

Motivations for reporting organizational misconduct by professional bystanders

Prof. Judith van Erp and Dr. Kim Loyens

Utrecht School of Governance

j.g.vanerp@uu.nl; k.m.loyens@uu.nl

Utrecht University

Paper for Law and Society Association Annual meeting 2016, New Orleans

CRN 5, Regulatory Governance

WORK IN PROGRESS

PLEASE DO NOT CITE WITHOUT CONTACTING THE AUTHORS

1. Introduction

The vast majority of business offenses, whether systematic and serious or small and relatively harmless, remains undetected by public regulatory authorities. Yet, they are often witnessed in some form by employees, local residents, customers, competitors, accomplices or other parties. Reporting these signals to authorities can provide valuable information to regulatory agencies' own detection and investigation activities, and thus contribute to more efficient and effective enforcement. Against the background of diminishing budgets for detection activities, and growing complexity of business processes and markets, external and insider tips and reports are increasingly important for regulatory authorities. Regulatory authorities therefore more and more invite external parties to report suspicions of violations, fraud or wrongdoing through specialized web portals and complaints centers. Examples of these include the SEC's fraud portal; the US EPA reporting portal; the British Food Standards Agency reporting website and the EU Anti-Fraud Office OLAF's website¹.

These hotlines and notification centers not only contribute to better detection of offenses, but also respond to an increased call for more openness and transparency of public regulatory authorities to the public and more meaningful interaction between regulatory authorities and their stakeholders (Coglianese 2015). A multitude of policy initiatives, US, European as well as international, recognize the need for an involvement of stakeholders and civil society, as well as businesses themselves, in the regulation of businesses (Ayres & Braithwaite 1992)². Regulatory agencies' concern for missing out on a tip of a serious fraud case resulting in a public scandal, as happened to the SEC in the Madoff case³, also contributes to their awareness of the importance of taking external signals serious. Regulatory authorities therefore increasingly engage with stakeholders to receive information about market developments, regulatory risks and opportunities for fraud and offenses, both in a more general sense as well as information about concrete offenses. More 'client-friendly' reporting procedures, easily accessible complaint centers and better communication about follow-up all fit in this trend. As an example, in the Netherlands, where this research was carried out,

¹ <https://denebleo.sec.gov/TCRExternal/index.xhtml> ; <https://www.epa.gov/enforcement/report-environmental-violations>; <http://www.food.gov.uk/enforcement/enforcework/report>; http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

² Recently, the EU Better Regulation Guidelines; OECD Regulatory Policy Outlook report (2015); OECD Best Practice principles for Regulatory Enforcement and Inspections (2014); the EU Economic and Social Committee (EESC) and World Bank all propose to stimulate stakeholder and civil society involvement in business regulation.

³ In the Madoff case, the SEC neglected an extensive report filed to the SEC on suspicions of Madoffs fraud by one of Madoffs competitors, resulting in a legitimacy crisis for the SEC and disciplinary sanctions for several SEC staff members.

various inspectorates develop 'reporting apps' for reporting signals of offenses via a smartphone. It is expected that client-friendly reporting procedures and responsiveness to tips and complaints, contribute to the accountability and legitimacy of regulatory inspections.

Although an extensive scholarship exists on reporting, it has mainly focused on whistle-blowers: *insiders* who are directly part of or involved in the offending behaviour. Whereas whistle-blower motives, as well as incentives for reporting; legal protection, and legal aspects of whistleblowing arrangements have been extensively investigated, external witnesses have gained much less attention in scholarly literature. In fact, it is often taken for granted that external reporters will be willing to report business offenses to inspectorates (e.g. Feldman and Lobel, 2011).

This study focuses on one type of external witnesses, namely bystanders who maintain a professional relationship with a company. These could include suppliers, customers, and competitors. These parties distinguish themselves from whistleblowers in the sense that although they sustain a close relation with a (suspected) offending business, they are not directly part of the organization, let alone do they take part in the offense. Therefore, the name 'bellringers' has been suggested for this category. Well-known examples of parties that could be qualified as bellringers are Harry Markopolos, the competitor of Berny Madoffs Investment Company who filed an extensive report on his suspicions to the SEC, and the University of Virginia's research team that detected the Volkswagen diesel fraud and reported it to the EPA.

Whereas the main question in relation to whistleblowers is how they deal with the dilemma between their personal interests of job security; loyalty to the organization; and the public interest of ending the malpractice, there is reason to assume that 'bellringers' have different considerations and constraints for reporting. It is likely that they have less to loose; their anonymity can be more easily guaranteed, and economic motives probably play a more important role in their decision to report. On the other hand, the question is what motivates them to report when they do not directly benefit from reporting. Unlike the US, whistleblowers and bellringers are usually not rewarded in European jurisdictions. Also, 'bellringers' probably have other needs and expectations than whistleblowers in terms of information and procedural safeguards. On the other hand, their fear of retaliation or exclusion, and moral considerations about being a 'snitch' may be similar to the feelings of whistleblowers.

Systematic research into what motivates and withholds external parties to report on offending businesses is still very limited, however. This study is the first to systematically and empirically

investigate the motives and experiences of external reporters of business offenses. More insight into the motives, expectations and needs of external reporters can be used to improve the quality and responsiveness of reporting procedures and can contribute to an increase in reported business offenses, and thus contribute to more frequent and efficient detection of business misconduct as well as more legitimacy of inspectorates. Building on the existing literature about whistleblowing and bell-ringing, this paper asks what motivates 'bellringers' to report suspected business violations to enforcement authorities, and how they experience the reporting process.

To answer this question, an extensive empirical study was carried out of more than 350 reports of offenses at three inspectorates in the Netherlands, and 60 interviews with reporting business owners and representatives of business sector organizations and inspectorates. Despite the development into an increase of legal reporting duties for professionals (e.g. anti-money laundering legislation, see Verhage 2015), this study focuses on voluntary tips, because these obviously provide better insight into reporting motivations than obligatory reports.

2. Literature

An extensive literature exists on what *withholds* witnesses from reporting. As discussed in Cohen's 'States of denial' (2001), both offenders and witnesses have been found to deny or ignore 'guilty knowledge'. Publishing or reporting the truth requires a 'heroic will' (Hughes (1964), which Van de Bunt (2010) says is often lacking for neutral third parties who do not specifically suffer from the offense. Reasons to *report* have been mainly analysed in whistleblowing research focusing on employees who report violations they have observed within their organization. There is, however, only limited research on reporting by external bystanders. After a brief overview of the preliminary findings of such research, this part will focus on insights from the whistleblowing literature which might be relevant for bell ringing as well.

2.1 Why bellringers report

An often used example of bell ringing is Harry Markopolos who, in vain, reported information about Bernie Madoff's Ponzi Scheme to the American Securities and Exchange Commission (SEC) in 1999 and 2005. At the time, Markopolos worked in a firm that was an important competitor of Madoff's firm. Despite evidence of the violation, the SEC did not respond adequately because it did not provide sufficient financial and human resources that were needed for an in-depth fraud investigation (US SEC report, 2009; Van de Bunt, 2010). Relevant for our study is that the SEC did not consider

Markopolos a credible witness, because he was Madoff's competitor (US SEC, 2009: 18; Reichman, 2010). Only when Madoff's sons tipped the FBI in 2008, the large-scale fraud of approximately 50 billion dollar was discovered (Tofel, 2010).

Research on bell ringing is often limited to the analysis of such mediatized cases. More systematic research on this type of reporting is scarce. A study on patients who filed a complaint to the Dutch Health Care Inspectorate led to the conclusion that a sense of moral duty was the main reason to report. These reporters wanted first and for all to contribute to the quality improvement of the health care (Bouwman, Bomhoff, Robben & Friele, 2015). De Graaf (2010) concludes that external reporters are driven by a will to stop unjust, unacceptable or damaging practices. Miceli, Dreyfus and Near (2014) additionally hypothesize that selfish motives also play a role in bell ringing, such as to revenge personal harm suffered as a result of the violation, to remove distortion of competition or to receive financial gain in exchange of information (Miceli et al., 2014). Although such selfish motives are likely among professional bellringers, empirical research to support this is lacking.

2.2 Motives and explanations for whistleblowing

Because research on (professional) bystanders is limited, inspiration is drawn from studies on employees who blow the whistle about misconduct within their organization. In whistleblowing research, a distinction is often made between altruistic and egoistic motives to report. Altruism is found among whistleblowers that are willing to sacrifice for a good cause. The internal witness of wrongdoing is then convinced it is his moral duty to report, so action can be taken to stop it (Evans, 270; Hood & Jackson, 1991). De Graaf (2010) found that such reporters want to be sincere to their own moral image. These altruistic reporters often ask themselves the question whether they can really make a difference by reporting (Vynckier, Vande Walle & De Baets, 2015). If the violation is considered serious or harms the group one belongs to, reporting is more likely (Treviño et al., 1992; Victor et al., 1993). At the same time, whistleblowers are reluctant to report, because they want to protect other group members. They thus find themselves in a difficult tension between group loyalty and a sense of moral duty to report. We expect the influence of group loyalty to be different for professional bystanders because they are outsiders. Nevertheless, they might also experience some kind of professional loyalty towards the organization where the violation is observed. Regulatory compliance literature distinguishes between businesses that perceive themselves as embedded in a culture in which they define each other as competitors who strive for maximization of individual interest; or as entrepreneurs who act on the basis of moral principles; or as a community with shared

norms and values (Haines, 1997; Parker & Nielsen 2012). These shared norms and values, can coincide with formal rules and enforcement authorities as well as stem from resistance against authorities, in which case reporting is not very likely.

Selfish motives to blow the whistle are often based on a cost-benefit analysis by the person who observed the wrongdoing. If perceived advantages of reporting (e.g. improving your chances for a promotion or avoiding penalty as an accomplice) are considered higher than the risks (e.g. (in) formal retaliations), reporting will be more likely (King & Hermodson, 2000; Engdahl & Larsson, 2015). Positive incentives for employees to report about their colleagues or supervisors can also increase the likelihood of reporting, but simultaneously imply the risk of false complaints. In addition, whistleblower protection policies can decrease the risks of reporting. However, such policies often fail in practice (Vynckier, Vande Walle & De Baets, 2015; Raat, 2013; de Graaf & Lasthuizen, 2013) and cannot protect whistleblowers from informal retaliations, such as harassment (Vynckier & De Bie, 2015). Interestingly, whistleblowers are often also concerned about social, financial and legal implications for the (supposed) violator when they report, which might be different for the professional bystanders in this study.

Research on whistleblowing has also led to the identification of individual, contextual and organisational factors that explain reporting. Individual and organizational level factors will not be discussed here, because these findings are less relevant for reporting by bystanders. Contextual factors that stimulate reporting are the seriousness of the offense (Chen & Lai, 2014; Rothwell & Baldwin, 2006), the strength of the evidence (Miceli, Near, Rehg & Van Scotter, 2012; Dworkin & Baucus, 1998; de Graaf, 2008), and recidivism (Lee, Heilman & Near, 2004). We hypothesize that these contextual factors could also play a role in bell ringing.

Finally, a few whistleblowing studies have focused on how factors related to the authority to whom the (alleged) offense is reported explain the tendency to report. Such studies refer to the amount of trust of a reporter that the authority will take action (Goldman 2001; Treviño & Weaver 2001; Miceli & Near, 1992; Miceli & Near, 2004), the general acceptance of rules and trust in enforcement (Feldman and Lobel 2011), earlier experiences of the reporter with reporting to this (or other authorities) (Miceli & Near, 1992), and the design of the reporting procedure. Rather than genuine empirical research on the impact of these factors on reporting, this literature contains advice and recommendations on how to design reporting procedures. The importance of procedural justice is, for example, emphasized (Miceli et al., 2008; Near et al., 1996; Seifert, 2006; Treviño, Victor, &

Shapiro, 1993), which can be realized by installing transparent procedures that offer guarantees for independent investigation of the complaint (Feldman & Lobel 2011, Wortley et al., 2008; Vynckier & De Bie, 2015). More research is, however, needed to empirically study how the response of these authorities to reporting is experienced by those who report and how it impacts future reporting (Moberly, 2015).

As for the latter, empirical research shows that showing gratitude to the whistleblower (e.g. thanking him explicitly) can stimulate future reporting, because it is considered a confirmation that they have taken the right decision (de Graaf, 2007; Vynckier & De Bie, 2015).

In the few studies on bystanders (i.e. clients) who complain about an organization, feedback from the agency investigating the report about measures taken was considered an important motivator for future reporting. The lack thereof led to frustration (Bouwman, Bomhoff, Robben & Friele, 2015; Friele, Sluijs & Legemaate, 2008). Even if the report has not led to investigative or enforcing measures, feedback is said to be essential to avoid reporters become demotivated, because it gives reporters the feeling they are appreciated and treated seriously (de Graaf, 2010; Heard & Miller, 2006; Vynckier & De Bie, 2015). Vandekerckhove (2015) even states that answering is more important than reporting, which implies that authorities that receive complaints should actively foster the relationship with the reporter to encourage future reporting. We will also examine whether and to what extent professional bystanders are in need of general feedback and further information about action taken by the public regulator in response to their reporting.

3. Design and Methods

3.1 Methodology

This research project used a comparative case study design to study the motives and experiences of professional bellringers who report to inspectorates. Particularly, three inspectorates in diverse domains were selected, being the Environment and Transport Inspectorate (*Inspectie Leefmilieu en Transport, ILT*), the Netherlands Food and Consumer Product Safety Authority (*Nederlandse Voedsel- en Warenautoriteit, NVWA*) and the Health and Safety Inspectorate, which also covers social affairs and employment issues in the Netherlands (*Inspectie Sociale Zaken en Werkgelegenheid, ISZW*). Within these inspectorates, we included those topics where reporting by professional bellringers was considered most likely (based on initial interviews with inspectorate representatives), being violations on (1) production/use/sale of biocides and professional

goods/passenger transport (ILT), (2) safety in the agricultural sector and animal welfare health (NVWA), and (3) health and safety in the construction sector (ISZW).

Data were collected by analyzing 363 written report files registered by the inspectorates, and by means of interviews with 40 reporters (telephone), 11 inspectors (face-to-face) and 9 representatives of business sector organizations (telephone or face-to-face). For the selection of the report files, we focused on closed, but recent cases. The selection procedure differed, because the information and registration systems of the three inspectorates under study are different. In the ISZW, relevant reports in the construction sector were selected by using the key word 'competitor'. In the NVWA, we received an overview of reports in the division agriculture and environment that were searched through using key words like 'competitor', 'customer', 'supplier' and 'veterinarian'. These additional keywords were necessary, because of the diversity in types of reporters. In the ILT, all reports concerning goods/passengers transport and biocides were screened by two student assistants to select those in which the report was made by a professional bystander. The analysis of written files, conducted by means of a checklist based on an extensive literature review aimed at identifying various types of reports, reporters and motives to report. Because the written files did not contain detailed information about the motives of reporters, we conducted semi-structured interviews with relevant stakeholders.⁴ The topic guides for each respondent group (available on request) covered a range of areas, including motives for reporting, experience with reporting procedure, and attitude to inspectorate and sector. This type of within-methods and between-source triangulation increased internal validity of the study (Denzin, 1970).

This study suffered from four limitations. First, no interviews were conducted with silent observers. Even though reasons for not reporting were beyond the scope of this study, interviews with external professionals who witnessed violations but decided to keep quiet would have given relevant insights. This limitation was at least partly addressed by asking inspectors and representatives of business sector organizations whether they sometimes encounter such silent observers who decide not to file a report to the inspectorate, and by asking reporters about their doubts to report and whether they have ever witnessed violations but did not report them. Second, a different selection method was

⁴ In each inspectorate 10-15 reporters were selected on the basis of the analysis of the written files. Maximum variation in reporter characteristics and motives was aimed for. This sample is thus not representative, but covers the diversity of reporter types in the various agencies. These reporters were sent a letter by the inspectorate with the question whether they had objections that the information about their report and their identity would be made available to the research team. Five reporters refused cooperation (4 in NVWA, 1 in ISZW). Those who did not object were contacted by two student assistants for a telephone interview.

used for the written reports in the three inspectorates, which might create a flawed image of the motives to report. Because in the ISZW the key word 'competitor' was used, there might be an overrepresentation of self-interested reporters compared to the NVWA where the key words (e.g. 'veterinarian' and 'supplier') were more neutral. Third, the source of information differed in the written files. Sometimes the information contained the literal words of the reporter in an email, while in other files the information consisted of a summary of a telephone conversation by an employee of the inspectorate. The latter type of information could suffer from flawed interpretation by this employee. However, in telephone interviews with these reporters no such flaws were discovered. Fourth, the results of this study cannot be empirically generalized to other types of reporters or reporting to inspectorates not included in the study. However, theoretical generalization can be achieved as a result of the broad variation between (domains) and within (topics) agencies (Patton, 1990; Smaling, 2003). In other words, this study allows for identifying patterns of bell ringing within the context of various agencies and topics, and can thus also offer useful insights for inspectorates that were not included.

3.2 Reporting procedures and feedback

In the three inspectorates under study, reports can be made online or by telephone. Anonymous reporting is an option in all three agencies, but considered less valuable by inspectorates, because the information is often too limited for inspectorates to take action and inspectorates are unable to contact the reporter for further details. Front desk employees receive the reports and send them to the department responsible for investigating the rule violation mentioned in the report. In the ILT, the front desk plays an important role in distinguishing between reports with high and low priority, based on (un)written rules. In the case of telephone reports, front desk employees in all three inspectorates are trained to ask topic specific questions to make sure the reporting files contain all relevant information the inspectors need for their investigation. For specific topics, the ISZW has some additional reporting channels, such as a reporting app for asbestos and a reporting center for temporary employment violations. Labor exploitation, serious fraud and organized crime can be directly reported to the Criminal Information Force of the ISZW.

Reporters to all three inspectorates receive an automated acknowledgement of receipt of their report. In the ILT, no further feedback is given about how the report was dealt with by the inspectorate. However, when reporters have complained about issues the ILT is not responsible for or does not prioritize, front desk employees explain to them why the report will not be dealt with.

In the ISZW, a different feedback procedure is used for employees, labor unions and employees councils, on the one hand, and external reporters, such as competitors, on the other. While the former group of reporters in all cases receives oral and written feedback about the results of the investigation, other types of reporters (who are most relevant in our study) do not receive any feedback except the acknowledgement of receipt, which inspectors ascribe to their pledge of secrecy. In the feedback procedure of the division agriculture and environment of the NVWA, three categories of reporters are distinguished. First, veterinarians or employers who have reported about other veterinarians or employers do not receive any written feedback about how the report was dealt with. Second, colleagues from different enforcement agencies who have explicitly requested feedback do receive some information about the investigation. Third, individual citizens who have reported about animal welfare are informed about whether or not a violation has been observed and 'suitable measures' have been taken. In addition to this formal procedure, NVWA inspectors sometimes contact reporters personally to give them more feedback and explain why a certain decision was made.

4. Results

4.1 Nature of the reports and reporting parties

This study investigated a sample of reports filed by external professional parties to three inspectorates, with regard to health and safety violations in the construction sector; environmental safety in the biocide and agricultural sector; animal welfare, and transport. Most of the reports in our sample had been filed by competitors of the (supposed) offender, and most reporters were small businesses. For example, taxi drivers reported on violations of safety regulations by competitors, such as passengers being transported without wearing a seatbelt; bus company owners reported violations of working hour regulations; and goods transportation company owners reported competitors who carried overweight loads. In the construction sector, contractors reported violations of safety regulations for personnel at building sites or unlicensed and unprotected removal of asbestos. The offenses that were reported in our sample were day to day business offenses – they did not concern major societal harms or systemic frauds, but were visible violations of the many regulations that small businesses have to adhere to in their business practice.

Only in the agricultural sector, few reports of competitors were found. Most tips in this sector came from veterinarians, suppliers or clients, for example of breeders of dogs, and concerned animal neglect

or incorrect registration or medication. Animal welfare organizations also reported animal neglect. The background of reports in the agricultural sector differs from the other sectors, where we found very few reports from suppliers, principals, subcontractors or other supply chain partners. This finding could be related to our search strategy, which focused on the search term 'competitor'. Our interviews with inspectors and representatives of business sector organizations confirmed that to the extent that external professionals report offenses to inspectorates, they are usually competitors. Another difference between the animal welfare and other sectors in our findings is that although research indicates that women are more likely to blow the whistle than men (Feldman & Lobel 2011), the vast majority of reporters in our study were male, with the exception of animal welfare, where more women were found to report.

Business sector organizations are another category of reporting organizations that stands out. In some sectors, these intermediary organizations play an active role in stimulating and collecting tips and signals of business offenses. For example, the intermediary organization for roof slaters (Vebidak) has opened a hotline that collects and forwards tips to the inspectorate for Health and Safety. Representatives from these organizations explain in interviews that by collecting tips, they aim to protect fair competition for their members; safeguarding the sector from unprofessional or fraudulent parties; and keeping up an image of quality and safety for the business sector. It should be noted however that intermediary organizations only forward tips or complaints about non-members. If they receive tips about their members, they contact the business in question, and that is usually sufficient to end the violation. There are also business sector organizations, however, who do not see it as their task to collect and forward tips, because they want to remain neutral and not get involved in conflict between members.

Reporting to the business sector organization has the advantage that those who report can remain anonymous. When reporting to inspectorates, anonymity is usually not guaranteed: if it comes to a judicial procedure, the inspectorate will be required to reveal the identity of the source (if known by the inspectorate). The reporting websites and hotlines of the inspectorates we investigated in this study therefore convey the message that reports can be confidential, but they discourage anonymous reports because it is impossible to contact the anonymous reporter for further information.

4.2 Motives for reporting

Against the background of the competitor relation of most reporters with the offender, it should not come as a surprise that the most important motive that we found is economic. Ending the competitive advantage of an offending competitor is by far the most frequent reason for reporting an offense to the authorities. Most reports were filed in cases where a business found out that a certain contract was granted to a competitor who offered a lower price, and the business suspected the competitor of saving on safety investments or obtaining expensive licenses. Reporters aim to incapacitate competitors who gain economic advantage by bending the rules. In business sectors with tough competition, such as the building and transport sectors, or in sectors with high compliance costs, such as biocide production or asbestos removal, this motive is strong. Reports of smaller businesses frequently reveal strong emotions behind reports, because the offense is visible to the (complying) business. A transport company and a roof slater explain:

'They pay foreign chauffeurs just nothing and take away my customers, this is unfair competition. And he drives a new Porsche himself!'

'We had offered the same service, but when they got the job, I saw they did not apply electric earth wiring. The standard procedure for the correct safety measure is 600 euros, so they are 600 euros cheaper. They are freelancers with unqualified equipment and they apparently get away with anything and we are not allowed anything.'

Some reporters are also willing to invest time and effort in their complaint: they frequently drive by the job to watch whether the offense continues, they take pictures, or carry out other 'investigations' e.g. checking license plates. This also underlines that they file reports with the aim of incapacitating offending competitors. An asbestos removal company who had bid on a project that would take at least two weeks work reports to the Health and Safety Inspectorate:

'I did not get the job, but when I went there to look last Wednesday, everything was still intact. Today, the job was done. This can never have been performed according to the rules as prescribed.'

Being a 'snitch' or a 'traitor' is a sensitive topic in Dutch culture (cf Feldman & Lobel 2011). In interviews, we asked whether this was felt as a burden by reporters. It should be noted that our findings are strongly biased here because we only interviewed business owners who *had* decided to report, and did not include silent observers. Only a few of the reporters indeed experienced a moral dilemma, but this also related to their dependency on other companies for work.

'If you act like a traitor, you position yourself outside of the social domain. And that is very intense. You will also know that you will not have any more work as a company and you depend on that. That is a big fear.'

Most interview respondents, however, did not experience feelings of guilt when reporting. This lack of objection can be explained by various other motives for reporting. First, although the motive of stopping offending competitors may seem purely economic, the reports and interviews reveal a strong sense of unfairness as a second and more underlying motive for reporting. A farmer complains about a violation with the storage of horse manure by a neighboring business:

'I know that the manure storage is not equipped with a liquid proof floor and is not covered. I am a horse keeper myself, and I have been convinced by the local government that my manure storage was subject to those demands. Did I spend money for nothing on a covered manure container and a sustainable floor? Do I miss something here?'

A bus company owner reports because:

'This lady still drives a bus for more than 8 passengers, for which I had to obtain a D license. I hate this so much because it generates unfair competition, and the good companies become too expensive in comparison to these cheaters.'

Reporting businesses have invested in compliance, and see their offending competitors as not playing by the rules. Normative feelings of duty seem to play an important role in their motivations for compliance, as well as feelings of fair play (cf. Parker & Nielsen 2012; Kagan, Gunningham & Thornton 2011). The 'self-interest' motive for reporting is therefore not purely economic, but also contains a moral dimension. The markets in which businesses compete, can in a certain sense be characterized as moral markets, because fair competition, a level playing field, and just supervision are important values to business owners. It should be noted that inspectors seem generally not to recognize this dimension of fair play in reporters' reasoning. In interviews, they revealed certain distrust for reporting by competitors in general, which they characterize as 'purely economic', and they seemed to take more altruistic reports more serious. An exception were inspectors of asbestos removal, who use every inspection for a dialogue about level competition and a 'rules are for everyone' message, and explicitly invite tips to which they promptly respond. In their experience, this raised the number of reports and also resulted in trust and more acceptance of their inspections and, sometimes, fines.

A second reason why reporters do not feel guilty for reporting their competitors, is that they weigh the severity of the offense in their decision to report it. Most reporters report only more serious offenses, and sometimes they also verify if the offense has been going on for a certain time, to avoid reporting random incidents. The relation *between* businesses is a third factor influencing motivations for reporting. Some of the interview respondents distance themselves explicitly from offending

competitors: they regard themselves as professional business people who play by the rules, they qualify offenders as unfair. Their reporting of these businesses is in line with social identity theory (Tajfel & Turner 1986), which states that group members are inclined to conform themselves to norms that provide them with an in-group identity, and that enable them to distinguish themselves from those of the outgroup. The social identity theory enables us to understand why group members, when observing unethical behavior of a person they consider as a member of the outgroup, interpret this as a confirmation of their own ethical behavior, and disregard or take offense of the behavior of members of the outgroup (Gino et al. 2009). In several cases, reports seemed to be triggered by bragging remarks of offender's disrespect for the law, contributing to their 'outgroup' status:

'I work as a driver at [...] and we have been losing customers lately to a neighbor who bought a truck to gain some extra money. We talked to this neighbor lately and he brags about not having a tachograph and that he doesn't have to comply with anything, and that he has a lot of customers because he is so cheap'.

'We as farmers have to comply with all kinds of demands in terms of regulation and with spraying your crops you have to keep everything in mind. While those people, they don't care, and if they then say out loudly to people I know that no one can do anything to them, that's just not how it works. They think they can do anything, but I just don't accept that'.

Other reporting business owners refer to globalization of the economy, which causes Dutch owners of transport or construction businesses to face competition from Eastern and Southern European competitors, and taxi drivers from Uberpop. In sum, this relational distance between themselves and offending businesses, sometimes increased by explicit disqualifications of the law by offenders and sometimes by differences in nationality, justifies reporting to the authorities, and also explains why reporters seem not particularly worried about the consequences of their reports for the offender – whereas loyalty is an important constraint for whistleblowers. Only in the agricultural sector, competitors report much less about each other, and respondents use qualifications as 'traitor' and 'Judas' when speaking about reporting. A less open culture and less trust in the authorities and regulation in general, appear to be explanations here.

Based on the literature review, we expected fear for a negative reputation of the business sector caused by violation-related safety incidents as a whole to be a motive for reporting, but this motive was only found by exception. The majority of the reports was filed because offenses caused direct competitive advantage to the reporter. Altruistic motives, such as moral responsibility for safety or wellbeing of others, were also found to matter much less than we expected on the basis of the

literature review. To the extent that we found altruistic motives, reporters mentioned these as an additional motive, perhaps to justify their report. A report with the Health and Safety Inspectorate:

'I am a freelancer in the building sector. So I know that a lot is asked in terms of safety. Now I have noticed that [COMPANY] is carrying out a renovation at [ADDRESS]. But they are just sidestepping safety. They only use scaffolds on one side, where it should be at both sides, and on their scaffolds, they don't use railings, while it is about 5 meters high. I would appreciate if you could take a look, because I also have to have my affairs in order. This will certainly lead to accidents.'

Only in the animal breeding sector, animal welfare was clearly a primary motive. An interview respondent:

'Well I don't report for the inspection, I report for the animals that are being abused. I disclose malpractice, and I find it unacceptable when they are not stopped'.

Reports here ask for immediate interventions by the Inspectorate:

'You don't want to know how frustrated I am right now. I hope therefore that I hear very soon about you intervening with this person [...] I hope this message wakes you all up'.

In the passenger transport and biocide sector, we also observed a mix of economic and safety-related motives, in cases where reporters observed an acute risk for health and safety of others, such as the risk of an out breach of contaminous animal diseases or a bus company that transports school children without safety certificate. These reporters also expect that inspectorates will act directly upon their report by ending the dangerous situation.

Although our research did not explicitly investigate the motives of silent observers who refrain from reporting, we did ask reporters what potential constraints they had experienced when considering to report. Fear for identification and negative reactions did play a role, but reporters dealt with this by reporting confidentially. In the taxi business, the threat of violent retaliation was most explicit: renowned 'snitches' are known to have experienced physical threats or leak tires. A more common motive was the fear to loose clients or collaborative partners. According to interviews with intermediaries and inspectors, this explains why collaborators in a business network report much less than competitors.

4.3 The influence of reporting procedures and experience on future reports

From the whistleblowing literature, we can derive that fair and transparent procedures, trust that authorities will take action, and earlier experiences of reporters with reporting, influence the

willingness to report. Regardless of the outcome, feedback on the report is expected to prevent whistleblowers from becoming frustrated, because it gives them the feeling they are appreciated and treated seriously. This section examines if bellringers have similar needs and expectations with regard to the inspectorates' reactions to their reports.

Although most reporters find the reporting websites or hotlines accessible and user-friendly, they are generally quite negative about the feedback and follow up to their reports. Of course, reporters are generally satisfied when they observe that the inspectorate acts upon and ends the reported offense, as is often visible for reports in the building sector when a construction site is temporarily closed down, or in the biocide industry when a product is taken from the market.

'I called the Health and Safety Inspectorate in the morning, and they inspected the site in the afternoon. The work was closed and the company had to take the safety preventions.'

Reporters indicate that these consequences stimulate that they will report again. However, through written or telephone feedback from inspectorates, or simply through witnessing the violation to continue, reporters find out that inspectorates often do not react to their reports, either because of lack of capacity or because the reported offenses have insufficient priority. To a certain extent, reporters understand that inspectorates cannot react to every complaint, but they become frustrated when they notice that serious threats to safety or their markets position are not prioritized by inspectorates, and this limits their willingness to report again. Two interviewed respondents explain:

'When I called, it seemed like the inspector would go and take a look, but for four days, I drove by the site every day, and nothing happened.'

'I reported about asbestos removal in a local community, with a high risk for the direct environment. I reported it because it was in a living area. But nothing happened. And if you report something so dangerous, I feel they need to act upon it, but it had no consequences at all, which made me decide: if they do not act upon things like this, I will never report again.'

However, we also observed many reports where the failure of inspectorates to act triggered repeated reports, rather than discouraging reporting. Two examples from reports in the transport sector:

'I don't understand why you don't do anything with these reports. I emailed and called several times. I hope you will respond soon.'

'After now many reports about corruption at this company, I come to the conclusion that these reports don't matter at all. And that nothing is done with them. [...]. Can you explain why I still encounter this person?'

5. Conclusions and discussion

This study shows that (external) bellringers' motives to report differ from (internal) whistleblowers in several respects. First, feelings of loyalty and relational attachment, which are an important constraint for whistleblowers to report harmful practices *within* their organization, are much less constraining for external reporters. The deep social ties that exist within organizations, which generate concerns for serious or even unjust consequences for offending colleagues, are much less present between competitors. Although Miceli et al (2014) hypothesize, based on the whistleblowing literature, that altruistic motives will be the most important explanation for reporting, our research shows that external professional tips are mainly triggered by economic motives. With the exception of animal welfare, where altruistic motives prevailed, competitive disadvantage caused by offenders ignoring the rules was the main motive for reporting. The majority of reports were filed by businesses that had themselves invested in safety measures, which they observed their competitors to disregard. It should be noted however that our file selection strategy may have influenced these reports, although the interview respondents from inspectorates confirmed our finding.

Because unfair competition is the most important incentive for reporting by external parties, an important policy implication of our findings is that ending the offense by an intervention of the inspectorate will satisfy the reporters. As the policy debate about stimulating whistleblowers focuses around the desirability of material incentives and protection (Feldman and Lobel 2011), our findings suggest that material rewards are not a necessary incentive for stimulating reports by bellringers, although we have not systematically investigated motives of silent observers. Our interview results about the appreciation of feedback by reporters, also suggest that these may be interpreted as immaterial rewards. A third remarkable difference between our findings and scholarship about whistleblowers, is that the bellringers who have reported offenses of other businesses to the authorities, hardly displayed feelings of loyalty or guilt towards offenders, nor did they show concern for adverse consequences. Strong perceptions of offenders as unfair cheaters, who refuse to play by the rules, contribute to relational distance between rule-abiding and offending companies and explain why bellringers face less psychological constraints for reporting than whistleblowers.

This study thus contributes to the criminological literature about reporting and detection of business offenses (e.g. Simpson & Rorie 2011) by giving insight in the reporting behavior of a category of reporters that has not been systematically investigated before, and whose motives for reporting differ significantly from whistleblowers. It adds to criminological literature about detection by looking

at these phenomena not primarily as individual choices and perceptions, resulting from bilateral interactions between individuals and inspectorates, but by introducing the perspective of third parties, in this case professional bystanders, into a more relational and networked perspective on regulatory enforcement (Parker & Nielsen 2011). Also, whereas white-collar crime scholarship has for a long time regarded business crime as the result of a rational cost-benefit decision, our study demonstrated that economic strain not only results in more frequent offending (Simpson & Rorie 2011), but also in more frequent reporting.

This finding is in line with regulatory compliance and sociolegal scholarship, which has come to regard business compliance as socially embedded within business sectors, and subject to more than just cost-benefit considerations (Parker 2012; Parker & Nielsen 2012). But this study also to a certain extent contradicts this scholarship, which has frequently found that social norms within business sector reflect social ties between businesses rather than competitive market logic. Many compliance studies have found businesses unwilling to report about each other because of a shared culture of mutual trust and support and a general distrust in regulatory inspectorates (Van de Bunt 2010; Parker 2012). This study finds, however, that businesses who have invested in compliance themselves, resort to inspectorates as their ally in maintaining a level playing field. This difference may be explained by our selection strategy, in which we pre-selected business sectors in which we expected competitors to report about each other, but also may be explained by a different kind of morality. Fair competition, and a sense that rules are for everyone, in combination with the considerable compliance costs that businesses face, account for a strong sense of justice. In this sense, reporting motives are not purely economic, but also reflect a sense of morality. Businesses report because they expect inspectorates to promote fair competition.

For inspectorates, these reports may be useful, both because business offenses are often difficult to detect from a purely external perspective whereas easier to detect by competitors and other professional bystanders (Kölbel 2015), and because offender's awareness of the potential reporting behavior of bellringers in addition to the detection activities of inspectorates, may contribute to general deterrence and perceptions of a high detection rate. This, however, creates a tension because inspectorates do not see it as their task to enforce fair competition in markets, but perceive health, safety and quality as their main responsibilities. For inspectors, their job is not to ensure fair competition and they see reports by competitors as incidents, and they regard a risk selection strategy that relies on reports by competitors as too incident-driven and reactive. This causes a

dilemma for inspectorates, because visible inaction towards repeated business offenses may influence reporters' detection perception and may undermine the reporting businesses' willingness to comply (cf. Stafford & Warr 1993). In this sense, the installation of a reporting procedure as a regulatory strategy also entails institutionalizing a commitment to follow up on the reports by reserving capacity and prioritizing inspections on reported offenses to a certain extent. In their aim for more transparency and legitimacy with their stakeholders, inspectorates currently improve the accessibility and user-friendliness of their reporting procedures, but they seem not always to realize that inviting reports also requires a more responsive inspection strategy. We recommend that inspectorates are less averse to fair competition and self-interest as reporting motives, and base their risk prioritization strategy partly on tips and reports, including reserving time and capacity for follow up and feedback on reports and an active communication policy about cases that were successfully detected based on tips. This is likely to contribute to willingness to report and to trust in and legitimacy of enforcement. Although we could not verify it in the context of this research, the experience of the asbestos inspectors in our research suggests that actively framing inspections and tips as contributing to a level playing field, contributes both to the quality and frequency of tips, as to the overall legitimacy of rules and enforcement.

Deterrence research has, however, demonstrated that visibly removing bad apples from the market reassures complying businesses that compliance is worthwhile (Kagan, Gunningham & Thornton 2011) and that legitimate enforcement contributes to businesses willingness to comply (Tyler 2011). Although these insights justify a more responsive and even reactive inspection strategy, Reichman (2010) observes that in reality, regulatory agencies often display a fundamental distrust of regulatory agencies of information of third parties, in particular when these parties act out of their own interests which make them unreliable per definition in the eyes of inspectors. Moreover, Etienne (2014) postulates that inspectorates may not always want to maximize information that can be used for enforcement, in particular 'unsolicited' workers reports, because other bureaucratic goals may shape their information preferences that render detection in fact 'secondary'. Etienne's empirical investigation of major hazard industry reports echoes the findings in this study, in the sense that inspectors sometimes distrust workers reports, which they perceive as being union-led and biased and unpredictable. They fear getting involved in industrial conflict and perceive collaborating with third parties as a risk towards alienating businesses from them and damaging relations of trust with businesses. Their interpretation of reports is in general strongly politicized and concerns for relations with industry, politics and the general public sometimes overpower the importance of maximizing

information collection for enforcement. In other words agencies perception of reports from third party is colored by their expectations of the consequences for their own reputation (Etienne 2014).

It may therefore be worthwhile, both empirically as well as theoretically, for future research to look in more detail into the dynamics of reporting and tipping as part of regulatory interactions between inspectorates and businesses, and as a way of establishing more collaborative relations between business communities and inspectorates – both parties have an interest in compliance, albeit stemming from different motivations.

Reference list

- Ayres, I., & Braithwaite, J. (1992). *Responsive regulation: Transcending the deregulation debate*. Oxford University Press.
- Bouwman, R., Bonhoff, M., Robben, P., & Friele, R. (2015). Patients' perspectives on the role of their complaints in the regulatory process. *Health Expectations*, 1-14.
- Brewer, G., & Selden, S. (1998). Whistle blowers in the federal civil service: New evidence of the public service ethic. *Journal of Public Administration Research and Theory*, 8(3), 413-439.
- Chen, C., & Lai, C. (2014). To blow or not to blow the whistle: The effects of potential harm, social pressure and organisational commitment on whistleblowing intention and behaviour. *Business Ethics: A European Review*, 23(3), 327-342.
- Coglianesi, C., *Listening, Learning, Leading, A Framework for Regulatory Excellence*, Penn Programme on Regulation, Philadelphia.
- Cohen, S. (2001). *States of denial. Knowing about atrocities and suffering*. Cambridge: Policy Press.
- De Graaf, G. (2008). *Wat valt er over melden te melden?* Amsterdam: Vrije Universiteit Amsterdam.
- De Graaf, G. (2010). A report on reporting: why peers report integrity and law violations in public organizations. *Public administration review*, 70(5), 767-779.
- De Graaf, G., & Lasthuizen, K. (2013). Een luisterend oor. Het interne meldsysteem integriteit binnen de Nederlandse overheid. *Justitiële Verkenningen*, 39(7), 59-71.
- De Jong, H. G., & Mol, L. S. (2013). Het adviespunt klokkenluiders in de praktijk. *Justitiële Verkenningen*, 39(7), 48-58.
- Denzin, N. (1970). Strategies of multiple triangulation. *The research act in sociology: A theoretical introduction to sociological method*, 297, 313
- Dworkin, T.M., & Baucus, M.S. (1998). Internal vs. external whistleblowers: a comparison of whistleblowing processes. *Journal of Business Ethics*, 17(12), 1281-1298.
- Engdahl, O., & Larsson, B. (2015). Duties to distrust: The decentring of economic and white-collar crime policing in Sweden. *British Journal of Criminology*, doi: 10.1093/bjc/azv070.
- Etienne, J. (2014), The politics of detection in business regulation. *Journal of Public Administration and Theory*, 25: 257-284.

- Evans, A.J. (2008). Dealing with dissent: whistleblowing, egalitarianism, and the republic of the firm. *Innovation: the European Journal of Social Sciences*, 21(3), 267-279
- Feldman, Y., and Lobel O. (2011). Individuals as enforcers: the design of employee reporting systems. (263-284) In: Parker, C., & Lehmann Nielsen, V. (2011). *Explaining Regulatory Compliance Business Responses to Regulation*. Glos: Edward Elgar Publishing.
- Friele, R. D., Sluijs, E. M., & Legemaate, J. (2008). Complaints handling in hospitals: an empirical study of discrepancies between patients' expectations and their experiences. *BMC health services research*, 8(1), 1.
- Gino, F., Gu, J., & Zhong, C. B. (2009). Contagion or restitution? When bad apples can motivate ethical behavior. *Journal of Experimental Social Psychology*, 45(6), 1299-1302.
- Glazer, M., & Glazer, P. (1989). *The whistleblowers: Exposing corruption in government and industry*. New York: Basic Books.
- Goldman, B.M. (2001). Toward an understanding of employment discrimination claiming: an integration of organizational justice and social information processing theories. *Personnel Psychology*, 54, 361-386.
- Heard, E., & Miller, W. (2006). Creating an open and non-retaliatory workplace. *International Business Ethics Review*, 1-7.
- Hood, C., & Jackson, M.W. (1991). *Administrative argument*. Aldershot: Dartmouth
- Hughes, E. C. (1964). Good people and dirty work. In H. S. Becker (ed.). *The other side: Perspectives on deviance*. New York: Macmillan.
- Kagan, R. A., Gunningham, N., & Thornton, D. (2011). Fear, duty, and regulatory compliance: lessons from three research projects. *Explaining compliance: Business responses to regulation*, 37-58.
- Kaptein, M. (2011). From inaction to external whistleblowing: The influence of the ethical culture of organizations on employee responses to observed wrongdoing. *Journal of Business Ethics*, 513-530.
- King, G. & Hermodson, A. (2000). Peer reporting of co-worker wrongdoing: A qualitative analysis of observer attitudes in the decision to report versus not report unethical behavior. *Journal of Applied Communication Research*, 28 (4): 309-329.

- Kölbl, R. (2015). Whistleblowing in Europe: regulatory frameworks and empirical research. In: Van Erp, J.G., Huisman, W., Vande Walle, G., & Beckers, J. (2015). *The Routledge Handbook of White-Collar and Corporate Crime in Europe*. Oxon: Routledge.
- Lee, J. Y., Heilmann, S. G., & Near, J. P. (2004). Blowing the whistle on sexual harassment: Test of a model of predictors and outcomes. *Human relations*, 57(3), 297-322.
- Lewis, D. Brown, A.J. en Moberly, R. (2014). Whistleblowing, its importance and the state of the research. In A.J. Brown, D. Lewis, R. Moberly en W. Vandekerckhove (eds.), *International Handbook on Whistleblowing Research* (pp. 1-34). Cheltenham: Edward Elgar Publishing.
- Loyens, K. (2013). Over motieven voor het melden van misstanden. een kwalitatief onderzoek binnen het Belgische federale politiekorps. *Justitiële Verkenningen*, 39(7), 72-89.
- Miceli, M. P., & Near, J. P. (1992). *Blowing the whistle: The organizational and legal implications for companies and employees*. New York: Lexington Books.
- Miceli, M. P., & Near, J. P. (1992). *Blowing the whistle: The organizational and legal implications for companies and employees*. New York: Lexington Books.
- Miceli, M. P., Near, J. P., & Schwenk, C.R. (1991). Who blows the whistle and why? *Industrial and Labor Relations Review*, 45, 113-130.
- Miceli, M. P., Near, J. P., Rehg, M. T., & Van Scotter, J. R. (2012). Predicting employee reactions to perceived organizational wrongdoing: Demoralization, justice, proactive personality, and whistle-blowing. *Human Relations*, 65(8), 923-954.
- Miceli, M.P., Dreyfus, S. en Near, J.P. (2014). Outsider 'whistleblowers': Conceptualizing and distinguishing 'bell-ringing' behavior. In A.J. Brown, D. Lewis, R. Moberly en W. Vandekerckhove (eds.), *International Handbook on Whistleblowing Research* (pp. 71-94). Cheltenham: Edward Elgar Publishing.
- Near, J. P., Rehg, M. T., Van Scotter, J. R., & Miceli, M. P. (2004). Does type of wrongdoing affect the whistle-blowing process? *Business Ethics Quarterly*, 14(2), 219-242.
- Near, J.P., & Miceli, M.P. (1996). Whistle-blowing: myth and reality. *Journal of Management*, 22 (3), 507-526.
- Nielsen, V. L., & Parker, C. (2012). Mixed motives: economic, social, and normative motivations in

- Parker, C. (2012). Economic rationalities of governance and ambiguity in the criminalization of cartels. *British Journal of Criminology*.
- Parker, C., & Nielsen, V.L. (2011). *Explaining Regulatory Compliance Business Responses to Regulation*. Glos: Edward Elgar Publishing.
- Patton, M.Q. (1990). *Qualitative evaluation and research methods*. Newbury Park: Sage.
- Perry, J. L., & Wise, L. R. (1990). The motivational bases of public service. *Public administration review*, 367-373.
- Raat, C. (2013). Een toevluchtsoord voor klokkenluiders. brengt het huis het ideaal van transparantie dichterbij? *Justitiële Verkenningen*, 39(7), 17-34.
- Reichman, N. (2010). Getting our attention. *Criminology & Public Policy*, 9(3), 483-491.
- Rothwell, G. R., & Norman Baldwin, J. (2006). Ethical climates and contextual predictors of whistleblowing. *Review of Public Personnel Administration*, 26(3), 216-244.
- Seifert, D. L. (2006). The influence of organizational justice on the perceived likelihood of whistleblowing. Unpublished Doctor of Philosophy, Washington: Washington State University College of Business.
- Simpson, S. S., & Rorie, M. (2011). Motivating compliance: economic and material motives for compliance. *Explaining compliance: Business responses to regulation*, 59-77.
- Smaling, A. (2003). Inductive, analogical, and communicative generalization. *International Journal of Qualitative Methods*, 2(1), 52-67.
- Stafford, M.C., & Warr, M. (1993). A Reconceptualization of General and Specific Deterrence. - *Journal of Research in Crime and Delinquency*, 30(2), 123-135.
- Tajfel, H. & J.C. Turner, 'The Social Identity Theory of Intergroup Behavior', in: S. Worchel & G. Austin (red.), *Psychology of intergroup relations*, Chicago: Nelson-Hall 1986, p. 7-24.
- Treviño, L. K., & Victor, B. (1992). Peer reporting of unethical behavior: A social context perspective. *The Academy of Management Journal*, 35(1), 38-64.
- Treviño, L. K., & Weaver, G. R. (2001). Organizational Justice and Ethics Program Tollow-Through': Influences on Employees' Harmful and Helpful Behavior. *Business Ethics Quarterly*, 11(04), 651-671.

- Tyler, R.T. (2011). The psychology of self-regulation: normative motivations for compliance. (78-101) In: Parker, C., & Lehmann Nielsen, V. (2011). Explaining Regulatory Compliance Business Responses to Regulation. Glos: Edward Elgar Publishing.
- U.S. Securities and Exchange Commission (SEC), Office of Investigations. 2009. Investigation of Failure of the SEC to Uncover Bernard Madoff 's Ponzi Scheme. Public Version. Retrieved May 19 2016 from sec.gov/news/studies/2009/oig-509.pdf.
- Van De Bunt, H. (2010). Walls of secrecy and silence. *Criminology & Public Policy*, 9(3), 435-453. Chicago.
- Verhage, A. (2015). Global governance = global compliance? The uneven playing field in anti-money laundering. (471-485) In: Van Erp, J.G., Huisman, W., Vande Walle, G., & Beckers, J. (2015). *The Routledge Handbook of White-Collar and Corporate Crime in Europe*. Oxon: Routledge.
- Victor, B., Treviño, L. K., & Shapiro, D. L. (1993). Peer reporting of unethical behaviour: The influence of justice evaluations and social context factors. *Journal of Business Ethics*, 12, 253-263.
- Vynckier, G., & De Bie, B. (2015). Een held vertelt. de meldingsbeleving: Voor, tijdens en na. *Orde Van De Dag*, 72, 16-23.
- Vynckier, G., Vande Walle, G., & De Baets, P. (2015). Je hoeft de klokken niet te luiden om misstanden te melden: Naar een normalisatie van meldprocedures in de professionele organisatie. *Orde Van De Dag*, 72, 5-14.
- Wortley, R., Cassematis, P., & Donkin, M. (2008). Who blows the whistle, who doesn't and why? In: Brown, A. (2008). *Whistleblowing in the Australian public sector*. Canberra: ANU E Press.