Trust in regulatory relations: how new insights from trust research improve regulation theory

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Abstract
Regulatory oversight and inspection have become key features of public governance. This study’s purpose is to show that the way in which the relation between trust and control is conceptualized in the dominant responsive regulation theory (RRT) may be improved using self determination theory (SDT). RRT relies heavily on the game-theoretic tit-for-tat strategy to conceptualize cooperation/trust and repression/control as substitutes. Recent attempts to empirically test RRT have not been very successful. The argument here is that this is partly because of the way in which trust and its relation to control have been conceptualized. Inspired by research into the relationship between trust and control in another traditionally hierarchical relation - manager-subordinate relations -, this article uses SDT to derive a model for how regulator trust and control may complement each other in their effect on regulatee compliance. First a reinforcing cycle is developed in which regulator trust and regulator controls that enhance self determination positively affect each other. Then factors that may reinforce or dampen this reinforcing cycle are identified. Propositions are formulated and implications for further research are identified.

Key words: compliance, control, regulation, social determination theory, trust.
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Regulatory oversight and inspection have become key features of public governance, some authors even talk about the ‘audit society’ (Power, 1997, p. 356) or the age of ‘regulatory capitalism’ (Braithwaite, 2008). Society has an ambiguous – almost love-hate - relationship with regulation and regulatory oversight. On the one hand, when things go wrong – such as a chemical plant exploding or a child in child care dying – the call for more and stricter regulation is strong. The public appears to want the state to assume that regulatees are to be distrusted. At the same time, complaints about regulation stifling economic and social activity, and innovation are abundant, with some people talking about the ‘nanny state’ (e.g., Better Regulation Commission, 2006; OECD, 2010).

Prior research has shown the importance of trust in regulatory relations (Braithwaite & Makkai, 1994; Murphy, 2004; Murphy, Tyler, & Curtis, 2009). The most dominant theory – responsive regulation theory (RRT, Ayres & Braithwaite, 1992) – places cooperation and trust at the heart. RRT’s ‘father’, John Braithwaite, recommends “a dynamic regulatory strategy of dialogue and trust as a first choice followed by escalation to more punitive regulation when trust is abused” (Braithwaite & Makkai, 1994, p. 1). Despite RRT’s dominance in regulatory research and practice, there is growing criticism about the lack of empirical tests to prove/show the validity of the assertions made in RRT. When empirical tests are performed, often no or at best weak support is found for RRT (Mascini & Van Wijk, 2009; Nielsen, 2006; Nielsen & Parker, 2009).

This study argues that many of the shortcomings of RRT are due to an outdated conceptualization of trust within RRT. The central proposition is that application of insights from recent trust research to RRT will generate a theoretical model with propositions that address many of the shortcomings. In particular, RRT’s heavy reliance on the game theoretic tit-for-tat strategy for choosing enforcement styles is outdated. In the days that RRT was first published (early 1990s) it was fairly common to use game theory, and the ways in which cooperation may be stimulated through games, in trust research. Cooperation in such games was seen as the cooperating actor trusting the other actor. Nowadays, this is widely accepted as incorrect (for a thorough argumentation, see Möllering, 2006).

Furthermore, the enforcement pyramid that is at the centre of RRT and through which regulators navigate up or down using a tit-for-tat strategy is based on “the benign big gun”. “Regulators will be more able to speak softly when they carry big sticks” (Ayres & Braithwaite, 1992, p. 19). Again, at the time of writing, trust based on deterrence, which is what is described here, was accepted as a type of trust. Nowadays, deterrence-based trust is no longer considered trust, but is considered low distrust (Rousseau, Sitkin, Burt, & Camerer, 1998); and trust and distrust should be treated as separate concepts, not two ends of a continuum (Lewicki, McAllister, & Bies, 1998).

Much of the debate about how best to achieve regulatee compliance to regulator objectives has in essence been about the relation between trust and control. One of the reasons there is a continuing debate is because researchers argue based on different perspectives on the relation (Das & Teng, 1998; Möllering, 2005). If one interprets the cooperative enforcement style as
trust, as Braithwaite and Makkai (1994) do, and the punitive or repressive style as control, then RRT assumes both trust and control are needed for effective regulation. It furthermore assumes that trust and control are substitutes; when one applies a cooperative enforcement style, one does not at the same time apply a punitive style, and vice versa. At the lower levels of the enforcement pyramid, cooperative, trusting styles are applied, while at the top of the pyramid punitive, controlling styles are applied (Ayres & Braithwaite, 1992). In the restorative justice interpretation of RR (Nielsen & Parker, 2009), the cooperating/trusting actor is different from the punishing/controlling actor: the inspector trusts and cooperates however high up the pyramid he or she has come, while the law or legal system is the punishing, controlling actor.

More and more empirical evidence is emerging in support of the perspective that trust and control are not substitutes but complements. Trust and control may be applied simultaneously and may reinforce each other (Das & Teng, 1998; Möllering, 2005; Weibel, 2007; Weibel et al, 2009). This study proposes that this perspective also applies to regulation. Insights from another hierarchical relationship – between managers and subordinates – on how Social Determination Theory (SDT) (Deci & Ryan, 2000; Ryan & Deci, 2000) explains the underlying mechanisms for this complementary relation are applied (Long & Sitkin, 2006; Weibel, 2007). A theoretical model with propositions is developed that shows how, and under what conditions, regulator control and trust may complement each other within regulatory relations. Self determination theory provides theoretical mechanisms that link characteristics of regulation to regulatee intentions. The research question is, how may regulator trust and control complement each other in their effect on regulatee compliance?

The model developed is still a responsive regulation model in the sense that the regulator is responsive to the regulatee’s relevant characteristics and context (Braithwaite, forthcoming). The difference is that where RRT is “responsive to conduct” with many different interpretations of what this conduct entails (Nielsen, 2006), this model is based on regulators being responsive to regulatee trustworthiness, a concept that is well-established in the trust literature (e.g., Mayer, Davis, & Schoorman, 1995). By replacing game theoretic tit-for-tat strategy with social determination theory as the foundation for a responsive regulation theory, a theory emerges that fits better with early 21st century insights into the relation between trust and control in regulation. And presumably, will fair better in empirical tests.

The first section gives an overview of RRT and the recent criticisms based on attempts to test assumptions of and assertions made by RRT. The second section gives a brief overview of trust, control and how SDT has been used to explain the interaction between trust and control in manager-subordinate relations. In the third section the conditions that regulation needs to meet in order to enhance self determination, extrapolated from manager-subordinate relations, are compared with key concepts found in regulation theory and empirical findings. This forms the basis for the derivation of the theoretical model and propositions. In the last section conclusions are drawn and avenues for further research identified.

**Responsive regulation theory**

RRT is a theory that aims to overcome the debate between proponents of the punitive/deterrent enforcement style and those of the persuasive style. “The central issue is when to choose a deterrent approach and when to choose a persuasive one” (Mascini & Van Wijk, 2009, p. 29). The general principle is one of “tailoring the enforcement style to the propensity and capacity of regulatees to comply” (Mascini & Van Wijk, 2009, p. 29). “Enforcement strategies should be arranged in a hierarchy, or ‘regulatory pyramid’ with more
cooperative strategies deployed at the base of the pyramid and progressively more punitive approaches used only if and when cooperative strategies fail” (Nielsen & Parker, 2009, p. 378).

Regulators in RRT are assumed to have the skill and will to act responsively towards regulatees, to be “tough on the bad guys and soft on the good guys” (Nielsen, 2006, p. 396).

Successful pursuit of cooperative regulation is predicted by:
1. Use of a tit-for-tat strategy;
2. Access to a hierarchical range of sanctions and a hierarchy of interventionism in regulatory style (the enforcement pyramid);
3. Height of the pyramid (the punitiveness of the most severe sanction).
(Ayres & Braithwaite, 1992, p. 40)

**Trust and regulation**

Despite the emphasis on deterrence and compliance in regulatory theory, there is also evidence of the positive role of trust. Responsive regulation theory stresses the importance of trust. It is based on game theory and the tit-for-tat strategy in which actors start with cooperation and if the other actor reciprocates, a cooperative exchange may develop. If the other actor responds with defection, taking advantage of the initial trust, then the first actor retaliates with defection. The actor copies the other actor’s action. Ayres and Braithwaite (1992) called this cooperation trust, which nowadays is seen as low distrust (Rousseau et al., 1998). Braithwaite and Makkai (1994) empirically investigated the impact of trust on compliance in the inspection of Australian aged care homes. They found that regulatees’ perception of regulator trust in them increased regulatee compliance at the next inspection (18-20 months later). Murphy (2004) investigated the effect of the trust Australian tax payers have in the Tax Office. She found that regulatee trust in the regulator leads to higher voluntary compliance. Procedural justice is an important antecedent to this regulatee trust.

**Empirical tests of RRT**

RRT is based on extensive empirical research performed by Braithwaite and colleagues over many years. RRT, itself, however, does not come with testable hypotheses. Several authors have derived testable hypotheses from RRT and tested them empirically. Operationalization of many key concepts in RRT proved problematic and the results of the tests provided no, or at best weak, support for RRT.

Nielsen (2006, p. 395) tested whether inspectors were responsive in the way in which RRT prescribes. She investigated some 2,500 breaches in four different regulatory domains in Denmark. “The empirical analyses show that regulatory inspectors manage to act responsively, but only to a small degree and not necessarily in the way that the theories of responsive and tit-for-tat regulation recommend.”

Mascini and van Wijk (2009, p. 27) investigated RRT’s prescription that “enforcers should not shift to coercing before it has become clear that persuading does not work”. They developed three presuppositions and found that all three are problematic when empirically tested in inspection relations of the Dutch Consumer Food and Product Safety Authority. “Enforcement agents apply different styles in comparable cases; they are impeded in applying the most appropriate style; and they do not control the perverse consequences of their conduct because regulatees tend to perceive it as more coercive than intended by inspectors” (Mascini & Van Wijk, 2009, p. 27).
Nielsen and Parker (2009) empirically investigated to what degree regulators show tit-for-tat responsiveness or restorative justice responsiveness, and with what effect on regulatee compliance. They investigated 141 interactions between large Australian businesses and the Australian Competition and Consumer Commission, specifically investigations after accusations of breaching the Trade Practice Act. They found “little evidence of tit for tat responsiveness actually occurring in practice. To the extent that tit for tat responsiveness does exist, [they found] a small amount of evidence that is has the hypothesized effect on behaviour but not attitude. [They found] clearer evidence of restorative justice responsiveness having the hypothesized effect on attitudes, but not on behavior” (Nielsen & Parker, 2009, p. 376).

This study argues that some of these findings may be better explained using an improved model in which trust and control are conceptualized as complements rather than substitutes. For example, in RRT, regulator’s general propensity to trust or distrust is ignored, which could explain some of the findings in all three studies. The finding that tit for tat responsiveness improves regulatee behaviour but not attitude may be explained by the fact that this type of responsiveness is deterrence-based trust which is really low distrust rather than trust (Nielsen & Parker, 2009). The regulatee probably perceives regulator actions as purely controlling and without any attempt to build trust. The finding that restorative justice improves regulatee attitude towards inspectors but not regulatee behaviour, i.e. compliance, may be explained by showing that singularly positive, i.e. trusting, behaviour of the inspector is likely to create positive attitudes, but does nothing to improve behaviour. The inspector does not control. Finally, in the operationalization of the concepts to be able to measure them empirically, the distinction between an actor’s intention behind an action and how it is perceived by the other is usually ignored, while this is crucial for trust-building (Six & Sorge, 2008).

**Trust and control**

Both the literature on trust and on control are vast. It is not possible to give comprehensive reviews. Here, the focus is on the characteristics most relevant for this study’s purpose.

**Trust**

It has often been argued that trust is essentially important for successful cooperation and effectiveness in societies (e.g., Fukuyama, 1995; Putnam, 2000; Zucker, 1986), between organizations (e.g., Ring & Ven, 1992; Ring & Ven, 1994; Sydow, 1998; Zaheer, McEvily, & Perrone, 1998) and within organizations (e.g., Deutsch, 1973; Lewis & Weigert, 1985; Nooteboom, 2002; Rousseau et al., 1998; Zand, 1972). Public trust is seen as a necessary ingredient for democratic legitimacy (e.g., Warren, 1999).

Trust has been studied in many different academic disciplines and this has resulted in many different definitions. A definition that is generally accepted is that of Rousseau et al. (1998, p. 395), “trust is a psychological state comprising the intention to accept vulnerability based upon the positive expectations of the intentions or behavior of another”. Trust is a judgment based on knowledge about another party’s trustworthiness or untrustworthiness, respectively, but thus knowledge is not complete. Trust implies that there is uncertainty about the trustee’s future behaviour. Möllering (2006, p. 356) argued that trust inevitably involves a leap of faith in which the “irreducible social vulnerability and uncertainty [are suspended] as if they were favourably resolved.”
The crux of trust is that it is not simply the more trust the better it is. Trust is not always warranted. But at the same time, generic distrust is also not warranted (Hardin, 1993). The key question is: how well do I know the other so that I can trust the other to do what I need her to do? (Gabarro, 1978; Six, 2005). Trust and distrust are both selective: How well can the trustworthy be distinguished from the not trustworthy? How much tolerance for errors in the judgment is acceptable? The answer to the last question will depend on the risks involved in making errors (of both Type I and II) and the political context (Hood, Rothstein, & Baldwin, 2001; OECD, 2010).

Control
In general, control can be defined as a process of regulating other people’s behaviour to make it more predictable and achieve the outputs that the controller wants to achieve (e.g., Das & Teng, 1998; Sitkin, Cardinal, & Bijlsma-Frankema, 2010). It addresses the question: how do you generate and retain the commitment of other people to tasks that call for heavy investments of time and effort and yet are difficult to prescribe, programme and monitor?

Two basic types of control exist in the literature: external measure-based control and internal value-based control (Eisenhardt, 1985). The former has been called formal, objective coercive, restrictive or bureaucratic control (Adler & Borys, 1996; Das & Teng, 1998; Elias, 2009; Kunda, 1992; Maguire, Phillips, & Hardy, 2001). Bureaucratic control focuses on the enforced obedience to the rules (Adler & Borys, 1996; Kunda, 1992). In that vein, Dunbar and Statler (2010, p. 22) refer to Frederick Taylor’s influential theories on control, “Taylor said he did not want initiative from the men – he just wanted them to obey his orders.”

Internalized control has been called normative, clan, enabling, promotive or social control (Adler & Borys, 1996; Das & Teng, 1998; Elias, 2009; Kunda, 1992) and is more directed to an internalization of the rules and an identification with the organization or public interest. Promotive control refers to a controlling actor attempting “to influence [a controlled actor] while listening to his or her opinions and including him or her in the decision-making processes” (Elias, 2009, p. 370). Enabling control is aimed at enabling controlled actors to “master their tasks” (Adler & Borys, 1996, p. 62).

Trust and control
Both trust and control are fundamental sociological concepts and are properties of relationships between actors. In the field of management and organization much attention is paid to the relationship between trust and control, but not in the public management/administration literature. Das and Teng (1998) distinguished three perspectives on the trust-control relationship. First, trust is seen as one type of control mechanism (e.g., Bouckaert & Halligan, 2008; Bradach & Eccles, 1989). But how can this be true if trust does not involve influencing the behaviour of others directly, as the definition of control suggests that a control mechanism should? Also, trust is not a mechanism. In the second perspective, trust and control are substitutes (e.g., Ring & Ven, 1994; Zand, 1997); control mechanisms are viewed as an operationalization of strategies of distrust (Knights, Noble, Vurdubakis, & Willmott, 2001). The more control the less trust and possibly even the more distrust. In the third perspective, trust and control are parallel concepts, that is, “the two can be employed simultaneously, in full awareness of the role and efficacy of each other” (Das & Teng, 1998, p. 496; Weibel, 2007).

This study takes the perspective that trust and control may be complements, i.e. the third perspective, while acknowledging that not any combination of trust and control is effective
Empirical evidence shows that governance on the basis of extrinsic motivation (i.e., external control) may crowd out governance on the basis of internalized motivation, which is crucial for trust (e.g., Frey, 1997a; Frey, 1997b; Frey & Jegen, 2001; Frey & Osterloh, 2005; Ryan & Deci, 2000). Whether control crowds out trust depends on whether certain conditions are met (Weibel, 2007). These conditions are based on social determination theory (Deci & Ryan, 2000; Ryan & Deci, 2000).

**Social Determination Theory (SDT)**

SDT builds on earlier theories of intrinsic versus extrinsic motivation. Because intrinsic motivation is defined quite narrowly to refer only to activities that “have the appeal of novelty, challenge, or aesthetic value” (Ryan & Deci, 2000, p. 71), there is the need for the concept of self-determination. Self-determined activities are “activities that people do naturally and spontaneously when they feel free to follow their inner interests” (Deci & Ryan, 2000, p. 234). When performing self-determined activities, people have an internal perceived locus of causality. When, however, external rewards are introduced for these activities, “people tend to feel controlled by the rewards, prompting a shift in the perceived locus of causality for the behavior from internal to external” (Deci & Ryan, 2000, p. 234). SDT posits that the more people internalize and integrate socially sanctioned values and norms, the more self-determined their actions and the more likely it is that their locus of causality is internal. Internalization of extrinsic motivation is

the means through which individuals assimilate and reconstitute formerly external regulations so the individuals can be self-determined when enacting them. When the internalization functions optimally, people will identify with the importance of social regulations, assimilate them into their integrated sense of self, and thus fully accept them as their own. In doing so, they will become more integrated not only intrapsychically, but also socially (Deci & Ryan, 2000, p. 236).

SDT is based on supporting the three basic psychological needs that people have: autonomy, competence and relatedness. According to SDT, it is part of the way human organisms are designed and work that they “want to engage [in] interesting activities, to exercise capacities, to pursue connectedness in social groups, and to integrate intrapsychic and interpersonal experiences into a relative unity” (Deci & Ryan, 2000, p. 229). This internalization process, however, does not occur automatically. “The degree to which people are able to actively synthesize cultural demands, values, and regulations and to incorporate them into the self is in large part a function of the degree to which fulfillment of the basic psychological needs is supported as they engage in the relevant behaviors” (Deci & Ryan, 2000, p. 238).

**SDT, trust and control**

Weibel (2007) used SDT to develop a model of the relation between trust and control for the hierarchical relationship between managers and subordinates within organizations. Her premise was that the more control measures support people’s basic needs for competence, autonomy and relatedness, the more likely it is that people internalize and integrate the socially sanctioned values and norms. And the more subordinates internalize these organizational values, the more trustworthy they are to managers and other organizational members.

People want to feel part of and accepted by the social groups they live in. Relatedness is enhanced when regulatees are able to internalize the values and regulations of their social groups (Deci & Ryan, 2000, p. 238). Relatedness is enhanced if the authority within the group, such as a leader within an organization, imposes the formal controls with positive intentions, in other words if he trusts rather than distrusts those controlled (Weibel, 2007,
Figure 1). Competence is enhanced the more regulatees are supported in their ability “to understand or grasp the meaning or rationale behind the regulation and an ability to enact it” (Deci & Ryan, 2000, p. 238). This process is enhanced the more regulators give constructive feedback (Weibel, 2007, p. 509). The need for autonomy is supported the more regulatees are given the opportunity “to freely process and endorse transmitted values and regulations” and the opportunity to give “personal meaning and valence to acquired regulations” (Deci & Ryan, 2000, p. 238). In work situations, this implies that the need for autonomy is supported the more regulatees participate in the development of formal controls and the execution of those controls (Weibel, 2007, p. 508). Autonomy is furthermore enhanced, the more rewards and sanctions “are administered on the basis of a broad and more subjective evaluation”, rather than “strictly contingent on the evaluation of standard fulfilment” (Weibel, 2007, p. 509).

**Regulation theory and social determination theory**

Weibel (2007) applied SDT to the relationship between trust and control in the hierarchical relationship between managers and subordinates. She formulated conditions for formal controls so that they support self determination and will thus enhance value internalization. This study argues that these conditions may also be applied to the hierarchical relationship between regulator and regulatee, the focus of this study. When the actors subjected to the formal controls (the ‘regulatees’) internalize and integrate the values of the actors imposing the formal controls (the ’regulators’), then the regulatees are more likely to comply with the regulation in a self-determined way, on their own volition. The quality of the compliance will be higher. SDT shows that value internalization is stimulated when the regulatees feel their needs for autonomy, competence and relatedness are supported by the regulators (Deci & Ryan, 2000; Ryan & Deci, 2000).

The conditions that make formal controls more or less in support of value internalization and self determination have been discussed in the previous section and are presented in the first column of Table 1. In the second column, concepts from regulation theory that relate to each of the self-determination enhancing conditions are listed. In the process of searching through regulation theory for self-determination enhancing conditions, a new condition was formulated (indicated with 3).

**Relatedness**

Ample regulation research exists to show the sensitivity of regulatees to what their social groups value. Social motivations and social norms are the concepts commonly used (e.g., Winter & May, 2001). Campbell (2007) listed many social factors that influence compliance by supporting the need for relatedness. For example, when normative calls for socially responsible behaviour are “institutionalized in, for example business publications, business school curricula, and other educational venues in which corporate managers participate” (Campbell, 2007, p. 959). Businesses are also more likely to act in socially responsible ways “if they are engaged in institutionalized dialogue with unions, employees, community groups, investors, and other stakeholders” (Campbell, 2007, p. 962). This dialogue may be seen as part of neo-corporatism (Downes, 1996; Streeck & Schmitter, 1985), or Ayres and Braithwaite’s (1992) preferred approach of republican social democracy.

The impact of regulator trust, signalling positive intentions, has already been discussed (e.g., J. Braithwaite & Makkai, 1994). It must be noted though that not only must the regulator trust the regulatee for this effect to take place, the regulatee must also perceive that trust (Murphy, 2004). Disengaged regulatees (V. Braithwaite, 2009) or calculatively motivated regulatees
(Winter & May, 2001) are likely not to perceive this regulator trust as they are not interested in building a relationship with the regulator (Six, 2005); their need for relatedness does not extend to include the regulator.

Supporting the need for relatedness is also the mechanism to explain why procedural justice is important for regulatee compliance. If the way the regulator treats regulatees is perceived as procedurally just, regulatees are more likely to feel respected as part of the social group and are more likely to perceive that the regulator trusts them (Murphy et al., 2009; Tyler, 2006).

**Competence**

The higher regulatees’ knowledge of the rules (Winter & May, 2001) the more regulatees are supported in their understanding of the regulation. Their grasp of the meaning and rationale behind the regulation is enhanced with the regulator’s educational activities towards the regulatee, as is represented by the lowest level of the regulatory pyramid in responsive regulation theory (Ayres & Braithwaite, 1992).

Mascini and van Wijk’s (2009) research into the interaction between restaurant and small food store owners and their inspectors revealed the need for regulatees to be able to speak the language; many of them did not speak enough Dutch to be able to understand the inspector. If they cannot communicate with each other, the inspector cannot support the regulatee in their need for competence, or for that matter relatedness or autonomy.

Regulatee need for competence also implies that regulatees are able to enact the regulation, therefore they need to have the capacity to comply (Winter & May, 2001). Adler and Borys’ (1996) notion of enabling control as control that helps regulatees manage their compliance tasks, relates to this capacity.

Responsive regulation theory stresses the need for constructive feedback and praise to stimulate regulatee compliance (Braithwaite, Makkai, & Braithwaite, 2007; Makkai & Braithwaite, 1993). Mascini and van Wijk (2009, p. 40) found, though, that small entrepreneurs were not always able to take this feedback in as constructive.
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<tr>
<th>Self-Determination Enhancing Conditions</th>
<th>Related Concepts in Regulation Research</th>
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<tr>
<td><strong>Relatedness</strong></td>
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<tr>
<td>- Internalize values and regulations of ones social groups¹</td>
<td>- Social motivations, social norms (Winter &amp; May, 2001)</td>
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<td></td>
<td>- Social control, normative calls (Campbell, 2007)</td>
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<tr>
<td>- Positive intentions regulator²</td>
<td>- Regulator trust in regulatee (Murphy, 2004)</td>
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<td></td>
<td>- Procedural justice (Murphy <em>et al</em>., 2009)</td>
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<td><strong>Competence</strong></td>
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<tr>
<td>- Ability to understand or grasp meaning or rationale behind regulation¹</td>
<td>- Knowledge of rules (Winter &amp; May, 2001)</td>
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<td></td>
<td>- Educating regulatees (Ayres &amp; Braithwaite, 1992)</td>
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<td></td>
<td>- Speak and understand regulator language (Mascini &amp; van Wijk, 2009)</td>
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<tr>
<td>- Ability to enact regulation¹</td>
<td>- Capacity to comply (Winter &amp; May, 2001)</td>
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<td>- Constructive feedback²</td>
<td>- Constructive feedback (Braithwaite <em>et al</em>., 2007)</td>
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<td></td>
<td>- Praise (Makkai &amp; Braithwaite, 1993)</td>
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<tr>
<td><strong>Autonomy</strong></td>
<td></td>
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<tr>
<td>- Opportunity for regulatee to freely process and endorse transmitted values and regulation¹</td>
<td>- Self-regulation (Campbell, 2007)</td>
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<td></td>
<td>- Enforced regulation (Ayres &amp; Braithwaite, 1992)</td>
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<tr>
<td>- Opportunity to give ‘personal’ meaning and valence to acquired regulation¹</td>
<td>- Self-regulation (Campbell, 2007)</td>
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<td></td>
<td>- Enforced regulation (Ayres &amp; Braithwaite, 1992)</td>
</tr>
<tr>
<td>- Internal locus of causality¹</td>
<td>- Normative motivations (Winter and May, 2001)</td>
</tr>
<tr>
<td>- Degree of participation²</td>
<td>- Enforced regulation (Ayres &amp; Braithwaite, 1992)</td>
</tr>
<tr>
<td></td>
<td>- Management-based regulation (Coglianese &amp; Lazer, 2003; Gunningham &amp; Sinclair, 2009; Parker, 2003)</td>
</tr>
<tr>
<td>- Combination of rewards/evaluation²</td>
<td>- Restorative justice (Braithwaite, 2002; Macrory, 2006; Nielsen &amp; Parker, 2009)</td>
</tr>
<tr>
<td></td>
<td>- Procedural justice and control (Makkai &amp; Braithwaite, 1996)</td>
</tr>
<tr>
<td>- Tailor-made regulatory arrangements³</td>
<td>- Regulatory arrangements (Braithwaite, 2008)</td>
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¹ Source Deci and Ryan (2000, p. 238).
² Source Weibel (2007, Figure 2)
³ Source own analysis.
Autonomy
The more difficult it is to comply with regulation, because it requires more effort and competence, the more important it is that regulatees are motivated in a self-determined way. Green-Demers, Pelletier and Menard (1997) found that “the positive relation between self-determined motivation and environmentally protective behaviors is stronger when the requisite behaviors are more difficult, suggesting that autonomous motivation is particularly important when greater effort or persistence is required to carry out a socially valued action” (Deci & Ryan, 2000, p. 241). Experimental research by van Prooijen (2009) found that procedural justice positively affects autonomy needs. Promotive controls (Elias, 2009) provide regulatees with opportunities to process and endorse the regulation.

The only example in regulation theory where regulatees are given the opportunity to process and endorse regulation or to give personal meaning and valence to the regulation imposed upon them, is the notion of enforced regulation (Ayres and Braithwaite, 1992), but this concept has not been taken up in theory or practice. This may be indicative of the traditional approach of the hierarchical application of regulation via the representative democratic procedures, rather than participative democratic procedures. The use of open norms rather than closed norms, and self-regulation may also be seen as proxies, although in the literature there is little emphasis on the giving of personal meaning and valence.

The concept of normative motivations (Winter & May, 2001) is linked to the SDT concept of internal locus of causality (Deci & Ryan, 2000). When regulatees are normatively motivated they will see the cause of their action as coming from themselves – they want to act in this way – rather than from outside – because others force them to act this way. This supports autonomy.

The degree to which regulatees are able to participate in the formulation and interpretation of the regulation has a positive influence on regulatee compliance. This is in particular aimed at interactive policy formulation, but stakeholder negotiations and consensus building (Campbell, 2007) are also examples of such participation. Management-based regulation using corporate compliance systems (Coglianese & Lazer, 2003; Gunningham & Sinclair, 2009; Parker, 2003) is another approach that promotes autonomy and thus self determination.

The way in which sanctions (and rewards) are applied also impacts on autonomy and in regulatory theory the concept of restorative justice refers to this (Braithwaite, 2002; Macrory, 2006; Nielsen & Parker, 2009). The more restorative the sanctions, the more likely that regulatees will comply in future. The empirical evidence in support of restorative justice, though, is ambiguous (Nielsen & Parker, 2009). Makkai and Braithwaite (1996) found that the degree of control that regulatees have over the enforcement process is important for the degree of compliance they show. This relates to the degree of autonomy that they perceive they have.

The need for regulatee autonomy support is also addressed in Braithwaite’s (2008) regulatory capitalism with its tailor-made regulatory arrangements.

Interestingly, another popular concept in regulation theory, naming and shaming (Makkai & Braithwaite, 1994; Van Erp, 2009) does not appear in table 1. According to SDT it does not support self determination and value internalization. Threats of guilt and shame are part of introjected regulation rather than internalized regulation (Deci & Ryan, 2000, p. 236). Also,
naming and shaming will only work if violating the rules is seen as shameful behaviour within the social group that the regulatee wants to belong to. This condition is often not met.

**Trust and control in regulatory relations**

How do trust and control interact in regulatory relations? Control may or may not complement trust, depending on how the controls are designed and implemented. Self determination theory proposes that the more regulator controls enhance regulatee self determination, the more regulatees are likely to comply of their own volition, making them more trustworthy, which in turn will increase regulator trust in regulatees. And, vice versa, the more regulator controls reduce regulatee self determination, the less likely regulatees are to comply voluntarily, reducing their trustworthiness. In this section this insight is used to build a conceptual model that shows the way in which regulator trust and control may complement each other in promoting regulatee compliance (Figure 1).

**Figure 1: Reinforcing cycle of regulator trust and control**

The higher regulatee internalization of regulator values, the more likely regulatee compliance. When regulation, and regulator behaviour, support regulatee self determination and value internalization, regulatees are more likely to comply with the regulation on their own volition, with an internal locus of causality (Deci & Ryan, 2000).

**Proposition 1:** The higher regulatee internalization of regulator values, the higher regulatee self-determined compliance, *ceteris paribus.*

The more self determined the regulatee is with regard the regulation and the more regulator values are internalized, the stronger the motivation to comply on their own volition. Regulatee trustworthiness is more likely if the regulatee is motivated to comply voluntarily. The more self determined the regulatee motivation to comply, the more likely the regulator will trust the regulatee.

**Proposition 2:** The higher regulatee self-determined compliance, as perceived by the regulator, the higher regulator trust, *ceteris paribus.*

Regulator trust will have a positive effect on most regulatees’ motivation. Regulator trust supports relatedness and thus self determination (Weibel, 2007). Regulator trust only has this effect if the regulatee perceives this trust, not when only the regulator says he trusts and believes he acts as such (Mascini & Van Wijk, 2009; Nielsen & Parker, 2009; Six & Sorge, 2008).
Proposition 3: The higher regulator trust, as perceived by the regulatee, the higher regulatee self determination and internalization of regulator values, *ceteris paribus*.

Controls that enhance self determination have a positive effect on value internalization. The stronger these controls, the more regulatees internalize regulator values and hence the more likely regulatee compliance. Controls enhance self determination when they support regulatee needs for relatedness, competence and autonomy (see table 1).

Proposition 4: The more strongly regulator controls enhance regulatee self determination, as perceived by the regulatee, the higher regulatee internalization of regulator values, *ceteris paribus*.

An important self-determination-enhancing condition is that the regulator has positive intentions towards the regulatee. This is more likely the more the regulator trusts the regulatee. Hence regulator trust positively affects self-determination-enhancing controls.

Proposition 5: The higher regulator trust, as perceived by the regulatee, the more self-determination-enhancing regulator controls, *ceteris paribus*.

The five propositions developed so far create a reinforcing cycle in which controls that enhance self determination, lead to higher internalization of regulator values and to higher voluntary compliance; this in turn leads to higher regulator trust and to controls that are more self-determination-enhancing. This, however, is not the whole story. There are important variables that may reinforce or dampen this cycle (Figure 2).

**Figure 2: Reinforcing cycle and influencing factors**

First, regulator controls that reduce regulatee self determination have a negative effect on value internalization. The stronger these controls, the less regulatees internalize regulator values and hence the less likely regulatee compliance. Controls reduce self determination when they go against regulatee needs for relatedness, competence and autonomy (see Table 1).
Proposition 6: The more strongly regulator controls reduce regulatee self determination, as perceived by the regulatee, the lower regulatee internalization of regulator values, *ceteris paribus*.

So far the implicit assumption has been that the values and norms that the regulation is based on (regulator values and norms) are congruent with those of the social groups that the regulatee wants to feel related to and accepted by (social values and norms; Winter & May, 2001). However, if the regulator values are in conflict with those of the social groups that the regulatee wants to feel related to, then the regulatee will find it very difficult to internalize the regulator values and norms. It is then more likely that the regulator controls will be experienced as reducing value internalization and self determination and thus are more likely to reduce self-determined compliance and regulator trust.

Proposition 7: The more social values conflict with regulator values, as perceived by the regulatee, the less likely it is that the regulatee will internalize regulator values, *ceteris paribus*.

Regulatee compliance is dependent on regulatee competence to comply and regulatee motivation or intention to comply (Winter & May, 2001). For regulatees, irrespective of their intentions, the higher their competence to comply, the higher their compliance.

Proposition 8: The higher regulatee competence, the higher regulatee compliance, *ceteris paribus*.

Six and Sorge (2008) also point to the need for specific competencies if actors want to actively build trust in their relation. Both actors – regulator and regulatee – need to have the interpersonal, communicative and reflexive competencies to signal to each other their positive intentions and to be able to interpret the other actor’s signals properly. Mascini and van Wijk’s (2009) research adds the regulatee competence to speak the regulator language. Regulatees may be trusted by a regulator if they have both the competence and intentions to obey the law, i.e. to comply (Nootenboom, 2002; Weibel, 2007). Intentions and competence are two separate dimensions of trustworthiness. On the competence dimension of trustworthiness a regulatee may be more or less competent. But this may be very task-specific. For example, a regulatee may be very good at solid waste management but incompetent where air pollution controls are concerned. May and Winter (2001) distinguish between knowledge of rules and capacity to comply.

Regulator trust is not only affected by regulatee trustworthiness (and regulatee compliance), but also by regulator general propensity to trust. Mayer et al. (1995) argued that this is about the general propensity to trust other human beings.

Proposition 9: The higher regulator’s general propensity to trust other human beings, the higher regulator trust, *ceteris paribus*.

This study proposes that this also applies to regulator general propensity to trust regulatees in general. For example, Mascini and van Wijk (2009, p. 33) found that 47% of inspectors believed “there are more bad companies than good companies”, i.e., showed a general propensity to distrust regulatees, while only 31% believed the opposite, showing a general propensity to trust.
Proposition 10: The higher regulator’s general propensity to trust regulatees, the higher regulator trust, *ceteris paribus*.

**Conclusion and implications for research**

This article’s purpose is to show that the way in which the relation between trust and control is conceptualized in responsive regulation theory (RRT) may be improved using self determination theory (SDT). RRT relies heavily on the game-theoretic tit-for-tat strategy to conceptualize cooperation/trust and repression/control as substitutes. When the regulator trusts, he does not control or punish. Recent attempts to empirically test RRT have not been very successful. The argument here is that this is partly because of the way in which trust and its relation to control have been conceptualized.

In this article SDT is used to build a model for the relation between regulator trust and control as they affect regulatee compliance. The model follows the perspective that control may complement trust in achieving internalization of regulator values by the regulatee and thus result in voluntary compliance. Such self-determined, voluntary compliance has a positive impact on regulator trust which in turn has a positive effect on both regulatee internalization of regulator values and regulator controls that enhance self determination. This creates a reinforcing cycle. Next, several factors were discussed that affect the different variables in the cycle. These may further reinforce or dampen the cycle. For example, the more regulators have a general propensity to distrust and – possibly as a consequence - the more controls reduce self determination, the lower regulatee compliance.

The definition used for trust is based on Rousseau et al.’s (1998) definition that is dominant in organization research. Since regulatory relations are interorganizational relationships, this is appropriate. Möllering’s (2006) review of the broader social science literature identified three bases for trust: reasons, routines and reflexivity. Rousseau et al.’s definition refers to reasons as bases for trust. Further research is needed to investigate what the other bases for trust imply for trust in regulatory relations. Given the need for bureaucratic neutrality and objectivity and the need for public accountability (Bovens, 2005), trust based on routines must be treated with great care. The risk of regulatory capture (Ashworth, Boyne, & Walker, 2002) is high, as is unwarranted distrust by public officials (Yang, 2005). In most regulatory relations reflexivity is likely to be crucial for trust that is built based on reasons. Given the negative impact of regulator distrust on trust building, regulatee self determination and compliance, regulators do well to start a regulatory relation with as-if trust (Möllering, 2006) and then remain very alert and reflexive about the ensuing interaction between regulatee and regulator.

This article assumed that the regulatee is a homogenous actor (Allison & Zelikow, 1999). If the regulatee is an individual (e.g., a tax payer or a recipient of state benefits) or a small business (e.g., a small foodstore owner) this is appropriate. Many regulatees, however, are larger organizations (e.g., care homes, schools, chemical facilities) and the concept of organizational trust becomes relevant. What makes such organizations trustworthy in the eyes of the regulator? Both Möllering (2006) and Sydow (1998, 2006) point to the fact that organizational trust is based on the interpersonal trust between the individual inspectors and the individuals within the regulated organization that they are in direct contact with (the boundary spanners), and on trust in regulatee organizational systems. Organizational trust is seen to hinge on the “collective characteristics of an administrative organization and top management group which are not reducible to features of individual actors and which ensure
some continuity of activities and direction when those actors change” (Whitley, 1987, p. 133).

Further research is needed to develop the elements that make larger organizations trustworthy to regulators. Management-based regulation (Coglianese & Lazer, 2003; Gunningham & Sinclair, 2009) and corporate compliance systems (Parker, 2003; Parker & Nielsen, 2009) are likely to play an important role, as well as the “tone at the top” and ethical leadership (Kish-Gephart, Harrison, & Trevino, 2010; Trevino, Brown, & Hartman, 2003).

Valerie Braithwaite’s research (Braithwaite, 2009; Braithwaite, Braithwaite, Gibson, & Makkai, 1994) into regulatee motivations shows how any one regulatee may hold several motivational postures simultaneously, with one being dominant at the time of actually showing compliance behaviour (or not). Tenbrunsel’s research (Tenbrunsel & Messick, 1999; Tenbrunsel & Smith-Crowe, 2008) confirms this for ethical decision frames and shows that frame switching may occur, depending on the context, for example depending on regulator behaviour. At both ends of the spectrum, frames are likely to be stable. At the one end, regulatee motivation may be strongly principled (Kish-Gephart et al., 2010; Trevino et al., 2006), and therefore may not be very sensitive to social norms or regulator behaviour; these regulatees will comply irrespective of oversight and sanctions. This makes them highly trustworthy. At the other end of the spectrum, regulatees become insensitive to regulator trust because they are staunchly calculatedly motivated; they are only sensitive to what influences their calculation. These strongly calculatedly motivated regulatees are worthy of distrust and deserve to be treated with strong sanctions (Tenbrunsel & Messick, 1999). This would appear contradictory with the conclusions of the model derived above, but need not be. The model built in this article shows that it is not the severity of the sanctions that is relevant, but the degree to which regulator controls enhance or reduce value internalization and self determination. Severe sanctions may still enhance self determination.

Based on this model, the advice would be for regulators to always keep telling regulatees they have a choice; it is up to them and their compliance behaviour how they are treated. However, calculative their behaviour is currently. This will have a positive effect on their need for autonomy. Also, always treat them with high procedural justice (Murphy, 2004; Murphy et al., 2009; Tyler, 2006); this will have a positive effect on relatedness and autonomy. Treating regulatees with respect will also be beneficial as “respect includes appreciation of universal human dignity, equality and autonomy” (Goodman, 2009, p. 3).

References


