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A contemporary study on the impact of regulations on business performance

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A CONTEMPORARY STUDY ON THE IMPACT OF REGULATIONS ON BUSINESS PERFORMANCE

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VITA

Brian C. Mulligan is an international executive who has held positions of Chairman, Vice-Chairman, CEO, COO, CFO, EVP, and SVP of major multinational companies, world-class advisory firms, and private equity firms. Positions held include Vice Chairman of Deutsche Bank, EVP/CFO of Seagram's (Fortune 50 Company), Co-Chairman of Universal Pictures, COO of Universal Studios, Chairman of FOX Broadcasting and Cable, EVP/SVP of Strategic Planning and Corporate Development for MCA Inc. and Universal Studios Inc., CEO of Universal Television, Senior Executive Advisor for Boston Consulting Group, and Senior Manager for Price Waterhouse. He has served on numerous boards such as IAC. During his career, Mulligan has been instrumental in over $200 billion of transactions.

Dr. Mulligan is an expert in domestic and international financing, operations, and restructurings for long-term, value-creating growth. Examples of operating performance improvements include over $2 billion in operating improvements, reengineering Universal Pictures from the 6th rated studio to 1st, and over a $1 billion turnaround in operating cash flow. He took Deutsche Bank from 8th to 1st in Media and Telecom and 12th to 1st in Entertainment Underwriting League Tables over three years.

Dr. Mulligan is a featured industry and academic speaker and a published writer with over 20 articles on global businesses, entertainment, sports, and emerging businesses. He was featured as "One of the 25 Most Powerful People in Hollywood" by Premiere Magazine, "One of the Ten Most Prominent Bankers in Entertainment" by the L.A. Business Journal, and "One of the Three Leading Investment Bankers on Emerging Business Models" by TMT Quarterly/Law 360. Dr. Mulligan earned a BS from USC, an MBA from UCLA, and a Doctorate from Pepperdine. He is a member of FINRA, SPIC, AICPA, California Society of CPAs, and Beta Gamma Sigma.

ABSTRACT

This dissertation examines Nobel Prize Laureate Hayek's ominous warning that economic liberty in the U.S. is at risk, due to regulations, of becoming an unplanned administrative state. The research seeks to understand the effects of regulations on business performance and how to right-size them for a healthy business environment. These objectives are accomplished with two papers: (1) a macro cross-discipline literature review and call for research on the impact of regulations on business performance, and (2) a qualitative grounded theory study from interviews from elite business executives on their perspectives on the impact of regulations on business performance. The findings lead to principles of the impact of regulations have on business performance, theoretical implications, and practical implications towards right-sizing of regulations. The government's role as the umpire is paramount, including acting on appropriate regulations to create a healthy business environment, and avoiding regulations that pick winners and losers. Regulations should be vetted against unintended consequences that may create an unhealthy business environment. Future research directions and limitations are discussed.

Keywords: capitalism, regulations, business performance, collectivism, innovation, unseen consequences, government, Hayek, Bastiat, Schumpeter

CHAPTER 1: INTRODUCTION

Overview

This dissertation showcases a research agenda on the effect of regulation on business performance. The agenda aims to tie business performance outcomes to the business environment influenced and created by business regulations. For that purpose, I propose two studies. Study 1 is a call for research on whether businesses in the U.S. are operating under a cloud of a collectivist state due to the considerable amount of business regulations (Dean, 2020; Hayek, 1943, 1960; Stigler, 1964, 1971, 1983; Strassel, 2019; Whitehead, 2016, 2019). Study 2 is a micro-level empirical study of the impact of regulations on business performance, based on interviews with senior executives. Study 2 aims to understand how to right-size regulations to create a healthy environment for business performance.

I am motivated by my own experience as an industry executive. The first example that comes to mind is the Tax Reform Act of 1986. I was just out of undergraduate university and spent much of my time understanding business taxes and their importance to business (approximately 40% of bottom line). I was naïve and astonished that the government, without much warning, through its actions could upend the business environment into an atmosphere of uncertainty, effectively rendering many existing business strategies obsolete. The Act caused the most significant single-day market crash, unemployment rose, and the savings and loan industry was wiped out, giving a monopoly to banks (Bartlett, 2011; Bernie, 2011).

In the same way government regulations can affect the business environment, the lack of regulations can also. An example is the deregulation of the entertainment industry, first eliminating the fairness doctrine in 1987, which went into effect in 2011 (Mascaro, 2013; Valenti, 1983). The fairness doctrine required issues of public importance to be presented in an honest, equitable, and balanced fashion. Another deregulatory action was the elimination of the Financial and Syndication Rule. Since 1971, due to monopolistic and predatory actions, broadcasters could not own a financial interest or backend interest in entertainment programming. Creative talent, agencies, television, film, and independent producers were against the repeal as doing so would make all entertainment production entities and creative talent effectively employees of broadcasters. The rules were repealed in 1993. Over time, broadcasters leveraged their newly created monopolistic position, resulting in the industry (with formerly hundreds of business entities) being reduced to six conglomerates that controlled 95% of the entertainment and media market.

My last personal example is a cautionary tale of the consequences of both action and inaction by the government as related to the emergence of Amazon. My firm's book publishing company sold books to Amazon when they started in 1995 at the exact cost as any book retailer. Amazon seemed at a significant competitive disadvantage to its competition since it did not have retail outlets and instead assumed a more expensive distribution due to the enormous cost of delivering books to individuals. We had to make Amazon pay cash up front before delivering their books, as their business model did not seem sustainable (Golomb, 2014; Khan, 2016, 2018). I was perplexed noticing that at that time, unlike most start-ups, upfront cash was never a problem for Amazon. It took Amazon 20 years before its aggregate profits were more than its total losses (Khan, 2016, 2018). Over time, it became known that a government venture capital fund underwrote much of Amazon's cash needs (Upbin, 2013). It also became known that they benefited from Intel agency technology, helped from regulations that allowed them to pay no sales tax, pay virtually no income tax, and pay less than half what competitors pay for postage and delivery (Baugh et al., 2019; Grover, 2019; Russel et al., 2018; White, 2019). Moreover, Amazon benefitted from governmental intertwinements (Bandler et al., 2019; Canter & Gomez, 2017), generous government contracts when Amazon ran low on funds (Galloway, 2017; Levine, 2018; Zhu, 2019), and from a friendly Department of Justice (DOJ) that looked the other way on numerous anti-trust acquisitions and complaints (Akerlof & Romer, 1993; Khan 2016 & 2018; Mitchell, 2014; White, 2019).

Amazon went on to play a significant role in bankrupting bookstores (harmed our publishing company), music stores (damaged our music and DVD business), and impaired most retailers. All of this led to a material amount of unemployment or underemployment (Grover, 2019; LaVecchia & Mitchell, 2016; Mitchell, 2014; Van Ullen & Germain, 2002). Amazon is also now one of the largest polluters (Nguyen, 2018). Amazon is an example of the adverse, unintended, hidden consequences of both government action (Hargadon & Kenny, 2012; Khan & Vaheesan, 2017; Russel et al., 2018) and inaction by not demanding online retailers to collect sales tax initially (Kenny, 2019; LaVecchia & Mitchell, 2016).

Problems Addressed

A country's regulatory environment can affect the overall capacity of firms to generate economic rents enough to allow for the betterment of and optimization of business and society. Economists considered two broad governmental regulatory models to organize the business environment: collectivism and individualism (D'Amato, 2018; Rand et al., 1986; Read, 2018; Stoller, 2019; West, 2013, 2019; Younkins, 2005). Collectivism uses central government planning and stakeholder primacy, operating regulations, and reporting requirements to organize business to steer the collective economy and society as a whole (de La Boétie, 1553; Marx & Engles, 1848; Marz, 1991; Osborne, 1992, 2010; Wolff, 2016). Individualism uses shareholder primacy based on the sovereignty of self-reliance and self-interest of the individual shareholders and only the minimum amount of regulation for capital formation, capital markets, and to create competitive and fair markets (Hayek, 1943, 1945, 1956, 1960, 1991, 2013; Friedman, 1962, 1970; Nozick, 1974; Read, 2018; Reisman, 2012; Weber, 1922, 1930).

Because of the integrated, interrelated, and synonymic nature of governmental language and action upon business, in this study, any governmentally imposed friction costs on business are considered part of the regulatory phenomena to be examined (Peikoff, 1983 & 1993; Reisman, 1979; Strassel, 2019). Regulations for this study include Tax, Regulation, Assessments, Intervention, Legal, and Subsidies (TRAILS). To avoid the fallacy of composition, the totality of the TRAILS ecosystem will be examined (Peikoff, 1983, 1993).

Governments use regulation to affect business, economic, and societal matters. But governments can also impact results through inaction (Coase, 1960; Stiglitz, 2015), by not creating laws that allow for fair capital formation and competitive markets in evolving and on-going business environments, or by not enforcing existing laws that allow for such. Further, governments can harm the business environment by proactive intervention or investment in private industry (Kahn, 2016; Khan & Vanheesan, 2017; Lavecchia & Mitchell, 2016; Mitchell, 2014; Van Ullen & Germain, 2002).

One of the key drivers of my research is that the exhaustive literature review suggests there are no meaningful performance measures (Elson et al., 2017), including impacts on society (Carter, 2018; Goldin, 1992, 2014), innovation (Tsanova & Havenith, 2019), economy (Hannan, 2011, 2013), environment (Bracket, 2019), and stakeholders (Bainbridge, 1993, 2002, 2015, 2019; Lipton, 2017; Lipton & Podolsky, 2019; Reisman, 2012), in which collectivists countries or companies outperform individualist ones. The very few research reports that suggest environmental and social pressures on corporations provide a modest improvement in performance measures were paid for by agenda-driven activists (Bainbridge, 1993, 2019; Broome et al., 2011; Lacasse & Lambert, 2016; Meddaugh, 2017; March & Olsen, 2006; Reisman, 1979).

There are some signals in the U.S. that over-regulation may be creating a challenging business environment. Since 1960, regulation has grown from 15% to 45% of GDP (International Monetary Fund, 2021), which is primarily due to TRAILS (Palmer, 2011, 2013, 2014). Such TRAILS and related costs hamper growth and are a drag on the economy (Campos, 2015; Gordon, 2014; Rothbard, 1959, 2002, 2009; von Mises, 2015). For context and directional comparison of the 45% of GDP figure, overhead or cost centers of the S&P 1200 is only 5.5% (Capital IQ, 2021). Also, the government has lost control of its accounting (Priest & Arkin, 2010). The government has misplaced and cannot account for $23 trillion and is not disclosing liabilities of over $150 trillion (Adams, 2019; Aftergood, 2018; Skidmore & Fitts, 2019; Skidmore & Kotlikoff, 2019). Further, the government is unable to report data on any of the generally accepted methods (GAAP, governmental GAAP, cash basis, accrual basis, fair market value basis, and IAS) (Heiling et al., 2013; Miron & Romer, 1990; Peled, 2011; Priest & Arkin, 2010; Skidmore & Kotlikoff, 2019). This situation is concerning because the loss of transparency and trust in government are leading indicators of future country-level failure (Omerod, 2019).

Hayek (1943, 1960) argues that an individualist state can be converted into a collectivist state by increasing unnecessary regulations that, philosophically, pass the delineation line amount of regulation from individualism to collectivism. This situation is known as regulatory capture (Stigler, 1964, 1971, 1983), which morphs an individualist state into a collectivist one through TRAILS. This new state is also referred to as an administrative state, regulatory state, or bureaucratic state (Hayek, 1943, 1960; Palmer, 2011, 2013, 2014). Schumpeter (1942) observed the seduction of collectivism taking over universities and Europe and warned of the fall of individualism. Hedges (2009), Stoller (2019), Wolfe (2016), and Stigler (1983) note that the U.S. has regulated itself out of being an individualist country due to individuals of questionable quality in government (Hayek, 1943, 1960; Hoppe, 2002; Schumpeter 1942)

It is important to determine if the ominous warnings have come to fruition and contentions are true. If they are, the rhetorical debates that play themselves out in politics, mainstream media, and study of individualism vs. collectivism can be disingenuous, divisive, and counterproductive. Moreover, such polarizing debates are often based on a false dilemma or correlative-based fallacy, or theories unmoored to reality or rigor (Bastiat, 2007; Coffey et al., 2016; Dunkelberg, 2017; Gilens & Page, 2014; Hazlitt, 1959, 1988; Murray, 2016; Skidmore & Kotlikoff, 2019; Strassel, 2019; Whitehead, 2016).

Research Questions

The broad agenda for this research is to understand the impact of TRAILS on business performance. Specific questions that will be pursued are:

- On a macro basis, are businesses operating under the right set of regulations for business performance?
- On a micro basis, how can regulations be right-sized for a healthy business environment?

Significance of Proposed Research

Many prominent researchers, philosophers, economists, executives, and certain politicos view the potential corruption of the individualist state to a collectivist state as the single most crucial issue facing the U.S. (Allison, 2012, 2014; Hannan, 2011, 2013; Hayek, 1960; Hedges, 2009; Infantino, 2014; Rand et al., 1986; Read, 2018; Rothbard, 1959, 2002b, 2009a, 2009b; Schumpeter, 1942; Shlaes, 2009, 2013; von Mises, 2015; Whitehead, 2016, 2019). They view regulatory capture as the hidden existential threat to U.S. sovereignty, such that TRAILS are robbing the wealth and future of the hard-working American citizens and their children.

The significance of this research is also due to the unique tripartite analysis filters of the study. This research will highlight and provide an understanding of the cruciality of the TRAILS phenomena from three dimensions: macro/micro, a common-sense judgmental vector on the positive and negative impact on business (not a political right or left dichotomy), and a combined scholarly and practitioner perspective.

CHAPTER 2: OVERVIEW OF THE RESEARCH AREA AND APPROACH

Introduction

A comprehensive and complete review of the literature related to the impact of TRAILS on business performance necessitates the involvement of disciplines across the business, economics, law, public policy, and psychology domains. Further, the vastness of the literature stems from the complexity, quiddity, and impact on winners and losers from each TRAIL enacted (Ebell & Milloy, 2019; Schuck, 2014; Wilson, 1989; Wilson et al., 2017). Moreover, there is a nearly immeasurable amount of theoretical and academic scholarly research. This vastness is due to the philosophical nature of connectedness and intertwinements with how countries organize commerce and control and steer society.

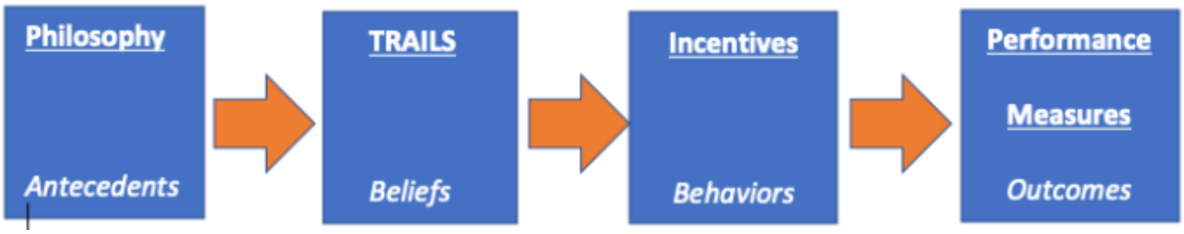
Foundational Literature Review

To understand the structure of the literature, it is necessary to understand the philosophical basis of individualism, self-determination, and the law of identity vs. collectivism, group supremacy, and the truth for the benefit of the group (Elster, 1982; Hayek 1948, 1991, 2013; Herman, 2014; MacDonald, 2018; Nozick, 1974; Peikoff, 1983, 1993; Rand & Peikoff, 1984, 1993, 1999). I have reviewed the economics, finance, legal, tax, accounting, behavioral, and psychodynamic psychology (i.e., incentives) research to understand how the literature is structured (Petriglieri et al., 2019; Roe & Lunneborg, 1990).

A qualitative theoretical structure of 'Antecedents to Beliefs to Behaviors to Outcomes' (ABBO model) is the framing for this research (Edmondson, 1999) and can be seen pictorially in Figure 1.

Figure 1

Qualitative Theoretical Structure for the Literature Review



The framework considers both individualism and collectivism as antecedents, a form of governance for a nation. Then, beliefs understand TRAILS at the firm structure or operating level. Beliefs are followed by behaviors driven by TRAILS-induced incentives at the firm level, also referred to as team behaviors (Edmondson, 1999), and at the individual level. The individual interprets, evaluates, and internalizes TRAILS, motivating intentional behavior that affects business performance. The change from that calculus manifests results in outcomes (performance measures). In aggregate, henceforth, this dynamic theoretical process model is referred to as the ABBO model. At the A (Antecedents-Philosophy), B (Beliefs-TRAILS), and C (Behaviors-Incentives) levels, there are philosophically two dichotomous research positions that are rooted in either individualism or collectivism. Often not explicit in existing research is the function incentives have on behaviors and, thus, outcomes, although it is omnipresent in some form, especially for individualists (De Bottom, 2016; Weber, 1922, 1930).

The ABBO model is not static. There is dynamism in business that occurs over time or with new TRAILS. There is a persistent evaluative process of existing TRAILS, as firms constantly change and refine their beliefs and behaviors based on outcomes. Even antecedents can change with a new administration and/or personnel. Exogenous and endogenous factors (new data points) are put into the calculus of prior antecedents, if applicable, and beliefs (intrinsic and extrinsic) are adjusted before determining adjustments to behaviors (incentives) to improve business outcomes. For individualism, improved outcomes of performance measures are for the business entity and individuals based on incentives. For collectivism, enhanced outcomes of performance measures are more equal outcomes for individuals and improvement of outcomes of performance measures is secondary (Hayek, 1943, 1948; Marx & Engels, 1848; Roth, 2010; Schumpeter, 1909, 1943; Weber, 1922, 1930).

Justification of the Research Agenda

The broad agenda for this research is to understand the impact of TRAILS on business performance. I propose two complementary understanding vectors: a macro perspective and a micro perspective. The dissertation consists of two papers, one for each of these points of view.

The first paper, which is termed the macro study, is based on two discoveries that emerged from the literature review and exploratory interviews. The first discovery is a framework I developed to understand the TRAILS phenomena on a macro basis. The second discovery was that several areas are important, yet under-researched, to fully understand the current TRAILS environment. An undertaking to research the identified areas goes far beyond the scope of my proposed dissertation. Therefore, the first paper is a call to the academic and business community on the critical areas in need of additional research to understand how TRAILS is impacting business performance using the emerging framework.

The second paper takes a more micro view of the relationship between TRAILS and business performance. It consists of empirical qualitative research through intensive interviews of executives (practitioners) to better understand the real-world impact of TRAILS on business performance at the individual and firm levels. This understanding will be accomplished by analyzing the data inductively, deductively, and abductively relative to existing theory to provide a realistic assessment of the TRAILS phenomena and reconciling connections and disconnections with existing scholarly work. Finally, the empirical study yields a real-world but theoretically sound framework to right-size TRAILS towards a favorable business environment.

CHAPTER 3: CALL FOR RESEARCH: TOWARDS THE RIGHT-SIZING OF REGULATIONS FOR BUSINESS PERFORMANCE

Introduction

Certain economists and executives believe that the U.S. is no longer an individualist state due to regulatory encroachment but rather a collectivist state. Hayek (1943, 1960) warned that the U.S. could be undermined by regulations and effectively become an unplanned administrative state. Schumpeter (1942) warned of a similar outcome directionally for the U.S. Several Nobel prize-winning economists warned of or conceded that the U.S. is now a collectivist state. An analysis of current source material and original data collection seem to support face validity to these most ominous prognostications. This paper develops a call for research to understand contemporary regulatory phenomena on a macro basis, seeking to know whether the U.S. is already fundamentally (or on the way to) becoming an unplanned administrative state.

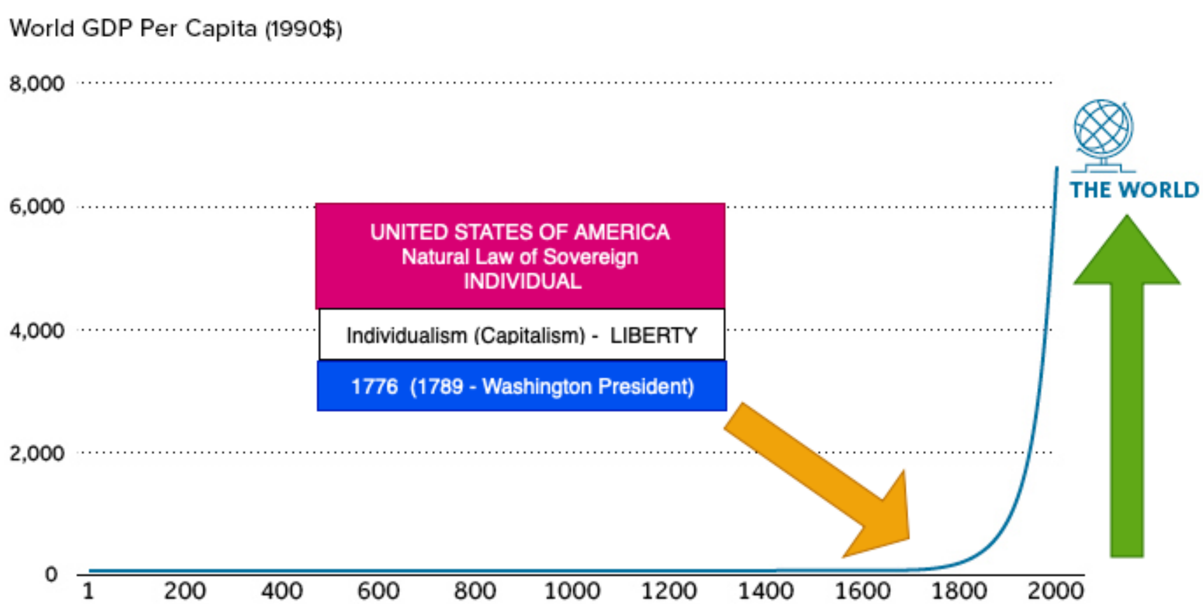
A country's regulatory environment affects firms' overall capacity to generate economic rents to better and optimize business and society. There are two broad binary governmental regulatory models to organize the business environment: collectivism and individualism, aka economic liberty (Hayek, 1943, 1960; Marx & Engels, 1848; Rand et al., 1986; Read, 2018; von Mises, 2015). Collectivism uses central government planning, stakeholder primacy, operating regulations, and reporting requirements to organize business to steer the collective economy and society as a whole (Marx & Engels, 1848; Mitchell, 2019; Soros, 2008; Stiglitz, 2015; Wolff, 2016). Individualism uses shareholder primacy based on the natural law of sovereignty of self-reliance and self-interest of the individual shareholders and only the minimum necessary amount of regulation for capital formation, capital markets and to create competitive and fair markets

(Friedman, 1962, 1970; Hayek, 1943, 1945, 1960; Mitchell, 2020; Read, 2018; Weber, 1922, 1930).

Some argue that individualism is the core of liberty (Smith, 1932) and has created more economic and civil elevations than all other forms of business governance combined (Boaz, 2015), which is critical for a healthy business environment. Figure 2 shows the impact of economic liberty on GDP per capita. The term I use most often in this dissertation related to individualism is economic liberty.

Figure 2

Impact of Economic Liberty



Note. Statistics on World Population, GDP, and Per Capita GDP 1-2008 AD. Groningen, Netherlands: Groningen Growth and Development Centre, University of Groningen.

Because of the integrated, interrelated, semantic overload, synonymic nature of governmental language and action upon business, in this study, any governmentally imposed friction costs on business are considered part of the regulatory phenomena to be examined (Peikoff, 1983, 1993; Strassel, 2019). This study's consideration of regulations includes tax, reporting, assessments, intervention, legal, and subsidies (TRAILS). To avoid the fallacy of composition, the TRAILS ecosystem's totality will be examined (Peikoff, 1983).

In the literature review on the government's role in business performance, there was no evidence-based research on any aspect of U.S. business that collectivist TRAILS have favored. By comparison, the U.S. business environment is better than other countries by some economic measures (Appleby, 2010; Elson et al., 2017; Hannan, 2011, 2013; King & Levine, 1993). But this reality could be a strawman if the U.S. is relatively better off because it is lagging on the path to becoming an administrative state compared to other countries.

Perhaps a better comparison is the U.S. business environment today as compared to 1960. In the preponderance of meaningful metrics, the U.S. is worse now than it was in 1960. Examples are the worldwide standard of living per capita in the U.S., which is down 58% (Giridharadas, 2018; Hannan, 2011, 2013; Murray, 2016; Stoller, 2019). Some current research suggests that the U.S. is under or is near financial bankruptcy (Alvaredo et al., 2018; Bandow, 2019; Murray, 2016; Whitehead, 2016, 2019).

On a macro basis, a nation can pretend it does not have problems, but its consequences cannot be ignored. Before you can solve a problem, three predicate steps are required: understand the problem, admit the problem exists, and understand its root, symptomatic, and systemic causes. Then you can investigate solutions. The broad approach pursued in this call for research will be to find critical research areas to right-size TRAILS (Flynn, 1987; Gwartney et al., 2018; Jones, 2015; Vásquez & Porčnik, 2019) by satisfying the three predicate conditions.

This call for research will focus on the appropriate philosophy governing antecedents for a healthy business environment. Then, suitable TRAILS believed to manifest that business environment can be understood. Using this structure, gaps in enacted TRAILS and misalignments of TRAILS help identify areas for further research.

Purpose of the Paper

The purpose of this paper is to provide an academic and existential understanding of the current TRAILS phenomena on a macro basis, based on the working hypotheses from economists from the 20th century that the U.S. is susceptible and at risk of becoming an unplanned administrative state. This research intends to provide an aggregate assessment of the state of the current U.S. business environment and the appropriate role of TRAILS. A set of models and frameworks based on the literature examined are developed to guide the critical research questions researched around this phenomenon. These models and frameworks condense and help visualize a vast amount of complex literature, data, and source material to ease understanding of how regulatory action and inaction can be favorable or unfavorable to business.

This research seeks to expose gaps to be filled in studying the impact of regulations on business performance. Pro-regulation and anti-regulation studies have materially different underlying evidence and methods because they come from diverse and often biased angles (Delsol et al., 2017; Wheelan, 2013, 2019). Unreconciled underlying evidence and facts portend any productive discourse to be fruitless. Thus, this paper proposes directions to quantify the costs and benefits of regulation on business, with specific requests for action on contemporary regulatory dilemmas. The call for research is motivated by the magnitude of the problem, disinformation, unsubstantiated rhetoric, epistemological polarity, and the need to infuse economic perspectives into policy debates.

The call for research will allow the regulatory debate to be elevated to the practical level to advance toward realistic and actionable research and solutions. This common-sense approach will ideally reduce the extreme epistemic polarity of the current general understanding of the TRAILS phenomena (D'Amato, 2018). The purpose is to propose a research agenda that can lead to a better business environment. In doing so, competing analyses would not fall prey to unmoored rhetoric or fallacy of concrete arguments and instead would seek baseline agreement to represent the business world accurately. This research also seeks to determine if TRAILS' wrong-sizing is unplanned or based on planned regulatory overreach.

The epistemic polarity in the U.S. political debate has resulted in factional splits. The all-encompassing polarity is not merely between collectivists vs. individualists or based on political affiliation or self-interest groups. But instead, importantly, there exists a division of two realities. One side trusts experts from academia, media, entertainment, governmental institutions, unaccountable world organizations, foundations, non-governmental organizations, activists' organizations, and even celebrities. The other has a deep mistrust and complete skepticism of these same experts and notables. From a business standpoint, due to TRAILS, the country is at a pivotal moment in which the two groups face but one unattractive consequence if appropriate TRAILS actions and inactions are not adopted. Given the present juncture with the global COVID-19 economic crisis, it is crucial to bridge the two sides to right-size TRAILS for business performance.

Literature Review

Hayek (1943, 1960, 1979, 2013) predicted the defeated 'devil' of collectivism would gradually and discreetly destroy the state through TRAILS (Carpenter, 2019). Collectivist propagandists would divert blame to capitalism and businesspeople and manipulate citizens to demand regulation to control capitalism, resulting in tyranny (Boyack, 2014; Caldwell, 2008; Crewdson & Treaster, 1977; Reisman, 2012).

Regulatory usurpation of individualism can occur at the national, firm, or operational level and are not mutually exclusive (Bainbridge, 1993, 2019; Hoggett, 2006; Lipton, 2017; Lipton & Podolsky, 2019). Literature on regulatory usurpation suggests that every TRAILS action has consequences, beneficial or ruinous, intended or unintended, if not immediately, in the future, and they can be compounding and esoteric (Edwards, 2014; Edwards & Kaeding, 2015; Schuck, 2014; Wilson, 1989). Thus, it is the essence of the regulatory ecosystem that any government TRAILS action will asymmetrically impact human activity and, therefore, business activity (Low & MacMillan, 1988; von Mises, 2016; Wilson, 1989; Wilson et al., 2017).

The regulatory capture can go far beyond observable costs. It includes creating anti-competitive markets by enforcing or not enforcing appropriate TRAILS, all of which lead to wrong-sized TRAILS. They include public and private partnerships that eliminate competition, government investment in private companies that increase monopoly power, judicial activism, bailouts, unfair trade deals, collective bargaining for governmental employees, and tax breaks for selected entities. These can result in unintended consequences on the business environment and can potentially stifle commerce by advertently or inadvertently having the government picking winners and losers rather than the market (Allison, 2012, 2014; Bastiat, 2007; Blumenthal, 1984; Blumenthal & Newman, 2015; Cudenec, 2020; Dharapala et al., 2019; Friedman, 1957, 1962, 1970; Hockerts & Wüstenhagen, 2010; Hargadon & Kenney; 2012; LaVecchia & Mitchell, 2016; Levy & Reynolds, 2000; Miron, 2010; Rothbard, 1959, 2002a, 2002b, 2007, 2009; Schuck, 2014; Strassel, 2019; von Mises, 2015, 2016).

How does all this lead to a regulatory state? The vast bulk of TRAILS and related direct and indirect costs can grow by individual regulatory actions, leading to an increase in reporting requirements, judicial activism, unaccountable and less competent legislative body, sanctioned activism, creation of oversight agencies, sanctioned oversight, enforcement of self-regulatory bodies, the unelected world governing bodies, uneven application and enforcement of regulations (Bainbridge, 2019; Cogan, 2017; Kadlec, 2011; Palmer, 2013, 2014; Shlaes, 2009; Stigler, 1983; Strassel, 2019; Stoller, 2019). Therefore, in this call for research, the inquiry areas get back to the basics of natural law, economic liberty, free markets, entrepreneurial innovation, and competition as foundations to advance theory and research on how to right-size TRAILS for business performance.

Evidence on the Path to an Administrative State

Some argue that wrong-sized TRAILS could drive government debt, relative to economic growth, at the Federal, state, municipal, and U.N. systems level to unsustainable ratios (Cogen, 2017; Hayek, 1943, 1960, 1988; Hazlitt, 1959, 1988; Hoppe, 2002, 2019; Rothbard, 1990, 2007; Schumpeter, 1942; von Mises, 1940, 1957, 1961, 1981, 2005, 2007). Gattuso and Katz (2016a, 2016b) noted that from 2010 to 2015 alone, the federal government added nearly 50,000 new rules to the Federal Registry, and that excluded states, agencies, and self-regulatory organizations.

There are statistics on the impact of TRAILS that raise the flag and signal the importance of addressing the issue in a non-partisan, empirical manner (Table 1). Dawson and Seater (2013), using the percentage ratio of TRAILS to GDP in 1948 vs. the reported proportion of TRAILS to GDP through 2012, calculated TRAILS current and cumulative impact on GDP. In 2012, the difference was $38 trillion, or $150 thousand per adult per annum. The estimated cost was $421 trillion over the last 50 years.

Table 1

Annual TRAILS Cost Estimates for Federal, State, Municipal, and U.N. Systems

Impact of TRAILS measures			
Category			*Impact*
Journal of Economic Growth, Dawson & Seater (2013)			
Opportunity Cost Per Year Using Impairment of Growth			**$38 Trillion**
Per Capita			**$150 Thousand**
Estimated aggregrate since 1970 - using reported measurements			**$421 Trillion**
Estimated aggregrate since 1970 - using consistent measurement			**$571 Trillion**
Founding Documents principles, Slate, (2017)			
Opportunity Cost Per Year Using Impairment of Growth			**$31 Trillion**
Research triangulation TRAILS GDP growth rates drag (10) https://www.macrotrends.net, BEA)			
GDP growth rate 1960 to 1969		4.65%	
GDP growth rate 1970 to 2020		2.61%	
Real GDP in 1969		$4.94 Trillion	
Opportunitity costs per year			**$ 37 Trillion**

Note. Sources: Dawson and Seater (2013), Slate (2017), Williams (2021)

A second analysis calculated the impact of not adhering to economic liberty as documented in the Founding Documents costs at $31 trillion per year (Slate, 2017). Slate (2017) performed a triangulation calculation using GDP growth rates, which slowed due to exponential growth in TRAILS starting in the 1960s. The results supported Dawsom and Seater (2013). The calculation was performed using the government's Beige Book statistics, which changed the GDP calculation methodology upward in 1990. Had GDP been calculated consistently, the growth rate from 1990 to 2020 would have gone from 2.47% to zero, implying a cumulative adverse unseen differential of $571 trillion (Williams, 2021).

Some research shows that the U.S. has already become a regulatory state. Gilens and Page (2014) performed a multivariate analysis over two decades of 1,779 key TRAILS. Their research showed that the U.S. is dominated by powerful business elites that can kill virtually any proposed TRAILS and get 50% of TRAILS they want to be enacted. Others have little to no influence on TRAILS, and even when they try to organize to influence policy, they are generally ineffective. The economic elites, oligarchs, inherited wealth, economic-minded think tanks, and major investors know the political policy game, and the majority of others with policies worthy of respect do not share the same access or influence (de La Boetie, 1553; de Tocqueville, 1835; Gilens & Page, 2014). In today's day and age, the most to least powerful to enact permanent TRAILS are judges, regulatory bodies, government unions, oligarchs, financial elites, Wall Street, lobbyists, UN, NGOs, Uniparty, and politicians (Gilen & Page, 2014; Sowell, 2012, 2016, 2019). Those with little to no power are Main Street, small and mid-sized enterprises and their stakeholders, and individuals in the upper and middle class. Special interest groups are used to benefit the first group using the veneer of the greater good (Mises, 1981). In contrast, in the 1960s, the ranking (from most to least) would have been politicians, Main Street, Wall Street, and Uniparty (Sowell, 2012, 2016 & 2019).

Paul (2011) reviewed 50 essential TRAILS that may have turned America into a regulatory state with references to the policy, studies, and economic effects. Bandow (2019) tied significant TRAILS to Congressional Budget Office numbers and determined that the U.S. is a regulatory state and is bankrupt (2018). Dawson and Seater (2013) performed a statistical analysis of TRAILS and economic output and found a straightforward adverse relationship in all macroeconomic measurements. McLaughlin (2013a, 2013b) reviewed 11 quantitative studies and analyzed 57 years of regulation to determine that TRAILS have slowed the economy on a compounded basis and have led to offshoring of business activity.

Goldberg (2008) tracked the start of the individualism impairing TRAILS to the 1913-1921 Woodrow Wilson administration. Wilson inverted the Constitution (meaning Founding Documents - The Declaration of Independence, Bill of Rights, Constitution and Federalist Papers) to interpret The Republic as a democracy. Wilson did so by mixing Hegelian and Darwinian theories to create a living constitution (Goldberg, 2008; Wilson, 1885, 1913). In a democracy, the individual and business serve the government (Goldberg, 2008; Quigley, 1966, 1981; Shlaes, 2009; Wilson, 1885, 1913), which is the opposite intention of the Founding Documents (Yoo, 2020). Wilson accomplished this inversion through questionable legislative gamesmanship aided by his donors for the creation of the permanent, unelected administrative class to rule over business and individuals, aka the dual state construct of governance (Blum, 1956; Fraenkel, 1941; Goldberg, 2008; Griffin, 2002; Quigley, 1966, 1981; Shlaes, 2009; Throntveit, 2017; Wilson, 1913).

The result is that every administration grew this notion of regulatory control into a leviathan, labyrinth, and a goliath of bureaucratic economic destruction (Griffin, 2002; Higgs, 1993; Shlaes, 2009, 2013; Strassel, 2019; Stoller, 2019). The administrative class is a separate TRAILS vector from elected officials (i.e., political class or normative class) due to a Supreme Court Decision that gave the administrative class primacy over the political class in many TRAILS matters. The administrative class includes over 1,000 departments including the Federal Reserve, Department of Labor, the IRS, and generally all business oversight and intel agencies (Crews, 2019; Dentchev et al., 2017). These departments issue over 25 times the number of TRAILS that the political class does (Strassel, 2019; Stoller, 2019).

Other researchers contend that the observed dissipating business and economic trends over the last 60 years are due to the nature of individualism having a focus on capital rather than individuals and the solution is more TRAILS to curb that trend (Alvarado et al., 2018; Boushey et al., 2017; Piketty, 2014; Soros, 2008). Individualists contend that individuals set the price of capital by pricing in the invisible hand of the market. Thus, the consumer has primacy, not capital nor owners of capital (Read, 2018; Sowell, 2015, 2016). Said differently, capital (assets) only has value if individuals are willing to pay the capital value charge. Capital does not set the price for capital, individuals and markets do. Instead, in collectivism, central planners set the price for capital, using cost-plus pricing rather than markets and mathematical models for quantity and insert TRAILS to adjust the value of capital to steer society to equal individual outcomes (Delsol et al., 2017). The models may or may not reflect the real world, and individualists would argue that the model would not incorporate Smith's (1932) invisible hand.

For collectivists, unequal outcomes are the correlation that proves the causation of injustice. Thus, government regulation must be employed to correct unequal outcomes (Alvardo et al., 2018; Keynes, 1926, 1935; Piketty, 2014; Soros, 2008; van Hees, 1997; Wolff, 2016). One explanation for gaps in outcomes is the collectivist tool of 'sounds plausible is a truth.' Still, there may be many reasons why individual outcomes differ. Attempts to enforce TRAILS to make outcomes equitable can result in the degradation of people into the lowest common economic denominator (Hazelitt, 1959, 1988). In the business environment, this unintended consequence often occurs when governments try to create equality despite different businesses and across industries with different cycles (Schumpeter, 1934, 1939; Taleb, 2016).

The Impact of TRAILS on Business Performance

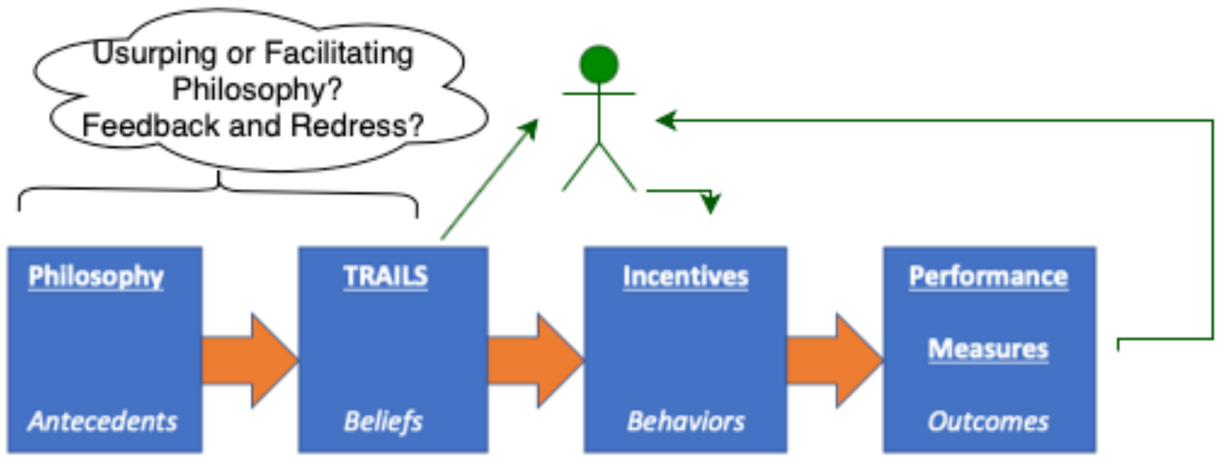
The ABBO model (Edmondson, 1999) is the framing for this call for research. The framework considers both individualism and collectivism as antecedents, a form of governance for a nation. Then, beliefs are understandings of TRAILS at the firm structure or operating level. Beliefs are followed by behaviors driven by TRAILS-induced incentives at the firm level, also referred to as team behaviors, and at the individual level. The individual interprets, evaluates, and internalizes TRAILS, motivating intentional behavior that affects business performance. The change from that calculus manifests results in outcomes (performance measures). At the A (Antecedents-Philosophy), B (Beliefs-TRAILS), and C (Behaviors-Incentives) levels, there are philosophically two dichotomous research positions that are rooted in either individualism or collectivism. Often not explicit in existing research is the function incentives have on behaviors and, thus, outcomes, although it is omnipresent in some form, especially for individualists (De Bottom, 2016; Hayek, 1945, 1948; Weber, 1922, 1930).

The ABBO model is not static. There is dynamism in business that occurs over time based on new TRAILS. Antecedents or the philosophy of government can change with a new administration and or personnel. For individualism, improved performance outcomes are for the business entity and individuals. For collectivism, enhanced performance is represented by more equal outcomes for individuals, and improvement of outcomes for individuals or specific businesses is secondary (Hayek, 1943, 1988; Marx & Engels, 1848; Roth, 2010; Schumpeter, 1909, 1934, 1939, 1942; Weber, 1922, 1930). Firms are continually evaluating TRAILS, changing and refining their beliefs and behaviors based on observed outcomes. Exogenous and endogenous factors are put into the calculus of prior antecedents, if applicable, and beliefs (intrinsic and extrinsic) are adjusted before determining adjustments to behaviors (incentives) to improve business outcomes.

TRAILS occur at three compounding and interconnected levels: (1) Constitutional level (Bastiat, 2007; Gyford, 1987), (2) Business formation level (Dent, 2014; Hoggett, 2006), and (3) Operating level (Bainbridge, 2002, 2015, 2019; Cioffi, 2004; Hayek, 1945, 1955, 1960; Paul, 2008, 2011, 2012; Rand & Peikoff, 1984, 1993, 1999; Rand et al., 1986). Figure 3 showcases a framework for the impact of TRAILS on business performance.

Figure 3

Framework on Impact of TRAILS on Business Performance



Constitutional Choice: The antecedent choices in the ABBO model are individualism or collectivism. The philosophical choice will determine economic development and living standards (Hayek, 1943, 1960; Read, 2018; Schumpeter, 1942; Sowell, 2016). Individualists believe equality of outcome before freedom of individual results in neither and freedom of individual before equality gets both (Friedman, 1962, 1972). Individualism occurs when a nation has few regulations impairing entrepreneurial innovation and growth by creative destruction.

Collectivists believe equality of outcomes is fairer and provides more freedom. In collectivist philosophy, fairness in equity equals freedom. Therefore, freedom is an equal outcome, and government-imposed regulations should be employed to achieve comparable outcomes, regardless of abilities, efforts, or utility. Gaps in outcomes are explained primarily by unfairness. The theory is analogous to Alice's Dodo philosophy in Wonderland, "Everybody has won, and everybody must have prizes" (Carroll, 1865, p. 15).

Firm-Level Choice: The firm's choice is either shareholder primacy (associated with individualism) or stakeholder primacy (associated with collectivism). For shareholder primacy, Friedman (1962) states the purpose of the firm "is to maximize shareholder value that is fulfilling the firm's purpose because the firm can pay employees, pay taxes, and support charities. Deviating from this is stealing from the shareholder who the laws are to protect" (p. 53). Denis (2016) builds on Friedman's statement by promoting corporate social responsibility (CSR) or environmental social and corporate governance (ESG) matters by noting the importance of a firm's freedom to be responsive to the communities relevant to the firm. Recent economic studies determined that ESG only made money for third-party advisors, was propaganda for big companies, harmed smaller companies due to reporting costs, and had little ESG impact (Cornell & Damodaran, 2020).

Research shows that governments that believe in stakeholder primacy will use TRAILS to have management power over private industry under the pretense of protecting all constituents, even those in faraway lands (Scherer & Palazzo, 2009; Soros, 2008; Wolff, 2016). Using the business form by stakeholder primacy can be another way for collectivist governments to attempt to steer society for the good of all (not just the individual), to achieve equal outcomes, and not necessarily maximize total outcome (Berman et al., 2016; Hayek, 1948, 1979, 1982, 1988, 1996; Lipton, 2017; Marz, 1991; Piketty, 2014; Schumpeter, 1942; Sowell, 1993, 2001, 2007, 2011, 2012 & 2015). Further, a key concept of some stakeholder primacy collectivists purports to believe a company should be a sovereign of the world, not just of the company's, shareholders, stakeholders, and the nation (Scherer & Palazzo, 2009). Stakeholder theory is consistent with collectivist principles (Soros, 2008; Bainbridge, 2019; Doig, 2011; Donaldson & Preston, 1995; Dodd & Merrick, 1932; Elson & Goossen, 2017; Ferrell et al., 2017; Wolff, 2016).

Stakeholder primacy typically gains traction in the U.S. with the public and politicos after a significant adverse event as the government purports and propagandizes to the masses to correct matters and markets through central planning (Soros, 2008; von Mises, 2007; Wolff, 2016). However, shareholder primacy research suggests that substantial corrections are due to government intervention in business and the markets, which leads to deferment of small individualism market corrections until the government-created constricted markets implode (Rothbard, 1959, 1990, 2002, 2009; Schumpeter, 1939; Sowell, 2007, 2011a, 2011b, 2015; Taleb, 2005, 2007, 2012, 2016; Tacoma, 2020).

Operational Level: Some TRAILS directly impact industry or business operations. The individualist line of thought would advocate for only enough TRAILS for capital formation, competition, fair markets, innovation, and equal opportunity (Marz, 1991; Read, 2018; Robert & Ross, 1993; Spooner, 1999). Collectivism advocates for a higher level of TRAILS to steer society and innovation to strive for an equal outcome for individuals (Marx & Engels, 1848; Roth, 2010).

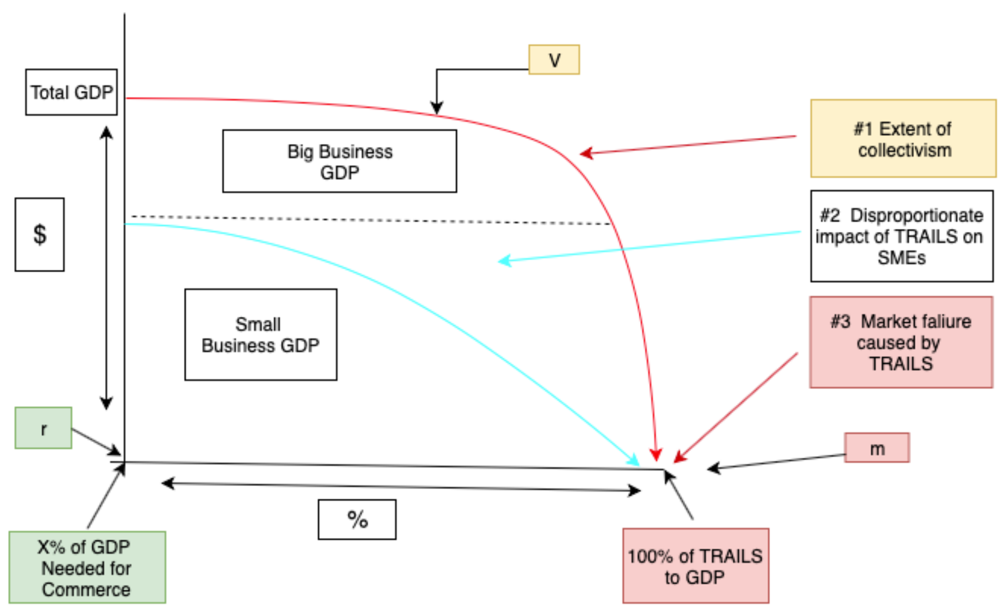
The analysis of the literature suggests that TRAILS requires right-sizing. The expansion of wrong-sized TRAILS threatens the future of economies and business environments. In the following section, 10 propositions emerge from an analytical framework of TRAILS' role on business performance, seeking to understand what the state of the U.S. is today and the implications for TRAILS right-sizing.

Frameworks, Propositions, and Research Questions

This call for research seeks to examine the current TRAILS environment and its implications for the business environment. Thus, theoretical frameworks were developed based on a review of existing literature on TRAILS' impact on business performance and preliminary interviews with industry executives. Figure 4 is a theoretical model developed to determine the appropriate role of regulations on business performance. The red line is total GDP, the green line is small business, and big business is between them. The model starts with the thesis that an appropriate government regulation level favors business performance, expressed in TRAILS as a percent of GDP for illustration purposes. I define right-sized TRAILS for business performance as the minimum set of rules that level the playing field to enable commerce. These rules are dynamic and may need to change over time as the business environment changes. Unnecessary TRAILS will lead to sub-optimal performance, up until the point of market failure.

Figure 4

TRAILS Right-Sizing Model



Proposition 1

There is an appropriate level and set of TRAILS (right-sized) needed to enable commerce and that favors business performance (point r in x-axis).

Proposition 2

TRAILS beyond level r (henceforth wrong-sized TRAILS) harm business performance.

Proposition 3

Larger, more established firms pick up lost business by small firms due to wrong-sized TRAILS.

The U.S. is at some point on the curve in this model. It depends on how you measure and calculate TRAILS and GDP, including methodologies such as cash basis, accrual basis, or modified accrual, among other factors. The first set of proposed research questions stemming from the model is in the spirit of developing, testing, and refining it.

Research Question 1: What is the most appropriate measurement methodology to determine where the U.S. is (point v) relative to right-sized TRAILS (point r) and market failure (point m)?

There are multiple possible measures to gauge the benefits of a country's regulatory environment, such as financial benefits (Elson et al., 2017), impacts on society (Carter, 2018; Goldin, 1992, 2014), innovation (Tsanova & Havenith, 2019), economy (Hannan, 2011, 2013), environment (Bracket, 2019), and stakeholders (Bainbridge, 1993, 2002, 2015, 2019; Bebchuk & Tallarita, 2020; Cornell & Damodaran, 2020).

Two macro reports provide interesting insights into what could be essential measures of TRAILS impact on business performance. The first was from the 2020 Heritage Foundation Index and IMF, which revealed that economic freedom brings higher business performance. The 2019 Human Freedom Index (HFI), global measurement of personal, civil, and financial freedom, with a focus on legal more than economic, complemented the Heritage Report information, of which the focus is more economical than legal, with virtually the same conclusions (Vásquez & Porčnik, 2019). HFI computes human freedom based on measures that encompass personal, civil, and economic freedom and defines freedom as the absence of coercive TRAILS. HFI views personal, civil, economic, and individual liberties as inseparable and paramount for human progress.

These measures are informative, but they are not directly related to TRAILS' impact on business performance. More research is necessary to identify the key measures that will correctly position countries in the continuum between right-sized TRAILS (point r) and the level of TRAILS that lead to market failure (point m).

Research Question 2: How can the impact of TRAILS on business performance be empirically derived, tested, and refined?

Once TRAILS measures have been developed, research is needed to derive and refine the relationship between TRAILS and business performance for both large and small businesses. Concerning the model, research is required to establish the functional relationship between TRAILS and business performance, broken down for large businesses and SMEs.

Proposition 4

TRAILS have a disproportionate impact on SMEs.

Beyond a certain level, TRAILS appear to harm small businesses disproportionately more than big companies. This observation is based on specific TRAILS analysis of Sarbanes-Oxley (Bartlett, 2009; Carter, 2013; Cohen & Zarowin, 2010), Affordable Care Act (Silver & Hyman, 2018), Dodd-Frank Act (Allison, 2012 & 2014), and research such as Stigler's (1964, 1971, 1983) Nobel Prize-winning work on how TRAILS create oligarchies. The number of public companies has been more than halved since 2000 due to an increase in TRAILS, which suggests a call for more research into this area.

This theoretical proposition is not far-fetched when considering other signals in the U.S. business environment. Mitchell (2014), Fried (2009), and Lavecchia and Mitchell (2016) indicate that wrong-sized TRAILS are bankrupting SMEs and damaging cities of those bankrupt companies. This is based on the anti-competitive practices of companies that have benefited from TRAILS, for example, by acquiring and exerting predatory pricing power. They often use that anti-competitive power to eliminate competition, which lowers the tax base of municipalities. These analyses rely on the registry of new U.S. laws at the Federal, state, and local level of approximately 200,000 new TRAILS a year, the uptake of claims made at each court level, and economics statistics from entities such as the Institute of Local Self Reliance, the Bureau of Labor Statistics, the Bureau of Economic Analysis, the quarterly Beige Book, financial budget reports of government entities, and testimonies under oath at the Federal, state, and municipal levels (Mclaughlin, 2013a, 2013b; The Economist 2013, 2016, 2017).

Research Question 3: What TRAILS impact SMEs disproportionally compared to large businesses?

To illustrate the importance of Research Question 3, a prominent company executive, when asked about the disproportionate impact of TRAILS on small business, used the phrase that if you are not at the table, you are the meal. The CEO’s company grew to be one of the world's largest in its industry due to his close relationship with every U.S. administration over the last 30 years. The company supported every scientism, technocracy solutionism for more government control, and wealth transfer propaganda of every Presidential administration. The company was a significant beneficiary of government TRAILS. The company strategically became best-in-class at exploiting government agencies that accelerated wildly under many administrations (Aitken, 1996 & 2015; Berman, 1989; Bernays, 2005, 2015; Hayward, 2004; Kadlec, 2011).

This anecdotal example is one where TRAILS may advertently disadvantage SMEs. However, there are other cases of possibly inadvertent impact of TRAILS on SMEs. For example, SMEs were hurt significantly more than large businesses during COVID-19, and TRAILS introduced to push the economy forward may have left SMEs relatively worse off. After the pandemic started, within seven months, there was a massive transfer of wealth. The top 22 billionaires increased their net worth from $7.9 trillion in April 2020 to $10.2 trillion in September 2020 (Thubron, 2020). Amazon, Microsoft, Google, Walmart, and Facebook accounted for the bulk of the beneficial transfer (Schwab, 2020; Thubron, 2020). A natural experiment may be occurring in real-time as of this writing, where TRAILS transfer wealth to big companies at the expense of SMEs. This leads to a question that will be very interesting to examine as the pandemic's economic outcomes transpire (Deist, 2020a, 2020b, 2020c).

Research Question 4: What is the impact and implications of pandemic-induced TRAILS on large businesses vs. SMEs?

Proposition 5

Overregulation can lead to market failure.

At some point, TRAILS reach a position of over-regulation and undermine GDP, also known as market failure (Caldwell, 2008; Hayek, 1943, 1960; Murray, 2016; Schumpeter, 1943; Whitehead, 2013, 2016, 2019). There are numerous wrong size TRAILS paths to market failure, including unsound money (Salerno, 1994), regulatory overreach, lack of transparency, loss of property rights, intervention by government, unfair markets, government role expansion, interference with disruptive innovation, unequal opportunities, lack of individual justice (the largest minority), and interference with shareholder primacy (Dunford, 2020). Overregulation or wrong regulations in any one of these areas could contribute to systemic market failure.

Research Question 5: How close is the U.S. business environment to market failure (point m)?

Proposition 6

Non-enforcement of appropriate TRAILS is detrimental to business performance.

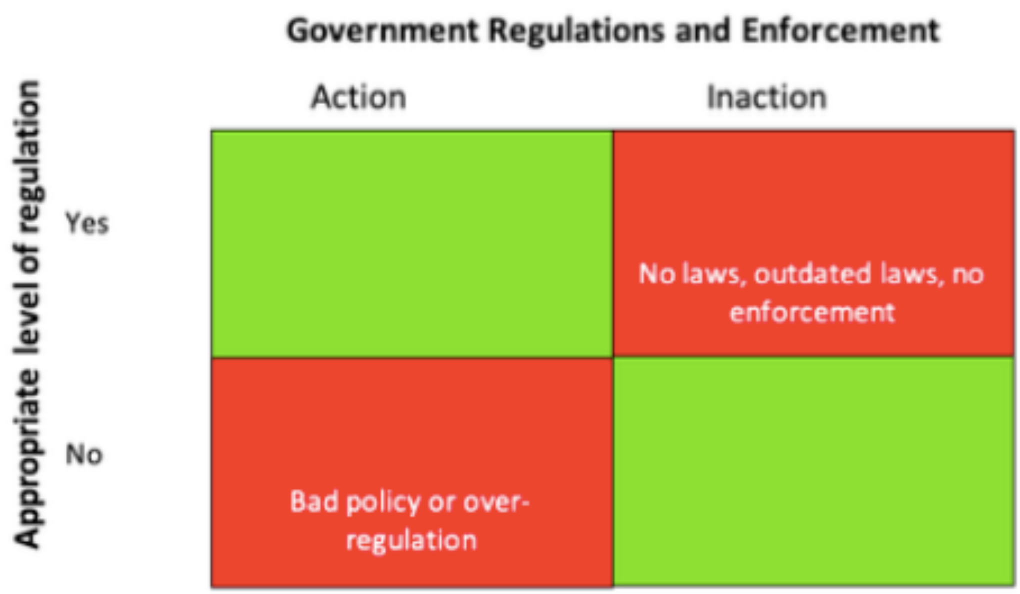
The framework in this call for research proposes a point (r in Figure 4) in the state of TRAILS that is optimal for business performance for both large firms and SMEs. Proposition 1 states that there is a minimum of TRAILS and rules of the game needed to ensure fair competition, which implies there are points to the left of r that leave room for TRAILS to be enacted and enforced. An essential way in which government influences business performance is by inaction, not creating or enforcing right-sized TRAILS. While not as evident as direct investment and proactive legislation, government inaction can be every bit as destructive to our constitutional republic as TRAILS that hurt business performance (Rand et al., 1984).

For example, this inaction is seen in the government not enforcing anti-competitive regulations and enabling Amazon to become a monopoly in several categories by acquisition (LaVecchia & Mitchell, 2016). This lack of enforcement is evidenced by over 500 FAANG (Facebook, Amazon, Apple, Netflix, Google) acquisitions with no antitrust impediments and thousands of filed antitrust complaints with no review or quick review (The Economist, 2017). This lack of enforcement of TRAILS should be explored at the industry level. For example, one could argue that the lack of enforcement of intellectual property protection in media and entertainment is detrimental to business performance for both large businesses and SMEs.

Figure 5 helps illustrate the problem of both action and inaction by the government that impacts business performance. Figure 5 offers critical and abstract thought and appreciation for the dynamic and complex phenomena of regulatory action and inaction. The matrix figure shows two ways the government helps businesses (i.e., green boxes) and how they harm businesses (i.e., red boxes). On the Y-axis of the diagram is the appropriate regulation level in place, yes or no. On the X-axis is the government creating and enforcing (action) or not (inaction). A base assumption is that the government is the only entity that can enforce TRAILS legally.

Figure 5

Regulatory Action and Inaction and the Impact on Business Performance



TRAILS can harm businesses if there is inappropriate regulation. The government can also harm businesses by not enforcing appropriate regulations or unequal enforcement of applicable laws (Edwards, 2014; LaVecchia & Mitchell, 2016; Strassel, 2019). The universe of possible positive (negative) TRAILS outcomes depends upon the appropriate TRAILS along these dimensions of a favorable business environment:

- Competitive (anti-competitive) markets (LaVecchia & Mitchell, 2016; The Economist, 2017; Shepsle, 1982),
- Commerce to succeed (fail) (Rand & Peikoff, 1984, 1993; Wilson, 1989),

- Equal (unequal) opportunity (Hargadon & Kenney, 2012), and
- High (Low) trust between government and commerce, leading to optimal (sub-optimal) business performance (Boaz, 2015; Boettke, 1997; Hayek, 1943,1945, 1955, 1960; Marz, 1991; Roth, 2010).

Research Question 6: What is the minimum set of TRAILS that can favor business performance?

Proposition 7

TRAILS that foster innovation will favor business performance.

Wrong-sized TRAILS can flatten, straighten, or retard the innovation growth curve (Marz, 1991; Schumpeter, 1939; The Economist, 2017; Tsanova & Havenith, 2019; van dev Berg, 2011). Entrepreneurial innovation is the economic engine of successful economies, based on a business cycle of continuous innovation and creative destruction (Aghion et al., 2016; Birkinshaw et al., 2016; Blokland & Van Weesep, 2006; King & Levine, 1993; Mintzberg, 1990; Schumpeter, 1939; Zenter, 2010). Flattening or flat lining the innovation curve can cause economies to become stagnant, constricted, or collapsed (Aghion et al., 2016; Aghion et al., 2018; Aghion et al., 2019; Chesbrough, 2003; Christensen et al., 2015; Ebeling, 1993; Sweezy, 1943; Shepsle, 1982; Swedberg, 1991; Taleb, 2007, 2012; Tavierne, 2018).

Disruptive innovation emerges from the optionality of making asymmetrical, usually decentralized, investments that allow individual firms to ideate through trial and error, risk and reward of creativity, search for new innovative spaces, virtuous cycles of knowledge, entrepreneurial activity, and consequent wealth creation (Aghion et al., 2016; Aghion et al., 2018; Aghion et al., 2019; Freedman, 1957; Hayek, 1948, 1982; Marz, 1991; Schumpeter, 1939

& 1943; Taleb, 2012; von Mises, 2006, 2007; Weber, 1922, 1930). A key policy question is the appropriate TRAILS that foster innovation in general and disruptive innovation in particular.

Research Question 7: What is the appropriate role for TRAILS in entrepreneurial innovation?

Propositions 5-7 suggest that over-regulation and under-regulation are sub-optimal for business performance and that there should be appropriate TRAILS that promote innovation. This search for a balance in TRAILS should lead to a proper TRAILS set for business performance. Research is needed to determine the optimal TRAILS level for business performance that provides equal opportunity for large businesses and SMEs. Ultimately, answering these questions will help direct policy-making and lobbying efforts by firms. One feature of the ABBO model suggests that there should be set beliefs that guide how TRAILS should be enacted to favor business performance. This set of beliefs are reflected in the U.S. Constitution. Therefore, the Founding Documents of Liberty and Individualism are the antecedent foundation and framing supporting and holding the blocks in place to right-size TRAILS (Figure 6).

The framers of the Constitution were scholars who had real-world business experience, so their wisdom is in the Founding Documents. The following list summarizes eight beliefs for individuals to create knowledge (Stigler, 1961) and thus wealth (Gilder, 2013 & 2018).

(1) Transparency, mentioned 13 times in the Constitution (Skidmore & Fitts, 2019; Solari, 2019).

(2) Government's role provides for the protection of security and inalienable individual's rights (Bork & Hayek, 1978; Hamilton & Madison, 2018).

(3) Justice (of the smallest minority, the individual) or 'the first duty of society' (Hamilton & Madison, 2018; Jefferson & Yarbrough, 1963).

(4) Private property, the cornerstone of liberty (Hamilton & Madison, 2018; Hinkle, 2014; Jefferson, & Yarbrough, 1963; Sandefur & Sandefur, 2016).

(5) Disruptive innovation (Aghion et al., 2018; Aghion et al., 2019; Hamilton & Madison, 2018; Hayek, 1948, 1982; Jefferson & Yarbrough, 1963; Marz, 1991; Schumpeter, 1939).

(6) Competitive free markets (Boaz, 2015; Bork & Hayek, 1978; Hamilton & Madison, 2018; Hazlitt, 1959, 1988; Jefferson & Yarbrough, 1963).

(7) Equal opportunity (Boaz, 2015; Hamilton & Madison, 2018; Jefferson, & Yarbrough, 1963; Palmer 2011, 2013, 2014).

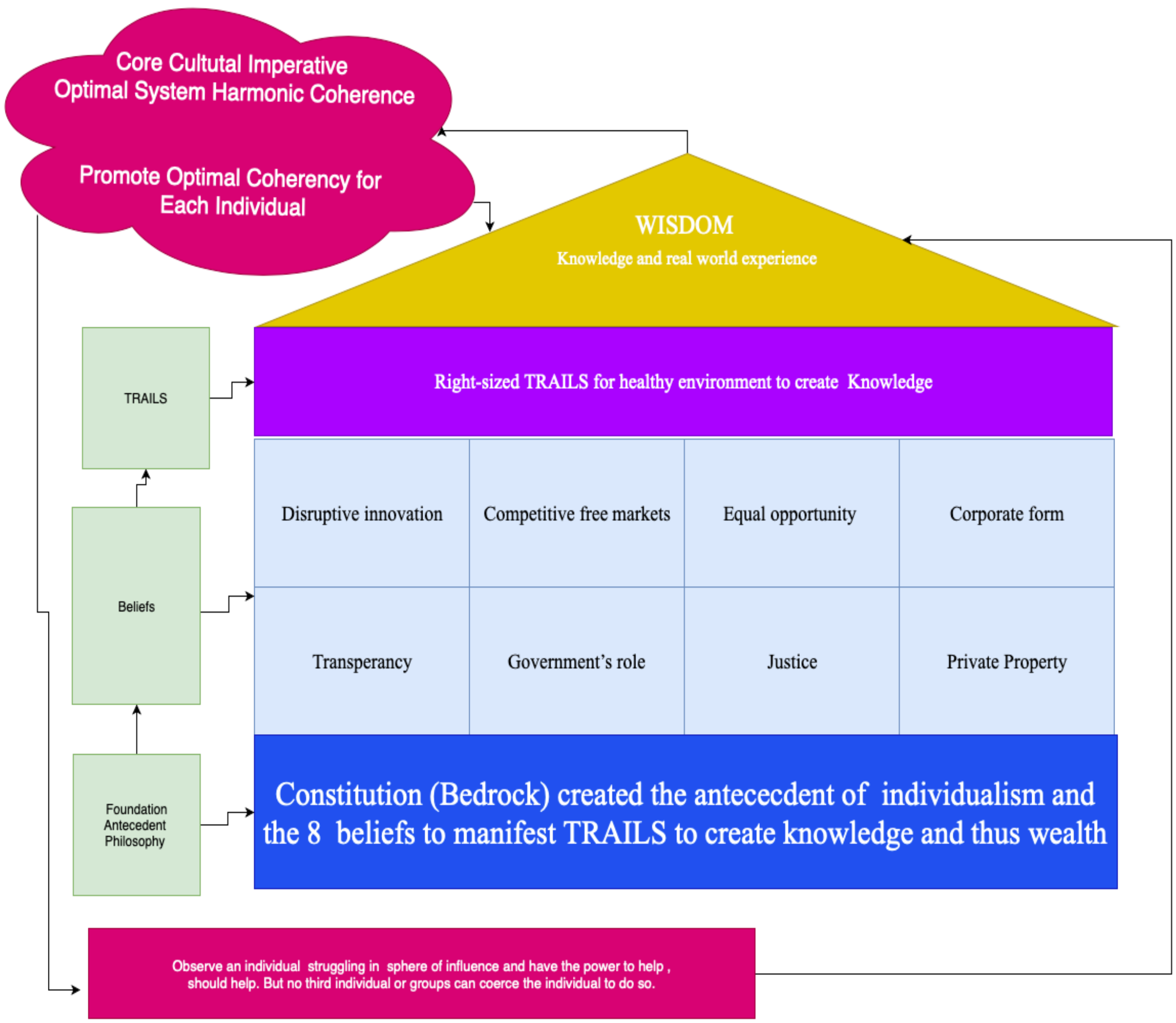
(8) Business form (Bork & Hayek, 1978; Ebeling, 1993; Friedman, 1962, 1970; Hamilton & Madison, 2018; Jefferson, & Yarbrough, 1963; Mocsary, 2017).

Business form, constitutionally, is contractual and natural law between persons and entities. Governments adjudicate contractual disputes between private parties and negotiate foreign trade tariffs to pay for government cost (Hamilton & Madison, 2018; Jefferson, & Yarbrough, 1963). This business form-built American business values into what is known as a trust society (Boaz, 2015), and the unique structure made for efficient markets and cohesive and values-driven society (Weber, 1930).

Based on these eight guidelines, the Constitution and the Contemporary TRAILS Paradigm aims to create a business environment of optimal system coherence for the individual to promote equal opportunity (Figure 6). When aggregated, the closer to fulfilling everyone's aim, the closer the business system is to its core cultural imperative. The core cultural imperative is a risk-adjusted, antifragile, maximized pursuit of happiness of the individual that optimizes the business system. Whenever observed in an individual's sphere of influence, another individual struggle, and the individual has the power to help. The individual should do so. However, no intervening individual or party has the right to coerce the individual to do so. Helping provides knowledge that creates more wisdom, which invigorates as do many other actions, the business environment, and the virtuous optimization of system coherence. Regardless, the choice to act is solely the individual's decision.

Figure 6

Constitution-based and Contemporary TRAILS Paradigm for TRAILS



Research Questions 8: What are the appropriate measures and assumptions to right-size TRAILS and to monitor and assess TRAILS right-sizing?

TRAILS' right-sizing starts with philosophical dilemmas in the first two boxes of the ABBO model (Antecedents/Philosophy to Beliefs/TRAILS). The last two boxes encompass a social phenomenon (i.e., incentives and behaviors respond to the philosophy and beliefs in the first two boxes, resulting in business performance outcomes). Outcomes, which ultimately are knowledge creation, loopback and are compared for suitableness for propriety with the antecedents, beliefs, and behaviors and modifying, changing, or adapting human action (Hayek, 1945, 1955; Schumpeter, 1909, 1939; von Mises, 1940, 1957, 1990, 2005, 2006, 2015).

To understand incentives and behaviors and how they lead to business outcomes, getting input from business executives is necessary. In essence, as victims and beneficiaries of the incentives, behaviors, and outcomes that follow from TRAILS, business executives' perspectives are essential. Further, executives can also provide substance to the concept formulation of the first two boxes: philosophy and beliefs (Rand, 1990). Business practitioners are not often TRAILS advisors. They are seldom consulted for TRAILS development and primarily ignored when included (Chambers et al., 2019) unless they are lobbyists financed by special interests (Gilens & Page, 2014).

Fully understanding TRAILS' impact requires the input of those impacted by the phenomena, which can see both the big and small picture. Business executives can provide completeness to knowledge creation for TRAILS right-sizing. The approach of executive involvement is consistent with the Greek definition of a philosopher: warrior with wisdom of the mind (Salzgeber & Salzgeber, 2019). A philosopher examines their philosophies in the real world to refine them. Moreover, the approach addresses, in part, Hayek’s knowledge problem for

TRAILS by obtaining deterministic and some indeterministic data from those individuals who are knowledgeable of the effects of TRAILS (Bainbridge, 1993, 2019; Broome et al., 2011; Hayek, 1945, 1955, 1996, 2013; Kiesling, 2015).

Research Question 9: What are the real-world perspectives, insights, clarity, and understanding of business executives that can assist in TRAILS right- sizing?

Proposition 8

All businesses in the same industry should be subject to the same TRAILS applied consistently.

The issue of disparity in business performance for large businesses vs. SMEs has been discussed already. But size is just one dimension of heterogeneity that must be considered when developing and enacting right-sized TRAILS. Another critical measurement is the distinction between private and public companies. With no systemic competitive advantage, private companies out-perform public companies by 6% to 8% per year, implying an annual loss of wealth creation of $1.9 trillion for American business, and research shows private equity has the advantage because they have fewer TRAILS to adhere to compared to public companies (Acharya et al., 2018; Alles, 2007; Bargeron et al., 2008; Bartlett, 2009; Barton et al., 2015; Barton et al., 2017; Barton et al., 2019; Bernstein et al., 2018; Bradshaw & Sloan, 2002; Cochrane, 2004; Leslie & Oyer, 2008; Ljungquvist & Richardson, 2003; Meddaugh, 2017; Mocsary, 2017; Terry et al., 2018; The Economist, 2016).

Research Question 10: What mechanisms can be incorporated into TRAILS processes to ensure that they are implemented equally for all types of businesses, including large vs. SMEs and private vs. public companies?

Proposition 9

The government's intentional stance that leads to over-regulation has implications on how to right-size TRAILS.

Bork and Hayek (1978) theorized that the shift to the regulatory state due to TRAILS would be unplanned as people in government gradually introduced TRAILS until over-regulation was reached. Some argue that individuals in government and their corporatist and globalist co-dependents simply care about abnormal rent-seeking and are therefore less concerned about the Founding Documents, liberty, and natural law economics (Buchanan, 1969, 1975, 1992; Buchannan & Musgrave, 1999; Buchanan & Tullock, 1962; Buchanan & Wagner, 1977; Schweizer, 2013, 2019; Whitehead, 2013, 2019).

Some historical developments suggest that excessive regulations are at least partially planned. President Wilson planned the creation of a regulatory state and created the administrative class of government in addition to the political class (Blum, 1956; Fraenkel, 1941; Horowitz, 1997, 2013, 2013). Wilson also planned for but did not live long enough to create the United Nations system (Pestritto, 2005). Shivakumar (2007) stated that the U.N. plans and coordinates TRAILS often with corporatists, administrative, and political classes to the detriment of individualism. By the nature of the U.N., TRAILS across countries tend to be collectivist as they seek equality of outcomes for business performance and individuals, despite the different national regulatory, economic, business environments, cultures, skill sets, priorities, and values (De Weaver, 2020; Koire, 2011; Postman, 2011; Wood, 2016, 2018). For example, the U.N. is seeking a global one-world government with a proposal known as 'the great reset' to be run by collectivists, bureaucrats, and technocrats (Charlton, 2018; Schwab, 2016; Schwab & Malleret, 2020).

If there is underlying orchestration to seek similar conditions for business performance, or whether they are the product of conversations and negotiations between independent country representatives, that will lead to different avenues towards TRAILS right-sizing. If cross-country regulations have orchestration and planning, new controls should be embedded into U.N. processes to avoid these kinds of influences. Suppose these projects are the product of independents representatives coming together. In that case, the research proposed in this paper can help inform agreements made to ensure that the appropriate TRAILS are enacted for U.S. business performance (DiLorenzo, 2015, 2020).

Research Question 11: What are the implications for TRAILS right-sizing depending on whether wrong-sized TRAILS are unplanned or planned?

Conclusions

The broad agenda in this call for research is to understand the impact of TRAILS on business performance and to create knowledge that allows for TRAILS right-sizing for a healthy business environment. First, a model was developed to capture the complexity of this phenomenon (i.e., the ABBO model) from the macro-level philosophies (rooted in individualism and collectivism) and beliefs that influence a regulatory environment and the consequent incentives, behaviors, and outcomes for business performance that tend to follow. The structure of the philosophy of government or antecedent, followed by the resultant TRAILS beliefs at the individual, firm, or operational level, incentivizes the behaviors. Business executives bring the dynamic to the business environment as they interpret, evaluate, and internalize TRAILS, which become incentives that motivate intentional behavior, leading to business outcomes.

The call for research identified 11 research questions that ring-fence the contemporary TRAILS phenomena. Any business executive concerned for the business's regulatory environment's future would want them answered. This research represents a call to examine the impact of TRAILS on business performance, the impact of TRAILS on different types of businesses (e.g., large vs. SMEs, public vs. private), the proper role for the government to right-size TRAILS, a grounding on evidence to right-size TRAILS, how government should consider all intended and unintended consequences of TRAILS actions and inactions, TRAILS' impact on entrepreneurial innovation, and whether the U.S. has reached or not a state of over-regulation and the extent to which getting to this state has been or is being planned.

I propose to answer these questions based on the individual rights reflected in the eight cornerstones for business from the U.S. Constitution. But whether regulators and business executives believe they are the right ones or not, they are constraints for TRAILS right-sizing that cannot be ignored because they are sealed in the Constitution. The Constitution calls for a TRAILS system that aims to create a business environment of optimal system coherence for the individual to promote equal opportunity to develop their talent to maximize their pursuit of happiness. The core cultural imperative is the risk-adjusted, antifragile, maximized pursuit of happiness of the individual that optimizes the business system.

The literature review suggests that the U.S. may have reached a stage of over-regulation that hurts business performance. This concern influences the resulting propositions and research questions. Whether the state is one of over-regulation or not, any business executive and policymaker should be interested in the findings from research to answer the questions proposed. The paradigm presented is not about whether the government should play a role in regulating a business environment, but to what extent it should perform that role and what are the analytical methods that will enable regulators to right-size TRAILS based on evidence-based rationale.

I propose research that examines all TRAILS outcomes based on fair competition and incentives for innovation. TRAILS right-sizing should seek a healthy business environment that creates fair and free markets for all competitors and a government that works for the people and makes a level-playing field for businesses across industries. I optimistically trust human nature is such that most business executives will want this kind of regulatory environment for fairness.

CHAPTER 4: THE ROLE OF THE BUSINESS EXECUTIVE ON RIGHT-SIZING OF REGULATIONS FOR BUSINESS PERFORMANCE

Introduction

This study proposes a broad agenda to empirically understand the impact of TRAILS on business performance and create knowledge that allows regulation right-sizing for the revivification of the business environment, utilizing a qualitative study with interviews to the business executives. The government plays a role in creating TRAILS (all government friction costs, such as Taxes, Regulations, Assessments, Insurance, Legal, Subsidies). Right-sized TRAILS are defined as those that create a healthy environment for business performance. Wrong-sized TRAILS make the business environment less healthy.

Wrong-sized regulations can result in government regulatory capture by influential large businesses due to disproportional costs on small and medium-sized enterprises (SME), which often go out of business or are acquired due to the excessive regulatory burden (Stigler, 1964, 1971 & 1983). There are reasons to be concerned about the possible overregulation of business in the U.S. Per the Chairman of Blackstone Group LP: "Overregulation is the worst thing that has happened to America…it has taken the entrepreneurial zeal out…of corporate managers." (Bartlett, 2009). According to McKinsey & Co, who surveyed 2,186 executives representing a range of industries and company sizes (Musters et al., 2013; Rand, 1965), TRAILS is the second-highest priority for CEOs, after customers. TRAILS cost executives' companies 30% to 50% of the bottom line. According to the survey executives expect another 10% wrong-sized TRAILS impairment every five years (Bughin et al., 2011), impairing the economy's growth engine by creative constriction in innovation (Meddaugh, 2014).

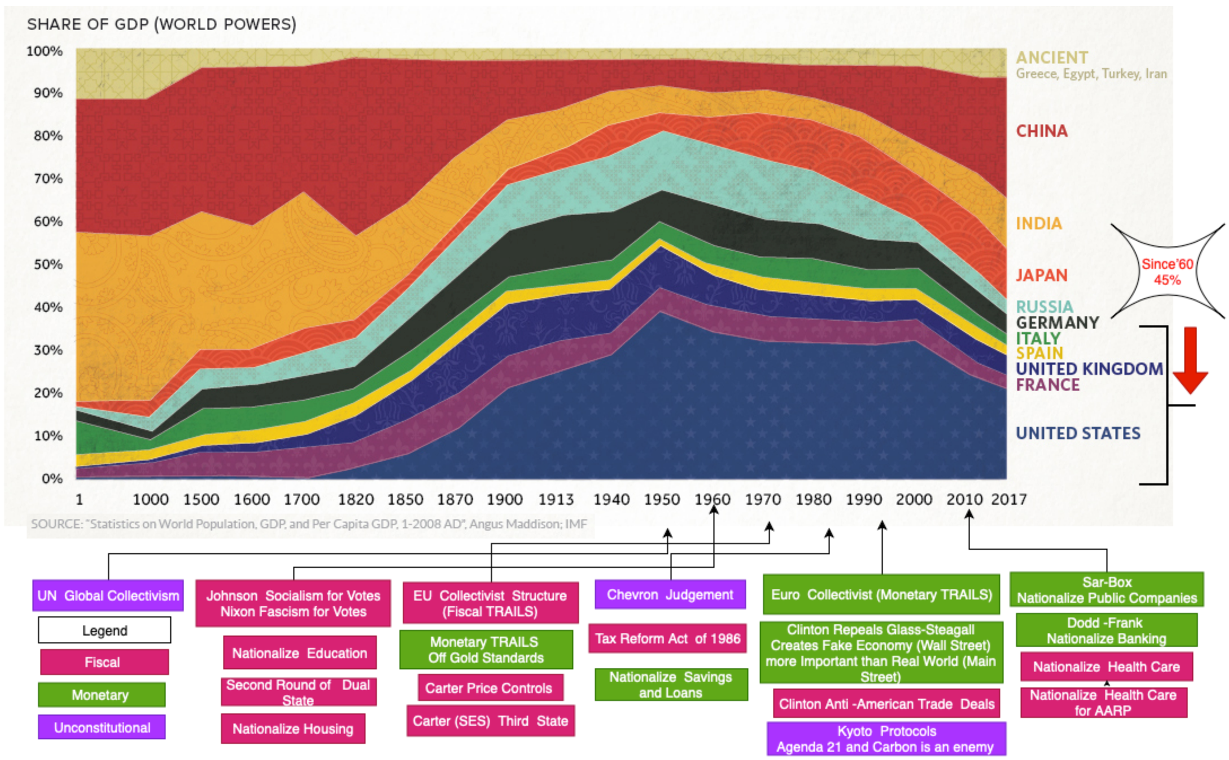
Three Noble Prized theories are puzzled along with heavy-weight microeconomists to crystalize the contemporary phenomena. Stigler (1964, 1971 & 1983) won a Nobel Prize for his objective theory that wrong-sized regulations cause oligarchical intertwinements known as regulatory capture. Because the U.S. and individualism are the greatest economic and civil wealth generators of all other constructs combined, Hayek warned it would be a slow collectivist take over, taking decades. It would be barely noticeable until too late.

Buchannan won a Nobel Prize for his theory that most government individuals have no interest in a healthy business environment. Their unaccountable power turns them into petty rent-seeking tyrants (Buchannan & Tullock, 1962, Buchannan, 1969 & 1975 Buchannan & Wagner, 1977; Schweizer, 2013). Their sole interest is conspiring with other government individuals to use TRAILS for extortion and coercion to earn abnormal rents above a limited marketable skill stack in as many business areas as possible. If this theory is correct, it would be a primary reason for ever-expanding wrong-sized TRAILS into every area of business for which government has no legitimate reason nor competence (Boettke & Palagashvili, 2013; Rand, 1990). The actions of the individuals in government are consistent with methodological individualism (Buchanan & Musgrave, 1999, Buchannan & Tullock, 1962; Becker, 1976 & 1983, Schumpeter, 1909; Webber, 1922; Spooner, 1999; Hayek, 1948; Elster, 1982; Infantino, 2014; MacDonald, 2018). Buchannan's Nobel Prize work is called Public Choice Theory (PCT).

Figure 7 indicates that the Nobel Prize Laurates may have been prescient, as the U. S. share of per capita GDP has decreased by 45% since 1960. 85% of all inventions are due to knowledge creation and only 15% due to capital and labor (Eesley & Miller, 2017), and American individualism has created the most innovation over the last 200 years. The U.S. is best at diffusing innovation, also (Bailey & Tupy, 2020). There seems to be a correlation between the increase in TRAILS and the flatlining and decrease of U. S. GDP. International GDP is down by 25% since 2000, due to less innovation to diffuse (Macrotrends, 2021; Bailey & Tupy, 2020).

Figure 7

2000 Years of Economic History in One Chart



Senior executives bring real-world oversight and longitudinal experience to the investigation on whether regulations are right-sized or not. They have an extensive field of vision and can substantially ground the phenomena on their expertise. This research perspicuously provides a voice to business executives who contribute to civil and economic elevations and yet curiously have had minor input in the literature on the impact of TRAILS on business performance, as well as little influence on TRAILS other than as lobbyists (Gilens & Page, 2014; Becker, 1976 & 1983), compared to virtually all other stakeholders (Shlaes, 2009 & 2013; Rand & Peikoff, 1999). Elite executive interviews were performed to accomplish this objective. The research utilizes grounded theory with data from the elite executive interviews, literature, source data, and diagrams based on real-world experience and logic and reason at the consequential level (Hayek, 1948; Hochschild, 2009; Charmaz, 2006 & 2014). The research question is:

How can TRAILS be right-sized to create a healthy business environment?

There is a scarcity of research that captures the real-world input from business executives. This scarcity is likely due to macroeconomics' misuse as prescriptive. Further, access to executives' trust is rare. Finally, most researchers are not on a peer level with executives. Thus, robust analysis is not possible. Nevertheless, understanding the impact of TRAILS on incentives and behaviors and how they lead to business outcomes by getting input from business executives is essential. In essence, as victims and beneficiaries of the incentives, behaviors, and outcomes that follow from TRAILS, business executives' perspective is critical. Further, executives can also provide substance to the concept formulation of TRAILS philosophy and beliefs. In particular, understanding their perspective and the incentives under which they operate can help understand the impact of TRAILS on business performance.

Purpose of the Paper

The paper's panoptic purpose is to build theory on the impact of regulations on business performance based on interviews with elite executives and qualitative methods to develop an enhanced view of right-sized TRAILS for a healthy business environment. A key objective is to gain knowledge of the real world and consequential perspectives from heretofore largely ignored yet knowledgeable individuals in the business ecosystem to inform TRAILS right-sizing for business performance.

The paper aims to leverage grounded theory from these elite interviews to develop new theoretical frameworks. It captures vast interdisciplinary literature, sources, and data to produce abstract thought and theory advancement, starting with an appreciation for the dynamic and complex individual, behavioral, extrinsic, and intrinsic actions of businesses in response to exogenous TRAILS. Lastly, the paper aims to reduce some of the extreme epistemic polarity of the TRAILS phenomena by bringing reason, reality, and logic to the contradictions. The paper will assist all sincerely concerned stakeholders in a constructive real-world beacon to the social phenomena to right-size TRAILS.

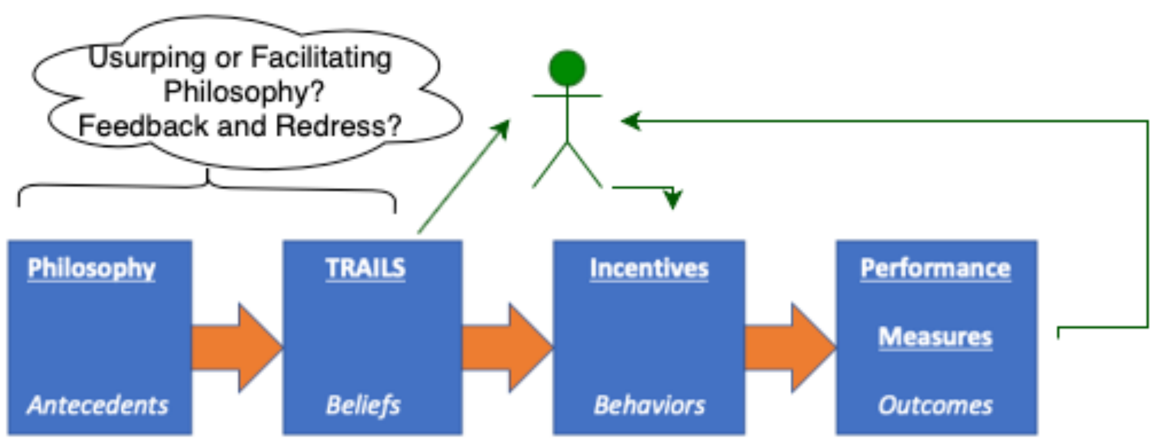
Foundational Theory on the Business Impact of TRAILS

Theoretical Framework

A theoretical structure of 'Antecedents to Beliefs to Behaviors to Outcomes' (ABBO model) is the framing for this research (Edmondson, 1999) and can be seen in Figure 8.

Figure 8

Theoretical, Qualitative Structure for the TRAILS Ecosystem



The adapted model considers the philosophy of individualism and collectivism as antecedents. The antecedent is the parameters in which commerce is conducted. Individuals in the antecedent government understand beliefs by creating appropriate TRAILS to manifest the selected philosophy at the firm structure, operating level, or individual level. Beliefs are followed by individual behaviors, driven by TRAILS-induced incentives by individuals at the firm level, also referred to as team behaviors (Edmondson, 1999), and at the individual level. The individuals in business interpret, evaluate, and internalize TRAILS, motivating intentional behaviors that affect business performance. The dynamic change from that calculus manifests results in outcomes (performance measures). Understanding micro problems and solutions by logical extension accumulate to understand macro-activity aggregates (Webber, 1922).

For individualism, improved outcomes of performance measures are for the business entity and individuals based on increased performance and incentives. For collectivism, enhanced performance measures are measured by equal outcomes for individuals, and improvement of outcomes of performance measures is secondary (Marcuse, 1958, 1961, 1966, 2013; Marx & Engels, 1848; Roth, 2010; Schumpeter, 1942; Weber, 1922, 1930). Often not explicit in existing research is the function incentives have on behaviors and, thus, outcomes, although it is omnipresent in some form (Weber, 1922, 1930).

Consequential Knowledge and Mistake Management

Executives have superior industry knowledge and decentralize asymmetrical knowledge and make real adjustments to the new knowledge in real-time, which begets more knowledge. This market adjustment mechanism is known as mistake management of individualism, also known as consequential knowledge. Further, the executive is impacted by incentives and disincentives to competition and entrepreneurial innovation to maximize utility. Unfortunately, the government lacks this motivation and accountability, so it is essential and primary to understand the perspective of executives on the impact of TRAILS on business performance.

The Pretense of Knowledge and Knowledge Problem

Private industry information is far from perfect because the essential knowledge resides with the future market. The concept comes from Hayek's (1945) knowledge problem of the market's unknowable unknowns. First, to assume such knowledge is acquirable in advance violates scientific rules of temporal and bivalence (Hayek, 1945). Hayek (1988) stated that to imagine one can do so is nonsensical. Second, while knowledge is incomplete, the private industry has superior industry knowledge. Third, and most importantly, asymmetrical knowledge is achieved by decentralized learning and distributed market experimentation (asymmetrical antifragile bets). Those progressions lead to more information to enhance existing knowledge for the business individual (Gilder, 2013, 2018; Taleb, 2012, 2014). The government lacks distributed industry and market knowledge and uses statistical aggregates, which are descriptive, not prescriptive (Hayek, 1948, 1985). Therefore, regulators and politicos have at least three high obstacles, which decrease their ability, along with lack of accountability, for credible TRAILS policy.

Knowledge Creates Wealth

Knowledge creation must be anchored in reality (Gilder, 2013, 2018; Sowell, 1993, 2001, 2007, 2012, 2019). If not, the result is adverse seen and unseen consequences of knowledge impairment. Specifically, opportunity cost is caused by the disruptive consequences of wrong-sized TRAILS on knowledge acquisition. This impairment is due to the disruption of the market's invisible hand and entrepreneurial innovation (Bastiat, 2007; Schumpeter, 1939; Smith, 1932). The only subjective matter is quantifying the precise amount of the unseen opportunity cost that becomes apparent over time. But it can be approximated by examining real growth impairment (Bastiat, 2007).

TRAILS Impacts Knowledge

TRAILS has asymmetrical impacts, meaning an unaccountable government can pick winners and losers (Wilson, 1989). Thus, it is the essence of the regulatory ecosystem that any

TRAILS action by individuals in government will impact individual human activity, therefore business activity (von Mises, 2016; Wilson, 1989).

Without anti-competitive actions, the government cannot compete with private companies if the industry is competitive (Ahlseen, 1993). The profit motive generates innovation and creative destruction that is not present in governmental entities, and trust is destroyed if the government enters the private industry as a competitor. Individuals in governments also lack the private sector's skills and the understanding of creative destruction knowledge acquisition. Thus, the government’s role is to right-size TRAILS.

Macroeconomics vs. Microeconomics

The tension in TRAILS right-sizing should be evaluated by microeconomics, a form of methodological individualism. The minimalist microeconomic approach is consistent with the natural law of assessing TRAILS. The system takes as a given the world is chaotic and that chaos is natural order, by definition, uncontrollable (Hayek, 1945, 1948, 1955; Hazlitt, 1959, 1988; Schumpeter, 1939, 1942; von Mises, 2015). Thus, humility, decentralization, and antifragility are required to negotiate the impossibly complex business environment (Hayek, 1988). Therefore, TRAILS are made at the micro-level on a decentralized basis creating an anti-fragile environment that gets stronger with chaos due to knowledge creation (Gilder, 2013, 2018; Taleb, 2005, 2007, 2012, 2020). The natural order is innate behaviors, complex adaptive interrelated systems, and natural selection (Rothbard, 2007, 2009b). Attempts to control, eliminate, or equalize chaos result in an absurd folly that causes increased chaos by seen market corrections and monopolies, unseen depressed growth and prosperity, and, ultimately, calamity (De Weaver, 2020; Schumpeter, 1934, 1939).

The other theory evaluated for tension arbitration of TRAILS is macroeconomics. It has directed the TRAILS policy, unabated, since the 1960s, with the fundamental premise that macroeconomics can control and steer the chaos using TRAILS (Conrad, 2020; Samuelsson, 1964, 1985, 1989; Stiglitz, 1984, 1987, 2007). The self-anointed sees chaos requiring their management with a group of determinatives guessing from afar experts (Hayek, 1960). The macro-TRAILS are controlled centrally by the self-anointed few and their agents, with little input from practitioners, including the business individual, who they do not trust because they know too much (Boettke & O'Donnell, 2013; Christensen, 1993; Conrad, 2020; Keynes, 1926, 1935; Samuelson, 1989, 2007).

Micro Business Economics Concerning TRAILS

Microanalysis, which governs sensible TRAILS decisions, begins with understanding the first rule of economics: scarcity (Hausman, 2009, 2018). There is never a sufficient amount of a thing to mollify all who desire that thing. In business, there is a finite amount that the business can produce. The follow-on theory to address scarcity is choice. The choice must be made because individuals, business entities, or the economy cannot have everything they desire (Hausman, 2009, 2018). The theory that follows is that choices are made based on the individual or firm maximizing the utility of decisions, sometimes referred to as opportunity cost analysis or marginal benefit analysis (Bastiat, 2007; Menger, 1883). Lastly, there is no free lunch; every choice is a trade-off of cost and benefits of equal or unequal measures. Maximizing utility is when benefits exceed the cost. Indifference is when benefits equal costs. Destroying utility is when the cost exceeds benefits (Friedman, 1957, 1970). TRAILS dilemma decisions should be made to create incentives that facilitate behaviors that enable the firm to maximize utility in the form of outcomes or performance metrics (Friedman, 1962, 1970; Schumpeter, 1942; Sweezy, 1943). TRAILS that cause friction to the above process are wrong-sized.

Right-sizing Defined

Right-sized TRAILS are defined as those that create a healthy environment for business performance. The central political sophism of TRAILS is in the short-run on particular groups and to belittle other groups and the long-run effects. The right-sized TRAILS consists in looking not merely at the immediate but at more prolonged effects of any act or tracing the consequences of that policy not merely for one group but all groups. Sowell (2001, 2012, 2019) suggests that 90% of TRAILS fail. So potential TRAILS should be judged against that benchmark of doing nothing as a credible alternative, and all alternative TRAILS should be examined against each other. All determinations should be conducted with the premises that reason, reality, and logic to the contradictions and real-world data from those with the most skin in the game. Right-sizing TRAILS is ultimately an ordinal process (trade-offs), not cardinal.

Research Design and Approach

This study employs empirics methodology as foundational and incorporates the appealing grounded insights of an interpretivist where appropriate. That approach yields a better value analysis if both knowledge vectors put a premium on the interviewees' experience and where both facts and theory matter. The deduction portions of the research examined existing or created theories for validation and falsification. Abduction portions of the research are performed on inductive and inductive outcomes using imaginative interpretation, the reasoning for mental leaps of cognitive logic of discovery, yet still consistent with fealty to the inductive and deductive portions of the research.

Data Collection Methods and Instruments

Because the phenomena are social and the research is to gain the most exhaustive data from business executives, a qualitative approach is appropriate. Business executives have rich and in-depth knowledge of real-world impacts, insights, and understanding of right and wrong-sized TRAILS. The business executive can be classified as elite for interviews due to power, position, prestige, and specialized knowledge (Aguinis & Solarino, 2019). Executives possess concrete knowledge that no other class does on the impact of TRAILS on business performance. They have an extensive field of vision and can substantially ground the phenomena. I am peer level to the executives, which allowed the rare opportunity to extract elite data from executives (Aguinis & Solarino, 2019; Hochschild, 2009; Marshall & Rossman, 2014; Stewart, et al. 2017).

Elite executive interviews are a data extraction method that can provide deep insights (Hochschild, 2009; Miles et al., 2014; Welch et al., 2002). The findings were used to triangulate, enhance, and validate or contradict findings in the literature reviews, source material, and abstractions. More critically, the data provided rich data to interrogate using the most flexible process for grounding the evidence for theory building. The instrument of data collection was an open-ended questionnaire, which reduces bias (Miles et al., 2014).

Measures and Data Analysis

The study had two distinct phases. The first was a qualitative exploratory phase with five executives. The second, the qualitative empirical phase, went further in-depth with additional interviews of executives. Data grounding, visualizations with iterative maneuverings, narrative analysis, case study among executives, and observations and quantitative sources and other qualitative data were utilized for triangulation, sensemaking, mental cogitation for theory building, and data reduction for teleological and asymmetrical metaphysical discoveries (Charmaz, 2016; Denscombe, 2010; Konecki, 2008a, 2008b, 2009, 2011; Taleb, 2012).

A supplement for methods and process that addresses in more detail triangulation, ethics, bias, memoing, note-taking, visualizations, authenticity, beneficence, disconfirming evidence, environment, codes, and exemplars can be found in Appendix C.

Process

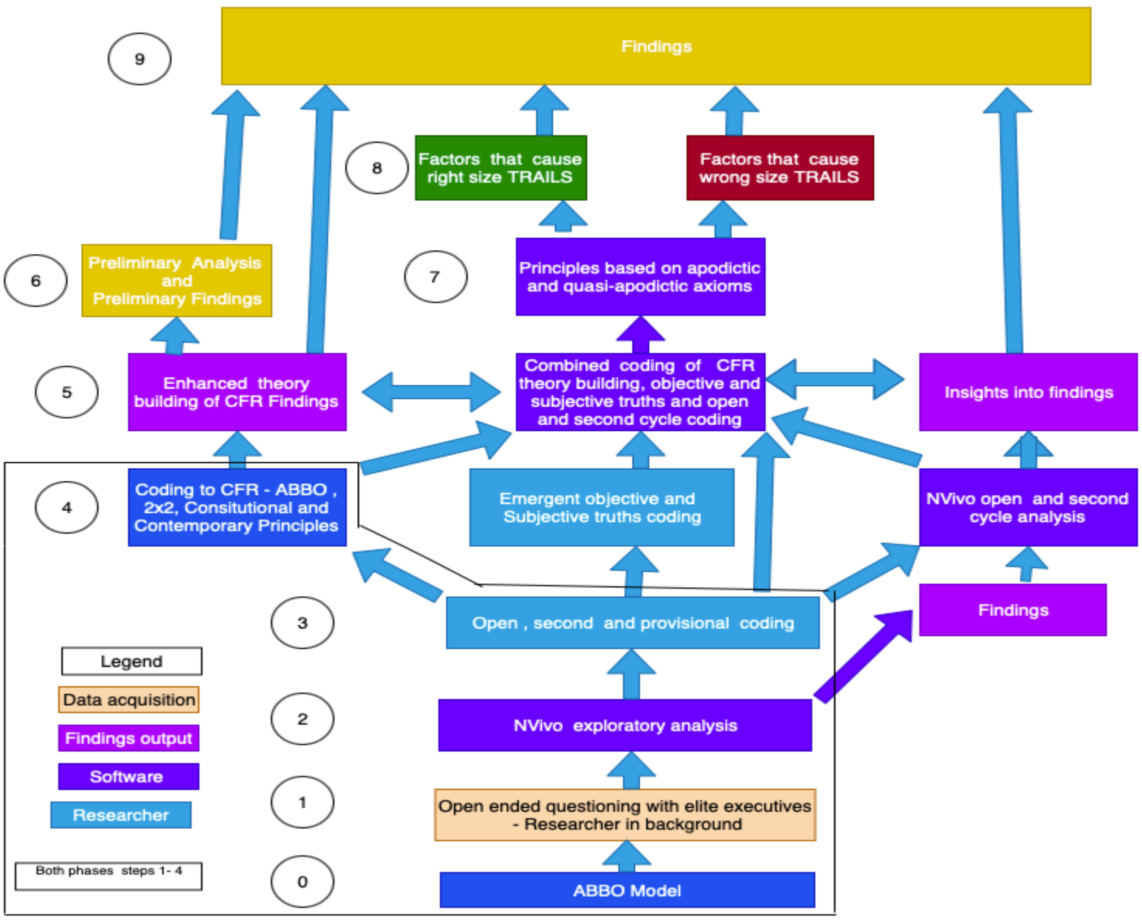
Procedure steps 1 through 4 in Figure 9 show the exploratory phase through to preliminary findings. First, the exploratory process verified that the method, process, fit, analysis, and instruments were appropriate for the empirical study. For the empirical portion, steps 1 to 9 in Figure 9 were performed. Coding was overlayed to the existing coding to identify and confirm patterns, interrelationships, consistencies, and outliers. The discovery process was emergent and non-linear.

Coding

All data, generally, was line by line coded to nodes in each of the following cycles (Figure 13 in Appendix D). The first cycle (inductive) utilized the ABBO model, literature review for context of data, and grouped the emergent data themes into six related unnamed groupings. The second cycle coding, focus coding, was used for clarifying, defining, and expanding necessary pieces within sets of the first cycle. The number of categories, themes, concepts, or groupings can get smaller or larger as first coding is expanded for exactness, clarity as new consequential knowledge and subject comes to light, or reduced for themes within packs that are similar. The second cycle can be inductive, deductive, and or abductive. The codes are inferential or explanatory, ones that identify a bigger picture configuration or compositional clarity as integrations are untangled and relationships and patterns are more fully absorbed.

Figure 9

Methods, Process, and Analysis Flow Chart



The second cycle becomes the reservoir of pertinent data in an assessable fashion. The second cycle groupings of codes were again six, with specific codes from first cycle codes eliminated, reallocated, or expanded among the six similar groups. They are:

1. Healthy environment requires individuals to make micro-decisions that maximize perceived utility

2. Unintended consequences or unseen unintended consequences

3. Methodological individualism exists, perhaps especially with large groups and Hayek’s “knowledge problem” and the “pretense of knowledge” of government

4. Interference of the invisible hand of innovation and market. Optimal coherence, asymmetrical antifragile knowledge acquisition, optimizes, outcomes

5. Only the government can legally provide enforcement in the area of commerce

6. Misunderstanding winner and losers of TRAILS

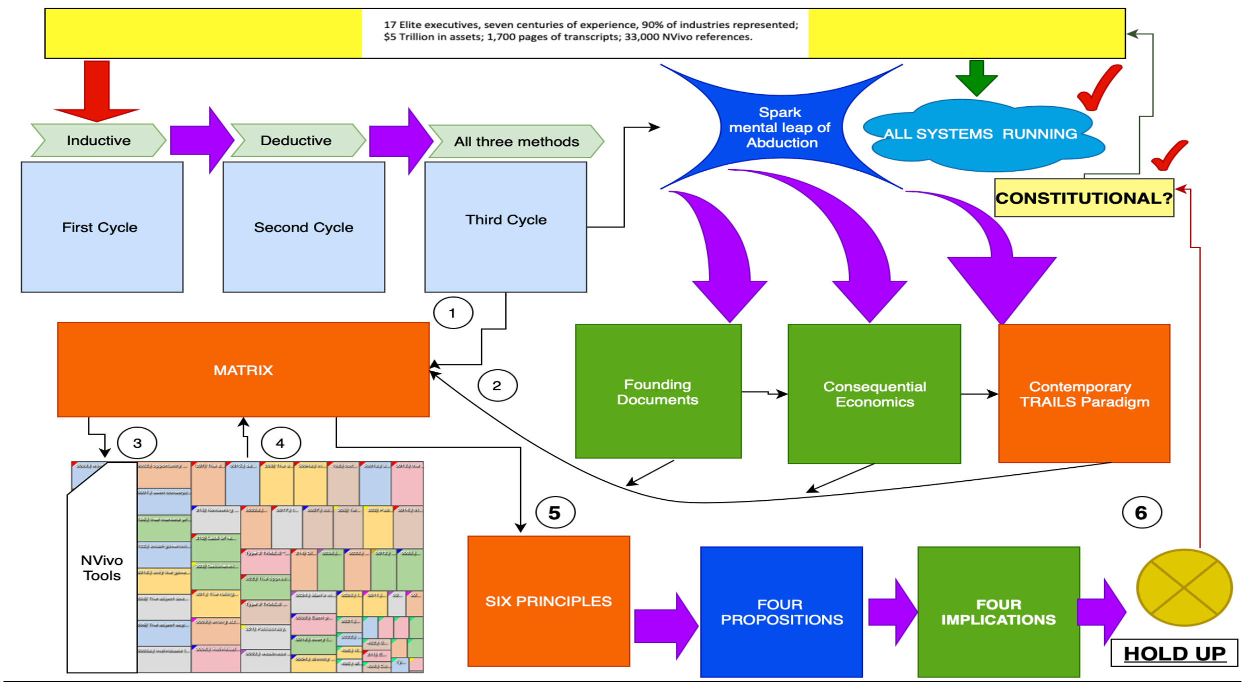
The third cycle coding contemplated assertions, hypotheses, and condensed and synthesized vast amounts of data, individual observations, and analysis to six preliminary summary principles: Knowledge Creation, Unintended Consequences, Ignorance, Market Forces, Micro-Inaction, and Winner–Loser. Abstract abductive spark led to four additional coding cycles. The third cycle revealed most TRAILS that are wrong-sized TRAILS violated the Founding Documents (FD), apodictic economic principles (AEP) and the Contemporary TRAILS Paradigm (CTP). The data was subsequently coded to FD, AEP, and CTP related nodes. See Appendix D for a detailed description of the coding for each cycle.

Process Flow

The process coding flow starts with the first, second, and third coding cycles to arrive at six preliminary principles to right-size TRAILS (Figure 10). Meta-physical abductive sparks motivated comparisons of the data to FD, AEP, and CTP themes. From the third cycle at circle 1 and FD, AEP, and CTP at circle 2 (Figure 10) emerged a matrix for micro dilemma decision for right-sizing TRAILS. At circle 3, qualitative tools were used to enhance and create depth for the matrix.

Figure 10

Coding Process Flow



The final coding of the Matrix, related metaphors, and exemplars emerged for right-sizing and wrong-sizing TRAILS for substance and ease of presentation and understanding. The metaphors abductively determined for the TRAILS matrix were: Umpire, Cobra, Broken Window, and Chillax. From the Matrix emerged enhancements to the third cycle six principles, which were critically evaluated, leading to four propositions to right-size TRAILS for a healthy business environment, from which four practical implications became evident (Circle 5).

As the last validation and integrity double-check, the four implications were checked against the TRAILS of the land law and the data at circle 6. I checked the propositions back to the data and the implications to the FD to make sure that they were well grounded. I called this verification step the Hold Up step.

Study Population and Sample

This research sought to find insights from experienced business executives on the impact of TRAILS on business performance. Elite interviews were theoretically sampled on a purposeful and judgmental basis based on position, power, and specialized knowledge (Hochschild, 2009; Miles et al., 2014; Palinkas et al., 2015). The sample was not randomized and was driven by purpose and expertise to understand what the target population thinks (Aberbach & Rockman, 2002). It was a homogeneous sampling focused on qualifying people specific to the purpose of the study (Miles et al., 2014).

My network of senior executives has meaningful public company experience with TRAILS and its impact on incentives, behaviors, and business performance. One qualifying criterion was that each had to be an insider defined by the Securities and Exchange Commission (SEC). The SEC defines an insider as a director, senior officer, or individual that owns more than 10% of a public company's voting shares. The term public company is a firm whose securities are traded on the public markets.

After 10 empirical interviews, no additional sparks of mental abduction insights were gleaned from other interviews, and saturation was reached for the empirical study.

The sample selected was homogeneously faithful to the purpose. The sample size was 12, within the guidelines for purpose and elite interviews (Charmaz, 2014). All participants were selected over 11 months ending in April 2021. Five exploratory interviews were conducted under the same selection criteria, methods, and approach, bringing the actual total of interviewees effectively to 17 (Table 2).

Table 2

Descriptive Statistics of Interviewees

Details of Elite Executives Interviewed			
Category	Exploratory	Empirical	Total
Number of elite interviews	5	12	17
Collective years worked	Apprrox. 150	Approx 500	Approx. 650
Collective Market Cap	$1 Trillion	$3 Trillion	$ 4 Trillion
Average Age	45	Approx. 55	52
Ave different industries	5	6	6
Ave number of degrees	2	2	2
VP or higher	All	All	All
Industries represented (SEC - SIC codes A - K eleven)	Ten	Ten	Ten
Companies represented:			
AARAMCO, Activison, Blizzard, CBRE, Charles Schwab, Comcast, Disney, Drexel Burnham Lambert, Ernst & Young,			
First American Financial, Fortis, FUTU, Goldman Sachs, JLL, Keck Medical, Koll, Kenneth Leventhal, Lehman Brothers, NBC			
MCA INC., Nestle, UCLA Medical Center, MGM, Mills Corp, Price Waterhouse, Sheppard Mullin, Seagram, Six Flags,			
Technicolor, Trammelcrow, Tropicana, Universal Music, Universal Filmed Entertainment, Universal Studios, Vivendi, WWE			
Zurich. Smaller public and private companies is the pharmaceutical, gaming, gambling, on-line retail, FINRA compliance,			
health care, real estate, bricks and mortar retail, data centers, broker dealer, private equity and angel equity companies.			

Note. List reflects the full career background of the executives interviewed, average four per executive.

The sample selection was a clustering of executives over the research period, giving me the time to analyze and digest the data, reflect, and develop theory-building cogitations periodically (Charmaz, 2006, 2014). Follow-on selections were judgmentally chosen based on those reflections and aim of the study, while mindful of such selections' position (Denscombe, 2010), specialized knowledge (Creswell & Creswell, 2017), peer status relationship (Aberbach & Rockman, 2002), potential power imbalance, and any other factor that could bias or impair or adversely influence the study in terms of neutrality (Miles et al., 2014).

Assumptions and Ethical Considerations

The matching and convergence of themes among independent participants using an open-ended questionnaire is a robust validation measure (Creswell & Creswell, 2017). Despite participants being from vastly different industries, interviews produced directionally and thematically the same observations. The details differed, but the impact of TRAILS on business and related experiences generally coalesced around themes, with no new themes emerging after the 10th interview. No participants had significantly contradictory experiences, with the compositions based upon determining wrong-sized TRAILS and right-sized TRAILS. There were no materially unique and differentiated experiences among the executives that rose to separate exception disclosure or conflicting theory.

Preliminary Findings

Implication for the Foundational Starting Point

The consistency of these executives' reactions to the impact of regulations on business performance can be attributed to their incentives. Executives have incentives to be right when making business decisions and disincentives for being wrong. The implication is that guidance from the principles that emerged in the study can be materially applicable to all for-profit businesses and across industries.

Structure of Presentation from Exploratory through to Empirical Findings

Due to the complex integrated and integral nature of the phenomena and the research design, there is no linear structure of findings. The exploratory phase informed the empirical phase. The following lays out the rationalization and presentation to be faithful to the process and the information gathered. As is typical in grounded theory, data are interpreted into a theory that makes the information cognitively capturable to understand and remember a complex and critical matter. The preliminary findings are more meaningful by developing a theory to capture meaning. The theory also enables the interpretation of diverse and complex facts to validate the observations and abstractions and understand and interpret the reality of the phenomena.

An insightful contribution to both academic and practice knowledge was built from the data. A matrix diagram started construction during the exploratory phase. It was finalized during the empirical stage as a conceptual framework to classify TRAILS phenomena as regulatory action, inaction, and uneven action. The matrix emerged in a semi-teleological fashion, which underpins the grounded visualizations of abstract thought and critical thinking. This methodology fundamentally is the process for the entirety of the empirical study.

The data was taken in from the executives observed through patterns, correlations, and weighting on the impact of TRAILS on business performance. Some TRAILS are right-sized, and others are wrong-sized. That process was performed during the exploratory phases. Further, two types of right-sized TRAILS emerged, which led to one of the dimensions of the matrix:

1) There was an appropriate role for TRAILS and

2) It was not appropriate for government to intervene.

From the interviews, three ways in which TRAILS harm the business environment emerged:

1) TRAILS in an inappropriate area or inappropriate overregulation, or

2) By intervention via stimulus or not enforcing appropriate regulation or unequal enforcement of relevant laws.

Also emerging from the interviews as to why wrong-sized TRAILS are not enforced is the notion that only the government can legally provide enforcement in certain areas of commerce. Most findings from the exploratory and empirical phases fit into those four categories.

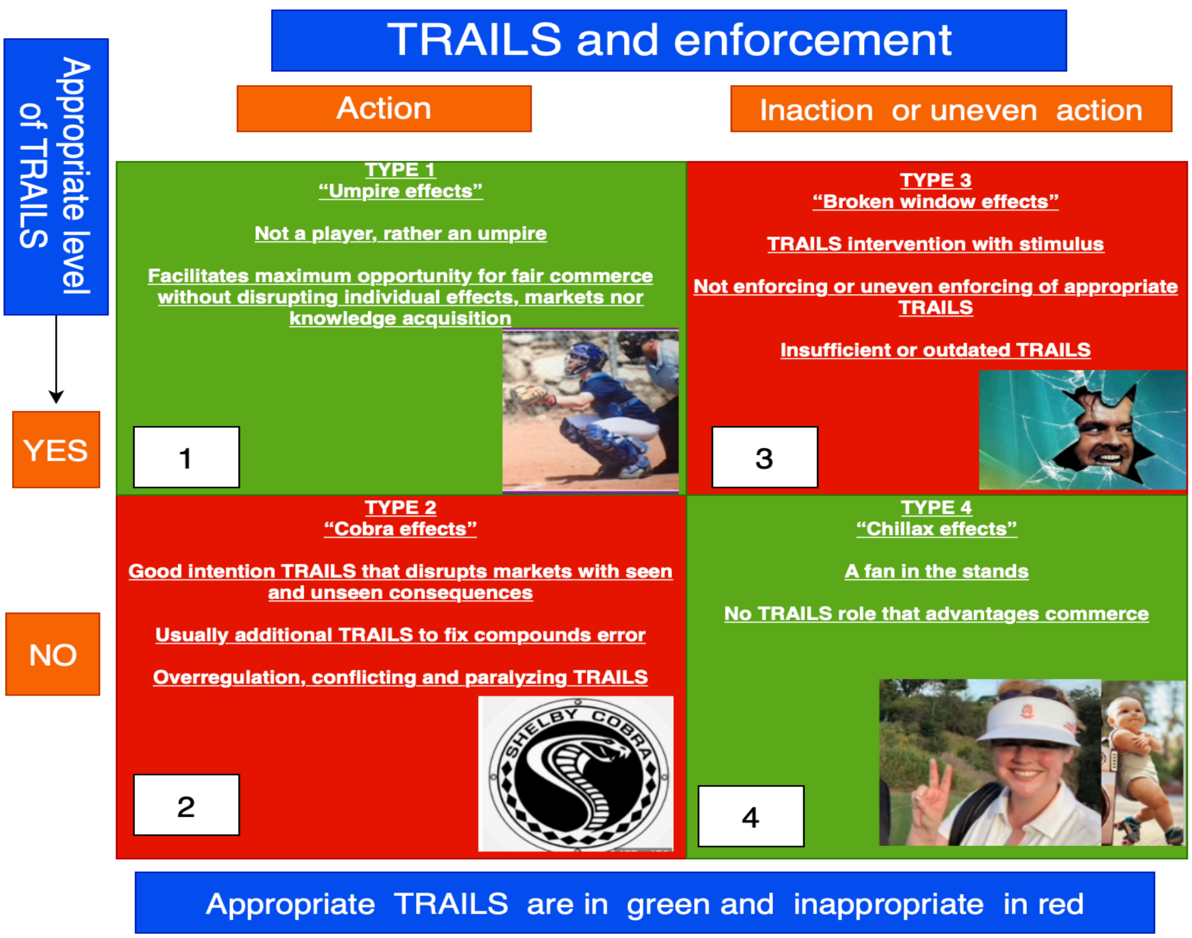
Empirical Findings

The matrix development was aided by using the procedures noted above on the empirical data to tease out six principles to right-size TRAILS. In addition, four propositions of the new theory are in the findings and four implications for practice that are responsive to the research question. Furthermore, wrong-sized monetary TRAILS emerged from the data as an important TRAILS to right-size (Rothbard, 1990, 2002, 2007; von Mises, 1981, 2007, 2012). The findings generally follow the above flow with an appreciation for the complexity, integral and interrelated nature of the phenomena, cross disciplines, and systemic necessity.

The task for the empirical study was to get evidence that would be consistent with the proposed conceptual framework for right-sizing TRAILS or invalidate the tenets and bring it to life with exemplars to make it more useable, and ultimately, to build theory on right-sizing and wrong-sizing of TRAILS. Detailed exemplars are classified into each of the four categories which can be seen in more detail in Figure 11.

Figure 11

The Impact of TRAILS Action, Inaction, and Uneven Action on Performance



The four categories are:

1) Umpire, Type 1 TRAILS: Facilitates commerce with the government as an arbiter.
2) Cobra, Type 2 TRAILS: Inappropriate regulation. TRAILS of good intentions disrupt or influence markets adversely with unintended consequences that may or may not be identified.
3) Broken Windows, Type 3 TRAILS: Government stimulus and intervention or government not performing TRAILS enforcement role. The consequences are adverse and unseen opportunity costs to the business environment.
4) Chillax, Type 4 TRAILS: The regulator is a fan in the stands, not a player nor arbiter.

Type 1 Umpire Effects

Type 1 TRAILS are beneficial to the business environment. Type 1 recognizes the government's role for business performance. The executives could speak about any TRAILS they wanted. However, only 11.5% of the aggregated interview time did they talk about right-size TRAILS, suggesting that either the TRAILS that business executives see as valuable to their firms is a small percentage of the existing regulations, or perhaps human nature is not to have good news as top of mind as bad news. Hazlitt (1988) and Sowell (2001, 2012, 2019) contend 90% of TRAILS are wrong-sized. If 90% of businesses fail, the rate for TRAILS is in line with initial endeavors (Lee, 2013). The difference is when the government fails, the TRAILS continue. Nevertheless, most executives suggested some regulations are necessary.

Regarding Type 1 TRAILS, where the government acts as an umpire, a commercial property executive noted a Type 1 TRAILS that requires proceeds from a sales transaction held in escrow by the government until all conditions of the sale are met. This intermediary role facilitates and assures the propriety of transactions. A Spirits executive noted TRAILS about the drinking age and an MD noted licensing of medical doctors: “The minimum drinking age is an example of good regulations” and “the licensing of doctors keeps the public safe,” respectively.

Most of the right-sized TRAILS mentioned in the interviews revolved around one of six principles derived from coding and analysis of the interviews. These principles are described next:

Principle 1: The Knowledge Creation Principle. Develop TRAILS that allow dilemma decisions to be made that maximize knowledge creation, leading to value creation. This was mentioned on average 3.46 times across 12 interviews. Per an entertainment executive on lowering the corporate tax rate to conform to other countries:

> So, you know, it was one of those necessary at least viewed as politically essential evils. But this change allows us to bring a lot of money into the U.S., which allowed us to increase U.S. projects, increase employment, and make decisions based on core elements of the projects, not the value of tax strategy. I think it has caused all companies to focus on their inherent risk factors and enterprise risk. And focus on there, you know, their key metrics. So, you're not getting lost in the weeds.
>
> You know, tone at the top is critical and all those structural things for the country. I think some good things come out of it. The company moved people out of strategic planning and into the operating divisions. Prior, we made some wrong decisions based on tax arbitrage. They made money. But were terrible for the overall brand.

Type 2 Cobra Effects

Many wrong-sized TRAILS mentioned in the interviews highlighted the unintentional effect of TRAILS, leading to wrong-sized regulations. This category of TRAILS is derived from a story of Indian regulations. The Indian government’s concern over venomous cobras resulted in TRAILS fees for each dead cobra. Breeders in India began to breed cobras, kill them, and collect the fees. In response, the government used more TRAILS to end the fee for dead cobras. The breeders, with worthless venomous cobras, set them free. The TRAILS solutions made the cobra problem far worse. Some effects of TRAILS are not predictable, and thus real outcomes are often unintended at some level. This phenomenon exists because it is impossible to know how individuals (market, in aggregate) will react to the new TRAILS, calculate the incentives, and create new knowledge to achieve desired outcomes.

The last attempt to control executive compensation was in 2002, with Sarbanes-Oxley (SOX). It resulted in collateral damage to SMEs. The regulation increased compensation disclosure and the legal exposure of executives. Large companies took out insurance contracts to protect executives, and large companies could afford the additional and complicated disclosure to reduce exposure for the executives. SMEs could not afford the combination of insurance and reporting costs. SOX also gave foreign companies an advantage as they are not required to adhere to SOX. According to one executive who directs Initial Public Offerings:

> Today, a US company barely has a chance to go public because of all those regulations. They are out of compliance the moment they go public and facing massive exposure. However, and this is the insane part. If a foreign company wants to go public in the U.S., they don't have virtually any of those regulations because they are specifically exempted. Does that make sense to you? Why is it that way?

Principle 2: The Unintended Consequences Principle. A wrong-sized TRAILS emerges from unforeseen, unintended consequences. This was mentioned 13 times on average per interview. For example, a CFO and EVP of a major entertainment company said the regulators' requirement to expense half the cost of a film (prints and advertising) upon release had seen and unseen unintended consequences:

> Reasonable people, with knowledge, can disagree about what is right. But there is no substitute for experience. Suppose you just look at the aggregate number of major studio theatrical film releases. In that case, it has been trending down for quite a few years now because of the regulators' change. Yeah, consumer choices are inherently limited, and investors and employees are hurt. Yeah, I would like to make a general comment first. Whenever you get away from what is defined as best practice accounting from best practice operations, you will have a problem, no matter what the industry. And what the change, [financial reporting], is it created this dichotomy of a regulatory measurement [not real] and real economics. Certainly, in my tenure at [major entertainment company] and other years since the change are almost useless from a management and operational perspective, and that's not a good thing. It caused short-termism, you do uneconomic things for the appearance of the regulators [fake] economy and sacrifice the long term for

> short term window dressing. It's even broader than that because almost every annual public filing and some quarterly is that one picks up nowadays every company does a reconciliation from what the regulators want and some real measure of performance; some measure of the health of the business to operating cash flow, as opposed accounting earnings and that's not a good thing, it's not a good thing for anybody on any side of that discussion. It would be great. It would be nice to see reality come back into closer harmony. Let's just say. The industry has not recovered from that regulation.

Principle 3: The Ignorance Principle. This principle arises from the notion that policymakers often do not have the business experience or knowledge to design TRAILS that favor business performance. This was mentioned across all interviews. Per an oil and gas executive and family office investor:

> And you know, when you look because that was back when I was in high school when all that started going on, the shenanigans began on the monetary side. Money would be worth in today's dollars and how that money could be used somewhere else. The difference that I see is that business is fighting politicians who have no clue about the long-term impact of their monetary regulations and are being manipulated by those few who benefit from bad economic policy. Thus they can’t even really have a coherent discussion. One side knows what they are talking about, and the other doesn’t. And the one that doesn’t is making the regulations. It is bad enough they make the obvious, although still hidden, errors on the fiscal side for votes or appease their oligarchical masters. The real destruction is on the monetary regulatory side, which enables all the harmful activity on the budgetary side. There must be a few in the Fed who understand this and work with individuals on the nominal side who get the rest of the individuals in Congress…It is ridiculous that very, very few people have a long-term perspective on things, especially monetary policy coupled with governed confiscation of their monetary handiwork with inheritance taxes.

Another example of Cobra TRAILS is executive compensation. After 28 years, the result of “good intentions and unintended consequences” is that large company CEO compensation rose by 514%, GDP by 100%, the S&P 500 by 129%, and medium household income by 21% (Hughen et al., 2019). These regulations created the short-termism and an unhealthy business environment that rewarded executives for short-term actions. When asked what the solution is, the executive said the following:

> That is easy; to correct the problem is straightforward. Let individual market forces fix the problem. Executives will return to the extended-run maximization management for

> shareholders. But the optimate executives like being overpaid now, and they have captured the regulators. The regulations for them now is a barrier for entry, and they like the monopolistic position that has been created for them.

"Do they collude not to fix the problem with a market solution?" The executive stated:

> Colluding isn't even the right word. All the relevant parties just know what to do. There is no colluding required. Money flows and grows around the regulatory environment. New economies are created every time any legislature signs a new bill into law. It probably looks a lot like the start-up process for companies: first, lobbyists and academia write white papers (funded by govt. grants); second, a congressman gets a suggestion from the leadership of an influential lobbyist who got him elected to take on a particular initiative, curry favor and support and bring it out as a bill for a vote, where the party in power can flog it in front of the media ad nauseum until the public starts chanting the mantra demanding that the bill pass and that if it isn't the opposition party is trying to murder your grandma or suppress … Feels like the typical fundraising process from angel to seed to Series A to strategic investment to finally a pawning off to the public the risk once public. Follow the money.

Principle 4: The Market Forces Principle. Some TRAILS interfere with the market.

This was mentioned on average 3.8 times per interview in 11 of 12 interviews. Per a financing CEO:

> Because of compliance, it has gotten worse over time. But for sure, if we take the finance sector with the layers upon layers of Sarbanes Oxley leading to the Dodd-Frank bill, leading to the, you know, consumer protection bureau, headed by regulators have never run a business before. You know that cost and layer upon layer of costs now add the state layers. On top of that, they have made it severely consequential. If you are not compliant and so it's a cost of doing business that was already high. Where you had to have legal protection, and now you add those layers of knowledge and understanding. To try and navigate that, I will tell you if you have the money in the wherewithal to try and jump into those waters and innovate. You had natural barriers using entrepreneurial innovation for protection. Now, they're artificial barriers of protection to keep new entrants from coming in, and this will take you, will lead you that into my notion about [big banks], also, use it to eliminate smaller banks.

Type 3 Broken Window Effects

This TRAILS category is based on inactions or uneven actions that bring negative consequences for the business environment. For example, the executives interviewed often mentioned a lack of regulations to restrict illegal or anti-competitive behavior. An executive in the entertainment industry noted that, in 1999, they had the government to negotiate on their behalf with China. At the time, the entertainment industry was the number two exporter in the U.S. The executive noted the entertainment industry got no protection. They felt the government sacrificed the entertainment industry for other sectors. This executive said:

> We never saw any meaningful government action that resulted in any benefit to us. I go further and say that we never really saw any government action period, if I was to speculate about intent or plan or motivation, in fact, the word. The same degree of position within the economy as Aerospace didn't have the same number of employees. We were very geographically concentrated in southern California and, perhaps to a lesser extent, in New York. But, unfortunately, one has to say political clout as an industry. Because Mr. and Mrs. public, we're going to be much more swayed by tales of woe from a Boeing or a major manufacturer with the labor-intensive workforce than they were going to be by a bunch of Hollywood cry babies who… you know…

This executive noted that the government did little in the U.S. to protect intellectual property and the industry has no enforcement mechanisms. As a result, music and home video sales in the U.S. have been reduced by more than 50%, and the entertainment industry is out of the top 10 in terms of exports. Specifically, the executive noted:

> I also think it plays into the issue of you know whether the government cares about your industry. Up to and including the moment here, there has never really been the rigorous defender of U.S. intellectual property that it should have been. I have heard the argument that said don't worry, you know, over time, these guys will come into line, and they'll join the world and on and on and on and is the situation, but it's far from solid yeah and then there, then, there have been historically so yeah we felt we felt as if we didn't have a voice.

Principle 5: The Micro-Decisions Inaction Principle. Create a healthy business environment for individuals to make micro-decisions that maximize rents. Not enforcing right-sized TRAILS will lead to adverse outcomes. This was mentioned an average of 2.9 times in 10 of 12 interviews. Per a music industry CEO, an example of how the government did not create a healthy environment by inaction:

> And nearly out of the blue in spring of 1999, Napster emerges as a large-scale illegal fencing operation operating in a context lacking the usual functioning legal framework. Imagine anybody walks into a record store, steals CDs, then goes into an empty lot next door and sells them to other people for cash. There would have been enforceable points in law applied in the physical world to stop that from happening. Thieves could not have gotten out the front door of the record store easily, let alone conduct a transaction in the parking lot next door, without fear of enforcement. By contrast, there was no legal framework that governed the Napster situation online, and the government showed little interest in protecting the music industry. To repeat, there was no enforced legal framework to deal with what was an illegal fencing operation. The CD was an open master, and Napster and others created technology to rip the content off of the CD, disaggregate it into songs, and make it available for free to people over the web in a very convenient kind of way. Free is the most powerful word in the dictionary almost. I'm telling you it's 20 years later -- there's no new business model that can compete successfully against an identical product offered for free.

One significant broken window effect is the side effects of regulatory efforts to create an economic stimulus. Bastiat (2007) developed the theory of unintended consequences of two types: seen and unseen. First, to stimulate the economy, a stone is thrown and shatters a shopkeeper's window. Second, the aggregate of city's individuals is the broken window is an economic benefit. The owner must buy a window from a company and pay an individual to install it. The window company and installer now have money to spend. That, in theory, stimulates the economy. However, society ultimately pays the cost of the broken window, and the owner has less money for employees and innovation, which would make the business more profitable. Higher profits would enable more reinvestment to invigorate the virtuous cycle of Individualism's creation of knowledge, wealth for the owner, the health of the business environment, and wealth in society both economically and civilly. That unseen loss in value is called opportunity cost. An insurance executive provides an example:

> The state through regulations has taken over some of the most profitable segments of the insurance industry under the pretense of protecting the public ["breaks window," government pays itself] and comingling the collected premiums with the general fund. I suspect the state will expect emergency Federal funding if claims exceed whatever premiums they have retained [society pays] and the insurance industry has less money for innovation [opportunity costs unseen cost to the industry and society].

One form of the broken window effect comes from TRAILS that are applied unevenly across players. Wrong-sized TRAILS affect some players less or more than others, creating an unfair competitive environment. In addition, there is inaction in that there is a lack of precaution on TRAILS design to avoid uneven burden across players. For example, executives in this study were victims or beneficiaries of COVID-19 TRAILS. The event had uneven impacts on the companies of interviewees. According to the interviews, the effects ranged from devastating to unaffected to beneficial.

Principle 6: The Winner-Loser Principle. Wrong-sized TRAILS can emerge as they unevenly benefit or harm different players. This was mentioned across all 12 interviews. For example, a CEO in the restaurant industry stated:

> It is pretty messed up with regulations. So let's start with your first question; consider the largest of two regulations that impact your business favorably or unfavorably. I think they are minimum wage and labor laws the other environmental or conservation regulations. And one of the big ones is ADA [American Disabilities Act] regulations. The negative impact of minimum wage is obvious anytime they increase it. There is less employment and margins are squeezed, and expansion or investment in business decreases. The other one is the environmental and conservation regulations; these can add considerable costs to a development project depending on the size of the restaurant. I had a restaurant owner build a restaurant, and he said: These regulations not only have slowed me down six months on my building process, but it cost me another $150,000 to finish this restaurant because of the regulations. So ADA regulations have had a deep and meaningful impact, particularly on the smaller restaurant owners. When the ADA regulations were passed, I think it was the 90's under Bush. It cost restaurant owners 10's of thousands of dollars to convert their restaurant to ADA compliance. Yep, and there was a huge unintended consequence, or perhaps intended by the lawmakers, some attorneys saw an opportunity to sue these small restaurants and make tens of thousands by claiming the restaurant violated the ADA Act. These attorneys would either hire people in wheelchairs, or the attorney would do it themselves and go into the restaurant to determine the violations and often hold the restaurant owner hostage to a huge lawsuit that the legislators encouraged. Hundreds of restaurant owners had to pay 10's of thousands as ransom to avoid racking huge legal bills. So that's three regulations hurting the restaurant business, and the lawmakers just keep on adding cost.

Note that personal industry (PI) lawyers wrote the ADA law in the 1990's. President Bush noted upon signing that there:

> …may have been concerns that the ADA may be too vague or too costly, or may lead endlessly to litigation. But I want to reassure you right now that my administration and the U.S. Congress have carefully crafted this Act. We've all been determined to ensure that it gives flexibility, particularly in terms of the timetable of implementation, and we've been committed to containing the costs that may be incurred (National Archives, July 26, 1990).

One particular concern on the uneven effects of wrong-sized TRAILS raised during the interviews is the negative impacts on innovation and entrepreneurship. According to an executive, Dodd-Frank harmed small firms, increasing the oligarchical capture of large banking firms, and reduced entrepreneurial innovation:

> I was at Charles Schwab at that time. Charles Schwab could navigate those waters and negotiate and come to settlements quietly. But a small broker-dealer who's doing innovative stuff creates value by creating jobs down at a very low level because they're helping through private placement offerings or helping through venture capital investment into innovating companies; those people got wiped out. There was no more incentive for those people who are licensed under FINRA to stay in business. So they wiped a lot of people out. Schwab got through the gates because regulations had not caught up with innovations and [personal computers] and it was before Dodd-Frank was enacted.

The executive went on to say that not only does regulation make the core financial business untenable, but it eliminated the former advantage small firms had, entrepreneurial innovation. The results of regulation make the industry less entrepreneurial and more financially innovative, which accrue only to the larger firms due to the scale necessary for such financial innovations:

> But the innovation that has brought value to an end consumer that regulators have always been-- at least giving lip service the SEC [says] that they're protecting. That innovation is stifled again because we got entrench players and financial services. Still, like water through your fingers, entrepreneurial individuals are less knowledgeable but technically outside the grasp of the government, regulators, and oligarchs inventing Robo-advisors. We have all these other innovations occurring outside of the context of being a broker-dealer. But…importantly, I think, to this point is big companies have the team of lawyers that can pore through the-- what it is? Isn't there more regulation in Dodd-Frank, which is the banking regulation, than all previous regulations? By the way, all under the pretense

> to protect individuals, supposedly. Yet, who's harmed usually in this heavily regulated environment? The freedom of choice by consumers to pick and find good solutions for themselves. No, it's not. But that's right because there's an implicit assumption that this person is informed, right? So this is why the regulations are less for those people. But think about that. They did that to free up funding that would go towards companies that need it to innovate.

Another executive added on the impact on attracting young talent:

> It's interesting with FINRA, they're trying to get people into the industry, but because the hurdles are so high and the rewards aren't there, they can't get people to go into the industry. You'll be insane if you go as an individual as it becomes a broker-dealer. I mean, what would be your incentive to go? And Charles Schwab did it. Think well when he did it, right, back in the 70s-He couldn't do it today. --and he created a very disruptive business.

An executive with private equity experience in the financial sector noted the elimination and self-censoring that TRAILS causes on innovation by the most entrepreneurial innovators in the financial industry:

> The level of knowledge you need to navigate the regulatory environment to come up with an entrepreneurial solution is cost-prohibitive, and it limits the number of people who can innovate. It's only because you have this special knowledge that you can innovate. So it's created protection for those that know, interestingly enough? So our innovators are risk-takers. They assess risk differently. They don't necessarily take on more risk, but they do not know when they think of a solution. Had the cryptocurrency person been a FINRA licensed broker-dealer, could that have happened? They probably would have said, 'No [expletive] way. Too risky for me. I'm out.' It took a 25-year-old or whomever these anonymous people who originally did bitcoin or Mpesa out of Kenya, which require the power of an oligarchical non-broker-dealer (Vodaphone), who could hit back. The banks desperately tried to kill the innovation took those people to say, why not because I'm not constrained by holy [expletive] what could happen to me? Can I go to jail? Can I lose all my money that I've managed to save because the regulators are going to come down on me or interpret the regulations for having just tried to do something?

Another 37-year veteran of the financial sector thought it essential to understand the debilitating cost structure of a broker-dealer due to regulations has caused many of them to go out of business:

> These requirements have caused a considerable consolidation, or broker-dealers simply go out. The broker-dealer withdraws, but they cannot stay in business. And the requirements of the security exchange commission by the tests that we apply to what is a

> security and what is not a security is very far, and overreaching, all five oversight agencies and quasi agencies are funded by the fines they level on their members.

They noted this perverse incentive caused one of their smaller clients to go out of business and was fined $1 million for a real estate matter unrelated to the broker-dealer. This participant noted that big firms do everything behind closed doors with regulators. They have no admissions of guilt and continue to have record profits as smaller competition goes out of business.

Type 4 Chillax Effects

The absence of regulations that create incentives for knowledge creation may lead to adverse consequences, which leads to Type 4 TRAILS. A global video game CEO observed how the government negotiated weak trade deals for intellectual property on behalf of the entertainment industry (i.e., films, television, music) with China. Further, the U.S. government did not, or was incapable, of enforcing even weak protections. Therefore, the CEO had to negotiate with companies in China and with the Chinese government to protect company property. Nevertheless, it became the biggest market for the company. Moreover, these protections did not require U.S. government involvement. Effectively, the government stood on the sidelines while the firm negotiated with Chinese firms and their government to protect company IP and succeed commercially.

Implications for Theory and Practice

The purpose of the qualitative grounded theory-based study of elite executives was to gain knowledge of the real-world impact of TRAILS on business performance by understanding the incentives and consequential perspectives of business executives, to propose theory on TRAILS right-sizing, and provide a conceptual framework for a healthy business environment. The study was conducted with the premises that reason, reality, and logic to the contradictions and real-world data from those with the most skin in the games will reduce some of the extreme epistemic polarity of the TRAILS phenomena to concerned stakeholders. This section summarizes findings and combines those findings with the ABBO and right-sizing matrix models to establish four propositions for advancing theory.

Theoretical Propositions

Propositions were built by integrating the study's results and principles with the three proprietary integrated theoretical frameworks from the research to understand similarities, differences, and incompleteness for theory building.

Proposition 1

The incentives and business performance outcomes generated by TRAILS must be considered for TRAILS right-sizing.

The first theoretical proposition aligns with and integrates Principles 1 (Knowledge Creation Principle) and 3 (Ignorance Principle) with the ABBO model. According to this model, the business ecosystems are constantly iterating, immediately and temporally, as sensible TRAILS are constructed congruent with the regulatory philosophy. Subsequently, business executives interpret the TRAILS in the market process and rationalize scarce resources to incentivize optimal utility and outcomes as determined by performance measures. However, that process does not include a proactive role for business executives in government. Instead, there is a continuous evaluative process by business individuals of beliefs of existing TRAILS as the calculus is reinterpreted observations of occurrences downstream in the ABBO model, from TRAILS to incentives to performance. This process manifests itself by firms acting and reacting to the regulatory environment.

The following observations embedded in the empirical findings highlight why there is a gap in the knowledge base necessary to right-size TRAILS:

- The government rarely involves the executive business practitioner, an influential position in the policy, and only does so when the firm will benefit from TRAILS.
- Regulators pay no penalty for being wrong. Thus, there are no incentives to avoid wrong-sized TRAILS, which results in a lack of consequential knowledge.
- Because of the knowledge problem, regulators cannot easily value or price TRAILS as there is no private property or market price on inputs when the government is involved. Thus, they cannot discern whether TRAILS are right-sized or not.

Consequently, there is a gap in knowledge to right-size TRAILS. This gap is addressed in the next theoretical propositions and practical implications on how to right-size TRAILS.

Proposition 2

TRAILS right-sizing can only happen by considering unintended consequences.

The testimonies of the participants align with the Bastiat's broken windows fallacy, which suggests that in the effort to regulate a business environment to stimulate the economy, the negative consequences for the business environment can offset the benefits. For example, one could argue that Keynesian and Friedman monetary policy (von Mises, 2007, 2015; Rothbard, 2002) follow the axiom that societal wealth is eliminated by the 'seen' full measure cost of the TRAILS stimulus (e.g., Bastiat's society's cost of repair – first order), which negates any second-order stimulus velocity by the benefactor (e. g., Bastiat's repair person). This proposition aligns with the enlightening insight of 'unseen' impairment of the knowledge acquisition, unseen third-order impact (e.g., Bastiat's unseen disruption of entrepreneurial innovation cycle), which created a lost opportunity (cost), specifically as encapsulated in Principles 1 (Unintended Consequences), 4 (Market Forces), and 6 (Winner-Loser).

Proposition 3

Unintended consequences from TRAILS can inhibit innovation.

The results are consistent with the notion that anytime the government engages in wrong-sizing, the invisible hands of entrepreneurial innovation and the market are disrupted and, therefore, so is the competitive landscape (Aghion et al., 2018). The fourth level unseen adverse consequence is of the violated party's industry. The unequal treatment of one industry participant makes the entire industry less competitive (Aghion et al., 2018). The fifth unseen level is the adverse consequences of the wrong-sized TRAILS beneficiary's industry. The sixth-level harm is to adjacent industries of the beneficiary and victim's industries impairment. The seventh-level harm is if the government takes an active ongoing role, acting as the repair shop, as trust in the business environment will be lost. The repair shop will be operated sub-optimally and even purposefully poorly for self-enrichment (based on Proposition 1 and the Ignorance principle).

The unequal treatment of one industry participant can make the entire industry less competitive. Wrong-sized TRAILS that artificially help or harm a company or industry can flatten, straighten, or retard the innovation growth curve and create suboptimal behaviors by both the victim and the beneficiary. This harm is seen at the industry level. The disruption makes industries less competitive and develops less entrepreneurial knowledge (i.e., less wealth). Civil achievements and elevations have one commonality, economic performance (Friedman & Schwartz, 1963). This proposition aligns with Proposition 1 and, depending on the situation, it can stem from inhibiting market forces (Principle 4), picking winners and losers (Principle 6), or government inaction that fails to protect innovators (Principle 5).

Proposition 4

Government inaction can also lead to wrong-sizing.

Government inaction to perform their inherent duties, while not as evident as direct investment and proactive legislation, can be every bit as destructive to business as proactive TRAILS. The essence of the regulatory ecosystem is that any government inaction (creation or enforcement) on right-sized TRAILS will impact human activity as individuals respond and adapt to the corrupted environment. Therefore, business activity, innovation, and market dynamics will be disrupted. Such action is anti-competitive and results in an impairment of the trust in the government, which makes for an unhealthy business environment. This proposition aligns with Principle 5 (Micro-Decision Inaction) and is at interplay with the prior propositions, since there can be inaction because business executives are not involved in understanding unintended consequences and the impact on innovation.

Implications for Practice

Wrong-sized TRAILS can harm the business environment, so how can they be right-sized in practical terms?

Implication 1

Develop polycentric communities for industries for right-sizing TRAILS and government.

One promising avenue to right-size TRAILS is to develop transparent, decentralized, self-regulating bodies across industries that co-sign TRAILS between business executives. This would give an equal voice to non-oligarchs to develop a right-sized regulatory framework for all business-related TRAILS, including a judiciary to adjudicate disputes among entities and consumers.

The development of self-regulatory bodies involving both business executives and regulators could be a structural mechanism to achieve TRAILS right-sizing, which will bring the size of government to an appropriate level for a healthy business environment. The U.S. government has grown as a percent of GDP from 12% in 1960 to 57% in 2020 (International Monetary Fund, 2021; Jessop, 2017; U.S. Bureau of Economic Analysis, 2021).

Propositions 1, 2, and 3 suggest TRAILS environment can only be right-sized by accessing the consequential knowledge of business executives. Regulators do not have consequential knowledge and their actions are not transparent. These polycentric communities can alleviate some of those deficiencies. Further, with greater understanding, regulators will make TRAILS jointly with executives that are appropriately risk-adjusted to facilitate innovations, rather than the constricting innovation and interrupting the virtuous creative destruction cycle.

The 2009 Nobel Prize in economics awarded to Ostrom pushed this polycentric governance to renewed attention. This more antifragile system is characterized by various overlapping and competing units that govern based on their specific needs and capabilities (Ostrom, 2012). It is worth noting that polycentrism is the exact opposite of polanyism (i.e., economic collectivism or social democracy) (Block, 2016).

The result of a polycentric system is that it allows for more adaptation, competition, and flexibility. The idea of polycentric governance rests on seven pillars: decentralization, different decision centers share overlapping jurisdictions, mistake management of mutual adjustment, an emergent order, low entry and exit costs, existence of an overarching system of common law and courts, and effective coordination at all levels based on consequential knowledge. A key to success of polycentric systems is to avoid the panacea problem of centralized authority with one size fits all top-down TRAILS (Ostrom, 2012).

There are numerous examples of polycentric governance outperforming other forms of governance. There are recent examples of cities with polycentric policies outperforming other cities during COVID-19 (Hamish van der Ven & Sun, 2021; Pennington, 2021). Hong Kong can be considered polycentric compared to China. HOAs, cryptocurrencies, private clubs, religious institutions, municipalities, Co-ops, ZEDE/LEAP zones in Honduras, and sports leagues are exemplars of polycentric governance. In 1990, Germany's polycentric structure saved the failing state of East Germany, with its non-polycentric central planning construct, by reunification (Mitchell, 2019). On the same land mass, the Dominican Republic is polycentric to Haiti. It is organized by central planning bureaucrats, has state-sponsored violence, corruption, and economic failure, and has the lowest Human Development Index in the Western Hemisphere.

TRAILS should be made with appropriate weight to SMEs, who are often losers when TRAILS advertently or inadvertently lead to material winners and losers. SME representation in the regulatory process would help address this issue. Additionally, very practical and fundamental reforms need to be considered once the wrong-sizing of TRAILS is corrected, especially in an environment where TRAILS build on each other to create over-regulation without any consequences. Decentralization by making these self-governing bodies local, regional, or specialized should lead to a more appropriate size of government for business performance, including for SMEs.

Implication 2

Eliminate government from picking winners and losers.

The result of the study aligns with the literature that when the government through TRAILS picks winners and losers, all six levels of the seen and unseen consequences of the broken window fallacy are present. This causes oligarchies to harm the business environment by disrupting entrepreneurial innovation and free markets. The competitive landscape becomes predatory and trust, the underpinning of a healthy business environment, is lost.

Lobbyists pressuring officials to pick winners and losers needs to be addressed. For example, top technology firms were aided early on by the government by any or all of the following: funding, contributions in kind, favorable court rulings, tax breaks, TRAILS specific to a company or group, and no-bid contracts which eliminate competition. 13 of 17 participants in the study experienced anti-competitive and predatory actions by one of the government's broken windows TRAILS. In these situations, the participants stated they had no redress as the court was not prosecuting apparent anti-competitive nor predatory behavior. The polycentric entities proposed could review TRAILS enacted before approval to guard against lobbying efforts that favor some companies or industries over others.

The government should stop having an ongoing participant relationship with private companies by evaluating and adjudicating the polycentric courts to ensure compliance. Otherwise, it is like in sports if the league office (government) owned a team (private industry). The conflicts are apparent, self-interest is obvious, and trust in the system is lost. Self-governing bodies can provide controls for these more subtle ways of picking winners and losers. For example, all government IPs once considered for monetization should be open source. Giving IP paid for by taxpayers to specific Silicon Valley startups is not fair to taxpayers.

Implication 3

Government should privatize its interest in all noncore charter businesses.

Government taking an active ongoing role, including an operational role in private industry harms the business environment (Hoppe, 2019). This implication arose from propositions 1, 2, and 3. It permeated throughout the empirical findings related to government nationalizing health care and banking. TRAILS in these industries were a substantial concern for many participants.

Implication 4

The business environment must right-size monetary TRAILS before fiscal TRAILS can be right-sized.

Certain executives noted the importance of sound money, which serves as a natural control (quasi-market based) to right-sizing fiscal TRAILS. 71% of executives experienced the impact of unsound money. The issue appears to be a systemic and in need of being addressed. The enormity of the deficit and associated TRAILS is beyond the scope of the study. However, there are encouraging right-sizing vectors to pursue, such as restructuring the Federal Reserve, creating a basket of precious metals to support the currency, regulating synthetic financial products and eliminating or restructuring fractional banking, decentralizing banking, requiring a balanced budget, and direct democracy for budget overruns (Fitts, 2020).

Limitations

There are two limitations to this study. First, it only includes business executives and excludes regulators and consumers. This choice was deliberate because I want to bring the perspective of business executives on the impact of TRAILS on business performance. Still, it is not the only perspective that is valid on the topic.

Second, this study is only one of 10 requested in the call for research that includes several areas of importance to fully understand the impact of TRAILS' impact on business performance.

Thus, this study is just a modest portion of the right-sizing research agenda. More research is necessary to unveil the optimal level of regulations for business performance (the what) and the governmental structures and processes that will structurally enable right-sizing (the how).

Implication for Future Research

The four implications for practice (i.e., polycentric communities, government not picking winners and losers, privatizing non-core government businesses, and right-sizing monetary TRAILS) require more research that will lead to a structural right-sizing of TRAILS; each undertaking is massive on its own identified areas, which is beyond the scope of the research. Each of the four can be its line of research, and there is an urgency to that request. It is not theory that urgently needs attention. Instead, I urge the internalization of such theories and embedding them in academia, business, government, and society to seek a healthy business environment. Parties should collaborate with the right-sizing goal in mind.

The frameworks, principles, and theoretical propositions from this study provide practitioners and government tools to begin the critical process of right-sizing TRAILS. The main contributions are the ABBO Model adapted to the role of TRAILS in business performance, the macro right-sizing diagram, the Contemporary TRAILS Paradigm, the right-sizing matrix, and the findings of six principles for right-sizing TRAILS from the interviews to elite executives. These principles led to theoretical propositions and practical implications to start the path towards right-sizing TRAILS.

Conclusions

It is fair to conclude that three core TRAILS design aspects can lead to an unhealthy business environment: unintended consequences, favoring winners over losers, and inaction. A business has positive outcomes when TRAILS develops and enforces the game's rules while the government stays on the sidelines otherwise.

According to the business executives, one key finding is that wrong-sized monetary TRAILS are detrimental to the business environment. An oil and gas executive noted the unsound money TRAILS started in 1971, with the TRAILS that took the currency off the gold standard, which allowed the expansion of the government and created a plethora of wrong-sized cobra TRAILS. When cobra TRAILS result in unintended adverse consequences, broken windows TRAILS are often enacted. The purpose of the broken windows TRAILS is to stimulate the economy, in part to slow down cobra effects or to bail out those harmed by cobra TRAILS. This vicious cycle of cobra and broken windows TRAILS is not favorable for the business environment.

Despite the reported wrong-sized TRAILS by business executives in this study, the strength of economic liberty and the anti-authoritarian values has resulted in the U.S. being ahead of every other country. There are multiple possible measures to gauge the benefits of a country's regulatory environment. Fortunately, the U.S. still leads in every meaningful category, such as financial benefits (Elson et al., 2017), impacts on society (Carter, 2018; Goldin, 1992, 2014), innovation (Tsanova & Havenith, 2019), economy (Hannan, 2011), environment (Bracket, 2019), and well-being of virtually all good faith stakeholders (Bebchuk & Tallarita, 2020; Cornell & Damodaran, 2020).

In general, when viewing matters such as TRAILS, there is an asymmetry between the positive, which is difficult and takes time, and the negative, which is immediate. The bad news is news, and progress is not news. People have a negative bias, and this could be why business executives focused their interviewing time on wrong-sized TRAILS. Most of us obsess over the negative and usually catastrophize after that rather than focusing on the positive. Studies suggest that when the world improves, we have more time and become harsher critics, which can cause us to think that things have not gotten better. Progress is unseen and failure is a billboard. Despite crises, there are no examples thus far of countries with established inclusive economic liberty suffering a complete collapse (Bailey & Tupy, 2020).

Entrepreneurial innovation drives knowledge creation, which drives economic growth. 85% of inventions are due to knowledge creation and only 15% are due to capital and labor (Eesley & Miller, 2017). American individualism has created the most innovation over the last 200 years. The U.S. is best at diffusing innovation (Bailey & Tupy, 2020). With that being said, wrong-sized TRAILS not only harm U. S. growth but harm international markets as well.

The ABBO Model, matrix, principles, and propositions discussed in this study provide the tools and vision to right-size TRAILS. The implications give the preliminaries of a structural solution (quasi-market based) that aligns with the philosophy and the systemic fix to methodological individualism inherent in individuals in government (Buchannan, 1975). Right-sizing TRAILS starts with the ABBO Model. Currently, there is no check for TRAILS adherence to a philosophy or feedback loop for government redress if TRAILS are not enacted or enforced. Based on the aforementioned practical implications, creating self-governing bodies and making sure there is a level playing field in business are steps in the right direction to close the entire loop of the ABBO model.

For TRAILS to follow a complete feedback loop in the ABBO model, they should first be filtered through the right-sizing matrix, principles, and propositions. This should be done with the involvement of business executives, making sure that the TRAILS do not lead to winners and losers to the detriment of the business environment. However, the process requires checks and balances since it is subject to methodological individualism or, said differently, the weaknesses of human nature. Further, it is the individual that adds the third dimensionality to the process.

Business executives reported systemic issues concerning regulators and TRAILS. It is not just that business executives have essential experience and knowledge to right-size TRAILS, but also, left alone, regulators with no business experience can create wrong-sized TRAILS and an unhealthy business environment. By involving business executives in the design of TRAILS, it is possible to right size TRAILS through a more diverse workforce, complementing the knowledge of regulators and making it more difficult for lobbyists to manipulate them.

One significant finding reported by the business executives is that government is involved as a player in industries beyond its charter, leading to all seven broken windows consequences. Also, business executives interviewed underscored the problem with wrong-sized monetary TRAILS. The business environment would welcome the leveling of the playing field by right-sizing through avoidance of broken windows TRAILS, including wrong-sized monetary TRAILS. Bankers would support the implication given the fees such transactions would raise.

CHAPTER 5: CONCLUSIONS

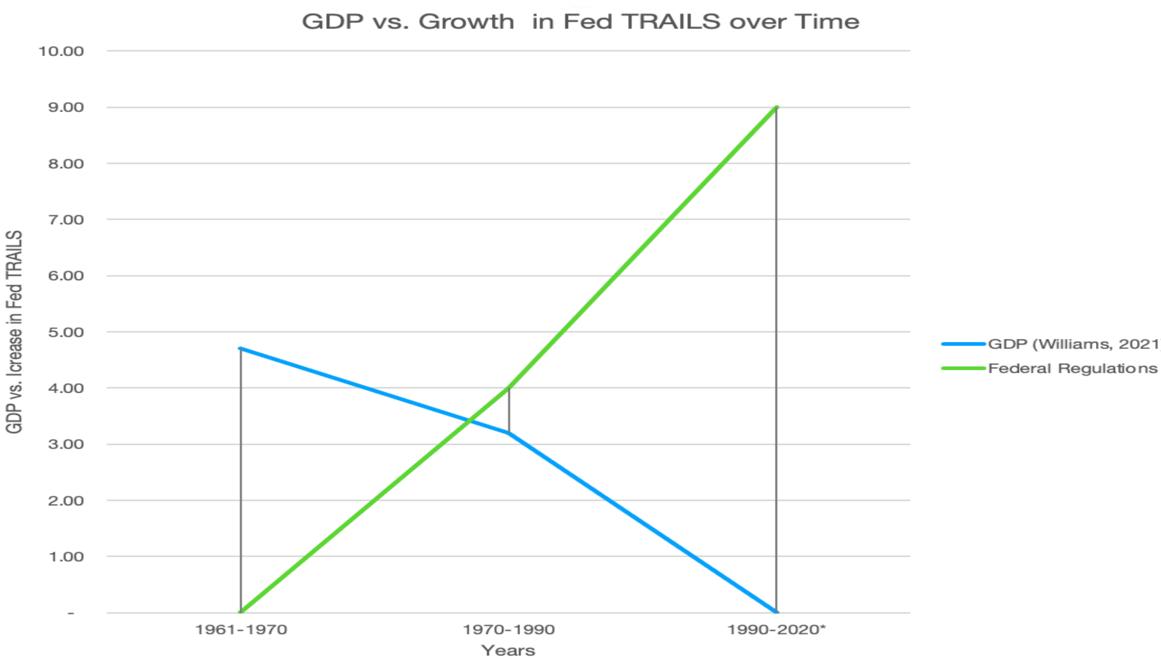
The purpose of this two-paper study was to identify the effects of regulations on business performance and make a call for research to right-size TRAILS for a healthy environment. The first paper consisted of a thorough cross-discipline literature review to determine the state of the TRAILS environment for business, followed by the call for research. A micro (consequential) study followed, by interviewing 17 business executives to examine their perspective on the right-sizing of TRAILS towards a healthy environment. One of the key objectives of this research agenda is to help reduce epistemological polarity, based on a perspective that there must be a right level of regulations that allows businesses across industries to thrive, which is in the best interest of most stakeholders.

Overview of Findings

The initial impetus was to determine if Hayek's (1960), Stigler's (1961), and Buchanan and Tullock's (1962) ominous warnings that the business environment was at risk of becoming an administrative state with wrong-sized regulations had come to fruition. These warnings are magnified with actual economic data. Since the 1960s, there seems to be a correlation between monetary and fiscal TRAILS as the government as a percentage of GDP increased from 12% to 57% (Figure 12). In comparison, GDP growth as a broad measure of the business environment decreased from 4.8% to 0%.

Figure 12

Wrong-sized TRAILS Suggest an Adverse Impact on Performance



Note. Macrotrends (2021), Federal Registry

In the call for research, one foundation I propose to right-size TRAILS in the U.S. is the Contemporary TRAILS Paradigm (CTP), which updates the nine principles of economic liberty in the FD for this purpose. The CTP proposes that right-sizing TRAILS for the long run using economic liberty principles creates the fairest, most egalitarian, scientific, and moral way to organize commerce and society to develop maximum equal opportunity for all and to reduce the discrimination between winners and losers that is inherent when TRAILS are wrong-sized.

ABBO Model

The repurposed qualitative theoretical structure of the ABBO model (Edmondson, 1999) was used to frame the relationship between the business environment and the TRAILS phenomena. With beliefs consistent with the antecedents that manifest TRAILS, the business individual (the human action factor that brings the business environment to life) internalizes the TRAILS information and creates incentives to manifest behaviors that result in desired business performance outcomes. The business executive evaluates such knowledge of mistakes and successes dynamically, continuously, and immediately, and incentives are adjusted accordingly. Individual actions drive the classic fundamental microeconomics principle of an economic phenomenon and interactions regarding scarce resources to meet the needs and maximize utility. The government's role, according to this model, is to apply its philosophy to regulate industries and businesses in the form of TRAILS.

TRAILS Macro-View

A macro theoretical framework was developed to clarify the goal of right-sizing TRAILS. Specifically, the framework contemplates a sweet spot of right-sized TRAILS that maximizes knowledge and fair game for large companies and small ones. The framework also asserts that all else being equal, wrong-sized TRAILS harms small companies disproportionately. Such effect is often unseen in macro-aggregation as the lost business performance of the SME's due to wrong-size TRAILS is subsumed by large companies. There is an excessive point of wrong-sized TRAILS that leads to market failure.

The detailed economist looks at the longer and indirect consequences; the benefits to one group must be weighed against the harms to others. No group should be unfairly harmed for the benefit of others. Right-sizing of TRAILS evaluates the longer-term consequences and links the effects of that policy to all groups, not just the intended beneficiary group. The call for research seeks to refine the framework with a call for additional studies to refine this economic model. The request for executive input in the call for research is then addressed in the empirical study.

The call for research is based on this set of propositions and research questions (Table 3).

Table 3

Call for Research: Propositions and Research Questions

Proposition	Related Research Questions	Comments
1. Right-sizing: There is an appropriate level of TRAILS for business performance		Fundamental assumption that drives the call for research and theory building.
2. Wrong-sizing: TRAILS above or below level *r* harm the business environment.		TRAILS beyond government charter harm knowledge, thus growth.
3. Wrong-sized TRAILS favor larger firms over smaller firms.	1. What is the most appropriate measurement methodology to determine where the U.S. is relative to right-sized TRAILS and market failure 2. How can the impact of TRAILS on business performance be empirically derived, tested, and refined?	There is no universal agreement on measurements or propriety, resulting in an inadequate TRAILS phenomena and business environment assessment. Lack of transparency and accountability can lead to market failure.
4. TRAILS have a disproportionate impact on SMEs	3. What TRAILS impact SMEs disproportionally compared to large businesses. 4. What is the impact and implications of pandemic-induced TRAILS on large businesses vs. SMEs?	Right-sizing evaluates the longer-term consequences of TRAILS and links the effects of that policy to all groups, not just the intended beneficiary group. No group should be unfairly harmed for the benefit of others.
5. Overregulation can lead to market failure	5. How close is the U.S. business environment to market failure?	Government cannot create consequential knowledge at some point of TRAILS causes market failure
6. Nonenforcement of appropriate TRAILS will be detrimental to business performance.	6. What is the minimum set of TRAILS that can favor business performance?	Government inaction to create and enforce right-sized TRAILS, can be destructive to the business environment as much as wrong-sized TRAILS.
7. TRAILS that foster innovation will favor business performance.	7. What is the appropriate role for TRAILS in entrepreneurial innovation? 8. What are the appropriate measures and assumptions to right-size TRAILS and to monitor and assess TRAILS right-sizing?	TRAILS disruption causes the “unseen” compounding damage to knowledge; thus, entrepreneurial innovation regresses, and markets are less efficient.
8. All businesses in the same industry should be subject to the same TRAILS applied consistently.	9. What are the real-world perspectives, insights, clarity, and understanding of business executives to assist TRAILS right-sizing? 10. What mechanisms can be incorporated into TRAILS processes to ensure that they are implemented equally for all types of businesses, including large vs. SMEs and private vs. public companies?	Get perspectives of elite executives on TRAILS right-sizing, who have not had a significant voice in the literature. Uneven or noncompetitive application of TRAILS creates sub-optimal markets, thus knowledge disruption, which harms innovation.
9. The Government’s intentional stance that leads to over-regulation has implications on how to right-size TRAILS	11. What are the differing implications of whether wrong-sized TRAILS are “unplanned” or “planned”?	Hayek contended regulatory capture would be “unplanned;” others believe it to be proactive.

Matrix

An important contribution of this research is the right-sizing dilemma decision matrix of two positive types of TRAILS (which lead to right-sizing) and two adverse types of TRAILS (which lead to wrong-sizing), seeking a robust view of the TRAILS phenomena. TRAILS were classified based on action, inaction, and uneven actions and their impact on business performance. The findings suggest that two appropriate functions in business for government are to facilitate commerce and stay on the sidelines otherwise. Beyond that, wrong-sized TRAILS will lead to a combination of seen or unseen impacts on growth, immediate or longer-term.

The first is good intentions TRAILS that go wrong and the second one is wrong-sized TRAILS through interventions. An example is the classic broken windows TRAILS trying to stimulate the economy. By omission or commission, the government may end up picking winners and losers. The seventh layer of knowledge destruction occurs for all systemic reasons if the government takes an ongoing role. Further, they do not have consequential knowledge and are motivated to keep breaking the window.

The findings from the elite interviews led to six guiding principles to create a contemporary paradigm complementary to and consistent with the FDs and the ABBO model. These, in turn, led to theoretical and practical implications to right-size TRAILS (Table 4).

Table 4

Principles, Theoretical Propositions, and Practical Implications

Principle	Theoretical Proposition	Practical Implications
1. Knowledge Creation	1. The incentives and business performance outcomes generated by TRAILS must be considered for TRAILS right-sizing.	1. Develop polycentric communities for industries for right-sizing TRAILS and Government.
2. Unintended Consequences	2. TRAILS right-sizing can only happen by considering unintended consequences.	
3. Ignorance	3. Unintended consequences from TRAILS can inhibit innovation.	4. The business environment must right-size monetary TRAILS before Fiscal TRAILS can be right-sized completely
4. Market Forces		3. Government should privatize its interest in all noncore charter businesses.
5. Micro-Inaction	4. Government inaction can also lead to wrong-sizing	
6. Winner–Loser		2. Eliminate government from picking winners and losers

Final Thoughts

The study's through-line is an evidence-based framework for right-sizing TRAILS for a healthy business environment, with the premise that reason, reality, and logic, and real-world data should eliminate premise contradictions.

The TRAILS phenomena are an ecosystem of interrelated, integrated, and co-dependence of self-reinforcing and iterative systems. The study uncovered that gradualism of TRAILS leads to perpetuity in practice, as interviewees focused their time sharing their experience on wrong-sized TRAILS. Government programs, once launched, rarely go away (Edwards, 2014). Also, the government now is 57% of GDP, up from 12% in 1960 (International Monetary Fund, 2021; U.S. Bureau of Economic Analysis, 2021), which crowds out private investment, where economic growth occurs and the reason for growth decreasing from 4.8% to 0% (Williams, 2021). This study has only exacerbated my concern that the U.S. may be reaching an unplanned administrative state, which can have long-term consequences to its economy and the well-being of its sovereigns.

This study is based on the premises that Individualism generates the fairest, not perfect, distribution of income, and productive people work many hours and or have talent and earn big rewards under Individualism. Others may get less, but they get more than under other business governance constructs. The poorest 20% of Americans are wealthier on average than most nations of Europe (Agresti, 2019; Bailey & Tupy, 2020; Vásquez & Porčnik, 2019).

Any efforts towards equality of opportunity or outcome across individuals should not interfere with the virtuous cycle of Individualism. TRAILS should not make the business environment less healthy because it, in turn, will lead to less opportunity overall (Miron, 2011). Finally, you will never have a perfect government, so you must improve TRAILS and manage your mistakes constantly.

The study suggests the solution to wrong-sized TRAILS and the prospect that the U.S. may be reaching an unplanned administrative state to the detriment of business is to move back to the enlightenment of natural law and self-sovereignty and action forward that leads to a healthy business environment, with equal opportunity for SMEs, where the market picks winners and losers, and where the government limits its role to umpire in the game of business.

This study's axioms contradict intellectual pretenses of government TRAILS beyond its charter as worthy of intellectual pursuit. The social order is built by coordinating individual plans and equality of opportunity, not command and control TRAILS for social or economic steerage, which is suboptimal to start ending in a societal and economic collapse. Politicos and unelected bureaucrats have no role in commerce aside from their limited umpire role. TRAILS beyond that are likely to impede knowledge and human progress.

Ideally, there is a win-win-win for individuals in business, government, and society. For regulators, it could be attractive to decentralize, evolve, develop, and self-actualize. Of course, the big winner is society, knowledge, business, economy, and future generations. The aim of the study, implications, and conclusion is egalitarian, and I recognize my bias that humans are the most valuable resource ever created and emphasize individual liberty.

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APPENDIX A: IRB APPROVAL LETTER

PEPPERDINE

Pepperdine University
24255 Pacific Coast Highway
Malibu, CA 90263
TEL: 310-506-4000

NOTICE OF APPROVAL FOR HUMAN RESEARCH

Date: April 01, 2020

Protocol Investigator Name: Brian Mulligan

Protocol #: 20-02-1293

Project Title: Clarifying the appropriate role of the regulatory phenomena.

School: Graziadio School of Business and Management

Dear Brian Mulligan:

Thank you for submitting your application for exempt review to Pepperdine University's Institutional Review Board (IRB). We appreciate the work you have done on your proposal. The IRB has reviewed your submitted IRB application and all ancillary materials. Upon review, the IRB has determined that the above entitled project meets the requirements for exemption under the federal regulations 45 CFR 46.101 that govern the protections of human subjects.

Your research must be conducted according to the proposal that was submitted to the IRB. If changes to the approved protocol occur, a revised protocol must be reviewed and approved by the IRB before implementation. For any proposed changes in your research protocol, please submit an amendment to the IRB. Since your study falls under exemption, there is no requirement for continuing IRB review of your project. Please be aware that changes to your protocol may prevent the research from qualifying for exemption from 45 CFR 46.101 and require submission of a new IRB application or other materials to the IRB.

A goal of the IRB is to prevent negative occurrences during any research study. However, despite the best intent, unforeseen circumstances or events may arise during the research. If an unexpected situation or adverse event happens during your investigation, please notify the IRB as soon as possible. We will ask for a complete written explanation of the event and your written response. Other actions also may be required depending on the nature of the event. Details regarding the timeframe in which adverse events must be reported to the IRB and documenting the adverse event can be found in the *Pepperdine University Protection of Human Participants in Research: Policies and Procedures Manual* at community.pepperdine.edu/irb.

Please refer to the protocol number denoted above in all communication or correspondence related to your application and this approval. Should you have additional questions or require clarification of the contents of this letter, please contact the IRB Office. On behalf of the IRB, I wish you success in this scholarly pursuit.

Sincerely,

Judy Ho, Ph.D., IRB Chair

cc: Mrs. Katy Carr, Assistant Provost for Research

APPENDIX B: RESEARCH INSTRUMENTS

Study Title: Elite Intensive Interviews to gain an understanding of regulations (aka, **TRAILS** any governmentally imposed business friction costs., **Tax, Regulation/Reporting, Assessments, Insurance, Litigation/Legal, Subsidies**) on business performance measures.

Intro: Thank you for taking the time to meet with me today. My name is Brian Mulligan, a DBA candidate from Pepperdine University. I am performing elite interviews with senior people concerning the various impact of regulation on performance, incentives, with considerations of periods of disruption.

Moving forward: I will be asking you a few questions that will take approximately one hour to one hour and a half of your time. If there are any questions that you do not feel comfortable answering, please feel free to let me know, and we can skip the question. Your responses will be anonymous, confidential, and will be used to understand the impact of the above-identified matter better. I will be recording our conversation to ensure accuracy and for analysis. I would like you to be as detail and expansive as possible. Approximately fifteen other senior people have been chosen based on their seniority, candor, sincerity, and openness for this study. If subsequently, something is unclear to me, I may call you for clarification, although that is expected to be unlikely.

Some housekeeping:

1. Have you seen and signed the consent form?
2. Do you have any questions about the form? Do you have any questions you would like to ask me before we get started?
3. Do I have a copy of said signed form?

Let's get started:

1. Please tell me about your experiences with industry or commercial regulations.

Consider the largest or two regulations that impacted your business – what were they?
What did that do to your business?
How were senior people affected?
How were junior and administrative people affected?
What proactive measures did your company or you observed?
Did the regulations have a far-reaching impact or unexpected or unintended consequences on your business, people, industry? If so, what were they?
How did the regulation change your view of government and country?
Did you take proactive measures to deal with regulators differently in the future?
Did you attempt any legal action as a resulted of the regulation? If so, what was the outcome?
How did the above make you feel?
Did the above impact your personal life, if so how and how did you deal with that?
Did the above impact the personal lives of people in your firm or other stakeholders? If so, how and how did they deal with those impacts?

2. Please tell me about your experiences with regulations that advantage a competitor and not your firm – a law that disadvantage your firm vs. others in your industry?

Consider the largest or two regulations that impacted your business – what were they?
What did that do to your business?
How were senior people affected?
How were junior and administrative people affected?
What proactive measures did your company or you observed?
Did the regulations have a far-reaching impact or unexpected or unintended consequences on your business, people, industry? If so, what were they?
How did the regulation change your view of government and country?
Did you take proactive measures to deal with regulators differently in the future?
Did you attempt any legal action as a result of the regulation? If so, what was the outcome?
How did the above make you feel?
Did the above impact your personal life, if so how and how did you deal with that?
Did the above impact the personal lives of people in your firm or other stakeholders? If so, how and how did they deal with those impacts?

3. Please tell me about your experiences with regulators or government or the courts NOT enforcing laws and regulations and putting your firm at a competitive disadvantage?

Consider the largest or two such situations that impacted your business – what were they?
What did that do to your business?
How were senior people affected?
How were junior and administrative people affected?
What proactive measures did your company or you observe?
Did such inactivity have a far-reaching impact or unexpected or unintended consequences on your business, people, industry? If so, what were they?
How did the regulation change your view of government and country?
Did you take proactive measures to deal with regulators differently in the future?
Did you attempt any legal action as a result of such inactivity? If so, what was the outcome?
How did the above make you feel?
Did the above impact your personal life, if so how and how did you deal with that?
Did the above impact the personal lives of people in your firm or other stakeholders? If so, how and how did they deal with those impacts?

4. Please tell me about your experience regarding incentives in the above situations?

Consider the largest or two such situations that impacted your business – what were they and what did they do to incentives?
What did that do to your business?
How were senior people affected?
How were junior and administrative people affected?
What proactive measures did your company or you observed?
Did changes to incentives have a far-reaching impact or unexpected or unintended consequences on your business, people, industry? If so, what were they?

How did the changes in incentives change your view of government and country?
Did you take proactive measures to deal with incentives differently in the future?
Did you attempt any legal action as a result of the regulation to protect incentives? If so, what was the outcome?
How did the above concerning incentives make you feel?
Did the above change in incentives impact your personal life, if so how and how did you deal with that?
Did the above change in incentives impact the personal lives of people in your firm or other stakeholders? If so, how and how did they deal with those impacts?

5. Please consider the above responses and tell me the effect above on disruption and innovation?

Did they cause such? Where they created in response to such? If so, did they abate matters, short term? Long term?
What was the impact of such short term on stakeholders, business, and industry?
What was the impact of such long term on stakeholders, business, and industry?

6. Overall, what is your view of regulation and or lack of enforcement thereof?

Feel free to be prophetic, factual, sentimental, theoretical, pontificate, predictive, or prescriptive.

7. When you think about the above, is there anything in hindsight you would have done differently?

If so, what?

8. Is there anything we have not discussed that you feel would be important to share?

APPENDIX C: METHODS AND PROCESS

Triangulation, Ethics, and Bias Mitigation

As an initial framework to address bias, the approach for this study is based on Nagel's (1994) value-neutrality construct, which withholds the evaluative judgment of research until it is supported by empirical evidence. However, consistent with an Aristotelian approach of scientific inquiry, expertise and knowledge were not suspended during the process. Nagel (1994) employs the rigor of the scientific method, gathering relevant facts, using value neutralizing methodologies. In this study, relevant literature and data were triangulated with third-party information, including academic, industry, and other appropriate information and considerations, before and after data gathering.

I gathered enough information on the interviewee and regulatory events that shape their experience with TRAILS before the interview. However, the questions in the questionnaire were not guided by theory or inferencing based on the preparation. They were open-ended, general, and not specific questions, seeking facts, not opinions, the primary bias data gathering reduction technique (Hochschild, 2009; Miles et al., 2014). All interviewees were uncompensated, willing, and non-coerced adult participants, with no current commercial relationship and peer-level engagement with no power imbalance. Interviews were recorded and transcribed as a bias reduction technique, per research guidance, along with open-ended questioning (Aguinis & Solarino, 2019; Charmaz, 2014).

The rigor in elite interviews, while typically more complex than other interviews due to the pressure of preparation concerning the interviewee and subject matter (Hochschild, 2009), provides a level of bias reduction. In addition, such practice allows for real-time validation, and triangulation is afforded during the interviewee process, checking the bias of the interviewee as well as the researcher as there is a baseline of real evidence. Specifically, advanced preparation was done to probe, triangulate, and understand interviewees' responses in real-time and validate (based on purpose) and crystalize (a prism of the totality of information and interpretations). Triangulation corroboration from different sources than from the interviewee enhances the trustworthiness and credibility of the analysis and is a bias reduction technique (Miles et al., 2014). Triangulation is the modus operandi approach used to diagnose data in some way. The strategy is pattern matching, using other data sources, which provides repeated verification. Triangulation points to theories, concepts, or ideas and rules out different conclusions (Miles et al., 2014). Thus, data validation by reconciling interview results to source documents was performed as necessary for bias checking (Hochschild, 2009; Marshall & Rossman, 2014; Miles et al., 2014).

Further, preliminary interviewee responses were significant to triangulate and validate third-party source data and literature. In general, data was compared to the literature review and third-party sourced material in an iterative and integrated manner throughout the process. Thus, triangulation was corroborated from different sources to the interviewee data for credibility, validity, trustworthiness, authenticity, and importance (Miles et al., 2014). In terms of theory building, triangulation is the modus operandi used to somehow diagnose and build upon data. The triangulation strategy is pattern matching, using other data sources, which provides repeated verification. Triangulation pointed to theories, concepts, or ideas for which to construct and ruled out different conclusions for such (Miles et al., 2016).

Research suggests an additional consideration for bias checking of the researcher and interviewee. Before starting an interview, contemplate the ‘starting and standing’ point visa vie the interviewee and the researcher relative to power, prestige, position, and why selected. After the interview, reflect on any changes to that analysis and potential influencing bias in the interview, interviewee, and researcher (Charmaz, 2014). While the information and data were enlightening, the discussion's professionalism, propriety, and integrity met the anticipated high expectations of the research. There were no material changes that emerged from the interview that were material to change the 'starting and standing' point of the rationale for selection.

Memoing, Note-taking, and Visualizations

Separate notes were kept throughout the process, including interviews and remembrance of key concepts. The creation of visualizations were reviewed with advisors. In addition, throughout the process, lengthy narrations were drafted, with more than four million words to capture and articulate concepts gleaned from triangulation of information, data from interviews and feedback from advisors, peer reviews, and cohorts, and reflect epiphanies, and working through complex concepts from the data and theory building. Therefore, all information discussed exists and is encrypted and or locked in file cabinets as required by the IRB approval.

Authenticity and Beneficence

In addition to other authentication procedures discussed, all quotes, paraphrasing, and summaries from the data in the document were cleared with the participants to ensure the promised anonymity and accuracy. For participation in the project, interviewees will have access to the research. Thus, they will benefit from the direction of the report and its aim to right-size TRAILS to create a healthy business environment.

Disconfirming Evidence

Every interview had an equal gentle push for both right-side TRAILS and wrong-sized TRAILS. Other than that, the executives were free to discuss the TRAILS that impacted their business. Further, the literature review addressed and considered all business sides of the

TRAILS phenomena substantially and documented such. In terms of scope, the executives interviewed were US-based with global experience. The literature review and analysis sought to disconfirm and confirm evidence mainly in the U.S. I did not judge evidence as ensuring or disconfirming. A check of theories was done to have participants, certain professors, and mentors attempt to falsify the theories built. This process checked for the theories' propriety and provided another check on the bias that could impair the study. In addition, I kept the primary advisor apprised of progress and reviewed theories with specific cohorts during the entire process.

The selected executives demonstrated integrity during the process and empathized with those harm by wrong-sized TRAILS even if they had benefitted. For example, one CEO in the hospitality industry noted it was their best year due to government bail-out intervention (broken window beneficiary) due to the COVID-19 event. But they said the entirety of the situation was “absurd and unjust and will harm the country for a very long time.” This sort of integrity, which was the norm, increased the confidence in analytic findings from the elite executives.

Validation

From the data emerged an overriding validation process and methodology. The overriding validation of the research is the fidelity to evidenced-based truths, rationalism empiricism, and observational empiricism. From the evidence, I used an empirical theory-building approach for each theoretical framework principle or body of principles or proposition.

Research Environment

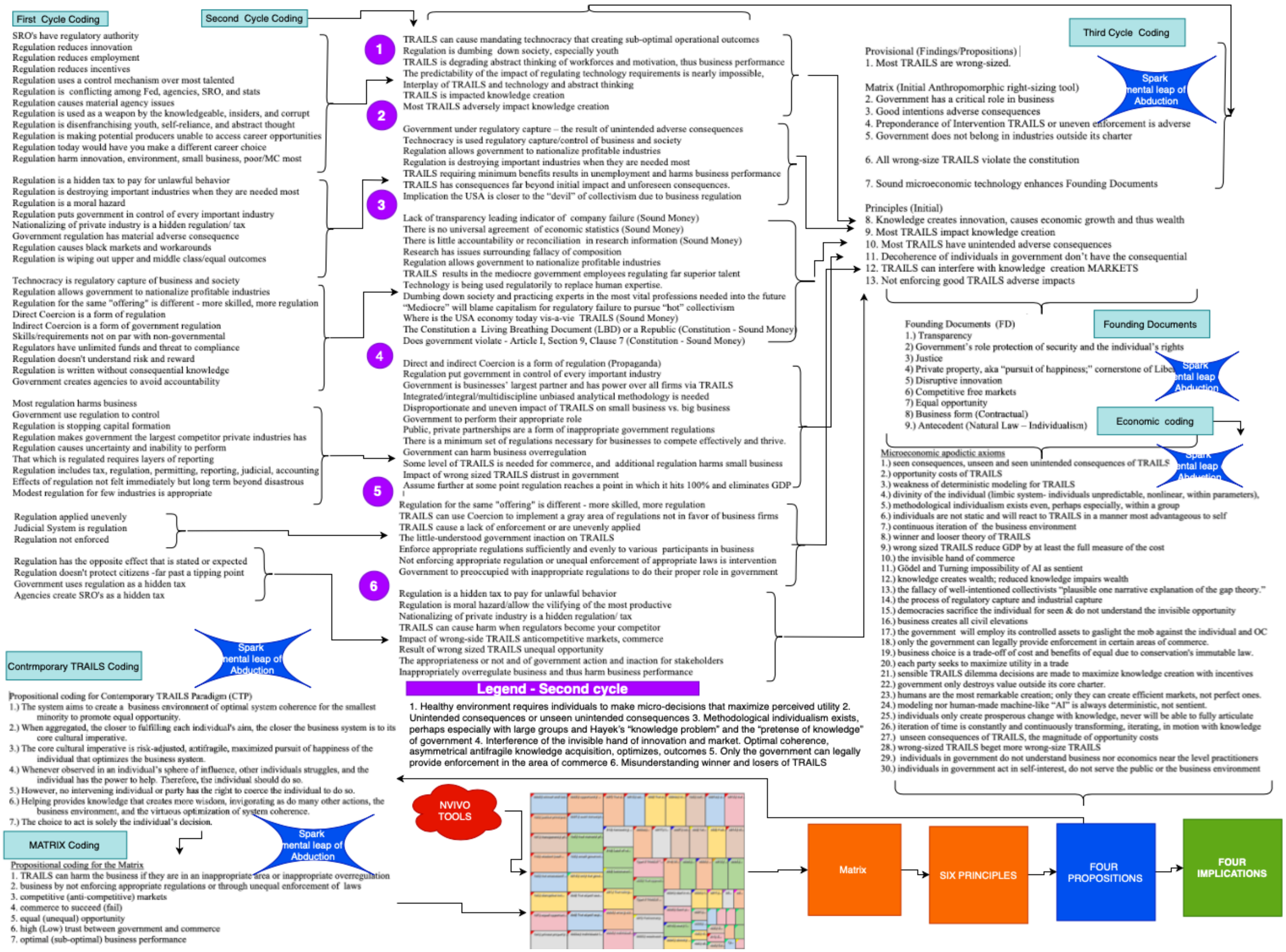
The interviews took place during the COVID-19 event, the worst fiscal year since WWII. Also, during the interview period, due to TRAILS, the largest transfer of wealth of an estimated 40% from SME’s and their stakeholders to the government, its oligarchs, and its agents occurred (Goldstein, 2020; Thubron, 2020). Further, the elite executives are aware of the degradation of the business environment over the last 50 years due to TRAILS and the theft of existing and future business opportunities for SME's, their stakeholders, and entrepreneurial inventors. The COVID-19 event created an IRB regulation that no interview could be conducted in the interviewee's physical business environment. Thus, each interview, which averaged over an hour and a half, took place over Zoom.

Replication

The research report provides the roadmap from the data to the theories built. If the same access and quality of sample population and researcher and process are reversed engineered, the research is replicable.

APPENDIX D: CODING

FIGURE 13: CODES FOR EACH CYCLE



First cycle coding

SRO's have regulatory authority
Regulation reduces innovation
Regulation reduces employment
Regulation reduces incentives
Regulation uses a control mechanism over most talented
Regulation is conflicting among Fed, agencies, SRO, and stats
Regulation causes material agency issues
Regulation is used as a weapon by the knowledgeable, insiders, and corrupt
Regulation is disenfranchising youth, self-reliance, and abstract thought
Regulation is making potential producers unable to access career opportunities
Regulation would have made a different career choice
Regulation harm innovation, environment, small business, poor/MC most
Regulation is a hidden tax to pay for unlawful behavior
Regulation is destroying important industries when they are needed most
Regulation is a moral hazard
Regulation puts the government in control of every important industry
Nationalizing of private industry is a hidden regulation/ tax
Government regulation has material adverse consequence
Regulation causes black markets and workarounds
Regulation is wiping out upper and middle class/equal outcomes
Technocracy is regulatory capture of business and society
Regulation allows government to nationalize profitable industries
Regulation for the same "offering" is different - more skilled, more regulation
Direct Coercion is a form of regulation
Indirect Coercion is a form of government regulation
Skills/requirements not on par with non-governmental
Regulators have unlimited funds and threat to compliance
Regulation doesn't understand risk and reward
Regulation is written without consequential knowledge
Government creates agencies to avoid accountability
Most regulation harms business
Government use regulation to control
Regulation is stopping the capital formation
Regulation makes government the largest competitor private industries has
Regulation causes uncertainty and inability to perform
That which is regulated requires layers of reporting
Regulation includes tax, regulation, permitting, reporting, judicial, accounting
Effects of regulation not felt immediately but long term beyond disastrous
Modest regulation for few industries is appropriate
Regulation applied unevenly
Judicial System is regulation
Regulation not enforced
Regulation has the opposite effect that is stated or expected
Regulation doesn't protect citizens -far past a tipping point
Government uses regulation as a hidden tax
Agencies create SRO's as a hidden tax

<u>Second cycle coding</u>

1. Healthy business environment requires individuals to make micro-decisions that maximize perceived utility

TRAILS can cause mandating technocracy that creating sub-optimal operational outcomes
Regulation is dumbing down society, especially youth
TRAILS is degrading abstract thinking of workforces and motivation, thus business performance
The predictability of the impact of regulating technology requirements is nearly impossible,
Interplay of TRAILS and technology and abstract thinking
TRAILS is impacted knowledge creation
Most TRAILS adversely affect knowledge creation

2. Unintended consequences or unseen unintended consequences

Government under regulatory capture – the result of unintended adverse consequences
Technocracy is used regulatory capture/control of business and society
Regulation allows government to nationalize profitable industries
Regulation is destroying important industries when they are needed most
TRAILS requiring minimum benefits results in unemployment and harms business performance
TRAILS has consequences far beyond initial impact and unforeseen consequences.
Implication the USA is closer to the "devil" of collectivism due to business regulation

3. Methodological individualism exists, perhaps especially with large groups and Hayek's knowledge problem and the pretense of knowledge of government

Lack of transparency leading indicator of company failure (Sound Money)
There is no universal agreement of economic statistics (Sound Money)
There is little accountability or reconciliation in research information (Sound Money)
Research has issues surrounding fallacy of composition
Regulation allows government to nationalize profitable industries
TRAILS results in the mediocre government employees regulating far superior talent
Technology is being used regulatorily to replace human expertise.
Dumbing down society and practicing experts in the most vital professions needed into the future
"Mediocre" will blame capitalism for regulatory failure to pursue "hot" collectivism
Where is the USA economy Today vis-a-vie TRAILS (Sound Money)
The Constitution a Living Breathing Document (LBD) or a Republic (Constitution - Sound Money)
Does government violate - Article I, Section 9, Clause 7 (Constitution - Sound Money)

4. Interference of the invisible hand of innovation and market. Optimal coherence, asymmetrical antifragile knowledge acquisition, optimizes, outcomes

Direct and indirect Coercion is a form of regulation (Propaganda)
Regulation put government in control of every important industry
Government is businesses' largest partner and has power over all firms via TRAILS

Integrated/integral/multidiscipline unbiased analytical methodology is needed
Disproportionate and uneven impact of TRAILS on small business vs. big business
Government to perform their appropriate role
Public, private partnerships are a form of inappropriate government regulations
There is a minimum set of regulations necessary for businesses to compete effectively and thrive.
Government can harm business overregulation
Some level of TRAILS is needed for commerce, and additional regulation harms small business
Impact of wrong sized TRAILS distrust in government
Assume further at some point regulation reaches a point in which it hits 100% and eliminates GDP

5. Only the government can legally provide enforcement in the area of commerce

Regulation for the same "offering" is different - more skilled, more regulation
TRAILS can use Coercion to implement a gray area of regulations not in favor of business firms
TRAILS cause a lack of enforcement or are unevenly applied
The little-understood government inaction on TRAILS
Enforce appropriate regulations sufficiently and evenly to various participants in business
Not enforcing appropriate regulation or unequal enforcement of appropriate laws is intervention
Government to preoccupied with inappropriate regulations to do their proper role in government

6. Misunderstanding winner and losers

Regulation is a hidden tax to pay for unlawful behavior
Regulation is moral hazard/allow the vilifying of the most productive
Nationalizing of private industry is a hidden regulation/ tax
TRAILS can cause harm when regulators become your competitor
Impact of wrong-side TRAILS anti-competitive markets, commerce
Result of wrong sized TRAILS unequal opportunity
The appropriateness or not and of government action and inaction for stakeholders
Inappropriately overregulate business and thus harm business performance

Third cycle coding
1) Most TRAILS are wrong-sized.

Matrix (Initial Anthropomorphic right-sizing tool)
2) Government has a critical role in business
3) Good intentions adverse consequences
4) Preponderance of Intervention TRAILS or uneven enforcement is adverse
5) Government does not belong in industries outside its charter
6) All wrong-size TRAILS violate the Constitution
7) Sound microeconomic technology enhances Founding Documents

Principles (Initial)
8) Knowledge creates innovation, causes economic growth and thus wealth
9) Most TRAILS impact knowledge creation
10) Most TRAILS have unintended adverse consequences

11) Decoherence of individuals in government don't have consequential knowledge
12) TRAILS can interfere with knowledge creation MARKETS
13) Not enforcing good TRAILS adverse impacts

Propositions (Initial)
14) Incentives and business performance aren't. TRAILS calculus.
15) Right-sizing only happens by considering and imagining beyond one level of implications.
16) Unseen unintended adverse consequences from wrong-sized TRAILS disrupt entrepreneurial innovation at the industry levels.
17) Inaction on right-sized TRAILS has the same consequences as wrong-sized.

Implications (Initial)
18) Absent of transparent regulating bodies across industries
19) Adverse impact of picking winners and losers eliminate picking winners and losers.
20) Adverse impact of ongoing government interest in private industry (knowledge destruction)
21) Adverse impact of unconstitutional currency

Founding Documents coding

1) Transparency
2) Government's role provides for the protection of security and the individual's rights granted by God
3) Justice
4) Private property and the cornerstone of Liberty
5) Disruptive innovation
6) Competitive free markets
7) Equal opportunity
8) Business form (Contractual)
9) Antecedent (Natural Law – Individualism)

Microeconomic apodictic axioms coding

1) seen consequences, unseen and seen unintended consequences of TRAILS
2) opportunity costs of TRAILS
3) weakness of deterministic modeling for TRAILS
4) divinity of the individual (limbic system- individuals unpredictable, nonlinear, within parameters),
5) methodological individualism exists even, perhaps especially, within a group
6) individuals are not static and will react to TRAILS in a manner most advantageous to self
7) continuous iteration of the business environment
8) winner and looser theory of TRAILS
9) wrong sized TRAILS reduce GDP by at least the full measure of the cost
10) the invisible hand of commerce
11) Gödel and Turning impossibility of AI as sentient
12) knowledge creates wealth; reduced knowledge impairs wealth
13) the fallacy of well-intentioned collectivists "plausible one narrative explanation of the gap theory."
14) the process of regulatory capture and industrial capture

15) democracies sacrifice the individual for seen & do not understand the invisible opportunity
16) business creates all civil elevations
17) the government will employ its controlled assets to gaslight the mob against the individual and OC
18) only the government can legally provide enforcement in certain areas of commerce.
19) business choice is a trade-off of cost and benefits of equal due to conservation's immutable law.
20) each party seeks to maximize utility in a trade
21) sensible TRAILS dilemma decisions are made to maximize knowledge creation with incentives
22) government only destroys value outside its core charter.
23) humans are the most remarkable creation; only they can create efficient markets, not perfect.
24) modeling nor human-made machine-like "AI" is always deterministic, not sentient.
25) individuals only create prosperous change with knowledge, never will be able to fully articulate
26) iteration of time is constantly and continuously transforming, iterating, in motion with knowledge
27) unseen consequences of TRAILS, the magnitude of opportunity costs
28) wrong-sized TRAILS beget more wrong-size TRAILS
29) individuals in government do not understand business nor economics near the level practitioners
30) individuals in government act in self-interest, do not serve the public or the business environment

<u>Contemporary TRAILS Paradigm (CTP) codes</u>

1) The system aims to create a business environment of optimal system coherence for the smallest minority to promote equal opportunity.
2) When aggregated, the closer to fulfilling each individual's aim, the closer the business system is to its core cultural imperative.
3) The core cultural imperative is risk-adjusted, antifragile, maximized pursuit of happiness of the individual that optimizes the business system.
4) Whenever observed in an individual's sphere of influence, another individual struggle, and the individual has the power to help. Therefore, the individual should do so.
5) However, no intervening individual or party has the right to coerce the individual to do so.
6) Helping provides knowledge that creates more wisdom, invigorating as do many other actions, the business environment, and the virtuous optimization of system coherence.
7) The choice to act is solely the individual's decision.

<u>Matrix Codes</u>

1) TRAILS can harm the business if they are in an inappropriate area or inappropriate overregulation
2) business by not enforcing appropriate regulations or through unequal enforcement of laws
3) competitive (anti-competitive) markets
4) commerce to succeed (fail)
5) equal (unequal) opportunity
6) high (Low) trust between government and commerce
7) optimal (sub-optimal) business performance