

The role of regulation and innovation

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**Disruptive Innovation in the Market for Legal
Services**

Harvard Law School

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Overview

What I will cover

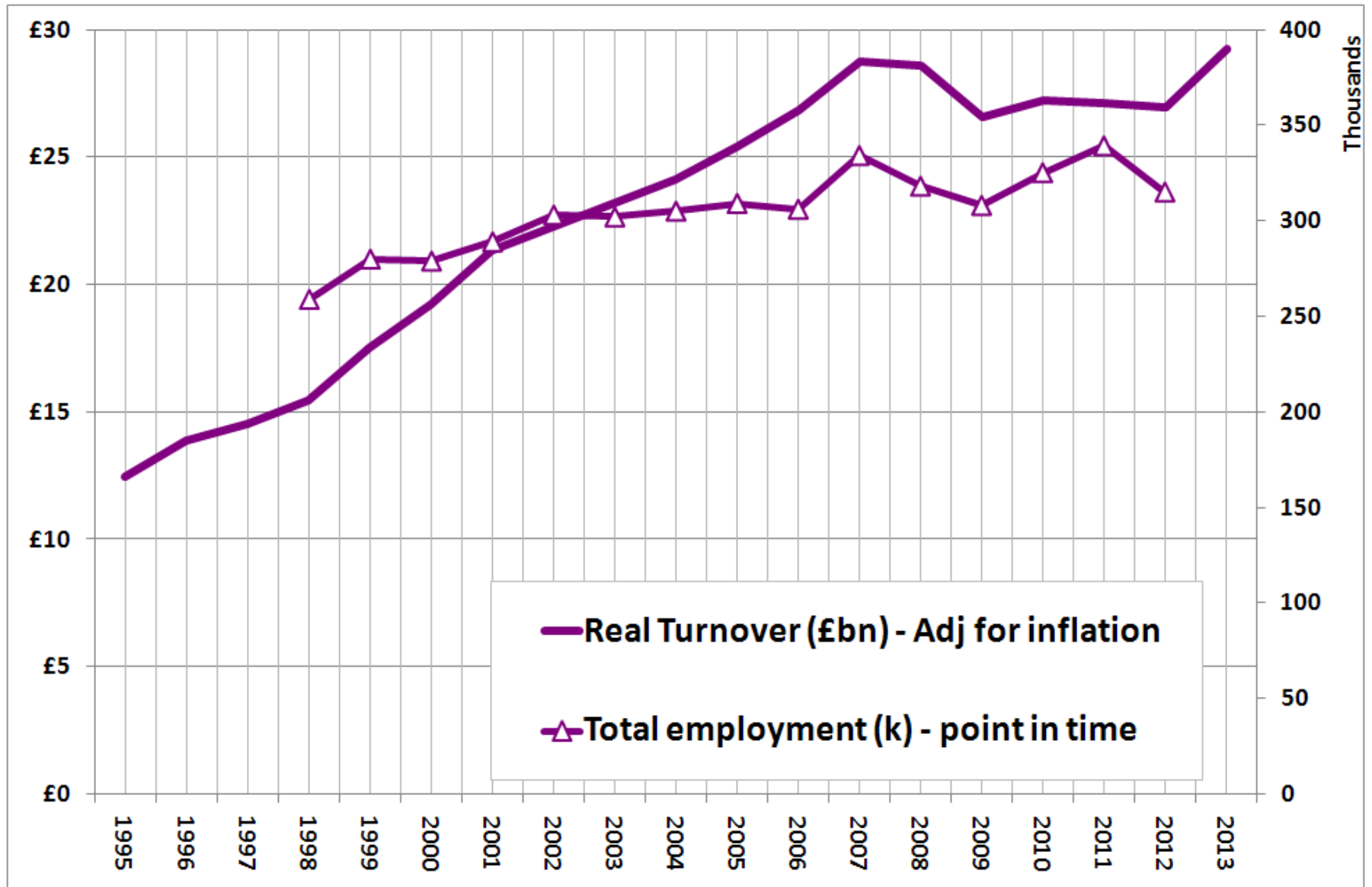
- Legal services in England and Wales in context
- What's happening – and what's not happening
- What next?

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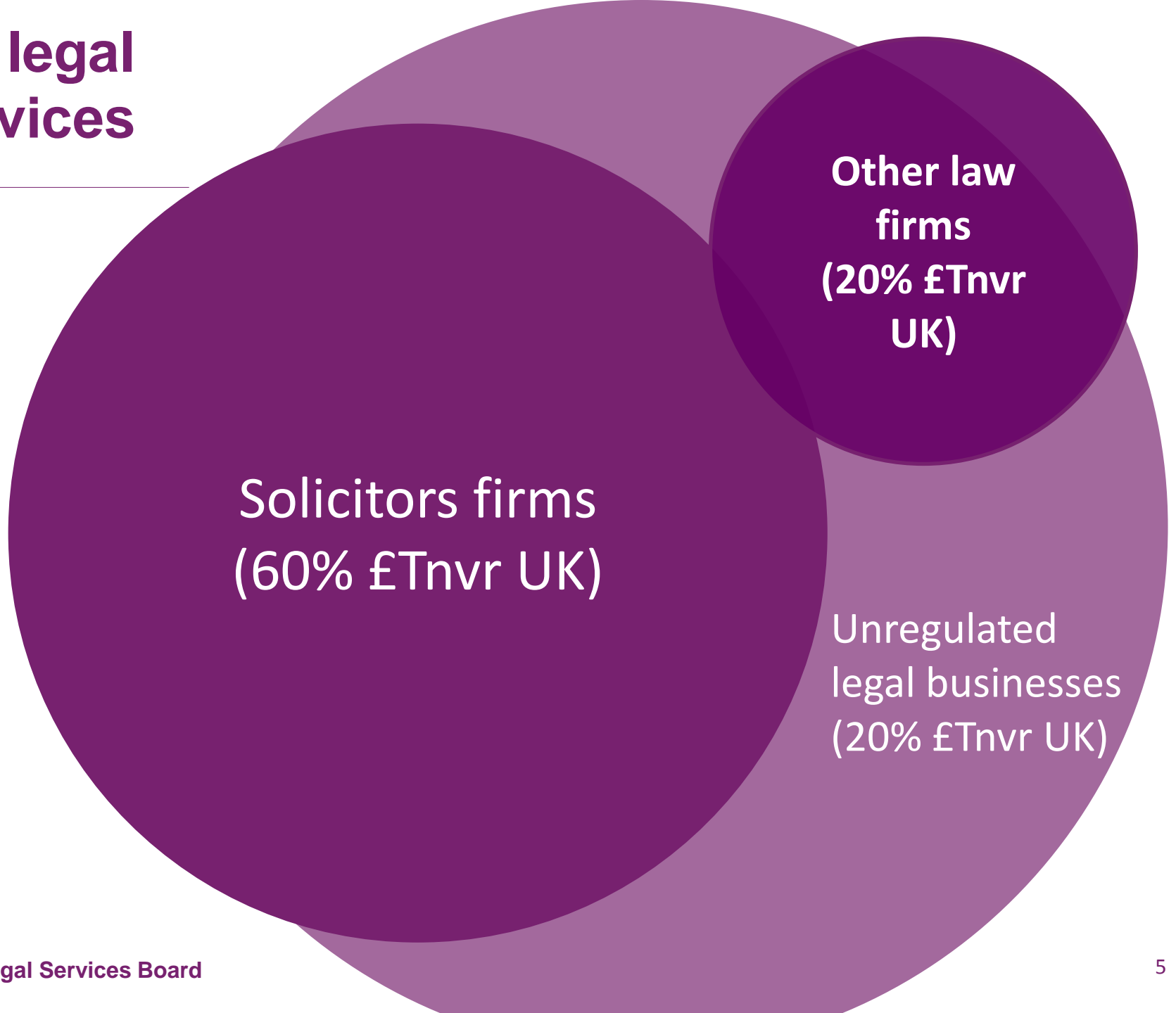
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UK legal services growing



UK legal services



Many consumers remain unserved

- One in three consumers don't get the legal help they need
- Four out of five small businesses don't get legal advice when they have a problem
- 87% of SMEs don't think lawyers offer value for money - even though 54% of those SMEs see law as very important for doing business
- Case for supply side reform overwhelming

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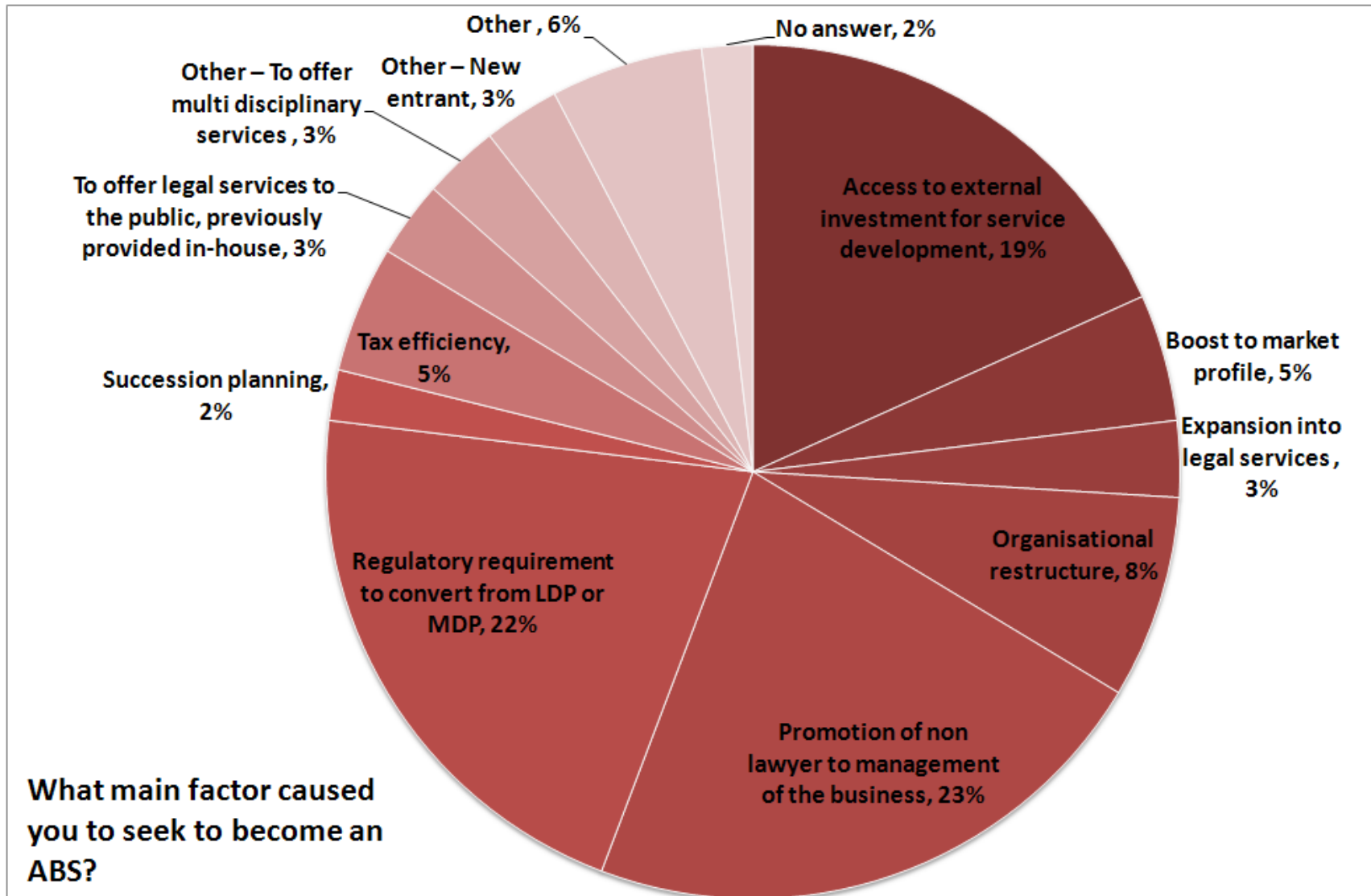
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Changes introduced by Legal Services Act and LSB

- Independent regulation
- New independent legal ombudsman complaints resolution
- Alternative Business Structures (ABS) – 290+

Alternative structure, similar business

Survey of ABS, July 2013, n = 64 (33%)



What's changed since they became an ABS? Survey of ABS, July 2013, n = 64 (33%)

- **Claim:** *ABS will ditch vulnerable consumers*
- **Reality:** The groups of consumers they provide services to – No change 91%

- **Claim:** *ABS will cherry pick the most profitable areas of work*
- **Reality:** Areas of law they provide services in – No change 83%

What's changed since they became an ABS? Survey of ABS, July 2013, n = 64 (33%)

- **Claim:** *ABS will lead to wholesale “misselling”*
- **Reality:** The way they market services – No change
77%

- **Claim:** *Standards will decline because of cost-cutting*
- **Reality:** Initial evidence suggests focus on consumers and complaints handling better in ABS firms

What's changed since they became an ABS? Survey of ABS, July 2013, n = 64 (33%)

- **Claim:** *Lower ethical standards as stock-holders put profit before public interest*
- **Reality:** Only 1 ABS licence removed so far

Yet the market is changing

- Subscription legal services for businesses
- Online divorce, wills, automated documents
- Increased use of fixed fees
- TV advertising
- Some genuine MDPs
- Some corporate entry – often from membership-based bodies

...changes are driven as much by demand as by regulation

Yet the market has changed...examples

- Non ABS firms –
 - Brilliant Law – subscription services
 - Stobart Barristers – direct access to barristers
- ABS firms
 - Co Operative Legal Services - learning academy
 - PWC legal - legal services alongside financial expertise

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What's holding it back? (1)

- **Lack of consumer power**
- Passive selection by consumers
- Little information about:
 - price
 - quality or
 - others' experiences
- Less true for corporate purchasers than retail consumers – but very long-term arrangements more common than other parts of the economy.

What's holding it back? (2)

- **Governance and culture**
 - (Un)responsiveness of partnership model
 - Cultural resistance to changing services
 - Management/business expertise
- Not for regulators or government to change this directly
- But liberalising market allows innovative entrants and spurs competitive response
- Regulators do need to remove unnecessary regulation (see later)

What's holding it back? (3)

- **Regulation**
- Traditionally: title not risk = regulation the same for all
- Well-intentioned consumer protection measures
- But opportunity cost: lost innovation and higher charges
- And focus on individual not entity can make systemic issues harder to tackle
- LSB “blueprint”:
 - Issues within regulators’ control to increase competitiveness:
 - Abolish SRA Separate Business Rule
 - Review “in-house” restrictions
 - Abolish restrictions on solicitors in non-SRA regulated firms
 - Other issues – shift focus of regulation to entities and to specific risk, relying more on general consumer protection and compensation where possible, shift regulator focus to supervision not prohibition

LSB Blueprint

- Existing legal services regulation is failing to meet the principles of good regulation
- Introducing full independence of regulators from the profession and Government is essential to delivering effective risk based regulation that minimises regulatory burdens, and to providing better incentives
- For truly excellent professional practice a tighter focus on risk among legal services regulators is both achievable and would lower regulatory burdens for many firms and practitioners
- A simplified regulatory structure could be developed that would further reduce regulatory burdens.
- ***Legal Services Board A blueprint for reforming legal services regulation (London, 2013)***

Conclusions

- Things are changing but slowly
- Disruptive innovation, if it comes, will come initially from outside regulation
- Getting entry into reserved activity work remains too expensive/time consuming
- Deregulation is needed to address this
- There is a massive unmet need
- It will take innovation to meet those needs effectively
- All the incentives are for this innovation to occur as, if not more, ethically than for existing services

For more information:

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