitcoin 	Art 
Ethereum 	House/Property 

The Emerging Non-Fungible Token Landscape



By 2017, 40% of Americans met their partner online....

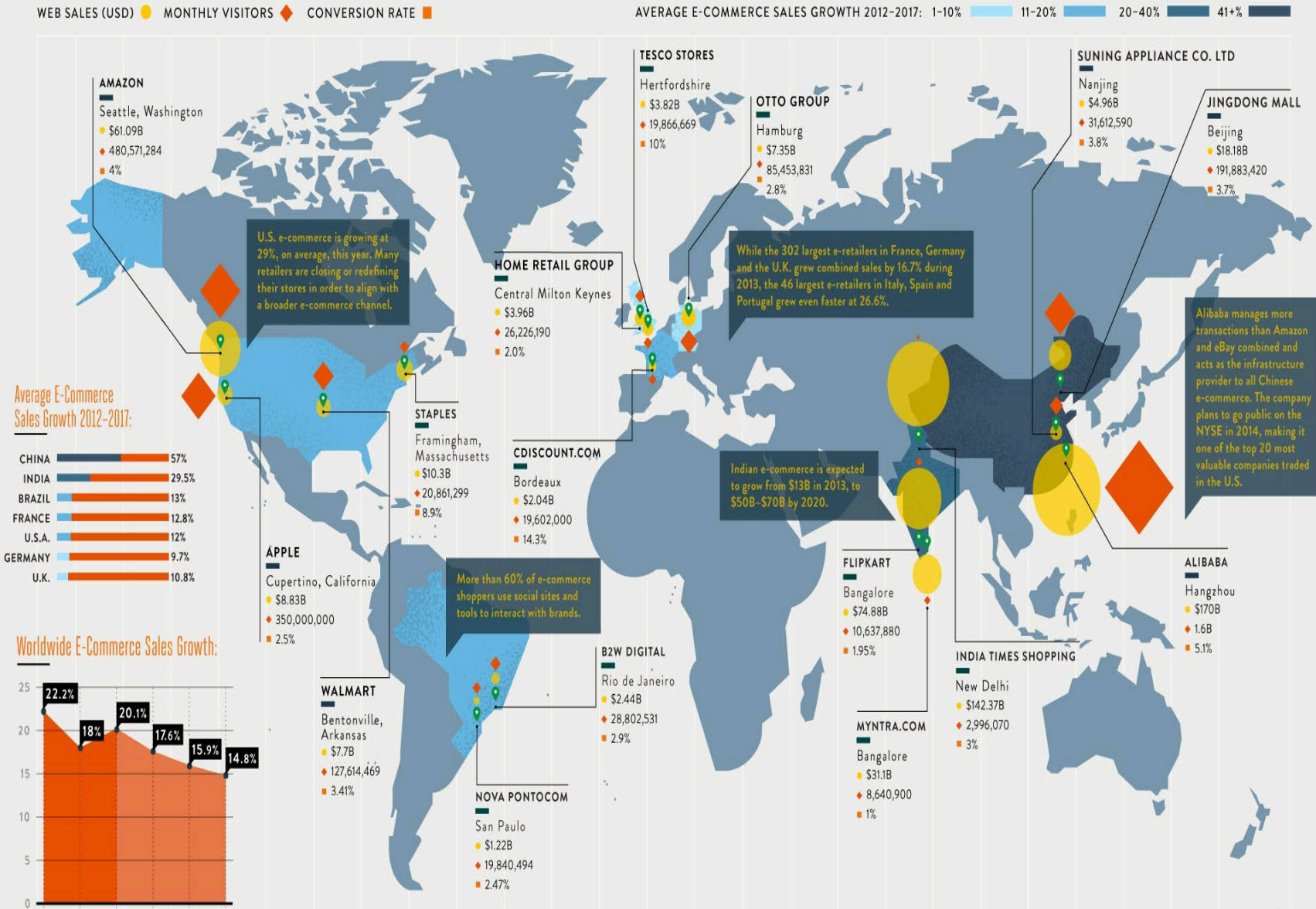
Remember:
anything that
can be
digitized *will*
be digitized.....



.... in 2020, this number also leapt

Problem? What problem?

Digital is booming! E-commerce goes global!

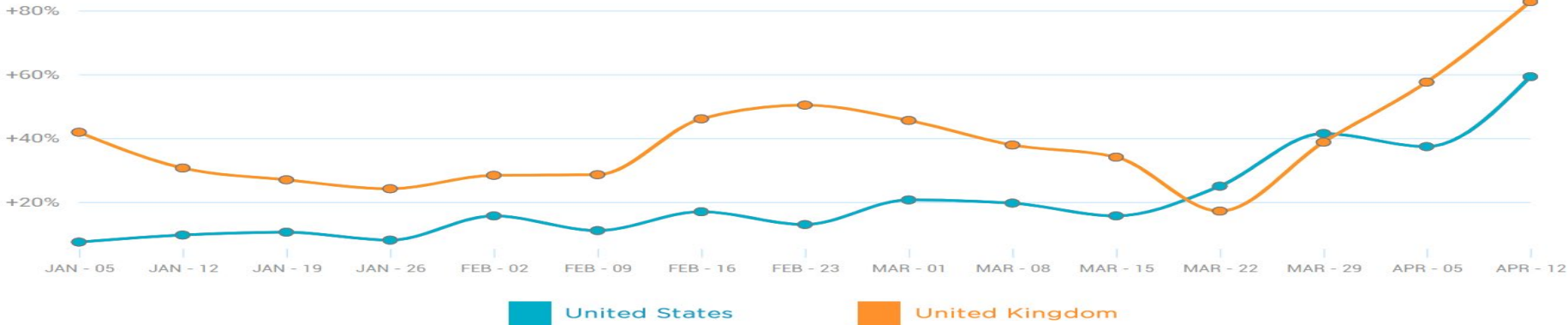


Even prior to the pandemic e-commerce was booming

- In the US e-commerce was growing at 4x the rate of retail
- In China e-commerce grew a staggering 57% in 2014... and then leapt even further in 2015 and again in 2016.

Covid-19 accelerated this: in 6 months, digital uptake jumped ahead *5-8 years*

E-commerce since January 2020, US & UK



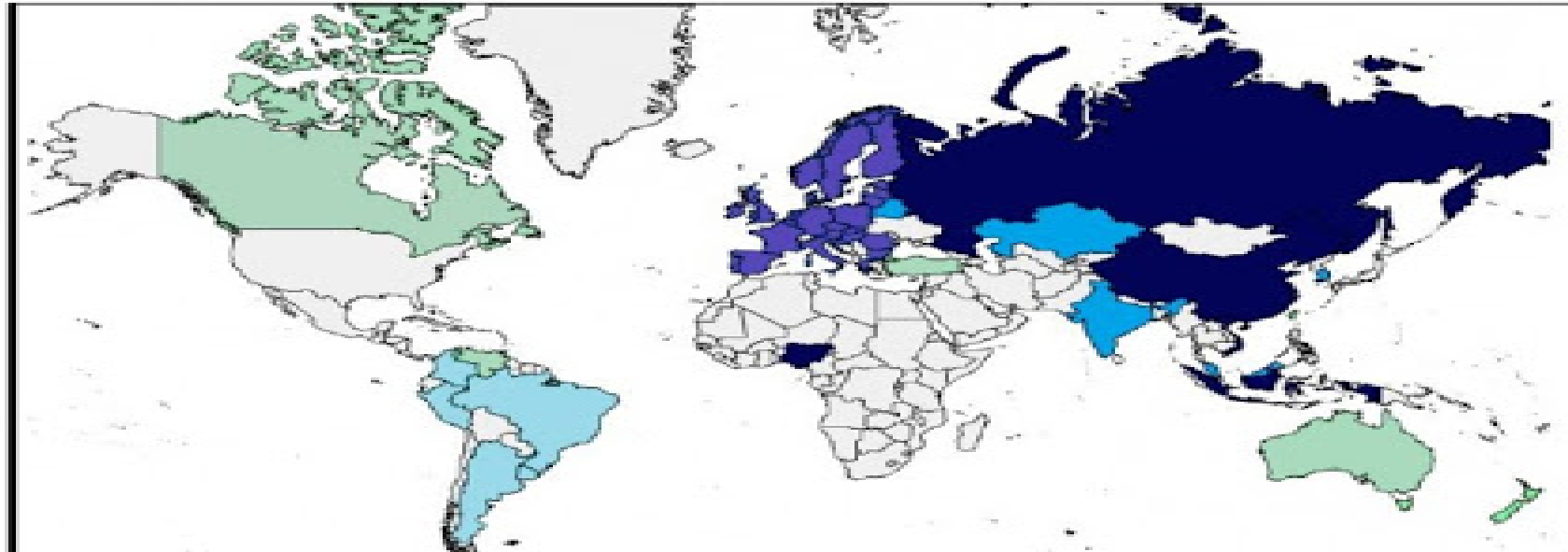
Not just a Western phenom: Southeast Asia saw a comparable leap



Whither Digital Trade? The digital economy paradox.

While e-commerce and domestic digital economy growth has boomed, so too have digital regulatory restrictions.

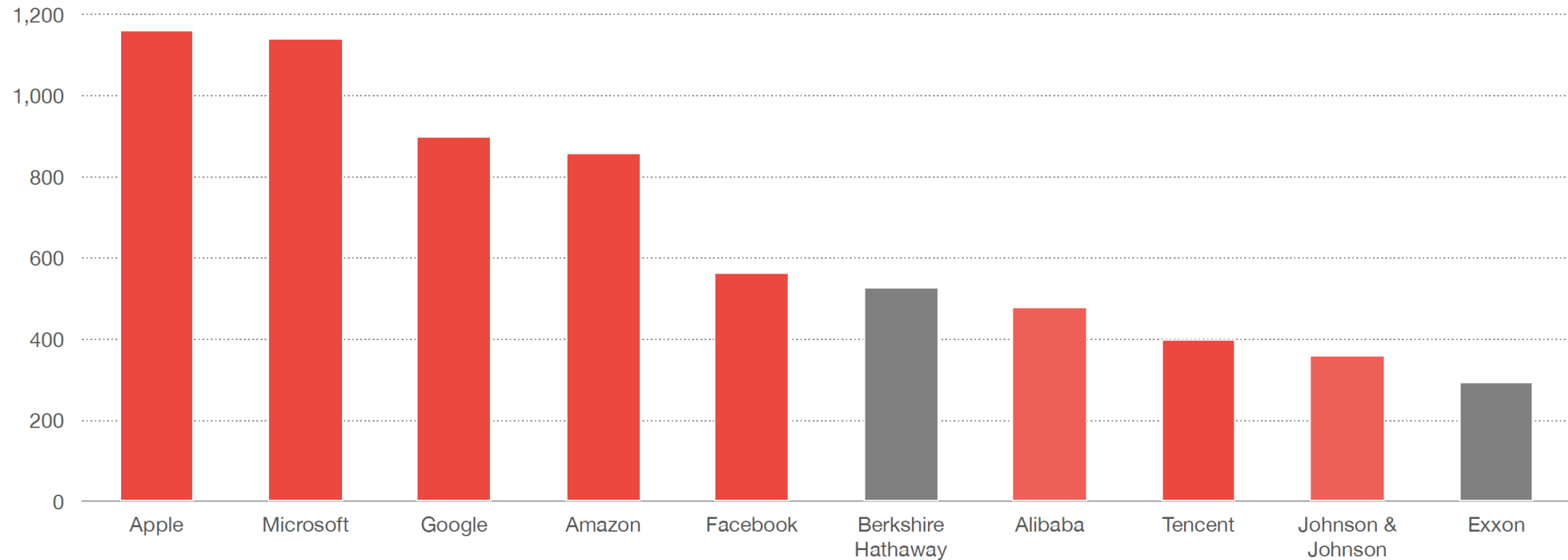
Data localization and sovereignty, cybersecurity, content moderation, intermediary liability and legal intercept, quality of service, digital taxes...



COLOR	STRENGTH OF MEASURES	COUNTRIES
Dark Blue	Strong: Explicit requirements that data must be stored on servers within the country.	Brunei, China, Indonesia, Nigeria, Russia, Vietnam
Purple	De Facto: Laws that create such large barriers to the transfer of data across borders that they effectively act as data localization requirements.	European Union
Blue	Partial: Wide range of measures, including regulations applying only to certain domain names and regulations requiring the consent of an individual before data about them is transferred internationally.	Belarus, India, Kazakhstan, Malaysia, South Korea
Light Blue	Mild: Restrictions on international data transfers under certain conditions.	Argentina, Brazil, Colombia, Peru, Uruguay
Green	Sector-specific: Tailored to specific sectors, including healthcare, telecom, finance, and national security.	Australia, Canada, New Zealand, Taiwan, Turkey, Venezuela
White	None: No known data localization laws.	Remaining Countries

At the same time the digital giants are booming....

Ten largest global companies by market cap, December 2019 (\$bn)



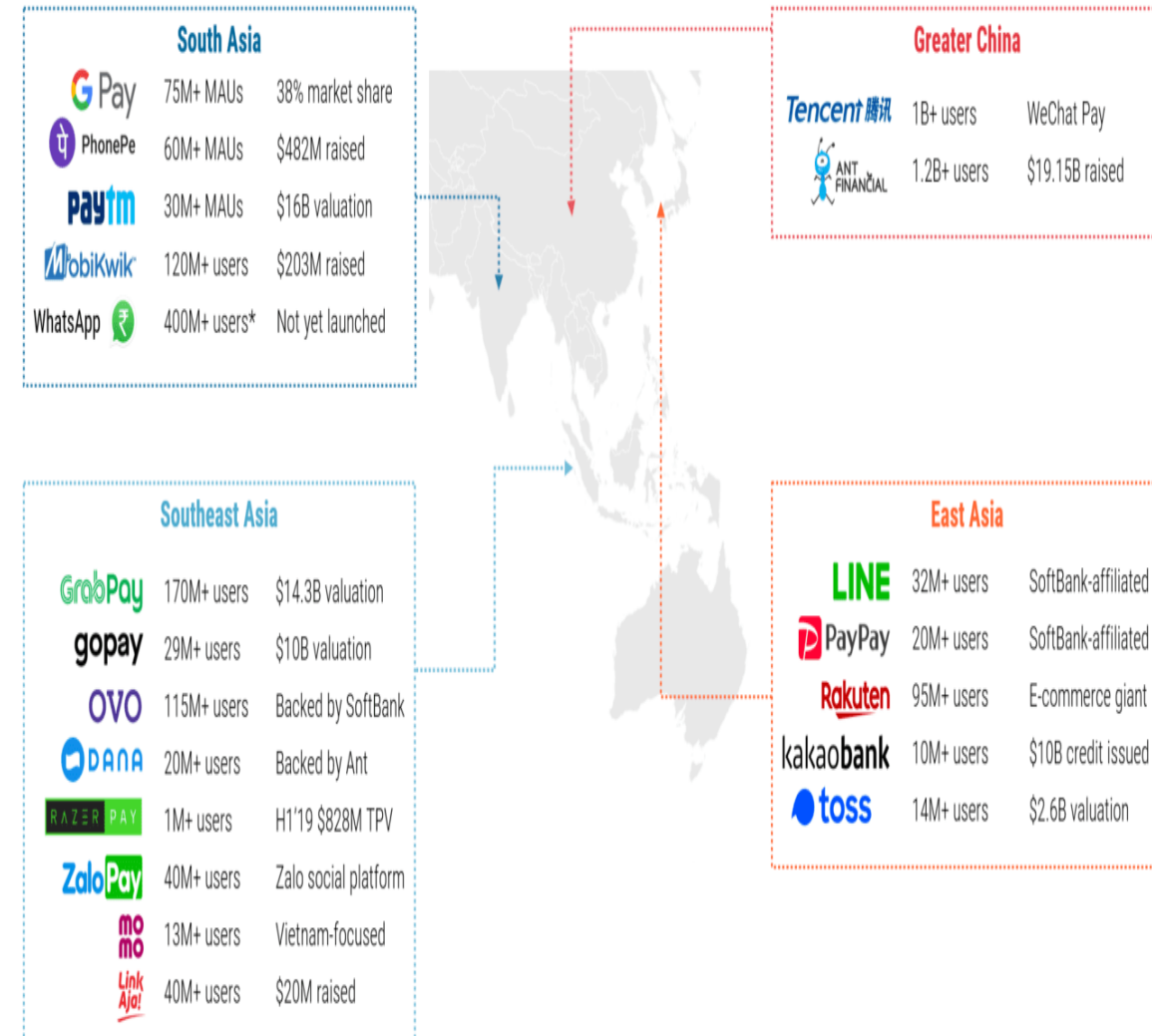
“Too big to fail”?

“A threat competition”?

“Split them up”?

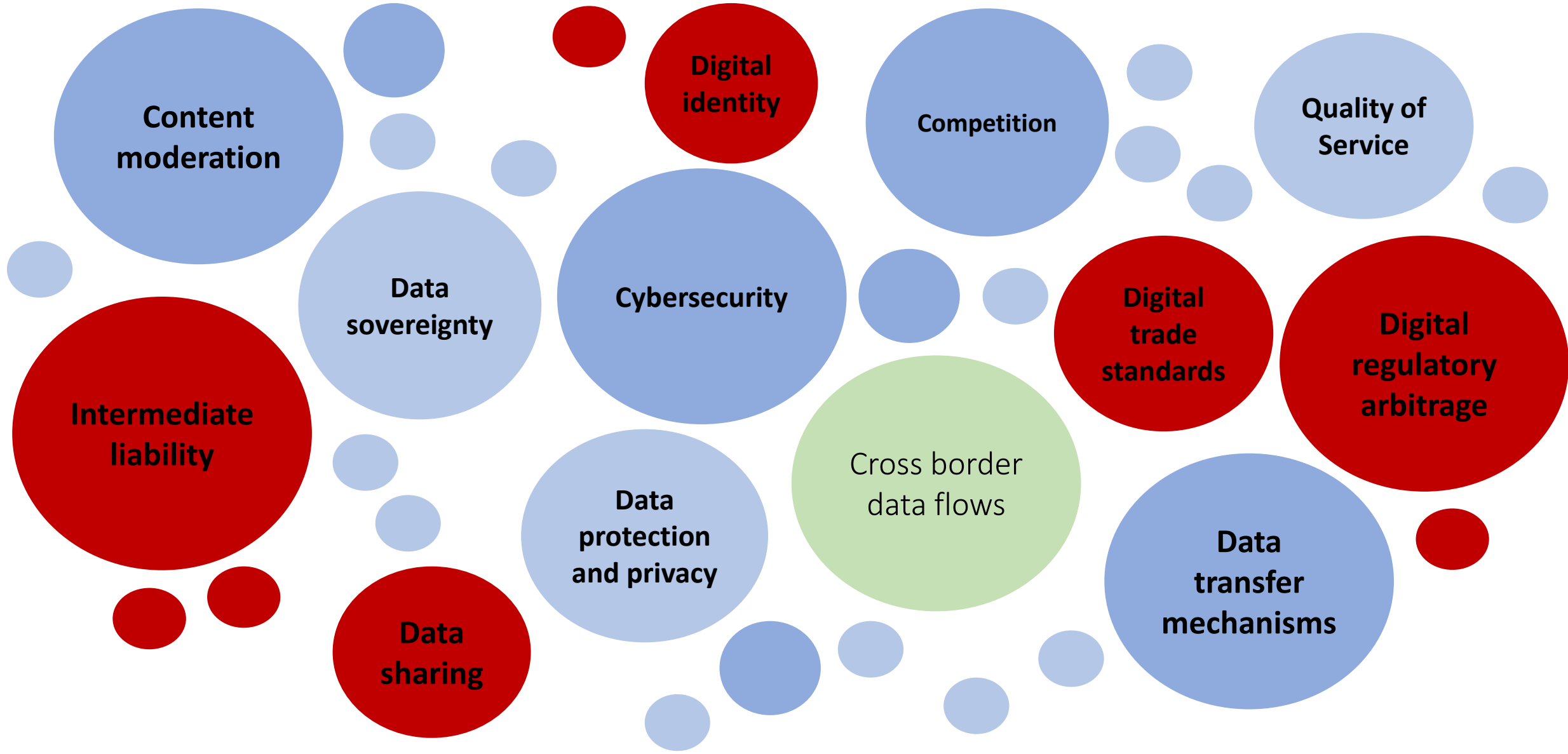
But so too are national digital champions...

Digital wallets are gaining traction in Asia

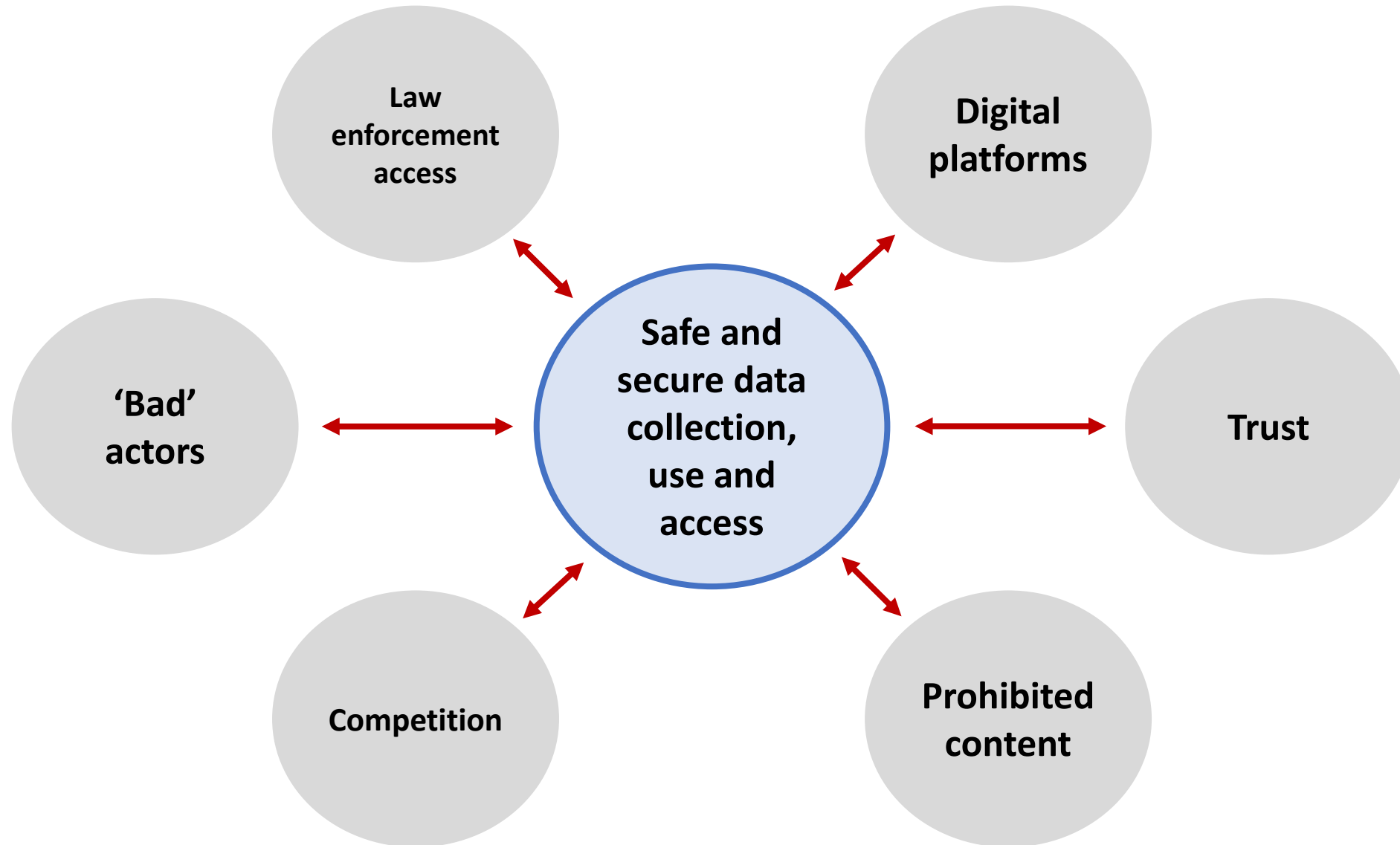


What problem are we trying to solve?

A rapid proliferation of 'digital' issues



All of these require trade-offs and compromises



Regulatory *competition* results in a race to the bottom

Los Angeles Times

Unfortunately, our website is currently unavailable in most European countries. We are engaged on the issue and committed to looking at options that support our full range of digital offerings to the EU market. We continue to identify technical compliance solutions that will provide all readers with our award-winning journalism.

show apps

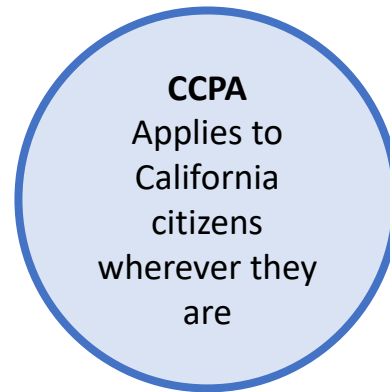
Chicago Tribune

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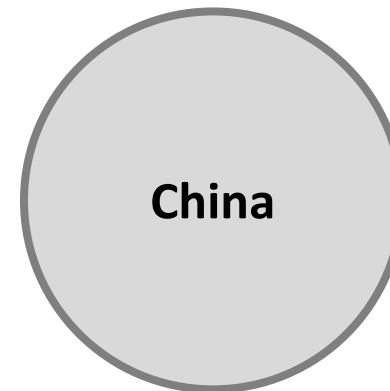
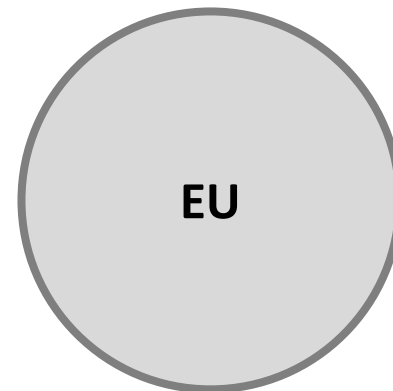
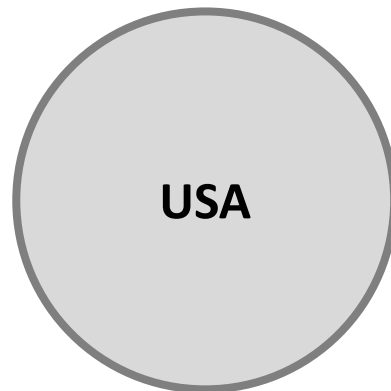
Extraterritorial regulation means companies start complying with the harshest rule that applies wherever it is; meanwhile countries pick and choose the version of the regulation that appeals and the interpretation in trade agreements that suits – the vagueness of language and the refusal to have consistent language comes back to bite.

Digital extraterritoriality and regulatory competition

Applying domestic laws to a global medium, and to citizens abroad



Three competing digital regulatory jurisdictions with extraterritorial ambitions... and a range of middle powers attempting to navigate between.



A Digital Economy Governance Framework Proposal

DE Governance: The Elements

1. Recognizing data as different from both goods and services and developing trade-in-data requirements accordingly
2. Follow the money: mapping the digital value chain
3. At each stage in the chain, recognize clearly the roles played in participation: producers, consumers, processors, value-add
4. Establish the rules of the road (governance) to enable value creation and capture. Where required, flexible responsive regulation provides enforcement. (In a global – or regional – digital environment, co-regulation will be a necessity to establish alignment)
5. Develop digital measurements and indicators: objectives drive behavior

