

# EUIPO STUDY ON ONLINE INFRINGING BUSINESS MODELS: PHASE 5

## 欧知局网络侵权商业 模式研究（第5期）

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# AGENDA 目录

## PART I: BACKGROUND

### 第一部分：背景

Key issues addressed by the EUIPO Study series; Drawing inspiration from successful elements of previous studies; Identifying pervasive issues across previous studies.

欧知局系列研究中探讨的关键问题；从过往研究中汲取灵感；指出过往研究中普遍存在的问题。

## PART II: STUDY DEVELOPMENT

### 第二部分：研究进展

New 2022 Study and the progressive development of key analytical tools (e.g., “Stackview”).

2022年最新研究和关键分析工具（如“堆栈图”）的迭代开发。

## PART III: CASE STUDIES

### 第三部分：案例研究

Analysis of facts from different IPR infringement cases to demonstrate benefits and limits of each analytical tool.

分析不同知识产权侵权案件的事实，论证各项分析工具的优劣。

## PART IV: RESULTS & CHALLENGES

### 第四部分：成果与挑战

Key findings and potential challenges in applying results of the Study.

主要结论及阻碍研究结果落地的潜在挑战。



# PART I: BACKGROUND

# 第一部分：背景

## Research on Online Business Models Infringing Intellectual Property Rights

Phase 1

Establishing an overview of online business models infringing intellectual property rights

## Research on Online Business Models Infringing Intellectual Property Rights - Phase 2

Suspected trade mark infringing e-shops utilising previously used domain names

## ILLEGAL IPTV IN THE EUROPEAN UNION

## RESEARCH ON ONLINE BUSINESS MODELS INFRINGING INTELLECTUAL PROPERTY RIGHTS — PHASE 3

## VENDOR ACCOUNTS ON THIRD PARTY TRADING PLATFORMS

## RESEARCH ON ONLINE BUSINESS MODELS INFRINGING INTELLECTUAL PROPERTY RIGHTS – PHASE 4

# The EUIPO Studies On Online Business Models Infringing IPRs 欧知局网络侵权商业模式系列研究

EUIPO commissioned the first study on online business models infringing IPRs in 2015.

2015年，欧盟知识产权局组织开展了第1期网络侵权商业模式研究。

Since then, the approach of the following studies in the series was sectoral in nature, focusing on a particular trend in IPR infringement.

后续研究从行业出发，聚焦知识产权侵权行为的具体趋势。

Now, in Phase 5, we revisit the methodology for mapping the form of online businesses infringing IPRs, in view of producing a cross-sectoral tool for understanding the machinery of an IPR infringing business model.

第5期研究重新探讨了网络侵权商业模式的描述方法，以期设计跨行业通用工具，促进对侵权商业模式运行机制的理解。

Reference: Identification of legal decision (if any)

Date of Decision: Date of Analysis

Based on the 'Business Model Canvas' by Strategyzer.com

Business Model Summary:		Matrix	Online Digital Platform	A Internet Site Controlled by Infringer	B Third Party Marketplace	C Social Media or Blog	D Gaming or Virtual World	E E-mail, Chatroom or Newsgroup	F Mobile Devices
		IPR Infringing Activity							
<p>Short summary description of the business model with focus on specific features or traits.</p> <p>Indication of whether the business model is to be considered deceptive or non-deceptive.</p> <div style="border: 1px dashed #ccc; padding: 10px; margin-top: 10px;"> <p>In the Matrix, the specific digital platform and infringing activity is indicated with a grey background.</p> </div>	1	Domain Name or Digital Identifier Misuse of IPR	A1	B1	C1	D1	E1	F1	
	2	Physical or Virtual Product Marketing	A2	B2	C2	D2	E2	F2	
	3	Digital Content Sharing	A3	B3	C3	D3	E3	F3	
	4	Account Access or Codes to Digital Content Sharing	A4	B4	C4	D4	E4	F4	
	5	Phishing, Malware Dissemination or Fraud	A5	B5	C5	D5	E5	F5	

# PHASE 1: A MAP OF ONLINE INFRINGING BUSINESS MODELS

## 第1期：网络侵权商业模式表

Reference: Identification of legal decision (if any)

Date of Decision: Date of Analysis

Based on the 'Business Model Canvas' by Strategyzer.com

### Business Model Summary:

Short summary description of the business model with focus on specific features or traits.

Indication of whether the business model is to be considered deceptive or non-deceptive.

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Matrix	Online Digital Platform	A Internet Site Controlled by Infringer	B Third Party Marketplace	C Social Media or Blog	D Gaming or Virtual World	E E-mail, Chatroom or Newsgroup	F Mobile Devices
IPR Infringing Activity							
1 Domain Name or Digital Identifier Misuse of IPR		A1	B1	C1	D1	E1	F1
2 Physical or Virtual Product Marketing		A2	B2	C2	D2	E2	F2
3 Digital Content Sharing		A3	B3	C3	D3	E3	F3
4 Account Access or Codes to Digital Content Sharing		A4	B4	C4	D4	E4	F4
5 Phishing, Malware Dissemination or Fraud	Pitch Deck 演示用板	A5	B5	C5	D5	E5	F5

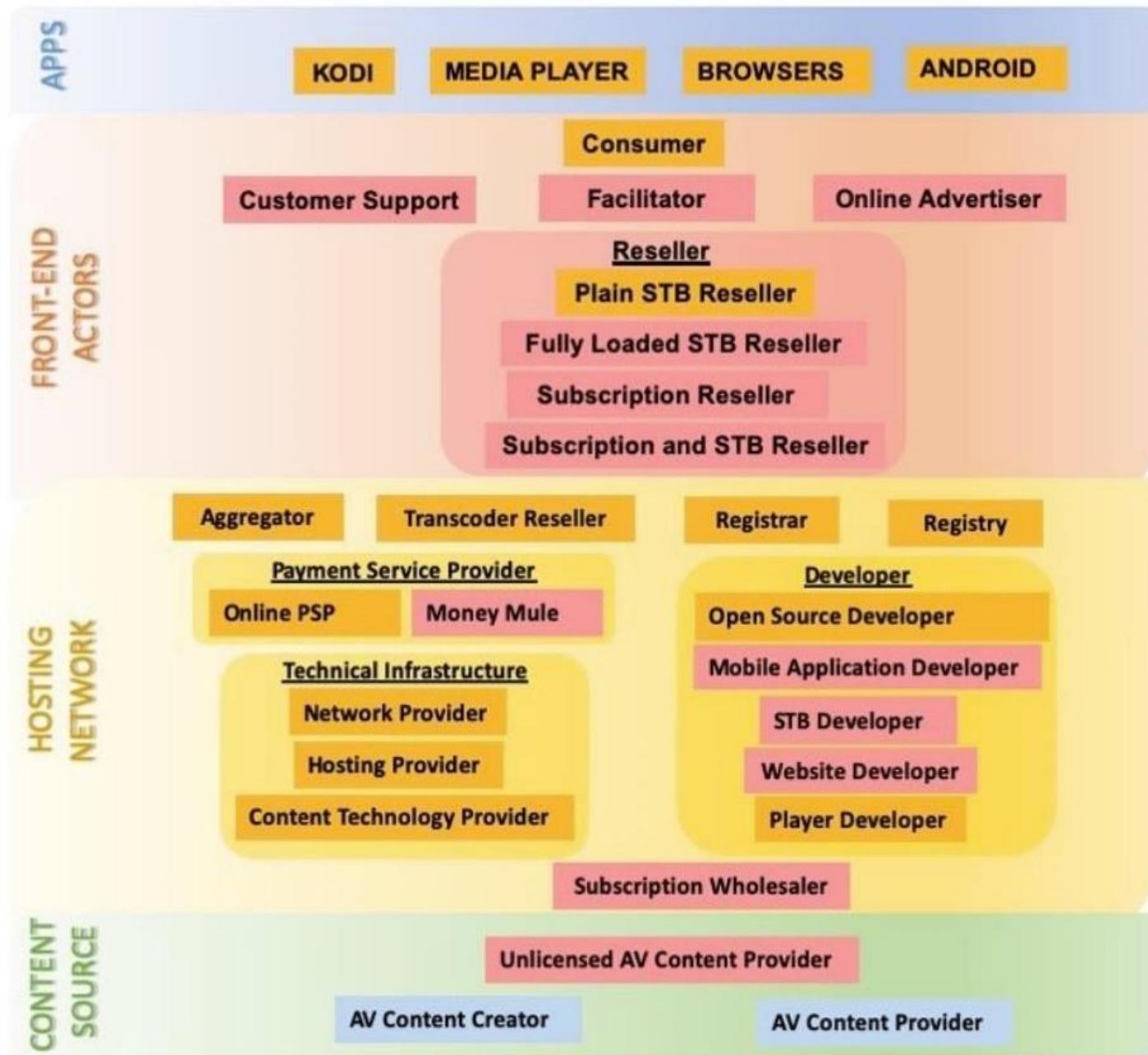
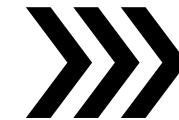
## PHASE 1: A MAP OF ONLINE INFRINGING BUSINESS MODELS

## 第1期：网络侵权商业模式表

- Not transversal; Difficult to read 非横向梳理；易读性差
- Excludes value proposition of BM 不含商业模式的价值定位
- Excludes external forces/influences on BMs 不含作用于商业模式的外部影响因素
- Deemed too elaborate to apply effectively 过于细节，难以有效使用

Figure 5. UNAUTHORISED IPTV DELIVERY

Matrix IPR Infringing Activity	Online Digital Platform					
	A Internet Site Controlled by Infringer	B Third Party Marketplace	C Social Media or Blog	D Gaming or Virtual World	E E-mail, Chatroom or Newsgroup	F Mobile Devices
1 Domain Name or Digital Identifier Misuse of IPR	A1	B1	C1	D1	E1	F1
2 Physical or Virtual Product Marketing	A2	B2	C2	D2	E2	F2
3 Digital Content Sharing	A3	B3	C3	D3	E3	F3
4 Account Access or Codes to Digital Content Sharing	A4	B4	C4	D4	E4	F4
5 Phishing, Malware Dissemination or Fraud	A5	B5	C5	D5	E5	F5
6 Contributing to Infringement	A6	B6	C6	D6	E6	F6



## PHASE 3: A “STACKVIEW” OF ILLEGAL IPTV 第3期：侵权IPTV商业模式“堆栈图”

- + Easy to read/follow + 易读性强
- + Segmentation reveals a business “process” + 通过细分，揭示侵权业务“流程”
- + Maps actors, activities, and relationships more clearly + 对主体、行为和关系的描述较为清晰

## PHASE 5 MAIN TASK: DESIGNING A SIMPLER METHODOLOGY FOR MAPPING IPR INFRINGING BUSINESS MODELS

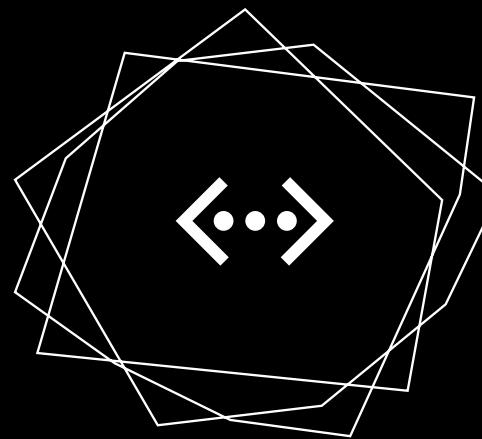
第5期研究主要任务：设计更为简明的方法，对侵权商业模式进行描述



SIMPLE TO APPLY  
TEACHING TOOL  
易用型教学工具



“ONLINE” IPR  
INFRINGEMENT  
“网络”知识产权侵权



TRANSVERSALITY ACROSS  
DIFFERENT TYPES OF IPR  
INFRINGEMENT BMS  
对各类知识产权侵权行为的  
商业模式进行横向梳理

## STUDY APPROACH 研究方法

- Tool for mapping IBMs developed for use in trainings for law enforcement agents, prosecutors and judges.

为培训执法、司法人员开发的侵权商业模式描述工具。

- The research team will employ simple, understandable concepts and vocabulary.  
研究团队应使用简单易懂的概念和词汇。

- The methodology and presentation needs to be simpler than IBM1.  
方法论和展现形式应较1期研究更为简明。

- Analysis based on information drawn from real cases (EUIPO/UNICRI/EUROJUST).  
对真实案例中的信息进行分析（欧知局/联合国区域间犯罪和司法研究所/欧洲司法合作组织）。

- Focus of study on organised and serious crime (infringing acts by individuals that are not organised activities are outside the scope of the study).  
研究重点：有组织犯罪、重罪（非组织化的个人侵权行为不在本研究范围之内）。

- Research team will follow the scenarios reworked during the workshops to continuously test the development of the methodology.  
研究团队将依据研讨会上重新设定的情景，对研究方法不断测试迭代。



## PART II: STUDY DEVELOPMENT

## 第二部分：研究进展

# “MAPPING” IPR INFRINGING BUSINESSES “描述” 知识产权侵权企业

Main Elements of a Business Model and 9 Blocks of the “Classic” BM Canvas

商业模式要素和“经典商业模式画布”的9个网格

<p><b>Value proposition system: 价值主张体系:</b> <i>Who are the main customers for the products/services? What and how are customers'needs addressed by the product/service?</i> 产品/服务的主要客户是谁？产品/服务满足客户的哪些需求，如何满足这些需求？</p>	Value Proposition 价值主张
	Customer Relationship 客户关系
	Channels 渠道
	Customer segments 客户细分
<p><b>Value creation architecture: 价值创造架构:</b> <i>How is the BM organised to create value to the customer?</i> 商业模式如何通过组织架构为客户创造价值？</p>	Key Resources 关键资源
	Key Activities 关键活动
	Key Partners 关键合作伙伴
<p><b>Value capture system: 价值捕获体系:</b> <i>How does the BM manage to generate revenue from its product/service proposition?</i> 商业模式如何从产品/服务中获得收入？</p>	Cost structure 成本结构
	Revenue streams 收入来源

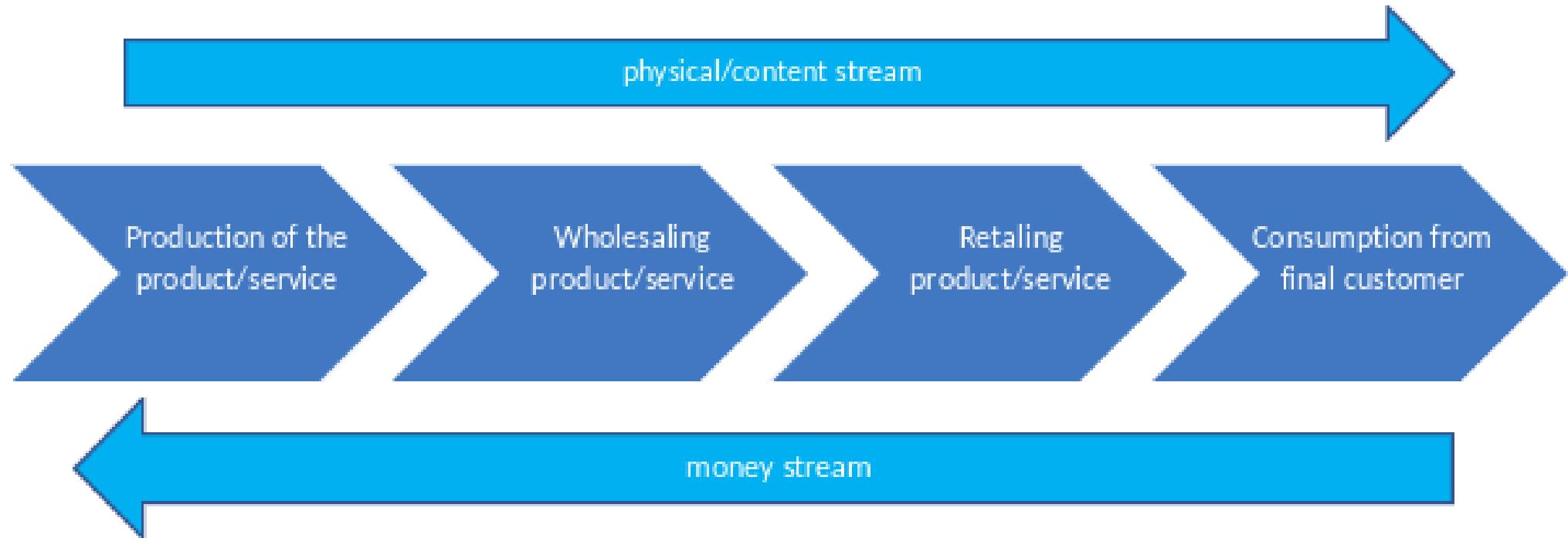


## CLASSIC BUSINESS MODEL CANVAS (2005) 经典商业模式画布 (2005)

Created by Osterwalder (2005), the “Classic”Business Model Canvas is a strategic management template which organises all value related elements for a business activity.

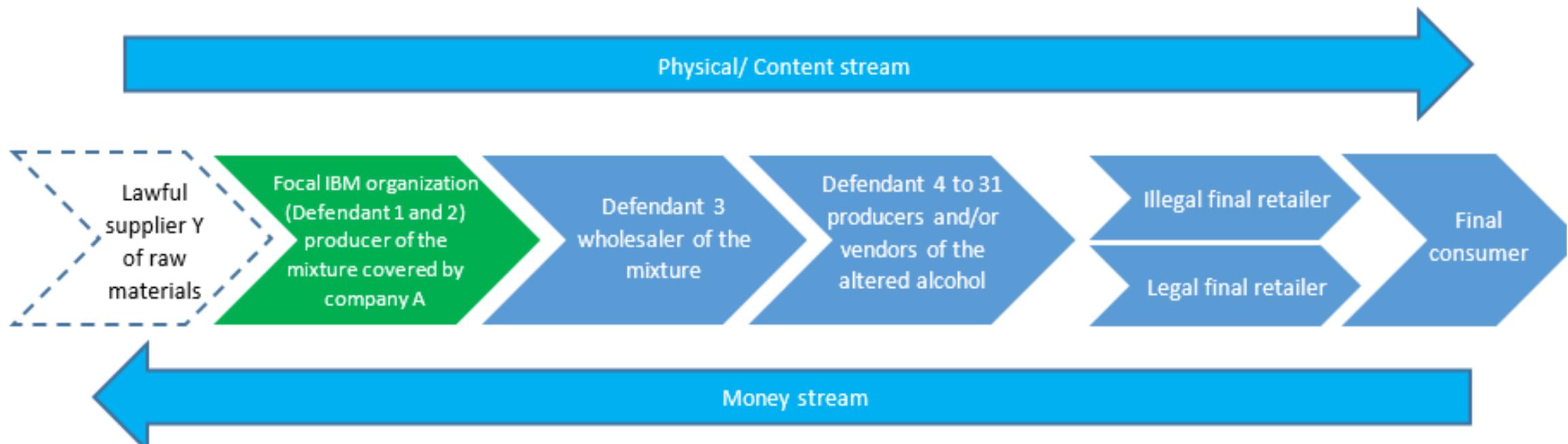
由Osterwalder (2005) 提出的“经典商业模式画布”是将业务活动价值要素进行全面组织排布的策略管理模板。

# THE INDUSTRIAL VALUE CHAIN 产业链



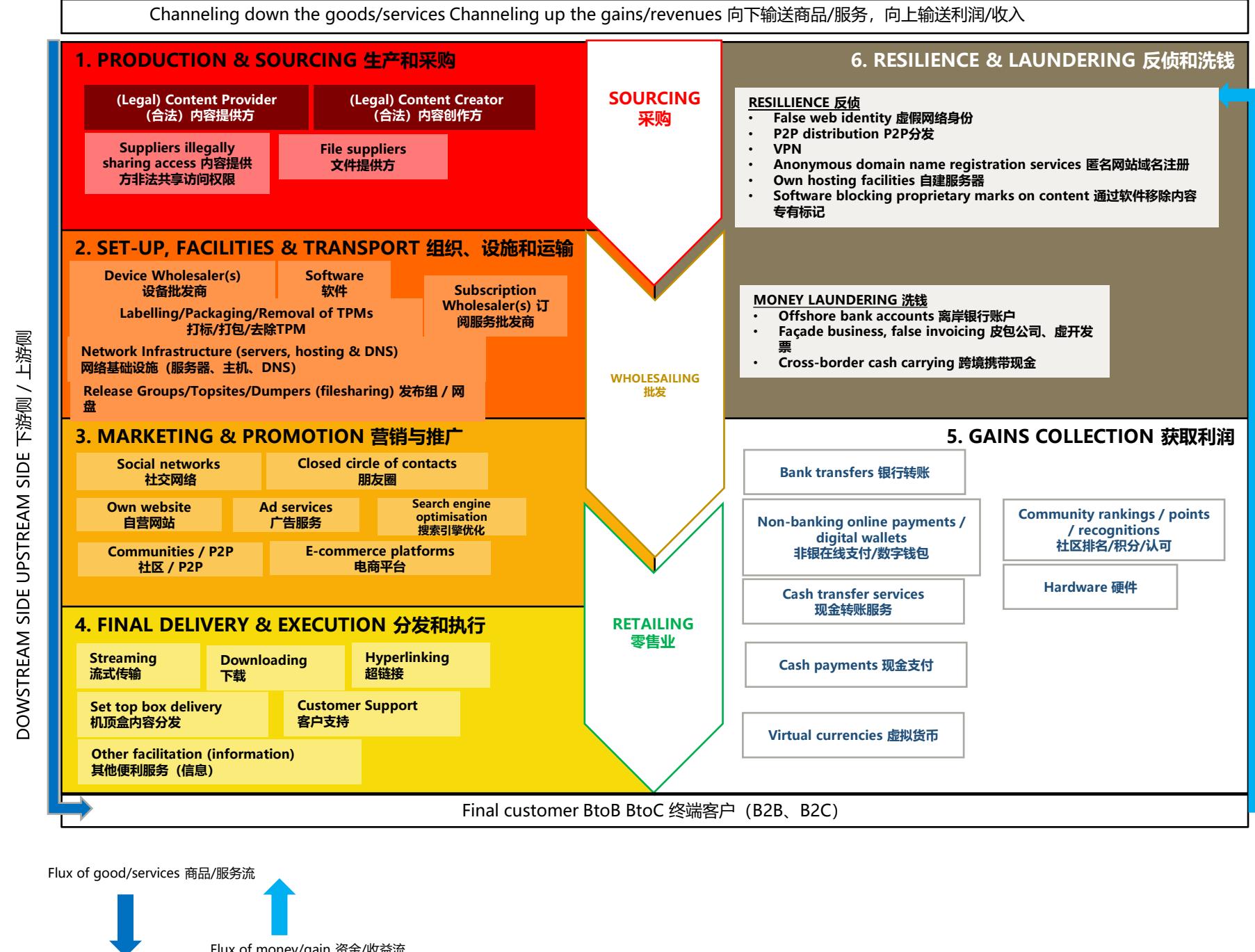
# EXAMPLE SUPPLY CHAIN INFILTRATION STRATEGY: CASE ON ALCOHOL

## 供应链渗透策略示例：酒类案例



# Revised Stackview v.2 修订版堆栈图 (V.2)

- Provides representation of the value chain (center)  
展现价值链 (图表中部)
- Combines the BM Canvas and Value Chain model  
结合商业模式画布和价值链模型
- Indicates “circularity” in the modus operandi of criminal activity (blue arrows)  
标示作案手法的“闭环”特点 (蓝色箭头)



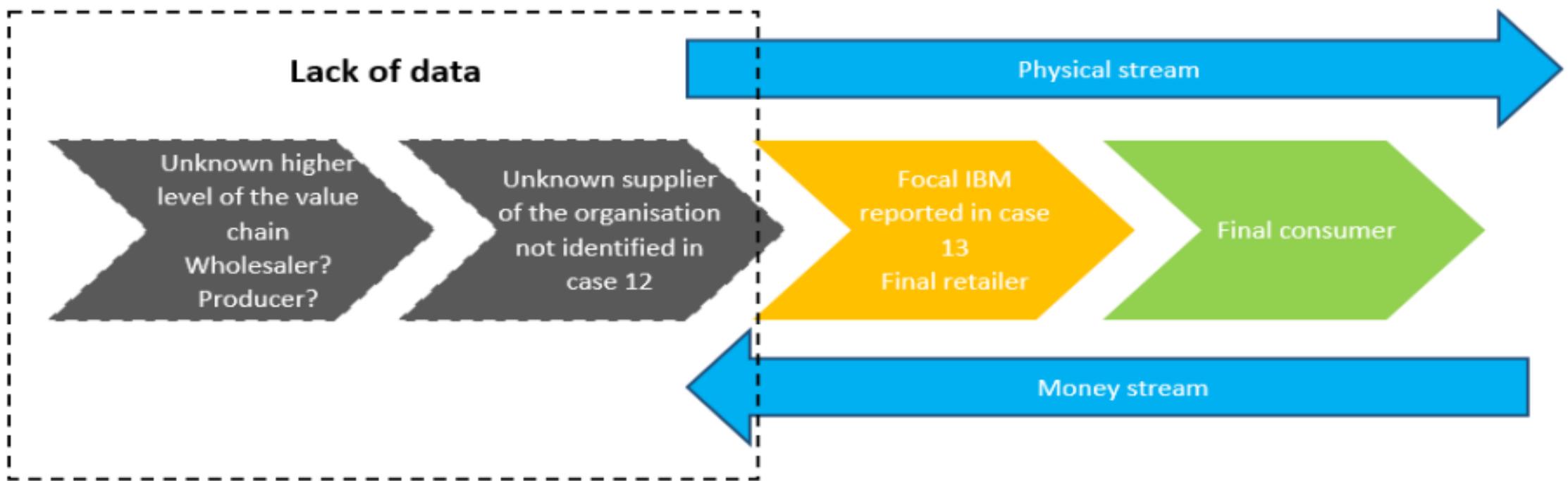


## PART III: CASE STUDIES

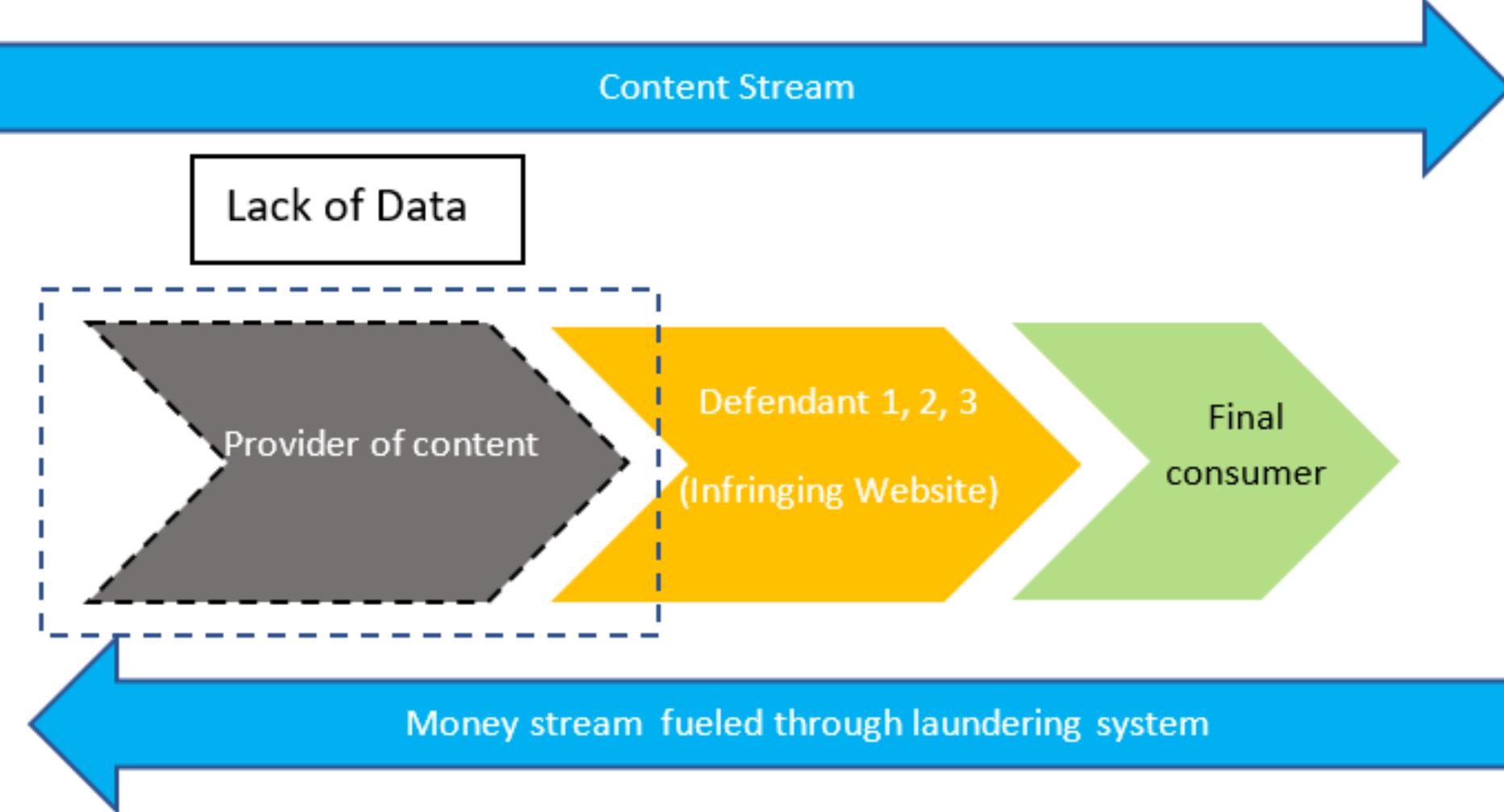
## 第三部分：案例研究

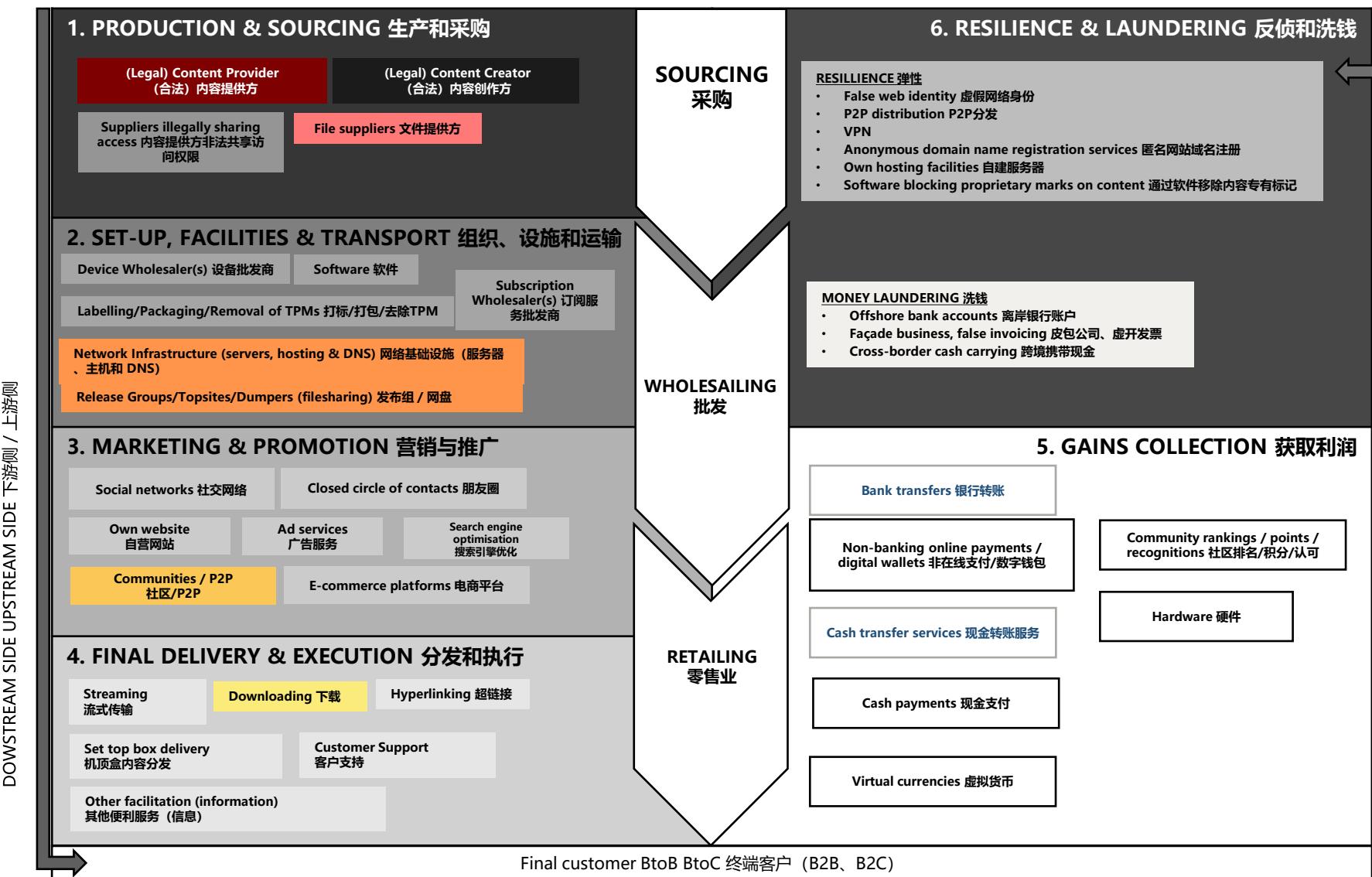
# COMMON ISSUE: LACK OF UPSTREAM DATA/INFORMATION

共同问题：缺乏上游数据/信息



BitTorrent.ro





Flux of good/services 商品/服务流



Flux of money/gain 资金/收益流



Case 1: BitTorrent.ro  
案例 1：BitTorrent.ro



## PART IV: RESULTS & CHALLENGES

## 第四部分：成果与挑战

# RESULTS: GENERAL FINDINGS 研究总体结论

## CROSS-BORDER DIMENSIONS OF MAJORITY OF CASES ANALYSED 对大多数案件的跨境属性进行了分析

Reinforces need to develop tools that can help justify more comprehensive fact-finding investigations across EU borders.

需要加强工具开发

进一步论证在欧盟全境开展全面调查的必要性

## COMINGLING OF LEGAL AND ILLEGAL ASPECTS OF AN INFRINGING BUSINESS 侵权企业将合法与非法业务混业经营

Across different modus operandi of IPR infringing business models, models involving a mix of legal and illegal intermediary services prove to be most effective in creating convincingly deceptive businesses.

侵权商业模式各不相同，但侵权企业作为中间人，将合法与非法业务混业经营的手法最易鱼目混珠

## CYBERCRIMES AND “CYBERWALLETS” 网络犯罪和“数字钱包”

Cryptocurrencies (i.e., bitcoin) to evade identification becoming prevalent to perpetrate online fraudulent activities, leading to new forms of money laundering.

网络作案广泛使用匿名加密货币（亦即比特币），

出现新型洗钱模式

## PREPARING FOR THE FUTURE OF INFRINGEMENT 要为潜在侵权行为做好准备

Use of deepfakes and AI in cybercrime will have a widespread impact on many aspects of an online infringing business model, which can create a new subset of IPR crimes with identity theft.

网络犯罪对深度伪造和人工智能的使用将网络侵权商业模式产生广泛影响，可能催生结合身份信息盗窃的新型知识产权犯罪类型

# CHALLENGES 挑战

## Levels of Generality/Complexity 类推性/复杂度

If concepts in the tools/Stackview are too general, the tools lose some usability. If too complex, will become difficult to understand and apply in practice.

堆栈图中的概念如果过于笼统则有损可用性；如果过于复杂则不利于理解和实际应用。

## Transversality 横向梳理

Some physical elements of IPR infringing business models are very specific to the type of infringement, and may be skipped entirely in online-only models.

侵权商业模式中的部分实体要素具有特异性，与网络侵权可能完全无关。

## Different Tools, Different Purposes 不同工具，不同用途

Three different visualization tools: value chains, business model canvases and the stackview. Can we further simplify these mapping exercises, depending on specific investigative needs of the user?

三种可视化工具：价值链、商业模式画布和堆栈图。能否根据用户具体调查需求作进一步简化？

## Adaptability 适应能力

Is our model flexible enough to anticipate changes to technology? If not, how do we leave room for this without becoming too vague/general?

模型是否足够灵活，能够适应技术变化？如何在不过于模糊/笼统的同时，在模型中为此留出空间？

# THANK YOU

谢谢

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