

The Million Dollar Question: Who Owns My Data?

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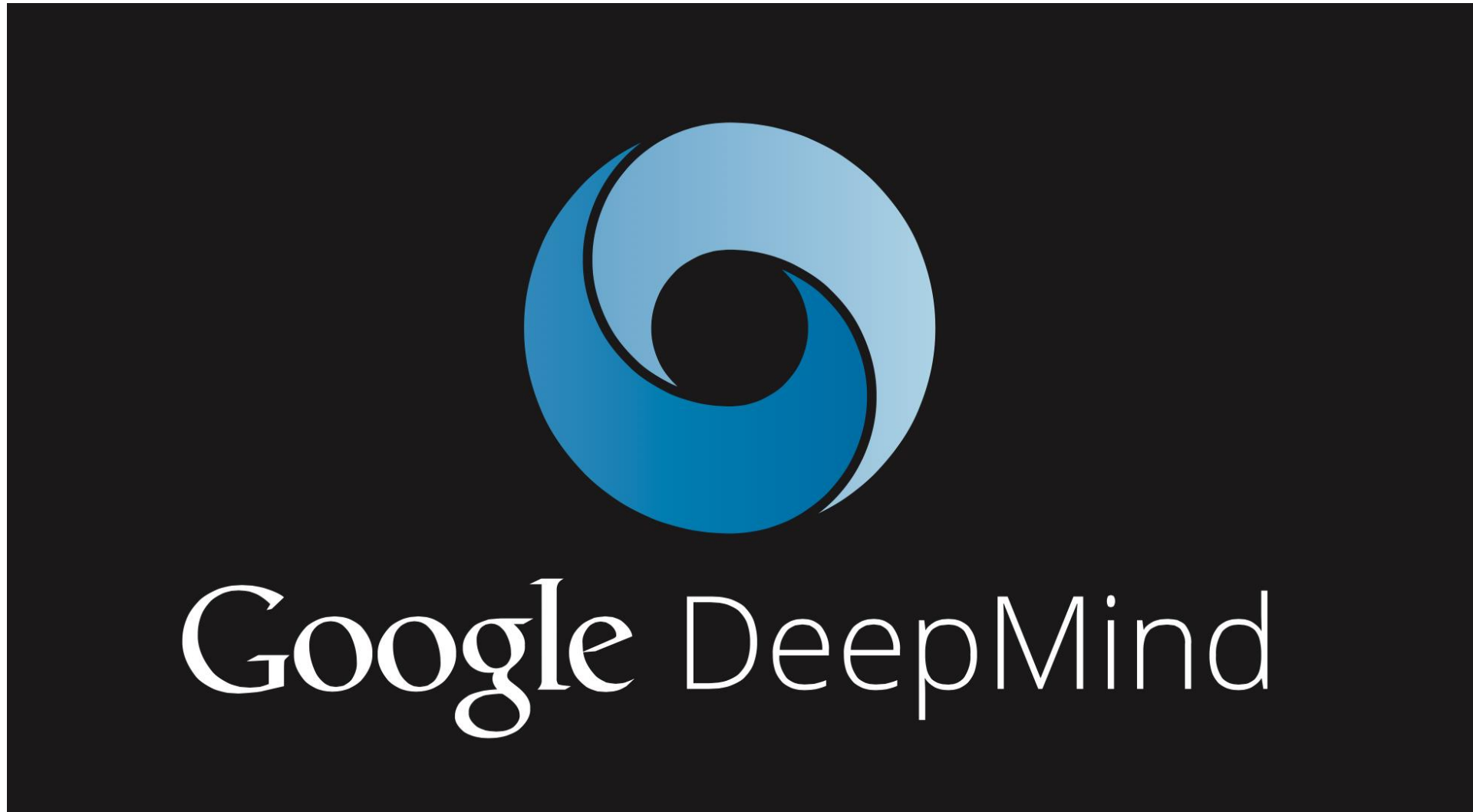
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Agenda

1. What is actually bothering us?
2. The concept of (legal) ownership
3. Who owns the data
4. Personal data ownership
 - Consent
 - Data subject/control rights
5. Data subject control rights & the BD economy
6. Looking for solutions



1. What is actually bothering us?



1. What is actually bothering us?

- The broad consent option used
- No notice
- No way to track the data
- No authority involved
- Open questions:
 - Power asymmetries
 - (Lack of) meaningful agency



July 2015

NHS approached

September 2015

DSA signed

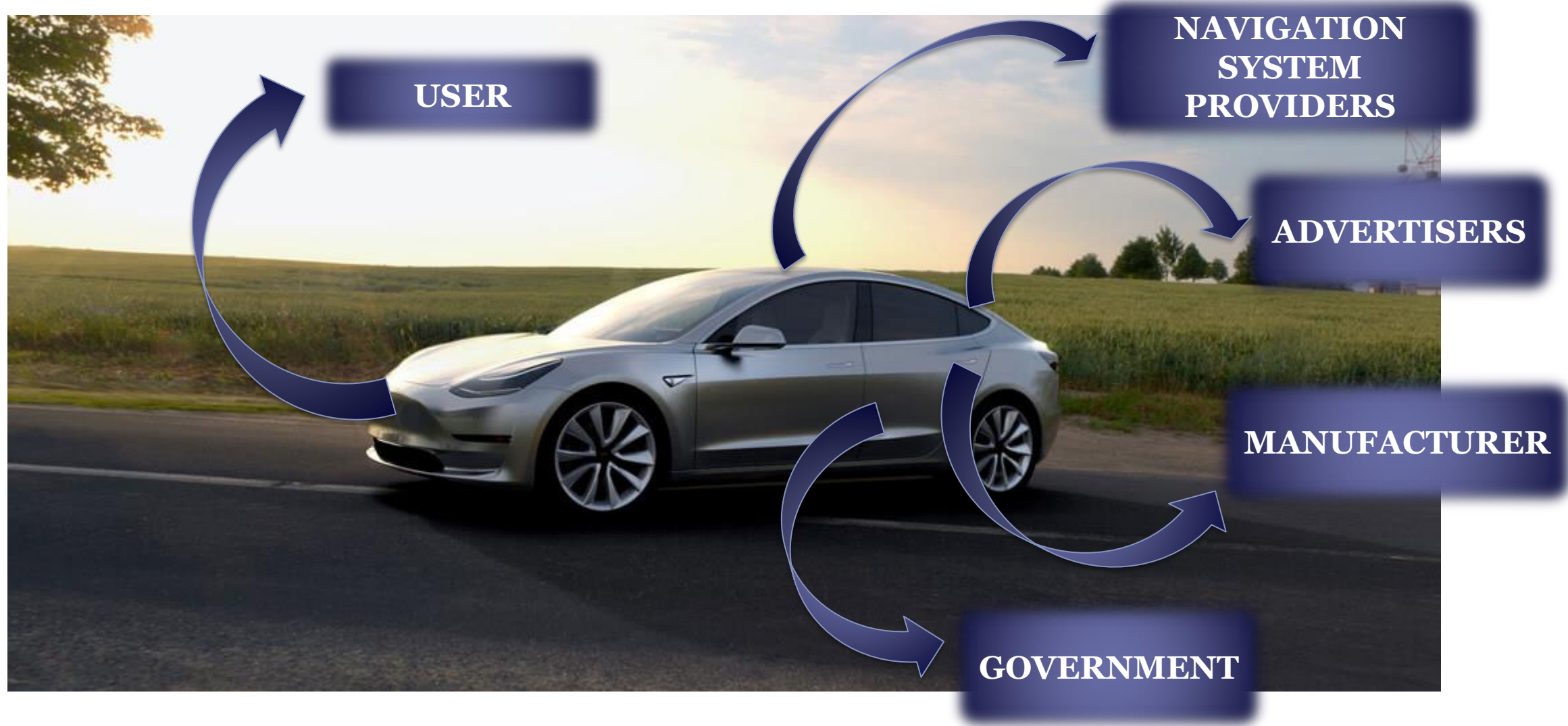
November 2015

Data flow starts

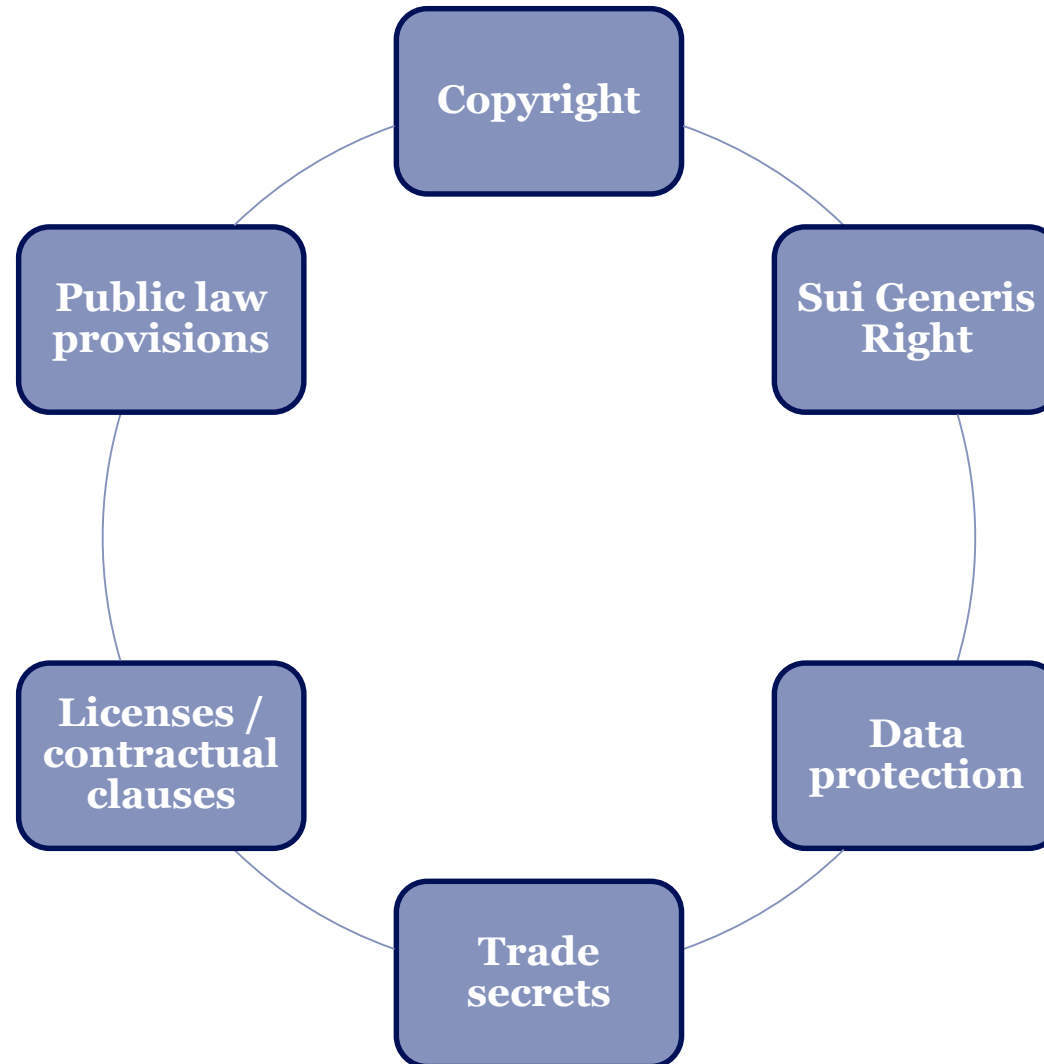
2. The concept of legal ownership



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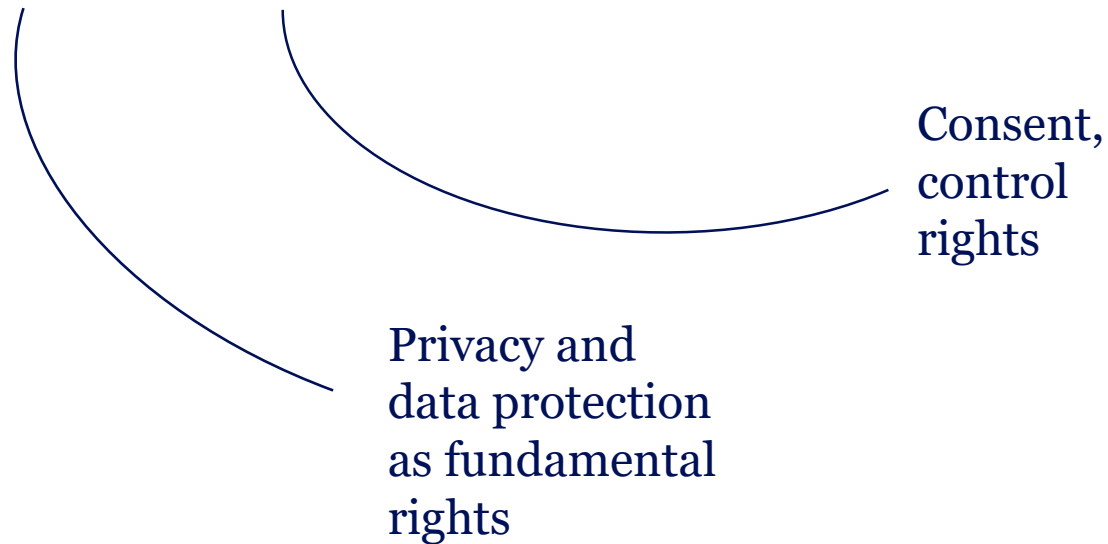
3. Who owns the data



4. Personal data ownership

EU

- Charter of fundamental rights of the EU, Article 8 (2): ” ... *Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.*”
- GDPR, Recital 13: “*Natural persons should have control of their own personal data.*”
- Normative v. instrumental view



5. Data subject control rights

The right to information

- *Conditio sine qua non*
- Before/at the moment when the processing starts
- A catalogue of information revealed to data subject information about the existence and envisaged consequences of profiling

The right to access

- Grounded in the idea of freedom to access
- In the course of data processing

The right to erasure (the R2BF)

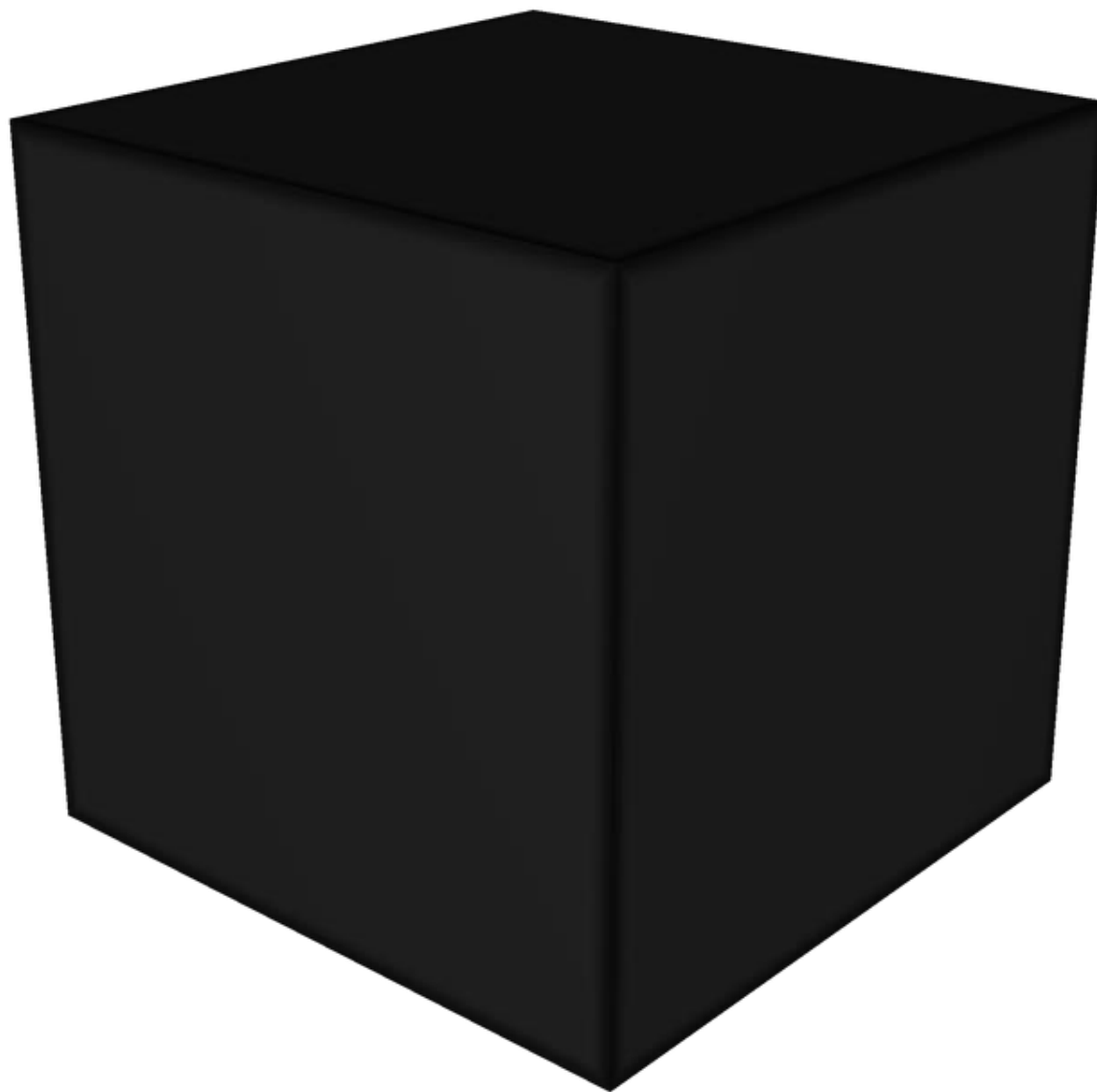
- Emphasizes the importance of consent and the purpose limitation principle
- “Follow the data” obligation? Only partially.

Data portability

- Two-part definition
- Open interpretation

The right not to be subject to a decision based solely on automated processing

- “Fully automated” decisions
- Decisions “significantly affecting” an individual



What are the challenges?

I. The Right to Information

- Archaic, paper tiger – information overload
- An algorithm can only be explained if the trained model can be articulated and understood by a human

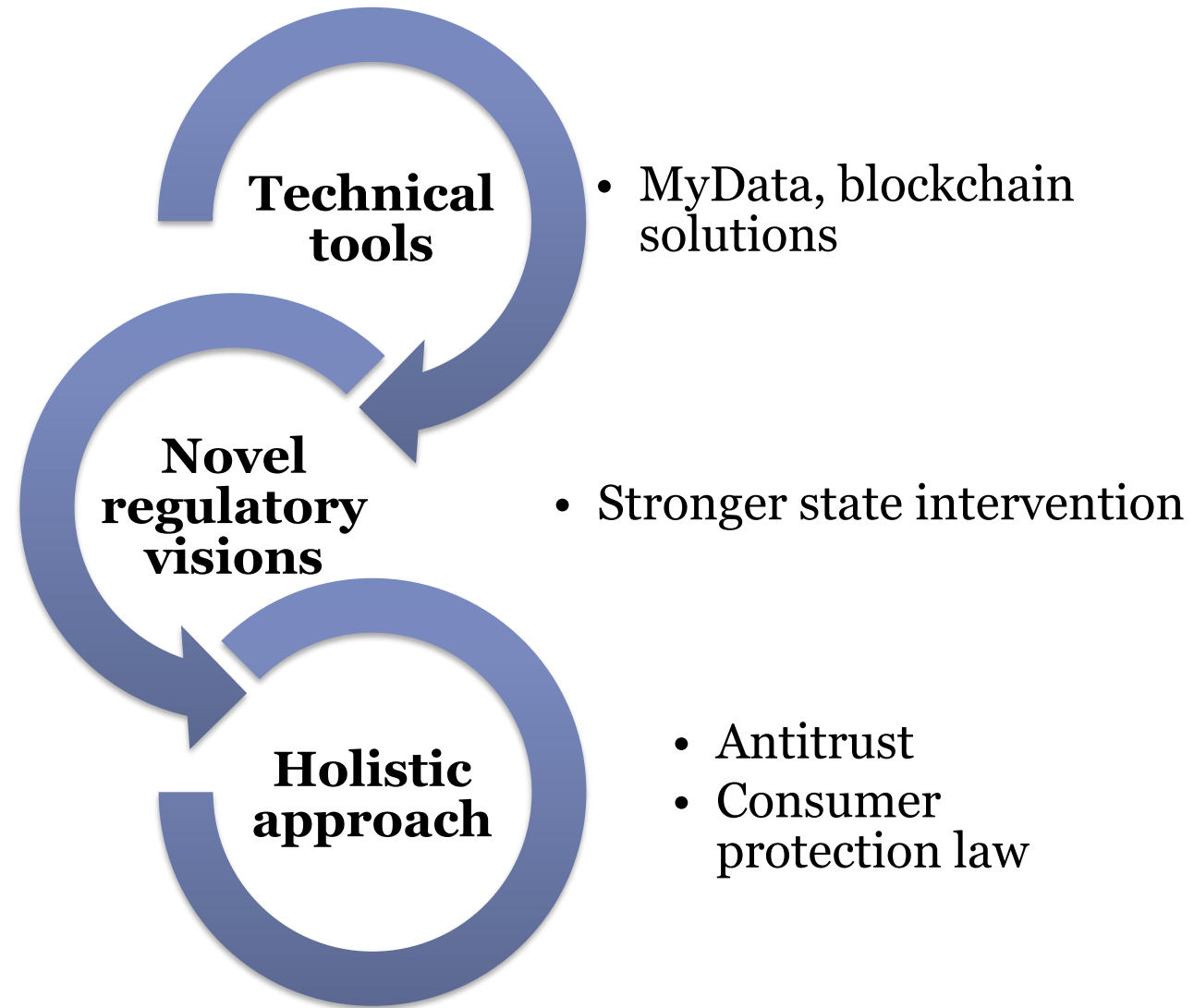
II. The Right to be Forgotten

- “ ... no longer being necessary for the purpose ...”
- Data sharing
- Technical limits – deleted URLs can be in 30-40% still identifiable; Google’s global domain

III. The Right to Data Portability

- Open definitions
- Limited scope
- Lack of standards

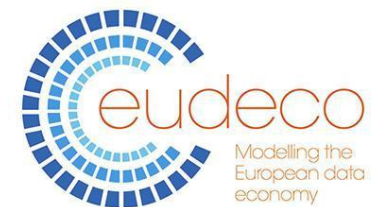
6. Looking for solutions



Questions?



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