Executive Education at TSE

2nd UCL and White & Case Brussels Autumn Competition Law Conference

November 21, 2019

Toulouse School of Economics

Platform Envelopment Strategies

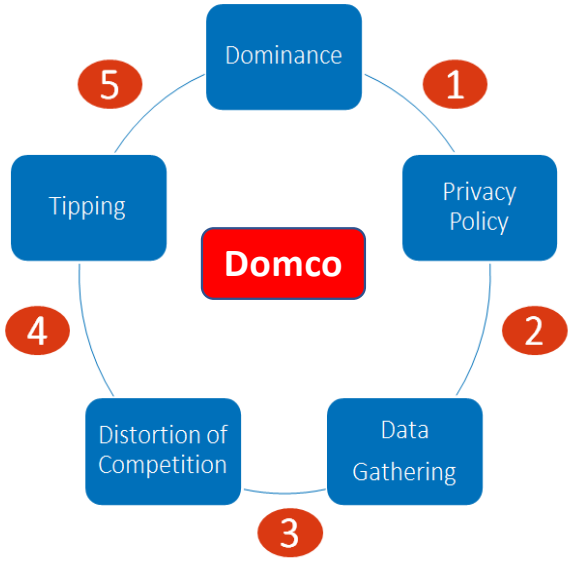
Jorge Padilla
Compass Lexecon

Toulouse School of Economics

Multiple concerns

Executive Education at TSE
Toulouse school of Economics

The origin market



1

- Domco's dominance in the market allows it to impose coercive terms and conditions (typically embedding a privacy policy)

2

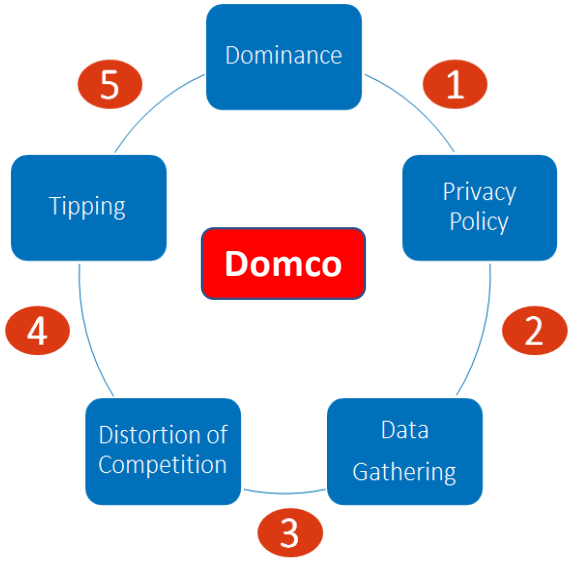
- Consumers agree to Domco's terms of service (and privacy policy). Domco can then use and commercialise its users' data

3

- Domco acquires a non-replicable data advantage *vis-á-vis* its actual and potential competitors, which distorts competition

Executive Education at TSE
Toulouse school of Economics

Data-driven dominance



3

- Domco's data advantage *de facto* limits the ability of its rivals to offer and monetize a differentiated platform that can attract consumers and advertisers

4

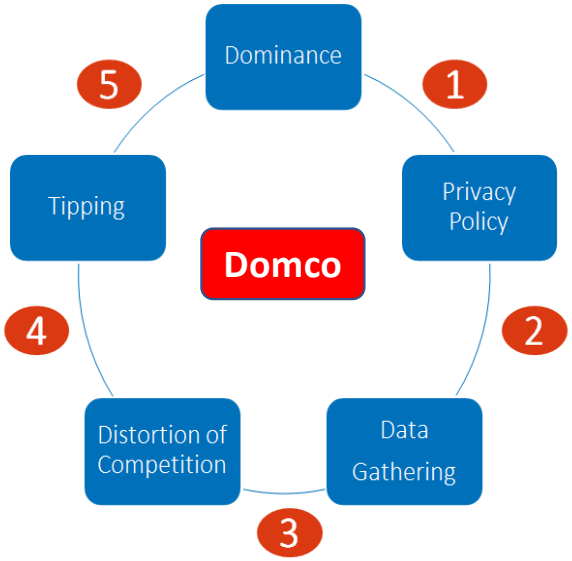
- The market tips towards monopoly: rivals are excluded

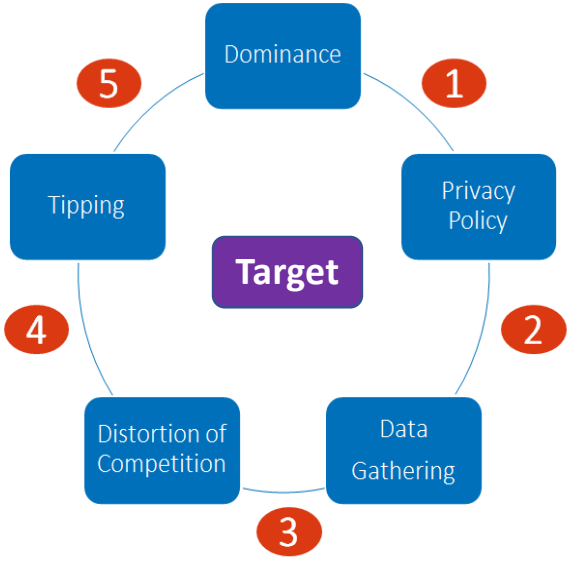
5

- Domco entrenches its monopoly position in the market, which allows it to extract supra competitive rents and impose a coercive privacy policy on consumers

Executive Education at TSE
Toulouse school of Economics

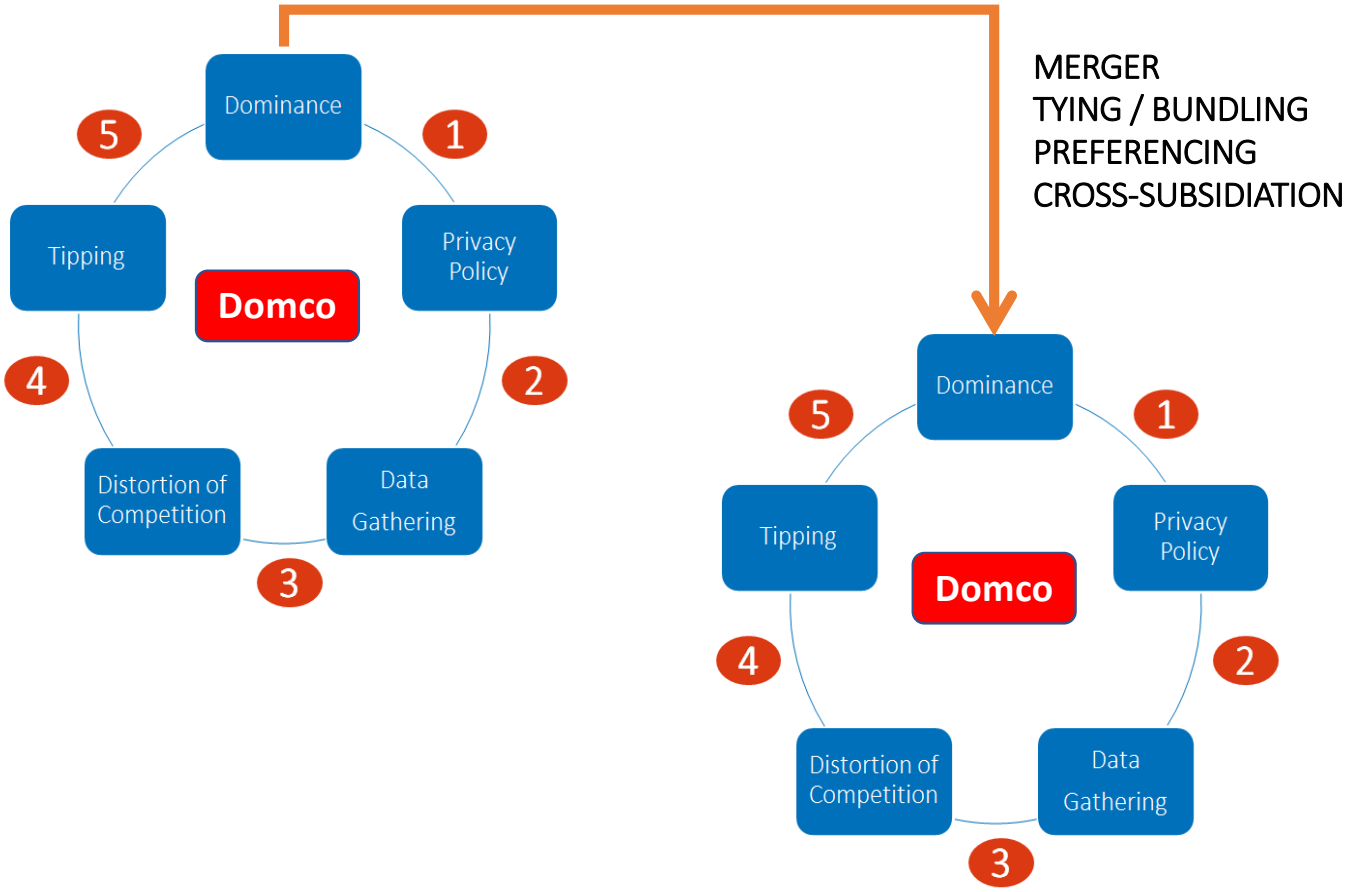
The target market





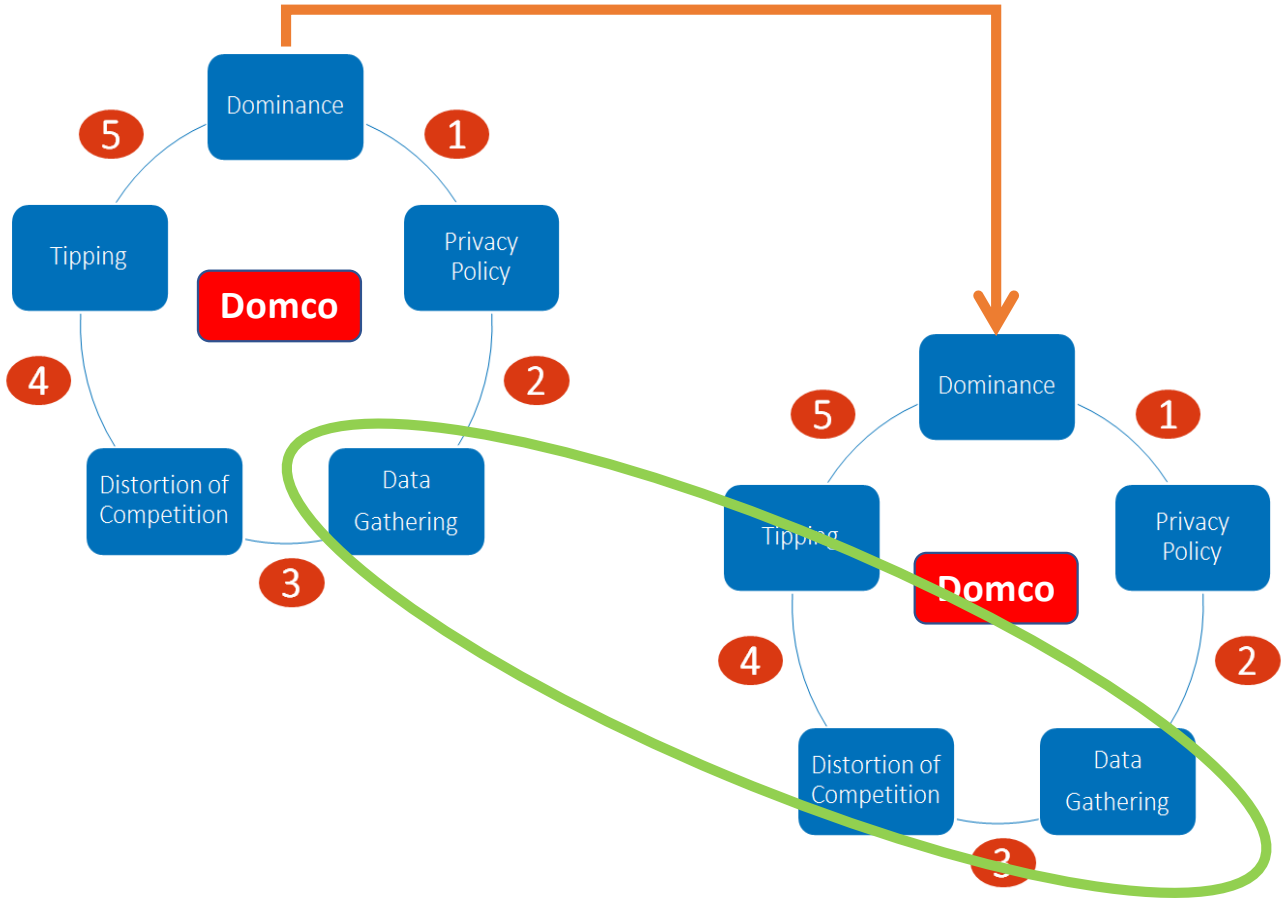
Executive Education at TSE
Toulouse school of Economics

Data-driven platform envelopment



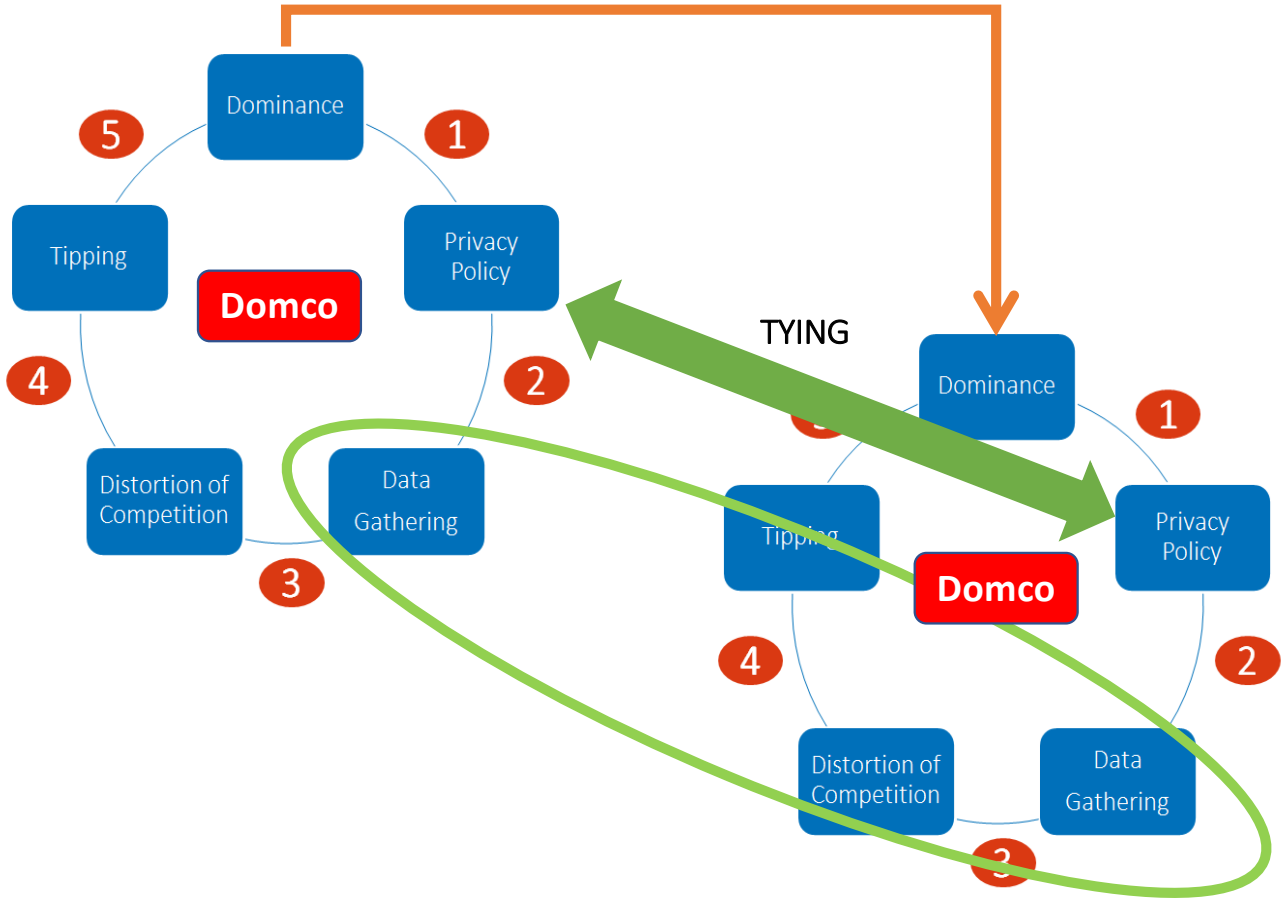
Executive Education at TSE
Toulouse school of Economics

To acquire data and combine data



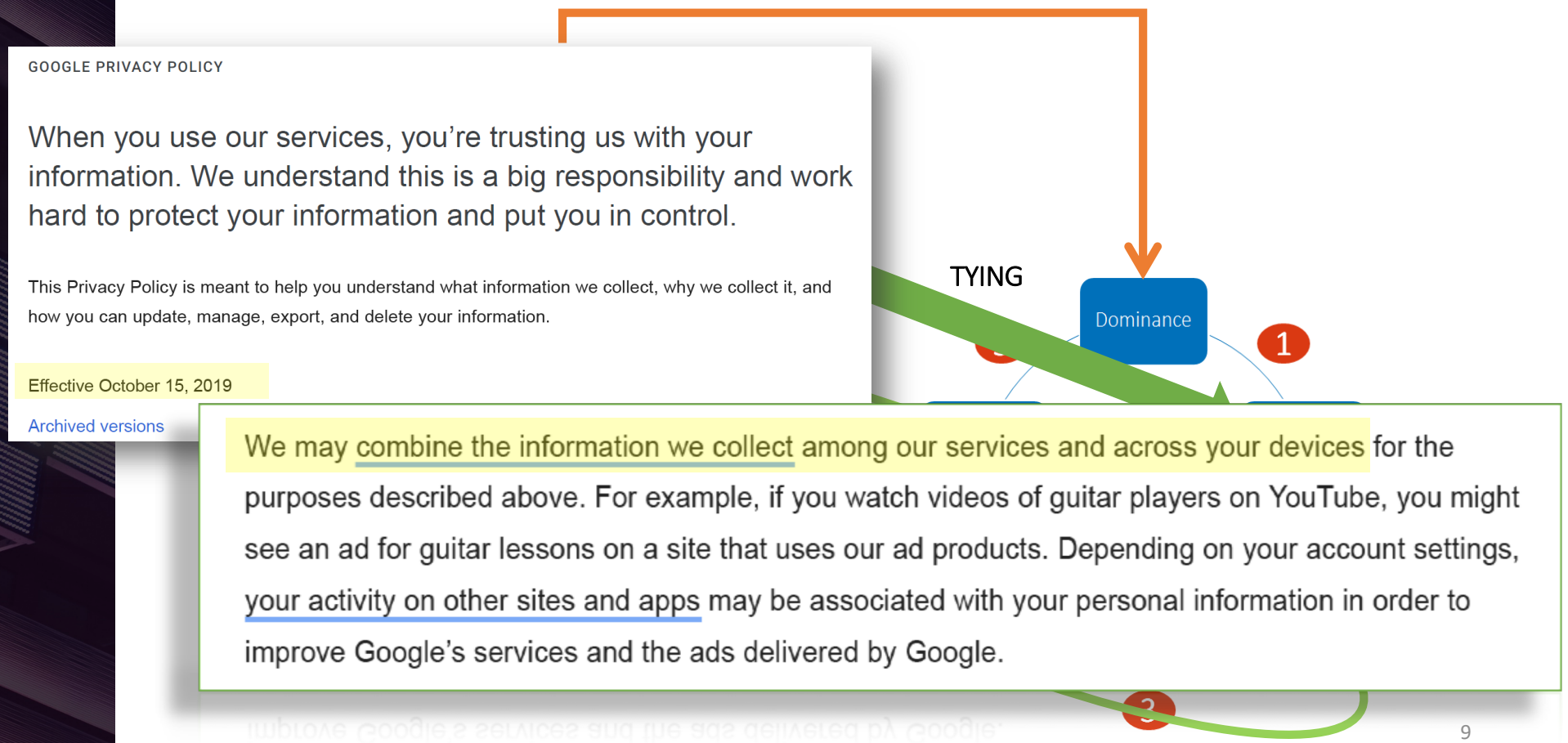
Executive Education at TSE
Toulouse school of Economics

Privacy policy tying



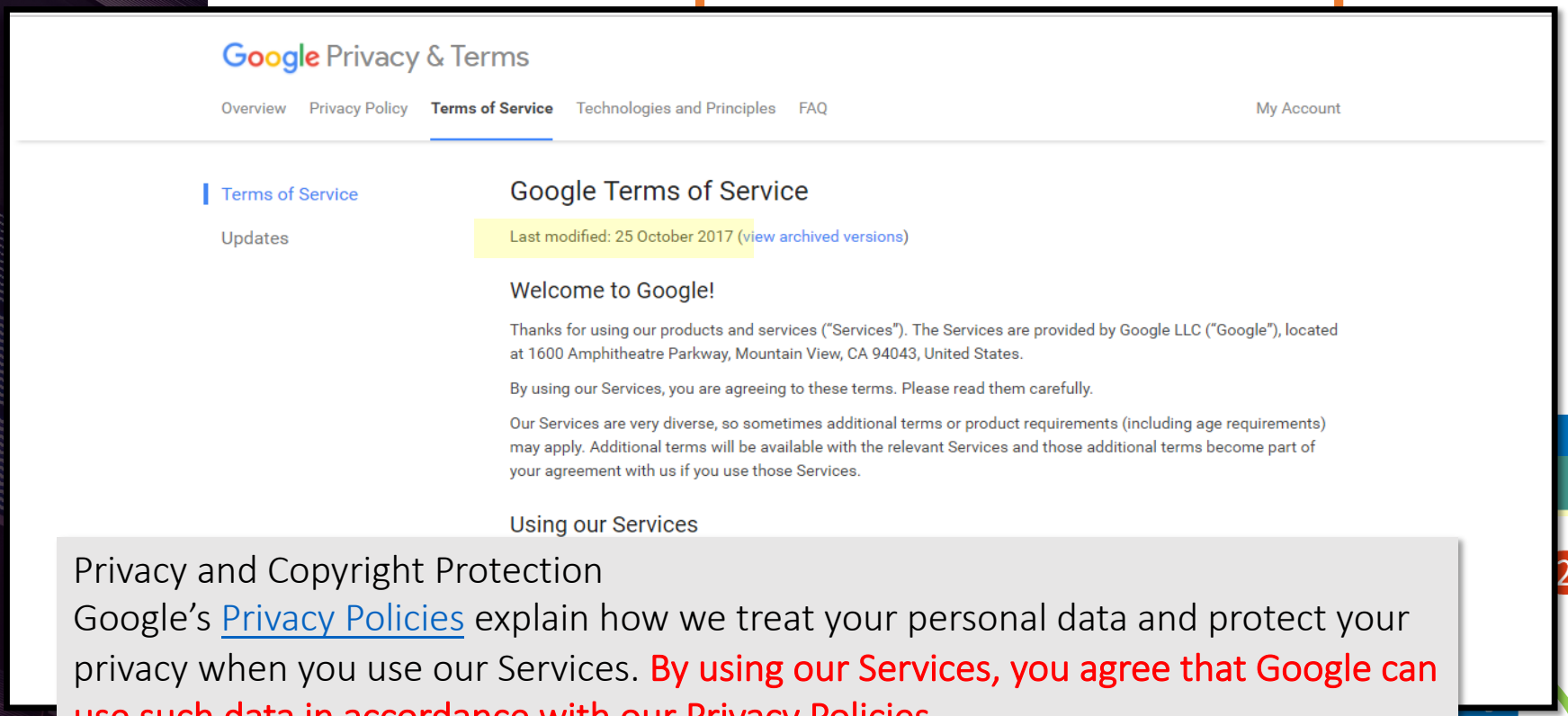
Executive Education at TSE
Toulouse school of Economics

Privacy policy tying



Executive Education at TSE
Toulouse school of Economics

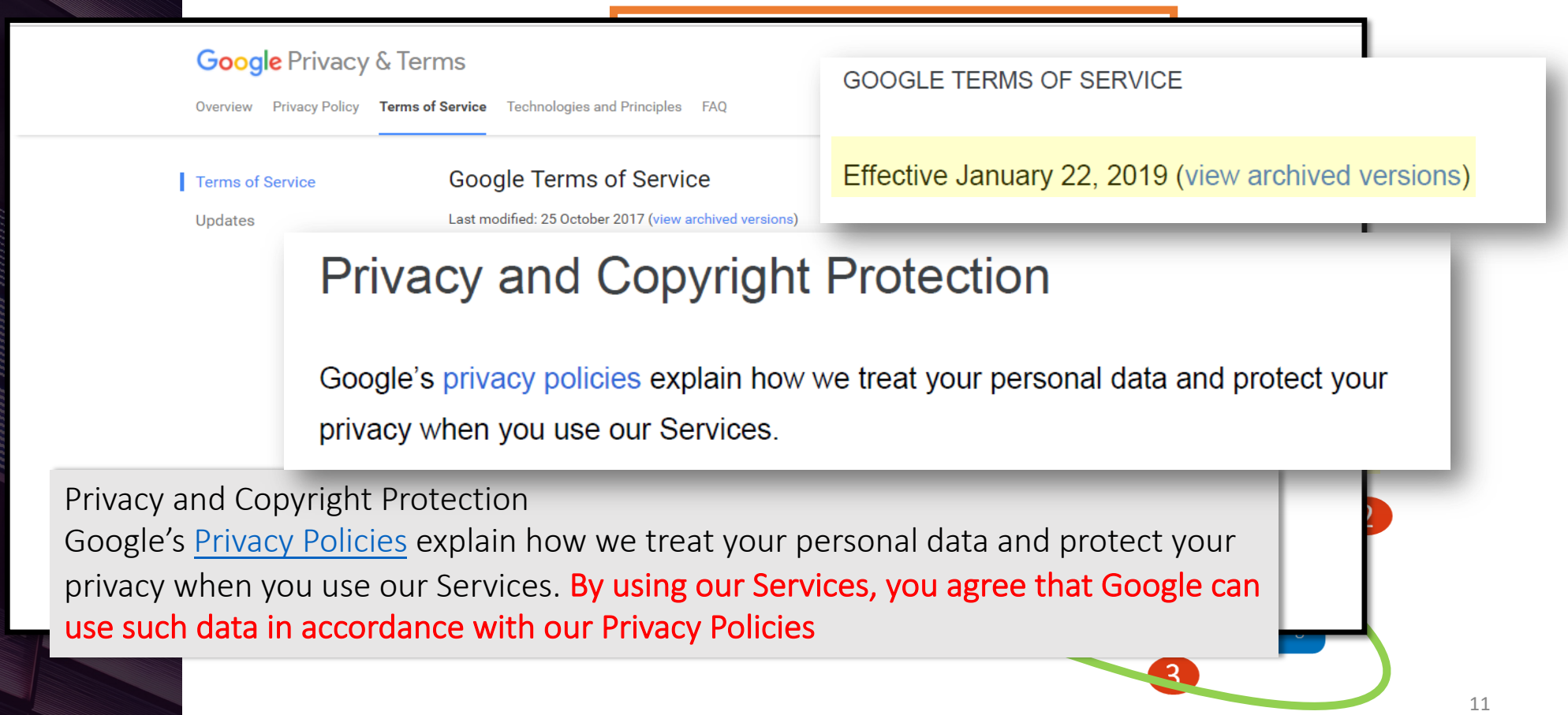
Privacy policy tying



Privacy and Copyright Protection
Google's Privacy Policies explain how we treat your personal data and protect your privacy when you use our Services. By using our Services, you agree that Google can use such data in accordance with our Privacy Policies

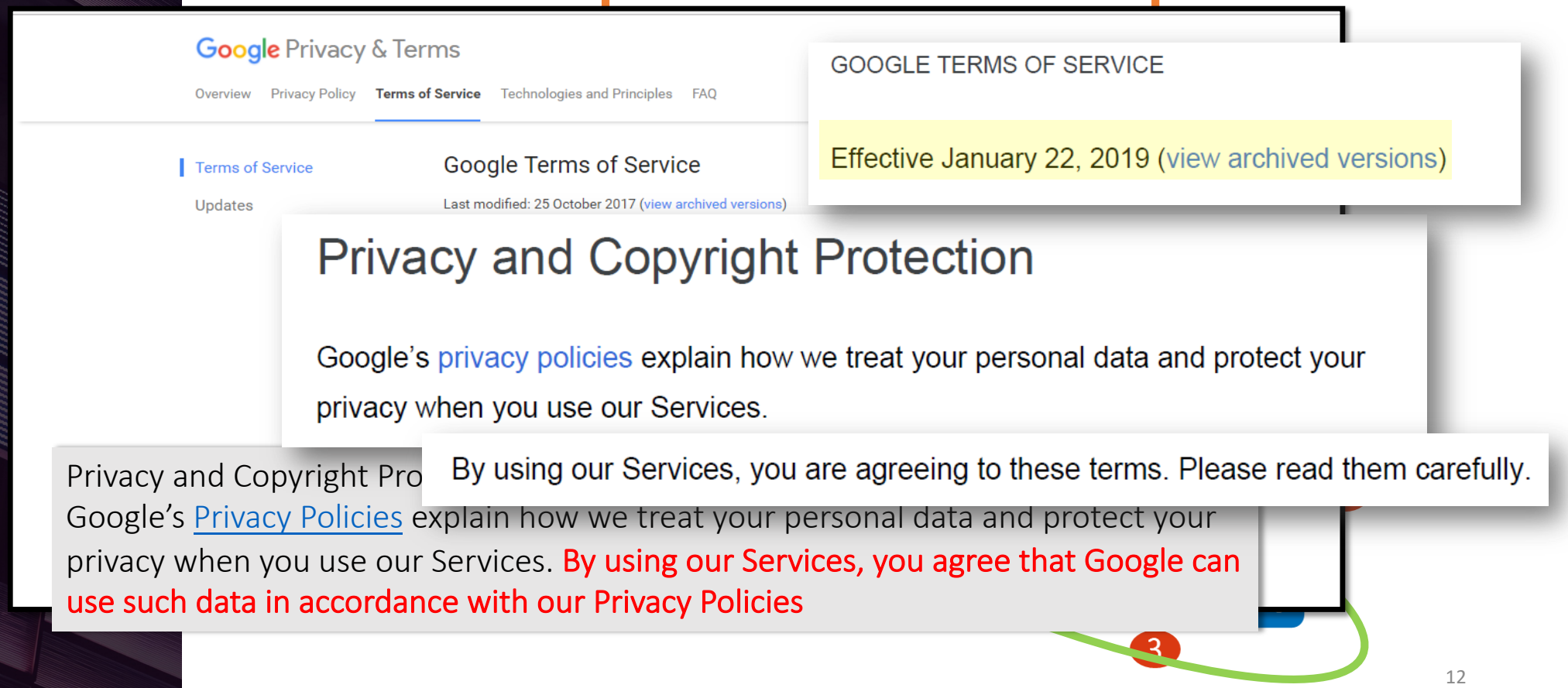
Executive Education at TSE
Toulouse school of Economics

Privacy policy tying



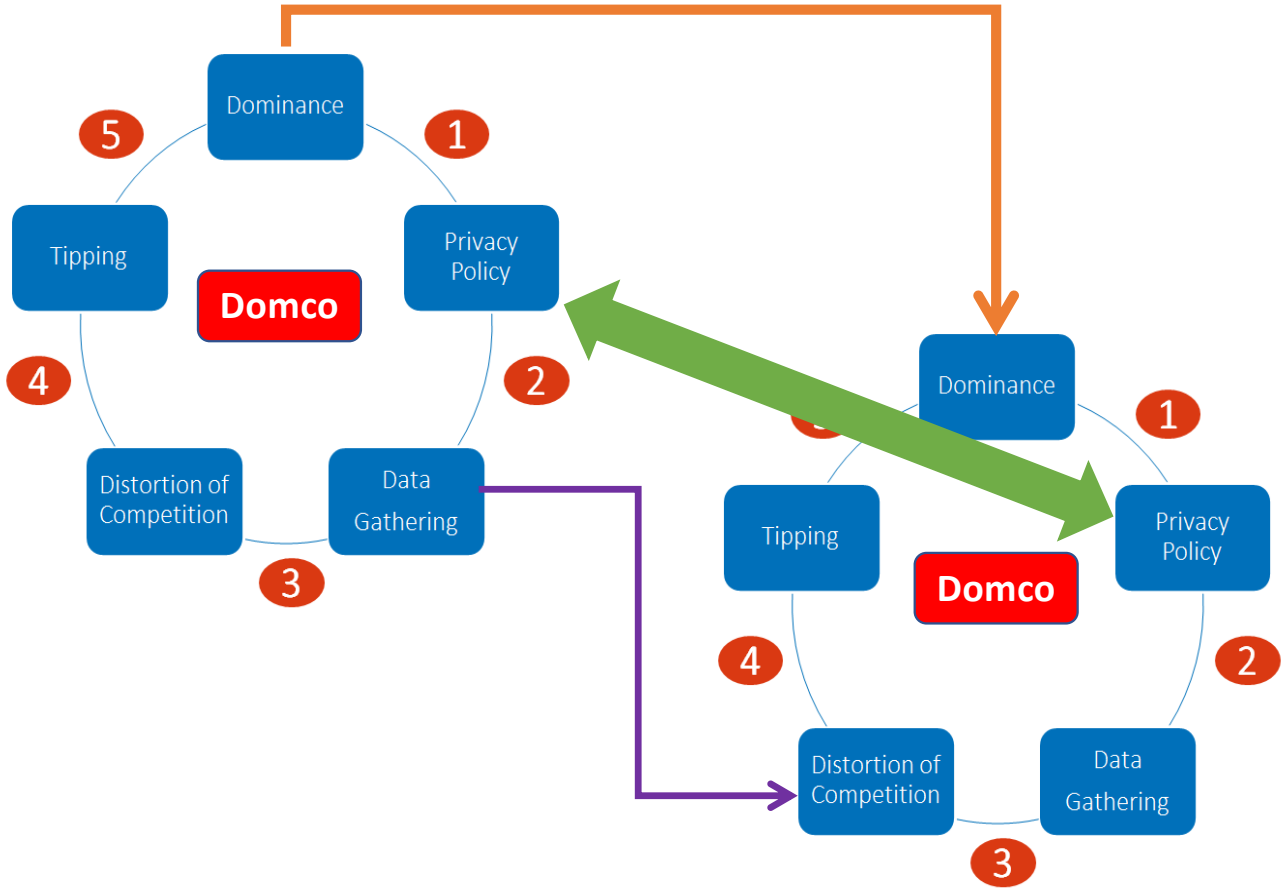
Executive Education at TSE
Toulouse school of Economics

Privacy policy tying



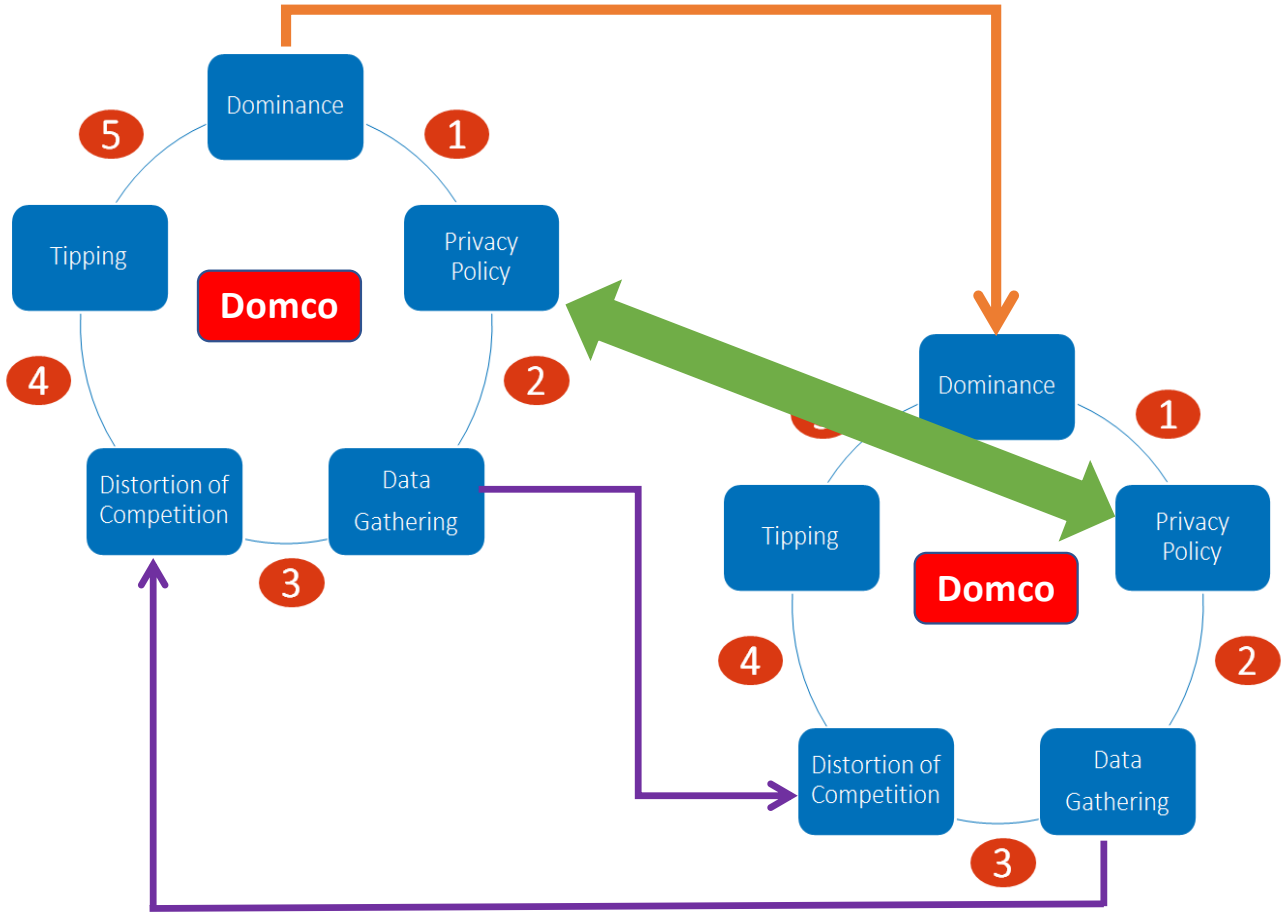
Executive Education at TSE
Toulouse school of Economics

To monopolize target market



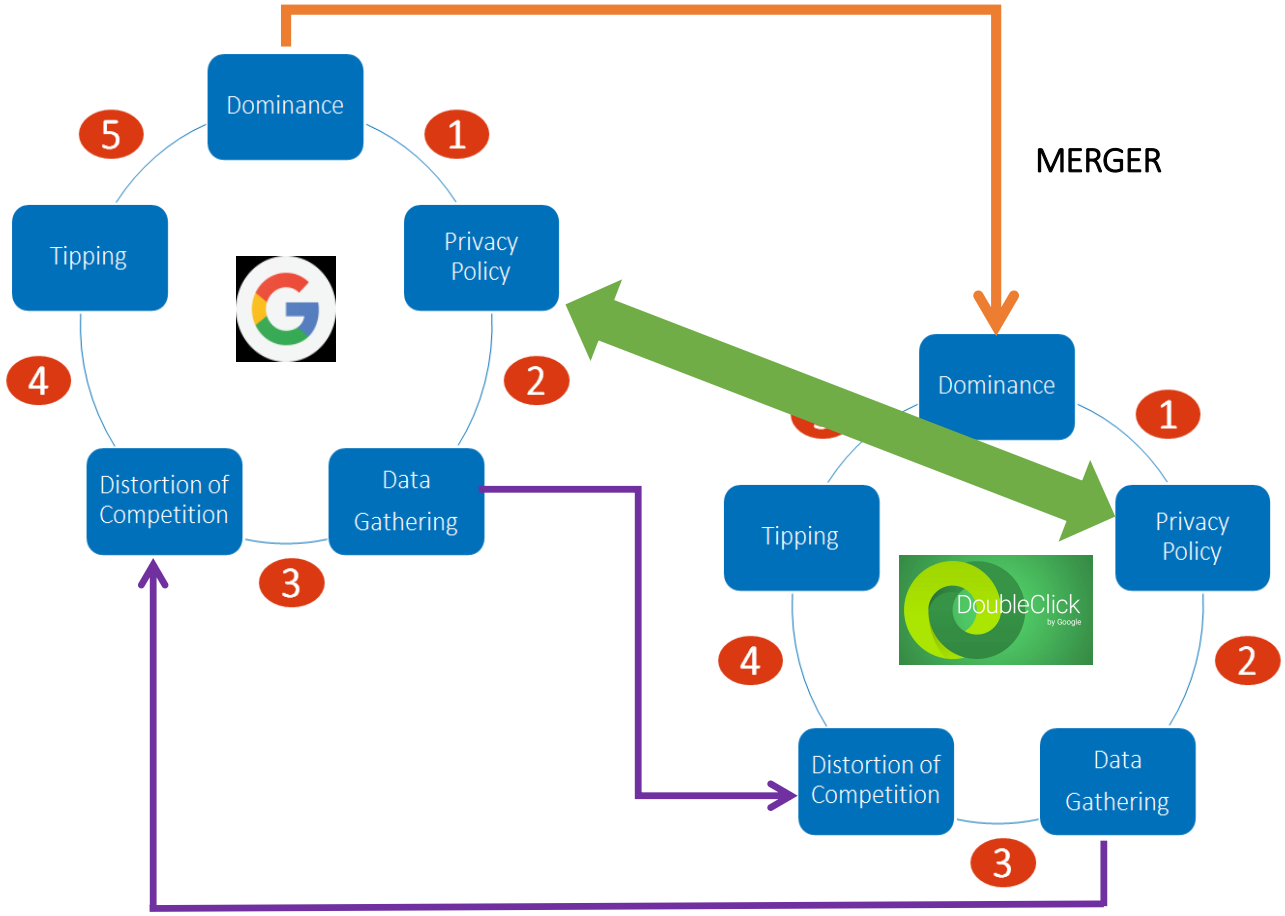
Executive Education at TSE
Toulouse school of Economics

And entrench monopoly in origin market



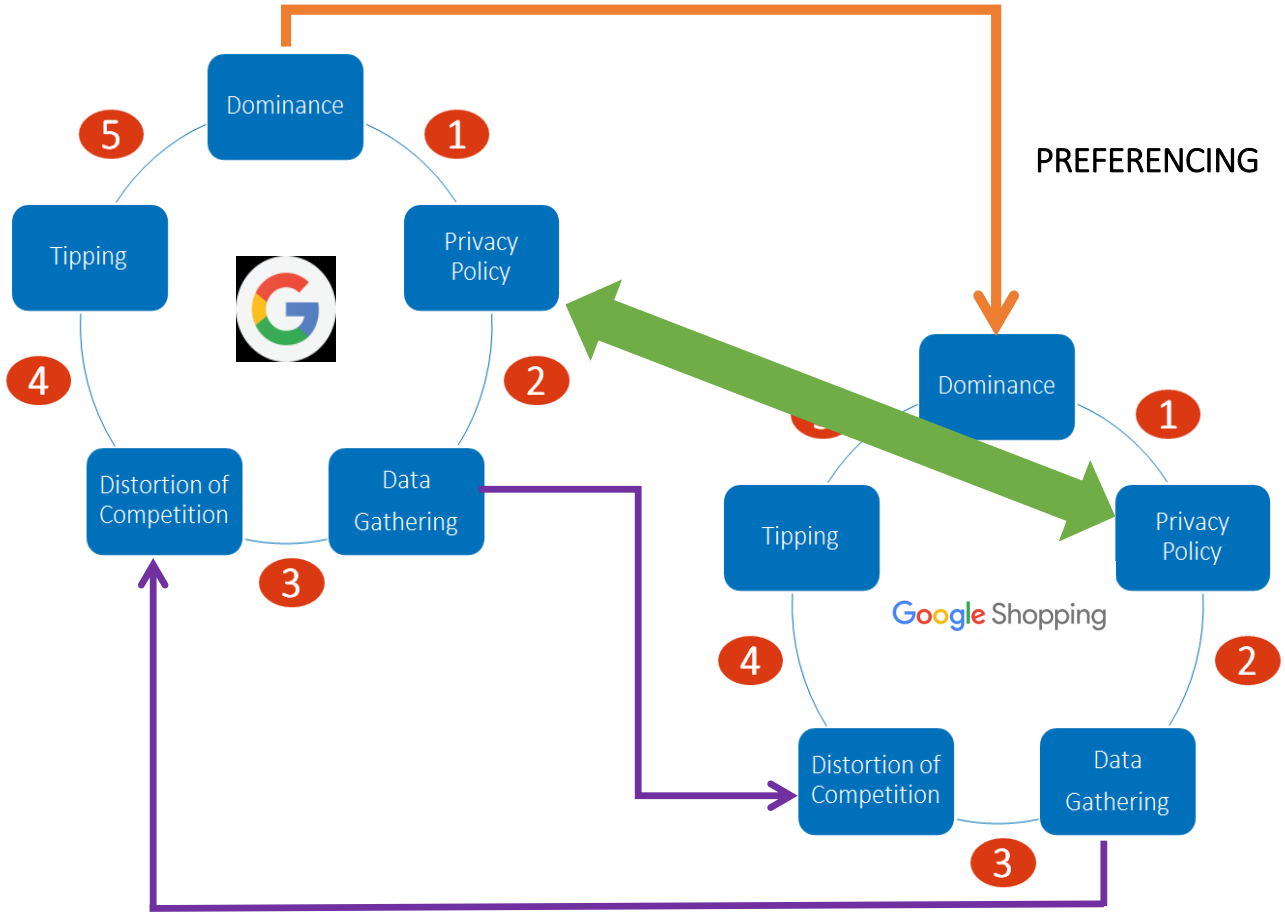
Executive Education at TSE
Toulouse school of Economics

Google DoubleClick



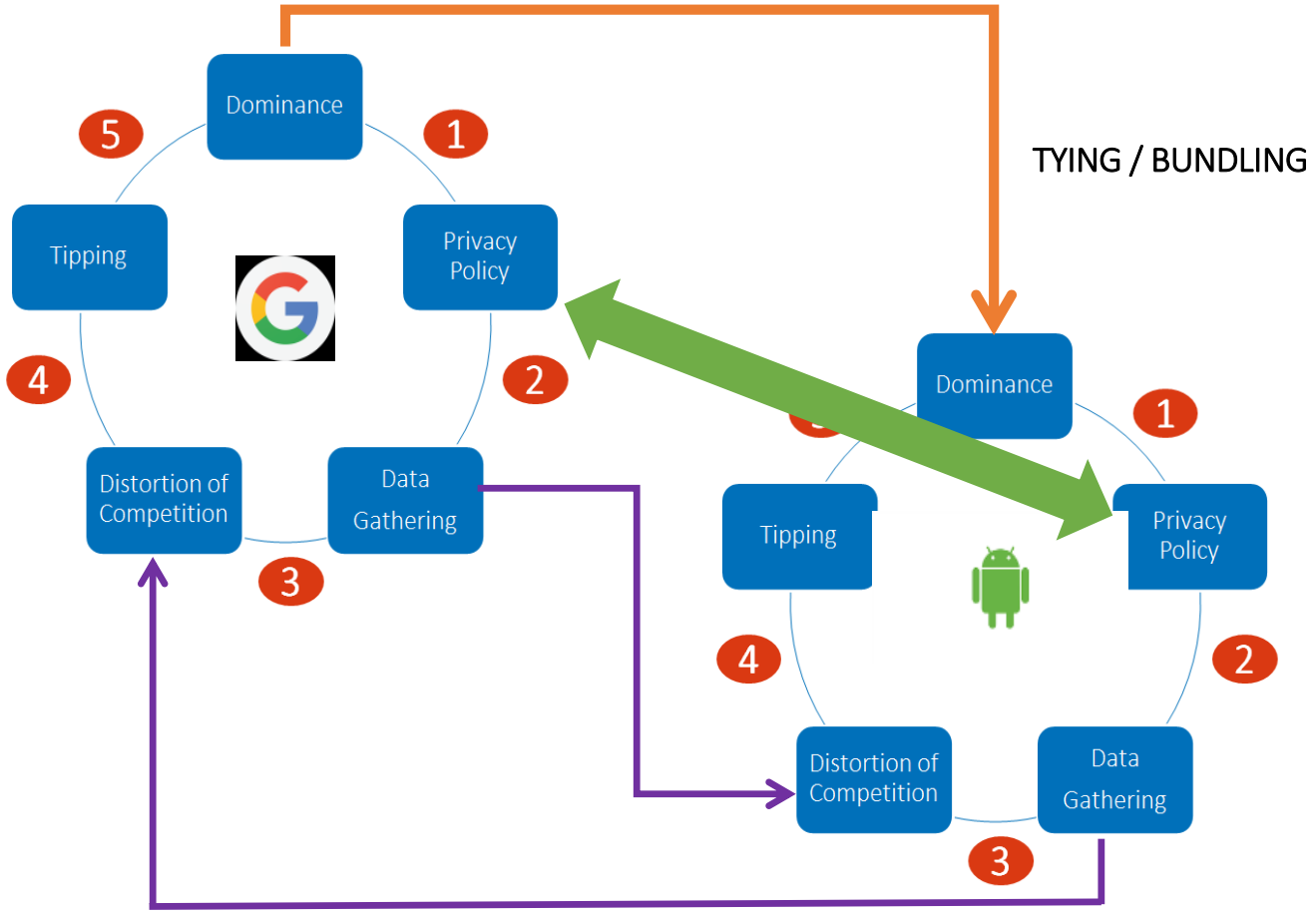
Executive Education at TSE
Toulouse school of Economics

Google Shopping



Executive Education at TSE
Toulouse school of Economics

The Android case



So what?

Legal standards

When is DD platform envelopment anticompetitive?

Unilateral actions that (a) distort the competitive process and (b) reduce (long-run) consumer welfare are anticompetitive

Conditions (a) and (b) are *cumulative*

Does DD platform envelopment distort the competitive process?

Contestability?

- **Can competitors match the envelopment strategy of the dominant platform?**
- **Can they compete by offering more attractive propositions within the target platform market?**

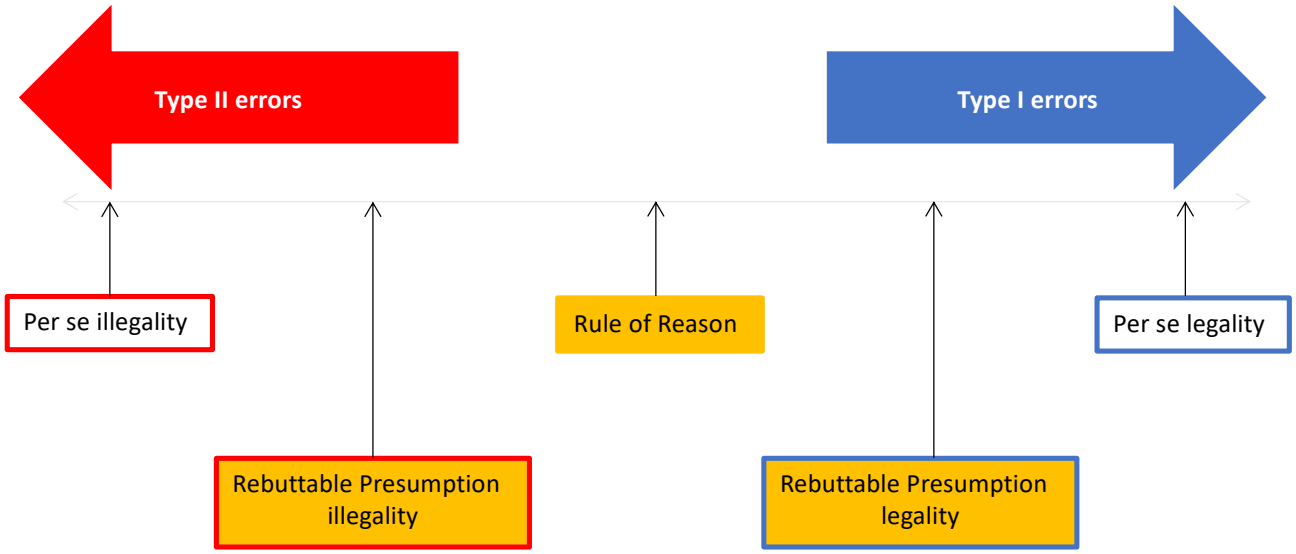
Does DD platform envelopment harm consumer welfare?

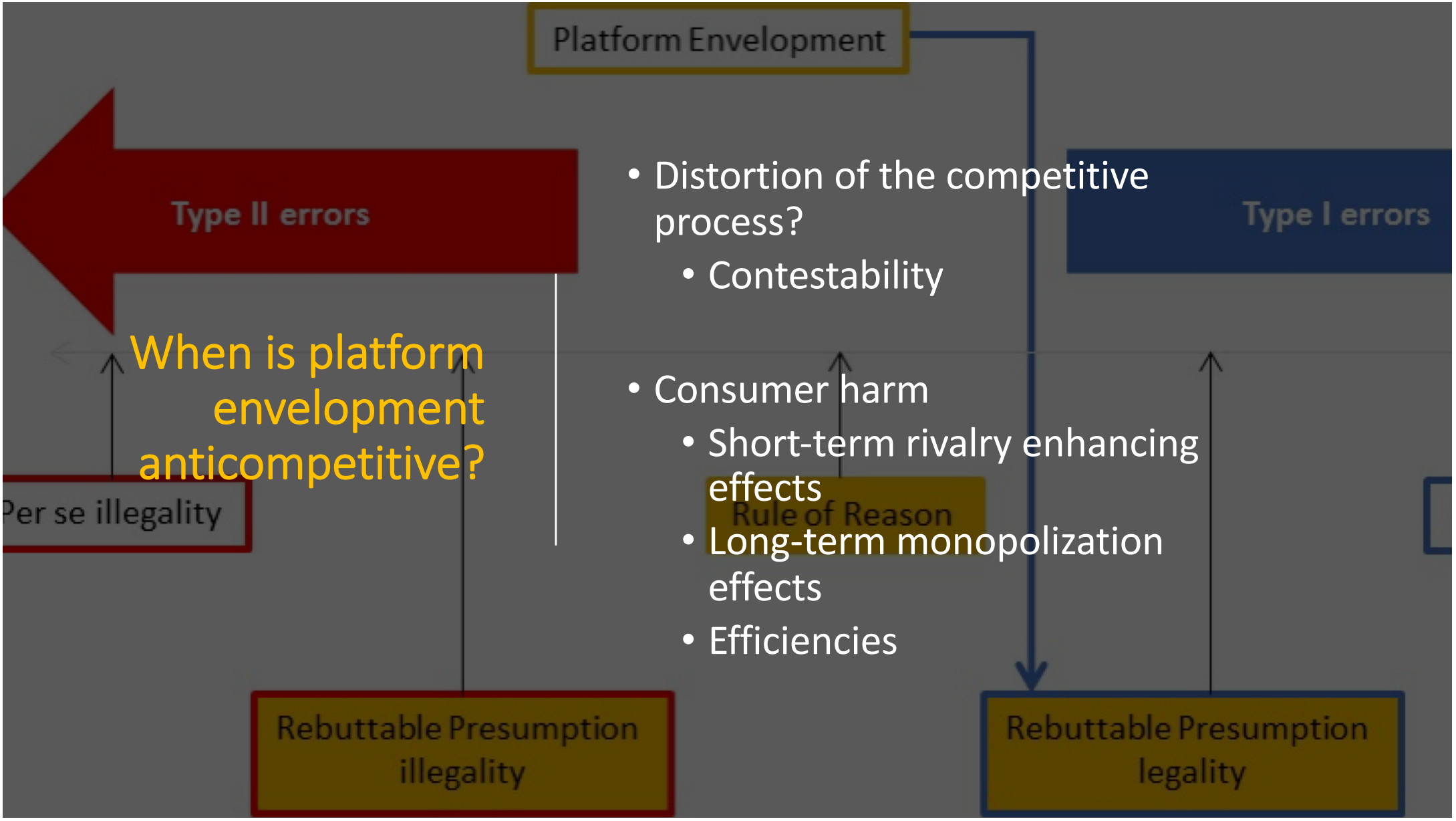
Effects?

- **Better and cheaper products and services**
- **Exclusion and monopoly**

Executive Education at TSE
Toulouse school of Economics

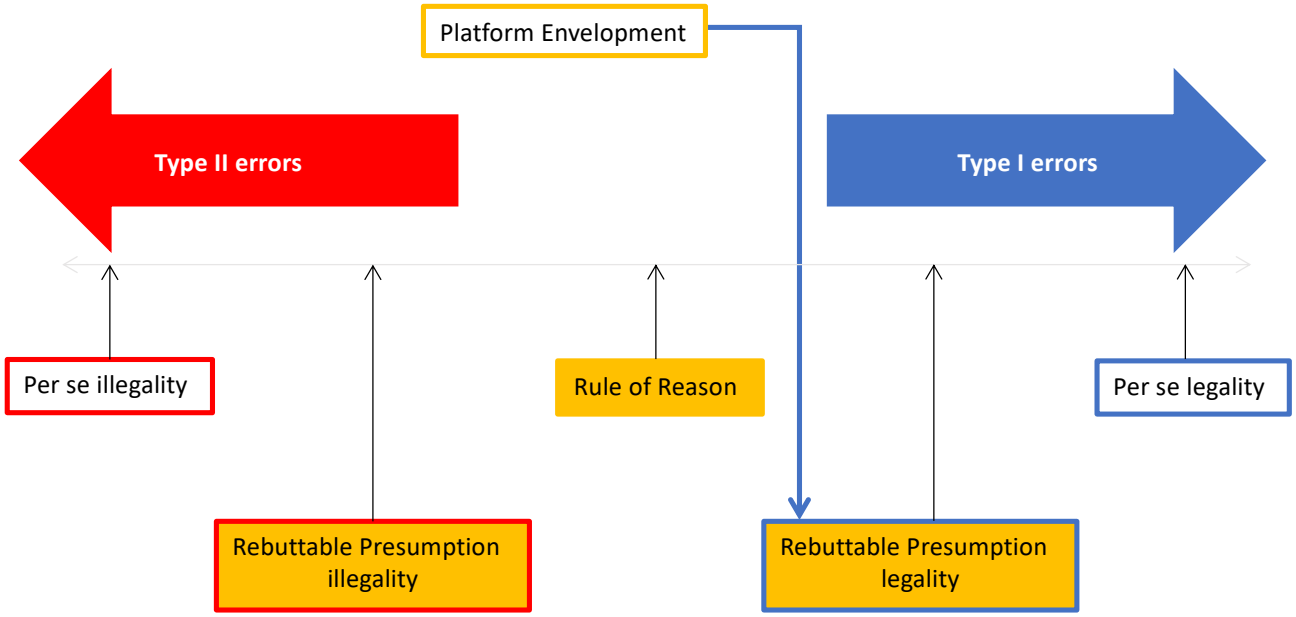
When is DD platform envelopment anticompetitive?




Platform Envelopment
Type II errors
Type I errors
When is platform envelopment anticompetitive?
• Distortion of the competitive process?
• Contestability
• Consumer harm
• Short-term rivalry enhancing effects
• Long-term monopolization effects
• Efficiencies
Per se illegality
Rule of Reason
Rebuttable Presumption illegality
Rebuttable Presumption legality

Executive Education at TSE
Toulouse school of Economics

When is DD platform envelopment anticompetitive?



Exceptional circumstances

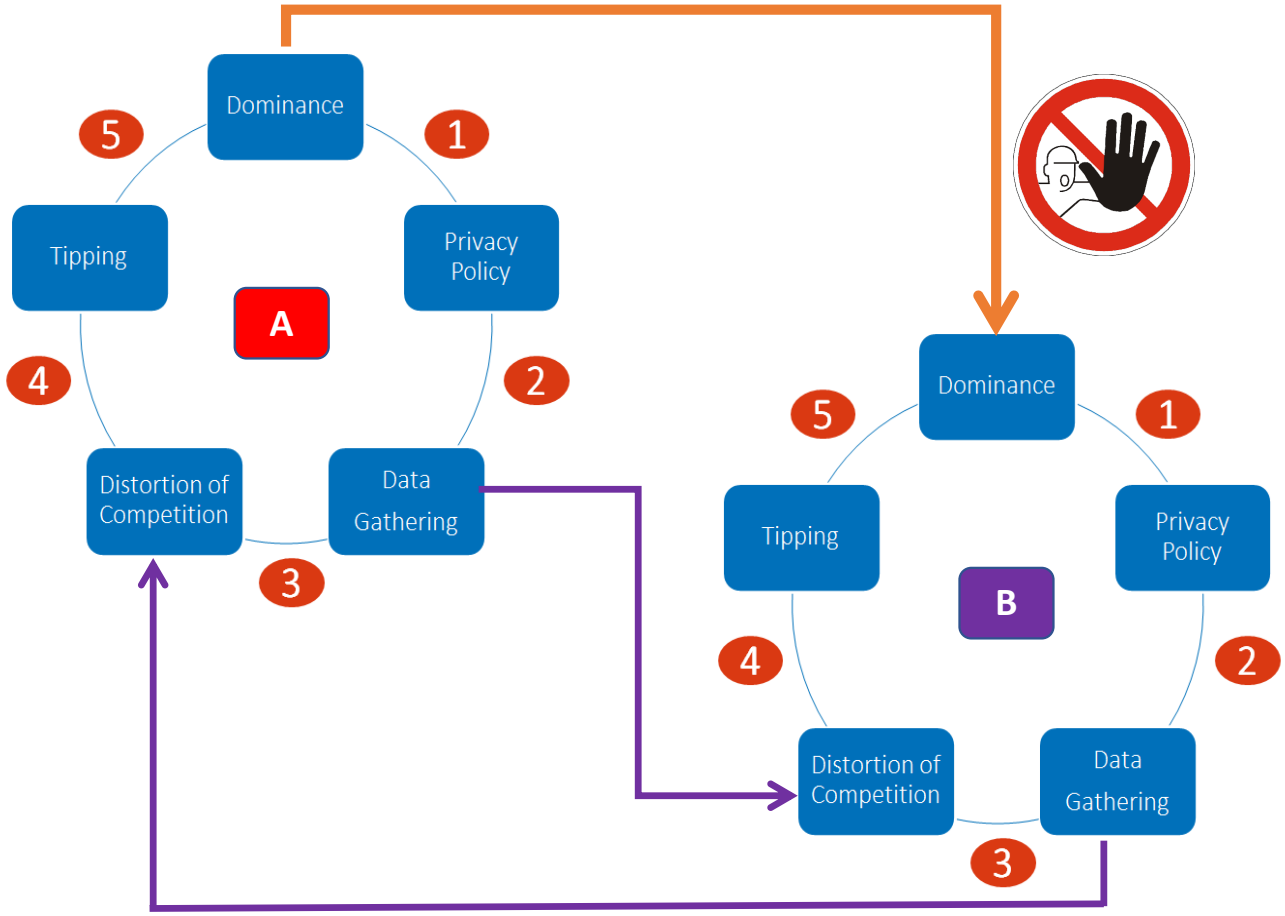
- **Dominance in origin market**
- **As efficient competitors in target market cannot contest the platform envelopment strategy**
- **Elimination of effective competition in target market and/or entrenchment of dominance in origin market**
- **Possible efficiencies can be achieved by less restrictive means**

Remedies

Policy options

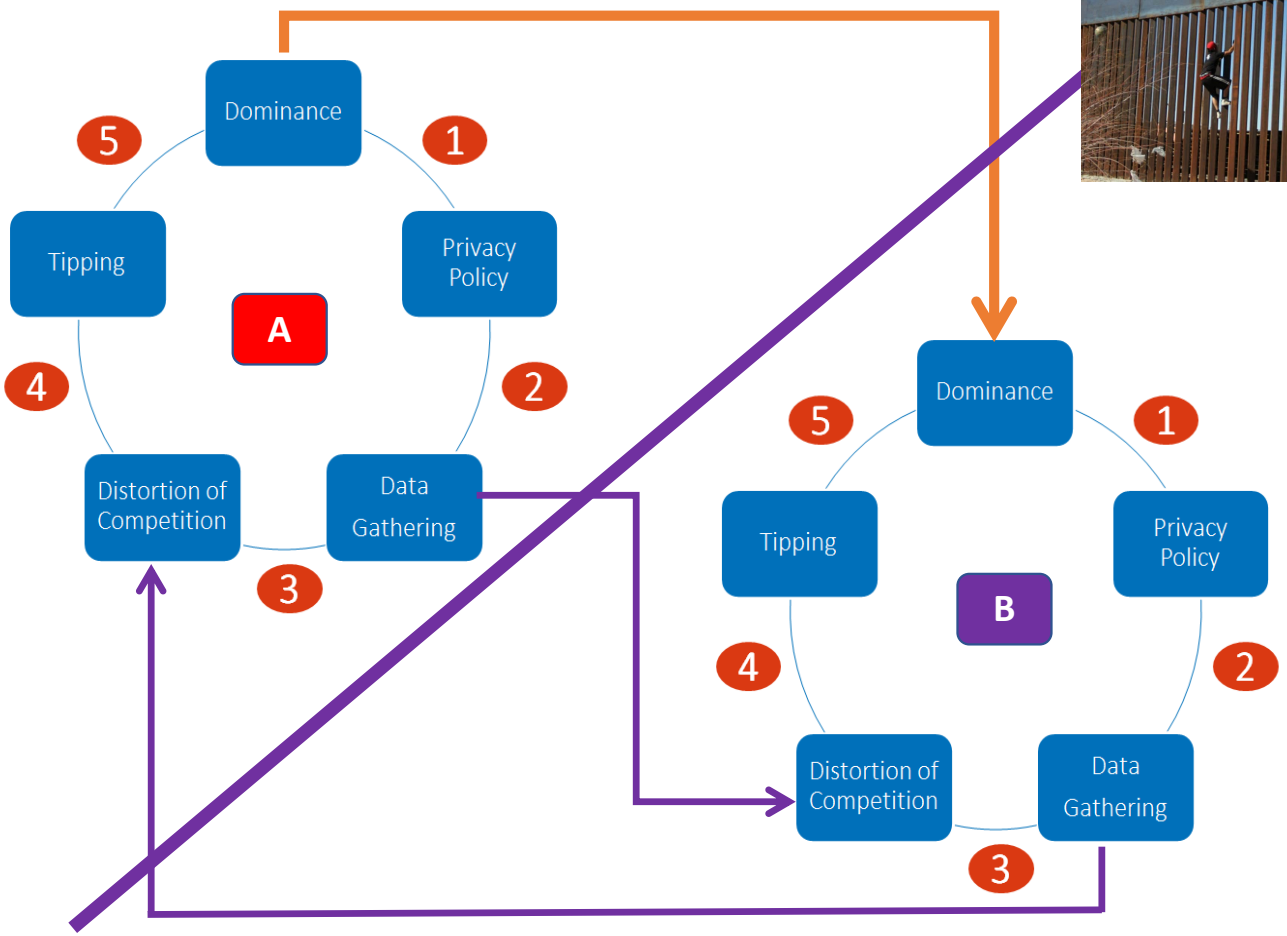
Executive Education at TSE
Toulouse school of Economics

Option #1 Behavioral intervention



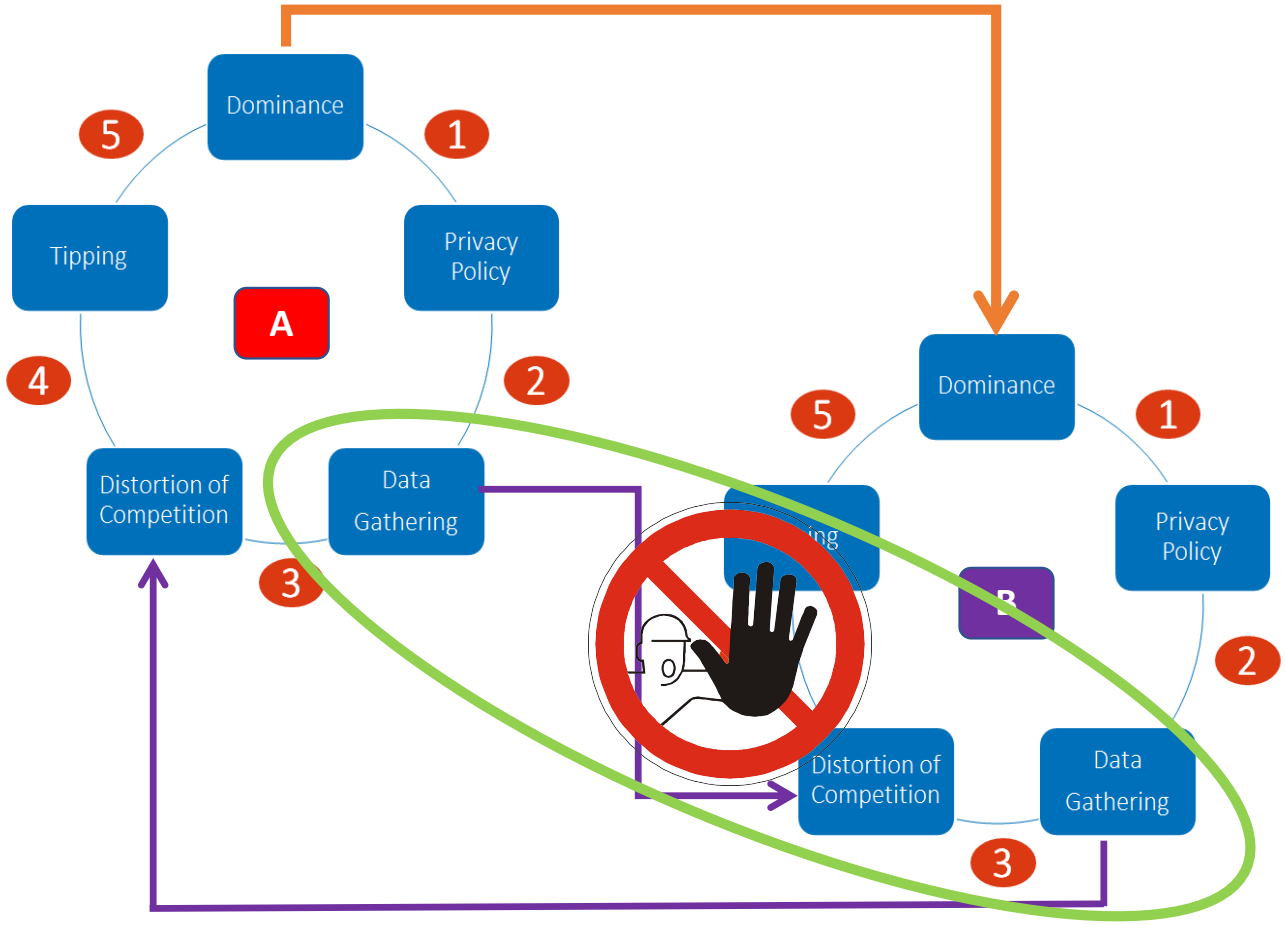
Executive Education at TSE
Toulouse school of Economics

Option #2 Structural separation



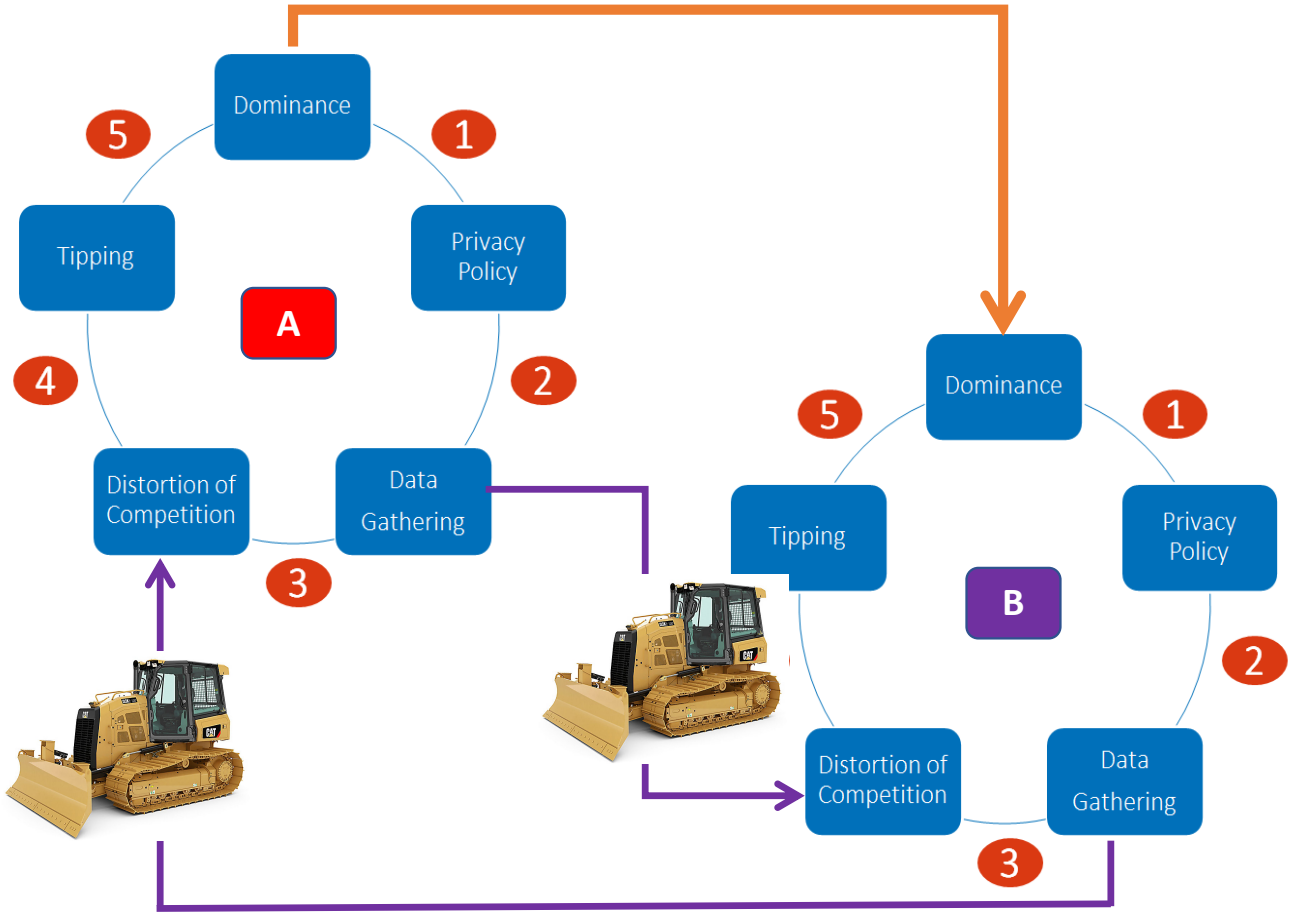
Executive Education at TSE
Toulouse school of Economics

Option #3 Data handling restrictions



Executive Education at TSE
Toulouse school of Economics

Option #4 Data sharing



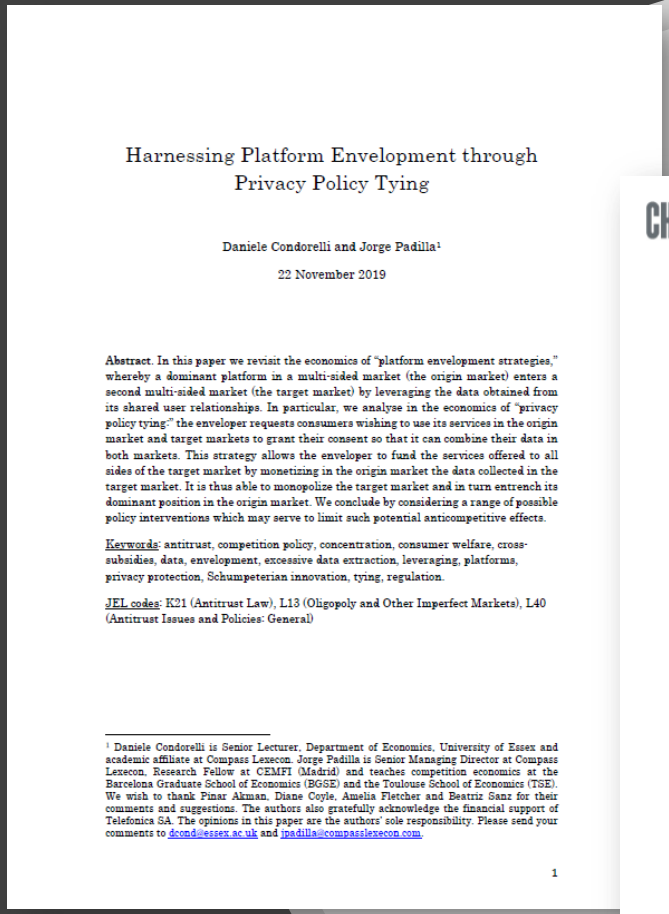
Executive Education at TSE
Toulouse school of Economics

Assessing options

- Ex-ante v ex-post intervention
- Short-term v long-term horizon
- Consumer welfare v competitive process
  v other non-economic considerations

Thank you!

Thank you!



Harnessing Platform Envelopment through Privacy Policy Tying

Daniele Condorelli and Jorge Padilla[1]

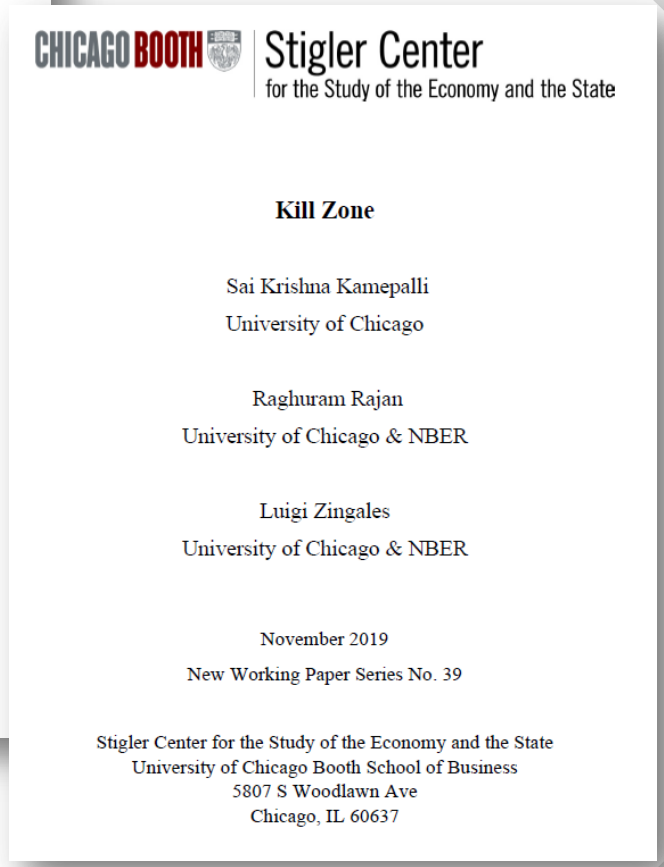
22 November 2019

Abstract. In this paper we revisit the economics of "platform envelopment strategies," whereby a dominant platform in a multi-sided market (the origin market) enters a second multi-sided market (the target market) by leveraging the data obtained from its shared user relationships. In particular, we analyse in the economics of "privacy policy tying:" the enveloper requests consumers wishing to use its services in the origin market and target markets to grant their consent so that it can combine their data in both markets. This strategy allows the enveloper to fund the services offered to all sides of the target market by monetizing in the origin market the data collected in the target market. It is thus able to monopolize the target market and in turn entrench its dominant position in the origin market. We conclude by considering a range of possible policy interventions which may serve to limit such potential anticompetitive effects.

Keywords: antitrust, competition policy, concentration, consumer welfare, cross-subsidies, data, envelopment, excessive data extraction, leveraging, platforms, privacy protection, Schumpeterian innovation, tying, regulation.

JEL codes: K21 (Antitrust Law), L13 (Oligopoly and Other Imperfect Markets), L40 (Antitrust Issues and Policies: General)

[1] Daniele Condorelli is Senior Lecturer, Department of Economics, University of Essex and academic affiliate at Compass Lexecon. Jorge Padilla is Senior Managing Director at Compass Lexecon, Research Fellow at CEMFI (Madrid) and teaches competition economics at the Barcelona Graduate School of Economics (BGSE) and the Toulouse School of Economics (TSE). We wish to thank Pinar Akman, Diane Coyle, Amelia Fletcher and Beatriz Sanz for their comments and suggestions. The authors also gratefully acknowledge the financial support of Telefonica SA. The opinions in this paper are the authors' sole responsibility. Please send your comments to dcond@essex.ac.uk and jpadilla@compasslexecon.com.



CHICAGO BOOTH | Stigler Center for the Study of the Economy and the State

Kill Zone

Sai Krishna Kamepalli
University of Chicago

Raghuram Rajan
University of Chicago & NBER

Luigi Zingales
University of Chicago & NBER

November 2019
New Working Paper Series No. 39

Stigler Center for the Study of the Economy and the State
University of Chicago Booth School of Business
5807 S Woodlawn Ave
Chicago, IL 60637