"Deregulation is so nineteen eighties, we're into 'better regulation' now":

Exploring the unintended consequences of self-regulation through enterprise in the

Passive Fire Protection industry

Abstract

Purpose

This paper seeks to explore how organizations operate in the absence of a clear regulatory authority in a self-regulating environment. Significant moves toward self-regulation by various political administrations, together with successive waves of deregulation raise questions about the ability and effectiveness of industries and markets to regulate their own behaviour. This is a topical political and social concern with governments often appearing to favour self-regulation as opposed to the constitution of an official regulator. The absence of a regulator and the possibility of voluntary compliance raise a number of issues for the way in which organizations operate and the consequences, both intended and otherwise for organizations and society at large.

Design/ Methodology/ approach

Empirically we explore the case of an industry leader within the Passive Fire Protection Industry, as it adjusts to an increasingly self-regulated market environment. We document how organizational members make sense of the regulatory environment and the behaviour of actors within it.

Findings

We find that discourses of enterprise that underpin self-regulation permit actors a choice between compliance and non-compliance. Whilst also noting the prevalence of notions of morality in terms of how actors make sense of both compliant and non-compliant behaviour. Despite common sense notions that morality is seldom clear cut or unambiguous, our case study reveals that frameworks for understanding behaviour allow participants within the industry to make very clear demarcations between moral (compliant) and amoral (non compliant) behaviour.

Originality / Value

We learn how those that are compliant within the industry come to question the effectiveness of the regime to which they comply, thus ultimately undermining the integrity of the regime. In the absence of a strong regulatory regime, some agents draw upon notions of enterprise to justify an individualist, economic and pragmatic approach that makes non-compliance permissible. Thus the discourse of enterprise is present in the justification of both 'moral' and 'amoral' behaviour, this leads us to question the wisdom of policy that promotes the idea of enterprise as effectively ensuring compliance.

Keywords

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Introduction

This paper explores the impact and consequences of self-regulation in the Passive Fire Protection (PFP) Industry, an important and under-researched sector of the global construction industry. We present an ethnographic case study of a global manufacturer, FireStop (pseudonym) to investigate what self-regulation means for participants and how it is enacted at various levels within the organization. Self-regulation has emerged and continues to be supported by successive Government administrations that advocate for an enterprise economy based on self-responsibility, choice and freedom (du Gay and Salaman, 1992; du Gay, 1996). The paper demonstrates how enterprise, as an underpinning discourse of self-regulation, is interpreted and made sense of by individuals and our central contribution is to show how in some cases this works to undermine self-regulation. In addition, this paper adds to our understanding by showing how 'industry leaders' operate in a self-regulating environment with little or no statutory state legislation. The paper thus offers new insight into the consequences of self-regulation and allows for questions to be posed surrounding why this form of 'regulation' continues when it becomes evident that the effectiveness of the regime undermines its own integrity.

The rise of self-regulation in context

Successive UK governments, since 1979, have shown a commitment to deregulation and privatisation as a means of enhancing competition within markets, increasing autonomy and control for local level managers and further embedding notions of consumer sovereignty. Programmes of deregulation are extensive and wide-ranging and seek to minimise the extent and role of centralised authority (Hodgson, 2006). By promoting the entrance of new organisations into the markets to facilitate greater competition deregulation has also meant the removal of state backed regulators thus requiring market participants to regulate themselves. Despite deregulation being strongly associated with the successive Conservative governments, the programme was notably intensified under the New Labour government elected in 1997 in establishing the Better Regulation Executive (BRE) whose terms of reference were to reduce unnecessary regulatory and administrative burdens.

Advocates of deregulation argue its advantages not only for the recipients of the services, but also for the individuals providing them. Letting "managers manage" (Hood et al, 2000: 284) by eliminating bureaucratic 'command and control' type structures (Weber, 1947) and replacing them with flexible mechanisms that enable individuals to be held accountable for

the choices, costs and risks that they create (Moran, 2001; Bartle and Vass, 2007). As a form of governance that is less dependent on 'coercion', enforced self-regulation' involves:

> "...*the deployment of heavier regulatory tackle against the incompetent or recalcitrant, while lightening the regulatory yoke over good performers*" (Hood et al, 2000: 296).

Notions of self-regulation and enterprise are often embedded in state driven programmes that seek to govern organizations and individuals through the exercise of disciplinary power (Foucault, 1977). It has been noted that enterprise discourses are present in all areas of life, including healthcare (Doolin, 2002) and government (Armstrong, 2001), and analysis of discursive formations has considered enterprise as a means through which responsible, autonomous, subjects are created and are willing to exercise self-control and to use their initiative. 'Enterprising subjects' (du Gay and Salaman, 1992) are expected to be empowered, to make their own decisions and to seek fulfilment in their work in pursuit of corporate objectives.

Locating Enterprise and Morality

Politically and ideologically, enterprise discourse emerges out of a concern that the state has become too directly involved in the lives of its citizens and threatens the power and scope of markets to allocate resources. This is argued to result in an economy that prevents, rather than encourages, individuals to take active responsibility for their actions, and in turn is an impediment to an enterprise culture (Keat, 1991). Instead, de-regulatory regimes have attempted to instil choice, autonomy, risk taking and control into the hands of its citizens. An enterprise culture directly links to the concept of self-regulation because in the sphere of enterprise, behaviour involves the exercise of self-control and self-determination whereby one's life and behaviour is organised and regulated according to "…*rational thought, exactitude, and supervision, it also embraces a mode of personal existence within such practices. It entails training in the minute arts of self-scrutiny, self-evaluation, and self-regulation*" (Rose, 1989: 222). This was voiced through the political aspirations of encouraging a shift from dependency to enterprise (Rose, 1989).

Enterprise and deregulation are tightly connected to the moralization of the economy, Moral agency "*becomes embedded in the logic of the market and....emerges as a foundational element that both enables and legitimizes the neo-liberal matrix of governance*" (Shamir, 2008: 381). Shamir defines this process as 'market-embedded morality' which is in and of itself a product of neo-liberalism and means that moral actions develop through the

mechanisms of the market, and enterprise, rather than through externally imposed regulations originating from the state. The distinction between market and society is dissolved as agents and organisations become driven by their own self-interest and through peer pressure to be morally motivated; that is they become self-regulating. Morality therefore becomes not only the means by which to be seen as 'compliant', but it also reinforces neo-liberalism and enterprise as through this discretionary mechanism of choice and autonomy, agents can decide for themselves what it means to be 'moral' as they have discretion to decide what it is that can be seen as a moral issue (Ashcroft, 2003). As markets rely more on voluntary and discretionary regulation, leaving 'heavy handed' control as the last resort, moralisation becomes the bridging mechanism between government and what happens 'on the ground' (Shamir, 2008: 379). In this context, if the organisation and the agents in it become the means by which to judge what is and is not moral, in what sense can we speak of 'organisational morality'?

Organizational morality is often seen as resulting from the implementation of corporate codes of ethics that are perceived as *"…'dead' missiles shot into the organization and they may, or may not 'hit' the human beings in the organization"* (Jensen et al, 2009: 530). Thus the presence of an ethical code can never imply ethical behaviour on the part of employees. That said, an organization's morality should not be framed solely as the outcome of human conduct, because *"…the moral law is in our hearts, but also in our apparatuses"* (Latour, 2002: 253 cited in Jensen et al, 2009: 539). Codes of ethics, therefore, have the potential to alter individuals' approach to, *and* perception of morality. For instance, codes of ethics can be variously translated into something, which is 'just common sense'; 'necessary for somebody else' and 'about trivial things' (Jensen et al, 2009: 540). Even when a moral duty is triggered in individuals, it can be difficult to fulfil because as Willmott (1998) acknowledges, ethical codes are always embedded in a capitalist ethic which is associated with profit; an objective that can override morality. Thus the market, and its core logic of financial gain, (Shamir, 2008: 373) provides its own overriding moral imperative. This leads us to question how far enterprising forms of regulation would lead to the successful moralisation of markets because organisations will be torn between balancing the requirements of social good and profit (ibid).

Bauman (2003) also points out that making moral decisions between right and wrong, and good and evil, creates a situation of uncertainty which *"…is the home ground of the moral person"* (ibid: 93). Thus morality can often be spontaneous and the attempt to ensure its achievement through rationalised formal structures can result in the abdication of personal responsibility as individuals only become concerned for applying pre-determined ethical

statutes (Jensen et al, 2009: 539). Gond et al. (2011) in exploring the relationship between CSR and government regulation find that social responsibility and morality can be a response to a capitalist work system where a threat exists of more regulation. This means that attempts to encourage moral behaviours can be used to disguise on-going regulation, and represents one of the last attempts "*…created by management to hide its increasing control over social life*" (Boltankski, 2009: 190-3 cited in Gond et al, 2011: 644). This echoes concerns that encouraging greater morality in the behaviour of employees is simply a smokescreen, or a façade, for organisations as they strive to increase their financial gain.

Case Study

This paper draws on a case study of FireStop, a global manufacturer in the PFP industry. As a market leader in the production, distribution and installation of PFP equipment, this case study allow for an exploration of FireStop's employees relationships with contractors, customers and consultants to explore individuals' responses to compliance and how this is mediated though the firm's culture of compliance. FireStop is actively involved in international sales operating in more than 120 countries worldwide, but all fieldwork in this paper was conducted in its UK operation. The company is a world leader in developing, manufacturing and marketing, what it perceives as, the highest quality products for professional customers in the construction industry. It specialises in products used in drilling and demolition, diamond coring, cutting, measuring, screw fastening and fire stopping. At a national level FireStop operates in a deregulated environment that is guided, in the UK, by voluntary regulation alone. Compliance in the Passive Fire Protection Industry is defined in the relation to expectations that firms meet the requirements for fire safety as set down in The Buildings Regulations (2010) legislation. These requirements provide that buildings are designed and constructed to allow early detection and warning of fire and means of escape. Moreover that construction inhibits internal and prevents external spread of fire. FireStop's role in this is in the provision of construction of material that meets these requirements such as fire protection paint that when applied in the right thickness to door frames, ensures that fire is prevented from spending through a domestic building at significant speed.

Beyond the primary legislation of The Buildings Regulation, the main regulatory document that establishes regulatory requirements is referred to as 'Approved Document B', or ADB. Under this remit organizations are required to meet regulatory requirements but are permitted to determine for themselves how this is achieved:

…there is no obligation to adopt any particular solution contained in an Approved Document if you prefer to meet the relevant requirements in some other way…(ADB, 2007: p.7).

This reflects the 'hands-off' approach adopted by successive governments who advocate for individuals and organizations in the industry to be responsible and autonomous and thereby decide for themselves how best they should comply. The assumption being that there is no need for government intervention because compliance is possible by encouraging individuals to self-regulate by being enterprising subjects (du Gay and Salaman, 1992). By not defining specifically how companies should meet the requirements, they remain open to interpretation. Some in the construction industry remain committed to high performance standards and seek to comply with the suggested standards articulated in ADB in the most efficient and safest way. However the lack of regulatory inspection and culture of enforcement has allowed some firms to exploit voluntary compliance by undertaking construction tasks with products whose fire protection is not guaranteed.

Methodology

Access to FireStop was gained via a colleague who had previously worked with the firm as a technical consultant and who brokered a meeting with a senior trade association chairman. We were granted permission (and actively encouraged) to talk to employees within the company and after spending 32 hours within the firm, we secured agreement to interview a range of employees from technical directors, to fire stopping engineers. In addition we were invited to attend trade association meetings where both FireStop and representatives of the wider industry were also present. We also conducted fieldwork on a site visit where contractors were installing FireStop products. Beyond formal interviews, we were invited to attend lunch and social gatherings, which provided us with additional opportunities to engage with participants about the issues arising from the research.

The observations, both within FireStop but also 'off site' were of considerable value as they provided insights that supplemented valuable rich data to the interview material. Gaining access to over fifteen interviews, enhanced our knowledge of the interactions between different industry representatives, but also highlighted the challenges faced by both the firm and the wider industry with regards to non-compliance. This helped us to formulate our research questions which were: *'How is the enterprise discourse of 'self-regulation'*

interpreted in the Passive Fire Industry' and *'To what extent does morality influence the ways in which regulations are interpreted and enacted?'*

The ethnographic field research was conducted over a four-month period between January and May 2009; this provided sufficient time to visit the organization in order to engage in observations and discussion with participants. The fieldwork involved visiting company offices, observing meetings, interviewing employees, both formal and informal, and documentary analysis of company information. Research was also conducted with customers of FireStop, independent contractors, trade associations and building and safety consultants. The claims that are made in this paper are thus based upon a range of qualitative research methods, including interviews, observations and documentary analysis.

Data analysis began immediately after the first interview. Over the fieldwork period fifteen semi-structured interviews, varying in length from one to three hours were conducted. All tape-recorded and later transcribed verbatim. This occurred after assurances to respondents that the information they provided would remain strictly confidential and anonymous, participant's names and those of their companies are therefore replaced with pseudonyms. The interviews were conducted in a variety of locations, but mostly in offices at the respondents' place of work or in nearby coffee shops or restaurants. When the location was outside of the workplace, it was often because respondents expressed a preference to discuss freely their ideas and thoughts without the fear of being overheard by work colleagues. Broad questions were asked such as: 'What is it like to work here?' and 'how do regulations affect you?'. These open-ended questions evolved during the course of the fieldwork and reflecting developing areas of interest as participant's volunteered insights. The aim of the interviews was to acquire information from respondents on a broad range of topics, including their perception of current deregulatory policy proposals, their particular concerns and experience as a consequence of self-regulation and their observations of changing working practices and the industry more generally. During field visits to FireStop a range of non-participant observational activities were undertaken, one of us was invited to participate in building tours and attend meetings. Extensive field notes were made during these situations, which triggered thinking and analysis in terms of themes, directions to pursue and areas to explore further in interviews. Magazines, websites and regulatory documents were also analysed and drawn upon in the writing up stage. We also were given a copy of FireStop's 'Induction book' which consisted of 150 pages of diagrams, figures and tasks for new recruits to engage with in order to align them with the norms and values of the company.

Doing It Right: FireStop's 'moral model'

> *FireStop has kind of trained so many companies within the industry...these companies are then able to have compliance just by potentially using our products. We've been heavily involved in educating the industry and we want to make a difference. I think it comes from this self-responsibility we have for things, and you know, we have quite a big influence in the construction industry, especially educating customers* [Hannah, sales co-ordinator]

A common theme throughout our observations and interviews, as Hannah articulates, is the way in which FireStop sees itself as a role model and uses its position in the industry to promote compliance amongst customers. Using this position employees encourage compliance amongst FireStop's customer base, and this primarily works through the use of FireStop's own branded equipment and consumables such as paint and other fire retardant materials. This was often framed in terms of 'education' and 'training' rather than sales of products alone.

However compliance was not just about consumption of the 'right' products, at FireStop compliance was a moral issue. A number of employees spoke about the "moral culture" (Derek, trade association member) at FireStop and for some employees this almost worked as a 'regulatory filler', in compensating for the lack of enforcement and direct government regulation. FireStop's role in educating its customers provides a mechanism through which its moral zeal can seep into other areas of the construction industry. The slow infiltration of compliance via consumption of its products is predicated upon the growth of sales and market share but discharges a moral responsibility and transfers moral obligations to other organizations. Individual employees are required to use their skills of initiative, responsibility and commitment to educate others through sales, but this is not an end in itself, as Gary (fire engineer) states:

> *"...it's not just educating about FireStop products...it's about educating to do it right. So you know it's not just saying 'buy FireStop', 'buy FireStop' (chuckles), we'll always be saying 'use third party approved products, use third party approved installers' because by us saying that, we're helping to raise the standard bar in the industry"*

The emphasis that Gary places on '*doing it right*' indicates how FireStop position themselves as being at the forefront of attempts to improve procedures for the good of the industry and wider society. This involves providing customers with advice on how to improve health and safety, as well as what tools to use. The 'morality' discourse becomes an overriding means to reconstitute and direct conduct towards ensuring that fire safety standards are improved. This was reinforced in a discussion with Daniel an external consultant who identified the role of FireStop's moral culture:

> …it's all coming from a point of correctness and the thing is it's the right thing to do because its 'life and limb' and 'duty of care' and all the rest of it. You can sway people that way…if you say what you know to be right, from a point of principle, then you cannot defeat a principle…people might attack it for a while and try and cheat but they know they're wrong, they know in here [*touching his heart*] they're wrong and therefore you can always defeat them ultimately if you're willing to do what needs to be done.

Here we see how even beyond direct employees, those with a winder connection to FireStop's position themselves as 'moralists'. As Nigel (contractor) commented in relation to how he perceived his work: '*...what I do is all based on a 'moral thing' because we know what we have to do to make sure things are correct. If we had to cheat then I'd prefer not to be in this market. If we had to deliberately price a job to do it badly, then I'd just say 'let's do something else'… '*. He compared his perspective with his non-conforming counterparts who he classified as being in denial: '*...I know other guys in my position who work for other companies, who, how shall I put it, let's say that they make money as they can, until they get caught...and then once they get caught they think 'what is the worse that's going to happen.' I'm sure they would deny that it's wrong, but we know otherwise'*.

A moral discourse has the potential to create an enterprising self as individuals make informed choices to better themselves and become responsible and autonomous subjects with the intention of ensuring that their conduct is driven towards ends that are ethical.   In this way, morality is the means used to achieve humanistic, desirable ends and resonates with the government's original intention of achieving compliance through creating enterprising subjects who are committed and self-regulating. As John (contractor at FireStop) indicates: '*...being conscientious is a big thing for us because I ask myself 'could you sleep at night knowing that you're putting people's lives at risk?'. It sounds very 'high brow', 'moral' and 'holier than thou', but to a certain extent it is, its right'*. It can be argued that the stance taken by FireStop employees and others who adopt a similar perspective resonates with Reynolds'

(2003: p. 254) notion of 'self-ethicality'. This is supported by Paul (company director) who, as a customer of FireStop, had attempted to replicate their approach. He implied that if all organizations were forced to adopt and comply with a cultural framework like FireStop's then it would improve compliance:

> That's what we've got here in passive fire…systems are applicable to some companies and not to others so you try and get that culture [*pointing to the induction book of FireStop*] filtered through…but government ought to say it is mandatory because then everybody would be working to something like this [*pointing to the induction booklet*]

Paul highlights here how government's commitment to deregulation has led to undesirable practices. Yet those who engage in such practices are claimed to be in denial.

All employees at FireStop are encouraged to embrace a particularly moral discourse; this is illustrated in phases used in recruitment and training such as as *'Be honest and ethical'* and *'be accountable for your actions and their consequences' the firm's specific approach is codified in the Team Guide, a vital document for those joining FireStop and a reference point for all employees.* (Induction book, 2004: 28). FireStop's espoused culture subsumes a series of norms and values, which, it expects, are internalised by employees in an attempt to ensure that employees embody the importance of fire safety in the knowledge that this also acts as a benchmark for others within the industry that may replicate their practices. FireStop actively seeks to encourage enterprising qualities as reflected in their core values which all have an underlying commitment to morality. Among the enterprise attributes that management sought to foster were 'integrity'; 'courage'; 'teamwork' and 'commitment'. Whilst buying into these values may operate at the level of discourse, they also real practical consequences. For instance, if an employee realised that a product was incorrectly installed, even if not by themselves, then they would be invoked to perceive it as *their* responsibility to ensure it was corrected. As Bob (team leader) explained: *'...the integrity value, well, it means that if we knew someone was doing something that didn't meet the requirements and we came across, an installation that wasn't correct, then we would have to say something, we'd have to say 'that's not safe', it's part of our culture to get it right...'*. This was supported by Joe (fire engineer) who further explained: *'it can be embarrassing for us sometimes, we go in trying to help people and advise them, but then we look up at the building on site and cringe; we can point at things and say 'that's not been done right'. People may say we're being too fussy, or just driven by our morals but then that's the only thing that we are driven by, if you know what I mean...'*. This is further reinforced by Frank (fire engineer):

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"...there's not really a huge amount out there [advice], there's no marketing campaigns, there's nothing that really drives people...there's nothing to educate people out there, so if manufacturers aren't doing it or the laboratories aren't doing it, well, trade bodies aren't doing it, nobody's doing it...There's a feeling in FireStop that it's kind of us that have got to try and drive these things forward coz nobody else is going to... you know Government are not gonna drive things along they'll just kind of let things go as they have been doing..."

These extracts show how FireStop encourages employees to internalise norms and values which instil into individuals a notion of morality as a means to ensure compliance. As Frank said *'it's kind of us that have got to try and drive these things forward...'*. Respondents seemed keen to tell us how this results in them feeling responsible for ensuring that practices are being conducted safely, even if they were not responsible for the initial transgression.

In denial: paying lip service to regulation

In contrast to the notion that enterprise is "*a free space open to all*" (Fournier, 1998: 62), encouraging individuals to embrace also marginalises those who do not (Ainsworth and Hardy, 2008; Cohen and Musson, 2002). FireStop employees argue that their non-compliant counterparts were unlikely to instigate any moral or ethical principles as their practices are based mainly on those of self-interest. Whilst morality promotes collectivism, which is used to achieve objectives that are for the betterment of society as a whole, when situated in a self-regulatory, enterprising environment, such actions can instead lead to prioritising individualism and prompt the question 'what's in it for me'? The emphasis that enterprise has on individualism leaves space for non-compliance to occur where individuals achieve their own objectives whilst the needs of others are ignored. For example, Ken (site inspector) complained that *'There are companies in the market that know damn well what they need to do, and that's the scary part. Companies know what they should be doing but they just have no intention of doing it; it's all about 'how can we make money?'*. These contrasts with the FireStop's approach that focuses upon education and training, in contrast Ken demonstrates that this approach is redundant where firms and individuals chose to be non-compliant. Here morality is less of a concern than financial gain and supports the argument made by Willmott (1998) where morality is a challenge to achieve in the face of the cash nexus and the demands placed on employees in terms of *expected returns*. Denise (consultant) however makes clear how enforcement is key in understanding individual's decisions:

"...the costs [of compliance] would be justifiable and far more acceptable if the enforcement was there which meant you got a payback, a benefit for your investment. But because the enforcement isn't there because of this free choice, which is offered in an uneducated market, which is driven by the lowest tender...all the investment you do for compliance with standards and regulations is basically pissing in the wind because you don't get a market advantage...this means that people have choice but they use it to do what they like"

The 'market advantage' that Denise highlights suggests that those organizations who exercise a moral choice to comply lose out in an enterprise climate because their counterparts receive a financial benefit by operating at a cheaper rate achieved through unethical practice.

Crucially however, those within the industry acknowledged that non-compliant behaviour was often influenced by enterprise discourse, with some actors becoming "*too enterprising*" in using choice and autonomy as a means of undertaking and rationalising non-compliant practice. This became evident when we spoke to Neil, a contractor, who expressed the pressure he felt in trying to compete in the marketplace:

"We don't get checked too often and it's easy to cheat, believe me. In fact, one of the site inspectors is meant to call in two weeks, and I'm actually deciding to steer him away from a job we're not too certain about. I don't want him looking at that. We've had to cut down on a bit of the 'top notch' material in order to save money (whispered). Well, we're trying to cover our arse and avoiding costs is part of that in this climate. I'll tell him to go somewhere else, give him a sexy job, like the Tyne Tunnel (laughs)"

Here we see how the lack of regulatory control evident in the enterprise economy effectively offers less risk to those enacting non-compliant behaviour. Organisations and employees are under less pressure to display compliance because they are known that inspections will be minimal and can be actively managed. Steve, another contractor, reinforced the extent to which regulations and compliance are flouted:

"I know that we all talk about the 'cowboys' but I tell you what, if this firm was just producing and selling one fire protection product, we'd be classified in that category too. We couldn't survive without cheating. It costs a bloody fortune, to be honest. It would be a lot easier to follow the pack and nip down B&Q, buy some emulsion and

mix it with the fire protection paint. For one, it's a lot cheaper, looks the same and lasts longer. With limited inspections going on, whose gonna know?"

The contrast between individuals and firms that embrace the moral discourse and those in denial is evident with regards to how employees discussed the regulatory framework in place and the perceived importance of fire protection. For example, Derek (Chairman, trade federation) reflecting upon deregulation in the context of a 'nanny state': "*...[it is as if] nanny took away the fire guard, [and] left it to the children to decide whether it was dangerous*"

Worryingly for many of those who advocate for compliance, the relatively small number of non-compliant firms and individuals were likely to have a disproportional impact. Not only did their practice enable them to be more financially successful they also contributed to a lack of trust within the industry. As Daniel, consultant who had been actively involved in FireStop's culture as a previous employee, suggests:

"*...[FireStop are] principled, ... don't cheat each other, work honourably with each other and then you can do things on trust. You can work on the assumption that your colleagues are...intelligent, self-disciplined and know what they're doing. But the challenge we've got in the fire industry is that there is no trust because it's consequently been blown apart by a large minority who are scandalous*"

Thus self-regulation through enterprise has the potential to minimise both accountability and enforcement; moreover the lack of inspection always leads to non-compliance:

"…the third party accreditation scheme [*set up by the testing laboratory*] means that companies are able to sign up to it, then [their] work is subject to inspection…so you know you think 'brilliant' but if they're lucky they inspect one in twenty projects and when they do inspect they're only there a few hours, and ladders can be put up by people to prevent inspectors from going to certain places and so it's completely useless"

The limited presence and effectiveness of inspection bodies, means that those who chose to be non-compliant, are able to engage in practices without fear of scrutiny. This also became apparent talking to Stephen (contractor) who explained the practices he experienced as an inspector:

"It's not policed properly, that's the problem. We've got some inspectors who come around and that encourages us to conform, but I don't think it stops the cowboys, you know, because at the end of the day if you want something painted its how much is it going to cost me and Joe Bloggs in his white van says 'I can do it for twenty five pound an hour' and we say 'it'll cost you one hundred and fifty pounds', who are you going to go for? The trouble is with a fire proofing job, the only proof is if there is a fire (laughing), otherwise you'll never know…"

This extract indicates in inspecting fire protection work, non-compliant work is often only visible following an extreme event, or catastrophic failure, often resulting in loss of life. Thus it is hard to see how the market and legal framework can offer penalty for non-compliance. Moreover, the market offers individuals and firms that engage in non-conformance as a commercial strategy, a clear financial incentive. Thus non-compliance makes sense as an *entrepreneurial move*. Roberts (2003) discusses how the distance between an organization's practices and the individuals experiencing their outcomes can minimise the degree to which responsibility is felt, and in doing so, the organization is freed "*…from the constraints imposed by human moral impulses*" (Bauman, 1993: 128 cited in Roberts, 2003: 260). This resonates with what occurs in the passive fire industry because there is a physical distance between the producers and installers of the products and the potential victims of fire related incidents. Individuals engaging 'in denial' do not have any face-to-face encounters with those who work and live in the buildings; this makes it easier for them to avoid acknowledging or seeing the potentially devastating consequences of their practices (Roberts, 2003).

In a follow up conversation with Stephen, he further explains that problems faced as an employee in an organization whose management chose to circumvent requirements:

"There are always things going on in the background, everyone has their moments and they whinge when you ask them to do more work to make sure things are right; I know there's cheating in here, mainly driven by management. They use different paint from the one that the client has paid for and asked for. Paint of a lower quality is sometimes left over from another job; they don't want to waste it and nobody knows, unless the paint scratches off"

This extract is revealing and indicative of the problems associated with operating in a deregulated environment where inspection and enforcement are minimal. Stephen indicates that management engage in practices that reflect non-conformance as they 'choose' not to comply; this is a consequence of using the enterprise qualities to their own advantage. This

resonates with Rosenthal's (2004: p.603) argument that the cultural, normative and bureaucratic controls designed by management, can be used by service workers as a 'resource' to further their own control. This means that "*...the service quality discourses deployed by management to influence the attitudes and values of workers may in turn be deployed by workers to control management behaviour*" (Rosenthal, 2004: p.612; emphasis in original). Adopting a moral discourse, which encourages individuals to exercise their enterprising qualities, enables them to also circumvent regulatory guidelines because it reinforces the necessity of exercising autonomy, responsibility and risk-taking. Without external enforcement, these qualities provide individuals with the opportunity to engage in undesirable practices. This is supported by another participant, Jim (development manager), who commented that the consequence of self-regulation are "*...mayhem, death and disaster*" because "*no-one makes the final move until there's an accident...there's not enough regulation and not enough control in place*". Daniel reinforces this point when he distinguishes himself from his non-compliant counterparts:

> "*...some of these other guys, quite big companies, they know what they're doing and so it's a form of conscious corporate crime in a way because what they're doing is putting up a structure which is not safe...and they know they're doing it. They like to switch off from the thought that if that building ever went up, people would die in it...[they would say] 'yeah we've put something up and it'll be ok', you know, it's scandalous really, it amounts to a form of felony*"

He continued:
> "*…they currently survive on the basis that they give themselves an unfair advantage by cheating, therefore [through legislation] you're removing the advantages that they're got which differentiates them and enables them to win contracts...I believe they would prefer the status quo because they can criminally make money and survive by working improperly*"

These extracts indicate that in an "*enterprise culture*" (Burchell, 1991: 275) promoted through a free market ideology, individuals have the ability to engage in practices which increases the risk that buildings are not thoroughly inspected which can lead to a rise in fire related incidents. Interestingly, it has been suggested that exposing individuals to moral wrong doing can be of benefit because it encourages them to refrain from "*...craven impulses to run for cover that authoritative commands obligingly provide*" (Bauman, 2003: 93). However, from Daniel's quotes we can argue that the moral discourse, such as that exercised through FireStop's culture, becomes the 'norm' from which to judge and rank individuals'

conduct and conformance. Due to non-conformance it also differentiates those who do not comply. But as Daniel implies, when organizations are differentiated, this does not result in them exercising self-discipline to move closer to the norm of morality. Instead they use the discourse of morality to cheat and engage in non-compliance. A number of contractors disclosed that there is a pressure to cheat just to stay in business. Philip (contractor) commented that:

"…FireStop managers try their best and it's a great company. I think they have it spot on, but overall, how do you regulate an industry when the client isn't really bothered? Our customer isn't bothered, as long as he gets his job done cheaply…I worked for a company whose management knew that operatives were mixing fifty, fifty emulsion paint with intumescent. They'd mix it, send it out, go on site and once it's painted on, it's virtually impossible to check, unless you get a paint sample…people forget about it, brush it under the carpet, that's our industry."

Philip's comments are candid in terms of how the pressure to sustain a moral self and adopt enterprising qualities to conform leads non-compliant agents to exercise their ability to be self-regulating by engaging in deviant practices. It demonstrates that despite individuals fulfilling enterprising qualities, they are not using them to the ends that government had predicted. As Jim (project development manager,) commented:

"…deregulation doesn't work in our industry…whilst government would very much like and is quite happy to devolve power downwards there is then responsibility too, you know with that power goes responsibility, it's not their problem anymore…"

This quote encapsulates how regulation through enterprise involves the transference of responsibility and initiative to organizations such as FireStop. In doing so, a 'normalised' individual is produced which is '…an idealized conception of the self, as judged by professional experts…These professionals evaluate their [*subjects*] according to their expert knowledge and its established norms' (Randall and Munro, 2010: p.1486). By transferring these qualities on to subjects, the government can 'translate' (Rose and Miller, 1992: p.181) their aims of neo-liberalism, whilst cloaking it in the regime of self-discipline and voluntary compliance.

Discussion and Conclusion

Rather than feeling marginalized, when individuals embrace the discourse of 'denial', they did not see themselves as 'lacking' anything, but gaining through non-compliance (cheaper

projects, more custom, higher revenue). Thus we see here how enterprise as mechanism used to encourage morality fails because agents are able to exercise choice in order to decide whether to be 'moral' or 'amoral'. Enterprise enables moral behaviour to occur because the responsibility for compliance was shifted solely to the organisations operating in the passive fire industry. It was left to them to indicate to their customers, their counterparts and the government, that they were competent enough to be moral, without the need for a command and control governance structure to be in place.

The discourse of denial, and the ways in which the non-compliant draw on notions of enterprise to their own advantage, meant that non-compliance *"...inhabits a space which is not of its own making outside the enterprise discourse but is created by the enterprise discourse"* (Fournier, 1998: p.72). By turning the qualities of enterprise back onto itself and deciding for themselves how to use them to advance their own ends, those who are in denial are effectively demonstrating what happens when people are 'too enterprising'. Thus it is a mistake to cast non-compliant behaviour as a failure of participation in enterprise discourse; rather individuals are just not engaging in ways originally envisaged. Those who are in denial are in control of their conduct because they are exercising choice, yet refusing to apply the moral qualities to achieve the original intended objectives established by the government (enhancing voluntary compliance). Thus this case shows how Enterprise can be adopted in ambiguous and contradictory ways because self-regulation is being used advantageously to engage in non-complaint practices, whilst also being used as a means to demonstrate conformance and moral behaviour.

This case study of the Passive Fire Protection Industry thus makes a number of contributions. Firstly, it sheds light on an under-researched industry. Despite the industry being heavily involved in manufacturing and installing products that contribute to saving lives, little is known about how it operates and the challenges it faces. A second contribution lies in exploring the empirical experience of how, in promoting a reduction in legislative burdens, de-regulation encourages individual personal responsibility for compliance. This is underscored by a discourse of morality that originates from the experience of operating in an enterprising environment whereby subjects are expected to comply voluntarily. However, the reliance on individuals being 'moral' leaves room for considerable discretion on what is taken to be 'moral', and what is not. Thus, it is for individuals to decide and judge what kinds of behaviour are deemed appropriate. Paradoxically, being moral implies a sense of collectivism and a humanistic desire to achieve objectives that are for the greater good. But this becomes a challenge when morality is promoted in a neo-liberal environment of enterprise. This, following Shamir (2008), this form of morality can be seen as 'market embedded'. Enterprise,

however, does not always result in moral actions and this case shows how enterprise is present in the justification of *both* moral and amoral actions. Thus enterprise discourse is used for their agent's own ends; that is, they turn the discourse back onto itself and against the initial aim to encourage self-regulation via 'enterprising selves' (du Gay and Salaman, 1992). Neo-liberal notions of enterprise can result in individuals using enterprising qualities to 'choose' not to comply, leading to unintended consequences. Those that desire to be moral subjects through compliance note the lack of mandatory intervention and particularly enforcement in creating loopholes that mean that certain sectors of the industry re incentivised to pursue non-compliant strategies.

To conclude, this paper explores how FireStop, operates and responds to a self-regulating environment, in the absence of a clear regulatory authority. There have been recent calls for governments to recognise the limitations of governance through self-regulation. We show how self-regulation and the discourse of enterprise that underpins it becomes a resource for agents who use it to rationalise and explain non-compliant behaviour. In the case of compliant individuals and firms such as FireStop, we have explored how the self-regulatory environment is made sense of by drawing primarily on discourses of morality. This results in employees of FireStop attempting to 'teach' and 'educate' customers and counterparts about the benefits of compliance. This work raises important questions in relation to the effectiveness and desirability of policies based on self-regulation as the main mechanism to ensure compliance. Although regulation proposed by successive government administrations have been keen to reduce command and control regulation by moving towards self-regulation and discretionary behaviour, questions remain over whether enterprise in itself is desirable as the only means by which to ensure compliance.

Bibliography

Ainsworth, S. and Hardy, C. (2008), 'The Enterprising Self: An Unsuitable Job for an Older Worker'. *Organization*. 15(3): 389-405

Approved Document B. Volume 1 – Dwelling Houses (2006),
http://www.planningportal.gov.uk/uploads/br/BR_App_Doc_B_v2.pdf
Accessed 12.09.10

Armstrong, P. (2001), 'Science, Enterprise and Profit: Ideology in the Knowledge-Driven Economy' *Economy and Society*. 30 (4). 524-552.

Ashcroft, R.E (2003), 'The Ethics and Governance of Medical Research: what does regulation have to do with morality?' *New Review of Bioethics*, 1 (1): 41–58,

Bauman, Z. (2003), *Liquid Love: On the Frailty of Human Bonds*. Cambridge: Polity Press.

BBC News (2012), Press 'need to act' after Leveson
http://www.bbc.co.uk/news/uk-20551634 (Accessed on 14/11/12)

Brannan, M. J. and Hawkins, B. (2007) 'London Calling': Selection as Pre-Emptive Strategy for Cultural Control, *Employee Relations*, 29(2) pp. 178-191.

Burchell, G. (1991), 'Peculiar Interests: Civil Society and Governing 'The system of natural liberty' in Burchell, G, Gordon, C and Miller, P. (eds) *The Foucault Effect, Studies in Governmentality with two lectures by and an interview with Michel Foucault*. London: Harvester Wheatsheaf. pp.119-150.

Cabinet Office (2010), 'The Coalition: Our programme for Government'
http://webarchive.nationalarchives.gov.uk/20100919110641/http://programmeforgovernment.hmg.gov.uk/index.html (Accessed on 12/11/12).

Cabinet Office (2010), 'Your Freedom' http://yourfreedom.hmg.gov.uk/(Accessed on 12/11/12).

Callaghan, G. and Thompson, P. (2002) ' "We Recruit Attitude": The Selection and Shaping of Call Centre Labour'. *Journal of Management Studies*. 39 (2) 233-254.

Cohen, L. and Musson, G. (2000), 'Entrepreneurial Identities: Reflections from two case studies'. *Organization*. 7 (1): 31-48.

Dean, M. (1999), *Governmentality. Power and Rule in Modern Society*. London: Sage Publications Ltd.

Dent, M, Van Gestel, N and Teelken, C. (2007), 'Symposium on Changing Modes of Governance in Public Sector Organizations: Action and Rhetoric'. *Public Administration* 85 (1): 1-8.

Du Gay, P. and Salaman, G. (1992), 'The Cult[ure] of the Customer'. *Journal of Management Studies*. 29 (5) 615-633.

Du Gay, P. (1996), *Consumption and Identity at Work*. London: Sage Publications.

Du Gay, P. (2004) Against 'Enterprise' (but not against 'enterprise', for that would make no sense) *Organization,* 11(1), pp. 37-57.

Doolin, B. (2002), 'Enterprise discourse, professional identity and the organizational control of hospital clinicians' *Organization Studies*. 23 (3) 369-390.

Ezzamel, M. and Willmott, H. (2008), 'Strategy as discourse in a global retailer: A supplement to rationalist and interpretive accounts' *Organization Studies*. 29 (2), pp. 191-217.

Fenwick, T.J. (2002) Transgressive desires: new enterprising selves in the new capitalism. *Work, Employment & Society*. 16(4): 703-723.

Forsyth, 2011

Foucault, M. (1977), *Discipline and Punish; The Birth of the Prison*. London: Penguin Books.

Fournier, V. (1998), 'Stories of development and exploitation: militant voices in an enterprise culture' *Organization* 5 (1) 55-80.

Friedman, M. and Friedman, R. (1980), *Free to Choose*. New York: Harcourt London: Penguin

Geertz, C. (1973), *The Interpretation of Cultures*. New York: Basic Books.

Gond, J-P, N Kang and J Moon (2011), 'The government of self-regulation: on the comparative dynamics of corporate social responsibility' *Economy and Society,* 40(4): 640-671.

Haidt, J. (2008). Morality. *Perspectives on Psychological Science*, 3, 65-72.

Hall, P. (1986), *Governing the Economy*. Cambridge: Polity.

Heelas, P. (1991), 'Reforming the self: enterprise and the characters of Thatcherism' in Keat, R and Abercrombie, N (eds), *Enterprise Culture*. London: Routledge. pp. 72-90.

HM Government (2008) '*Making it Simple, Annual Review 2008'* London: BRE. pp. 1-22.

Hodgson, P. (2006), 'The Rise and Rise of the Regulatory State' *The Political Quarterly*. 77 (2): 247-254.

Hood, C, James, O. and Scott, C. (2000), 'Regulation of Government: has it increased, is it increasing, should it be diminished?' *Public Administration*. 78 (2): 283- 304.

Hutter, B.M. (2006), 'The role of non-state actors in regulation' Paper presented at the Global Governance and the role of non-state actors conference. CARR Discussion Series, Social Science Centre, Berlin, pp. 1-19.

Legislative and Regulatory Reform Order (2006), http://www.opsi.gov.uk/acts/acts2006/pdf/ukpga_20060051_en.pdf (accessed 10.01.11).

Moran, M. (2001), 'The rise of the regulatory state' *Parliamentary Affairs* 54: 19-34.

Janoff-Bulman, R., Sheikh, S., Hepp, S. (2009). Proscriptive versus prescriptive morality: Two faces of moral regulation. *Journal of Personality and Social Psychology,* 96(3): 521-537.

Jensen, T, Sandström, J. and Helin, S. (2009), 'Corporate Codes of Ethics and the Bending of Moral Space' *Organization.* 16(4): 529-545.

Kaptein 2004

Keat, R. (1991), 'Introduction: Starship Britain or Universal Enterprise?' in Keat, R. and Abercrombie, N. (eds), *Enterprise Culture*. London: Routledge. pp. 1-20.

Krebs, D. L. (2008). Morality: An evolutionary account. *Perspectives on Psychological Science, 3,* 149-172.

Knight, K. (2009) *Report to the Secretary of State by the Chief Fire and Rescue Adviser on the emerging issues arising from the fatal fire at Lakanal House, Camberwell on 3 July 2009*, Department for Communities and Local Government

Kolthoff, E. Huberts, L. and van den Heuvel, H. (2007), 'The Ethics of New Public Management: Is Integrity at Stake?' *Public Administrative Quarterly.* January. 30(4): 399-439.

Marcuse, H. (1964), *One-Dimensional Man; studies in the ideology of advanced industrial society*. Boston: Beacon Press.

McDonald, R., Harrison, S. and Checkland, K. (2008) Identity, Contract and Enterprise in a Primary Care Setting: An English General Practice Case Study *Organization, 15(3), pp. 355-370.*

McCabe, D. (2009), 'Enterprise contested: Betwixt and between the discourses of career and enterprise in a UK bank' *Human Relations.* 62 (10) 1551-1579.

Miller, P. & Rose, N. (1990), 'Governing economic life.' *Economy and Society*, 19. 1–31.

Nayak, A. and Beckett, A. (2008) Infantilized Adults or Confident Consumers? Enterprise Discourse in the UK Retail Banking Industry *Organization, 15(3), pp. 407-425.*

Randall, J. and Munro, I. (2010), 'Foucault's care of the self: A case from mental health work'. *Organization Studies.* 39 (11) 1485-1504.

Reynolds, S.J. (2003), 'Perceptions of Organizational Ethicality: Do inflated perceptions of self lead to inflated perceptions of the organization?' *Journal of Business Ethics.* 42. 253-266.

Rest, J. R, Narvaez, D, Thoma, S.J. and Bebeauet, M.J. (2000), 'A Neo-Kohlbergian Approach to Morality Research'. *Journal of Moral Education, 29*: 381-396.

Reynolds, M and Yuthas, K. (2008), 'Moral Discourse and Corporate Social Responsibility Reporting' *Journal of Business Ethics*. 78. pp. 47-64.

Roberts, J. (2003), 'The Manufacture of Corporate Social Responsibility: Constructing Corporate Sensibility'. *Organization*. 10 (2): 249-265.

Rose, N. (1999), *Powers of Freedom: Reframing political thought*. Cambridge: Cambridge University Press.

Rose, N and Miller, P. (1992), 'Political power beyond the state: Problematics of Government' *British Journal of Sociology*. 43 (2) 172-205.

Rosenthal, P. (2004), 'Management control as an employee resource: The case of front-line service workers' *Journal of Management Studies*,, 41. 601–22.

Salaman, G. and Storey J. (2008) Understanding Enterprise *Organization,* 15 (3) pp. 315-323.

Seldon, A. (2011), 'Time to take the big society seriously'.
http://www.guardian.co.uk/commentisfree/2011/feb/15/take-big-society-seriously/print
(accessed on 15/02/11).

Scholtens and Dam

Shamir, R. (2008), 'Corporate Social Responsibility: Towards a New Market-Embedded Morality'. *Theoretical Inquiries in Law*. 9 (2): 371–394.

Snell, R.S. (2004), 'Managing Ethically' in Linstead, S, Fulop, L. and Lilley S. (eds) *Management and Organization: A Critical Text*. Hampshire: Palgrave Macmillan

Sormon, G. (2010), 'The Welfare State, RIP'.
http://www.guardian.co.uk/commentisfree/2010/oct/17/welfare-state-rest-in-peace/print
(accessed on 23/10/10)

Sturdy, A. and Wright, C. (2008) A Consulting Diaspora? Enterprising Selves as Agents of Enterprise *Organization* 15 (3) pp. 427-444.

Storey, J, Salaman, G. and Platman, K. (2005), 'Living with enterprise in an enterprise economy: freelance and contract workers in the media'. *Human Relations.* 58 (8): 1033-1054.

'The Future of Building Control in England and Wales' (1981),. Presented to Parliament by the Secretary of State for the Environment. Cmnd 8179. House of Commons Parliamentary Papers. pp. 1-18

Townley, B. (1998), 'Beyond good and evil: Depth and Division in the Management of Human Resources' in in McKinlay, A. and Starkey, K. (eds), *Foucault, Management and Organization Theory*. pp. 191-210. London: Sage Publications.

UKAS (2004), Update 33. *The newsletter of the United Kingdom Accreditation Service, Spring Edition.*
http://www.ukas.com/Library/downloads/Information_Centre/Update/UPDATE33.pdf.
(accessed on 15.08.09).

Vaara, E, Tienari, J. and Laurila, J. (2006), 'Pulp and Paper Fiction: On the Discursive Legitimation of Global Industrial Restructuring. *Organization Studies.* 27 (6) 789-813.

Weber, M. (1947), *The Theory of Social and Economic Organization*, translated and edited, Henderson, A.M. and Parsons, T. Oxford: Oxford University Press.

Willmott, H. (1998), 'Towards a New Ethics?' The Contribution of Poststructuralism and Posthumanism' in Parker, M. (eds) *Organizations and Ethics.* London: Sage pp. 76-121.

Williams, M. (2012), 'Building and rebuilding trust: why responsibility taking matters' in Kramer, R.M. and Pittinsky, T.L. (eds), *Restoring Trust in Organizations and Leaders. Enduring Challenges and Emerging Answers*. Oxford: Oxford University Press.