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From Guardianship to Complicity: A Boundary Perspective on Professional Misconduct

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Abstract

This article explains professional misconduct through a boundary-centred ecological perspective. Although professions have historically justified their status and labour market privileges through social trusteeship and public service claims, numerous scandals—from Enron and Parmalat to the financial crisis and the opioid epidemic—reveal systematic failures of professional gatekeepers. I argue that these failures arise when boundaries within and around the system of professions are poorly designed or managed, particularly by being too weak, too strong, or too uncertain. These conditions generate mechanisms such as capture, conflicts of interest, collective myopia, double deontology, and regulatory arbitrage, leading to an increased likelihood of professional failure and misconduct. Contemporary trends such as globalisation, commercialisation, and technological change further destabilise traditional arrangements. The article concludes by advocating a configurational approach to boundary design to strengthen contemporary professional regulation.

Keywords

Professional misconduct, corporate scandals, professional boundaries, ecological approach, configurational regulation

Introduction

Professions have historically enjoyed considerable material and symbolic rewards (Larson, 1977). They benefit from market shelters such as reserved titles, restrictive arrangements, and occupational licensing, including, in some cases, full monopolies (Kleiner, 2006), which inflate the value of their services—advantages not typically afforded to other occupations. Professions also exert control over their own work and how it is performed, enjoying significant autonomy both in the workplace (Freidson, 1972) and in relation to their clients (Johnson, 1972). Indeed, professionalisation has historically functioned as a key vehicle for upward occupational mobility (Wilensky, 1964; Perkin, 2003).

Yet, these privileges are accompanied by enhanced ethical expectations. Professions have long been, and continue to be, held to higher ethical standards than other occupational groups (Gunz et al., 2015). They are governed by formal codes of ethics that impose more stringent obligations, the breach of which can result in professional sanctions. In particular, professionals are bound by distinctive duties—such as fiduciary responsibility, confidentiality, and whistleblowing—that go beyond legal compliance. They are expected to prioritise their clients' interests above their own and, in many cases, to place the public interest above all else. Moreover, these ethical obligations may extend into professionals' private lives; they may be prohibited from engaging in conduct that is permissible for others and may face more severe consequences for similar transgressions. This arrangement has been described as a regulative bargain (Cooper et al., 1988, p.8), wherein the state grants labour market protection in exchange for the profession's sustained commitment to quality and public service.

However, over the past two decades, there have been numerous high-profile instances in which professionals have violated this bargain—not merely by failing to police corporate misconduct, but in some cases by actively facilitating or engaging in unethical and unlawful practices themselves. Muzio et al. (2015) show how many major global scandals from Enron to Parmalat, from the global financial crisis to the US opioid epidemic involved the systematic and sustained failure—or active misconduct—of multiple professional occupations. These crises were not the result of isolated wrongdoing but reflected deeper, structural breakdowns in professional accountability and ethics. Crucially, they involved some of the world's most prestigious professional services firms, including leading names in law, accountancy, consultancy, and finance. In many respects, behind the world's most damaging corporate scandals, we often find the invisible—and sometimes visible—hand of the very same professions tasked with preventing these.

As such, it seems that the regulative bargain that underpins the professions is regularly breached. This is theoretically significant because it challenges the basis on which professional autonomy and authority rest. More importantly, it has real-world consequences. In financial terms, the failures and misconduct of professionals have played a role in destroying billions in public and private wealth, undermining pensions, increasing public debt, and

placing pressure on already stretched health and welfare systems. However, the effects go beyond material losses. Repeated professional failure has contributed to a wider erosion of public trust—not just in the professions themselves, but in the institutions they are meant to support. Over time, this undermines confidence in the proper functioning of markets, weakens belief in regulation and oversight, and feeds broader scepticism about the fairness and accountability of democratic and capitalist systems.

Accordingly, it is important to examine why professions appear to be increasingly breaching this tacit regulative bargain. In this conceptual piece, I address this question by adopting an ecological perspective and focusing specifically on the key boundaries that structure the system of the professions (Abbott, 1988, p.2005), and which, I argue, are increasingly under strain.

Enron vignette

Enron, created in 1985 from the merger of two natural gas firms, reinvented itself in the 1990s as a symbol of financial innovation. Based in Houston, it shifted from energy production to trading in gas, electricity, and other commodities, promoting an "asset-light" strategy that won praise from investors, consultants, and the media. By the end of the decade, Enron was hailed as one of America's most admired companies.

The illusion collapsed on December 2nd, 2001, when Enron filed for Chapter 11 bankruptcy in what was then the largest corporate failure in U.S. history. Investigations revealed that management had relied on complex partnerships and off-balance-sheet vehicles to hide debt and inflate earnings. Once these arrangements came to light, confidence evaporated, destroying tens of billions in shareholder value and leaving thousands of employees without jobs or retirement savings.

Enron's story highlights the failures of the professional "gatekeepers" charged with market oversight. Auditors, led by Arthur Andersen, repeatedly signed off on financial statements despite unconventional accounting practices and did not warn the audit committee about the risks of related-party deals (Forbes Report, 2003). Consultants, particularly McKinsey, endorsed Enron's transformation and legitimised its "asset-light" narrative (Kipping et al., 2006). Credit rating agencies delayed action, cutting Enron's debt to below investment grade only four days before bankruptcy. Securities analysts were also slow to react: as late as November 2001, most still recommended buying the stock, despite warning signs evident in public filings.

Enron thus revealed how professions meant to safeguard investors could instead amplify corporate deception.

Parmalat vignette

Parmalat, established in 1961 in northern Italy, expanded from a local dairy into a global food conglomerate. By the late 1990s, it operated in more than 30 countries, selling milk, juices, baked goods, and mineral water. The company presented itself as innovative and secure, and its listing on the Milan Stock Exchange since 1990 gave it credibility with international investors.

The company's downfall came on 24 December 2003, when it entered bankruptcy protection after admitting that billions in reported assets were fictitious. Investigations revealed a €14 billion shortfall, nearly twice its 2002 turnover, built on more than a decade of fabricated accounts, hidden debt, and invented financial instruments. The collapse quickly became one of Europe's largest corporate scandals, wiping out investor wealth and damaging confidence in Italian corporate governance.

A striking feature of the Parmalat affair was the failure of professional gatekeepers who should have scrutinised its practices. Auditors, led by Deloitte, endorsed the accounts year after year and only issued a disclaimer weeks before the collapse when a major offshore fund could not be verified. Credit rating agencies, notably Standard & Poor's, maintained investment-grade assessments and even upgraded Parmalat's outlook shortly before default. Financial analysts likewise misled the market: in the days preceding bankruptcy, 57 of 66 reports still recommended buying or holding the stock. Finally, banks and regulators were criticised for enabling opaque financing structures and failing to respond to red flags.

Parmalat thus exposed not only corporate misconduct but also systemic weaknesses in the very professions tasked with safeguarding market integrity.

Professional ecologies, boundaries and misconduct

Professions exist within an ecological system and are embedded in complex interdependencies with other occupational groups (Abbott, 1988; Abbott, 2005; Suddaby & Muzio, 2015). Most notably, individual professions engage in competition with adjacent occupations over the control of jurisdictions—that is, the rights to perform specific tasks and to appropriate the associated rewards. For example, accountants and lawyers compete over the provision of tax advice, psychiatrists and psychologists over the treatment of mental illness, and architects and civil engineers over the control of building projects. At the same time, professions also collaborate within complex divisions of labour. Certain groups, such as nurses or medical technicians, support others, like doctors, in delivering professional services. These relationships are marked by a dynamic interplay of cooperation and competition: occupational groups pursue shared objectives while simultaneously contesting status, authority, and control over

work. Subordinate groups seek to usurp rights and privileges from dominant ones, while incumbents actively defend these in the face of such challenges (Parkin, 1979).

Whilst initially the focus was on horizontal relationships (i.e. between different occupations), more recently there has been a realisation that professions exists within a broader set of relationships with a variety of actors including consumers, employers, regulators and educators, each with their own priorities, interests and agendas. Abbott refers to this as a linked ecology, whilst Muzio et al. (2013) view professionalisation as being enmeshed with other institutionalisation projects, such as those of the state and the large corporation. In this context, the professionalisation efforts of specific occupations are shaped, supported, and constrained by the actions of adjacent social actors with whom they regularly interact (Muzio et al., 2015). As Abbott (2005, p.247) observes, "[n]ot only does a jurisdictional tactic like licensing have to succeed in the system of professions, it also has to succeed in the ecology of the state, for quite other reasons." For instance, the medical profession's quest for a monopoly is much more likely to succeed if it coincides with the government's public health policy.

At the heart of this system of broader ecological relations are boundaries. Boundaries are symbolic and material devices that constitute, differentiate and separate entities, categories and social systems (Lamont and Molnar, 2002). In the case of the professions, three types of boundaries are particularly important. "Jurisdictional" boundaries, which separate different occupational domains (e.g. accounting v. law). "Geopolitical" boundaries, which separate different national realms (e.g. the Italian and the British medical professions), and "ecological" boundaries, which separate different stakeholders (e.g. practitioners, clients and employers). Boundaries are important because they are inherently zones of contact, exchange, and potentially conflict as they mediate between different, and at times contrasting, sets of interests, values, and regulatory requirements. In particular, boundaries are often contested as different actors struggle to expand their jurisdiction, poaching work and privileges from others, or to defend it from the rival claim of competitors. As Abbott (1995, p.857) puts it, "boundaries are zones of action because they are zones of conflict." This helps explain why professions compete not over their core jurisdictions—what Abbott calls their "heartlands"—but at the contested edges where their domains overlap. For example, lawyers and accountants do not dispute the right to audit or represent in court, but they do contest who provides tax advice. These contested zones are where professional authority is negotiated, expanded, or lost.

Viewed through this ecological lens, professional misconduct is also more likely to occur at the boundaries and can be understood as a consequence of weakening and shifting boundary structures. As jurisdictions are redrawn—whether due to endogenous contestation within the system of professions or exogenous pressures such as technological innovation and regulatory change—the institutional arrangements that once governed professional conduct may become fragmented, misaligned, or weakened. These shifts dilute accountability, create grey

zones of responsibility, and open space for new forms of opportunism at the margins of professional practice. Misconduct, in this sense, often reflects not just individual failings but the erosion of boundary structures that once anchored professional norms, enabled effective oversight, and maintained the coherence and stability of professional jurisdictions.

But how do boundaries affect professional misconduct? As we will discuss below, boundaries can be too weak, too strong or too uncertain. Each condition generates unique challenges for maintaining professional standards. We illustrate this below via a number of high-profile examples, such as the bankruptcies of Enron and Parmalat and the US opioid crisis. Whilst each case will be used to illustrate a particular problem with boundaries and how this leads to professional wrongdoing, in reality, multiple failings are entangled, which in turn makes the problem more pernicious and difficult to address.

When boundaries are too weak: Capture and conflict of interest

Boundaries are designed to keep rival interests apart so as to make sure that professional services are delivered both in the client's and in the public's best interest, with the latter in most cases outweighing the former. So, to give some examples, individual professionals should be protected in the performance of their duties from the commercial pressures exercised by their employers, suppliers or funders. Similarly, professionals should also be protected from the undue interference by the client itself. Additionally, different services and the professions that render them need to be kept apart. This could be because they have different disclosure and confidentiality standards (lawyers and accountants) or because they may have divergent interests which are difficult to reconcile (advisory versus trading services in investment banking). Accordingly, one potential issue is when boundaries become too weak and fail to separate things that need to be kept apart. In these situations, two problems may occur: capture and conflict of interest.

Capture

Historically, we thought in terms of professional dominance (Freidson, 1972) whereby knowledgeable and organised producers enjoy an asymmetric advantage over fragmented and less knowledgeable consumers (Johnson, 1972), with the purpose of professional regulation being to protect the latter from the potential abuse by the former. Whilst this problem still applies, over time the opposite issue has come to the fore. Professionals increasingly interact with other stakeholders (clients, funders, suppliers) who are more knowledgeable, powerful and better organised than themselves. These are often large multinational firms who employ in-house teams of professionals to manage their relation with outside advisors. This matters because the interests of these stakeholders may clash with the broader public obligations that bind the professions. After all, as discussed above, the status of the professions is predicated on their role as agents of the public good rather than hired guns in the hands of the highest bidder. In this context, then, the weakening of boundaries separating the professions from

other stakeholders is particularly problematic, as it may lead to the capture of the professions and to their failure to act in the public interest (Dinovitzer et al., 2014; Gabbioneta et al., 2014). This is most obvious in the case of their relationship with their clients and is highlighted by numerous examples and case studies. For instance, the failure of Enron (See Vignette 1) shows how auditors, security and credit analysts who were entrusted with preserving the integrity of the capital markets, were captured by what was one of their most powerful clients, and became complicit in its wrongdoing (Toffler, 2003; Macey & Sale, 2003). Thus, in Macey and Sale's words (2003, p.1179) "[Arthur] Andersen team members routinely succumbed to demands for certification from Enron management" at the expense of their broader deontological obligation to ensure the accuracy of financial statements. A similar story, but on a wider scale, happened in the financial crisis, when auditors and credit rating agencies endorsed complex mortgage products as safe and approved bank accounts that concealed mounting risks, thereby enabling the very excesses they were meant to restrain (Coffee, 2011; Crotty, 2009; Tett, 2009). Crotty (2009) succinctly captures the nature of the issue:

> Ratings agencies are paid by the investment banks whose products they rate. Their profits therefore depend on whether they keep these banks happy […] If one agency gave realistic assessments of the high risk associated with these securities while others did not, that firm would see its profit plummet. Thus, it made sense for investment banks to shop their securities around, looking for the agency that would give them the highest ratings and it made sense for agencies to provide excessively optimistic ratings. (p.566)

Professionals are, of course, very aware of the risk; thus to pre-empt this, they have tended to give the client what they wanted regardless of their deontological obligations and of the risks involved.

Of course, the more cynical amongst us might think that these examples are not surprising as the occupations here described present very strong market or commercial logics. Unfortunately, the same problem applies with even more fatal consequences to the medical profession. Here, the key problematic relationship is with the suppliers, i.e. the large pharmaceutical companies that provide the medicines that doctors prescribe to their patients. Here, doctors and pharmacists were persuaded by the incentives, 'bribes' and selling techniques of powerful pharmaceutical companies to forget about their Hippocratic oath, and to over-prescribe addictive and harmful opioids (oxycontin)with little monitoring, leading to an unprecedented public health emergency (Keefe, 2017; Quinones, 2015; Singh & Jayanti, 2013).

In all these cases, the weakening of boundaries allowed private interests to capture professional judgement, transforming guardians of the public good into agents of their patrons with extraordinary economic, social and political costs.

Conflict of interest

Professional services have different purposes, standards, ultimate beneficiaries, regulations and deontological rules; thus, combining them, perhaps through cross-selling strategies, is dangerous and threatens their effectiveness and integrity. This is one of the reasons why we have clear if continuously evolving boundaries separating different professional jurisdictions (Muzio et al., 2015). Yet, in a world dominated by large integrated professional services firms (Empson et al., 2015), these boundaries are becoming increasingly weak as firms try to cross-sell and bundle together different lines of professional activities.

The bankruptcy of Enron, at the time the world's biggest, clearly illustrates the dangers involved. In this case, large accountancy firms used auditing services as a loss leader to procure more lucrative consultancy work (Levitt, 2000; Muzio et al., 2015: Sikka & Willmott, 1995). The logic was that auditing was a compliance service, which clients had to pay as part of their regulatory obligations, but which was really intended to safeguard third parties (investors, contractors, etc.) rather than directly benefit the client firm itself. In this context, clients tended to see audit as a burden or intrusion and were reluctant to pay premium prices for it and as a result, auditor fees tended to be under constant pressure. Conversely, clients saw consultancy as a value adding service which could boost performance and help to deliver on strategic priorities. Therefore, professional services firms like Arthur Andersen (Enron's auditor) tended to use auditing services as a way to gain an entry point to a firm and its financial information, which would then allow them to proactively cross-sell consultancy services, which the client was eager to pay for (Grey, 2003). This created a situation in which auditing, as a public assurance and compliance service, became subordinated to consultancy, with audit partners even being rewarded for the amount of consultancy leads and referrals they generated (Grey, 2003). This fatally compromised auditor independence, as auditors were under no incentive to conduct thorough audits as required by their professional role and public duty, but exercised restraint so as not to alienate the client and to compromise the possibility of gaining lucrative consultancy contracts. This dynamic emerging from the weakening of jurisdictional boundaries is an important part of the explanation of why Enron's accounts were consistently signed off despite the presence of several warning signs (Muzio et al., 2015).

Taken together, these two processes illustrate how weak boundaries—whether by allowing capture by other stakeholders or by generating conflicts of interest within professional services—can undermine the very foundations of professional authority. Once the separation between professional judgement and private interest is breached, the profession's capacity to act as an independent guardian of the public good is fatally undermined. The result is not only episodic misconduct but the normalisation of compromised standards, which persist undetected overt time and can lead to systemic and fatal consequences. We now turn to the opposite but equally serious situation when boundaries are too strong.

When boundaries are too strong: Collective myopia

Professional services are increasingly interlinked in multi-disciplinary and multinational chains of expertise. Furthermore, many professional services are reliant on the inputs of other professions. Security and credit analysts make their recommendations partly on the basis of auditors' reports. Auditors and tax advisors rely on the opinions of lawyers on the legality of specific tax planning and investment vehicles, which, in turn, consultants may sell to other clients. Often, these chains cross national boundaries as both the clients and the professional services firms involved are multinationals. In this context, it is important that professional advisors have an understanding of and can evaluate the previous steps taken by others when providing their own services. This is a problem when professional boundaries are too strong as they prevent one from seeing what happens on the other side.

This creates a situation of collective myopia where interested parties are not able to understand and evaluate previous steps on which they depend. This creates incentives to suspend their professional scepticism and uncritically trust the previous inputs of others, assuming that all is fair and proper. This creates the situation in which both genuine mistakes and intentional frauds go undetected and are propagated and amplified throughout the system. It also contributes to explaining why cases of professional misconduct are prolonged over time and systematic in nature, as they involve multiple parties (Palmer, 2012; Gabbioneta et al., 2013; 2014) who should have known better.

Whilst this problem is likely to be a contributory factor in many cases of professional misconduct, its best illustration comes from the case of Parmalat (Gabbioneta et al., 2013; 2014). Once Europe's leading dairy company, Parmalat collapsed spectacularly on December 24th, 2003, revealing a deficit of approximately €14 billion—nearly double its reported turnover for the previous year (See Vignette 2). Subsequent inquiries uncovered that the company's financial statements had been systematically fabricated throughout its 13-year tenure on the Milan Stock Exchange. During this extended period, the very professionals charged with ensuring these events did not happen either failed in their duty or consciously chose to ignore it (Muzio et al, 2015). The key issue here is that Parmalat's auditors, Deloitte, when certifying the group's accounts, relied on the individual audits of various subsidiaries, which they could not easily verify despite some warning signs. Rather, they blindly took the reports provided by others at face value. These included the audits of the French subsidiary, Bonlat, where the fraud was concealed (Gabbioneta et al., 2014). In this case, strong geopolitical boundaries between the Italian and French system, hindered collaboration and information exchanges, even if this was essential to being able to produce an accurate audit of the group as a whole.

Similar dynamics apply to jurisdictional boundaries, as both in Parmalat and Enron's cases, as well as more broadly in the financial crisis, credit and security analysts issued research notes and recommendations by blindly relying on audit reports even when there were ample

grounds for caution and suspicion. Indeed, commenting on the situation at Enron in particular, Howard Schilit, an independent analyst, concluded that "for any analyst to say there were no warning signs in the public filings, they could not have been reading the same public filings as I did" (Forbes Report, 2003). Finally, the same problem applies to the relationship between lawyers and accountants, with the latter often uncritically accepting the opinion of the former on the legality of various types of transactions and legal structure (Muzio et al., 2015). This was again the case in Enron, where Arthur Anderson did not query the use of Special Purpose Entities, as these had been cleared by their legal advisors.

These dynamics show how strong boundaries suppress collaboration and information sharing, thereby fostering collective myopia. This, in turn, prevents professionals from critically evaluating the prior work on which their own outputs depend. In such settings, both errors and misconduct can persist and spread across interconnected professions, as each actor blindly accepts the inputs of others without adequate scrutiny. This structural condition helps to explain one of the most striking characteristics of professional wrongdoing—its systematic, collective, and enduring nature.

When boundaries are uncertain: Double deontology and regulatory arbitrage

The final problem arises when it's unclear where the boundary lies or which boundary applies. Sometimes lines overlap; sometimes they haven't settled; sometimes coverage is patchy enough to be hard to see. This situation applies to geopolitical boundaries, as we operate in an increasingly globalised world where professional firms and their clients operate across borders (Arnold, 2005; Suddaby et al., 2007; Faulconbridge and Muzio, 2012). In this context, different geopolitical boundaries, between nation-states but also between national at supranational (EU, WTO) entities, intersect with each other in complex ways. This situation may also apply in rapidly developing sectors such as AI-related professions, where again regulatory frameworks and boundaries are contested, unclear and continuously changing. In both cases, this leads to two potential problems: ambiguity, uncertainty over which rules apply and opportunism, the attempt to strategically select or even redraw boundaries on one's own interest. Although they differ in agency and intent, both increase the likelihood of professional wrongdoing.

Double-deontology

Professional work was historically predominantly located within national jurisdictions with their associated regulatory and deontological frameworks (Larson, 1977; Burrage & Torstendahl, 1990; Krause, 1996). Historically, there was little doubt with regards to the rules that applied to an Italian lawyer or British doctor. The globalization of professional work has complicate this situation, as captured in the following quote "[Today] we might not be too surprised to find an Australian lawyer working in the Brussels office of a New York law firm on a contract for a Japanese client with a German counterpart, which is governed by English

common law, but in which disputes are to be referred to the International Chamber of Commerce's International Court of Arbitration in Paris" (Etherington & Lee, 2007, pp.96-97). Another example is offshoring (Sako, 2015), whereby professional firms undertake work for a client in cheaper overseas jurisdictions. In such situations, we have cases of double-deontology (Nagel, 2007; Nicolson & Webb, 1999) as there is uncertainty over what rules and standards apply between many potentially relevant ones. Thus, professionals may be confronted by ambiguity and are unclear about which rules and norms apply; in these situations, the possibility of genuine mistakes or unintentional ethical breaches increases (Muzio et al., 2015). This is particularly so in cases where there are incompatibilities between different national standards, such as the very different position that US or Swiss regulators take on financial disclosure and confidentiality obligations (Broom & Bandel, 2014), or the different national standards with regards to lawyer-client privilege (Widdows, 2011) or to whistleblowing duties (Christians, 2014). Another example of how double deontology can create acute ethical tension is found in humanitarian medical practice. Health organisations in this sector typically operate under strict codes of medical confidentiality intended to protect patients from harm. Yet, as Hunt (2008) shows, health professionals working in humanitarian contexts often face conflicts between such commitments and host-country legal requirements—for instance, national laws obliging doctors to report gunshot wounds to local authorities. Such circumstances generate the risk that compliance with local law may undermine professional codes and expose patients to serious dangers, including loss of trust in care or vulnerability to state action.

Regulatory arbitrage

More worryingly, situations where boundaries are too uncertain may facilitate more intentional forms of professional wrongdoing, whereby professionals engage in opportunistic types of behaviours to exploit any ambiguities to their own or to their client's advantage. This is the case of regulatory arbitrage (Coffee, 1999) whereby professionals exploit any potential gaps, loopholes, differences or conflicts in national regulatory systems, to reduce the costs of compliance, the liabilities of non-compliance or to altogether circumvent particular restrictions and engage in activities that would otherwise not be permitted. A high-profile example of regulatory arbitrage is the so-called Panama Papers (Obermayer & Obermayer, 2016; Bernstein, 2017) scandal. The leaked files revealed how the law firm Mossack Fonseca and its professional partners (including Big 4 accounting firms, other law firms, major banks and various financial professionals) around the world engineered thousands of shell companies and financial vehicles to shield clients from tax obligations and regulatory oversight. Many of these arrangements were technically legal in one jurisdiction, but in effect facilitated tax evasion, money laundering, and the concealment of politically exposed assets in others. The scandal underscored not only the reliance of global elites, including kings, presidents, prime ministers and various celebrities, on offshore structures, but also the extent to which professionals acted as enablers of misconduct by exploiting regulatory fragmentation.

The Panama Papers are just the latest high-profile example of professionals engaging in regulatory arbitrage on behalf of their clients. Following the collapse of WorldCom, a U.S. Senate investigation revealed that the Big Four had developed multiple tax "products" designed to exploit differences across jurisdictions, with little apparent regard for their broader fiduciary obligations (Sikka & Hampton, 2005, p.333). In the United Kingdom, KPMG promoted a tax avoidance scheme using Jersey as an offshore base to reduce sales tax liability—a practice subsequently deemed illegal throughout the EU (Sikka & Hampton, 2005, p.337). Indeed, the whole tax planning (or perhaps elusion) industry is based on circumventing national regulatory frameworks or exploiting the ambiguities between them.

A further illustration of regulatory arbitrage helps to explain the dynamics behind the financial crisis. This is provided by the case of Lehman Brothers' use of the "Repo 105" transaction (Kershaw & Moorhead, 2013). After the firm's collapse, it emerged that Lehman had relied on a legal opinion from the London office of Linklaters, which confirmed that, under English law, Repo 105 could be treated as a true sale and therefore kept off the balance sheet. This interpretation stood in contrast to U.S. law, where the same treatment would not have been permitted. By shopping for a more favourable jurisdiction, Lehman was able to present a stronger financial position than reality allowed. Crucially, Linklaters' lawyers appear to have failed to consider how technically correct advice in one jurisdiction might be strategically exploited to enable serious misrepresentation in another. When market conditions deteriorated in 2008, this hidden leverage was revealed, accelerating Lehman's collapse and triggering the wider contagion effects that spread throughout global financial markets. This case exemplifies how professional advice that is legally defensible in one jurisdiction can nonetheless facilitate large-scale misconduct when exploited across boundaries.

Table 1 below summarises our entire argument by linking different boundary conditions to specific instances of professional conduct via a number of distinct mechanisms. The table also lends itself to a series of more analytical observations. Firstly, distinct mechanisms apply to different types of boundaries, so arbitrage applies to geopolitical boundaries whilst capture to ecological ones, although there are some mechanisms (myopia) that cut across multiple types of boundaries. Secondly, the most egregious examples of professional misconduct such as Enron or the Great Financial Crisis. In the case of Enron, for instance, conflict of interest meant that auditors neglected their professional obligations in order to cross-sell other services, auditors and financial professionals were captured by Enron, who at the time was one of their biggest clients, and professionals blindly relied on inputs from others even when there was ground for suspicion. Finally, there are reinforcing dynamics between different mechanisms, for instance, collective myopia, whilst problematic in its own right, helps to reproduce and amplify problems caused by other boundary failures, such as by capture or conflict of interests. This is important because it means that, somewhat paradoxically, boundaries can be, at the same time, too weak and too strong. Not only did they fail to address issues like capture and conflict of interest from arising in the first place (too weak), but they also stopped

other parties from being able to detect these (too strong). This paradox explains one of the most striking characteristics of professional wrongdoing: its systematic, collective and enduring nature.

Table 1

Boundary conditions, processes, and their effects on professional conduct

Boundary condition	Mechanism	Type of boundary impacted	Description	Source of misconduct	Consequences	Illustrative examples
Too weak	Capture	Ecological (between profession and other stakeholders)	Boundaries fail to shield professionals from powerful clients, funders, or suppliers.	External interests override public obligations; professionals act as agents of others.	Compromised independence; systemic collusion; economic or public health crises.	Enron (auditors captured by client), GFC (rating agencies captured by banks), US opioid epidemic (doctors influenced by Big pharma)
Too weak	Conflict of interest	Jurisdictional (between professions)	Weak jurisdictional separation allows incompatible services to be bundled together.	Profit motives in other service lines distort judgment in core professional functions.	Compromised quality standards.	Enron (audit quality subordinated to consultancy sales)
Too strong	Collective myopia	Jurisdictional & geopolitical (between countries)	Rigid boundaries prevent scrutiny of work produced by others in the chain of expertise.	Over-reliance on upstream work; suspension of scepticism; inability to detect misconduct.	Errors/fraud propagate; prolonged crises; diluted accountability.	Parmalat (subsidiary audits unchecked), Enron (SPVs cleared by lawyers accepted uncritically)
Too uncertain	Double deontology	Geopolitical & jurisdictional	Professionals are simultaneously subject to two or more regulatory or ethical frameworks with no clear hierarchy or precedence. Compliance with one set of obligations can entail breaching another.	Conflicting codes, laws, or standards create uncertainty over which rules govern conduct in a given situation.	Increased chance of mistakes and breaches of core professional duties.	Swiss banks – U.S. disclosure (2010–12); Humanitarian Health Organizations - medical confidentiality vs. host-country mandatory reporting laws

Table 1 (Continued)

Boundary condition	Mechanism	Type of boundary impacted	Description	Source of misconduct	Consequences	Illustrative examples
Too uncertain	Regulatory arbitrage	Geopolitical	Actors exploit uncertainty to select favourable venues/standards; opinion shopping to support client interest.	Professionals allow clients to circumvent regulatory and deontological standards.	Weakening of regulatory standards and enforcement leading to risky behavior. Rule corrodes trust in professions, clients and the overall system.	Panama papers tax elusion scandal. Big Four offshore tax 'products;' Lehman Brothers Repo 105 (based on advice sourced from a more favourable jurisdiction)

Discussion and conclusion

In this paper, I have retold the recent history of the professions through a number of major scandals, including Enron, Parmalat, the Great Financial Crisis, and the U.S. opioid epidemic. None of these crises could have unfolded without the sustained and systematic failure of the very professional occupations and organisations tasked with preventing them in the first place. Furthermore, I show how these events are tied to failings in the design and management of professional boundaries. In this concluding section, I would like to explain why this issue is growing in significance and briefly discuss how this may be addressed.

Professional regulatory systems were institutionalised in a world where professions operated within clear national jurisdictions and where collaboration and competition with other professions were more stable and predictable. However, the last 30 years or so have brought some wide-ranging institutional changes which have unsettled traditional arrangements and undermined existing boundaries (Brock et al., 1999; Hanlon, 1998). Professional work, as we have seen, is increasingly multinational and multi-disciplinary (Suddaby et al., 2007). This means it cannot as easily be contained in traditional regulatory structures, which have tended to be national and disciplinary in scope and reach. The same dynamics apply to technological change, which allows the development of new professional services and modes of delivery which cut across established boundaries, whilst also creating new entrants with alternative business models which often challenge existing regulatory structures. Furthermore, professions and professional services firms in particular have been adopting an increasingly commercial orientation which downgrades traditional concerns with social trusteeship and public interest in favour of new priorities such as efficiency, profitability and client satisfaction (Brint, 1994; Brock et al., 1999; Leicht & Fennel, 2001; Hanlon 1998). In this case, professions are redefining themselves as technical experts who add value to clients rather than trustees of crucial skills who benefit society as a whole (Brint, 1994). This new stance inevitably poses challenges to existing regulatory structures, as professions continue to probe these either in

pursuit of their clients' interest or in search of new sources of profitability. In short, institutional change (Muzio et al., 2013) is undermining traditional boundaries and allowing professional work to break out of its regulatory shells, which in turn leads to increasing cases of professional failures and wrongdoing.

This leads us to our final issue: how can we improve the current situation? Specifically, how can we develop better regulatory systems for contemporary professionalism? Whilst I am not a regulatory expert, I hope that these suggestions can at least kick-start a conversation around this specific problem. It seems obvious from that analysis that regulatory systems which were developed when professional work was national, disciplinary and slow-evolving in nature may work less well in a world where professional services are global, multi-disciplinary and rapidly evolving. In other words, to paraphrase Aglietta (1979), professions have broken out of their regulatory shell, leading to some of the negative consequences we discussed in this paper. In this context, a different approach to professional regulation is needed.

Specifically, we need to develop both existing and new regulatory and organisational solutions to conflicts of interest, which arise when professional boundaries are too weak. Regulatory reforms such as the Sarbanes–Oxley Act in the United States were initially successful in decoupling auditing from consultancy services, but over time, the Big Four firms rebuilt substantial advisory practices. While not to the same extent as in the Enron era, this re-expansion has been implicated in a number of recent audit failures, including Thomas Cook and Wirecard. Complementing statutory measures, more effective organisational solutions are also required: systematic rotation of key personnel, more robust forms of 'Chinese walls' that ringfence distinct lines of activity in spatially distant and separately governed units, and stricter conflict-of-interest checks at the point of client and assignment acceptance. Yet, legislative and organisational fixes alone are insufficient where professional boundaries are structurally weak. What is also required are hybrid governance models that move beyond pure self-regulation and incorporate broader ecological perspectives, including the state, other professions, and civil society. By embedding diverse expertise—potentially including international stakeholders—such arrangements can reinforce rather than dilute professional boundaries, ensuring that regulatory frameworks reflect multiple interests and cannot be captured by any single constituency.

At the same time, we must recognise that professional boundaries can also become too strong, producing silos, insularity, and collective myopia. Addressing this requires mechanisms that enable controlled permeability. For example, mandatory cross-professional audits and peer reviews across jurisdictions can expose insular practices to external scrutiny, fostering a more reflexive professional culture. Similarly, in complex multi-disciplinary projects, structured collaboration protocols are needed to ensure that professionals share knowledge effectively and avoid information hoarding. Equally important is the development of cross-national disclosure and oversight mechanisms, which address jurisdictional blind spots and ensure that global professional service firms are subject to consistent scrutiny.

Finally, we need better regulatory systems to address cases where professional boundaries are uncertain, overlapping, or contested, creating conditions for what might be termed "double deontology" or regulatory arbitrage. Here, the challenge is that professionals and firms operate across jurisdictions with divergent or only partially aligned standards. Addressing such problems requires the transnational harmonisation of key professional rules—such as those governing audit independence, disclosure practices, and fiduciary duties—so that global firms cannot exploit inconsistencies. It also calls for the creation of international oversight bodies, modelled on institutions such as the International Accounting Standards Board, that can coordinate standards and close gaps in national regimes. Equally important is sustained cooperation between national regulators to prevent forum shopping and ensure that transnational practices are subject to consistent scrutiny.

Overall, new regulatory systems need to adopt what Langley et al. (2019) describe as a configurational approach to boundary design and management. This perspective rests on the recognition that, in complex systems, certain activities and domains need to be brought together, while others must be kept apart even more firmly. Accordingly, some boundaries should become more flexible and porous, others reinforced and strengthened, and still others selectively bridged to enable coordination. Crucially, such boundary configurations are not static but must be continually adjusted in response to shifting professional, organisational, and societal dynamics.

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