Voluntary hotel regulation as a political compromise

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ABSTRACT

The paper analyses the return of the hotel classification in Israel as a case of voluntary regulation regime by the state. The theory of such regimes explains why states resort to voluntary regulation, and what the preconditions for such a regime to succeed are. Applying this theory to the hotel classification case reveals that the incentive structure made the chances of the choice to succeed meager. Hence, the paper asks: Why, in spite of these conditions, the state chooses the voluntary regulation option? The paper argues that some challenges for the selection of such regime may be more critical than others, and depending on the institutional relations between the actors involved, voluntary regulation may reflect more political than regulatory rationale.

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1. Introduction

The article analyses the return of the hotel classification (HC) regime in Israel as a case of voluntary regulation (VR) by the state. The term "voluntary regulation" refers to a phenomenon in which a firm or a business sector subordinates itself by its own free choice to standards beyond the rules of the law (Toller, 2011). VR is a generic name for a family of regulatory regimes which provide one answer to the regulatory challenges of the states today in non-coercive approaches (Levi-Faur, 2005). These regimes establish norms of behavior beyond the requirements of the law, and act to persuade firms to adopt them by means of various incentives (Haufler, 2001; Webb, 2004; Vogel, 2007).

Major parts of VR regimes are typically initiatives of business sector groups or non-governmental organizations (NGO's): the former in order to avoid public criticism, bad publicity (name & shame), and more restrictive governmental regulation; the latter to advance NGO's worldviews of improved public welfare. But the state also initiates and operates VR regimes. Such regimes come in various models as: meta-regulation, co-regulation, and enforced self-regulation (Baldwin et al., 2011; Coglianese and Mendelson, 2010; Gilad, 2010). In such cases the public regulator is the mobilizing force behind the VR initiatives, either by signaling overtly or covertly the threat of formal intervention or by offering regulatory benefits to those who join.

The literature about VR with state involvement deals widely with the motives behind the selection of this regulatory line of action and the conditions for its success (Fung and O'rourke, 2000;

Gunningham and Garbosky, 2004; Lyon and Maxwell, 2003, 2007; Fiorino, 2006; Van der Heijden, 2012, 2015). Although the theory presents various factors which may affect the choice of VR by the state, it does not however differentiate the possible relative contribution of each factor to the final decision. The paper wishes to contribute to this theoretical gap. It argues that the relative weight of the factors depend on the institutional structure in which the new regulatory regime develops, and that in some cases this may lead to a choice of VR even though it may be a less favored alternative.

The Israeli Ministry of Tourism (MOT) announced the return of the hotel classification at the beginning of 2014, after two decades without a mandatory classification. Whereas before the abolition in 1992 classification served as a license to run a hotel, in the new model classification is voluntary and hoteliers can choose whether or not to join. What make the case a VR by the state is that the state not only initiated the regulation but is deeply involved in the entire process: It reviewed various classification models and selected a preferred one, the model of the Association of Hotels, Restaurant and Cafes in Europe (HOTREC); it granted this system exclusivity; it funded the whole operation alone; it chose a consulting firm to prepare and manage the system; and it kept the final authority to approve or reject grades to itself.

The review of this case reveals that the choice of VR by the state was exceptional. While most countries have a grading system, it usually appears in a mandatory or voluntary non-state model, predominantly under the auspices of the local hotel association (see: UNWTO and IH&RA (Internatioanl Hotel and Restaurant Association), 2004; ECC-Net, 2010). The case is even more exceptional in light of the literature on VR by the state, since the incentives the MOT was able to offer hoteliers to encourage them to

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join were weak. This setting could in fact support a choice for either mandatory classification, or to decline the policy initiative to reclassify and to wait for riper conditions. This background raises the following question: Why was the model of VR by the state chosen?

The argument I wish to establish is that in contrast to the supportive environment to mandatory classification, hoteliers fiercely object the classification and succeeded in mobilizing their rejection. This led to a choice of VR by the state as a political compromise, that is, the selection of a model with a political rather than a regulatory rationale.

The paper is divided into five more parts. The next and second part presents the theoretical framework for the analysis of the case study. The third part presents the methodological framework. Part four describes the case of hotel reclassification in Israel. Part five analyses the case from two perspectives – structural and relational. Part six summarizes the paper and discusses its potential research and policy implications.

2. Literature review and theoretical framework

The contribution of the research literature on tourism to the current case is limited. One line of relevant research discusses HC. Hotel grading research focuses either on the ability of the system to reflect the quality of the hotel product (Nunez-Serrano et al. 2014), the correlation between ranking and revenues (Israeli and Uriely, 2000), and between ranking and customer satisfaction (Lopez-Fernandes and Serrano Bedia, 2004), or the similarities and differences among grading systems (Minazzi, 2010; Cser and Ohuchi, 2002). This line of research does not analyze HC as a regulatory system and from regulatory perspective, nor does it compare privately or publicly sponsored HC and their differentiated management and impact.

The second relevant line of research in the tourism literature discusses the introduction of VR to tourism as part of the realignment of governance and regulation to the growing quest for business social responsibility (Buckley, 2001; Jenkins and Makono, 2015). This literature also reviews and evaluates the VR as a complementary means of extending regulatory demands in the sector of tourism as is done in ecotourism and sustainable management in general (Font, 2002; Buckley, 2012; Graci and Dodds, 2015) or in specific areas such as golf courts, beaches and shores, cruises and hotels (for example: Graci, 2002; Ayoso, 2007). However, this literature discusses VR as a general phenomenon without distinguishing between such initiatives by state and non-state actors; with the exception of Rivera, (2002) it reviews mostly international and not local regimes; and none discusses the application of VR to hotel quality classification. Furthermore, this literature focus on the final scheme and its impact on the tourism sector, and it overlook the process questions that occupy this paper: How the VR option has been evolved, why it was selected and what caused the final structure it received. Given the limited contribution of tourism literature to the understanding of the current case, I wish to link the analysis to the theories of VR by the state.

Theories of VR deal with the expansion of regulatory arrangements, which address missing or unsatisfactory regulation. (Haufler, 2001; Vogel, 2007; Bartley, 2007; Beer et al., 2012). These regimes are based on requirements beyond the law, a call for voluntary compliance, and the use of indirect incentives and sanctions. VR are formed and operated by the three sectors (public, private and civil), alone or in conjunction (Abbott and Snidal, 2009), although they differ in the motivation to establish such regimes and the way in which they construct these regimes. Since the article discusses a case of VR by the state, I shall focus on the attributes of this model.

Government involvement in VR comes in two general forms, direct or indirect. Indirect involvement refers to cases in which the state takes active measures to support non-state actors to create regulatory demands towards businesses, by, for example, making environmental performances' information public, conducting public hearings or making pubic submissions a prerequisite to policy formation. The state can also engineer the choices people make voluntarily (Thaler and Sunstein, 2009). In direct involvement, the request for a change comes directly from the state. Although the request is not compulsory, it usually contains an overt or covert threat to otherwise use authoritative means. Direct involvement appears in two models: models that concern the work process, and models concerning results or outcomes (Gilad, 2010). In the two models the state holds the participating firms accountable, and monitors their operation or outcomes.

State involvement in VR can be found in various areas. Amongst these areas are consumerism, antitrust, health, food safety, employment, advertisements, tourism and perhaps most commonly, the environmental area, as indicated by the reports of the OECD about the scope of environmental VR activity in developing countries (OECD, 1999, 2003). This might be the reason why the literature on environmental regulation contains much theoretical discussion about government involvement in VR in general, and about VR initiatives by the state in particular (Khanna, 2001; Lyon and Maxwell, 2003, 2007; Fiorino, 2006; Van der Heijden, 2012, 2015). According to this literature the choice of the state to employ VR originates in the assumption that it is impossible or wrong to adopt C&C regulations for several reasons: It is difficult to construct regulatory requirements given the nature of the service or product; the regulation demands continuous updates since the market, the product or the production is dynamic (Lobel, 2004; Gilad, 2011); mobilizing public approval for authoritative regulation is expected to be challenging and to face political opposition; and, based on the above, C&C regulation will very likely be ineffective and costly to enforce. Under these conditions VR, which involves public-private partnership, is assumed to achieve better results.

The success of VR, regardless of the initiating and operating side, depends on a system of incentives and sanctions. The literature refers to the incentives system the state uses in such regimes, and emphasizes the fact that the state is in a better position than other sectors to encourage participation. Unlike other players, the state can structure a pyramid of escalating measures and where possible even resort to mandatory intervention (Bardach and Kagan, 1982; Ayres and Braithwaite, 1992); tie financial benefits (advantage in public procurement, tax deduction, assistance in purchasing equipment), and/or professional assistance (information, training and research) to participation (Lyon and Maxwell, 2007); reduce or ease monitoring; allow greater access to the regulators; and, acknowledge participation as an indication of goodwill in cases of misconduct allegations against firms.

While the literature discusses the effect of the incentive structure of the state on the results of VR regimes (Van der Heijden, 2015), and the effect of political opposition on the choice of VR by the state (Lyon and Maxwell, 2003), it does not differentiate the relative weight of each factor on the choice of VR by the state. The argument I wish to establish is that different factors can have different weight in the decision of the state depending on the institutional structure in which the regulatory system operates and in which the new regime develops. Furthermore, unbalanced weight of one of the factors can lead to a choice of VR even though it may be a less favored alternative.

3. Methodology

This paper uses a case study method. Case study is a prevalent approach in the research literature of VR regimes. Most of the empirical works in this field use either one or a few cases (cross-