

Online Consumer Reviews--A Regulatory Governance Innovation Addressing the Perennial Consumer/Business Information- Power Imbalance?

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For presentation at Ryerson University Institute for the Study of CSR

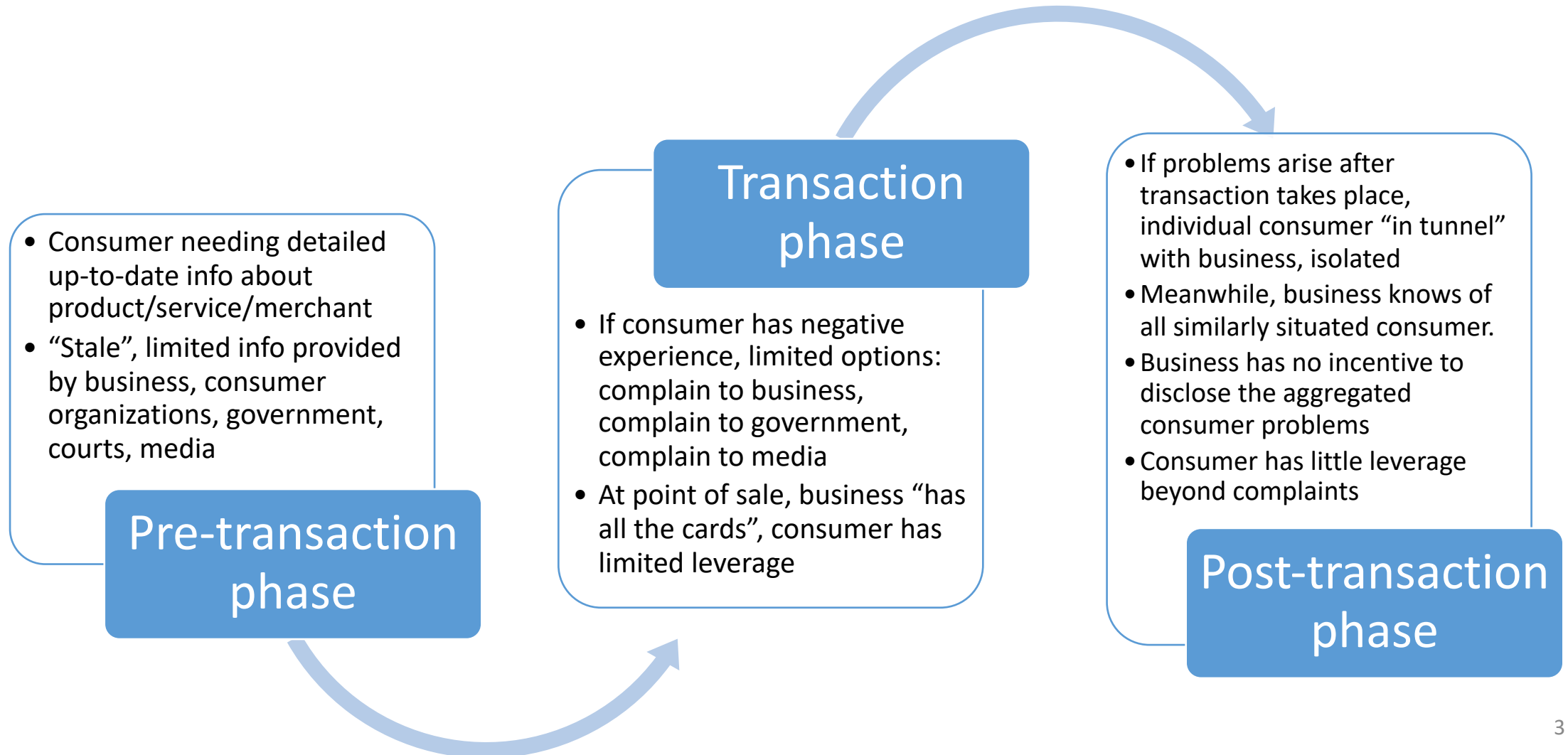
Toronto, Canada

November 27, 2019

Basic message

- the ***under-production of easily accessible, useful consumer information about quality, capability, reliability of products, services and providers has been a perennial problem***
- conventional command & control & private law protect consumers to some degree, but ***do not provide point-of-sale, ongoing, info-rich signaling for consumers re: quality, capability & reliability*** as do online consumer review mechanisms (OCRM)s, associated with Yelp, tripadvisor, Airbnb, HomeStars, etc.
- OCRM)s ***provide a structured, interactive consumer info collection, sorting, distributing & signaling mechanism*** that can assist in consumer assessments of provider/product/service quality, capability & reliability. Especially convenient/accessible/useful now that mobile phone use is widespread
- in effect, OCRM)s have a strong regulatory/normative effect. OCRM)s were conceived & operate independently of government. ***Indirectly, OCRM)s shine a light on a significant limitation of conventional government-centric approaches to consumer protection (their failure to provide ongoing granular provision of information about provider/product/service quality, capability & reliability).***
- OCRM)s seem to align well with the ***sustainable governance conception of governing*** (Webb, 2005), that holds that an assemblage of public/private/civil society rule instruments, institutions, processes & actors directed at a particular activity can have significant and positive governance capability, superior to government-centric approaches. ***OCRM)s harness unique capabilities of each type of actor, & recognize/cover off some limitations of conventional government-centric approaches.***
- at same time, fully acknowledging the significant OCRM) issues/challenges, & all three of government, the private sector & civil society have important roles in addressing these issues/challenges

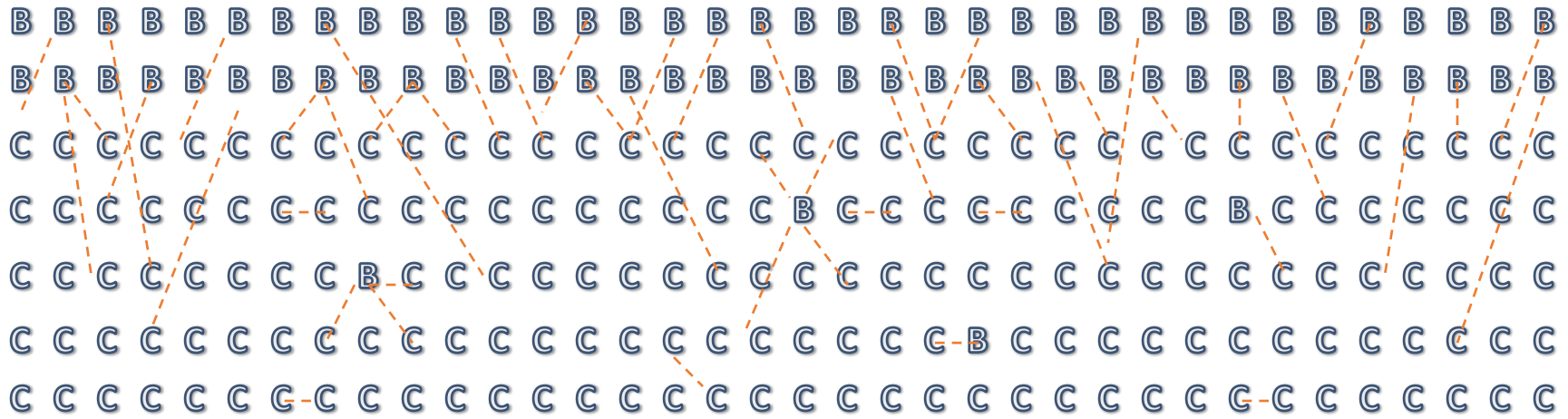
The world before OCRM.....

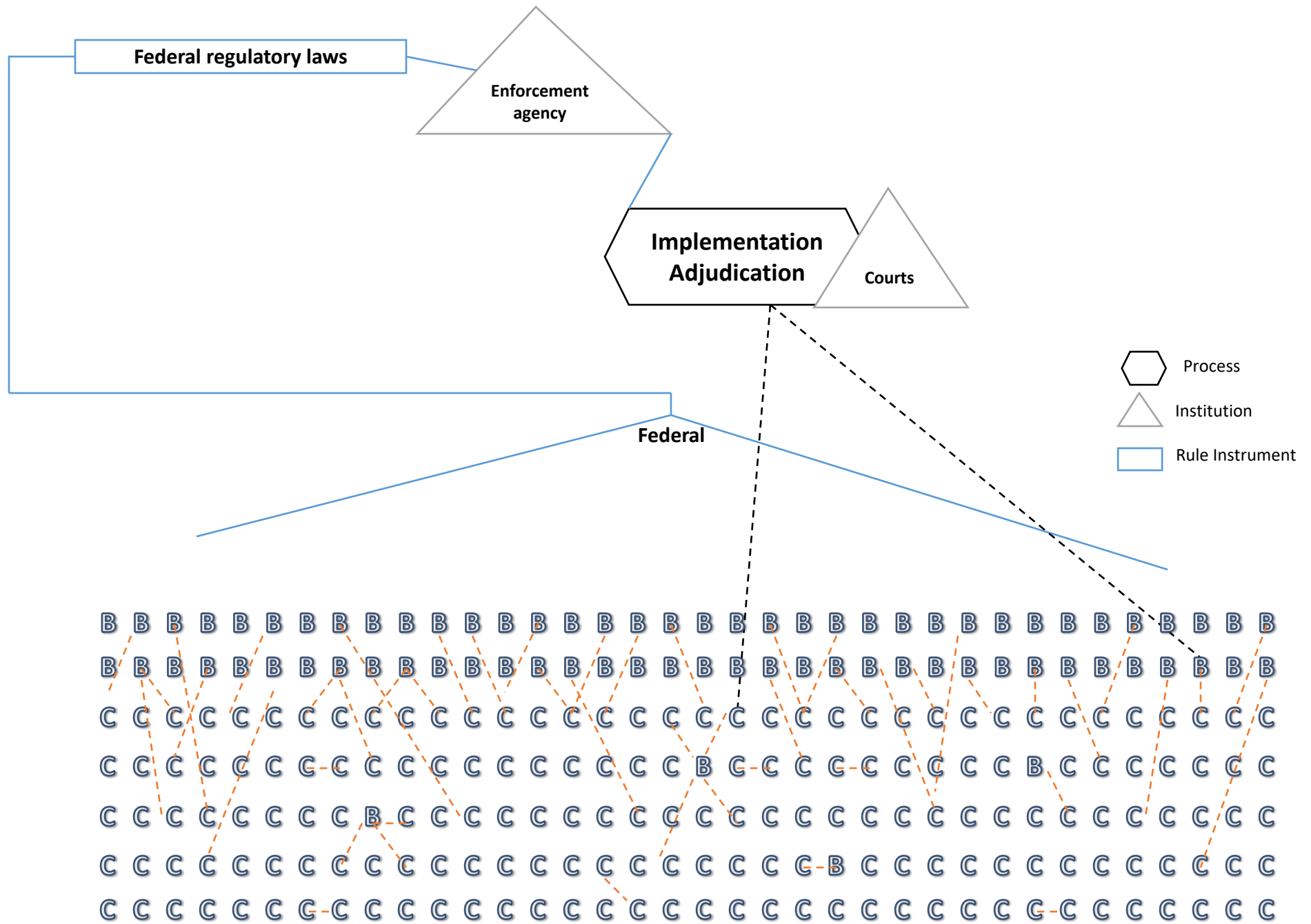


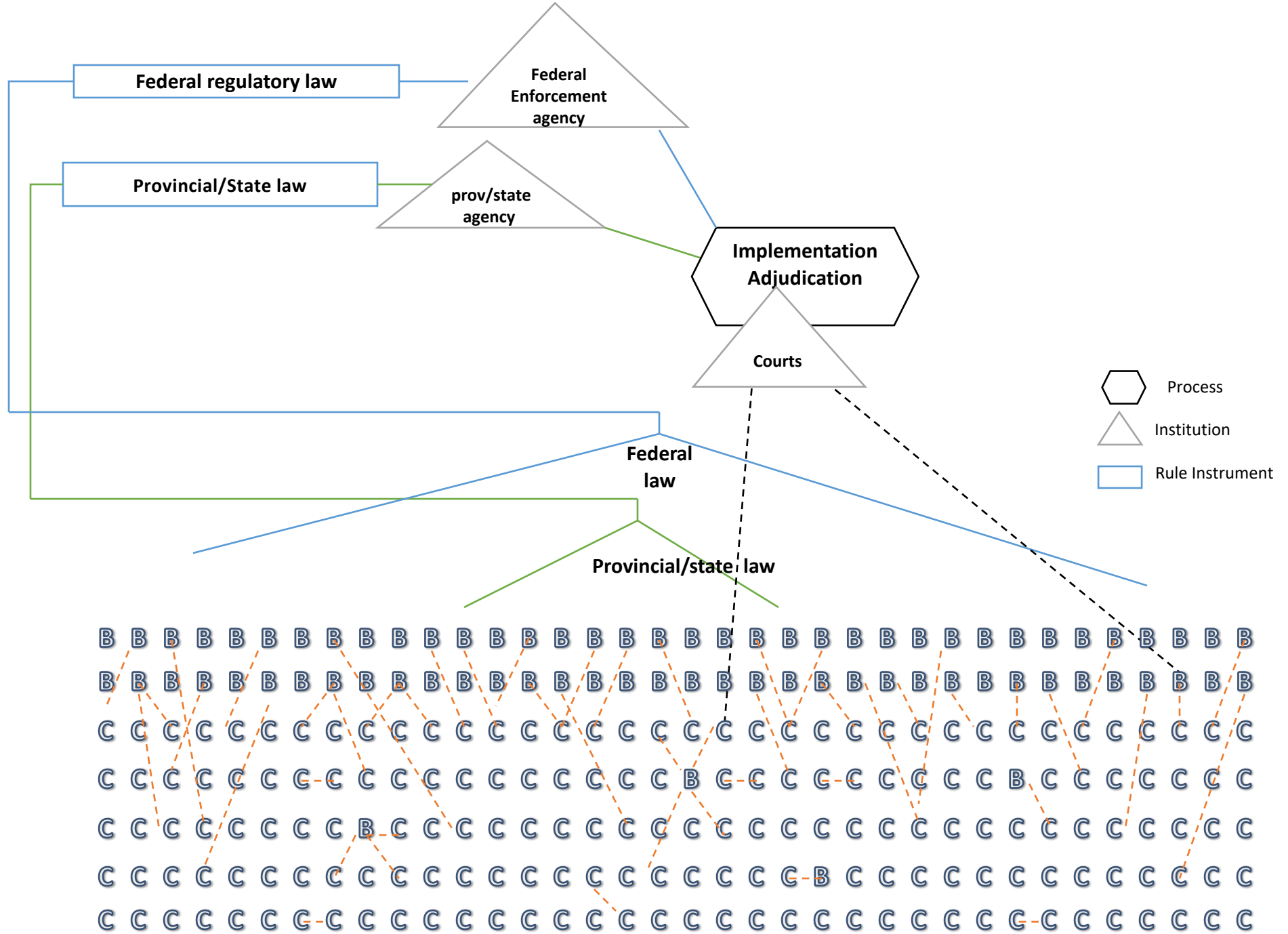
Business to Consumer Information Asymmetries: Innovative Solution?

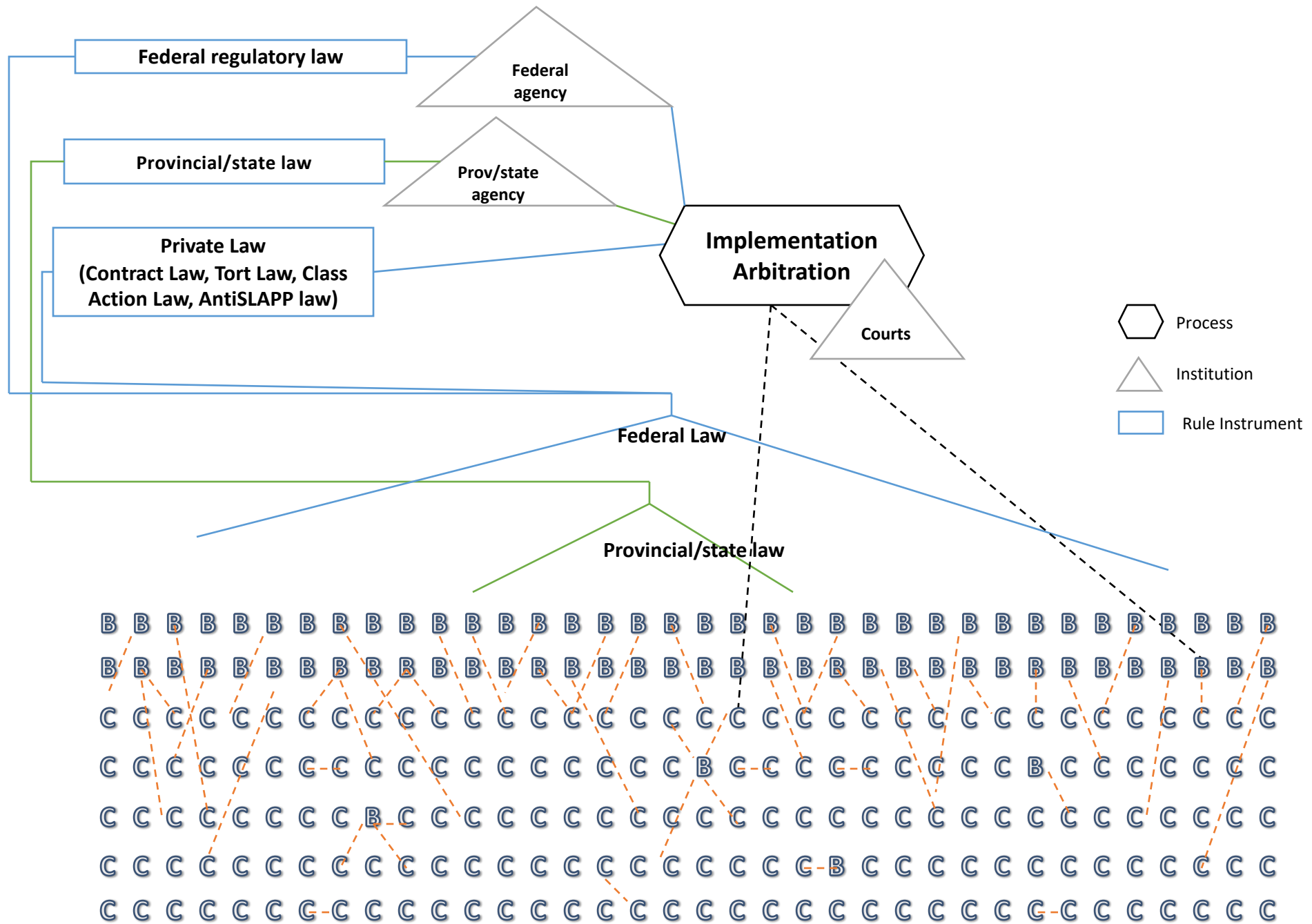
- How to address information and power imbalance between businesses and consumers, especially re: issues of quality of providers/products/services? Consumer information is a collective good that has traditionally been woefully underprovided
- Conventional response: Command and control regulation, possibility of private law actions. Minimal time-sensitive info available about provider/product/service, minimal regulator-consumer interaction. Innovation: OCRM approach draws on pub/private/civil society instruments, institutions, processes and actors, using both collaborative and designed-in friction, harnesses distinctive capabilities of parties and acknowledges and attempts to address biases and limitations of all parties
- OCRMs produce online multi-party collaborative/adversarial structured information processes that can construct *a form of* trust (digital trust) among strangers (e.g., AirBnB), harness civil society capabilities (each consumer is effectively an inspector issuing public reports), harness market energies (OCRM platforms are businesses), improve purchasing decision making, & create the possibility of individuated micro-normative evaluations of businesses, incentivizing good behavior/punishing unacceptable behaviour, in a way that conventional state-based legal consumer protection approaches cannot do, and with minimal state intervention

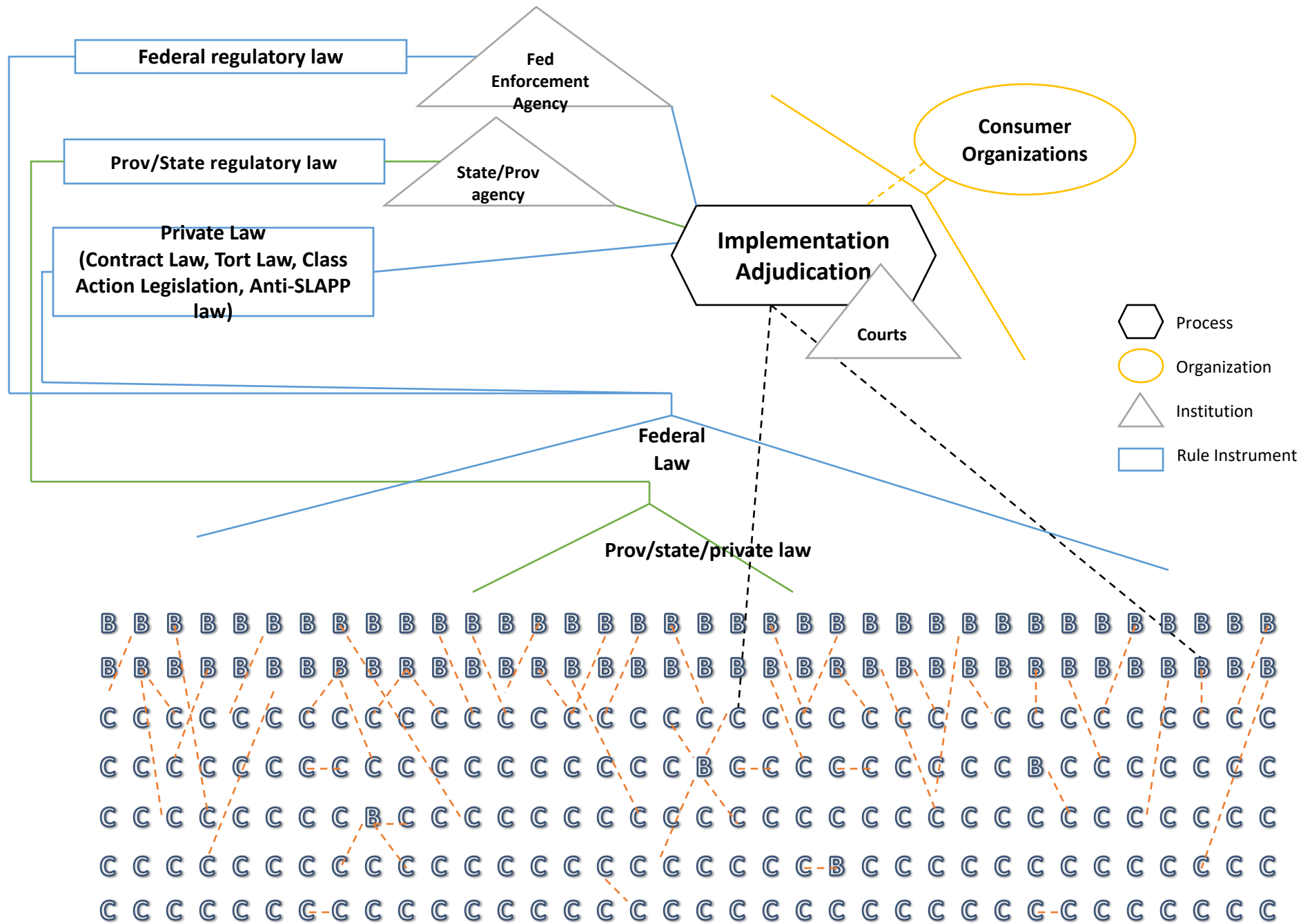
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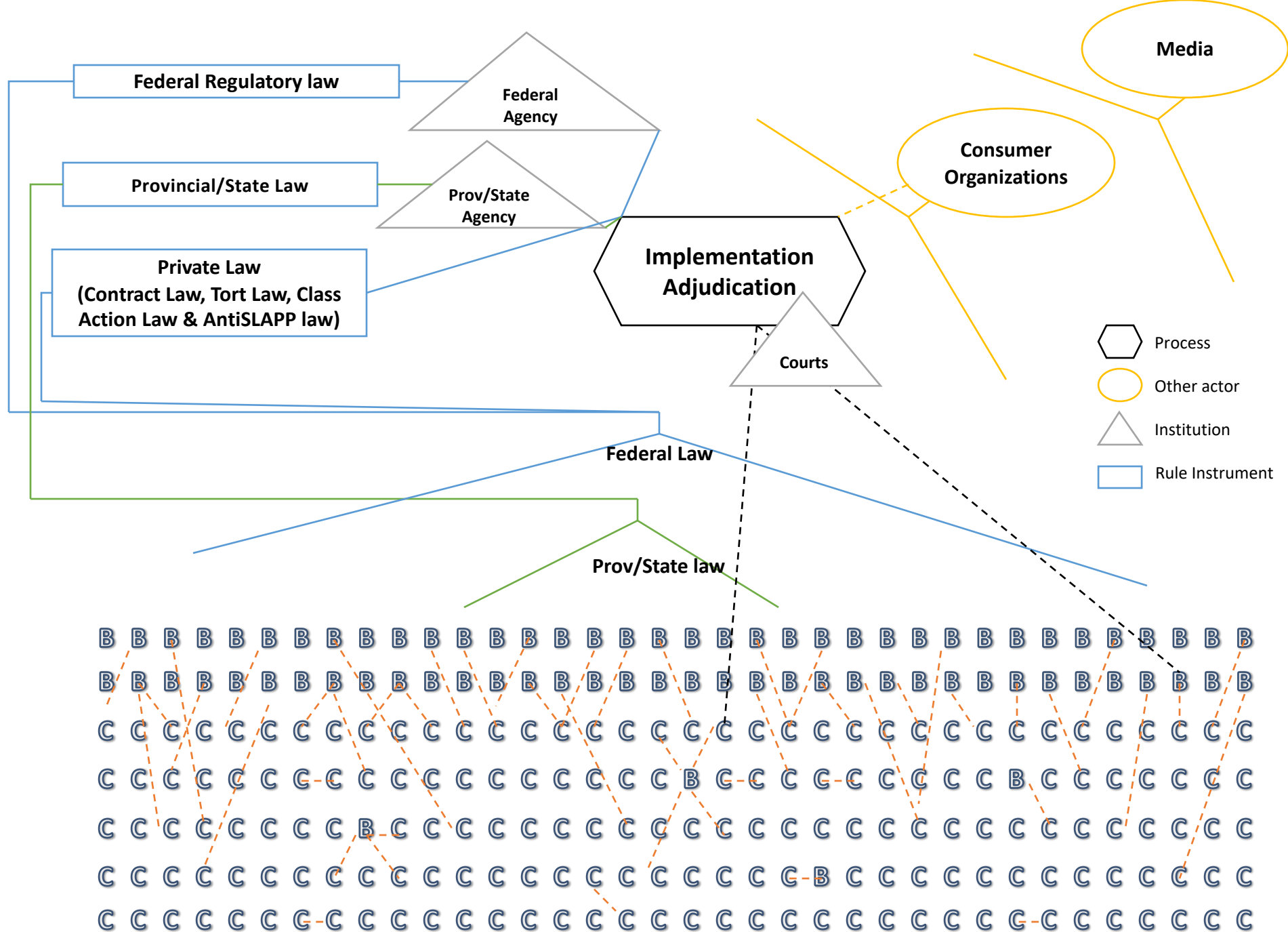


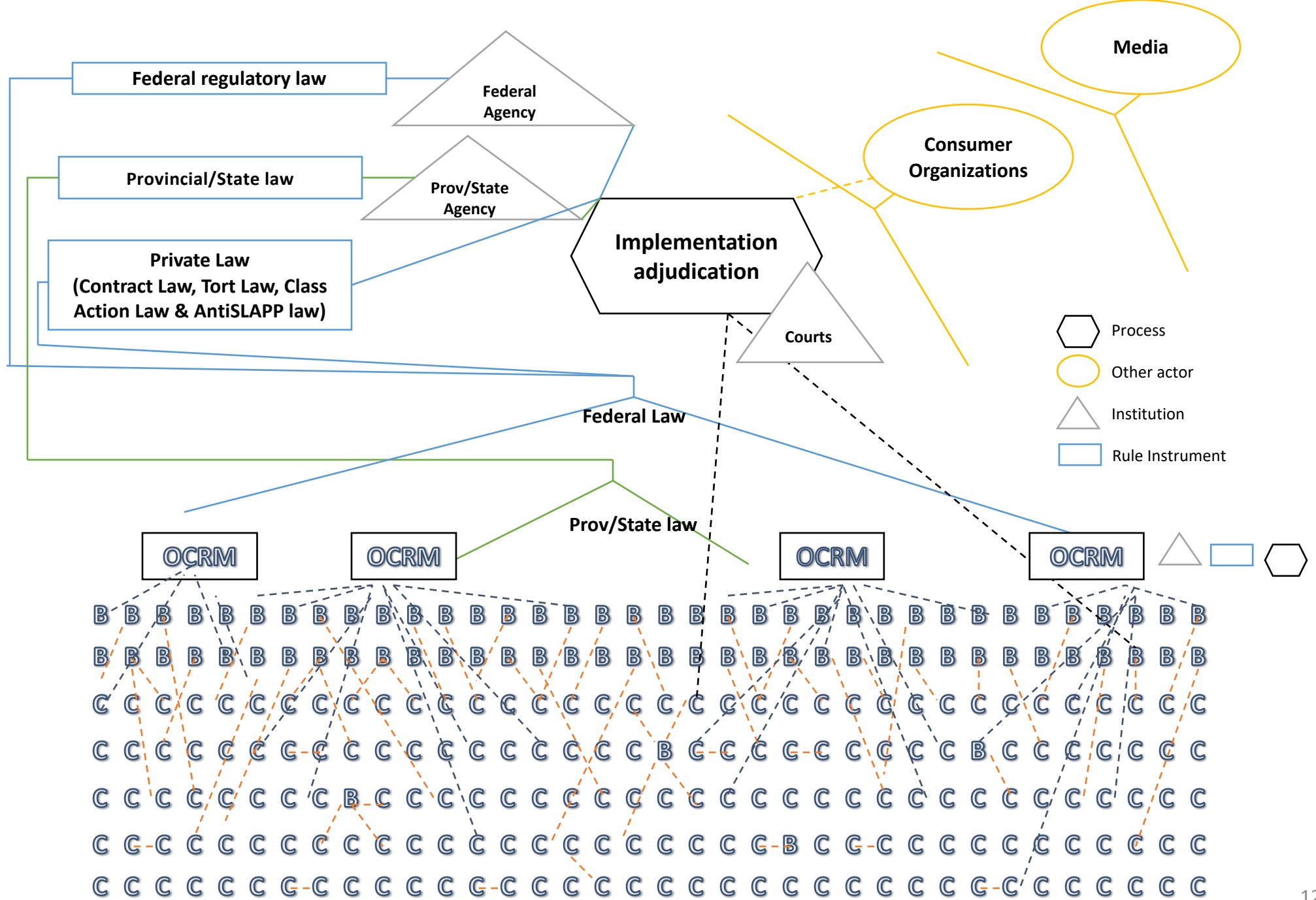


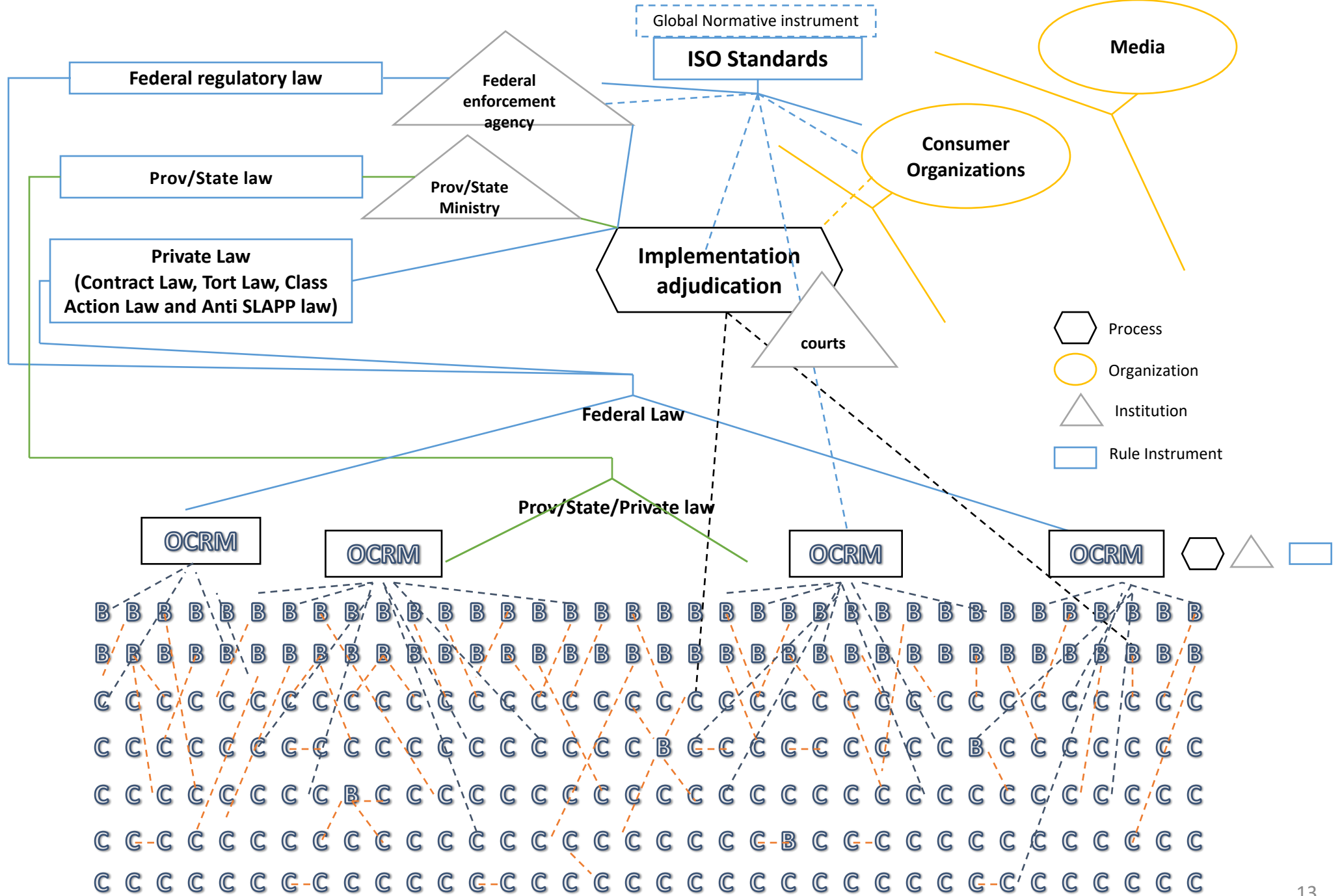


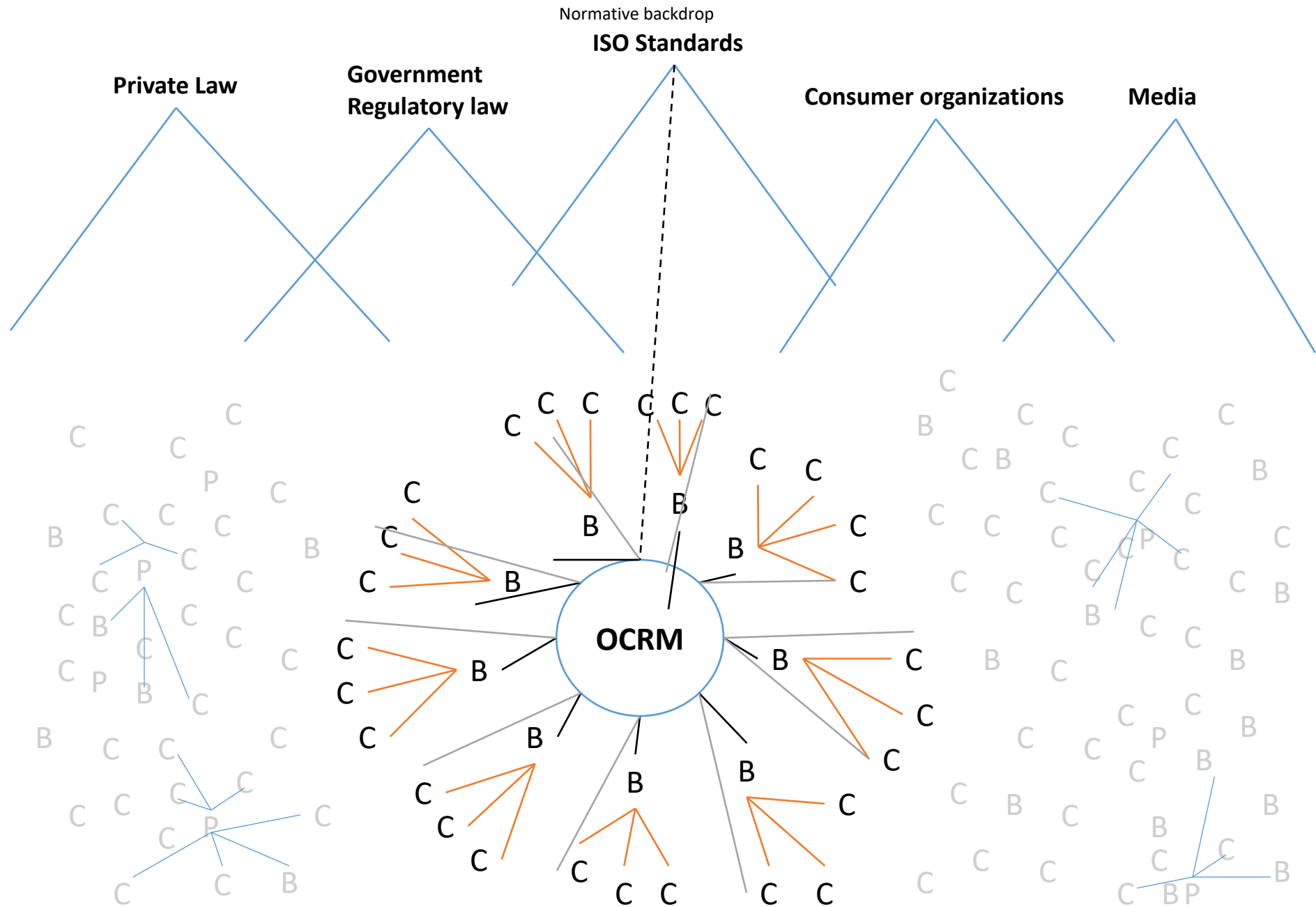












The OCRM world: where are we in 2019

- Considerable variety: run by retail sites, by third parties, independent
- Characteristics: up-to-date, multiple points of comparison, reliable, accurate, easily accessible, easily understandable, customizable
- Limitations: blackmail, competitor/fake, manipulation, bias
- Lawsuits: various
- Standards: address collection, moderation, publication of OCRs
- Do users have a “sense” for the different types of OCRM, and of the different capabilities, different limitations, of the OCRMs that are available? Are consumers developing that capability? will standards help?
- Reviews of consumers/users (e.g., uber, Airbnb)

ISO 20488 standard

- development process involved OCR providers (e.g., HomeStar), suppliers (e.g., retailers), & consumer groups (e.g., Consumers International)
- Addresses collection, moderation, publication: can be performed by different orgs.
- For all types of OCRs (individual provider-operated, 3rd party, multiple suppliers)
- Principles: Integrity, accuracy, privacy, transparency, accessibility, responsiveness
- Privacy/security: review author personal info may be collected to help verify authenticity, but authors can remain anonymous using nickname.
- Terms & conditions (T&Cs): clear/accessible. Content must be factually accurate, based on personal consumption, no defamatory language.
- Reviews moderated to meet T&Cs, positive/negative reviews processed in fair, unbiased, consistent way. Only author can edit/request review be taken down. Suppliers have right to reply, same moderation process as for reviews.
- Ratings: total score for product being reviewed provided plus submission date. Disclosure of score aggregation method, alterations/edits & rewards/incentives.
- Fake reviews: must be dealt with/removed promptly: continual improvement, future reviews from fraudulent authors are blocked.

Key characteristics: Sustainable Governance

- taxonomy of key components of sustainable governance (Webb, 2005):
 - **rule instrument** – normative document setting out objective criteria upon which 3rd party assessments of conformity can be made (e.g., law, voluntary standard)
 - **institution** -- entity that has particular governance function (e.g., legislative assembly, courts, enforcement agencies, standards bodies: can be public, private, voluntary sector)
 - **process** – particular activity associated with carrying out a governance function (e.g., rule making, implementation, adjudication – state or non-state)
 - **actor** – individuals and entities involved in governance (e.g., judge, the courts, CEO, firms, consumers, cnsr orgs).
- typically, each governance component has certain inherent strengths, and certain weaknesses
- each of government, the private sector and civil society is capable of ***independently generating*** governance rule instruments, institutions, processes, ***without any overt orchestration/coordination***
- This having been said, there is often collaboration among actors, instruments, institutions, processes ***but there is also often a useful rivalrous, competitive, check-and-balance dynamic***
- arguably, the resultant governance assemblage of actors, instruments, institutions, etc., acting collaboratively and/or independently and without coordination ***is more resilient*** – more capable of responding to changing conditions, ***more sustainable*** – than conventional government command and control approaches. The conception of sustainable governance attempts to reflect this dynamic characteristic
- it is not uncommon that a new instrument, institution, etc. has the effect of “covering off” (addressing) a limitation/weakness of existing governance approaches (and shining a light on those limitations/weaknesses).
- And in an iterative way over time, it is not uncommon that existing instruments, institutions, processes may be capable of covering off limitations of the newly emerged governance innovation

Sustainable governance approach

- Sustainable governance approach (Webb, 2005), with public/private/civil society instruments, institutions, processes, and actors, operating independently, collaboratively and with rivalrous or “check and balance” dimensions seem to be promising. Harnesses unique capabilities of each type of actor, and recognizes/covers off some key limitations.
- “New governance” (Rhodes, 1996), “collaborative governance” “participatory governance” (Wampler and McNulty, 2011), (Ansell and Gash (2008), “polycentric governance” (Ostrom, 1972), “multi-level governance” (Piattoni, 2009), “hybrid governance” (Oliver & Anderson, 2013), “co-regulation” (Martinez, 2007), all capture important dimensions of the movement to recognize “more than just government” involved in governing, but “sustainable governance” (Webb, 2005) seems to align particularly well with describing the OCRM situation
- In sustainable governance model, government and law continue to be of central importance, but other actors, instruments, etc. now directly play important governance roles, and the combination is more sustainable, responsive and dynamic

OCRMs and sustainable governance going forward

- OCRMs combine rule instrument, institution, process and actor governance components in an innovative business-run digital platform, that is in addition to existing conventional consumer protection governance approaches, and was developed independently of conventional approaches
 - OCRMs nevertheless draw on and have become part of the overall consumer protection governance assemblage, whether any actor intended for this to happen or not
 - for OCRMs to have the intended positive governance effect, OCRMs depend on the ongoing interactive contributions of individual consumers as reviewers and as users of the OCRM platform
 - OCRMs shine a light on a significant limitation of conventional law approaches in terms of irregular, insufficient, non-convenient access to up-to-date consumer info that is wanted/needed daily at point of sale moments
 - At same time, there is a conventional law backdrop to OCRMs, and that backdrop can assist in addressing limitations of OCRMs
- unquestionably there are serious OCRM problems with fake reviews, poorly designed review platforms/problematic platform operator activity, attempts to suppress or manipulate negative reviews, etc.. Many law and non-law based innovations are possible to address OCRM problems

Conclusions

- under-production of easily accessible, useful consumer information about quality/capability/reliability of products/services/providers has been a perennial problem
- online consumer review mechanisms (OCRM) provide a structured, interactive consumer information collection, sorting, distributing and signaling mechanism that can assist in point of sale consumer assessments of provider/product/service quality and capability and reliability
- conventional law/government approaches (command and control and private law) protect consumers to some degree, but do not provide granular ongoing, information rich signaling for consumers and businesses re: quality and capability and reliability as do OCRM. In effect, OCRM have a strong regulatory/normative effect, updated continually, and OCRM were conceived and operate independently of government .
- OCRM seem to align well with sustainable governance conception of governing (Webb, 2005), which holds that an assemblage of public/private/civil society rule instruments, institutions, processes & actors directed at a particular activity can have significant and positive governance capability, and sometimes there is considerable collaboration & other times there are more independent initiatives, with important “rivalrous”/check and balance dimensions. OCRM harness unique capabilities of each type of actor, and recognizes/covers off some limitations of conventional government-centric approaches.
- At same time, fully acknowledging here that there are significant issues and challenges associated with OCRM, and all three of government, the private sector and civil society could have important roles in addressing these issues/challenges

Questions/comments?

- Many thanks to students and professors who have assisted me in developing this idea