

# Entrepreneurship and misconducting behaviors: A conceptual model of institutional divergence

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**Andrea Sottini** 

Università Cattolica del Sacro Cuore, Italy

**Benedetto Lorenzo Cannatelli**

Università Cattolica del Sacro Cuore, Italy

## Abstract

Over the last decades, scholars considered entrepreneurship as synonymous with thinking “outside of the box” and breaking the status quo. In this view, entrepreneurs are often viewed as heroes that try to improve the status quo. However, not all entrepreneurial rule-breaking are legal or moral a priori. The business landscape depicts a number of entrepreneurial ventures holding rebellious and anti-social postures. Despite the relevance of such a phenomenon, the motives and the dynamics beyond how and why some entrepreneurs deliberately diverge from laws and social norms has been overlooked. Accordingly, we introduce a novel conceptual model and framework using four propositions that contributes to the extant literature in two ways: first, we propose a logic through which entrepreneurs consciously diverge from legal and legitimate institutions, and second, we introduce antecedents and moderating variables explaining the behaviors of disobeying regulations and moral codes by leveraging cognitive and institutional theories. Finally, practical implications of the proposed model for entrepreneurs, policymakers, and business educators are discussed.

## Keywords

entrepreneurship, misconduct theory, institutionalism, institutional divergence

## Introduction

Researchers emphasized that entrepreneurs typically challenge traditional structures and break the status quo (Ahworegba et al., 2020; Smith and Anderson, 2003; Warren and Smith, 2015; Zhang and Arvey, 2009). In this view, entrepreneurs are often viewed as heroic individuals who try to advance human progress by introducing innovations (e.g. technologies, business models etc.) (Manley, 2003). However, not all entrepreneurial rule-breaking implies full legal or moral behavior (Brenkert, 2009). Over the last decades, we have observed entrepreneurs holding rebellious and anti-social postures, such as questionable and misleading marketing campaigns to attract customers, raising considerable legal and moral issues (Hersel et al., 2019; Smith, 2015; Smith and Air, 2012; Valentine et al., 2019; Zipay et al., 2021).

Accordingly, such entrepreneurs consciously diverge from legality and/or legitimacy boundaries—settled by formal and informal institutions, respectively. Such

postures are less than obvious as institutional support is deemed key for entrepreneurial survival, for instance by granting access to resources and market (Zimmerman and Zeitz, 2002).

Misconduct theorists provided relevant and rich contributions to the understanding of this phenomenon by theorizing about the antecedents, circumstances, and outcomes of behaviors that transgress rules and norms (see Greve et al., 2010; Valentine et al., 2019). Scholars referred to entrepreneurial misconduct as illegal, unethical, or socially irresponsible behaviors such as product safety issues, employee mistreatment, and environmental violations (Hersel et al., 2019; Torsello and Venard, 2016). Building on Baumol (1996)’s seminal work, several theories have

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## Corresponding author:

Andrea Sottini, Università Cattolica del Sacro Cuore, Largo A. Gemelli 1 – 20123 Milano, Milan 20123, Italy.

Email: andreacarlo.sottini@unicatt.it

been developed over the past 20 years with the attempt to explain misconducting behaviors—e.g., criminal entrepreneurship, cultural deviance and rational choice theories (see Gottschalk, 2010a, 2010b; Smith and Air, 2012)—under many perspectives such as *modus essendi*, *modus operandi*, and *modus vivendi* of such entrepreneurs (Smith, 2009, 2015). In this academic dialogue, scholars agree that individuals pursue misconduct when they intend to achieve a goal that is beyond legal and/or legitimate boundaries, and benefits exceed the expected sanctions from the social control agents (Maclean, 2008); although this—in turn—may lead to a number of legal and social risks (Bylund and McCaffrey, 2017; Warren and Smith, 2015). In order to provide fine-grain evidence and contributions about the reasons behind such posture, scholars investigated the entrepreneurial decision-making process (see Arend, 2016; Harris et al., 2009; Obschonka et al., 2013; Shadnam and Lawrence, 2011). The basic assumption here is that entrepreneurial decision-making is not only guided by external factors to achieve more beneficial outcomes, but also by individual characteristics associated with the persona (Fayolle et al., 2014). In this vein, scholars documented as antecedents the moral development, (Smith, 2013), anti-establish mentality (Zhang and Arvey, 2009), and habits and systematic cognitive biases (Butterfield et al., 2000).

However, while misconduct theorists explained the cognitive antecedents of misconducting behaviors, they overlooked the dichotomy between unethical and illegal violations, missing so to explore which peculiar entrepreneurial cognitive characteristics predicts respectively a divergence from legal and legitimate institutions.

A deeper understanding of such a dynamic is key to predict entrepreneurial initiatives beyond formal institutional domains, i.e. informal, controversial and renegade economies (Cannatelli et al., 2019; Williams and Kedir, 2018). To address this gap, we introduce a conceptual model and framework using a set of propositions to predict how and why entrepreneurial cognitive dimensions influence misconducting behaviors respectively from legality and legitimacy institutional settings.

We use cognitive theory to address our gap because it is a well-established topic of interest that contributed to understand multiple aspects of the entrepreneurial processes such opportunity recognition, innovation, and the pursuit of new markets (Acciarini et al., 2020). This theoretical lens is interesting because takes into consideration the heterogeneity of individuals' cognitive thinking allowing to investigate why some entrepreneurs pursue activities while others don't, as well as the approaches used (for a review Grégoire and Cherchem, 2020). Accordingly, entrepreneurship scholars explored factors that influence the cognitive decisions-making for example, values, norms, and beliefs (e.g. individualism or openness) which derived from national and cultural heritage (Shepherd et al., 2015).

Building on the intersection between misconducting, entrepreneurial cognitivism, and institutionalism, this paper intends to provide two contributions. First, we contribute to misconduct theory by proposing a set of antecedents and moderating variables explaining maverick behaviors (Gottschalk and Smith, 2011; Smith, 2009, 2015; Treviño et al., 2006), respectively overcoming legitimate and legal boundaries (Smith, 2013). Second, we expand the understanding of the relations between entrepreneurs and institutions by shedding light on actions through which they consciously diverge from legality and legitimacy institutions rather than seeking conformity (Brenkert, 2009; Warren and Smith, 2015).

## Theoretical background

### *Entrepreneurial rule-breaking and institutional setting*

Researchers have shown that entrepreneurs typically challenge traditional structures and rules and do not accept conventional wisdom (Ahworegba et al., 2020; Zhang and Arvey, 2009). More often than not, researchers consider entrepreneurship as synonyms of thinking “outside of the box” and breaking the status quo. For example, Elert and Henrekson (2016) coined the “evasive entrepreneurs” label to indicate individuals challenging constraints passively accepted by the rest of the community. In this view, entrepreneurs are often viewed as heroic individuals trying to advance human welfare by introducing innovations (e.g. technologies, business models etc.) (Manley, 2003). Beside this romantic perspective, entrepreneurial disruption is not always rooted into fully legal or moral contingencies. As argued by Brenkert (2009) “if entrepreneurs are viewed as engaging in creative destruction, there is no reason, a priori, why this notion might not apply to the law and morality as well” (449). Accordingly, such an approach may mirror, from one hand, the anti-social postures of entrepreneurs who “fail to conform to the applicable normative expectations of the group” (Kaplan and Kaplan, 1980: 5), on the other hand, that violate laws “as mavericks who resist conformity to bureaucratic structures and rules” (Longenecker et al., 1988: 65).

It follows that, in some cases, entrepreneurs consciously pursue business opportunities beyond legal and legitimate boundaries settled respectively by formal and informal institutions, by circumnavigating existing regulation, thereby resulting in extreme opposition from large societal groups, so placing at risk their overall chances of survival and business success (Ahworegba et al., 2020; North, 1990; Williams and Kedir, 2018; Zimmerman and Zeitz, 2002). Indeed, on the one hand conforming with formal institutions—which produce a structure of codified laws, regulations, and technical standards that define the boundaries within which products, services, and means are considered legal (North, 1990)—increases potential market access and scope for entrepreneurs. On the other hand, adhering

with informal institutions—which generate norms, values, and beliefs that define ethical and acceptable behaviors by a large part of the society—determines the legitimacy of entrepreneurial activities (Webb et al., 2009)

Despite that, the business landscape depicts a number of entrepreneurial ventures holding rebellious postures.

### *Misconducting entrepreneurial behaviors*

It is commonly argued that entrepreneurs break laws and/or norms when there are excusing or justifying conditions. Over the past 30 years, scholars have devoted significant attention toward entrepreneurial misconduct referring to illegal, unethical, or socially irresponsible behaviors. Building on Baumol (1996)'s seminal work, who introduced the concept of unproductive and destructive entrepreneurship, scholars further extended theoretical knowledge by providing insightful evidence and contributions (see McElwee and Smith, 2015). In this vein, misconduct theorists attempted to investigate this phenomenon from many different perspectives including, economics, organizations, sociology, psychology, and entrepreneurship; resulting in several theories such as organizational crime, alien conspiracy, criminal entrepreneurship, and cultural deviance (see Gottschalk, 2010a). For instance, Smith and Air (2012) documented that in underclass, poverty and deprivation cultural contexts entrepreneurs are more likely to pursue ill-behaved, delinquent, and criminal activities.

Scholars investigated many forms of misconducting behaviors (for a review Torsello and Venard, 2016). Hersel et al., (2019) classified into four main categories: fraud, product safety issues, employee mistreatment, and environmental violations. Among these, Tourish and Craig (2020) also documented corruption as a form of misconduct, as well as manipulation of an audience's perception. Moreover, incentives to pursue personal gains may encourage entrepreneurs to fraudulently portray higher market values in the short run (Palmer and Weiss, 2021). A recent example is Elon Musk, founder of Tesla, who falsely announced his intention to delist the venture from the NASDAQ stock exchange over a tweet, influencing an increase of his firm's share price.

In depth empirical analysis on such phenomenon allowed to distinct misconducting behaviors of entrepreneurs under three perspective: *modus essendi*, *modus operandi*, and *modus vivendi* (Smith, 2009). For instance, Smith (2015) documented the *modus operandi* and *vivendi* of UK fisherman to explain the reasons by which they participated to an illegally fish market. In this vein, authors linked misconduct to a moral collapse of entrepreneurs (Shadnam and Lawrence, 2011), being a behavior that overlaps with unethical, antisocial, and illegal actions (Treviño et al., 2006).

Accordingly, misconduct comes as a result of pursuing own personal interests without considering the consequences on stakeholders, such as employers, clients or

suppliers. For instance, Davidsson and Wiklund (2007) defined such entrepreneurial venture as “robber enterprises” (17) that appropriate private gains at the expense of societal or public goods. Similarly, Gottschalk and Smith (2011) documented the activities of white-collars entrepreneurs referring to individuals who are highly educated, socially embedded in high social class, and employed in legitimate organizations but committing regular crimes harming stakeholders to pursue personal interests.

### *Circumstances and outcomes of misconducting behaviors*

Scholars analyzed and theorized about the circumstances and outcomes of misconducting behaviors (see Greve et al., 2010). Regarding the first, researchers agree that entrepreneurs are more likely to pursue misconduct actions when rewards coming from such behaviors are higher than the expected punishment (Zipay et al., 2021). This approach has been documented by the rational choice theory which “suggests that people who commit crimes do so after considering the risks of detection and punishment for the crimes, as well as the rewards of completing these acts successfully” (Gottschalk, 2010b: 66). Accordingly, individuals pursue misconduct to achieve a goal standing beyond legal and/or moral boundaries when benefits exceed the expected sanctions from the social control agents such as professional associations, governmental bodies, and law enforcement agencies.

Moreover, misconducting behaviors may come as a result of some combination of pressure and opportunity (De Klerk, 2017). In this view, when entrepreneurs have obstacles and pressure in reaching certain performances, they may find opportunities to achieve their goals by breaking moral and legal rules (Maclean, 2008). For instance, performance strains or the need of rapid-growth market shares may influence entrepreneurs to follow the mantra *move fast and break things* such as laws and moral norms (Palmer and Weiss, 2021).

With regard to the outcomes of misconducting behaviors, scholars highlighted the detrimental physical, emotional, and/or economic effects on stakeholders' well-being. For instance, we can mention employee depression due to mistreatment or social costs coming with environmental violations (Greve et al., 2010). While entrepreneurs may rationalize their actions as justified and therefore acceptable (De Klerk, 2017), such postures may lead, in turn, to a number of social and legal risks (Bylund and McCaffrey, 2017). Indeed, it may cause a loss of stakeholders' support and threaten their right to exist. For instance, Warren and Smith (2015) documented that breaking rules may compromise entrepreneurial legitimacy, especially among the media.

A recent and notorious example is Elizabeth Holmes, founder of Theranos, who claimed the invention of new

blood testing devices requiring extremely small volumes of blood to address a large number of exams, being then accused of perpetrating massive fraud by spreading false information about the accuracy of Theranos's blood test technology. Given the consequences of such posture, scholars investigated corrective actions to anticipate, mitigate and manage the aftermath of misconduct (see Hersel et al., 2019).

### *Antecedents of misconducting entrepreneurial behaviors*

Reasons leading entrepreneurs operating misconducting actions upon other sources of income has been investigated for many years. Misconduct theorists contributed to give a broader spectrum of postures including entrepreneurial cognitive and decision-making processes to explain misconducting behaviors (see Valentine et al., 2019). In particular, when analyzing misconduct behaviors "personal issues such as an individual's philosophical outlook, personality, morality and character are important" (Smith, 2009: 262). For instance, Smith (2013) documented that criminal entrepreneurs often have an anti-establishment mentality. This body of knowledge attributed misconducting behaviors to many individual aspects such as lack or low cognitive moral development (Weber and Wasieleski, 2001), empathy (Eisenberg, 2000), and integrity (Frost and Rafilson, 1989). This creates habits and systematic cognitive biases in recognizing moral nature of situations generating a persistence misconducting behaviors (Butterfield et al., 2000).

The basic assumption is that entrepreneurial decision-making is not only guided by chances to gain more benefits, but also by cognitive characteristics of the entrepreneur (Fayolle et al., 2014). Shadnam and Lawrence (2011) introduced the notion of "moral collapse" arguing that social structures, individual and moral communities may influence misconduct attitudes. Besides these studies, some albeit few scholars also contributed to the understanding of the entrepreneurial characteristics associated with breaking moral and/or legal rules. For instance, Zhang and Arvey (2009) documented a relationship between anti-social behaviors in adolescence and entrepreneurial rule-breaking (see also, Obschonka et al., 2013). Moreover, Harris et al., (2009) argued that even social-oriented entrepreneurs may incur into moral dilemmas. Furthermore, Arend (2016) conducted an experimental game to test rule-breaking propensity of entrepreneurs and connected outcomes.

Despite the attention of scholars on predicting misconducting behaviors, "there is a need for personality research in the field of entrepreneurship [...], particularly studies that identify the negative individual traits that lead to counterproductive behaviors and incivility" (Valentine et al., 2019: 658). In specific, while misconduct theorists explained the cognitive antecedents of misconduct behaviors, they overlooked the dichotomy between unethical

(informal) and illegal (formal) violations. Therefore, we still know quite little about cognitive characteristics of entrepreneurs that respectively explain a divergence from legal and legitimate institutional setting.

Such an understanding is of significant importance to predict and explain entrepreneurial action into complex domains, where legality and legitimacy assessment may not be aligned such as informal, controversial and renegade economies (Cannatelli et al., 2019; Williams and Kedir, 2018). The purpose of this paper is to delve into such a dynamic, which we formalize into the following research question: "*how and why do cognitive dimensions lead entrepreneurs misconducting from the institutional setting?*" To address this question our paper takes into consideration a set of cognitive dimensions and the lens offered by misconduct theory to suggest how and why entrepreneurs diverge from the so-called formal economy (Webb et al., 2009).

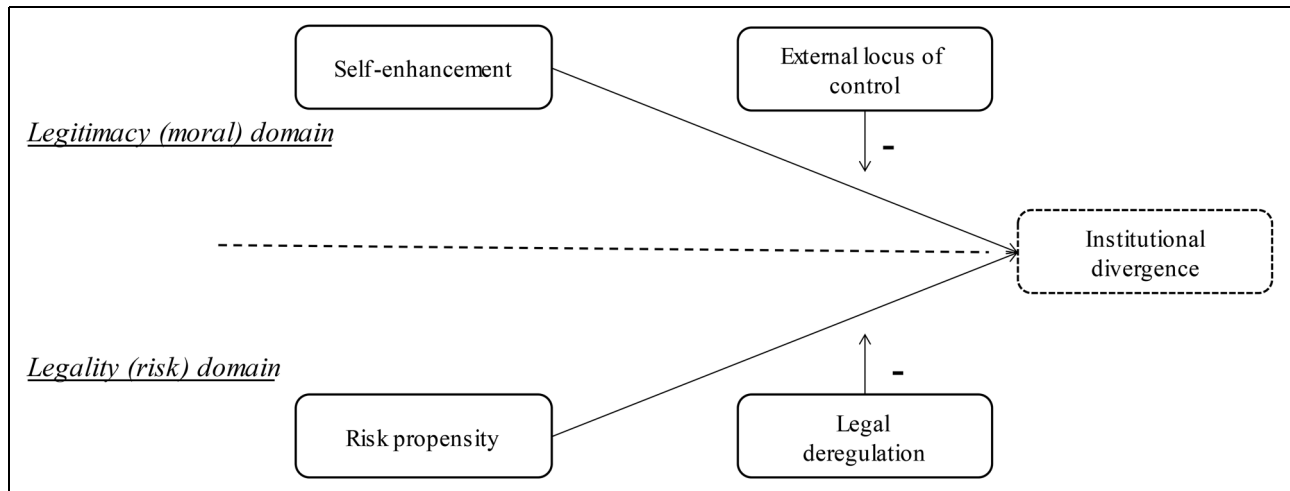
Adopting a cognitive perspective is of particular value for two reasons. First, cognitive variables have already been treated as stand-alone variables in past entrepreneurship studies, thus further confirming its relevance within the field. In this vein, entrepreneurial cognition was relieved as imperative aspect to understand the essence of entrepreneurship, how it emerges and evolves (Krueger, 2003). Second, cognitive aspects are increasingly considered by scholars as essential in explaining entrepreneurial behaviors. For instance, leading scholars used the cognitive standpoint to investigate the entrepreneurial process by addressing important questions such as "How do entrepreneurs think?" (Mitchell et al., 2007: 2).

### **Theoretical model: individual and institutional-related factors leading to divergence**

In this section, we introduce a conceptual model (Figure 1) depicting a set of antecedents and moderating variables that influence entrepreneurial decision about diverging from legal rules and social norms.

#### *The effect of self-enhancement on divergence from informal institutions*

Scholars from different disciplines documented the influence of the personal moral dimension in the ethical decision making (Fritzsche and Oz, 2007; Harris et al., 2009; Jones, 1991). Taking into consideration the values of ethical decision models, scholars identified four main categories: openness to change, conservation, altruism, and self-enhancement (Schwartz, 1994). While this taxonomy has been conceived as a holistic framework explaining the link between individuals' values and behavior, the scope of our model is limited to self-enhancement, for two reasons. First, it



**Figure 1.** Conceptual model of institutional divergence.

determines the extent to which individuals are selfish and guided by their own personal interests (Fritzsche and Oz, 2007). Thus, it gives the measure to which they derogate others' morality to glorify themselves, by attributing to personal outcomes more importance than potential consequences for others. This characteristic fits with the purpose of our model to explain why entrepreneurs diverge from socially-accepted behaviors. Second, the value of self-enhancement has already been used as a stand-alone variable in entrepreneurship to explain, for instance, venture ethical actions (Florea et al., 2013), entrepreneurial attitude, and intention (for a review see Hueso et al., 2020). As we have seen, there are many empirical manifestations of self-enhancement phenomena, and our intent is not to list all of them. We simply want to note the pervasiveness of the self-enhancement idea in the literature of cognitive theory and entrepreneurship. It follows that individuals displaying high levels of self-enhancement may make decisions that contrast with conventional and widely-shared values, norms, and beliefs by large portions of society.

Therefore, they perceive the moral consequences resulting from their actions as less inappropriate compared to those low in self-enhancement (Brenkert, 2009). For instance, some entrepreneurial ventures introduced marketing tactics that created a set of "hidden" extra fees for customers and that do not conform to shared beliefs and values which define a "fair" commercial relationship. Recently, airline companies were criticized for having created a system of low tickets prices to attract customers while adding extra and hidden costs for those services that are normally free. Likewise, it is also a common practice among ventures in the communication industry to attract customers by means of low entry fees in the early stage, then to raise prices and switch costs later on. Moreover, we can mention the emerging cases of "ideological entrepreneurs" who sell new ideologies with the attempt to

provide alternative explanations, without scientific foundation, of real-worlds events. Their business models are largely based on *monetizing fears* creating any form of counter-hegemonic conspiracies which have the power to grab a considerable number of fans who become then customers. Among the most popular conspiracies we find Illuminati, Deep State, false flags and, recently, a growing number of ideological entrepreneurs who claimed that the pandemic of COVID-19 was projected by "elites" such as Bill Gates to "control" the world. On the back of such conspiracies, ideological entrepreneurs sell books, merchandise, services, and ultimately themselves as becoming brands (Hyzen and Van den Bulck, 2021). For instance, the founder of Infowars.com, Alex Jones, sold SuperSilver Whitening Toothpaste to get COVID-19 immunization, after a long campaign against vaccinations (see Van den Bulck and Hyzen, 2020). The morality of ideological entrepreneurs is questionable due to the societal consequences of their actions: a clear example is the storming of the US Capitol, in Washington on January 6th, 2020, led by QAnon members, a largest conspiracy organization, where four people died. It follows that such individuals see and pursue business opportunities predominantly driven by own personal interests without taking account the detrimental consequences for the society. Accordingly, these examples demonstrate that for these selfish entrepreneurs moral consequences resulting from their actions are accepted and appropriated to gaining personal outcomes.

While the economic motives of such initiatives are clear (high revenues), their limited adherence to shared expectations about fair market practices is also undoubtable. Therefore, by giving less importance to others' well-being, entrepreneurs with high levels of self-enhancement will more likely diverge from informal institutions where promising opportunities may arise. Accordingly, we introduce our first proposition:

*Proposition 1: Entrepreneurs with high (low) level of self-enhancement are more (less) likely to diverge from informal institutions.*

### **The moderating effect of external locus of control**

Personal attributes, such as independence, need for control, self-reliance, and initiative, have often been associated with entrepreneurial values and behavior. In this vein, Rotter (1966) made a significant contribution to this literature by introducing the “locus of control” construct. “Locus of control” is defined as a personality characteristic that determines the extent to which people believe they influence events in their lives (Levenson, 1974). The basic argument is that every action, such as the decision about whether to pursue a business opportunity, can be influenced by the perception of control over the upcoming events. Accordingly, two categories of personality are depicted, based on internal versus external locus of control. Individuals with internal locus of control perceive the outcome of an event as being under their personal control and understanding, and thus believe that they master contingencies through their own actions (Wang et al., 2010). Individuals with external locus of control associate the outcome of upcoming events with external forces (e.g. destiny, luck, or powerful others) rather than with personal skills and competences (Levenson, 1974). It follows that external locus of control accompanies a sense of powerlessness and more conservative behaviors than their internally-oriented counterparts. In this vein, Valentine et al. (2019) documented that entrepreneurs with external locus of control may suppose that ethical problems are out of their control and so do not feel a personal responsibility for their own actions. Therefore, moving into the entrepreneurial process, external locus of control does mitigate an individual’s decision to act beyond informal institutions, in spite of a high level of self-enhancement. For example, entrepreneurs with high self-enhancement who embrace external locus of control may concede more benefits, compared to those with internal locus of control, to employees by not controlling and managing claims and strikes, thereby risking an escalation of protests. Similarly, the increasing pressure coming with environmental scandals reduced confidence of entrepreneurs that pursue green-washing practices to influence and control external contingencies and potential negative consequences for their companies. One of the driver of greenwashing is opportunistic behaviors of entrepreneurs that attempt to take advantages in the market by selling premium-price products claiming to be sustainable despite poor environmental performance. However, non-government organizations (NGOs) and consumers that have interests in preserving the environment scrutinize such entrepreneurs’ behaviors, collecting information to verify the credibility of claimed environmental practices. The increasing of external pressure by such powerful

environmental groups may reduce the perception of control over potential detrimental business consequences (i.e. erosion of brand equity). It follows that entrepreneurs become encouraged to adopt credible commitment toward sustainable practices aligning with informal norms, despite they have high self-enhancement. In this vein, scholars argued that moral values can drastically revised when the institutional context changes (Christopoulos et al., 2017). Indeed, external factors stemming from cultural changes may impose for entrepreneurs to update their decisions and priorities, influencing the making decisions (Hong, 2008).

Thus, despite high level of self-enhancement, entrepreneurs with external control orientation may likely discard, or at least overestimate, the consequences of institutional divergence due to the perception of unmanageable and unpredictable outcomes. Accordingly, here we introduce our second proposition:

*Proposition 2: The relationship between self-enhancement and institutional divergence is moderated by the external locus of control of the entrepreneurs.*

### **The effect of risk-propensity on divergence from formal institution**

Another key cognitive component that defines entrepreneurs and affects misconducting behavior is risk-propensity. Risk-propensity determines the extent to which individuals are motivated to take actions that may produce uncertain outcomes. Accordingly, Brockhaus (1980) defined risk-propensity as “the perceived probability of receiving the rewards associated with success of a proposed situation, which is required by an individual before he will subject himself to the consequences associated with ... alternative situation providing less reward as well as severe consequences than the proposed situation” (513).

Some individuals are more comfortable in taking risks (risk seekers) than others (risk averters). From one side, risk averters are likely to weigh the potential negative consequences more heavily than the positive outcomes. On the other side, risk seekers are likely to give more credence to positive opportunities (March and Shapira, 1987). It follows that an individual with a higher risk-propensity is more likely to make riskier decisions.

Within formal institutional boundaries, we argue that entrepreneurial risk might also be associated with potential divergences from formal rules. In this vein, uncertainty derives from the reactions of regulators and the extent of law enforcement (Bylund and McCaffrey, 2017). Enforcement implies the use of countermeasures, such as public agents (e.g. inspectors and prosecutors) to detect and sanction the violators of legal rules. Accordingly, entrepreneurs with high risk-propensity may accept the risk of facing sanctions that come with entrepreneurial opportunities beyond formal institutional

boundaries. It follows that they are more likely to diverge from formal boundaries, given that they perceive law enforcement risks as more tolerable than would risk averters (March and Shapira, 1987). For instance, some entrepreneurs in fashion industry showed half-naked young-looking girls and boys in a number of sexual poses, taking the risk of being censured by regulators for violating commercial standards. In this vein, we can mention the case of BrewDog: a UK-based brewery brand famous for the use of unconventional marketing language (i.e. Drink fast, live fast). BrewDog launched several “aggressive” marketing campaign such as screening pictures of founding members naked on the walls of the Houses of Parliament in London or launching stuffed cats over London from a helicopter. This encouraged its customers to rebel, be anti-establishment and anarchic. While such advertising created certain media prominence, it exposed the founders to legal consequences clearly showing their high risk-propensity. For example, UK authorities (ASA) banned the beer’s label SpeedBall a cocktail name that recalled the use of different drugs. Moreover, BrewDog has been sanctioned for the advertising “F\*\*k You CO2. Brewdog Beer Is Now Carbon Negative” due to the word “F\*\*k You” which was considered as offensive to the general audience and inappropriate given it could be seen by children. Even so, BrewDog persisted in pursuing illegal marketing actions raising even more risks for further sanctions. In addition, the founder James Watt would not seem concerned about the potential punishments, as he reported in an interview “We have thousands of craft beer fans who have invested in what we do and how we do it—they are the people we listen to—not the killjoy” (The Guardian, 2013). The persistence behavior in violating the formal rules and language used in the interviews clearly show the high risk-propensity of such entrepreneurs.

Therefore, whether there are benefits to divergence from formal rules, we can expect that entrepreneurs with high risk-propensity will be more likely to pursue such opportunities, despite the related legal risks. Accordingly, we introduce our third proposition:

*Proposition 3: Entrepreneurs with high (low) level of risk propensity are more (less) likely to diverge from formal institutions.*

### **The moderating effect of legal deregulation**

The decision to act beyond formal institutions is not only influenced by individual cognition, in this case, risk-propensity, but also by formal institutions themselves. Indeed, formal rules may change over time at the hands of regulators. Among the causes, we can mention lobbying (e.g. religious influences), attempting to regulate digital transformations (e.g. e-commerce), reducing the influence of criminal organizations (e.g. gambling), and protecting public health (e.g. Covid-19 pandemic). Such changes

influence entrepreneurial actions by shaping the range of possible entrepreneurial actions, opportunities (Baumol, 1996), and as such, whole industries within the formal economy (North, 1990).

In the specific case of our argument, we focus on the institutional changes produced by legal deregulation, which we see as the extent to which policymakers enlarge the formal institutional boundaries by including more entrepreneurial activities within the legal boundary. For instance, the gambling industry has been regulated in Israel, by including sports, machine, and online betting, among others, that were previously considered criminal activities. Through legal deregulation, policymakers accept more entrepreneurial opportunities within formal institutional boundaries. It follows that a given entrepreneurial action that was previously beyond formal rules can become legal.

In our argument, the extent of legal deregulation may influence the divergence from formal institutional boundaries. Indeed, entrepreneurs who were pursuing opportunities in an illegal environment, for the effect of legal deregulation, *de facto* begin to conform to legal boundaries, regardless their risk-propensity. For example, legalization of recreational marijuana use embraced within formal boundaries marijuana traffickers, disregarding their intention to pursue illegal opportunities (Wu et al., 2020). Consequently, legalization of recreational marijuana gave rise to new registered companies and reduced criminality, as stated in the following: “*it is clear that, while legalization does not necessarily eliminate illegal production, distribution and sale of marijuana, it tends to diminish it dramatically*” (Morris, 2018: 3). Therefore, in this case neither the opportunity itself has changed, nor have the entrepreneurs made any decision, but the effect of policymakers on formal boundaries made such actions compliant with the law.

We can argue that this institutional change may mitigate the divergence from formal institutions, regardless of the different levels of risk-propensity displayed by an entrepreneur. Thus, proposition 4 is introduced as follows:

*Proposition 4: The relationship between risk-propensity and institutional divergence is moderated by the extent of legal deregulation of the business opportunity.*

### **Discussion**

This paper aims to deepen the understanding of why and how entrepreneurial cognitive dimensions influence pursuing misconducting behaviors respectively from legal and legitimate institutional setting (Torsello and Venard, 2016). We introduce a conceptual model (Figure 1) that presents four hypotheses which aim to predict misconducting behaviors (Warren and Smith, 2015). We selected two cognitive variables, such as self-enhancement and risk propensity, to explain *why* some entrepreneurs are more likely to

respectively violate moral and legal boundaries. Moreover, the model shows *how* external contingencies perceived by entrepreneurs—through external locus of control—or given by the institutional context—legal deregulations—may moderate misconducting behaviors, and so the likelihood to diverge from institutional boundaries. Therefore, in the upside of the model we argue that entrepreneurs characterized by high levels of self-enhancement are more likely to behave unmorally in order to pursue personal interests (e.g. manipulation of an audience's perception), nonetheless the perception to lose control of upcoming consequences of their actions (external locus of control) may reduce such posture (e.g. protests from influencing pro-environmental groups). Likewise, in the bottom side we propose that entrepreneurs with high propensity to accept sanctions coming with violations of legal rules are more likely to violate them (e.g. selling marijuana in black markets), however, an enlargement of legal boundaries may reduce such propensity (e.g. regulation of recreational marijuana).

Accordingly, we contribute to extant literature in two ways: first, we introduce antecedents and moderating variables explaining the misconducting behaviors of disobeying regulations and moral codes; second, we provide novel mechanisms that characterize the interplay between entrepreneurship and institutionalism.

By attempting explanations about decision-making of entrepreneurs to pursue misconducting behaviors we provide three main contributions to misconduct theory in the entrepreneurial domain (Valentine et al., 2019). First, Smith (2009, 2015), and Treviño et al., (2006), highlighted that misconduct actions are linked with moral collapse of entrepreneurs (Jones, 1991; Shadnam and Lawrence, 2011). However, individual characteristics that lead to counterproductive behaviors were not yet enough explored. Therefore, we contributed to this academic dialogue by introducing a further cognitive variable in the ethical decision-making process that may predict such posture: self-enhancement. We propose self-enhancement as antecedents of the intention of preserving one's self-interest by disobeying moral codes (Fritzsche and Oz, 2007). Accordingly, we provided a more comprehensive understanding, focusing on the values of entrepreneurs that deeply affect moral decisions in pursuing actions beyond informal norms (Hueso et al., 2020; Schwartz, 1994).

Building on that argument, we provide our second contribution. Misconduct theorists documented that entrepreneurs who violate moral boundaries prioritize personal interests at the expenses of stakeholders (Davidsson and Wiklund, 2001; Gottschalk and Smith, 2011). They pursue such actions in circumstances when benefits exceed potential sanctions from market, influencing groups, and authorities as argued by the rational choice theory (Gottschalk, 2010a, 2010b). In this vein, we introduced the locus of control variable to explain, from a

cognitive standpoint, such entrepreneurial decision-making. Extant studies considered external locus of control as a psychological antecedent of effectively act upon entrepreneurial ideas (Rotter, 1966; Wang et al., 2010). This article argues that external locus of control may also affect the decision to actually act upon unethical behaviors, regardless of the entrepreneur's moral attitude. In particular, we argue that external locus of control may reduce the likelihood of unmoral actions when the belief to control consequences coming with external contingencies is low (Maclean, 2008). In this way, we created a novel theoretical connection between locus of control and ethical decision making

Third, scholars documented the link between anti-establishment mentalities and pursuing illegal actions (Arend, 2016; Obschonka et al., 2013; Smith, 2013; Zhang and Arvey, 2009). Our model supports this thesis and provides further contributions by introducing the cognitive dimension of risk-propensity. Accordingly, risk-propensity to accept uncertain legal consequences affects decisions about diverging from formal institutions (Palmer and Weiss, 2021). Moreover, we extend the literature on the antecedents of misconducting behaviors by also including in the conceptual model the variable of legal deregulation. In particular, we argue that the risk-propensity in tolerating legal consequence may be mitigated by policymakers actions aimed to enlarge formal institutional boundaries.

We now introduce the second contribution regarding the interplay between entrepreneurship and institutionalism. In this vein, scholars have argued that in the attempt to pursue business opportunities, entrepreneurs need to seek institutional conformity by adhering to both legal and legitimate boundaries (Obschonka et al., 2013). In this view, institutional boundaries are considered "safe" spaces within which entrepreneurs can act in order to survive and grow. Moreover, researchers have also argued the importance of breaking the status quo by introducing innovations that are unrelated to the market (Manley, 2003). In this vein, the market is viewed as a boundary to be overcome in order to gain a unique competitive advantage. Our paper participates in this academic dialogue, extending the logic of challenging the status quo, which is typically related to market assessments, into the institutional context (Brenkert, 2009; Warren and Smith, 2015). By doing this, we shed light on alternative interpretations of institutions—from a source of protection to possible boundaries limiting entrepreneurial endeavors. Accordingly, we propose that some entrepreneurs consciously diverge, not only from extant market logics, but also from the institutional boundaries in the attempt of pursuing entrepreneurial opportunities in a sort of institutional "blue ocean" Kim (2005).

We believe important implications for practitioners do stem from our conceptual model. First, entrepreneurs may benefit from our conceptual model understanding



institutional environment as a source of potential limitation and not simply protection for entrepreneurial endeavors. Moreover, our model raises awareness in entrepreneurs about their own personal characteristics and relative impacts of decisions and understand why some competitors act upon divergence from institutional boundaries while others do not.

Second, by proposing implications of legal deregulations on the entrepreneurial environment, policymakers may have a better understanding of entrepreneurs' cognitive factors interacting with decisions to enlarge formal boundaries. Our model may support policymakers in making decisions about regulation of controversial industries such as prostitution. We argue that regulation of such industries may reduce the likelihood of entrepreneurs violating legal boundaries, being recognized by policymakers as compliant with the law.

Third, business educators may use the model to clarify the role of institutions and the consequences of acting beyond them. While we propose that some entrepreneurs act beyond formal and informal boundaries, we also highlight the possible negative consequences that result from such actions. Therefore, our model and the examples reported may encourage business educators to instill a business culture that is oriented to the common good rather than personal interest.

## Future research avenues and conclusions

Despite its contributions, our theoretical model cannot exhaustively provide all the necessary knowledge about entrepreneurial ventures' decisions to diverge from formal and informal institutions. Thus, our arguments leave questions that call for further theoretical and empirical efforts which are introduced in the following.

First, although such a model may exclude additional variables that may concur to explain individual orientation to institutional divergence, it still constitutes an initial step by means of which future studies may explore further direct or moderating effects exerted by national cultures, personal assets, and the competitive environment

Researchers may also investigate whether entrepreneurs are more likely to diverge from rules in some business stages rather than others. In this vein, scholars have argued that start-ups may intentionally tell legitimacy lies in an effort to encourage various stakeholders to deem them a legitimate entity. However, in the long term, such actions may damage the trust between entrepreneurs and stakeholders (e.g. financiers and customers). Scholars may investigate how entrepreneurs consider the short- and long-term impact of diverging from rules.

Furthermore, our conceptual model draws a sharp distinction between the ethical and unethical actions pursued by entrepreneurs. However, scholars have argued that morally wrong behaviors can be accepted from a broader

ethical perspective. Brenkert (2009) "defend[s] a model of ethical decision making that looks beyond the rules that entrepreneurs break to the kinds of characters, businesses, and societies that are involved" (449). It follows that actions that diverge from informal institutions may be considered ethical, due to the complex competitive environment. Scholars may dive into the boundaries of ethical and non-ethical actions aligning with Brenkert's (2009) statement and so provide implications for our conceptual model.

Moreover, scholars may investigate the impact of the Covid-19 pandemic on misconducting behavior. Indeed, the recent pandemic significantly impacted both legal and legitimate boundaries. From a legal perspective, policy makers restricted the range of entrepreneurial actions by limiting the gathering of people. From a legitimate point-of-view, in the pre-pandemic period, a government's use of surveillance devices to track people was considered an invasion of privacy and unacceptable by a large part of society; in the post-pandemic phase, instead, people may accept it as a way to preserve both their and the broader community's health. Accordingly, a promising research avenue may investigate the reactions of entrepreneurs resulting from the changes of the institutional environment with Covid-19 and how it impacted decisions to pursue misconducting behaviors. In particular, yet few scholars investigated how controversial events may influence decisions, including judgements, evaluations, and response choices, and so moral priorities.

Last, but not least, is the need for empirical validation of the propositions presented in this paper. Previous scholars have developed scales for risk-propensity (Brockhaus, 1980), self-enhancement (Schwartz, 1994), and locus of control (Rotter, 1966). Scholars may take in consideration such scales to empirically test the conceptual model.

These are only some of the avenues related to institutional divergence. It is our hope that this paper will inspire scholars to conduct research to enrich our arguments and add new ones.

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## ORCID iD

Andrea Sottini  <https://orcid.org/0000-0002-2579-632X>

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