A behavioural perspective on the regulation of quality in professional services

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Setting the (EU) scene

- Quality regulation under closer scrutiny
- 'Reality check' is in order
- Ongoing behavioural study

Questions Behavioural Study

- What are the theoretical premises that justify the achievement of public policy goals through the professional regulation in place (including its type and intensity)? Are there additional or alternative factors, **in particular behavioural ones**, that could lead to the desired policy outcomes?

- Based on empirical evidence, how **relevant** is the professional regulation in place for inducing business professionals to act in line with the public policy goals pursued by this regulation?

In other words…

Are we missing something BIG?

Conflicts of Interests

A behavioural viewpoint

Behavioural Ethics

Have you heard of Behavioural Ethics before?
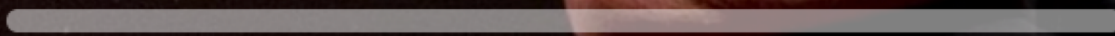
THE (DIS)HONESTY PROJECT

From political lies and fake news to financial fraud, plagiarism, and infidelity, dishonesty seems to be a universal part of the "post-truth" world we live in. Going far beyond scandalous headlines, cheating isn't just happening on a newsworthy scale, it's happening in small ways everywhere. It's human nature to lie, we all do it! But little fibs can snowball into large-scale problems with major implications for society. Studies have shown that we don't really understand the causes and complexities of dishonesty. Research also indicates that reminding people and ourselves about our own morality makes us behave better.

The (Dis)Honesty Project hopes to create a safe space where we can explore the complicated truth(s) of the matter, improving our own behavior and that of the world around us. The project is a partnership between bestselling author and social scientist Dan Ariely and SALTY Features.

The Project's initiatives include:

(DIS)HONESTY - THE TRUTH ABOUT LIES
A documentary feature film

THE TRUTH BOX
A traveling installation that invites people to share the truth about a lie.

PROFESSIONAL TRAINING
Innovative, thought-provoking programs designed to make ethics more salient in organizations.

EDUCATION INITIATIVES
A curriculum for middle and high school students, including fun experiments designed by Dan Ariely

"Good people do not need laws to tell them to act responsibly, while bad people will find a way around the laws." - Plato

Actually…

Key Distinction

- **Authentically Good People** often misperceive their own unethicality (bounded ethicality) blind spots

- **Situational Wrongdoers** engage in self deception: dissonance reduction, ex-post justifications, moral disengagement

We are really good at seeing ourselves looking (ethically) good and telling ourselves stories

To tackle unethical behaviour, we need to shift the focus from sanctions (*ex post*) to situations (*ex ante*)

How much space is there for self-serving story telling?
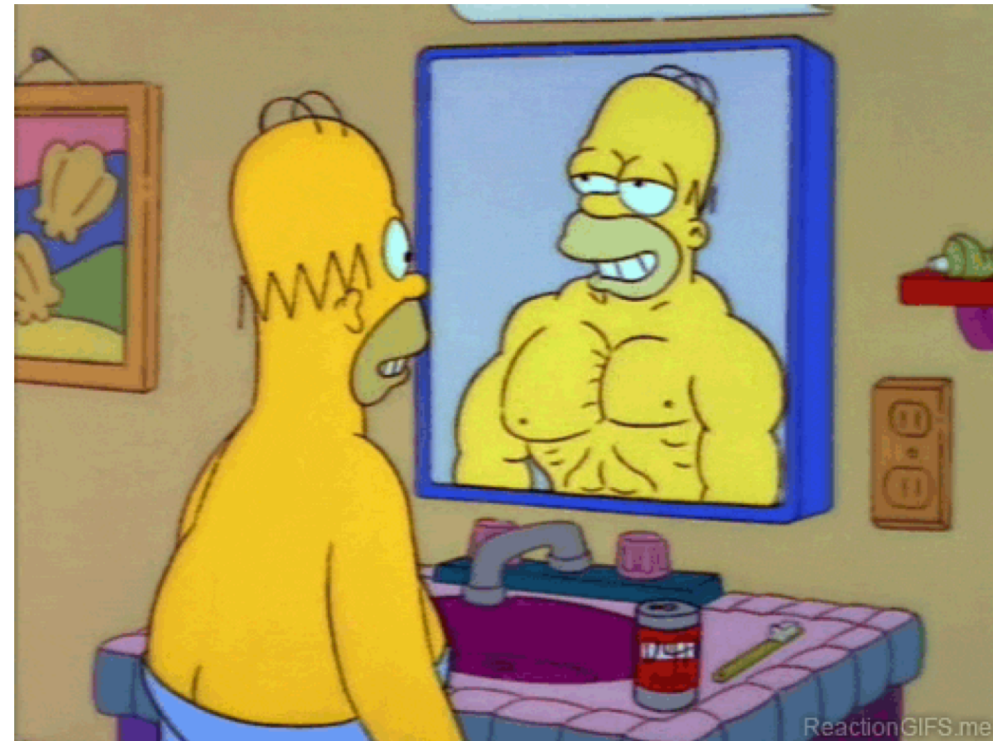
Focus of Behavioural Ethics

- Identify situations that are conducive to rationalisation of bad behaviour and, therefore, wrongdoing

- Bring people to recognise that they are engaged in bad behaviour

Conflicts of Interests

- The conflict impairs the ability to see the conflict: blind spot

- Risky situations are those which offer possibilities to behave unethically *and* view oneself as a good person

- Risk factors include
  - Vagueness in the rules
  - Non-monetary rewards
  - Shared group identity
  - Partial dependency
  - Corruption for the sake of others

Do any of these insights
resonate with your own experience?

The conflict of interests impairs the ability to see the conflict (blind spot)

In my organisation, the person in a situation of potential conflict is in charge of identifying the conflict

In my organisation, conflict-check rules are precise

What are the implications?

The non-traditional toolbox

- Ethical nudges
- Explicit measure (v. implicit measures) work
- Enforcement (v. sanction)
- Targeted approach (focus on what people care about, money … or other rewards)
- REVISE
  - REmind people not to use grey areas to justify unethical conduct
  - VIsibiliy: increase people's awareness that they are being seen by their peers
  - SElf-engagement: reduce gap between abstract moral image of self and actual behaviour

- Inadvertent intervention
  - Unintended effects of existing regulation (can enhance risky features of a situation)
- Refining disclosure of Conflicts
  - Adjust *how* information is presented
- Four-eye principle
  - Can back fire if there is collusion
  - Task people with different roles
- Language of codes of conduct
  - Use 'employees' not 'we'

Who should care?

- Law firms, bar associations, regulators who design rules on CoI, Commission and Courts
- Member States that may be called upon to justify rules, esp. their proportionality
- Aptitude
  - E.g. can the rule reasonably be expected to prevent conflicts?
  - ➢Perhaps not if too vague
- Necessity
  - E.g. Are controls really necessary?
  - ➢Possibly if enforcement is more important than sanction
- Behavioural arguments are not inherently pro-regulation or pro-deregulation, they can go both ways

Take-aways

- Behavioural ethics is relevant to the regulation of conflicts of interests
- Perspective invites to shift the focus away from sanctions (ex post) to situations (ex ante)
- Helps identify risky situations
- ➢ Effective CoI rules should have regard to risk factors
- ➢ Behavioural ethics provides additional arguments to justify (or not) the proportionality of CoI rules

Thank you!

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