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## Do not miss this ordonomic reply to our critics: Why social contract theory favors commercial over cooperative platforms in the sharing economy

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Stefan Hielscher, Sebastian Everding und Ingo Pies

# Do Not Miss this Ordonomic Reply to Our Critics – Why Social Contract Theory Favors Commercial over Cooperative Platforms in the Sharing Economy

Diskussionspapier Nr. 2025-05

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des Lehrstuhls für Wirtschaftsethik  
an der Martin-Luther-Universität Halle-Wittenberg,  
hrsg. von Ingo Pies,  
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### *Abstract*

This discussion paper responds to the critique of our 2022 article “*Ordo-Responsibility in the Sharing Economy: A Social Contracts Perspective*” published in *Business Ethics Quarterly*. Ghirlanda and Sacconi (2024) argue that a properly understood version of constitutional contractarianism would favor platform cooperatives over commercial platforms. We respectfully disagree. Drawing on the ordonomic framework and Buchanan’s contractarianism, we argue that commercial platforms provide a more efficient and legitimate governance model. Our reply addresses key methodological misunderstandings of social contract theory and substantiates our position with conceptual reasoning and empirical insights.

**Keywords:** Ordonomics, Sharing Economy, Platform Cooperatives, Commercial Platforms, Governance, Constitutional Contractarianism, Social Contract Theory, Ordo-Responsibility, Theory Competition

### *Kurzfassung*

Dieses Diskussionspapier reagiert auf die Kritik an unserem 2022 veröffentlichten Beitrag „*Ordnungsverantwortung in der Sharing Economy – Eine Perspektive der Gesellschaftsvertragstheorie*“ (*Business Ethics Quarterly*). Ghirlanda und Sacconi (2024) vertreten die These, dass eine korrekt verstandene Version des konstitutionellen Kontraktualismus Genossenschaftsmodelle gegenüber kommerziellen Plattformen präferieren müsste. Wir halten dagegen: Aus ordonomischer Sicht sind kommerzielle Plattformen in normativer wie funktionaler Hinsicht überlegen. Unsere Erwiderung klärt methodologische Missverständnisse über die Theorie des Gesellschaftsvertrags auf und belegt unsere ordonomische These mit theoretischen und empirischen Argumenten.

**Schlüsselbegriffe:** Ordonomik, Sharing Economy, Plattformgenossenschaften, Kommerzielle Plattformen, Governance, Konstitutioneller Kontraktualismus, Gesellschaftsvertragstheorie, Ordnungsverantwortung, Theorienwettbewerb



# Do Not Miss this Ordonomic Reply to Our Critics – Why Social Contract Theory Favors Commercial over Cooperative Platforms in the Sharing Economy

Stefan Hielscher, Sebastian Everding und Ingo Pies

In our 2022 article published in *Business Ethics Quarterly*, we argued that commercial sharing platforms – as market-making governance structures – can be normatively justified within the framework of constitutional contractarianism. Ghirlanda and Sacconi (2024) challenged this view by claiming that our interpretation of social contract theory is incomplete and that a more appropriate application would favor platform cooperatives.

We welcome this opportunity for theoretical exchange and believe that such direct encounters between competing frameworks are rare and valuable. Our original reply to their critique was not accepted by the journal's editorial board. However, we consider the debate to be of general interest to scholars in business ethics, economic ethics, institutional theory, as well as academics and practitioners interested in alternative governance models, particularly for the sharing economy. Therefore, we publish our rejoinder independently in this discussion paper.

This reply serves five key purposes:

1. *Scientific engagement* – We take the critique by Ghirlanda and Sacconi seriously and offer a reasoned response.
2. *Conceptual clarification* – We aim to clarify the logic of constitutional contractarianism as employed in our framework.
3. *Theory development* – We see this as a constructive case of theory competition in business ethics.
4. *Academic learning* – Critical feedback helps us refine and sharpen our ordonomic reasoning.
5. *Transparency* – By publishing this reply openly, we invite academic scrutiny and public evaluation.

We are convinced that this exchange can contribute to a *deeper understanding of alternative governance models*, particularly in the *sharing economy*, and stimulate reflection on the *methodological foundations of business ethics*.

## 1. Framing the Theoretical Disagreement

In their critique, Ghirlanda and Sacconi (GS) raise two core objections against our original argument. First, they assert that we rely on a misguided or at least incomplete version of social contract theory. Second, they claim that a proper application of constitutional contractarianism should normatively favor platform cooperatives over commercial sharing platforms.

We respectfully disagree with both points. Our position is based on a deliberate and consistent application of the Buchanan tradition of constitutional economics, which emphasizes mutual advantage, rule-making starting from a status quo (without any veil), and institutional incentive-compatibility. GS, by contrast, seem to build their critique on an alternative interpretation of social contract theory, which foregrounds fairness understood

as distributive justice, based on a veil of ignorance. We consider this an important and legitimate variant of contract theory, but one that follows a different logic and addresses a different question.

To move this debate forward, we propose to reframe the disagreement as a case of *theory competition*, grounded in *different research questions, theoretical purposes, and methodological commitments*. In what follows, we clarify these differences and explain why we continue to defend the *ordonomic approach* to commercial platforms.

## 2. Clarifying the Methodological Foundations

GS do not claim that we misrepresent Buchanan's theory. Rather, they fault us for omitting alternative strands of contractarian thinking. But this critique overlooks a key point: different versions of contract theory serve different functions (see Table).

Dimension	Our Ordonomic Approach	GS's Alternative Approach
<b>Theoretical lens</b>	Buchanan's constitutional economics	Rawlsian contract theory / Scanlonian ethics
<b>Key question</b>	What rules would rational individuals choose under realistic conditions to enable cooperation?	What institutional forms are fair in light of distributive concerns (behind a veil)?
<b>Function of morality</b>	Coordination of interests (mutual advantage)	Correction of inequalities (notions of fairness)
<b>Evaluation standard</b>	Institutional performance (win-win structures)	Just outcomes (equity) Democratic participation (voice)

We submit that both frameworks are valuable, but they lead to different evaluative criteria. The ordonomic approach deliberately adopts Buchanan's logic to evaluate governance mechanisms in the sharing economy. The point is not to deny the relevance of fairness or equ(al)ity concerns, but to emphasize the need for *rules that make cooperation feasible under real-world conditions of information asymmetry and transaction costs*.

## 3. Institutional Performance and Ordo-Responsibility

Commercial platforms serve as *market makers*: they provide the infrastructure and trust mechanisms necessary for voluntary exchange at low transaction costs. They act as *governance entrepreneurs* and even *market makers* who institutionalize cooperation in novel ways. From an ordonomic perspective, this capacity for rule-setting is a central dimension of *ordo-responsibility*.

By enabling win-win interactions among users and scaling innovative exchange relations, commercial platforms often outperform cooperatives in terms of:

- *adaptability* to user preferences,
- technological and organizational *innovation*,
- and *dynamic* responsiveness to competitive pressure.

This does not mean that cooperatives are inferior per se. But in many real-world settings, they face collective action problems, lack of scalability, and governance inefficiencies. Our claim is not ideological but functional: *Where commercial platforms enable more cooperation, they deserve normative recognition.*

#### 4. Empirical Illustration: Ride-Sharing and the Taxi Market

The rise of commercial sharing platforms such as Uber and Lyft exemplifies a *disruptive innovation* in the governance of urban mobility markets. These platforms did not simply introduce new technology; they created a *new form of institutionalized private ordering* that restructured market access, pricing, and trust relationships between drivers and passengers.

From an ordonomic perspective, this shift can be interpreted as follows:

##### 4.1 Institutional Innovation

Commercial platforms act as *market-making rule-setters*. They create:

- Digital trust infrastructures (ratings, reputation),
- Automated contracting (matching, payment),
- Self-enforcing governance structures (standardized behavior, conflict resolution).

This amounts to a *functional equivalent of regulation* – but emerging from private initiative rather than public authority. In ordonomic terms, this is a case of *private ordering* that successfully addresses *social dilemmas* in fragmented markets.

##### 4.2 Political Reaction: Public Ordering against Private Ordering

However, the success of these platforms triggered *rent-seeking responses* from incumbents – notably traditional taxi firms. These actors lobby for regulations that *reimpose legacy structures* (e.g. licensing, employment classification) under the moral guise of fairness or worker protection.

This reaction exemplifies a *misuse of moral discourse*: It instrumentalizes public interest arguments to secure private rents. The underlying logic is not public welfare but *status quo protection*.

Such political campaigns aim to replace newly evolved private ordering with traditional public ordering. Yet this reversal risks undermining the very *institutional diversity* and *innovation potential* that platform markets bring.

##### 4.3 The Ordonomic Response: Public Ordering of Private Ordering

Rather than choosing between private and public ordering, we advocate a *second-order governance approach*: public ordering should *enable and constrain* private ordering in a way that strengthens its contribution to the common good.

This requires constitutional meta-rules that:



- prevent regulatory capture,
- protect open access to platforms,
- and foster adaptive self-regulation.

Such a framework reflects the core idea of *ordo-responsibility*: public institutions should steer the evolution of markets not through direct control, but through *rules that promote functional rule-making by private actors*.

In this way, the institutional performance of sharing platforms can be improved without suppressing their innovation dynamics. This allows moral concerns to be translated into *market-compatible norms* rather than into obstacles that stifle the development of *new forms of value creation*.

### *Conclusion and Outlook: Towards a Theory Competition in Business Ethics*

(1) This discussion paper offers an *ordonomic response* to the critique by Ghirlanda and Sacconi, (2024), grounded in a constitutional contractarian framework inspired by James Buchanan. We have clarified that our approach does not rest on a misunderstanding of social contract theory, but on a *deliberate methodological choice* to evaluate governance mechanisms according to their institutional performance under real-world conditions.

By contrast, GS adopt a different theoretical lens – more egalitarian in orientation – which emphasizes distributive fairness and democratic participation. While we acknowledge the normative appeal of this perspective, we argue that it does not adequately address the *coordination challenges* and *incentive structures* that are critical for the *business success* of sharing platforms.

From an ordonomic viewpoint, commercial platforms are not merely private firms; they are *governance entrepreneurs* who generate value by designing rules that make decentralized cooperation possible. Their legitimacy rests not on their ownership structure, but on their capacity to generate *win-win outcomes* and avoid undesirable *social dilemmas*.

This leads us to a more general insight: Debates in business ethics – and particularly in the ethics of digital markets – increasingly revolve around *competing theory architectures*. These theoretical disagreements are not trivial. They reflect different assumptions about human behavior, institutional design, and the role of morality in complex societies.

(2) We therefore advocate for a *transparent theory competition* in business ethics – one that evaluates rival frameworks not only by their moral intuitions, but by their capacity to generate *institution-compatible ethics* that are both normatively sound and practically viable.

The ordonomic research program contributes to this project by offering:

- a functional perspective on moral reasoning,
- a conceptual integration of normative aspirations and institutional constraints,
- and a methodologically reflexive approach to theory formation.

We invite scholars to engage in this competition – not to declare winners, but to sharpen arguments, clarify assumptions, and to improve our collective understanding of how morality and markets can not only be reconciled, but interact in ways that are mutually supportive and potentially synergistic in the digital age.

*Literature*

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- Ghirlanda, P., & Sacconi, L. (2024). A Better Account of Constitutional Contractarianism Implies a Cooperative Form of Governance of the Sharing Economy: Critical Assessment of Hielscher, Everding, and Pies' (2022) "Ordo-responsibility in the Sharing Economy: A Social Contracts Perspective". *Business Ethics Quarterly*, 34(3), 494-516.

## Appendix I

### Platform Cooperatives versus Commercial Sharing Platforms: An Ordonomic Reply to Ghirlanda and Sacconi's (2024) "A Better Account of Constitutional Contractarianism Implies a Cooperative Form of Governance of the Sharing Economy"

Stefan Hielscher, Sebastian Everding und Ingo Pies

The introduction of commercial sharing platforms has proved to be an instance of disruptive innovation. The core of this innovation is a new form of governance structure. Platforms are *market makers*. They offer an institutional framework, a *trust environment*, for sharing partners to trade among each other, on a voluntary basis, at reduced transaction costs. Successful sharing platforms have disrupted existing markets that have been highly regulated by local governments, and reduced the market share of traditional companies. This has raised the question of legitimacy. The most discussed examples are in the ride-sharing market, where Uber, Lyft and others have successfully challenged traditional taxi markets. Taxi entrepreneurs regard ride-sharing platforms as unfair competition and call on regulatory authorities for protection, claiming that it is the proper role of the state to regulate the market. This is an attempt to replace a newly-grown form of private ordering of mobility markets, provided by sharing platforms, with public ordering. A common political strategy to protect the traditional rents of local taxi companies is to campaign for regulation that treats sharing platforms, like taxi firms, as employers of the drivers who provide mobility services. The political debate, and, in particular, the use of moral arguments for rent-seeking purposes, is mirrored in the academic literature. Some authors side with taxi firms and criticize legitimacy deficits of sharing platforms. Others welcome sharing platforms as rule entrepreneurs whose private ordering replaces the alleged over-regulation of public ordering. This debate often leads to a conflict (Hielscher, 2021). But the underlying arguments have not yet been addressed in a careful way.

Our article – Hielscher et al. (2022) – aims at providing conceptual clarification. The core idea is to reframe the current perception of a clash between private ordering and public ordering. We write: "[I]nstead of fixating on a seeming conflict between private and public regulation—and then calling for either interventionist bans or radical deregulation—we argue that a more functional approach for governments and civil society is to take a second-order approach that aims at improving the sharing economy's capacity to make rules in the interests of (potential) sharing partners" (p. 407). We argue for a productive relationship between public ordering *and* private ordering, or more precisely, for a public ordering *of* private ordering. Public ordering should provide better incentives for sharing platforms as rule-makers who, via private ordering, set incentives for the exchange activities of sharing partners. This is our preferred path for navigating or even resolving the conflict: a rule-based *process* for improving the performance and, hence, legitimacy of what critics call the "gig" economy. We believe this is a promising way to tap into the innovation potential of sharing markets.

We have received a critical comment by Ghirlanda and Sacconi (2024), referred to as GS going forward. GS have raised a number of concerns with our account, for which we are highly grateful. Their concerns touch upon some profound questions of theorizing in

business ethics. While in their comment, GS are sympathetic to a social contract perspective, they criticize two aspects of our approach. First, GS claim that our *understanding* of social contract theory is mistaken. Second, GS argue that our *application* of social contract theory is misguided. Combining both pieces of criticism, GS further claim that a correct application of a properly-understood social contract theory would favor platform cooperatives over commercial sharing platforms. In this reply, we beg to differ, and we show why.

First, we delineate the different methodologies used – in particular, the different research questions applied by each account. Second, we determine the locus of disagreement, in particular, the differences between commercial and cooperative platforms and the theoretical as well as empirical evaluation of these differences. This reply is motivated by our strong belief that the insights derived from this debate are of general relevance for the business ethics audience at large.

### 1. *Social Contract Theory: Different Research Questions Justify Different Approaches*

Regarding the first claim, it is important to note that GS do not criticize our paper for getting Buchanan's (1975) approach wrong. Instead, they criticize an omission; i.e., ignoring a strand of social contract theory that deviates from Buchanan's view. However, in our paper, we had already included Footnote 1 as a response to a valuable comment by an anonymous reviewer. We write (p. 408, emphasis in original): "We hold this to be important work in the realm of *positive* analysis. However, in our article, we exclusively refer to the Hobbes–Kant–Rawls–Buchanan line of argumentation, which uses the idea of a social contract as a philosophical thought experiment that aims to clarify *normative* legitimacy criteria." Here, it seems useful to elaborate on this footnote as follows.

(1) Our first argument provides conceptual clarification. Our research problem addresses (understanding and overcoming) fundamental obstacles in the *normative* analysis of legitimacy. In the realm of *positive* analysis of morality, however, there are many approaches we believe to be extremely interesting and helpful. For example, we have great sympathy and respect for Binmore's work (2005; p. 17), who interprets his own "naturalistic approach" as "de-Kanting" philosophical "ideas into a Humean bottle". Importantly, however, Binmore tackles a specifically *positive* research question (p. 14): "Why do we care about fairness? I think we care because fairness is evolution's solution to the equilibrium selection problem for our ancestral game of life." Inspired by David Hume, Binmore is interested in a *positive* reconstruction of the historical emergence of justice as a normative standard of evaluation.

We also harbor great sympathy and respect for an *alternative positive* account of morality. DeScioli and Kurzban (2009) reconstruct the emergence of moral phenomena, such as having a conscience and an inclination for moral condemnation, as solving – not a bargaining game, like Binmore – but a coordination game. The title of DeScioli (2023) puts the argument in a nutshell: "The Dangers of Alliances Caused the Evolution of Moral Principles". The core idea is this: A conflict between two parties within moral communities requires all third-party members within a specific community to take a stand. Morality evolved in order to guarantee large majorities, trumping kinship relations, via solidarity with victims and moral condemnation of perpetrators. DeScioli and his co-author are, similar to Binmore, interested in a *positive* reconstruction of how the normative standards

of humans evolved during our cultural evolution or history. But these are *not* the questions we are dealing with in our paper.

(2) GS criticize our paper *not* for a possible misinterpretation of Buchanan. They do *not* claim that we get Buchanan wrong. Instead, they criticize Buchanan for misunderstanding (their preferred version of) social contracts theory, and they criticize our paper for neglecting the more recent developments in social contracts theory after 1975. In this regard, we would like to offer three clarifications.

(a) First, we selected Buchanan (1975) as a reference point because in this book, Buchanan develops a very special (Hobbes-like) interpretation of social contract theory that dispenses with the various forms of veils common in the social contract literature: no “veil of ignorance” like in Rawls (1971) and no “veil of uncertainty” like in Buchanan and Tullock (1962) (for a comparison of both veils cf. Brennan and Buchanan 1985; chapter II, Section VII). Theorizing without a veil makes it methodologically necessary to take the status quo as the starting point of any normative analysis. In contrast, employing a veil introduces normative pre-suppositions. Whether this is an expedient theory strategy depends on the problem at hand. For Rawls solving *his* research problem, it is useful to employ a “veil of ignorance”, since he aims at correcting our everyday intuitions of justice via a reflective equilibrium on institutional fairness. For the problem that is of central interest to *our paper*, it is expedient to dispense with a veil. We will come back to that shortly.

(b) Second, we have great sympathy and respect for Sacconi’s (2006) and (2007) work, which, starting in the 1990s, proposes a social contract approach to corporate social responsibility (CSR). In a strikingly similar fashion, we have worked on an “ordonomic” approach to corporate citizenship (CC) and ordo-responsibility. This research program also has its roots in the 1990s. Taking off with German publications, papers in the Anglo-Saxon literature were published 15 years later (cf. Beckmann and Pies (2008), Beckmann et al. (2014), Hielscher et al. 2014, Pies et al. 2009, 2010, 2014, 2020, 2021).

In comparison, there are many similarities, the most important of which is the central role of the one-sided prisoners’ dilemma, or trust game. (cf. Sacconi 2007; p. 81, and Pies et al. 2009; p. 383). But, of course, there are also significant differences. Applying the principle of charitable interpretation to *both* approaches, which we *both* hold to be thoroughly thought through, we do not attribute these differences back to presumed errors in theorizing. Instead, we attribute them back to *different research questions*. This leads us to our third clarification.

(c) While Binmore’s (2005) social contract theory aims primarily at a *positive* analysis how fairness norms have emerged in cultural evolution and history, Sacconi’s approach to CSR deals primarily with a *normative* question. Sacconi (2006; p. 259, emphasis by HEP) aims at a “criticism of the contemporary neo-institutional economic theory of the firm” and proceeds as follows: “[A]n application of the theory of bargaining games is used to *deduce* the structure of a multi-stakeholder firm, on the basis of the idea of a constitutional contract, which satisfies basic requirements of impartial justification and accordance with *intuitions of social justice*. ... On the basis of the unique solution given to each step in the bargaining model, the quest for a *prescriptive* theory of governance and strategic management is accomplished, so that I am able to define an objective-function for the firm consistent with the idea of CSR.” Sacconi’s approach provides a specific answer to the following question: Given that, in line with moral intuitions, one requires a firm to meet certain normative criteria (fiduciary duties), which objective function *should*

the firm pursue in order to best serve stakeholder interests, and what are the appropriate governance structures to serve this goal?

In sharp contrast, the central research question of the ordonomic approach is the “moral paradox of modernity” (Pies 2022), i.e., the interesting phenomenon that the modern market society realizes moral desiderata in unprecedented ways, while everyday ideas harbor substantial moral skepticism against its functional logic, which rests on the constitution of a competitive order that incentivizes profit-oriented firms to contribute to the common good (Pies and Hielscher 2023, Pies et al. 2021). We interpret this paradox as an *evolutionary mismatch between moral intuitions and modern institutions*, giving rise to folk-economic as well as folk-ethical beliefs (Pies 2023, Jauernig et al. 2024). Our analysis of sharing platforms (Pies et al. 2020; Hielscher et al. 2022) is just a case in point. We provide *counter-intuitive* insights to enrich public discourses that are easily captured by moral intuitions. If these moral intuitions stand in the way of realizing valuable – and broadly shared – moral desiderata, we believe that intuitions require an update, not the market economy and their profit-oriented organizations.

To sum up: Contrary to the first impression, the central question that is at stake here is *not* who has the more recent or “more advanced” (GS 2) or “more nuanced” (GS 15) approach to social contract theory. Rather, what is at stake here is a matter of a potentially fruitful theory competition between largely similar but in details different approaches: Which business ethics theory is providing a better solution to the legitimacy problem of sharing platforms? Sacconi’s normative CSR approach or the ordonomic approach to CC? This is the question we want to draw attention to now.

## 2. Platform Cooperatives versus Commercial Sharing Platforms

The claim by GS is straightforward: “[P]latform cooperatives can be seen as ... the most legitimate organizational structure for substantiating the regulation of sharing markets” (GS 15). This claim rests on two arguments.

Their first argument is that commercial sharing platforms are “»neo-feudal«” (GS 4) and “extractive” (GS 17), which leads GS to “conclude that the answer to the legitimacy question surrounding the unilateral rule-setting function of private platforms must be negative” (GS 4). For GS, it is thus close to impossible to regard commercial sharing platforms as legitimate, given their supposedly dismal performance. Indeed, seen through Sacconi’s lens of CSR, commercial platforms are *illegitimate per se* in the sense of being “obviously unacceptable from a social contract perspective” (GS 7) due to their “inherent unfairness” (GS 13).

GS’s second argument strongly connects their favored version of social contract theory and platform cooperatives as their favored governance structure. GS explicitly emphasize this connection: “[W]e suggested an alternative version of the social contract and claimed that the most appropriate organizational form for substantiating this proposal would be that of platform cooperatives instead of extractive commercial platforms” (GS 17). This is also mirrored in their programmatic title: “A Better Account of Constitutional Contractarianism Implies a Cooperative Form of Governance of the Sharing Economy” (GS 1).

Here is our view of GS’s claim:

(1) GS's first argument clearly entails an empirical observation and a normative judgment. We deem the empirical observation, based on the available evidence, to be factually wrong. The ensuing normative judgment is thus unconvincing. Here is why.

(a) At the core of political debates about sharing-market regulation is an innovative business model that disrupts traditional markets. Its central feature are *commercial* sharing platforms that act as *market makers*. These commercial platforms have been remarkably successful in developing novel constitutional and post-constitutional rule environments that provide superior exchange options for sharing partners, options that these partners evaluate as clearly superior to traditional options available before the innovation. Why else would they *continually* use them on a *voluntary* basis?

In our paper, we provide empirical evidence for the win-win-win-win nature of commercial sharing platforms. Indeed, the evidence has grown even stronger during the last three years. As Table 1 shows, profit-oriented sharing platforms increase wages, improve the livelihood of drivers, provide passengers with superior services and reduce negative externalities, both socially and environmentally. Notably, a recent study of Uber's rollout in U.S. cities from 2013 to 2018 found that the service helped workers supplement income during unemployment, positioning ridesharing as a complement—rather than a substitute—to traditional jobs (Omberg 2024: 1).

However, disruptive innovations cause challenges and problems. Sharing platforms are not an exception. Quite the contrary. In fact, this is why we felt a need to write our paper in the first place. There are problems to be addressed. Table 1 includes relevant examples: Wang et al. (2020: 1) demonstrate that UberX may reduce drunk driving “in younger drivers, but not in older drivers”, which suggests the possibility for negative effects for buyers and third parties. Ming et al.'s study (2019: 1) cautions that “surge pricing should be avoided during non-peak hours as it can hurt both customer and platform surplus.” For these, and indeed many other cases, our paper suggests that such shortcomings should be addressed by improving the governance structures of commercial sharing platforms. Areas for improvement include, but are not limited to, the internalization of negative externalities (e.g., congestion or accidents and fatalities caused by ride-sharing platforms). In our paper, we show how civil society organizations and regulatory authorities can employ a second-order approach to make better public rules for private rule-makers.

(b) Given the societal benefits generated by commercial sharing platforms – most of them created together with sharing platform suppliers and buyers, who directly benefit – we think it is important to avoid throwing the baby out with the bathwater, in particular from a normative point of view. Doing so requires substituting *destructive* criticism with *constructive* criticism of commercial sharing platforms. Instead of calling for a prohibition, we see strong evidence for staying on the path of innovation, while supporting sharing platforms to *further improve their overall governance performance*. And this is exactly what we aim to do in our paper.

(2) With regard to GS's second argument, we think the empirical evidence leads to the conclusion that platform cooperatives are not the success model in the sharing economy. In a process of institutional competition, they have been clearly outperformed by commercial sharing platforms. In our paper, we provide a number of reasons (p. 412 and pp. 428 f.). GS's insistence on platform cooperatives raises the question why, according to their view, cooperatives nevertheless *should* be the dominant model.

We are afraid that GS's claim might rest on a romantic longing for an allegedly better past. Before the advent of the disruptive innovation of commercial sharing platforms, GS

(4) argue, there was a “system of social norms that characterized peer-to-peer digital infrastructures”. When commercial sharing models started to take off, this system with superior social norms and practices was utterly destroyed, and illegitimately so, they claim, because a common pool resource was transformed into a capitalistic business model: “[T]he advent of the sharing economy giants shifted the equilibrium selection path towards »neo-feudal« private appropriation of the Internet” (GS 4). Given this (from their point of view) undesirable development, GS want us to return to a more *collective* management of the internet. This is why GS favor the governance model of platform cooperatives and aim at “implementing the traditional cooperative principles of democratic governance and shared ownership by involving the relevant stakeholders in the property and control structures of digital platforms” (GS 14). The underlying hope is this: “[P]latform cooperatives would respect the definition of infrastructure [as a common pool resource, HEP] ... and avoid the private appropriation of the positive spillovers produced by their users, while the possibility of sharing the technology within a network of federated local cooperatives offers an alternative growth strategy to the building of big monopolistic giants” (GS 14).

It is interesting to note how GS try to explain what they regard as an undesirable development. They argue: “In our interpretation, ... the venture-capital-backed big techs such as Uber and Lyft ..., profiting from the existing legal vacuum, »enclosed« the Internet (or a portion of it) through the creation of capitalistic and legalistic private monopolies over a previously shared and open-source asset ... Namely, the entry of several venture capitalists on the board of directors of the leading sharing start-ups determined the triumph of the for-profit mentality and shifted the equilibrium selection path towards the de facto reaffirmation of the hierarchical integration and economies of scale models typical of traditional capitalist companies” (GS 13).

From our point of view, GS’s account of the historical development is unconvincing. It is not the hard-minded resolution of capitalists to earn a profit that creates business success. The success of a business firm in a competitive market economy is built upon the voluntary agreement of their business partners – here: suppliers and buyers interacting on a sharing platform which they experience as attractive. Furthermore, it is a common mistake to underestimate the fierce level of competition faced by the supposed giant “monopolies” both from within the sharing economy and traditional service providers outside the sharing economy due to network effects.

In this sense, GS (16) are correct in emphasizing that “commercial platforms are not currently creating any real profit for their investors and owners. On the contrary, their business model—that is, »growth before profits«—seems to consist only of reinvesting all their earnings in disrupting competitors with the aim of a future dividend distribution that has yet to be achieved.” We agree. Due to their specific governance model, commercial sharing platforms are world champions in scaling up their business model. This is also the reason why we do not place our hope in platform cooperatives providing a superior substitute, as GS seem to do.

Furthermore, GS present a surprisingly one-sided evaluation of commercial sharing platforms. This raises important questions that are of general interest for theorizing business ethics: In characterizing the activities of commercial sharing platforms as “exploitative” behavior (GS 16), do GS replicate the errors of socialism when assessing capitalism, common among thinkers and intellectuals during the 19<sup>th</sup> century, i.e., mistaking poverty



for exploitation and preferring the governance mechanism of voice over exit in an extremely biased way? We also ask why GS are ignoring the well-documented desire of people, who otherwise can only access precarious jobs, to improve their material and non-material well-being, using voluntary agreements. Furthermore, why do GS regard it as an illegitimate threat rather than clear and honest communication when sharing platforms warn the public that hostile (over-)regulation would lead to “longer waiting times, higher prices, and job losses” (GS 5)? And finally, why do GS (4), without providing reasons, simply take at face value the argument put forth by taxi firms and trade unions when these clearly articulate the vested interest in shielding their workers against new forms of competition? There is every reason to be critical of any demand for regulation made by business firms, and the public choice literature is rife with theoretical and empirical observations. That commercial sharing platforms should be regarded as employers of the service supply side, which radically negates (and finally destroys) the innovation potential of rule-setting market-makers, might in fact be a rent-seeking argument put forth by taxi companies and unions to eliminate an unwanted new competitor. We are surprised that GS do not entertain this possibility, while they seem to be assuming that the gig economy giants almost certainly promote hidden (and hideous) agendas in their public communication.

### Conclusion

Summing up, we are hugely grateful for GS’s critical comment. We have learned a lot. The objections raised have helped us to better understand and assess their approach – *and our own*. For us, the learnings required a precise identification of the locus of dissent. This is what we have focused on in our reply, despite huge areas of agreement that are shared by both approaches.

We have come to the view that the final dissent concerns the understanding – or self-misunderstanding – of business ethics theorizing. We think it is the task of the governance entrepreneur to find or create new institutional arrangements. The task of the (business ethics or governance) researcher is to analyze success factors, thereby providing insights into improving the performance of (already more or less) functional business models in the interests of all those involved and affected. We think that it is *not* the task of research to replace governance entrepreneurs in their practical role of innovators by setting up mathematical bargaining models that are intended to calculate the optimal solution for a social contract.

Hence, our final counter-argument against GS is a simple one: Their theory classifies – with unconvincing reasons, we believe – commercial sharing platforms as *per se illegitimate*, although there is strong enough *empirical evidence* that (i) commercial platforms offer the dominating governance model and (ii) their dominating position is due to superior performance. Instead, GS’s theory promotes – again, with unconvincing reasons, we believe – platform cooperatives as the preferred alternative, although the empirical evidence clearly indicates they perform comparatively worse, and will remain at best a niche phenomenon. Our theory, in contrast, analyzes and critically evaluates both governance structures equally. We hypothesize that starting business ethics theorizing from the status quo – that is, starting with the dominating governance model – may deliver better on the promise of piecemeal improvements (of commercial platforms) than putting hopes in realizing a utopian, but unlikely, future (of returning to a world dominated by

cooperative platforms). While GS present a *static model* of governance that optimally meets their normative criteria (but fails the market test of institutional competition), we propose a *process* for dynamically improving the governance structures and hence the value creation performance of what has already emerged as the success model of sharing platform evolution. As a result, we disagree that it is *our* approach that suffers from “weaknesses that risk contradicting the promise of developing a constitutional and post-constitutional approach to the regulation and governance of the sharing economy within the domain of business ethics” (GS 17). Would there not be more reasons to find these weaknesses in GS’s approach?

Paper	Quote	Benefactor Groups		
		Suppliers	Buyers	Externalities on Third-Parties
Omberg (2024: 1)	"I estimate that Uber’s arrival to a city resulted in decline in the unemployment rate by between a fifth and a half of a percentage point. This suggests that Uber allowed many workers to supplement their earnings during periods of unemployment, framing the ridesharing service as a complement to, rather than a substitute for, traditional employment. I also find some evidence that Uber had a very small positive effect on wages at the lower end of the wage distribution, suggesting that Uber may have altered worker search behavior or affected bargaining power."	+		+
Abraham et al. (2024: 1)	"New entrants were more likely to be young, female, White and U.S. born, and to combine earnings from ridesharing with wage and salary earnings. Displaced workers have found ridesharing to be a substantially more attractive fallback option than driving a taxi. Ridesharing also affected the incumbent taxi driver workforce. The exit rates of low-earning taxi drivers increased following the introduction of ridesharing in their city; exit rates of high-earning taxi drivers were little affected. In cities without regulations limiting the size of the taxi fleet, both groups of drivers experienced earnings losses following the introduction of ridesharing. These losses were ameliorated or absent in more heavily regulated markets."	+		(+)
Wang et al. (2022: 1)	"[R]idesharing has been touted as a strategy to reduce drinking and driving (DWI) related fatalities, albeit prior research has provided inconsistent support. The present study uses Negative Binomial model to control for the contributions of age, education, vehicle miles traveled (VMT), and metropolitan size as predictor variables. Modeling suggests that initiation of UberX may serve as a ride planning option and means to reduce DWI in younger drivers, but not older drivers. It is suggested that local governments should take actions to improve access to ride sharing services, particularly in rural communities, and initiatives should be sensitive towards individuals less likely to use these services, particularly across ages."		+/-	+/-

<i>Lokhand-wala and Chai (2018:59)</i>	"The insights we have learned from this study are: (1) while maintaining the same service level, ride sharing combining autonomous driving with autonomous vehicles can potentially decrease the fleet size by up to 59% without significant waiting time increase or additional travel distance; (2) the benefit of ride sharing is significant with increased occupancy rate (from 1.2 to 3), decreased total travel distance (up to 55%), and reduced carbon emissions (725 metric tonnes per day); (3) constraining the sharing to be only between two groups limits the sharing participation to be at the 50–75% level and underestimates the potential benefits; and (4) ride sharing may reduce the service level in the suburban areas, which will require complementary policies or incentives to help balance service in different regions."			++
<i>Ming et al. (2019: 1)</i>	"[W]e demonstrate that surge pricing improves customer and driver welfare as well as platform revenues, while counter-intuitively reducing Taxi revenues on the platform. However, surge pricing should be avoided during non-peak hours as it can hurt both customer and platform surplus. We show that platform revenues can be improved by increasing drivers' revenue share from the current levels. Finally, we estimate that the platform's basic ride-hailing services generated customer surplus equivalent to 96 Billion USD in China in 2020, and carrying rival Taxi services on the platform increased customer surplus by 28.9%."	+	++	(-)
<i>Hussain et al. (2023: 7)</i>	"The results obtained from this study showed that the sharing economy had a significant impact on the sustainable economic growth of the developing countries. The sharing of resources and assets promoted sustainable development by maintaining a proper balance between economic growth and the conservation of resources. The core aim of promoting growth through sharing economy activities was to maximize the utilisation of resources and thus shift the economy to a sustainable model based on increase efficiency, which would benefit society overall."	+		++
<i>Chen et al. (2019: 2735)</i>	"Despite other drawbacks to the Uber arrangement, we estimate that Uber drivers earn more than twice the surplus they would in less-flexible arrangements."	++		+
<i>Hall and Krueger (2018: 729-30)</i>	"[T]he Uber platform provides a great deal of flexibility for driver-partners, and this characteristic of work in the on-demand economy may attract workers who supply labor to the sector more generally. ... many driver-partners valued the flexibility to choose their hours and days of work. ... [A]lthough it is difficult to compare the after-tax net hourly earnings of Uber's driver-partners with that of taxi drivers, it appears that Uber driver-partners earn at least as much as taxi drivers and chauffeurs, and in many cases they earn more. The prospect of higher compensation	++		

	likely explains, in part, why the number of Uber driver-partners has grown at an exponential rate (along with lower entry barriers and flexibility)."			
<i>Peticca-Harris et al. (2020: 17)</i>	"Our findings illustrate why and how in turbulent economic times riddled with financial insecurity and instability, individuals from a range of backgrounds may gravitate toward the platformbased sharing economy in their quest for financial independence. The Uber business model appears to be ideally suited to support the particular needs and schedules of individuals in transition (i.e. those that are switching roles and jobs either voluntarily or involuntarily). While transition, marked by liminality, can be conceived as being 'painful' (Czarniawska and Mazza, 2003: 272), our interview accounts suggest that such a liminal space can also offer a sense of freedom and possibility (Czarniawska and Mazza, 2003)."	++		
<i>Dreyer et al. (2017)</i>	"In our interviews, Uber drivers often expressed positive sentiments about the business model and its impacts. They appreciated the access to work based on the flexibility to choose your own work hours and the convenience of the online platform that brings customers and drivers together. ... That said, however, some drivers noted that work was not as abundant, now that more and more Uber drivers are on the road. ... A second salient feature of the South African context also underpinned the stakeholder benefits of the Uber business model, with benefits for drivers and customers. Interviewees from both groups highlighted the cashless transactions and the use of tracking in the Uber business model as important contributors to safety and security."	++	+	
<i>Li et al. (2016: 3)</i>	"We find empirical evidence that the entry of Uber actually leads to a significant decrease in traffic congestion and carbon dioxide emissions in the urban areas of the United States. Moreover, these results are consistent for different measures of the traffic congestion."			+
<i>Lam et al. (2020: 1)</i>	"After linking this data with actual trip records of taxis, Uber, and Lyft, we document a strong pattern that ridesharing has a larger market share relative to taxis in neighborhoods with lower accessibility, defined either in terms of geographic distance to Midtown Manhattan or "economic distance" to job opportunities. ...We find that consumer surplus from ridesharing varies drastically across geography: passengers that are 5 to 15 miles (resp. more than 15 miles) from Midtown experience a 60% (resp. 19%) larger consumer surplus relative to passengers that are within 5 miles from Midtown. Additionally, over half of these gains comes from reduced wait time."	++	++	

<i>Cohen et al.</i> (2016: 5)	"We obtain large estimates of the consumer surplus generated by UberX. We compute the dollar value of consumer surplus from UberX rides taken in Uber's four biggest U.S. markets in 2015 (Chicago, Los Angeles, New York, and San Francisco) to be roughly \$2.88 billion (SE=\$122 million) annually. This is more than six times Uber's revenues from UberX in those cities."		++	
<i>Zhang et al.</i> (2023: 698)	"The results reveal that transactional interactions significantly enhance customer loyalty among DiDi users via the partial mediating effects of customers' perceived functional, social-hedonic and safety benefits. By contrast, interpersonal interactions do not directly influence customer loyalty, and only social-hedonic benefits fully mediate the positive influence of interpersonal interactions on loyalty."	+		(+)
<i>Miao et al.</i> (2022: 794)	"W[e] find that surge pricing led to increases in drivers' weekly revenue. ... the increased weekly revenue can be explained by the extensive margin: drivers worked on more days to compensate for the decreased daily revenue.... Finally, we ... find that surge pricing enticed more part-time drivers to flood the market and crowd out full-time drivers, and that the increase in the drivers' weekly revenue was primarily driven by part-time drivers. Therefore, the benefit of surge pricing was unevenly distributed across drivers."	+		
<i>Xu et al.</i> (2023: 1911)	"This study obtained the encouraging finding that ride-sharing has a significant complementary effect on the subway, as the number of ride-sharing pickups and drop-offs at subway stations increased by 130% and 117.9%, respectively, after the subway opening. Moreover, mechanism analysis shows that the complementary effect of ride-sharing services is stronger when connection distance is short (i.e. under 6 km) and when the transportation availability is limited (i.e. at night or in the areas with low transit supply and low population density)."			+
<i>Cramer and Krueger</i> (2016: 177)	"Our results ... point to higher productivity for UberX drivers than taxi drivers when the share of miles driven with a passenger in the car is used to measure capacity utilization. On average, the capacity utilization rate is 30 percent higher for UberX drivers than taxi drivers when measured by time, and 50 percent higher when measured by miles, although taxi data are not available to calculate both measures for the same set of cities."	+		+

Uzunca et al. (2018: 248)	"In countries with lower degrees of institutionalization, [sharing economy] firms can address grand societal challenges and leverage the power they gain to shape government regulations and public perception to their advantage. In countries with higher degrees of institutionalization, firms with disruptive and transformative strategies (e.g., Uber) can provide rapid but short-term gains, whereas firms with more relational and additive strategies (e.g., Airbnb) may allow for more sustainable legitimacy gains. Furthermore, the extent to which acting locally and addressing the needs of the community leads to legitimation largely depends on whether the national government leaves the regulation of a new service or product to local authorities or takes an active role in establishing standards nation-wide."		(+)	
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*Table 1: Empirical evidence: Benefits of commercial sharing platforms for suppliers, buyers, and third parties*

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## Appendix II

Dear editors of BEQ,

we are highly grateful for your quick response to our submission, as well as for the generous assessment that you find our comment “well written and carefully articulated and documented”. At the same time, we must say that we find your decision difficult to understand. After having given ourselves some time for reflection, we would like you to reconsider this decision, for the following two reasons. First, we would like to ask whether the BEQ rules for commentary, as currently in place, might have been ill applied to our specific case. Second, and much more of general relevance and systemic importance, we would like to suggest that these rules need to be reformed in order to meet the high standards of academic integrity aspired by BEQ.

(1) Ghirlanda and Sacconi’s (2024) comment to our paper (Hielscher, Everding, Pies 2022) claims that their version of social contract theory is superior to ours and that from their normative perspective cooperatives are preferable to commercial platforms in the gig economy. If these two points meet the criterion for publishing commentaries, namely to “move conceptual thinking on the topic forward”, we fail to understand why *our refutation of both of their points* should not also meet the same criterion. Let us explain.

With regard to their first claim, we do not simply hold the counter position, claiming that our version of social contract theory is generally superior. We explain that each version has its merits and that superiority depends on the problem at hand. However, since they apply their version to the same problem we deal with in our paper, this provides a rare case of theory competition.

With regard to their second claim, we provide theoretical and empirical reasons why commercial platforms, due to their comparative advantages in value creation, outperform cooperatives in the gig economy. We explain why platform cooperatives have been reduced to a niche phenomenon when in direct competition with commercial platforms.

Our conclusion is that our version of social contract theory wins the theory competition. From our perspective, Ghirlanda and Sacconi’s (2024) version fails the reality test, while ours helps better understand and promote societal learning processes that might help improve the performance of commercial platforms.

We believe that *both* these aspects substantially advance the proper understanding of social contract theory when applied to assessing alternative organizational arrangements in the gig economy. We therefore believe our manuscript “moves conceptual thinking on the topic forward”. As such, our counter-arguments should therefore be of general interest to BEQ readers.

But we understand that this is a subjective judgment in the end. Of course, you as the editor are in a much better position to assess the general interest of BEQ readers. We openly concede that as authors we might be ill-placed for objective judgment since we have invested so much effort (and sunk cost) in the topic.

(2) Let us therefore add a complementary reason for reconsidering your decision. This second argument is purely formal, but even much more important than the first as it reaches far beyond our specific case and concerns the journal more generally. As long-standing authors in BEQ, we have a strong interest to maintain and improve its academic integrity.

You mentioned that our comment, which provides a “reply” to a commentary, cannot be published in BEQ because “it is too much of a response or rebuttal”.

Maybe this is an opportunity to rethink the rules for publishing commentaries at BEQ? Shouldn’t these be expanded and made more flexible? Does it really make sense to request a response to a comment to be a separate comment on its own worth, since a rebuttal is deemed to be narrow for publication? To allow comments on articles clearly makes sense. But is it really appropriate to require comments on comments instead of allowing replies to comments?

We would kindly ask you to consider that in most academic journals, e.g., in the most prestigious journal for theoretical work in management, *Academy of Management Review*, it is common practice to pro-actively *invite* authors whose articles are criticized in the journal for a response to the criticism. For a recent example, cf. Schilke and Lumineau (2024a), Schultz et al. (2024), and Schilke and Lumineau (2024b).

We only realized during the process – and we were surprised by this – that BEQ currently applies rules for comments that violate the time-honored principle that the other side must always be heard (‘*audiatur et altera pars*’). To deny a proper reply – and therefore to deprive readers of the opportunity to learn about the pros and cons – creates a stark asymmetry in academic discourse. It thus raises concerns about the institutional fairness and the epistemic integrity of the process. As the world-wide leading journal in our field of business ethics, we believe BEQ should have all reason to carefully avoid any such concerns.

In conclusion, let us be as clear as possible. We sincerely believe that our reply to a comment meets the criteria for a comment on a comment. At the same time, and far beyond this specific case, we fear the current rules for comments in BEQ are in urgent need of reform. We therefore very much hope that it will be possible to help initiate a reform process that solves this problem for everyone.

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*Diskussionspapiere<sup>1</sup>*

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