

# Evasive entrepreneurship

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Accepted: 6 March 2016 / Published online: 4 April 2016  
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**Abstract** We argue that evasive entrepreneurship is an important, although underrated, source of innovation, and provide the first systematic discussion of the concept. We define evasive entrepreneurship as profit-driven business activity in the market aimed at circumventing the existing institutional framework by using innovations to exploit contradictions in that framework. We formulate four propositions of evasive entrepreneurship and illustrate them with a number of real-life examples, ranging from a secret agreement among Chinese farmers in the 1970s to activities of rides-for-hire start-ups in the modern sharing economy. We demonstrate that while evasive entrepreneurship can either be productive, unproductive, or destructive, it may prevent economic development from being stifled by existing institutions during times of rapid economic change. Furthermore, it can spur institutional change with important welfare effects.

**Keywords** Entrepreneurship · Evasion · Innovation · Institutions · Regulation · Self-employment

**JEL Classifications** L5 · M13 · O31 · P14

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## 1 Introduction

A well-established idea in the entrepreneurship literature is that entrepreneurs generally abide by institutions, which are therefore seen as the main determinants of entrepreneurship and economic growth. We challenge this idea by providing the first formal definition of evasive entrepreneurship, and argue that it is an important yet underappreciated source of innovation and change in the economy, especially because evasive entrepreneurs through their actions in the market may spur institutional change with potentially important welfare effects. The concept of evasive entrepreneurship helps us see that institutions matter less for entrepreneurs than for other economic agents in the market.

What then, is evasive entrepreneurship? To our knowledge, the term was first introduced by Coyne and Leeson (2004),<sup>1</sup> but much older observations of the phenomenon can be found. While Adam Smith saw the institutions governing the rule of law, property rights protection, and contract enforcement as important prerequisites of economic progress, he also noted that individuals could circumvent institutional constraints unfavorable to commerce, stating that: “The

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<sup>1</sup> Coyne and Leeson (2004) do not give a formal definition of the notion, although they come close when stating (p. 237): “Evasive activities include the expenditure of resources and efforts in evading the legal system or in avoiding the unproductive activities of other agents.”

natural effort of every individual to better his own condition ... [is] not only capable of carrying on the society to wealth and prosperity, but of surmounting a hundred impertinent obstructions with which the folly of human laws too often encumbers its operation” (Smith 2004 [1776], p. 316).

This observation, while running contrary to the established view that sees the actions of entrepreneurs as bounded by the institutional context in which they operate, actually conforms with the Schumpeterian view of the entrepreneur as a rule-breaker (Schumpeter 1934, 1942; Zhang and Arvey 2009) and with Kirzner’s (1973) view of the entrepreneur as an arbitrageur. Why would Schumpeterian entrepreneurs merely adjust to prevailing institutions if they can earn profits by using their innovations to circumvent them? And why would Kirznerian entrepreneurs act as arbitrageurs with regard to market prices but not with regard to institutions?

Drawing on these insights, we define evasive entrepreneurship as *profit-driven business activity in the market aimed at circumventing the existing institutional framework by using innovations to exploit contradictions in that framework*. The intuition is straightforward: While politically determined institutions may prevent or raise the cost for entrepreneurs of exploiting business opportunities, these costs may trigger evasive behavior because entrepreneurs can earn rents if they use their innovations to circumvent institutions (Li et al. 2006; Boettke and Leeson 2009). They do so by exploiting institutional contradictions, such as inconsistencies in regulations, a lack of judicial precedence making it unclear whether an activity is illegal or not, or a lack of resources in the judicial system making monitoring and enforcement impracticable.

We formulate four propositions regarding the character of evasive entrepreneurship, the institutional conditions that make evasive entrepreneurship likely, and its consequences for welfare and institutional change. While evasive entrepreneurship can take many forms depending on the context in which entrepreneurs operate, we identify a number of common features. First, evasive entrepreneurs are entrepreneurial in the Schumpeterian sense, creating and commercializing something new and disruptive—a technological and/or organizational innovation. Second, they use their innovations to behave in a Kirznerian fashion with respect to institutional

contradictions, that is, they either engage in evasive behavior or enable others to engage in evasive behavior. Third, and as a consequence of the second feature, these entrepreneurs disrupt both market and institutional equilibria.

As with other types of entrepreneurship, evasive entrepreneurship may be productive or unproductive, thus either increasing or lowering social welfare. Yet the most important effects of evasive entrepreneurship are likely to be dynamic, since it often functions as a remedy for the inertia of political and economic institutions. In times of rapid change, driven for example by a high rate of technological progress or new supplies of resources, economic adaptability may be difficult or impossible if actors invariably abide by existing institutions (Etzioni 1987). In such circumstances, evasive entrepreneurship prevents existing institutions from stifling economic development.

Furthermore, if it becomes sufficiently economically important, evasive entrepreneurship can trigger a response from lawmakers and regulators. An unfavorable response from the perspective of the entrepreneur ensues if regulators become more adamant in enforcing existing laws, or if lawmakers undertake reforms enabling legal actions against the evasive entrepreneurs or their clients. A favorable response is either continued inaction (not enforcing current laws) or institutional reforms making the evasive behavior (explicitly) legal. These institutional reforms may, in turn, have important welfare implications. The actions of evasive entrepreneurs trigger feedback leading to changes in higher-level institutions, which in turn affect conditions for actors in the market, including the evasive entrepreneurs themselves. In this respect, the notion of evasive entrepreneurship complements the public sector entrepreneurship literature, as it underscores the fact that policy changes often are endogenous, and demonstrates that policymakers can use private-sector evasive entrepreneurship as a source of ideas on how to improve policy (Leyden and Link 2015).

The remainder of this article is structured around the four theoretical propositions concerning evasive entrepreneurship. The first proposition concerns our formal definition of evasive entrepreneurship. It is discussed in Sect. 2 and considers the distinctive features of evasive entrepreneurship compared to other types of entrepreneurship. The second proposition is discussed in Sect. 3 and considers the insti-

tutional features that promote evasion. The third proposition, discussed in Sect. 4, deals with the welfare effects of evasive entrepreneurship, while the fourth proposition, discussed in Sect. 5, considers its effect on institutional change. Finally, Sect. 6 concludes and discusses avenues for future research.

## 2 The evasive entrepreneur

### 2.1 Evasive compared to what?

To claim that someone engages in evasive entrepreneurship begs two questions. First, what is entrepreneurship? We take a Schumpeterian view of entrepreneurship as our point of departure. As we see it, the entrepreneur's main function is to introduce and disseminate technological and/or organizational innovations through profit-driven business activity (Wenckers and Thurik 1999; Hébert and Link 2006).

Secondly, we ask: Evasive relative to what? (cf. Warren 2003). Our answer is that an evasive entrepreneur is evasive relative to a society's institutional framework. In North's (1990, p. 3) view, institutions are "the humanly devised constraints that shape human interaction." These constraints can be either formal or informal. As Williamson (2000, p. 596) argues, informal institutions are characterized by considerable inertia, as societal changes in norms, customs, and other informal institutions occur "on the order of centuries or millennia." We therefore focus our analysis on evasive behavior with respect to formal institutions.<sup>2</sup> In doing so, we still acknowledge that laws and regulations can sometimes stand in conflict with the norms, values, and beliefs of large social groups (Safran 2003), and recognize that evasive entrepreneurs, while defying formal institutions, still operate within informal institutional boundaries, in the sense that their means and ends are legitimate to at least subgroups of society (Webb et al. 2009).

Economic institutions that have been identified as particularly important for entrepreneurship include the protection of private property, tax codes, social insurance systems, employment protection legislation,

<sup>2</sup> The pursuit of economic activity in defiance of formal institutions has previously been discussed. See, for example, Bruton et al. (2012) and Webb et al. (2013).

competition policy, trade policies, capital market regulation, contract enforcement, and law and order (Hall and Jones 1999; Henrekson and Johansson 2009; Bjørnsvov and Foss 2013). In Williamson's (2000) hierarchy of institutional analysis, these institutions can be found at the level of formal rules where change occurs on the order of 1–100 years. Furthermore, they are maintained and exercised at the governance level where change occurs on the order of 1–10 years. Entrepreneurs and other market actors operate at the lowest, market level in the hierarchy, where changes in prices and quantities are continuous.<sup>3</sup> The institutions determined at the higher levels frame the entrepreneurs' introduction and dissemination of innovations. The question to consider is how.

The way in which the profit-driven entrepreneur can use his talents to respond to formal institutional constraints falls into (at least) three categories: they can act to abide by, alter, or evade existing institutions (cf. Oliver 1991). The most commonly studied entrepreneurial category is that of institution-abiding entrepreneurship. Webb et al. (2013) point out that scholars who employ institutional theory traditionally examine how institutional pressures lead to activities that conform to prescriptions. Indeed, most entrepreneurship scholars (e.g., Baumol 1990) implicitly assume that entrepreneurs, even in the case of sheer rent seeking, abide by institutions and act within prescribed institutional constraints.

The second and third categories are both examples of institutional entrepreneurship, but sufficiently distinct to be separated analytically. The second category is what is generally thought of when institutional entrepreneurship is discussed, and consists of entrepreneurs who directly alter existing institutions through political activity (Battilana et al. 2009). Li et al. (2006) describe them as institutional entrepreneurs, who not only play the role of traditional entrepreneurs in the Schumpeterian sense, but who also help establish institutions in the process of their business activities (cf. Khanna and Rivkin 2001). A firm that lobbies to change rules and regulations of

<sup>3</sup> Williamson (2000) defines four levels of institutional social analysis with regard to their frequency of change: (1) embeddedness (informal institutions), (2) institutional environment (formal rules of the game), (3) governance (play of the game), and (4) resource allocation and employment (the market level). This hierarchy has previously been employed in relation to entrepreneurship by Aidis et al. (2008) and Estrin et al. (2013).

relevance for its operations is engaged in institution-altering entrepreneurial activity. Hence, these entrepreneurs cause institutional change through *political* means, and by directly altering institutions at the higher level of the institutional hierarchy (Lawrence and Suddaby 2006).

Evasive entrepreneurship can also be seen as a type of institutional entrepreneurship, but it is less direct than the aforementioned type, and sufficiently distinct to constitute a third category of responses to institutions. Unlike institution-altering entrepreneurs, evasive entrepreneurs do not use political means to change institutions, but instead affect them through their activities in the market. Hence, they act at the lowest level of the institutional hierarchy, where they use organizational and/or technological Schumpeterian innovations to circumvent or evade the existing institutional framework at the higher levels.

Oliver (1992) points to the potential for actors to actively engage in institutional work aimed not at creating or supporting institutions but at tearing them down or rendering them ineffectual. While several studies allude to the dynamics associated with such institutional disruption, concrete empirical descriptions are rare (Lawrence and Suddaby 2006, p. 235). The notion of evasive entrepreneurship enables us to see that many institutional disruptions emanate from the market level.

Unlike institution-altering entrepreneurs, evasive entrepreneurs do not directly try to change institutions through political means at the higher levels of the institutional hierarchy. Nevertheless, evasive and altering entrepreneurship frequently go hand in hand, and the same person can perform both functions. Silvio Berlusconi is a salient example. He influenced Italian institutions, both in his role as a businessman and as a politician. In the first role, he acted as an evasive entrepreneur when he established a system of local stations to broadcast the same TV programs simultaneously. This entrepreneurial activity in the market challenged the public monopoly on national broadcasting and eventually led to free competition in broadcasting. Berlusconi later acted as an institution-altering entrepreneur when he exploited his media platform to launch his political career and employed his political power to substantially alter Italian institutions and further his own business interests (Henrekson and Sanandaji 2011a, p. 66). It is hence when

entrepreneurs circumvent institutional constraints through their actions in the market that they can be considered evasive.

The relevance of evasive entrepreneurship as a second-best solution when institutions stifle commercial activities is evident in accounts of economic history (Jones 2003; Acemoglu et al. 2005; Acemoglu and Robinson 2012). At a time when inventor William Lee was refused patents by the queen Elisabeth I on his stocking frame knitting machine due to her concern over the employment effects from such mechanization,<sup>4</sup> the benefits of evading the formal institutional system were substantial. In Jones's (2003, p. 96) words, "[t]he lure of profit was sufficient in already commercialized economies to bite into the 'cake of custom' or to get around regulations" and (p. 100) "[w]hat happened in Britain was that growth itself stimulated individuals to find ways around customary and legislative barriers to free market activity. Regulations often ceased to be enforced by justices of the peace who had connections with local business." For example, many town guilds were undermined when new merchants relocated their activities to the countryside, where the guilds could not control labor.

In fact, a key part of Jones's (2003) argument of why Europe got rich before everyone else was the peninsula's fragmented structure. This meant that inventors, philosophers, and so forth could make the evasive choice of leaving an oppressive or inflexible polity and move to a more lenient one. While the Chinese emperor could decree that the entire navy be banned and destroyed in 1430, the European Columbus could woo several monarchs until he found a sponsor for his venture. The ensuing Atlantic trade became an important arena for evasive entrepreneurship and would in turn lead to institution-altering entrepreneurship. Acemoglu et al. (2005, p. 550) posit the following: "From 1500, and especially from 1600, onward, in countries with non-absolutist initial institutions and easy access to the Atlantic, the rise in

<sup>4</sup> The Queen said to Lee: "Thou aimest high, Master Lee. Consider thou what the invention could do to my poor subjects. It would assuredly bring to them ruin by depriving them of employment, thus making them beggars" (Acemoglu and Robinson 2012, p. 182). Lee moved to France, where he obtained a patent from the French king Henry IV.

Atlantic trade enriched and strengthened commercial interests outside the royal circle and enabled them to demand and obtain the institutional changes necessary for economic growth.”

It should be added that not all evasive activity is entrepreneurial. If evasion is widespread and part of the routine workings of the economy, it is no more entrepreneurial than the activities of small, non-growing firms that abide by institutions (Henrekson and Sanandaji 2014). For example, while some argue that the informal sector in many developing countries, in which firms operate without legal titles due to excessive regulation, can be seen as entrepreneurial (de Soto 1989, 2000; Maloney 2003), much suggests that it is essentially a matter of necessity entrepreneurship driven by the exclusion from formal opportunities. Using World Bank data, La Porta and Shleifer (2008) demonstrate that while informal firms are important for poverty alleviation, they are almost always small and inefficient (cf. Estrin and Mickiewicz 2012). They argue that economic growth necessitates the creation of far more productive formal firms. This underscores our point that evasive activities must contain a Schumpeterian element—organizational and/or technological—to be considered entrepreneurial.

As the discussion in this section suggests, we consider evasive entrepreneurship to be motivated by profits. This need not always be the case. In a recent contribution, Elert et al. (2016) describe the Swedish file-sharing site The Pirate Bay as an example of evasive entrepreneurship and argue that the profit-motive, while not unimportant, was only part of the reason for the venture. The founders of The Pirate Bay were also driven by social motives and a file-sharing ideology. More generally, it may be said that the evasive entrepreneur is similar to a social entrepreneur in that he/she identifies and acts on a problem in the current institutional setting (Zahra et al. 2009, p. 529). While there may be instances of evasive entrepreneurship where the profit-motive is completely absent, the point we wish to make is that evasive entrepreneurs do not need to be driven by a social motivation when addressing institutional deficiencies. Rather, it is sufficient for our purposes that they perceive the institutional deficiency as a profit opportunity and act in response to this opportunity. We proceed by providing some examples of this type of entrepreneurship.

## 2.2 Examples of evasive entrepreneurship

The Schumpeterian innovations of evasive entrepreneurs can take many forms. Below, we have chosen three examples to illustrate the phenomenon and show how it can take many different shapes in different institutional settings.<sup>5</sup> In subsequent sections, we shall return to these examples.

First, to give an example of an organizational innovation with evasive features, consider the actions of a number of farmers in a poverty-stricken village in the Chinese Anhui province in 1978. China at that time had a collective farming system governing agriculture, that is, a scheme of forced collectivization. The country experienced recurrent food crises before 1978, suggesting that institutional reforms were needed (Zhu 2012). In a secret agreement, the Anhui farmers decided to split up their land and allow each household to operate independently. This organizational innovation amounted to a de facto privatization of the land in the village and provided a second-best substitute for the inefficient institutions governing agriculture, alleviating the perverse incentives created by forced collectivization (Lu 1994). Hence, through their actions at the lowest level in Williamson's (2000) hierarchy, the farmers effectively circumvented property rights institutions determined at the formal rules level and maintained at the governance level of that hierarchy. This is but one example of organizational innovations by local actors that remedy insufficient—or even nonexistent—property rights schemes (Ostrom 1990).

An example of evasive entrepreneurship that took the form of a both technological and organizational innovation is Swedish entrepreneur Olof Stenhammar's founding in 1984 of Optionsmäklarna (OM). OM became Sweden's first marketplace for stock options and the world's first privately held, profit-driven, electronic stock exchange. Most financial markets around the world at the time were organized along national lines, typically with strict limits on entry, pricing, and marketing, so that starting

<sup>5</sup> Recent research on the informal economy (cf. Webb et al. 2014) provides additional examples of activities that can be categorized as evasive entrepreneurship. See, for example, Lee and Hung (2014), a case study of the emergence of the informal Chinese Shan-Zhai mobile phones industry, which grew to threaten the market shares of the state-licensed national champions.

companies and introducing new products was often de facto infeasible (Jörnmark 2013, pp. 15–22). Technological knowledge and economic resources were therefore seldom sufficient for an entrepreneurial venture to succeed. Instead, entrepreneurial venturing of a Schumpeterian nature had to be combined with a good understanding of the workings of the relevant political and legal systems. Sweden, with its stock market monopoly, was no exception. The evasive elements of Stenhammar's creation of OM lay in the fact that he had realized that there was no Swedish legislation covering financial derivatives. Stock options and other derivatives were not defined as financial instruments and therefore not subject to the stock market monopoly. As a result, there were no formal barriers to creating a marketplace for stock options although, in practice, agents had to heed the views of the Swedish Bank Auditing Agency (Jörnmark 2013, pp. 127–140).

Recent examples of evasive entrepreneurship that relate to technological innovations include the emergence of rides-for-hire application companies such as Uber and Lyft. Their business idea is to enable customers to summon rides-for-hire via smartphone applications.<sup>6</sup> In Schumpeterian fashion, the rides-for-hire companies combine the latest information technology with knowledge of local demand. Furthermore, the applications enable their users to circumvent regulations in the local taxi market. Such markets are typically heavily regulated with licensing systems that create high entry barriers. In New York City, the cost of a taxi medallion amounts to more than USD one million, and prices are high in other cities as well. It is therefore hardly a coincidence that neither Uber nor Lyft have framed themselves as taxi companies; Uber CEO Travis Kalanick is fond of asserting that Uber is a technology company instead of a transportation company and therefore should not be regulated the way taxis are (Scheiber 2014).

This evasive behavior is common to firms in the so-called sharing economy (economic activities built around the sharing of human and physical assets).

<sup>6</sup> Uber is an American venture-funded start-up and transportation network company. It launched its mobile application software in San Francisco in 2010. Lyft is a privately held, San Francisco-based transportation network company. In contrast to Uber, Lyft drivers do not charge fares; instead, they receive "donations" from their passengers.

The accommodation site Airbnb does the same thing: It connects residents who want to make extra money to out-of-towners who are looking for cheaper alternatives to traditional hotels. Hence, hosts on the site are competing with hotels, but since Airbnb rentals often occur in the private sector they typically do not pay the taxes or comply with the zoning and safety regulations that firms in the hotel industry face. Jenelle Orsi, Director of the Sustainable Economies Law Center, notes that the sharing economy exists in an "economy sandwich," a gray area located somewhere between less regulated private ownership and highly regulated public commerce (Guardian 2013). Firms in the sharing economy operate at the market level of Williamson's hierarchy but purposefully shape their innovations in a manner that creates ambiguity in terms of which higher-level institutions apply to them.

In the examples mentioned here, the common feature is that a Schumpeterian-type innovation was introduced with the purpose of earning profits by circumventing the existing institutional framework. The farmers in Anhui secretly agreed on an organizational innovation that essentially amounted to a private property scheme, which was illegal under the collective farming system. Olof Stenhammar chose to establish the world's first privately held, profit-driven, electronic stock exchange in Sweden because he had discovered that there existed no legislation regarding options there, which would make it possible to circumvent the stock market monopoly. Finally, firms in the sharing economy rely on new information technologies to enable sharing, but at the same time operate in a gray area between less regulated private ownership and highly regulated public commerce.

With these features in mind, we formulate our first proposition concerning evasive entrepreneurship.

**Proposition 1** *Evasive entrepreneurship is profit-driven business activity in the market that introduces Schumpeterian technological or organizational innovations in order to evade the existing institutional framework.*

So far we have not explicitly considered what features of higher-level institutions enable evasive entrepreneurship at the market level. We have already alluded to the idea of institutional arbitrage and will put this issue front and center in the next section.

### 3 Institutional contradictions

#### 3.1 Institutional contradictions as Kirznerian opportunities

What features of the institutional framework motivate evasive entrepreneurship? We argue that what the previous literature calls institutional contradictions are critical to understanding this question. Seo and Creed (2002, pp. 225–226) describe such contradictions as a “complex array of interrelated but often mutually incompatible institutional arrangements” that “provide a continuous source of tensions and conflicts within and across institutions” (cf. DiMaggio and Powell 1991; Ostrom 2005).

Such contradictions can appear at the second level of the rules of the game or at the third level of the play of the game in Williamson’s (2000) hierarchy, and even occur because of tensions between these levels. The contradictions at the higher institutional levels present opportunities that entrepreneurs at the market level can exploit if they are to alter them. Hence, institutional contradictions give rise to Kirznerian arbitrage opportunities for evasive entrepreneurship. As such, the probability of evasive entrepreneurial action is likely to increase the greater is the institutional contradiction.

While Kirzner (1973) is mainly associated with entrepreneurial alertness to objectively existing arbitrage opportunities, he (1982, 1985) also emphasized that the entrepreneur can act to create imagined opportunities (cf. Korsgaard et al. 2016). As Kirzner (1985, pp. 84–85) writes, alertness covers “the perception of existing arbitrage opportunities” and “the perception of intertemporal opportunities that call for creative and imaginative innovation.” Both views on opportunities are applicable with respect to institutional contradictions. The ability to perceive, act on, or even create such contradictions depends on the ingenuity of the entrepreneur (cf. Alvarez 2005).

While contradictions are likely to become more apparent when there is a high rate of technological and organizational progress, this rate in turn stems from technological and organizational innovations introduced by entrepreneurs. What ultimately matters is how entrepreneurs use their innovations to act on contradictions. Institutions may prevent or raise the cost of exploiting business opportunities, and entrepreneurs may thus earn rents if they can use their

innovations to sidestep institutions by exploiting institutional contradictions (Li et al. 2006; Boettke and Leeson 2009).

It should be pointed out that such entrepreneurial activities per se do not alter the formal institutional setup; instead, they alter the de facto effect of institutions already in place. Entrepreneurs can exploit the contradictions to reduce their own costs, to appropriate rents from a third party, or to enable others to circumvent institutional barriers (Henrekson and Sanandaji 2011a, pp. 56–57). In fact, entire sectors of the economy can be considered responses to costly institutions. Ferry traffic can, for example, evade alcohol taxes by exploiting the fact that such taxes cannot be levied on international waters, while staffing service companies can help employers exploit contradictions in employment regulations.

#### 3.2 Three types of institutional contradictions

Given the dynamism, uncertainty, and change involved in entrepreneurial endeavors, it is impossible to make a complete list of contradictions that evasive entrepreneurs can take advantage of. Below, we identify three types of contradictions that evasive entrepreneurs commonly exploit.<sup>7</sup> The categories are not mutually exclusive, and evasive entrepreneurs can exploit several contradictions while pursuing their ventures.

Institutional inconsistencies are our first category of contradictions. The literature on contract incompleteness has long since recognized that the cost of writing a contract to cover all contingencies approaches infinity (Hart and Moore 1988). The same reasoning applies to regulations instituted by governments, where it is sometimes referred to as institutional ambiguity (Streeck and Thelen 2005). All regulations are open to interpretation and may be inapplicable to exceptional cases. Theoretically, we may think of a regulation as a written document that prescribes a sanction to some behavior/activities. Consistency can then be defined as the extent to which a given behavior/activity is unambiguously mapped to a

<sup>7</sup> Since we disregard informal institutions, we do not consider instances of what Webb et al. (2009) define as institutional incongruence, that is, a difference between what formal institutions and informal institutions (such as norms, values, and beliefs) define as legitimate.

sanction, either within or between regulations. Another dimension of consistency is geographical. If rules differ across polities (cities, states, countries), an entrepreneur can exploit these institutional inconsistencies by locating where rules are less binding or less enforced, provided that there is free movement. As internationalization progresses, such cross-border institutional arbitrage is becoming increasingly important.

This is reminiscent of the use of the term institutional friction to describe the tension that occurs when two cultural or institutional systems come into contact (Alvarez and Barney 2013). While such friction is generally seen as challenge to the entrepreneur, it can also be an advantage. Consider, for example, the many countries and states where the use of soft drugs such as cannabis has been legalized or decriminalized in recent years. Oftentimes, it is still illegal (and penalized) to produce or distribute these drugs for market transactions. Hence, the legal (or non-sanctioned) use of soft drugs could not occur without previous illegal activity. Furthermore, under federal law in the USA, the use, possession, sale, cultivation, and transportation of cannabis are illegal. However, the federal government has given states the option to decriminalize cannabis for recreational and medical use, an option that a number of states have used to varying degrees.

A second category of contradictions occurs when there is an institutional void (Leff 1976), that is, a complete absence of regulation, and a lack of judicial precedence making it unclear whether an activity is illegal or not. At the extreme, an entrepreneur may enter an unregulated market niche by introducing a previously unknown innovation for which there is no regulation. In these situations, there is a fine line between activities that are downright illegal and activities that are simply not regulated because they are new and unknown. One salient example is the emergence of India's IT sector, which was at first ignored by the typically quite interventionist government, because it did not understand its economic potential (Shah and Sane 2008, p. 318). While the occupation of unregulated space may occur because the innovation is an unanticipated novelty for which no legislation exists, more often it occurs because an entrepreneur deliberately decides to introduce the innovation in a way that avoids regulated areas, suggesting that there can be a thin line between

perceived and created opportunities of evasive entrepreneurs (cf. Alvarez 2005). To again mention Olof Stenhammar, he purposefully shaped his stock market innovations so that they would fit into a previously unoccupied—and therefore largely unregulated—market niche, in which he could engage in productive ventures. We should point out that Stenhammar also benefited from inconsistencies in the tax codes that were unintentional but extremely beneficial for options trading: The capital gains tax on options was calculated on one tenth of the value of the underlying stock (Jörnmark 2013, pp. 140–143).

A third important source of institutional contradictions concerns the government's monitoring and enforcement costs with respect to regulations. While the two previous types of contradictions mainly occur at the second level (the rules of the game) in Williamson's (2000) hierarchy, this can be more closely related to the third level (the play of the game). If the costs related to a regulation are sufficiently high, the government may not have the capacity to monitor and enforce them. This creates a disconnect between the formal rules level and the governance level in the institutional hierarchy (Williamson 2000). Granted, enforcement can be hampered by ambiguous formal rules since it becomes unclear how to mandate compliance (Edelman 1992), but even if a set of laws or regulations are consistent *de jure*, there may still be inconsistency in practice if a lack of resources in the judicial system makes monitoring and enforcement impracticable. For example, while Airbnb maintains that it relies on its users to follow local laws (Airbnb 2015; Levy and Goldman 2012; Lieber 2012), the institutional contradiction often arises from the costs of monitoring and enforcing that such activities abide by the law. In New York City for example, fines to individual Airbnb hosts for non-compliance with regulations formally amount to thousands of dollars, but these laws are rarely enforced (Jaffe 2012).

Of course, evasive entrepreneurs can also make the bet that regulators will *choose* not to enforce the laws. This was the case surrounding the aforementioned secret agreement of the farmers in Anhui. While the farmers in theory ran the risk of jail sentences for breaking formal property rules, they had the implicit support of local reform-minded officials, who in their role at the third governance level in the hierarchy chose not to enforce the rules of the collective farming system. Furthermore, as the quip goes, it is easier to receive forgiveness than

permission (Brenkert 2009), and in a conference on the sharing economy in 2013, Kevin Laws of the site *AngelList* (which unites start-ups and investors) said, “the approach almost all start-ups take is to see if they can be successful fast enough so they can have enough money to work with the regulators” (Santa Clara High Tech Law Journal 2013).

In summary, if an activity is not in theory and practice mapped consistently to a sanction, there is an institutional contradiction, and therefore scope for entrepreneurial innovations that increase the likelihood of the least costly (or nonexistent) sanction. If questioned by enforcing authorities, a talented entrepreneur may know how to appeal to inconsistencies or loopholes in the rules in a manner that prevents legal bodies from reaching a clear-cut verdict. This view also puts lobbying in a new light. In the previous literature, lobbying has been the prototypical case of acting to change institutions. Yet the changes can take forms other than an explicit wording that favors the interests of one group or another. Substantial lobbying efforts by entrepreneurs may be aimed at introducing institutional contradictions, allowing the entrepreneurs to sidestep the regulation at a later stage. Lobbying is a form of institution-altering entrepreneurship, but in this case it may serve as a means to create opportunities for subsequent evasive entrepreneurship. As Lawrence and Suddaby (2006, p. 235) point out in an overview, “most of the institutional work aimed at disrupting institutions that we found involved work in which state and non-state actors worked through state apparatus to disconnect rewards and sanctions from some set of practices, technologies or rules.” Our overview suggests that oftentimes, evasive entrepreneurs can achieve similar goals by their actions in the market.

These insights concerning the role of institutional contradictions as a source of Kirznerian opportunities lead us to formulate a second proposition.

**Proposition 2** *Institutional contradictions are the feature of the institutional framework that enables evasive entrepreneurship, and the degree and number of institutional contradictions increase the probability of evasive entrepreneurship by increasing the degree and number of profit opportunities that evasive entrepreneurs can exploit.*

In the following section, we turn to the question of how to evaluate evasive entrepreneurship.

## 4 Welfare implications of evasive entrepreneurship

### 4.1 Welfare analysis as a normative standard

How then, do we judge the actions of evasive entrepreneurs? Warren (2003) discusses research on deviance, that is, a departure from norms, in the management literature. To determine whether deviance (and conformity) is constructive or destructive, she argues that the deviant behavior must be compared to some measure or standard of what ought to have happened. In her typology, destructive deviance is a behavior that falls outside the group’s norms, but also outside the so-called hypernorms that she uses as a standard for judging deviance. Meanwhile, constructive deviance is a behavior that falls outside the group’s norms while conforming to the hypernorms. Warren acknowledges that her framework is sufficiently broad that it can cover deviance from the laws of a country, and also that the standard to judge the deviation can be a specific normative approach such as human rights or utilitarianism. What is important for judging behavior, she argues, is that the normative foundations are explicitly stated.

In our framework, we substitute formal institutions for group norms and see evasive entrepreneurship as deviance from these institutions. To evaluate such entrepreneurship, we resort to welfare economics. In accordance with basic microeconomic assumptions, we argue that entrepreneurs use their talents to maximize individual utility, not social welfare. Depending on the circumstances, evasive entrepreneurship can be productive or unproductive, and thus either increase or decrease welfare.<sup>8</sup> Baumol (1990, 2010) distinguishes different types of entrepreneurship by their normative implications, and argues that an economy’s laws and regulations dictate the allocation of entrepreneurial efforts. “If the rules are such as to impede the earning of much wealth via activity A, or are such as to impose social disgrace on those who engage in it, then, other things being equal, entrepreneurs’ efforts will tend to be channeled to other activities, call them B. But if B

<sup>8</sup> For a related approach, see Foss et al. (2007), who discuss entrepreneurial employees, or proxy entrepreneurs, and ask whether the firm’s organizational structure can be made to encourage proxy entrepreneurship if it increases firm value and discourage it if it destroys value.

contributes less to production or welfare than A, the consequences for society may be considerable” (1990, p. 898). The allocation of entrepreneurial activity therefore “directly affects the growth of an economy, as well as the general welfare of that society” (2010, p. 165). The most productive forms of entrepreneurship are closely related to Schumpeter’s (1934) discussion of new combinations of resources and technology in the market, combinations that create positive social value. Less productive entrepreneurship entails some combination of rent-seeking technologies that enables the entrepreneur to appropriate rents from other agents.

Depending on how an activity is classified in terms of productivity, entrepreneurship shifts the production possibility frontier (PPF) outward or inward (Coyne and Leeson 2004). There are as many Pareto optima as there are points on the aggregate PPF, with each optimum corresponding to a different income distribution in the economy. The evaluation of them necessitates specifying a social welfare function. This being said, the effects on production and welfare from evasive entrepreneurship depend on the nature of the entrepreneurial activity that the evasion enables, which in turn depends on the nature of the evaded institution.

A significant body of literature suggests that regulatory policy often reflects not public needs but powerful economic interests (Stigler 1971). The literature on rent seeking analyzes the social costs caused by economic actors seeking favors from the government (Tullock 1967). Furthermore, social patterns (institutions, organizations, rules, etc.) tend to petrify and lag behind what is called for by continual changes in the economic environment (Etzioni 1987). Substantive political reforms are rarely implemented at the point when deemed to be most welfare enhancing (Drazen 1996). These examples highlight an important point we wish to make: One way of judging the potential welfare effects of evasive entrepreneurship is to consider the motives or intentions behind the institution or regulation being evaded.

Was a particular regulation put in place in order to enhance social welfare, and can it still be said to do so despite changing economic circumstances? If this is so, evasive entrepreneurship may well be welfare reducing. Was the regulation put in place for other reasons, such as serving the self-interest of regulators? Or has it over time become entrenched and non-adaptive, perhaps because those who benefit from it

block change in order to preserve their rents, whether or not the regulation is efficient (Etzioni 1985)? In such cases, evasive entrepreneurship becomes a welfare-enhancing second-best substitute for inefficient institutions, enabling the reallocation of resources to the pursuit of profitable business activities that are productive and would not have occurred without the evasion.

#### 4.2 Welfare effects of evasive entrepreneurship with respect to institutions

We proceed by discussing a number of economic institutions with great importance for entrepreneurship (Hall and Jones 1999; Henrekson and Johansson 2009). These are high-level institutions in Williamson’s hierarchy, that is, they are established at the level of formal rules of the game and maintained at the governance level, but they can be circumvented through the use of innovations at the market level. The question to consider is how evasive entrepreneurship can be evaluated in social welfare terms, in view of the intended and potential effects of the institutions being evaded.

The institutions governing the protection of private property rights are regarded as fundamental to the promotion of productive entrepreneurial activities conducive to knowledge and growth (Baumol 1990; Acemoglu et al. 2005). Individuals’ incentives to exploit innovations in a productive manner and reinvest their profits are much weaker in a system of weak property rights, where they cannot count on reaping potential gains from the exploitation of entrepreneurial opportunities (Johnson et al. 2002; Kasper et al. 2012). Such was the case under the collective farming system in China, as attested by the recurring food crises prior to 1978 (Zhu 2012). The secret agreement of the Anhui farmers was an evasive organizational innovation that amended the perverse incentives created by forced collectivization. In the year following this de facto privatization, grain production in the village equaled the total production in the previous 5 years (Lu 1994). Hence, this specific case of evasive entrepreneurship appears to have been highly beneficial when judged from a welfare perspective.

Other instances of evasive entrepreneurship that amount to privatization schemes in the face of weak or nonexistent private property rights protection are likely to have similar effects. Ostrom (1990) documents the

great diversity of institutional arrangements to govern people's cooperation that have evolved without any state involvement. These institutional forms are often functionally equivalent to private property rights in limiting access, assigning responsibility, and introducing sanctions.<sup>9</sup>

Closely tied to property rights protection are the rule of law and the efficiency of the legal system. In general, contract enforcement regulation that guarantees the efficiency of the legal system tends to improve the potential for entrepreneurship and innovation, since the basic rules of the game can be expected to be stable (La Porta et al. 2008; Aidis et al. 2009). When this is the case, evasive activities that try to alter the impact of a certain arrangement can be expected to have a negative effect on productivity and welfare. However, if the contract enforcement regulation is such that entrepreneurs incur high costs, contractual arrangements designed to circumvent these costs can be seen as necessary inputs in the production process (Douhan and Henrekson 2010).

Regulatory capture theory argues that vested interests in an industry have the greatest financial stake in regulatory activity and are more likely to be motivated to influence the regulatory body than individual consumers. Regulatory agencies may therefore advance the commercial interests of firms that dominate the industry they are commissioned to regulate, rather than the public interest (Stigler 1971). For example, The District of Columbia Taxicab Commission has been criticized for being beholden to incumbent taxi companies. Notably, in 2012 the Commission proposed the literally named Uber Amendment that would force sedan services to charge substantially higher prices, explicitly with the purpose to prevent Uber from competing with taxi companies (Eldon 2012). More generally, excessive rules and procedures are likely to discourage potential entrepreneurs (Gnyawali and Fogel 1994; Begley et al. 2005) and hamper the process of creative destruction (Caballero and Hammour 2000). Thus,

there is considerable risk that such policies are welfare reducing. Here, the institutional contradictions often arise because regulations are industry-specific. The evasive strategy of firms in the sharing economy—framing an innovation so as to avoid being classified as belonging to a particular industry—may contribute positively to production and welfare.

The issue of excessive rules is also relevant when considering the tax system, as the possibility to navigate such rules differs depending on the firm. In Europe, the costs of following tax rules are a hundred times higher relative to revenue for small- and medium-sized firms compared to large firms (EU Commission 2004; cf. Djankov et al. 2008). The incentives to engage in entrepreneurial ventures are weaker if the relative taxation of entrepreneurial incomes is high (Hansson 2012; Henrekson and Sanandaji 2011b, 2016). High marginal taxes on entrepreneurial incomes particularly affect gazelles and high-growth firms (Audretsch et al. 2002). A tax consultant who acts as an evasive entrepreneur by finding loopholes in the legislation to avoid such a “growth penalty” can therefore stimulate productivity and welfare.

Likewise, while employment protection legislation can be theoretically rationalized on efficiency grounds (Pissarides 2001), such legislation can come about for other reasons, such as successful lobbying by labor unions who act as interest groups in the political process (Lindbeck and Snower 2001). Rigid labor market regulations have a negative effect on productivity (Skedinger 2010; Bjuggren 2015) and on entrepreneurial activity (van Stel et al. 2007; Stephen et al. 2009; Henrekson 2014), where the effect appears greatest for opportunity-based entrepreneurship (Ardagna and Lusardi 2010; Bosma and Levie 2010). At the same time, employment protection legislation usually contains a number of contradictions, e.g., that job security often varies depending on whether the employment contract is permanent or temporary and whether the employing firm is small or large. An evasive entrepreneur can exploit such contradictions, for example by establishing a staffing service company that provides employers with a way to circumvent stringent regulations. Such an activity may contribute positively to employment, production, and welfare, but in instances when health and safety regulations are well motivated, evading such rules can have grave consequences (Wicks 2001).

<sup>9</sup> Under unstable institutional circumstances, even organized crime can provide a measure of stability and predictability that enables agents to undertake productive economic activities (Bandiera 2003; Milhaupt and West 2000; Sutter et al. 2013). As Milhaupt and West (2000, p. 43) argue, this result is “an entrepreneurial response to inefficiencies in the property rights and enforcement framework supplied by the state.” Whether this response outweighs the unproductive activities such syndicates also engage in is another matter.

As the above discussion suggests, when institutions and regulations are obsolete or exist for reasons other than efficiency, evasive entrepreneurship can increase productivity and welfare. However, if evasive entrepreneurship enables lobbying, rent seeking, tax avoidance, risk obfuscation, outright theft, litigation, or more sophisticated economic crimes, it is likely to have a negative effect on productivity and welfare. This being said, the value of an evasive innovation can be difficult to assess in advance. This is arguably the case with respect to Uber and Lyft, but the success of these firms has undoubtedly been disruptive for the taxi industry in many cities where the companies operate. Incumbent taxi drivers sometimes respond fiercely, which is not surprising given their investments in taxi licenses.<sup>10</sup> While regulations pertaining to the taxi market may be justified on welfare and safety grounds, the evasion of some of the most stifling entry regulations may serve to increase consumer choice and welfare.

The examples illustrate that while the welfare effects of specific cases of evasive entrepreneurship can be more or less easy to evaluate, the basic philosophy for doing so is easily understood. Drawing on Warren (2003) and Baumol (1990), we assert that destructive evasive entrepreneurship is entrepreneurship that circumvents institutions *and* results in activities that reduce social welfare. Productive evasive entrepreneurship, on the other hand, is entrepreneurship that circumvents institutions while increasing social welfare. These considerations lead us to formulate a third proposition.

**Proposition 3** *If evasive entrepreneurship circumvents institutions that are welfare enhancing, it is likely to decrease welfare, but if there are other motives behind these institutions or if they have become obsolete (act as impediments) due to technical and/or organizational change, evasive entrepreneurship is likely to raise welfare.*

<sup>10</sup> However, large companies that face disruption from sharing firms have embraced the business model themselves and acquired shares in sharing rivals (The Economist 2013). Furthermore, incumbent taxi companies have responded through imitation, such as by establishing their own smartphone dispatch services, which demonstrates how evasive entrepreneurship has considerable disruptive effects both on the market equilibrium and on the institutional equilibrium.

Welfare analysis is not the only standard for judging the effects of evasive entrepreneurship. Nor do the consequences of evasive entrepreneurship have to end where our analysis has ended, as we shall discuss below.

## 5 Evasive entrepreneurship and institutional change

As the above discussion suggests, the effect of evasive entrepreneurship on institutions is generally indirect; it alters the de facto effect of institutions. But its effect on institutions need not end there. In fact, evasive entrepreneurship may give guidance in situations when the gains from institutional reform are uncertain (Fernandez and Rodrik 1991; Alesina and Drazen 1991). The actions of evasive entrepreneurs serve as an educational source under such uncertainty, as they may demonstrate, on a smaller scale, the economic consequences that might result from institutional change. In the words of Coase (1988, p. 30), “without some knowledge of what would be achieved with alternative institutional arrangements, it is impossible to choose sensibly among them.” Widespread evasive activities and the existence of large rents earned by evasive entrepreneurs can be seen as a diagnostic indication that institutional reform is needed, and that governments seeking to foster entrepreneurial compliance need to improve their governance systems and relax regulations to facilitate firm entry.

As such, evasive entrepreneurship may be useful for public policies directed at fostering a more fertile entrepreneurial environment. This is an important theme in the public sector entrepreneurship literature, which focuses on innovative public policy initiatives aimed at raising economic prosperity by creating an economic environment conducive to value-enhancing activities in the face of uncertainty (Link and Link 2009; Leyden and Link 2015). Evasive entrepreneurship may be one source of ideas that policymakers can use to determine how public policy could be improved.

If it becomes sufficiently disruptive, evasive entrepreneurship may induce reforms of existing institutions. Precisely because of its evasive nature, evasive entrepreneurship can be an important source of feedback from the market to the higher institutional levels. This feedback can be transmitted in different

ways and for different reasons. One reason is because the evasive entrepreneurship is successful enough to be observed by politicians. Another cause of feedback can be a conscious effort on the part of the evasive entrepreneur, who starts to act like an institution-altering entrepreneur in order to achieve legitimacy and legal acknowledgment from the state (cf. Lee and Hung 2014). As we shall see, a third, and somewhat paradoxical reason for change is that discontented competitors lobby for protection against the evasive entrepreneurs. This is in line with the insight from the institutional entrepreneurship literature that institutional conflicts provide a source of embedded agency (Seo and Creed 2002). The long-term welfare effects that result when policymakers respond to evasive entrepreneurship depend on the direction and magnitude of the institutional change, but the gains may be substantial. In several of the examples discussed in the paper, this was the case.

For starters, when lobbying for reforms of the agricultural sector, reform-minded Chinese local officials pointed to the Anhui farmers' experiment with private property. This resulted in institutional change as the central government eventually validated and propagated the Household Contract Responsibility System (Lu 1994). The system, in which contracts allocated land to households on a long-term basis and allowed farmers to retain profits, became the foundation of China's agricultural reform, completed in 1984 (Li et al. 2006). Between 1978 and 1984, total factor productivity in the agricultural sector grew by 5.62 percent per year (Zhu 2012), and most of the productivity growth can be attributed to the price and institutional reforms that generated strong positive incentive effects on farmers' efforts and input choices (McMillan et al. 1989; Lin 1992). Only after the emergent process of *de facto* privatization did the government implement it *de jure* (Coase and Wang 2012, p. 154). On a more general note, Lu (1994, p. 117) concludes that "the Chinese policymakers did not pre-design the boom of the private sector in the 1980s and the relating changes in institutions. In many cases, what happened was the official adaptation to reforms initiated by private entrepreneurs."

A similar story can be told with respect to OM in Sweden. Certainly, Stenhammar's circumvention of the stock market monopoly enabled him to introduce new and valuable services in the process, as attested by OM's financial success (Jörnmark 2013, p. 143).

However, the greatest welfare effects likely resulted from the subsequent moves toward more efficient financial market institutions. OM's right to exist was fiercely contested during these years, and the Securities Market Committee was tasked with deciding the future of OM in its investigation between 1987 and 1989. It was at first rather skeptical *vis-à-vis* the OM exchange, but the view was altered following successful lobbying by Stenhammar, who feared socialization. The committee's final suggestion was that the stock market monopoly be abolished and replaced by a concession procedure (Jörnmark 2013, pp. 151–162). Again, the institutional change induced by Stenhammar's evasive entrepreneurship fundamentally transformed the conditions for actors in that market.

With regard to firms in the sharing economy, feedback upwards in the institutional hierarchy often seems to come from incumbent firms in traditional industries, who find their market positions threatened. In September 2013, California became the first US state to establish a set of regulations governing the rides-for-hire companies, including licensing, driver-training programs, and mandatory insurance policies (CPUC 2013). These regulations raise the cost for rides-for-hire drivers, but are less rigid than those that apply to regular taxi drivers and are unlikely to entirely cripple the new technologies or companies. In Washington, D.C., a recent proposal would allow its cab drivers to employ "surge pricing," i.e., pricing that ignores the taximeter and adjusts prices to contemporaneous demand. Meanwhile, Uber and Lyft have been banned entirely in New Orleans, Portland, and Miami, and after a lawsuit by Taxi Deutschland, a Frankfurt court ruled in September 2014 that Uber lacked the necessary legal permits to operate under German law. Uber has stated that it will continue to operate in Germany and plans to appeal (BBC 2014).

Many of these institutional struggles are intense and ongoing, and illustrate that institutional change in response to evasive entrepreneurship depends on a multitude of factors, such as the strength of incumbent competitors, the existing legal code, and the tenacity of lobby groups, political activists, and politicians. The outcome of the change process is difficult to foresee as it may entail an intense political tug-of-war over the new forms of organizing production (Seo and Creed 2002).

At one end of the spectrum of possible reform outcomes is the failure to transcend existing

institutional arrangements in a manner that reduces institutional contradictions (Edwards 1979; Seo and Creed 2002). This is likely to make the institutional system increasingly vulnerable (Uzzi 1997). At the other end of the spectrum, we find reforms and other arrangements that dissolve the institutional contradictions that created the evasive opportunity, by legally recognizing and codifying the entrepreneurial activity. Usually, the outcome ends up somewhere between these extremes. Either way, these changes at the higher institutional levels will affect the conditions for actors at the market level, including the evasive entrepreneurs who created the impetus for change in the first place.

Furthermore, past conflicts related to evasive entrepreneurial activities can be informative to policymakers regardless of the final outcome. In a recent contribution, Elert et al. (2016) illustrate this when developing a conceptual model to describe interactions between regulators and evaders in the case of Swedish file-sharing site The Pirate Bay, in a first step toward exploring best responses for regulators facing evasive entrepreneurship. While arguably one of the most influential and well-known digital Swedish innovations in recent times, The Pirate Bay venture always bordered on the unlawful, and regulators eventually ruled that it was criminal. Its founders were sentenced to jail and fined millions of dollars. A better understanding of this and similar cases may be central to interpreting how today's evasive entrepreneurs can challenge and affect regulatory frameworks, and to highlight how (and how not) regulators should respond to such challenges. This holds especially true for digital, data-driven services that cut across industries and/or national borders, since they are especially prone to run into institutional contradictions and difficulties to comply with several different or fragmented sets of regulations.

As with all reforms, there are important considerations, such as whether losers from the institutional change should (and could) be compensated. According to the Kaldor–Hicks criterion, an institutional reform is efficient if the gain from it—at least theoretically—could fully compensate losers. An obvious example of relevance to our discussion concerns taxi drivers who see the value of their investments in taxi medallions dwindle due to the actions of ride-sharing firms. Nonetheless, if evasive entrepreneurial activities are welfare enhancing, they

create additional resources prior to any reform. If these resources are used to compensate losers from the proposed institutional reform, this would facilitate its implementation. If, however, evasive entrepreneurship reduces social welfare, it is more likely to meet opposition and to ultimately result in institutional change banning the activity. With this in mind, we formulate a final proposition.

**Proposition 4** *When successful in financial terms, evasive entrepreneurship in the market can create a strong feedback loop to higher levels in the institutional hierarchy. This can overcome institutional inertia and induce political reforms, which in turn affect the institutional conditions for actors in the market as well as social welfare.*

## 6 Discussion

This paper contributes to existing theory by making the first in-depth theoretical analysis of evasive entrepreneurship. We do so by formulating four propositions concerning the characteristics of evasive entrepreneurship, which are examined in relation to a number of real-world examples. The picture that emerges is that evasive entrepreneurship often serves as a second-best substitute for inefficient institutions and can prevent economic development from being stifled by existing institutions during times of rapid economic change. Furthermore, evasive entrepreneurship can provide the impetus for institutional change with potentially important welfare consequences.

We rely mainly on illustrative examples to illuminate our theoretical reasoning. This can be seen as a weakness in terms of explanatory value, as there is a clear possibility that we are in fact focusing on “winners,” that is, on evasive entrepreneurs that are easy to identify and whose contributions are easy to quantify because their accomplishments are far-reaching. Hence, there is a risk that we overstate the importance of evasive entrepreneurship. Undoubtedly, there are a great many people engaged in evasive activities who do poorly and whose ventures have little or no economic impact and therefore exert little or no institutional pressure. By putting the spotlight on them, much could be learned about the distinctive attributes of evasive entrepreneurship and the context where it is more or less successful and relevant.

Furthermore, as we have shown, whether evasive entrepreneurship is welfare enhancing depends on the institution being evaded, but other moral and ethical considerations must also be reckoned with when evasive actions are judged (Warren 2003). Brenkert (2009, p. 462) points out that a society may be headed down a path of legal and moral dissolution if people believe that they are exceptions to laws and rules, but argues that a society where the rules are so fixed and rigidly followed that there is no change may face similar dangers.

With these considerations in mind, we identify several broad agendas for policymaking and future research. First, the exploration of the effects of evasive entrepreneurship has important implications for policymaking aimed at economic development. Our research highlights the elusive character of evasive entrepreneurs, suggesting that institution building must be informed by the fact that evasive entrepreneurs are rule-breakers who create alternative arrangements in response to rules that restrict the scope for profitable venturing. Nevertheless, our study does not go against the institutional economics literature's argument that improved regulatory efficiency stimulates economic development. Rather, it identifies a mechanism to circumvent malfunctioning institutions and mitigate their negative consequences.

Hopefully, the propositions that we have derived in this paper suggest promising avenues for future empirical research, as all of them can yield testable hypotheses. Such empirical testing could take the form of in-depth, qualitative studies of a specific economy, industry or market. The notions of evasive entrepreneurship and institutional contradictions can be used to frame such studies, which should also be informed by welfare considerations. In this respect, a fruitful line of research may be to consider the importance of motives other than profits for evasive ventures, such as social or ideological motivations. Another step would be to put the spotlight on the relationship between evasive entrepreneurship and institutional change. This could take the form of more rigorous theoretical or conceptual examinations, and of empirical studies that examine how institutional change processes triggered by seemingly similar types of evasive entrepreneurship unfold in different institutional contexts.

Systematic, quantitative studies could address similar questions. For example, they could examine

how evasive entrepreneurship among firms in the sharing economy interacts with existing institutions. Although firms like Uber, Lyft, and Airbnb may be international in scope, the evasive service they provide is local and therefore subject to local laws. This contextual variability could provide a fertile empirical ground and broaden our knowledge of the mechanisms that underlie the interaction between evasive entrepreneurship and institutional evolution, when (or if) the smoke from these regulatory struggles settles. This could reveal how varying degrees of institutional contradictions interact with evasive entrepreneurship and various institutional players to produce different effects on institutional change processes and outcomes.

In addition, the existence of evasive entrepreneurship may shed light on the so far unexplained variation found in regression studies of the link between institutions and economic growth. In other words, this phenomenon may offer insight into why some countries function better than expected. For example, GDP per capita in Greece is approximately 40 percent lower than in Sweden (World Bank 2014), whereas a much greater income difference might be predicted based on the difference in institutional quality between the two countries (Rodrik et al. 2004). The evasive actions of entrepreneurs may provide second-best substitutes when institutions are inefficient, accounting for some of the previously unexplained variation. This argument, while tentative, could also be a fruitful avenue for future research.

Several issues pertaining to identification need to be dealt with in such empirical studies. Notably, there are substantial selection problems, since an evasive entrepreneur's choice to operate in a given country or market depends on the institutional setting, including institutional contradictions and the perceived likelihood of institutional change. Then again, many empirical studies face similar problems.

Finally, we invite both conceptual and empirical studies that expand our framework by either strengthening or relaxing the conditions under which evasive entrepreneurship operates. We hope that our contribution will pave the way for furthering our understanding of what we believe is an important and underappreciated function of the entrepreneur.

**Acknowledgments** We are grateful for useful comments and suggestions from Niclas Berggren, Wolf von Laer, Tomasz

Mickiewicz, Erik Stam, and Karl Wennberg. Financial support from the Jan Wallander and Tom Hedelius Research Foundation is gratefully acknowledged.

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