Compliance pluralisme and processes
Wu, Y.

Citation for published version (APA):

General rights
It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

Disclaimer/Complaints regulations
If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: http://uba.uva.nl/en/contact, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.
Chapter 2: Descriptive Analysis of Compliance Behaviors

1. Introduction

This part of the thesis focuses on understanding compliance behavior in restaurants. To provide detailed insight into the processes of real-life compliance behavior, yet without addressing what influences or explains such behavior, an approach called the descriptive analysis of compliance was employed. This involves describing how restaurants respond to various legal rules that apply to them both during the start-up phase and during regular operations. In addition, in this section, such behavior is characterized in an attempt to move beyond the simple compliance–violation dichotomy. By focusing on what compliance behavior takes place, how it takes place, and how it can be characterized, this part of the thesis diverges from the existing compliance literature. Most such literature focuses on explaining either how the interaction between the regulators and regulated shapes the meaning of compliance or on what factors shape behavior for people to become compliant or noncompliant.

Moreover, this chapter contains an explanation of the descriptive analysis of compliance is, reasons for its use, and how it differs from the existing literature on compliance. First, why it is important to describe compliance behavior in real-life situations is discussed. To improve restaurant compliance and promote compliance behavior in this industry, we need to understand what compliance behavior takes place in real life, and we need to know how compliance behavior takes place. However, neither conventional approaches in compliance research are suitable for studying this, nor does the conventional method of collecting compliance data provide a reliable measure of compliance behavior. Instead, the researcher applied the in-depth case study method by conducting extended participant observation and interviews in restaurants to show compliance behavior as it happens in real life.

The section further offers an examination of compliance behavior in a restaurant setting, both while applying for operating licenses and during daily operations, using the process approach and from a subjective perspective. This exploits the benefits of the endogenous approach in studying how compliance is constructed and regulated, while reducing the operationalization problem associated with the exogenous approach that operationalizes compliance as compliance behavior.

Subsequently, the existing literature about the classification of compliance behaviors and actors is reviewed. When we describe various compliance behaviors and how they take place, it soon becomes highly complex, and it cannot be simplified as compliant or noncompliant. Thus, to capture the characteristics of these behaviors for further analysis, they need to be classified. Therefore, the existing literature about the classification of compliance behaviors and actors is reviewed to classify the cases
and related compliance behaviors and serve as the first normative framework to
analyze the compliance practices further analyzed in subsequent sections.

Finally, the researcher introduces the case study methodology used in this study
and discusses the procedures followed for choosing cases. Reasons are discussed for
deeming the case study an appropriate methodology for describing compliance
behavior and its execution, and to highlight the diversity of the compliance behavior
process, two contrasting cases are described.

2. Why Was a Descriptive Analysis of Compliance Used in this Study?

Compliance is a growing field in regulatory research that aims to understand,
explain, and predict how and why those who are the objects of regulation respond to it
and what effects it has. This has led to the development of two mainstream
approaches. The first approach considers the concept of compliance changeable and
dynamic. Multiple meanings of compliance exist among key actors in the regulatory
field, and in certain situations, those key actors negotiate and construct the very
meaning of compliance. Therefore, the concept of compliance becomes the research
object, with researchers attempting to discover how compliance is understood and
conceptualized. In their comprehensive review, Parker and Nielson (2009)
categorized this kind of research as endogenous-approach research.

The second mainstream approach is the exogenous approach, which treats the
understanding of compliance as exogenous to the research, that is, produced from or
derived from external sources. This kind of research takes the concept of compliance
as predefined and uses it as either a dependent or independent variable to discover the
causal relationships between compliance and other variables. Its interests are
pragmatic, aiming to explain the causes or effects of compliance.

Although the two main approaches cover most aspects of compliance research
and provide a rich understanding of this topic, the majority of studies have focused on
the notion of compliance and not on real compliance behavior. To study real
compliance behavior and examine how to promote compliance behavior, the two
approaches face many limitations and operationalization problems. Because the aim
of this research was to understand how compliance behavior takes place and how to
promote it, descriptive analysis of compliance behavior in this research is required.

2.1 The Endogenous Approach in Compliance Research and Its Limits

The endogenous approach takes the concept of compliance as the research object
(e.g., Lange, 1999; Fairman & Yapp, 2005; Edelman et al., 1991; Edelman & Talesh,
2011). The purpose of this approach is to discover multiple meanings of compliance
among different actors and to uncover the social construction processes that create
understandings of compliance and the power relations between the actors involved. In
this approach, the concept of compliance is not seen as static according to its formal
definition—“the state or fact of according with or meeting rules or standards”—but as dynamic and changeable. To define compliance requires addressing the corresponding legal norm. However, as many studies shown, legal norms are seldom clear enough to verify behavior but rely on interpretation in specific situations.

For example, Huisings and Silbey (2011), in a study of the safety regulations at a university, indicated that what constitutes a clear corridor is never clarified in the regulations, and what constitutes a clear corridor had to be specified in every situation. Because different actors interpret the meaning of legal norms and the behavior considered compliance with these norms in different ways that favor their interests, no uniform meaning of the concept of compliance exists among key actors in the regulatory field. Furthermore, other parties influence actors’ understanding of compliance. For instance, a regulated company may influence a regulator’s definition of compliance. Talesh (2009), in a study on consumer protection law, revealed that a manufacturer developed its own dispute resolution institution for resolving consumer complaints, and later, it successfully persuaded the regulator to accept its institution and change its definition of whether the manufacturer complied with the legislation. Therefore, the meaning of compliance is socially constructed.

Lange’s (1999) research on a waste management site supports this view. Lange spent six months on a waste management site conducting participant observation and interviews to gain an understanding of how regulations were implemented in practice. Taking the endogenous approach, he focused on how the regulator and regulated communicated about and negotiated behaviors that could be accepted as compliance with legal guidelines. He found that the conditions for site licensing usually were not imposed by the regulatory authority upon the regulated but were negotiated when the inspector visited the site based on the real conditions. Onsite inspection provided information about working routines and factors that was more detailed than the site license prescribed, which left space for negotiation. Thus, operational rules related to the completion of work may arise out of social practices or social relationships, and compliance can be constructed on levels of both the routing behavior practice and the interpretation of the meaning of legal rules. In this endogenous approach, compliance was not static and predefined by the regulator with reference to established legal norms, but fluid and constructed during the interaction and negotiations between the regulator and the regulated. As Lange argued, compliance here is thought to be a “link concept” addressing the relationship between rules and social practices (Lange, 1999).

Focusing on the discussion of the concept of compliance and its construction, the endogenous approach has a broader ambition that provides a better understanding of the fundamental questions about the nature of law and compliance with it. It draws attention to the multiple meanings and understandings of compliance, and provides understanding to those who are the objects of regulation in terms of how they view the regulatory requirements and compliance behavior. By considering the perception and understanding of different actors and learning how compliance is negotiated and constructed, it opens the discussion of ways to improve regulation and society.

---

10 https://en.oxforddictionaries.com/definition/compliance
instance, transparent information exchange between the regulated and regulator may improve regulation (Lange, 1999).

The endogenous approach faces great limits in answering the question of how to improve compliance, which is pragmatic and the most significant question for people interested in compliance research, as Parker and Nielson (2009) pointed out. Because the definition of compliance varies in terms of this approach, no basis exists for identifying actual compliance behaviors; thus, it is impossible to evaluate compliance behavior. To evaluate whether behavior complies, and to explain why and how it complies, requires a fixed definition of compliance for comparison. However, the very definition of compliance used for comparison reflects a specific construction and negotiation process. Such definition involves bias and requires analysis. Consequently, the research would become circular and unable to move beyond the discussion of evaluating the definition of compliance.

2.2 The Exogenous Approach in Compliance Research and the Operationalization Problem

The exogenous approach takes the definition of compliance as predefined in research, but questions what influences compliance and how to improve compliance. In this approach, compliance is not a core conceptual object of study needing to be explored and interpreted; it is either a dependent or independent variable used to discover causal relations between compliance and other variables. This approach is useful for discussing ways to improve compliance.

For example, Fairman and Yap (2004) attempted to study the effects of enforcement on business compliance performance. To identify the relationship between enforcement styles and compliance performance, they predefined compliance as subjects’ fulfillment of prescriptive requirements assessed by a professional inspector, thus reflecting the formal concept of compliance. Furthermore, they measured the enforcement styles of the district enforcers. Subsequently, they analyzed the effects of enforcement on the level of formal compliance with the law using quantitative correlation analysis. This approach was oriented toward the practical aspects of compliance with the ambition to determine what kind of enforcement style would improve compliance rate.

However, the exogenous approach faces significant challenges related to operationalizing compliance and collecting data. Operationalization refers to the process of clarifying what data the researcher sees as relevant to the concept’s definition. In compliance studies, compliance usually is operationalized by reference to attitudes, motivations, and policy goals, with only a few researchers operationalizing compliance as compliance behavior. Operationalizing compliance in different ways serves different research aims. In several studies, compliance was operationalized by reference to attitudes and motivations. These include the work of Braithwaite et al. (1994) and Braithwaite et al. (2007) on motivational postures, Winter and May’s (2001) studies of various motivations for compliance among
Danish farmers in relation to environmental regulations, and May’s study of U.S. marine facilities in relation to water quality (May, 2005). For example, Braithwaite et al (1994) discussed four motivational postures the regulated may take when facing regulation, defined based on their perception of and attitude toward the regulatory community in terms of regulatory goals and means. Thus, compliance discussed in Braithwaite et al.’s research was operationalized as the attitude of the regulated. Compliance attitudes and motivations are worth studying in their own right, but it is important to remember they will not always translate into compliance action (Parker & Nielson, 2009).

Another common method of operationalization is to operationalize compliance by reference to policy goals, which means studying compliance by focusing on whether a business meets certain substantive goals. These goals include environmental emissions (Andrews, 2003; Berkhout & Hertin, 2001; Johnston, 2006; Winter & May, 2001, 2002), greater employment of women or racial minorities (Braithwaite, 1993), and fewer worker injuries and fatalities (Mendeloff & Gray, 2005). The approach of operationalizing compliance in terms of policy goals is useful if the aim of the research is to evaluate policy implementation. However, this approach to operationalization examines compliance with a substantive objective the rule is expected to serve, but not the behavioral compliance with a rule.

As Parker and Nielson (2009) noted, compliance researchers ultimately want to evaluate whether people comply with regulations and whether this leads to achieving substantive goals. Logically, it is important for both policy evaluation and theory testing to be able to explain which regulatory interventions prompt which behavioral responses and whether these behaviors lead to the desired goal. To do so, compliance should be operationalized as compliance behavior, or the behavioral response to legal requirements that adheres to the law and that is accepted by the regulator as compliance. The very aim of the current study was to understand the behavioral responses of small and medium-sized restaurants to food safety regulations in China, as this is how compliance occurs. Thus, in this study, compliance was operationalized as compliance behavior.

To operationalize compliance as compliance behavior is difficult, and researchers face two significant challenges. The first is that researchers have to find a standpoint from which to evaluate compliance behavior. Whether or not certain behavior can be defined as compliance needs to be clarified and predefined. In doing so, the researcher becomes part of the process of constructing the meaning of compliance, as it is impossible to choose an evaluation standard without implicit or explicit use of norms and values. This carries a heavy moral responsibility, and researchers have to carefully consider their own positions in defining the meaning of compliance. In this research, compliance behavior was evaluated during specific processes, as discussed in section 2.2. The second challenge relates to collecting data about compliance behavior, which is discussed in the next section.
2.3 Problems Related to Using Conventional Data Collection Methods to Collect Data on Compliance Behavior

To operationalize compliance as compliance behavior is usually constrained by the available sources of data on compliance behavior. Nevertheless, finding a way to collect reliable and valid data that measures compliance behavior is crucial. In the existing compliance literature, self-reports and official reports are the most popular data collection methods, and the experimental method is less common. While each of these three data collection methods has its own strengths, they also have many restrictions.

When using the experimental method, researchers manipulate an environment in which people perform the behavior under study and observe that behavior before drawing appropriate conclusions based on various controlled variables (e.g., Köbis et al., 2015). The major advantage of this method is that researchers can isolate the variables of interest and study the effects of researchers’ manipulations, and this method is effective in the study of the psychological processes engaged in the real-world counterpart of the situation an experiment manipulates. However, it has several clear disadvantages.

First, external validity is questionable. If the purpose of the experiment is obvious to the subjects, it affects whether the subjects react in their usual ways (Webley & Halstead, 1986). In addition, an experiment is artificially designed—no matter how sophisticated the design, it cannot replace the real situation that involves numerous variables and changeable possibilities that researchers cannot fully involve in the experiment. Hence, although an experiment can manipulate and study some cause–effect relationship using controlled variables, it is less capable of explaining the situation when new variables arise. In a regulatory experiment, participants usually are not the real regulatory objects, and participants are placed in an environment that may be unknown to them. Therefore, the elicited behavior may be partly hypothetical in this respect. Carrying out an experiment in a real-life situation, for example, by randomly assigning a large number of businesses to a more lenient, cooperative inspection regime and a similar number to a stricter, punitive regime, has obvious ethical and political problems, in this case, in experimenting with regulatory design and interventions (Parker & Nielson, 2009). It is likely to take an unusually persuasive researcher and a visionary regulator to achieve this sort of experimental design.

Compared to the experimental method, reviewing government records is a common way of collecting data for compliance behavior. Based on the judgment of regulatory officers, regulatees are classified as in compliance or in violation. In this scenario, compliance depends on to the formal concept of compliance from the perspective of regulatory officials. Yet this method also faces several challenges. First, official records are unreliable because they do not account for violation that go undetected or unreported (Coleman & Moynihan, 1996; Jupp, 1989; Shover & Hochstetler, 2006), and many business violations are never officially discovered or
recorded. Victims often fail to report offenses because the harm is minor and not seen as worth complaining about (e.g., losing a small amount of money through purchasing a faulty product). Some harm is complex and difficult to trace to a single source related to the fault of the business (e.g., a consumer has moderate diarrhea after eating in a restaurant, while another consumer that had the same meal feels no discomfort). In addition, organizations may hide breaches on purpose (e.g., secret illegal dumping of pollution in a river; Parker & Nielson, 2009). Even proactive regulators that actively monitor compliance through inspections or audits miss many violations that come and go during the intervals between inspections and rarely discover all violations even at the time of inspection (Parker & Nielson, 2009).

Due to their heavy workload, regulators are less likely to monitor regulated business at ideal intervals. This is especially true for small and medium-sized enterprises in China, which may be inspected only once since established or once a year. Of the violations detected, not all are recorded because of inattention, discretionary leniency, or even corruption (see Hill et al., 1992; Weil, 1996). Moreover, because of regulators’ discretion, the data they record about compliance and noncompliance are likely to be normatively biased (Parker & Nielson, 2009), and social, political, and economic factors may influence official enforcement decisions regarding what should be considered compliance. Furthermore, regulated businesses may negotiate with regulators and influence regulators’ understanding and recording of compliance. The unreliable and biased data from regulatory records are problematic not only because they are biased but also because the bias and its criteria are not transparent. Researchers usually have access to only part of official enforcement statistics that are the outcome of a range of subjective assessments of behavior unknown to the researchers. Additionally, the filtering processes and criteria regulatory agencies use to determine compliance are often unconscious, ambiguous, and therefore unknown. Therefore, researchers cannot explain the data bias.

Self-reporting is a common method of collecting data on compliance behavior. For this method, respondents are required to complete questionnaires or participate in interviews to answer questions about their actions and reactions to certain legal norms (Elffers et al., 1992). Their answers to the questions posed constitute the data on compliance behavior. Answers can be a simple “yes” or “no,” or respondents can be asked to rate responses on a Likert-type scale to questions or statements such as “Did you try to under declare your income or overstate your deductions in 1986?” “To what extent do you agree with the following statement?” and “I did not under declare my income or deductions in 1986.” Consequently, the data on compliance behavior used for analysis relies entirely on the self-reported information derived from the people who engage in these behaviors. Generally, the respondents themselves are the most knowledgeable about their own history of compliance with the law. When assured of their anonymity and of confidentiality, respondents may report low-level criminal activity more readily and completely than would be captured in official data.

Nevertheless, the reliability of self-reported data on compliance behavior is lacking, a shortage well documented in the literature (see Elffers et al., 1992: 550; Zimring & Hawkins, 1973:321–327; Wilson & Herrnstein, 1985:37–38; Hessing et al.,
Memory problems are the most common cause of unreliable information in self-reporting. Criminological studies have shown that under or over reporting of crime is common because of memory lapses or more complex tricks of memory such as remembering the wrong time or forgetting certain activities. Similarly, self-presentational concerns lead to unreliability when using this method. Generally, people like to pretend to be good citizens that comply with the law. Therefore, they are more likely (either deliberately or subconsciously) to interpret and report events in a way that exaggerates their compliance with the law and underplays or excuses noncompliance (Jupp, 1989: 102).

Researchers usually seek to overcome such social desirability bias by guaranteeing anonymity, by framing questions about illegal activity in neutral and factual ways (e.g., Winter & May, 2002: 126), and by providing respondents with a range of apparently socially acceptable ways to confess noncompliance. For instance, instead of asking respondents to answer “comply” or “not comply,” which may provoke the feelings of guilt and shame and result in false answers, researchers offered respondents several ranks, that is, “definitely did,” “probably did,” “probably did not,” and “definitely did not,” to reduce the pressure of confessing their behavior (Scholz & Lubell, 1998: 402–403). In addition, building trust with respondents and better understanding how respondents think and behave helps to reduce the social desirability bias of the self-reporting method. When researchers have a good relationship with respondents and respondents believe researchers will not reveal their illegal behavior to anyone who may harm them, respondents are more likely to report low-level criminal activity. Moreover, if researchers understand how respondents think and behave, and the values and norms respondents care about, the researchers can evaluate the bias of self-reported data. However, doing so involves a great deal of work and requires spending a long time with respondents.

When the research objects are business firms and the topic is regulatory compliance, memory problems and social desirability bias in the self-reporting method are more complex than with individual criminal activity (Parker & Nielson, 2009). Ideally, all individuals in the section of the organization where the relevant illegal activity might have occurred should be asked to respond to researchers (e.g., Weaver & Trevino, 1999; Key, 1999). Yet for many reasons this might be impractical for reasons of access or cost. Instead, researchers have to choose only one or a few individuals to obtain data, which means individual respondents will be required to not only remember and report their own behavior but also that of others or organizational behavior. Because individual respondents may not know enough or clearly remember events that occurred in the organization to report accurately on organizational compliance, this increases the possibility of unreliable information caused by memory problems. Furthermore, researchers may gain access to corporate records that document the compliance behavior of the organization, for example, regarding emissions or customer complaints. Nevertheless, organizational records of compliance are institutionally created, and they may involve considerable social desirability bias. Business firms may be intentionally organized so that information about noncompliance is hidden. Before using these records, researchers must evaluate the
value of the information offered, which requires understanding the internal processes of record creation and the knowledge and values on which the records are based.

Because of the restrictions of the three conventional methods of collecting data on compliance behavior, several researchers developed sophisticated designs to reduce these restrictions to a certain extent (e.g., Webley & Halstead, 1986; Elffers et al., 1992). For instance, they added confrontational questions when using the self-reporting method to overcome memory problems associated with this method and to reduce the effect of self-presentational concern by manipulating the desire to uphold a coherent image before the interviewer. Moreover, researchers added two steps, namely reassessment and expert assessment, to the first assessment to gain the cooperation of and build confidential relationship with officers to reduce measurement errors and increase reliability. In the experimental method, researchers hid the purpose of the experiments by using a sophisticated experiment design.

However, Elffers et al (1992) found that despite the ability of sophisticated design to reduce the restrictions discussed to a certain extent, using the three data collection methods still involve significant challenges when measuring compliance behavior. Employing the three methods when measuring compliance in a tax evasion study yielded different results, with a lack of association between the three kinds of results. Elffers et al. argued that the existing measurement error cannot explain the lack of association between the three behavioral measures. The most probable explanation is that tax evasion behaviors may consist of at least three independent conceptual aspects, and the three unrelated aspects were addressed by the three data collection methods. Consequently, the researchers called for further studies to gain a better understanding of real-life tax-evasion behaviors. To date, no research has been produced in other regulatory fields to test or support this argument. Nevertheless, the concerns of Elffers et al. are notable and should be considered when collecting data on compliance behaviors.

2.4 Describing Compliance Behavior as a New Way of Studying Compliance

As shown above, the endogenous and exogenous approaches are the two main approaches followed in compliance research. While both suffer from specific shortcomings, they provide good insights for understanding compliance and its causes. In this study, the researcher’s concern was ultimately pragmatic, similar to the exogenous approach; that is, to identify various factors that influence compliance behavior by examining how compliance behavior occurs. However, the researcher preferred to take a constructive standpoint as the endogenous approach, that is, to see how compliance behavior emerges during the process. Consequently, on the one hand, compliance behavior would be considered as a dependent variable and should be measured; on the other hand, the process of the occurrence of compliance behavior would be described and discussed as the very object of the study. In this way, this research would not only collect data to reflect what compliance behavior in the restaurants entails or entailed but also would reflect the behaviors engaged in during
the process of compliance. Thus, the measurement of compliance behavior could emerge from the description of the process of compliance behavior taking place.

A third, lesser-known approach to studying compliance exists in addition to the endogenous and exogenous approaches, namely the process approach. This approach shows how compliance finally comes about during a series of steps or a process, and researchers can study the compliance process instead of compliance based on a static point and view. Henson and Heasman (1998) proposed that the compliance process by which food businesses comply with legal requirements is composed of several steps: identifying the regulation, interpreting the regulation, identifying the change, making the compliance decision, specifying the method of compliance, communication, implementation, and evaluation or monitoring. Fairman and Yapp (2004) developed a compliance process model based on Henson and Heasman’s (1998) model. Moreover, Chemnitz (2012) discussed the compliance process by integrating a decision process model and diffusion theory and identified several stages of the decision model: the knowledge, attitude, decision, implementation, and monitoring stages. Finally, Van Rooij (2013b) defined compliance as a set of recurring, nonlinear processes through which legal norms enter into the operations and perceptions of the regulated actors at different stages of the production chain, including learning, negotiation, dissemination and translation, operational, verification (and simulation), and institutionalization and internalization processes.

In this research, the process approach was applied to measure compliance behavior. However, the process perspective was used in a different way than described above. It was not intended to exhaust the steps the process involves. By using the process tracing methodology, the researcher intended to zoom in on understanding compliance behavior as it occurs and develops instead of measuring the behavior at a static point. Thus, the measurement of compliance behavior became a series of observations and data collections instead of a single judgment at a certain point, which made it contextual and situational in a specific context. The aim was to understand how the process progressed and to capture the features of the process, which would be helpful in discussing factors influencing compliance behavior and mechanisms that influence the establishment of compliance behaviors.

Consequently, describing compliance behavior has become a new way to measure this behavior. Measuring and describing compliance behavior during the process that causes its emergence reduced the risk associated with measuring compliance at a static point and the risk that compliance equals the outcome of regulation and negotiation. Moreover, tracing the process reflected how regulated businesses construct their compliance behavior. Therefore, it involved a combination of the endogenous and exogenous approaches in terms of integrating the constructive (endogenous) and pragmatic (exogenous) perspectives and overcoming the measurement problem of the exogenous approach and the definition problem of the endogenous approach.

The regulated is the subject of compliance behavior. To describe compliance behavior or the response of the regulated to the law, we have to turn to the regulated. The most effective method of doing so is observing their behavior and asking what
they did to respond to certain legal norms and how they did it. While self-reporting remains useful, it is limited to collecting data about points researchers cannot directly observe, and it must be complemented by observation data and improved understanding of the actors, including of the ideas, values, and thought processes that support their behavior. In this research, extended participant observation and interviews were used to collect data on compliance behavior.

Describing compliance behavior as a new way of measurement combines exogenous and endogenous concerns, first by operationalizing compliance as compliance behavior, which is predefined as the behavioral response to the legal requirements in accordance with the law and accepted by the regulator as compliance, and second by tracing the process of how compliance behavior comes into being. It allows researchers to see evolving real-life compliance behavior in its contexts. In addition, it raises the possibility of investigating how the regulated respond to the law, how compliance behavior takes place, what the comprehensive conceptual sets of compliance behavior are (as requested by Elffers et al., 1992), and what factors influence the process of the development of compliance behavior. Nevertheless, this method also has shortcomings. It requires extensive participant observation and interviews, and close contact with the regulated, which allows researchers to trace back or follow the process and capture the characteristics of the regulated to understand their behavior. It is time and energy consuming, and it typically limits the number of cases researchers can study. Yet it is a qualitative method of exploring compliance behavior and the processes, actors, and factors that contribute to it.

It is important to note that the process approach is similar to the method of causal process tracing (CPT), which has received increasing attention in social science research recently in terms of developing a “comprehensive storyline” related to a delineated social fact and searching for cog and wheel of the mechanism that produced the outcome discussed (Bennett & Checkel, forthcoming; Hestrom & Bearman, 2009; Mahoney, 2015). However, it differs from CPT in several ways. Describing compliance behavior is a way to operationalize and collect data on the explanandum, compliance behaviors in this research. In contrast, the explanandum researched using CPT is always definite, with clear social outcomes, such as U.S. decision making regarding the 2003 intervention in Iraq (Lake, 2011). Hence, CPT is not a method used to operationalize the explanandum. Furthermore, besides extensive storytelling and history tracing, CPT involves a cluster of techniques of proposing hypotheses and conducting four kinds of tests to precisely and clearly explain the mechanism that produces the outcome discussed. However, describing compliance behavior using the novel approach proposed in this thesis does not involve such well-developed techniques. Although extensively describing the process of how compliance behaviors emerge provides opportunities to identify mechanisms that produce and explain these behaviors, it serves not as an explanation method but as a research approach to the explanandum.
3. How to Describe Compliance Behavior?

According to the endogenous approach, final compliance behavior is socially constructed, and different actors have different understandings of compliance behavior. The process approach provides an alternative means of measuring and studying compliance behavior. In this study, to describe compliance behavior, the endogenous way of thinking was followed to learn the construction process of compliance behavior, but not to analyze the construction of the compliance concept. Instead, the process approach was employed to analyze how the behavior developed. The focus in this research was not on the notion or concept of compliance but the compliance behavior that could be observed and described as present and past actions.

To describe restaurant compliance behavior, the researcher conducted site visits and spent extended periods in restaurants to build trust and improve her understanding of the actors in the restaurants in terms of their ideas, thought processes, and values by conducting participant observation and in-depth interviews. Furthermore, to describe compliance behavior, researchers must employ the process and “other side” subjective perspectives.

3.1 Process Perspective

Although the process approach is rare in compliance research, it has been used in several studies, generally to identify process steps and construct a universal process model. For instance, Henson and Heasman (1998) proposed that the compliance process by which food businesses comply with legal requirement involves several steps, namely identifying the regulation, interpreting the regulation, identifying the change, making the compliance decision, specifying the method of compliance, communication, implementation, and evaluation or monitoring. Through a discussion of these steps, they found that business size causes the differences in the manner in which individual businesses comply with new regulations (Henson & Heasman, 1998). Fairman and Yapp (2004) developed a compliance process model based on Henson and Heasman’s (1998) model.

Chemnitz (2012) examined the compliance process by integrating a decision-process model and diffusion theory and identified several stages of the decision model, namely the knowledge, attitude, decision, implementation, and monitoring stages. Through a discussion of these stages as they apply to the compliance process, factors such as size and vertical information flow were found to play important roles in farmers’ compliance. Moreover, Van Rooij (2013b) defined compliance as a set of recurring, nonlinear processes through which legal norms enter into the operations and perceptions of the regulated actors at different stages of the production chain, including learning, negotiation, dissemination and translation, operational, verification (and simulation), and institutionalization and internalization processes.
There is an underlying similar logic to existing studies using the process approach—researchers attempt to illustrate the entire compliance process, from external legal norms to regulated behavior or even internal norms. Although this illustration is logical, it is oversimplified, and it fails to reflect the real situation. Compliance behavior can be motivated at different steps and does not necessarily follow the same logic from acknowledging a legal norm to developing a compliance behavior. Compliance behavior may arise from internal values and norms without actors noting corresponding legal norms. Thus, the existing process approach oversimplifies the actor who undergoes the compliance process as an individual, and it reduces the business organization to a representative individual with the sole role of receiving information regarding a legal norm and responding to that information. It dismisses the internal organizational structure and business employees. In reality, the regulated can be both individuals and organizations that experience different compliance processes and play different roles in those processes. Therefore, the process involves considerable variations and layers. Yet if all variations are considered, the compliance process model becomes enormous and too complex to understand. Hence, in this research, a modified version of the process approach was used to study and measure compliance behavior.

First, instead of discussing compliance behavior using a universal process model that moves from legal norm to behavior, the researcher attempted to describe the tracing process related to how the compliance behavior takes place. Thus, the steps that form the process model were not described; instead, each compliance behavior was viewed separately, and the researcher attempted to describe how the behavior arose, developed, and settled and presented. For example, restaurants are legally required to obtain a number of licenses before opening. This research traced the process the restaurants followed to obtain their licenses.

Second, compliance behavior is described in the research using the insights derived from three core processes. Although compliance behavior may originate and develop from several processes or contexts, it inevitably goes through three core processes. The first is the compliance process at regulatory level. As many compliance studies, especially endogenous research, show, compliance is negotiated and constructed through interaction between the regulator and the regulated. Accordingly, interaction between the regulator and the regulated must be one of the core processes. The second is the compliance process at organizational level. An organization is a semiautonomous social field (Moore, 1973). It can generate rules, customs, and symbols internally, but it is also vulnerable to rules, decisions, and other forces emanating from the external environment. Thus, compliance behavior may arise from the organizations’ own rules or from the negotiation between the internal rules and external forces, such as legal norms implemented by the government. The third is the compliance process at the individual level. Ultimately, an individual must perform compliance behavior, and compliance can occur only when someone carries out certain required behavior. The one tasked with performing the compliance action decides to engage in the required behavior. Consequently, the personal
decision-making process becomes the third core process out of which compliance behavior arises.

Accordingly, how compliance behavior takes place was described using insights drawn from the three core processes: the regulatory process, or the interaction between the regulator and regulated; the organizational process, or the evolution of compliance behavior from the organizational culture and characteristics or from negotiation between internal and external forces; and the individual process, or individual decision making. The three levels show a successive order for the development of compliance behaviors. Although the individual level is the core, an individual in an organization is influenced by the organizational level of the process. At the same time, the organizational level is influenced by the regulatory level of the process. However, the final compliance behaviors do not necessarily go through all three process levels. From the perspective of the regulated, the individual level is the core, and it determines the final process of making the decision of compliance, while the organizational and regulatory levels provide a context for making this decision.

While tracing back compliance behavior, the process perspective demands that the researcher focus on the actor of compliance behavior to consider how the actor perceives, acts, and makes decision. This leads to the second element of describing compliance behavior, the “other side” subjective perspective.

### 3.2 A Subjective Perspective

Tracing compliance behavior by following the actor in three core processes demands consideration of the “other side” subjective perspective. In most studies, the regulated is viewed as passively responding to the legal norms. When discussing compliance, most researchers explicitly or implicitly take the perspective of the regulator to examine why the regulated comply and to determine how to spur compliance. As a result, researchers discussed the regulatees’ motives for complying, their perceptions of enforcement style, and their motivational attitudes toward inspectors from an objective point of view, but failed to consider the actor who engages in the compliance behavior as an enabled actor situated in certain social contexts. The regulated are enabled actors, and the compliance behavior in which they engage is only one aspect of their daily life. How the compliance behavior occurs is deeply embedded in the social context in which the actors are situated. To describe compliance behavior, the researcher must focus on the actors, and they must be viewed as subjects rather than as objects. Seen from a subjective point of view, the actors reveal a real-life picture of how compliance behavior occurs in their lives, which may improve the understanding of compliance behavior.

Furthermore, actors in organizations who are subject to compliance are stratified, not homogenous. As Gray and Silbey (2011) argued, when research examines “the other side of the compliance relationship,” it is often limited to the interactions between regulators and high-level figures inside organizations. The frontline workers, whose activities most often produce violations or compliance, have not been systematically incorporated into the literature. The organization is depicted as a
unified corporate person represented by only the manager, instead of as a set of persons, actions, resources, spaces, and times coordinated to achieve a recognized purpose and set of interests. Therefore, in their research, Gray and Silbey explicitly applied an “other side” perspective to study how the workers, not the managers, who enact compliance during daily operations actually interpret and respond to regulations (Gray, 2002, 2006; Gray & Silbey, 2011; Gray & Silbey, 2014). Garry Gray worked in a factory for five months to investigate how safety rights in law are translated into practice (compliance behavior) for individual workers at the local level (Gray, 2002, 2006). By studying the compliance behavior that actually occurred through participant observation and personal narratives, he discovered three ways in which workers refused to perform unsafe work (and thus engaged in compliance behavior). Based on the discussion of how the compliance behavior took place, he showed how individual workers’ personal experience plays a role in refusing unsafe work, and how the individual responsibilization strategies used in work safety regulation neglected the social context of the worker and potentially encouraged noncompliance behaviors.

The research process used in this study aligns with that employed by Garry Gray—studying compliance behaviors directly from the perspective of the regulated. As Braithwaite et al. (1994) suggested by taking the perspective of those regulated rather than the perspective of the law enforcers, this approach improves the understanding of the different sets of considerations that shapes regulatory behaviors. Therefore, in this study, the focus was on the main actors in the three core processes that produce compliance behavior. As they were subjects of compliance behavior, their experience of compliance and their perceptions and considerations were studied along with the social contexts in which they were situated. Because of the focus on the regulated, the regulatory process level was discussed from mainly the restaurant owners’ point of view. On the organizational and individual process levels, both restaurant employees and restaurant owners as the main actors were studied and discussed.

4. Classifying Compliance Behaviors

Describing compliance behavior in detail and examining various compliance processes yielded a complicated array of different behaviors. To make sense of this complex array of behaviors required classification of the compliance behaviors identified. Simply using compliance and noncompliance is inadequate, as several studies have shown (Edelman & Talesh, 2011), and it may invite the problem of constructing the definition of compliance (Parker & Nielson, 2009). To maximize the number of characteristics of compliance behavior captured, the researcher turned to the existing literature, which provided several typologies to capture the characteristic of compliance behaviors.

One classification method is based on an assessment of the extent to which regulated behaviors correspond with legal norms. The extent can be assessed in both width and depth. In terms of width of compliance, regulated behavior may partly (ranging from none to partial, and to fully) accord with legal norms. For compliance
with food standards, Henson and Heasman (1998) explored compliance using a scale ranging from noncompliance to partial compliance and, finally, to full compliance. Instead of a binary classification of compliance and noncompliance, the width of compliance provides a more complex and positive perspective on compliance behaviors. It acknowledges and appraises partial compliance and allows a discussion of reasons for partial rather than full compliance, which focuses attention on efforts to expand compliance and reduce noncompliance.

From a point of view of depth instead of width, Van Rooij (2011) proposed a scale of the depth of compliance ranging from shallow compliance to deep compliance, and further to ultra-deep compliance. This change from width to depth of compliance draws attention to why certain regulated firms or individuals are more likely to repeat compliance behavior but others are not. Shallow compliance is a compliance process where the regulated actors respond by doing exactly what is they are told and motivated to do by certain external motivators without institutionalizing the actions into their internal personal, working, or social norms. Shallow compliance easily decreases after the external motivation diminishes, and the compliance process lacks continuity and demands continued pressure from external motivations to ensure behavior occurs in accordance with the legal norms.

In contrast, deep compliance means the institutionalization of legal norms into the personal, working, or social norms of the regulated actor has taken place, and the behavior of the regulated actor is shaped by those internal norms rather than solely by the external motivation, for example, external enforcement, that reflects the legal norm. Ultra-deep compliance occurs when legal norms and the goals of specific legal norms become internalized into the morals of the regulated (Vandenbergh, 2003). Actors voluntarily comply with legal norms, or even creatively comply with the goals of legal norms, regardless of whether there are external pressures or incentives to do so. The deeper the compliance, the less external action is needed to sustain the behavioral change sought and the less need there is for the legal norms to exist.

If the depth and width methods view compliance from a quantitative perspective, that is, less compliance or more compliance, shallow compliance or deep compliance, compliance can be viewed from a qualitative perspective as, for example, negotiated compliance, voluntary compliance, enforced compliance, over-compliance, creative compliance, symbolic compliance, fake compliance, conflictive compliance, coincidental compliance, and delayed compliance.

Compliance is not determined by the regulated alone, but always arises from a negotiation between the regulator and regulated. Therefore, negotiated compliance was the first form of compliance widely discussed during the 1980s. Langbein and Kerwin (1985) suggested that final compliance is determined by the negotiations between agencies and affected parties due to the ambiguous and broad laws and the quasilegislative processes in agencies. Negotiated compliance, according to Langbein and Kerwin (1985), refers to the eventual compliance with a negotiated version of the original standard, or a finding of noncompliance and payment of a possibly negotiated penalty. To discuss the concept of negotiated compliance, the authors slightly modified the term “noncompliance,” which, compared to negotiated compliance that
develops after a negotiation process, “refers only to noncompliance just or soon after the time the standard or penalty is promulgated” (Langbein & Kerwin, 1985: 859). In other words, negotiated compliance is more longitudinal and may include initial noncompliance, but the result is a status of compliance accepted by the regulators. Negotiated compliance may alter the substance of the standard, which may reduce the cost of compliance.

Negotiated compliance is closely linked to delayed compliance, a term used by Langbein and Kerwin (1985) to describe the possible outcome of initial noncompliance in the compliance process. It refers to the situation where the regulated party consciously or unconsciously delays compliance with the law. Sometimes the delay itself is its own reward for the regulated party, and the delayed is deliberate. However, sometimes the regulated party delays compliance due to ignorance of its responsibility. Delayed compliance may become negotiated compliance during the process of delaying and negotiation, and initial noncompliance may change into other forms of compliance. Often, compliance results from negotiation between the regulator and the regulated, as negotiated compliance implies; nevertheless, the terms “delayed compliance” and “negotiated compliance” are too broad to be useful to discuss the complexity of compliance behaviors.

Other kinds of compliance, seen from the qualitative perspective and from the view of the subject of the compliance behavior, are more useful for capturing the characteristics of complex compliance behaviors in restaurants. Voluntary and forced compliance are based on incentives and the willingness of the regulated to adhere to the law. Voluntary compliance refers to the situation where the regulated are cooperative and willing to meet the regulatory standards, and the core of voluntary compliance is the “willingness to obey the law” and the “good faith” of the regulated (Scholz, 1984). Enforced compliance is the opposite of voluntary compliance, where the regulated comply only under the threat of punishment. The regulated and regulator are in an antagonistic climate characterized by a “cops and robbers” attitude on both sides (Kirchler et al., 2008). In cases of enforced compliance, the regulated is always inclined to calculate the cost and benefit of evading and prefers to evade compliance whenever possible.

Over-compliance refers to the situation where the regulated achieved the regulatory goals to a greater extent than required by existing regulations. Over-compliance alone is mainly a quantitative view of compliance, which is similar to partial and full compliance. However, it implies a qualitative difference. Based on the intention of the regulated, there is voluntary over-compliance (Arora & Gangopadhyay, 1995), and passive over-compliance. For passive over-compliance, the regulated seeks to only comply with the law, but due to technological indivisibilities, delivers more than the legal requirements (Prakash, 2001). In contrast, for voluntary over-compliance, also called beyond compliance, the regulated may adopt compliance polices specially intend to exceed the extant requirements of laws (Prakash, 2001), may provide environmental public goods with standards higher than those required by law, or follow more stringent policies than extant laws (Reinhardt, 1999; Prakash, 2001; Gunningham et al., 2004). Therefore, they may modify physical
aspects of value-addition processes or adopt new management systems (Prakash, 2001).

Creative compliance is based on differentiation between the letter of the law and the spirit of law, which refers to the slippage of one part, either the letter or the spirit of the law, while conforming to another part of law. Consequently, there are two kinds of creative compliance. One is negative regarding the spirit of the law, referring to a situation where the regulated uses legal forms that hide the reality of what the law substantially aims to regulate (McBarnet & Whelan, 1991). This kind of creative compliance partly originates from legal formalism and regulators’ legalism, that is, to emphasize conforming to the letter of the law results in purposely manipulating the legal norm to disguise substantially violating the spirit of law. This is especially prevalent in accounting compliance. The second form of creative compliance, which is positive regarding the spirit of the law, is known as affirmative slippage of the legal requirements (Farber, 1999). In this case, the regulator and regulated may collaborate to reinvent the regulation, and such positive creative compliance behaviors may be later partially ratified by the legislature. For instance, the penalties that should have been paid to government under the Clean Water Act are in reality used for mitigation projects. This creative compliance was partially ratified by Congress in the citizen suit provision of the Clean Air Act.

In contrast to negative creative compliance, where the regulated manipulate the law to circumvent or undermine the purpose of the regulation, symbolic or cosmetic compliance involves the regulated responding to an ambiguous law by creating a visible commitment to the law that does not serve the substantial goal of the law (Edelman et al., 1991; Edelman, 1992; Grossman, 2003; Krawiec, 2003; Krieger et al., 2015). For instance, an organization may establish some internal structure to respond to equal employment opportunity (EEO) or sexual harassment laws. These internal structures act as window-dressing or symbols of their attention to law. The normative value of these internal structures is not their substantial contribution to reducing discrimination within employment or preventing sexual harassment, but endorsing the legitimacy of the organization. Correspondingly, regulators view and accept these internal structures as evidence of ensuring EEO implementation or preventing sexual harassment.

While symbolic compliance may potentially lead to true compliance, fake compliance,¹¹ or Potemkin Village¹² compliance, involves clear dishonesty and does

---

¹¹ Gergana Noutcheva (2006, 2009) also used the term “fake compliance” when researching the compliance patterns of Balkan states in light of the European Union’s conditional offer of membership. The author identified fake compliance as one of four compliance propensities: genuine compliance, conditionality-driven compliance, socialization-driven compliance, and fake compliance. Noutcheva’s definition of fake compliance differs from the definition used in this study. Noutcheva used two dimensions to build a model to identify the four compliance propensities, namely legitimacy and cost/benefit analysis. According to the author, fake compliance occurs when the legitimacy of EU conditions is low and the cost exceeds the benefit in the long term; furthermore, the cost of total refusal to comply is even higher. In practical terms, fake compliance may include some compliance behaviors such as setting up “institutions in response to EU conditionality, but these institutions remain empty shells and exist more on paper than in reality.” In this study, Noutcheva’s definition of fake compliance aligns more closely with symbolic compliance.
not potentially lead to real compliance. In fake compliance, the regulated actors falsify a situation to seem in compliance for the sake of regulators, who believe this to be the case. However, this is only a façade, and the regulated are not in compliance. As the purpose-built replica of a pleasant peasant village in the story of Potemkin Village (Gray, 2006) showed, the purpose of the compliance behavior was to disguise the unpleasant realities of country life. Gray found that the workplace suddenly would be cleaned and legal requirements for a safe working environment would be followed, but that this was simply a short-lived disguise for an upcoming inspection tour. After the inspection tour, everything would return to normal, and the unsafe working environment would persist.

In some cases, the regulated comply with the spirit of the law, but they do so unintentionally, which is known as coincidental compliance. Here, compliance behaviors may occur for reasons entirely exogenous to the legal process (Raustiia, 2000) or may not be induced by legal rules (Mitchell, 1994). Mitchell (1994) proposed the term “coincidental compliance” when discussing compliance with the international treaty on oil pollution, referring to compliance behaviors that conform to an explicit treaty provision but that would have occurred even without the treaty rules (Mitchell, 1994: 429). Mitchell (1994) noted that the oil discharge of a company decreased largely due to economic considerations and that the compliance behavior was not intentionally pursued but coincidentally adhered to international discharge limits.

Due to the complexity of the legal system, conflictive compliance exists, where “satisfying one demand may require violating others” (Pfeffer & Salancik, 1978). The conflict may arise from different legal requirements regulating the same behaviors (Maxwell et al., 2011), or from different demands from regulative, normative, and cognitive systems (Pache & Santos, 2010), as requirements from these institutions may compete with each other (Heimer, 1999).

While the kinds of compliance examined in this section have been discussed in regulatory and compliance literature, they by no means describe all kinds of compliance. Dimensions that define or differentiate those compliance types, such as whether the regulated intend to comply, whether the regulated comply with the letter

---

12 The saying of “Potemkin Village” comes from a story. “The Empress Catherine the Great, who was quite near-sighted, had arranged a boat tour [of the Ukraine and Crimea] for a group of visiting European royalty. She wanted to show them the prosperous countryside with its happy peasants. Her chief advisor, Gregory Potemkin, knew that this wasn’t the reality the visitors were going to see. To avoid embarrassing the Tsarina, he ordered the construction of the facades of peasant villages along the river route. As the boat passed by, Catherine imagined she was showing her guests a pleasant pastoral scene. The visitors, however, saw only the attempt to hide the unpleasant realities of life” (Tager and Phelps, 2004). So, Potemkin Village is used as an analogy in some compliance research to reflect the local culture of health and safety reactions to inspection enforcement. In this culture, legal norms are strictly complied with when there is a health and safety inspection tour. However, after the inspection tour, all kinds of violation reappear. People become accustomed to this kind of performance when inspections happen. See more in Garry Gary’s “The Regulation of Corporate Violations” (2006).
or the spirit of the law, whether the compliance behavior is a disguise or a reflection of reality, and whether compliance with one legal norm will violate another legal norm or norms from another system, may exist. However, to date no unified classification system has been developed that incorporate all of them. In addition, it was not the aim of this research to create an exhaustive list of compliance behaviors and build a comprehensive classification system. Instead, the different kinds of compliance were introduced to guide the researcher’s descriptions and capture the complexity of restaurant behaviors described in chapters that follow.

5. Characterizing the Subject of Compliance Behaviors

The review of compliance behavior raises important questions about understanding the complex compliance behaviors in restaurants, and the reasons for the complexity of these behaviors. As shown in the literature, the regulated are always assessed using certain models to predict and understand their behaviors (Kagan & Scholz, 1984; Brathwaite, 1994; Kagan, Gunningham, & Thorton, 2003). In this section, three influential works on understanding the subject of complex compliance behaviors are outlined, two of which subsequently were used in the analysis of restaurants and their compliance behaviors.

Kagan and Scholz (1984) proposed three categories of noncompliers that address the reasons for compliance behavior: amoral calculators, political citizens, and incompetent entities. Amoral calculators are motivated entirely by profit seeking and always make rational choices that benefit them most. They will violate the law when the profits and costs of breaking the law exceed the perceived costs and benefits of abiding by the law. Political citizens are inclined to comply with the law if they believe the law is reasonable, but fail to comply if they believe it is unreasonable. Incompetent entities are inclined to obey the law, but fail to do so because of organizational incompetence.

These three categories were built on the premise that to fail to comply means there is a good reason for noncompliance based on the nature of the regulated. Thus, noncompliance is closely related to the nature of the regulated, whether the regulated is an amoral calculator, a political citizen, or an incompetent entity. For amoral calculators, the regulator should behave like the police to deter violations and increase the threat of higher costs if they do not comply with the law. For political citizens, the regulator should act as a politician who persuades them that the legal norms are good for most people and compliance is the right thing to do. For incompetent entities, the regulator should educate and help them find ways to comply. Classifying compliance behavior in this way is in fact classifying the nature of actor.

Brathwaite et al (1994), in a study conducted in a nursing home in Australia, demonstrated that regulators cannot systematically analyze the motives of the regulated or clearly identify whether they are amoral calculators, political citizens, or incompetent entities, nor can Kagan and Scholz’s (1984) three categories predict compliance behaviors. In contrast, Brathwaite et al (1994) suggested influencing compliance behavior through motivational postures expressed during the regulatory
encounter. Instead of classifying the motives and nature of actors, motivational posture classifies the actors’ attitudes to and interactions with the regulatory team. Braithwaite et al. (1994) contended that the interaction between the regulator and the regulated is more important than pure motives and argued that using the behavioral-decision model to analyze compliance behavior requires greater consideration of the social contexts in which the behaviors take place. The concept of motivational postures captures the overall attitude of the regulated and reflects the level of social distance the regulated place between themselves and an authority. This social distance is developed upon evaluations of how authorities and their laws perform, what they stand for, whether they pose a threat to an individual’s goals, and whether they align with the value system of the regulated (Murphy, 2014). Braithwaite et al. (1994) viewed this system as a better predictor of future compliance behaviors.

Braithwaite et al. (1994) identified four motivational postures in their study of nursing home directors: resistance, disengagement, managerial accommodation, and capture. Resistance is hostile to and involves confrontation of the regulatory goal and inspectors’ way of working, while disengagement reflects negativity toward the regulatory goal and regulatory community, with the disengaged regulated being disinterested in regulation and attempting to avoid it. Managerial accommodation, on the other hand, is cooperative, with managers accepting responsibility for the implementation of regulation, participating in the regulatory process, and doing what is expected of them. Furthermore, they have their own managerial plans to realize regulatory goals. Those classified as captured align with the enforcers and show high identification with the standards monitoring process. They accept the regulatory goals and the means for achieving these goals. This typology is based on Merton’s (1968) modes of adaptation to a normative order, which constitutes five modes of adaptations considering the subjects’ attitudes toward the goal and institutionalized means of the normative order.

Subsequently, Braithwaite included the concept of game playing as the fifth posture, which emerged from a discussion about posturing between tax officials and taxpayers proposed by McBarnet (1992). Game playing refers to “a particular kind of attitude to law: Law is seen as something to be moulded to suit one’s purposes rather than as something to be respected as defining the limits of acceptable activity” (Braithwaite, 2003: 18–19). The five modified motivational postures are game playing, disengagement, resistance, capitulation (previously managerial accommodation), and commitment. Commitment and capitulation reflect a general positive orientation and close relationship with authority. The regulated with the motivational posture of commitment believe the enforcement system to be desirable and feel morally obliged to act to obey the law with good will. Those with the capitulation posture accept the enforcement authority as legitimate and feel that the enforcement authority is a benign power, provided they act properly and defer to its authority.

In contrast to the two positive postures, the remaining three are negative and defiant. The regulated with the resistance posture doubt the intention of the
enforcement system to behave cooperatively and benignly toward those it dominates. They are inclined to fight for their rights and to curb the power of enforcement authorities. The disengagement posture also communicates resistance, but the disenchantment within it is more widespread. Those with disengagement posture do not see any point in challenging the authorities and are not interested in changing or improving the enforcement system. Their main objective is to keep themselves and the authority socially distant and blocked from view. Game playing posture shows a particular kind of attitude toward the law, which is seen as something to be molded to suit one’s purposes rather than as something to be respected as defining the limits of acceptable activity. Those with game playing posture consciously attempt to find loopholes in the law and operate in the gray area of the law to minimize the cost of obeying the law. Moreover, the five motivational postures may overlap or be related. Commitment and capitulation are compatible, while disengagement may be compatible with resistance and game playing. In other words, the regulated may demonstrate more than one posture in any specific encounter.

Nevertheless, Braithwaite (2003) claimed that motivational posture is as an indicator of the degree to which an individual consents to the authority but not necessarily a sign of obedience or disobedience. The relationships between motivational postures and compliance-related activities exist in the expected direction. Those who express postures of commitment and capitulation to the tax system are more likely not to attempt tax evasion and tax avoidance, while those who express postures of resistance to, disengagement from, and game playing with the tax system are more likely to attempt tax evasion and tax avoidance. However, the correlation between motivational posture and compliance behavior is uniformly low, possibly because noncompliant actions may be initiated for a number of reasons and the motivational posture reflecting only the attitudinal factors. Consenting to authority is important for showing compliance, but consenting differs from obeying a request from a legally designed authority. As Elffers et al. (1992) demonstrated, compliance behaviors might consist of several conceptual aspects. Motivational posture may reflect only one of them, which is more attitudinal.

Kagan et al. (2003) composed the third typology of compliance actors in a discussion on environmental management. They identified five ideal types of environmental compliance actor, or “environmental management style”: environmental laggards, reluctant compliers, committed compliers, environmental strategists, and true believers. Environmental laggards, who are on the lowest level of compliance, have a negative attitude toward regulatory requirements and comply only to avoid costly enforcement actions. Reluctant compliers are more willing to keep up with regulatory requirements but seek to meet only the minimum standards prescribed by regulations. Committed compliers are more cooperative with regulators, but comply mainly to show they are compliers to gain legal and social license. Environmental strategists have a more future-oriented conception of environmental objectives and believe that environmental improvements can lead to improved economic performance. They often take environmental measures that go well beyond legal compliance. True believers explain their decisions on environmental issues not
purely in pragmatic terms but also in terms of principle, as “the right thing to do.” They are more inclined to invest in environmental measures for over-compliance as “good business decisions,” even if the numerical payoff cannot be calculated ex ante.

These five types of compliance actors show five combinations of managerial attitudes and actions that mark the intensity and character of each management team’s commitment to meeting environmental responsibilities. The attitude here refers to managers’ attitudes toward environmental problems. Actions refer to managers’ actions and implementation efforts to meet specific economic, regulatory, and community challenges. This involves three related dimensions of commitment: the intensity of managerial scanning for environmentally relevant information, management’s degree of responsiveness to environmentally relevant information, and the assiduousness with which the company had institutionalized implementing routines to ensure high levels of environmental consciousness and control capacity.

Similar to Braithwaite et al.’s (1994) classification of motivational postures, this method of compliance actor classification rests on two aspects: the attitude of the compliance actor toward the environmental requirements (negative, good when better related to business goal, good and moral thing to do), and the willingness of regulatory commitment (not willing, willing to minimum standards, willing to beyond-compliance). These ideal types of compliance actors affect how firms respond to pressures from regulatory regimes and economic constraints. Successive ideal type displaying greater commitment predicts better environment performance and deeper environment compliance.

The three classifications evolved from the motives or nature of the actors, to attitudinal motivational posture, to attitude combined with commitment. Each classification system provides unique insights into the characteristics of the subject of compliance and its compliance behavior. They emphasize the importance of the nature or ideology of the actors, the attitudinal element compliance behavior reflects, and commitment to regulation in understanding compliance behavior. This research borrowed ideas from the latter two typologies of compliance to characterize the rich and varied compliance behavior observed in restaurants.

6. Methodology: Case Study

To describe compliance behavior in a manner that incorporates the process perspective and a subjective perspective of the regulated actor, case studies were used. A detailed description of the case study approach used follows below.

6.1 Why Use the Case Study Method?

The term “case study” is a definitional morass. Although the definition seems clear, it can give rise to controversy. Usually, when referring to a work as a case study, several key terms come to mind: (a) small N study (Yin, 2013), (b) application of the qualitative method (Yin, 2013), (c) process tracing (George & Bennett, 2004), and (d) in-depth study and considering the cases as whole entities (Ragin, 1987). However,
Skinner (1963: p508) captured the core characteristic of the case study: “instead of studying a thousand rats for one hour each, or a hundred rats for ten hours each, the investigator is likely to study one rat for a thousand hours.” Of course, this view does not imply that case study research is limited to a sample of \( N = 1 \), but it does imply a relatively small sample. Gerring’s (2004: p342) narrow definition further clarifies this view: “the case study as an intensive study of a single unit for the purpose of understanding a larger class of (similar) units.”

The case study method has several limitations. Some researchers view the case study as a soft method used in the social sciences and suitable for only descriptive or exploratory research, or in the preliminary stage of theoretical construction research to propose questions and hypotheses. When researchers want to study causal relationships or test hypotheses in a larger population, the case study is viewed as less appropriate than the quantitative survey. Furthermore, the findings of case studies cannot be generalized due to the limited number of cases studied and the typical lack of representativeness of the sample. According to critics, this lack of representativeness is the most significant limitation of case studies. Thus, the case study method does not allow researchers to answer questions related to “how many” or “how much” for the population or to generalize the findings statistically to the entire population. For instance, one cannot answer questions such as how much will X (general deterrence and specific deterrence) influence Y (compliance), or how many people are A (Buddhist)?

However, the case study is the preferred method when (a) “how” or “why” questions are being posed and (b) the focus is on a contemporary phenomenon within a real-life context. While the number of cases studied is small and the breadth of research is limited, cases can be studied in great depth, and researchers can discuss various variables. According to Gerring (2004), while unsuitable for studying the causal effect (How much will X influence Y?), the case study method enjoys a comparative advantage in studying causal mechanisms (How and in what way will X influence Y?). It allows one to peer into the box of causality to the intermediate causes lying between some cause and its purported effect. Ideally, it allows one to see how X and Y interact. Therefore, the case study method was selected for this research, as it would show how compliance behavior takes place and how various factors contribute to the processes.

Moreover, the case study method allows one to test the causal mechanism of a theory, thus providing corroborating evidence for a causal argument, which is referred to as pattern matching. If the existing theory suggests a specific causal pathway, the researcher may perform a pattern-matching investigation, for instance, study a typical case. The findings from the case study are judged according to whether they validate the stipulated causal mechanisms or not. In this way, the case study also can test theory based on cases with the type of test Karl Popper (1959) called “falsification” (as cited in Flyvbjerg, 2006). Falsification is one of the most rigorous tests to which a scientific proposition can be subjected: if just one observation does not fit with the proposition, it is considered generally invalid and must therefore be either revised or rejected.
By strategic selection of cases (see Ragin, 1987; Rosch, 1978), we can increase the generalizability of case studies, for instance, by selecting a typical case, diverse case, extreme case, deviant case, influential case, or most similar or most different cases (Seawright & Gerring, 2008).

6.2 Case Selection

To describe compliance behavior and capture the complexity of the processes of compliance behavior, the diverse cases technique was used to select cases. Diverse cases encompass maximum variance along relevant dimensions (Seawright & Gerring, 2008). In this research, two diverse cases were chosen to exemplify how compliance behavior takes place. Based on a pilot study, two diverse restaurants were identified. As the review of the three classification methods of compliance behavior suggests, the nature or ideology of the actors, the attitudinal factor, and the commitment to regulation are useful elements in understanding and classifying compliance behavior. The two restaurants chosen had different operation ideologies. One was health oriented, claiming that it provided only healthy food and that it rejected unhealthy ingredients and cooking methods. This health-oriented ideology aligns with the purpose of food safety laws restaurants have to obey, and which formed the main legal context of this research. During the pilot study, it was found that this restaurant satisfied most legal requirements. The second restaurant was economy oriented, and it aimed to sell cheap and tasty food. It used various, sometimes dishonest, strategies to satisfy legal requirements.

In Chapters 3 and 4, the restaurants and their compliance behaviors are described in detail to answer several questions: How did the two contrasting restaurants develop their compliance behaviors? Did their compliance behaviors differ completely? If so, what explains the variations? If not, why did these dissimilar restaurants share similarities? The two diverse cases provide a good opportunity to discover multiple variations of compliance and the similarities underlying those variations. As discussed in a subsequent chapter, despite the significant differences between the two restaurants, compliance and noncompliance was found in both.

Although only two types of restaurants are highlighted in the study, more types exist. Instead, the two diverse cases were scrutinized to explore their differences and similarities. In fact, in Chapter 5, when including the restaurants studied in less depth, three actual restaurant types and two theoretical types based on the differentiation between dimensions emerge from the findings.

6.3 Structure of the Case Description

The next chapters outline the legally relevant compliance behaviors in the two core cases, namely the health-oriented restaurant and the economy oriented restaurant. While they are situated in their social, organizational, and personal contexts and both cases and the relevant compliance behaviors are described in great detail, no analysis or explanation occurs in this section.
The two cases and their compliance behaviors are framed using a five-step structure:
1. The main characteristics of the two restaurants are described to show how they differ.
2. The history of the establishment of each restaurant is described to show the social context and social support system of the owner, which situates the restaurant in a specific context. The restaurants’ compliance behaviors are deeply embedded in these social contexts.
3. The owners’ personalities and leadership styles are described. Leadership is critical for any organization, and it can be a decisive factor in the functioning and success of the business.
4. Various behaviors related to legal norms in both the process of applying for opening licenses and daily operation are described to illustrate the processes taking place and their complexities.
5. The information is placed within the three typologies reviewed in this chapter to critically assess how the various compliance and noncompliance behaviors in these two cases can be qualified.

In Part B, factors that explain the compliance processes and classifications are examined.