

Possibilities to intervene

A comparison of the intervention instruments available to supervisory bodies in the Netherlands.

by

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S2112698

Submitted in partial fulfilment of the requirements for the degree of Master of Science, program Public Administration University of Twente.

2018/2019

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Abstract

This study examined whether the intervention instruments used by other supervisory bodies in the Netherlands could be inspiring to the NVAO (Accreditation Organisation of the Netherlands and Flanders / Dutch Nederlands-Vlaamse Accreditatieorganisatie). The NVAO is in its role as independent accreditation organization for the Netherlands and Flanders responsible for ensuring the quality of higher education in the Netherlands and Flanders. To achieve this the NVAO accredits both new and existing study programs and assesses the quality assurance of higher education institutions. The ability of the NVAO to influence the behaviour of higher education institutions is however limited to forcing a program into a recovery period, the effect of a possible non-accreditation, the internal audit (ITK) and to recognizing programs that have earned special recognition. During the two year recovery period the program has to increase the quality to a sufficient level. After two years an additional assessment will test the quality of the program. If the quality of the program is still insufficient the program loses its accreditation.

To investigate which intervention instruments used by supervisory bodies in the Netherlands would be applicable for the NVAO the Dutch Healthcare Authority, the Authority for the Financial Markets and the Human Environment and Transport Inspectorate have been investigated and compared through a framework on supervision. To see if the intervention instruments used in a different field will also be applicable to the field of higher education an overview of administrative culture within the field of higher education will be given. Based on a comparison of the various intervention tools and the characteristics of the administrative culture within the field of higher education a recommendation will be made for possible new intervention options for the NVAO.

The intervention tools used by the compared supervisory bodies are placed in one of the seven steps of intervention ladder designed by the Nuffield Council on Bioethics (2007). The intervention tools used by the NVAO are than placed in the intervention ladder together with the intervention tools than can be an addition for the NVAO.

For the compared supervisory bodies the main measure that would be applicable for the NVAO would be increasing the provision of information, for example by explaining accreditation decisions through mass and/or social media like interviews in newspapers, recorded interviews published on Youtube or by disturbing folders and factsheets. A second measure would be to actively expect universities to do an institutional audit (ITK) while still maintaining the option to not do it. A third measure is guiding choices through incentives in the form of faming universities that are performing (exceptionally) well. It should, however, be mentioned that the NVAO is already providing information and faming institutions to an extent.

Keywords: NVAO, supervision, intervention instruments, intervention ladder, regulatory pyramid, higher education culture.

Acknowledgements

I consider this thesis the magnum opus of my long educational career, stretching from my start at the vmbo all the way to a master's degree in public administration. During these years there have been many people, teachers and fellow students alike, that inspired and helped me in reaching my goals and I would like to thank them all for what they have done. A number of people deserve to be called by name for their instrumental contributions to this thesis.

I would first like to thank dr. Harry de Boer for his tireless efforts in supplying me with a healthy dose of feedback on this thesis. Despite his busy work, he always managed to free up time to guide and advise me. I feel privileged that he wanted to supervise me during this thesis and I will always remember the interesting discussions about the higher education sector.

I also would like to thank dr. Don Westerheijden for supervising me during this thesis. His extensive knowledge of quality assurance has made a positive impact on this thesis and challenged me to think more critically about the things that I wrote.

My parents deserve a thank you for their unwavering support and for always believing in me.

Finally, I would like to thank my girlfriend Brenda for always being there when I needed it. Her support has contributed more to this paper than she realizes and for that I am grateful.

Arno van Wieren

December 2019

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List of abbreviations

AFM	Autoriteit Financiële Markten / Authority for the Financial Markets
AWT	Adviesraad voor wetenschap, technologie en innovatie / Advisory Board on Science, Technology and Innovation
CHEPS	Center for Higher Education Policy Studies
DUO	Dienst Uitvoering Onderwijs / Education Executive Agency
DNB	De Nederlandsche Bank
HOAK	Higher Education Autonomy and Quality / Hoger Onderwijs Autonomie en Kwaliteit
HOOP	Higher Education and Research Plan / Hoger Onderwijs en Onderzoeksplan
ILT	Inspectie Leefomgeving en Transport / Human Environment and Transport Inspectorate
ITK	Instellingstoets kwaliteitszorg / Institutional audit
NZa	Nederlandse Zorgautoriteit / Dutch Healthcare Authority
EHEA	European Higher Education Area
ENQA	European Association for Quality Assurance in Higher Education
NVAO	Accreditation Organisation of the Netherlands and Flanders / Dutch Nederlands-Vlaamse Accreditatieorganisatie
TNO	Toets Nieuwe Opleiding / Test for new programs
WHW	Wet op hoger onderwijs en wetenschappelijk onderzoek / Act on Higher Education and Scientific Research
Kzbo	Kaderwet zelfstandige bestuursorganen / Framework law on Independent Administrative Bodies
ZBO	Zelfstandige bestuursorganen / Independent Administrative Bodies

1. Aim and relevance of this study

The Accreditation Organisation of the Netherlands and Flanders (NVAO) is a quality assurance agency that safeguards the quality of higher education in the Netherlands and Flanders, in an expert and independent manner, and that fosters the quality culture pursued within the higher education institutions in the Netherlands and Flanders. It accredits existing and new programmes and assesses the quality assurance of higher education institutions (NVAO, 2017). Universities and universities of applied sciences must get new programmes accredited through an initial accreditation (TNO, *toets nieuwe opleiding*) which is valid for six years. Existing programs are accredited for an indefinite period of time. This accreditation is reassessed every six years on the basis of an assessment report. If shortcomings are found in an existing program, it will be given conditional accreditation and the institution has two years to improve the program (NVAO, 2018). If after two years the improvements are insufficient and the quality of the study program remains substandard the minister can withdraw the accreditation for the program. The minister takes such a decision on the basis of the advice of the NVAO and consultation with the Education council.

The quality of the accreditation system itself is monitored by the Dutch Inspectorate of Education, most recently in the report 'The quality of the Dutch accreditation system higher education 2018' (Inspectie van het Onderwijs, 2018). The Inspectorate of Education states in the report that currently the accreditation system works adequately and is fulfilling its most important social task. They do however see some room for improvement. The basic rules of visitations should be made clear and the desired level of trust should be made more explicit, increasing the reliability of the decision made by the committee. The right balance between openness and regulation is also described as an existing tension. Openness increases validity and trustworthiness. Regulations are on the other hand necessary so that panels use the offered freedom in the same manner, leading to comparable conclusions. The described panels assess the quality of a program and consists of independent experts in the concerned discipline including a student. Within the legislation and the coverage of the legislation there are also uncertainties and implementation problems. The prohibition on submitting a new application after a negative TNO decision is, in its current form, described as an empty letter. A nuanced set of sanctions can contribute to resolving this issue. (2018, p. 91). The analysis by the Inspectorate of Education made the NVAO think about a more graded or nuanced 'ladder of interventions' in order for it to give stronger support to improving quality at least to the threshold level.

This study will look at what the Dutch Inspectorate of Education describes as 'Legislation and coverage: ambiguities and implementation problems' (Wetgeving en dekking: onduidelijkheden en

uitvoeringsproblemen) and specifically at the request for a nuanced set of measures when programs are falling short (Inspectie van het Onderwijs, 2018, p. 8). There are doubts about the current set of measures that the NVAO can take in the event of deficiencies in an existing program. If a program does not perform adequately but is judged to be able to eliminate the shortcomings in two years, the NVAO will conditionally accredit the program.

Accreditation of existing programs						
	2013	2014	2015	2016	2017	2018
Universities						
Positive*	323/96.13%	350/89.97%	187/88.2%	83/96.5%	112/96.55%	209/95.43%
Application withdrawn	-	2/0.51%	1/0.47%	1/1.16%	2/1.72%	-
Recovery period	13/3.87%	37/9.51%	24/11.32%	2/2.32%	2/1.72%	10/4.56%
Total	336	389	212	86	116	219
Universities of applied sciences						
Positive*	154/88%	239/92.3%	180/97.30%	168/96.55%	169/96.57%	254/96.2%
Application withdrawn	2/1.14%	3/1.17%	-	3/1.72%	1/0.57%	-
Recovery period	19/10.86%	15/5.84%	5/2.7%	3/1.72%	5/2.86%	10/3.79%
Total	175	257	185	174	175	264

*positive includes positives after recovery

Table 1: Accreditation of existing programs (NVAO, 2019)

Table 1 shows the outcomes of the accreditation process of existing programs from 2013 until 2018. According to the chair of the NVAO, Anne Flierman, the quality of the Dutch higher education is stable (NVAO, 2019). The number of cases in which accreditation is withdrawn is, as shown in the table, marginal.

The number of possibilities to call an institution to order when a study programme does not meet the NVAO-criteria is currently limited to only two options: conditional accreditation and withdrawal of the accreditation. If the quality of a program diminishes during the accreditation period or the institution does not sufficiently take responsibility for monitoring the quality of the program, it is not possible for the NVAO to intervene in an adequate manner between assessment periods.

The goal of the NVAO is to safeguard the quality of study programs. One of the possible ways to achieve this goal is by imposing penalties when deficiencies are monitored. Penalties are a means to achieve a goal. They are intended to correct the behaviour of an institution. The aim is to undo an undesirable situation and, ideally, to prevent similar behaviour in the future. The latter indicates the wish to learn from it. Penalties are however negative in nature. Another possible way to intervene is to reward programs or institutions that are performing well, which is more in line with the credo of trust. Rewarding then aims to motivate institutions to perform better. By not only focusing on

penalties but also including rewards the recommendation as posed by the Inspectorate of Education changes from penalties to intervention options and it would enhance the number of options for the NVAO to affect institutional behaviour.

Ayres & Braithwaite (1992, p. 37) described by the necessity of a wide range of intervention options, stating that regulatory agencies that only have a limited amount of intervention options are to a lesser extent able to perform the task they are set out to do. As depicted in figure 1, regulatory agencies that have a limited set of intervention options (shown here as X and Y) would be unable or would be less able to act accordingly to the seriousness of the offence. If the offender commits an offence at level A there is a range of intervention options that would be acceptable to be used. Ayres & Braithwaite (1992) state that the solution to having a limited amount of intervention options is to increase the intervention options available to regulatory agencies to at least three extra sanctions for each of the possible offences.

The range of offences, depicted in figure 1 as A to E, can vary depending on the total possible offences that exist. If the range of offence is limited to three than the range would be from A to C. On the other side of the offences the range of sanctions is depicted. Each offence has a range of acceptable sanctions for the committed offence. This range is based according to Ayres & Braithwaite (1992, p. 36) on criminal justice theory stating: ‘If death is the sentence for rape, juries that think this is excessive will not convict rapists; if mandatory imprisonment is provided for drunk drivers, many police officers will decline to arrest them’. From the same perspective, this might apply to the NVAO if the only options available to the NVAO are to either withdraw the accreditation or to force the offender into a recovery process less serious offences might not be punished accordingly. The actual number of sanctions that are necessary depends on various variables. Some offences may be so close together bases on the seriousness of the offence that a single set of three intervention options are sufficient to cover both offences. An intervention ladder or an intervention pyramid as Ayres & Braithwaite (1992) propose, could structure the available intervention options and point out any shortcomings in the number of sanctions that would be needed to properly address the possible offence that can be committed by the organisations that are being supervised.

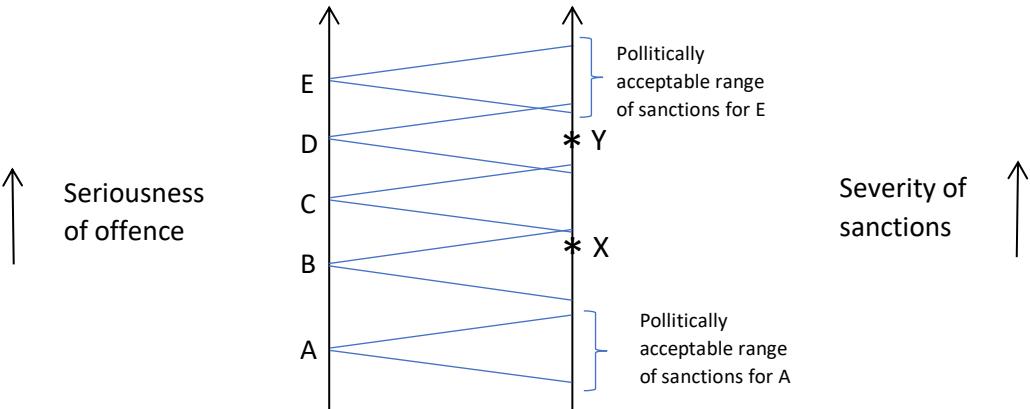


Figure 1: The regulatory arena. (Ayres & Braithwaite, 1992, p. 37)

1.1. Research questions

The purpose of this research is to see which additional intervention options the NVAO can use to better safeguard the quality of programs and institutions. By comparing the intervention options of other supervisors, how these intervention options are embedded in law and at what level the intervention options are used a recommendation can be made about additional intervention options for the NVAO. The central research question is:

To what extent are the intervention instruments used by other supervisory bodies in the Netherlands inspiring to the NVAO?

To answer this question the following subquestions need to be answered

- Which intervention instruments are being used by supervisory bodies in the Netherlands?
- Which of these instruments are inspiring to the NVAO?

2. Theoretical framework

Accreditation for existing programs, as performed by the NVAO, consists of three steps (NVAO, 2018). The first step is the submission of an application for the accreditation of an existing program. This step consists of independent experts assessing the quality of the program, resulting in a report with their findings. The second step is the decision made by the NVAO based on the report from the first step. If this decision is positive then the third step consisting of the NVAO informing the governmental implementation agency for the education sector (DUO) that the program has been accredited. If the decision by the NVAO is not positive the program enters a recovery period during which the quality of the program needs to be improved. Conditional accreditation is given and the program has to prove within two years if the conditions set out in the conditional accreditation are met.

The NVAO can be regarded as a supervisory body, overseeing the quality of educational programmes in the Dutch higher education sector. According to the Dutch board for primary education supervision consists of three steps: the collection of information, making a judgement based on the collected information and, if necessary, intervene to correct any shortcomings (PO Raad, 2014, p. 41; Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2005, p. 10). From this perspective, all three of the characteristics of supervision can be found back in the accreditation process of the NVAO.

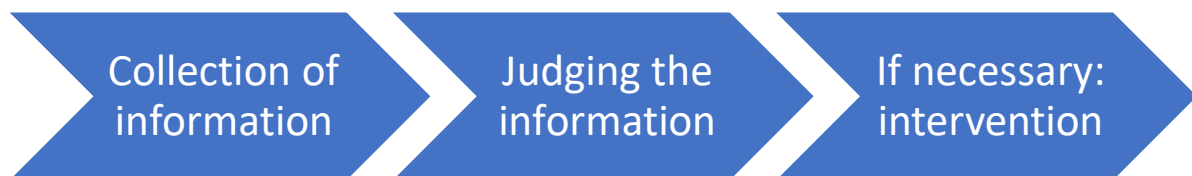


Figure 2: Visualization of the supervisory process

According to the Dutch Ministry of the Interior and Kingdom Relations in the Framework vision on supervision (2005; Kaderstellende visie op toezicht) there are six principles for good supervision. These six principles state that supervision needs to be:

Selective supervision

Selective supervision is based on the idea that it is the responsibility of the government to check to which degree citizens, companies and institutions can be given the responsibility for upholding specific rules. The selectivity of selective supervision is who, how and to which degree the supervision happens. In practice, this would come down to earning or losing the trust of the supervisory body. Institutions that have proven to be trustworthy will be supervised to a lesser extent and institutions that break this trust will be supervised more closely and/or more frequently.

Effective supervision

Effective supervision is described with the creed 'soft when possible, hard when necessary'. The difference with the first principle in which trust is rewarded and failing trust is punished is a stronger focus on intervention.

Cooperative supervision

Cooperative supervision includes lowering the burden on institutions by combining the needed of multiple supervisors into one visit.

Independent supervision

Independent supervision describes the needs and benefits of supervisors that operate independently of their home organization.

Transparent supervision

Transparent supervision includes the activities in which the supervisor explains the decisions he made and makes the findings public.

Professional supervision

Professional supervision refers to three different levels. The first level is that of the individual supervisor who should be flexible and incorruptible. The second level is that of the professional supervisory body who should be independent while also having a positive contribution to the society it serves. The final level is that of the occupational or professional group that takes its responsibility by continuing to develop in a professional manner.

This framework from the Dutch Ministry of the interior states (2005, p.10) that supervision supports or helps the ministerial responsibility. Supervision cannot be seen apart from steering and is necessary to see if the goals, as set out by politics, are reached within a society. The Court of Audit (Algemene Rekenkamer, 2008) describes two central points in the relationship between the minister and Independent Administrative Bodies. 1) The minister should always be accountable Parliament for the performance of public tasks and the use of public funds. 2) vertical supervision serves ministerial responsibility and can therefore not be replaced by internal supervision or quality assurance tools. The minister is therefore responsible for the activities of the NVAO and the NVAO is held accountable for its activities and its performance by the minister.

In the framework by the Dutch Ministry of interior supervision is divided into three types of supervision. The first type is that of compliance monitoring, entailing supervision on rules specifically

for citizens and companies. The second type of supervision is performance monitoring. This type of supervision entails supervision by independent organizations focused on the activities of independent organizations. The NVAO falls within this type. The third type is inter-administrative supervision and focuses on the supervision of lower and higher levels of governance like the municipality and the province.

The six principles of good supervision are also applied to the three types of supervision. For performance monitoring, each of the six principles are extensively discussed and the characteristics of each principle are given. For the first principle, selective supervision, it is stated that trustworthiness will lead to less supervision and that damaging this trust will lead to tighter supervision, explicitly stating that in some cases it leads to penalties. For the second principle of effective supervision, the position of the minister and the responsibility she carries is explicitly mentioned. It is stated that the minister, in this case the minister of education, culture and science, decides the moment and the gravity of the intervention.

The possibility to intervene is an important aspect of good supervision. The framework on supervision gives out the specifics of good supervision in the Netherlands and also gives an important role to intervening because it helps for a supervisor to 'not be a paper tiger but a tiger with teeth' (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2005, p.21). A possible tension in the relationship between the NVAO and the Ministry of Education, Culture and Science will be discussed in the next chapter.

So far the focus has been on supervision. As shown in the visualization of the supervisory process there are three steps to the process. Collecting information, judging information and if necessary intervening in the situation. The main focus of this paper is on the later, intervention. The term used to describe the activities surrounding interventions is regulation and a typology of regulation will be given next.

2.1. A typology of instruments for regulation

Supervisory bodies in the Netherlands use intervention instruments to adjust the behaviour of the actors they supervise, regulation. These instruments can be of a positive nature like rewarding an actor or a negative nature in which the supervisor punishes the party. Another factor is the severity of the reward/punishment. A fine can range from low to high and the severity of the instrument can, therefore, be easier observed. The severity of publicizing the name of an actor might be harder to define because it could be considered to be free advertisement or as a punishment depending on the way it is used. In this part a typology of regulation that supervisory body can use will be given. Furthermore, a classification of these options will be given.

Parker (2000) describes two different forms of regulation. The first form focusses on deterrence, using prosecution and punishment to make parties conform to the rules. The second form is described as compliance, using both persuasion and cooperation to compel the party to conform to the rules. Arguments in favour of compliance-based regulation are that organizations tend to favour long-term relationships with supervisory bodies as opposed to short-term gain. According to Ayres & Braithwaite (1992), the result is that firms persuade other firms to cooperate. This allows a supervisory body to use its limited resources more efficiently on the few organizations that do not conform to the expected norms. Another benefit is that increased compliance allows the supervisory body to set higher standards because only small groups need supervision.

Parker's (2002, p. 531) definition of compliance-oriented regulation is 'an outcome-based approach to total regulatory design (from initiation of regulation to enforcement) in which the likely interaction of public regulation with preexisting "regulatory space" to produce compliance or noncompliance with regulatory objectives is a central consideration'. He describes that the aim of compliance-oriented regulation is to encourage and provide incentives so that parties comply with the ruling norms rather than using punishments as the first regulatory tool. If an organization shows non-conformance to the rules, instead of directly punishing the offender there first should be a form of restorative justice. The goal of restorative justice is not only to punish the offender but also to change his behaviour.

Based on the work of Ayres & Braithwaite (1992) and Parker (2002) the starting point for intervention tools should be based on both persuasion and cooperation. Trying to compel organizations to uphold the rules by explaining the reason for them and by doing so building a long-term relationship with the organization. If an organization breaks the rules the first line of action should be focused on restoring the behaviour of the offender instead of punishing the organization with for example a fine. The next step is punitive actions and this step is considered important for the functioning of the restorative actions in the previous step (Durby & Paterson, 1993).

One typology for intervention tools is given by the Nuffield Council on Bioethics for the field of Public Health (Nuffield Council on Bioethics, 2007, p. 41). The Nuffield Council on Bioethics developed an intervention ladder with seven levels. The first four levels of this ladder are from a positive nature, using incentives to change behaviour. The base of the ladder, level zero, is to do nothing and only monitor the situation. The first level of intervention is to provide information. The goal of providing information is to educate and provide the general population with information, for example, that they should walk more. This can also be applied to organisations in which the organisations are informed of the preferred behaviour or the expected norm to which it should conform. The second

level is described as enabling choice. Organisations or groups that participate in a program that promotes certain behaviour are rewarded for their participation. A neighbourhood that collectively tends the gardens in their area is rewarded a playground is an example of this. The third level is to guide choices by changing the default policy. The fourth level is to guide choices through incentives. Bicycle usage can, for example, be promoted through tax benefits when purchasing a bicycle.

The last three levels of the ladder are focused on restricting choices and using disincentives. The fifth level is to guide choices through disincentives like higher taxes on cigarettes. The sixth level is to restrict the number of choices available like only allowing healthy alternatives or reducing the number of unhealthy ingredients in a product. The seventh and last levels are to eliminate choice entirely. Not allowing the sale of alcohol and tobacco under a certain age.

7	Eliminate choice
6	Restrict choice
5	Guide choice through disincentives
4	Guide choices through incentives.
3	Guide choices through changing the default policy
2	Enable choice
1	Provide information
0	Do nothing

Table 2: Regulatory ladder by the Nuffield Council on Bioethics

Griffiths & West (2015) state that one of the problems with the Nuffield Council on Bioethics intervention ladder is that it encourages a negative liberty view of autonomy. To balance the intervention ladder Griffiths & West (2015) give their own version of the intervention ladder as depicted in appendix 1. This alternative intervention ladder by Griffiths & West (2015) has a stronger focus on freedom as it characterizes the ability of choice as positive, where guiding or any infringement on autonomy is seen as negative and unwanted. Depending on the values of the organizations the choice for the next intervention tool when the organization wants to escalate might vary. If the organization wants to put an emphasis on autonomy it could use the intervention ladder as described by Griffiths & West (2015). If the emphasis is however not on autonomy but more on strictly regulation than the intervention ladder described by the Nuffield Council on Bioethics (2007) would be better suitable.

The Science and Technology Committee (2011) of the Parliament of the United Kingdoms has built upon the intervention ladder constructed by the Nuffield Council on Bioethics (2007) (see appendix 1). Eliminating and restricting choices are still the most far-reaching steps followed by guiding choices

through disincentives and incentives. The non-regulatory and non-fiscal measures are however structured in a different fashion using different steps. The next step after guiding choices (fiscal incentives in the regulatory ladder) is non-fiscal incentives and disincentives. This deviation enlarges the amount of non-regulatory and non-fiscal tools, doubling it from three to six different regulatory tools. The sixth step, described as non-fiscal incentives and disincentives is split up from the fiscal incentives. A clear reason is not given but one possibility is that fiscal incentives directly cost money and might, therefore, be harder to justify. Persuasion is the next step and is described as persuading individuals using arguments. This is closely related to the provision of information but specifically with the intent to compel the other party.

Providing information is part of the category called ‘nudging’ for which the Science and Technology Committee (2011) use the definition given by Sunstein & Thaler (2008): ‘... any aspect of the choice architecture that alters people's behaviour in a predictable way without forbidding any options or significantly changing their economic incentives. To count as a mere nudge, the intervention must be easy and cheap to avoid. Nudges are not mandates. Putting the fruit at eye level counts as a nudge. Banning junk food does not’. Providing information, changes to the physical environment, changes to the default policy and the use of social norms and salience all fall within this category that is considered to be the least intrusive.

10	Eliminate choice	
9	Restrict choice	
8	Fiscal disincentives	
7	Fiscal incentives.	
6	Non-fiscal incentives and disincentives	
5	Persuasion	
4	Provision of information	} Nudging
3	Changes to the physical environment	
2	Changes to the default policy	
1	Use of social norms and salience	

Table 3: the Science en Technology Committee intervention ladder

An alternative to the intervention ladder is the intervention pyramid. Braithwaite (2006) states that when combining informal and formal forms of regulation the number of ways to influence events multiply. With a large selection of tools to intervene a regulator has to ask itself what to use and when. One alternative is according to Braithwaite (2006) a responsive regulatory model. Responsive regulation is defined by Ayres & Braithwaite, (1992, p. 5) as: 'not a clearly defined program or a set of prescriptions concerning the best way to regulate. The best strategy is shown to depend on context, regulatory culture and history. Responsiveness is rather an attitude that enables the blossoming of a wide variety of regulatory approaches'. The responsive regulatory model is based on three principles. The first principle is to take note of the context and to consider all the informal and formal regulatory strategies. The second principle is that these strategies than in turn be ordered hierarchically from least intrusive to maximally intrusive. The third principle is focused on transparency and understanding. Regulators should create a dialogue in which they explain why regulation is necessary.

The responsive regulatory model prescribes according to Nielsen & Parker (2009) that regulatory policy should not be solely focused on deterrence or on a cooperative approach. Mascini & Van Wijk (2009) state that enforcers should not switch to a deterrence before first trying the cooperative approach and Ayres & Braithwaite (1992) state that the best way for regulatory agencies to achieve their goals is to find a balance between both models, raising the questions: When to punish, when to persuade? Theories that explain responsive regulation can be divided into three categories, economic calculative motivations, social motivations and normative motivations. Economic calculative motivations describe the fear of getting caught and the facing of (financial) sanctions. Social motivations describe the desire to gain approval from peers and normative motivations are about the desire to comply with regulations. The main contribution of responsive regulation theory is according to Nielsen & Parker (2009) the recognition that different people or firms have different motives to comply with the law.

The form that responsive regulations take is according to Braithwaite (2006) in the form of a regulatory pyramid. First designed by Ayres & Braithwaite (1992), regulatory pyramids have been used in various situations '*from dealing with school bullying to corporate crime*'. The base of the pyramid consists according to Nielsen & Parker (2009) with more cooperative strategies, leading to more punitive approaches at the top. Reeve (2011) adapts for her comparison between voluntary food industry codes and responsive regulatory measures the regulatory pyramid as set out by Ayres & Braithwaite (1992). In this adaption education, persuasion and information make up the bottom of the pyramid. The second layer consisting of administrative penalties (e.g. a warning letter), the thirds

layer consists of civic penalties, the fourth layer of criminal penalties and the fifth layer consists of inspirations (e.g. the revocation of a license).

Reeve (2011) describes responsive regulation as consisting of not one but two pyramids. The first pyramid is the enforcement pyramid as described by Ayres & Braithwaite (1992), consisting of various intervention tools like education and persuasion at the bottom and criminal penalties and incapacitation at the top. The second pyramid is the regulatory pyramid in which the tools that are available for the regulator are described. This pyramid consists of five levels with the bottom level of the pyramid consisting of voluntary compliance, the next level consists of self-regulation, the third level with co-regulation between the government and the industry, the fourth level consists of standards and regulatory laws holding the top of the pyramid. The bottom of both pyramids consists according to Reeve (2011) out of the most flexible, informal and persuasive measures, becoming more coercive and punitive at the higher ends of the pyramid.

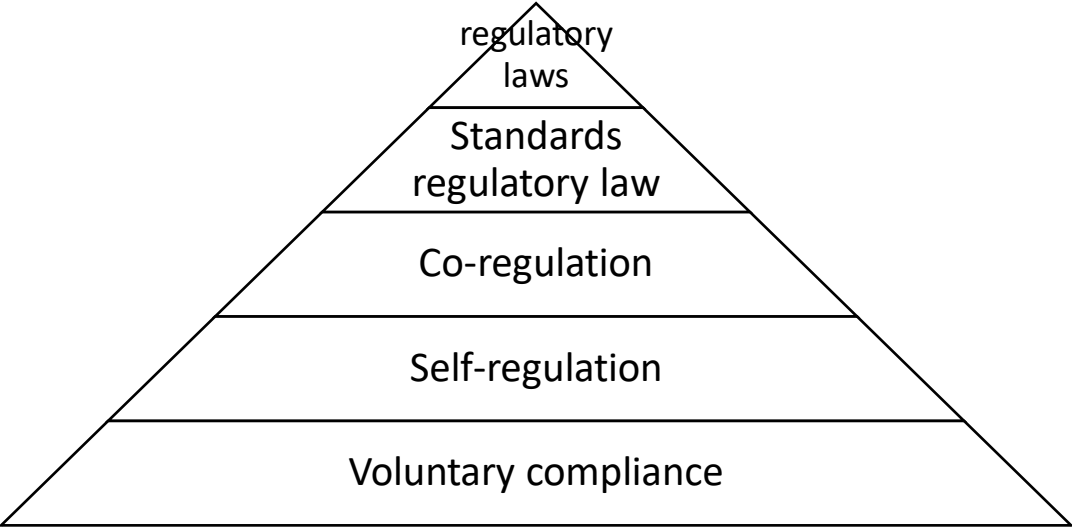
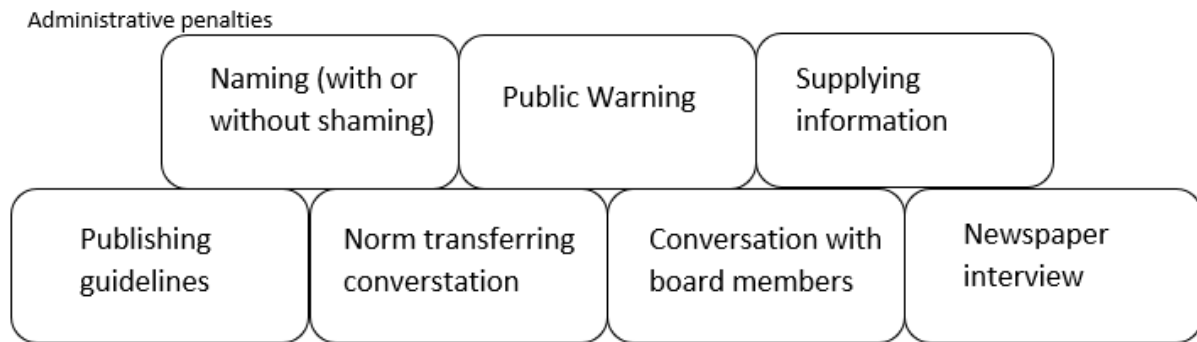


Figure 3: Regulatory pyramid (Reeve, 2011, p. 133)

There are significant differences between the intervention ladder as described by the Nuffield Council on Bioethics (2007) and the enforcement pyramid used in the responsive regulatory model by Ayres & Braithwaite (1992) in the build-up or levels of the structure. At the base of both models lies the provision of information. Where the ladder consists of more levels, the base of the pyramid is wider, leaving space for more intervention tools. The intervention ladder spreads out the incentives in a vertical way by first enabling the possible choices, followed by guiding choices through various measures. The pyramid does however spread out these tools in a horizontal way placing education, information and persuasion at the same level.



Education, persuasion, information.

Figure 4: Regulatory tools at the bottom level of the regulatory pyramid

The choices made by the Nuffield Council on Bioethics (2007) on the creation of their intervention ladder follow a hierarchy in the informal first part. This hierarchy in the informal intervention options section is partially missing in the Ayres & Braithwaite (1992) regulatory pyramid, the horizontal spread versus the vertical spread. Guiding choices, called persuasion in the regulatory pyramid, is split up in three steps. Each step stronger influencing the ability of the party to make a choice, described by Griffiths & West (2015) as reducing autonomy. The lower section of a possible regulatory pyramid is depicted in figure 4. In this pyramid the informative measures are at the bottom, allowing the supervisory board to better select the option that they find most suitable for the situation.

The top of both the ladder and the pyramid, both containing disincentives and the restriction or the elimination of choices, are to some extent similar. Administrative warnings, the second level of the regulatory pyramid, would be in line with guiding choices through disincentives. The third level of the pyramid, consisting of civil penalties, would be comparable to restricting choices or eliminating choices. An organization could still make the choice to show unwanted behaviour if it is willing to pay the price. Organizations or employees of that organization that violated the law might end up getting a civil or criminal penalty. Setting a law to prevent certain unwanted behaviour, therefore, falls within the same category as restricting and eliminating choice.

2.1.1. Temporary conclusion

The supervision process consists of all the activities that the supervisory body undertakes to make sure that organizations uphold the rules as set out in the law. This can include checking if the quality is adequate, checking whether public funds are well spent or if the supervised is not involved in any criminal activities. The supervisory activities consist according to the Ministry of the Interior and Kingdom Relations (2005) of 1) the collection of information, 2) judging the information and 3) if necessary intervening into the situation. Good supervision, in turn, needs to be selective, effective, cooperative, independent, transparent and professional.

The final step, intervening if necessary, is in the literature called regulation. There are two possible forms of regulation described. The first form is regulation as a form of deterrence, the second form is compliance-based regulation. Regulation as a form of deterrence can be considered to be in line with the statement of the Ministry of the Interior and Kingdom Relations that there should be an intervention when it is necessary. Compliance-based regulation does however also happen when there is no direct reason for intervening, deviating from the description of supervision as set out by the Ministry of the Interior and Kingdom Relations. Information, education and persuasion happen in most cases before any offences are committed and are used to persuade organisations to conform to the rules, prevention instead of a cure. This last form will be used for the typology on regulation as it offers various benefits when compared to regulation as a form of deterrence like reducing the amount of supervision needed, granting the ability to focus more on offenders.

The regulator models discussed are the intervention ladder and the regulatory pyramid. The benefit of the intervention ladder is that there exists a more vertical hierarchy for the informal regulatory options. The downside of the model is that it reduces the autonomy of the supervised organizations to which Griffiths & West (2015, p. 1097) offer an alternative. The regulatory pyramid spreads the same options more horizontally in the first two layers, allowing the supervisory body to easier select the tool which they find the most appropriate. A possible downside here is that each higher step the supervisory body takes is a more significant increase in comparison to the intervention ladder.

For this context, the intervention ladder is more suitable. The NVAO is looking for the possibility to extend their intervention options while already possessing some options as well. The intervention ladder can more easily position the existing options while pointing out possible gaps. These gaps can then, in turn, be supplemented with possible regulatory tools that Dutch supervisory bodies have available.

7	Eliminate choice
6	Restrict choice
5	Guide choice through disincentives
4	Guide choices through incentives.
3	Guide choices through changing the default policy
2	Enable choice
1	Provide information
0	Do nothing

Table 4: Regulatory framework used (Nuffield Council on Bioethics (2007))

2.2. Higher education and autonomy

Responsive regulation works most effectively according to Ayres and Braithwaite (1992) when it takes into account the context, regulation culture and the history of the sector that is being supervised. To see which intervention options are applicable for the NVAO a description of the Dutch higher education culture and the underlying management philosophy will be given. Based on this description the various regulatory options used by the supervisory bodies in other public sectors can be examined to see which option would best fit the situation of the NVAO.

Based on the policy document on higher education published in 1985, HOAK (higher education: autonomy and quality), and the subsequently published HOOP (higher education and research plan) documents, institutional autonomy is one of the key characteristics of higher education. Maassen (1987) states that the HOAK proposed self-regulation as a way to steer higher education. The development of a quality control system was seen as an important condition for self-regulation as opposed to central guidance and regulation that was the norm before the publication of the HOAK. An increase of institutional autonomy would result in an increase in the quality of the higher education sector according to HAOK (Maassen, 1987). Self-regulation combined with flexibility would, in turn, allow higher education institutions to react to societal changes.

Autonomy is described by the Scientific Council for Government Policy (1995) as one of the keywords in the first three HOOP's. Autonomy in this context is described as more distance from the government, allowing more administrative freedom to act flexibly in accordance with the three components of societal needs. The HOAK and the policies resulting from the HOAK are seen as an attempt to opening up universities to a wider variety of societal needs. Both the massification of universities and a stronger market orientation undermine the original autonomous position of universities which in turn also affects the cultural identity of universities.

The Advisory Board on Science, Technology and Innovation (AWT) states that the draft HOOP of 1998 reveals a number of contradictions in the government's higher education policy. On the one hand, government policy presupposes the independence of universities and colleges of higher education; the institutions must independently fulfil their quality and social mission. On the other hand, the practice of this policy means that the Minister of Education, Culture and Science will come up with a few process-oriented proposals, while the possibilities for steering by output - which would fit in with a relationship with independent institutions - are extremely limited. There seems to be a them/we culture. Trust is expressed, but in practice little of it seems to come to fruition. The AWT (1997) further states that universities have a high degree of autonomy but that the minister is restricting this autonomy in important areas by additional legislation and covenants. Examples of these are

restrictions on the ability to select students and not being able to determine the price of study programmes.

The HOOP of 2000 (Ministerie van Onderwijs, Cultuur en Wetenschappen, 1999, p. 12) again underlines the special relationship between higher education and the government stating: 'The government's concern for higher education is beyond dispute. However, the administrative relationship between government and institutions does change in character when there is more room for self-direction by institutions'. The HOOP states that in the future the government's responsibility will focus more on the functioning of the system as a whole, and to a lesser extent on the functioning of individual institutions or study programmes. The starting point for control for the ministry will be mainly based around quality. To achieve this the ministry will strive for national and international accreditation. Later the NVAO was, amongst other things, established for this task.

Following the HOOP documents, the plans of the government for the higher education sector are announced through the Strategic Agenda for Higher Education, Research and Science. The first strategic agenda from 2011 called *Kwaliteit in verscheidenheid* (Quality in diversity) describes the plans of the ministry of education to prepare the higher education system for the year 2025 (Ministerie van Onderwijs, Cultuur en Wetenschap, 2011). Autonomous universities are described as one of the strengths of the Dutch higher education system. The second Strategic Agenda for Higher Education, *waarde(n) van weten* (value(s) of knowledge) (2015), seems to put less focus on autonomy than the previous policy documents, mentioning the word only a single time and only in the case of student autonomy, not institutional autonomy.

2.2.1. Sub conclusion

Autonomous institutions are an important characteristic of the Dutch higher education system. At the time of the publication of the HOAK universities experienced a high degree of autonomy. During the various publications of the HOOP and the Strategic Agendas for Higher Education and Research autonomy still seems to hold an important position although it is mentioned less frequently. There is a tension between the role of supervision and institutional autonomy. The governments focus on quality, accessibility of education, increasing the study success of students, and increasing the connection with society also results in an increase of the importance of supervision.

3. Methodology

This research will look at the regulatory instruments of various Dutch supervisory bodies. To do this it is important to select cases on the basis of predetermined characteristics that cover an as wide selection of supervisors and regulatory tools as possible. According to Baxter & Jack (2008, p. 548) a multiple-case study: ‘enables the researcher to explore differences within and between cases. The goal is to replicate findings across cases’. A multiple-case study can be used according to Yin (2013) to predict similar results or to predict contrasting results but for predictable reasons. The goal of this research is to predict similar results over various supervisors, in line with the first usage as described by Yin (2013).

3.1. Case selection

The aim of this research is to compare the possible regulatory instruments available to supervisory bodies in the Netherlands. As first step we developed a theoretical framework (chapter 2) to classify the various types of intervention. Based on this framework we will explore the use of various intervention types in order to make a comparison between the possible regulatory instruments and the instruments available to the NVAO. The goal of this comparison is to come up with recommendations for instruments that would benefit the NVAO in their supervisory task. Currently there 85 different public and private supervisory bodies in the Netherlands (Toezichtmatrix, n.d.). Comparing the regulatory instruments of all these supervisory bodies would be too time-consuming for this research and in many cases also not relevant.

A set of criteria could be used to make a selection of the current 85 supervisors, reducing the number of supervisors to a feasible number for comparison. As stated by Ayres & Braithwaite (1992) and Nielsen & Parker (2009) in chapter two, there are good reasons to prefer responsive or compliance-based regulation over deterrence based regulation. Preferably both deterrence based and compliance-based regulators will be selected for this comparison as they might use different tools to regulate their specific field. An issue here is that during a first selection it might be hard to select a case on the basis of their regulatory style as this would require an in-depth study of the regulatory options of each of the cases. A possible solution is to specifically look for one case that is compliance-based or at the very least has a wider range of tools that guide through incentives. Another criterion is the accessibility of information. This desk research uses publicly accessible sources of information. Supervisory bodies with a larger number of available sources surrounding their supervisory activities will, therefore, be a more suitable case. The three supervisory bodies listed below all fall within these criteria. The Human Environment and Transport Inspectorate uses to some extent compliance-based

regulation and information is widely accessible through policy documents that can be found on the ministries websites and the relevant laws on supervision.

- Healthcare Authority / Nederlandse Zorgautoriteit
- Authority for the Financial Markets / Autoriteit Financiële Markten
- The Human Environment and Transport Inspectorate / Inspectie Leefomgeving en Transport

3.2. Data collection methods

The regulatory tools available to supervisory bodies can be divided into tools that have a direct legal foundation and informal tools that are not directly mentioned in law. The legal options are set out in specific laws that are published and accessible through the official government website (Rijksoverheid, n.d.). Each of the supervisory bodies needs to publish how they plan to fulfil their supervisory tasks. The Dutch Healthcare Authority (Nederlandse Zorgautoriteit, NZa) does this in a singular document on their website (Nederlandse Zorgautoriteit, 2014), the Authority for the Financial Markets uses multiple documents and websites to publish this information (Autoriteit Financiële Markten, 2019; Autoriteit Financiële Markten, 2015) and the Human Environment and Transport Inspectorate solely uses websites to publish and explain their intervention instruments (Inspectie van Leefomgeving en Transport, n.d.). By using these documents and websites the non-legal tools used by supervisory bodies are made accessible.

To search for literature on supervision it is important to be very specific in the keywords used. Supervision in combination with the words education or higher education will often result in literature on teacher-student supervision and not on agency-institution supervision. To specifically search for literature regarding agency-institution supervision the work of Ayres & Braithwaite (1992) on responsive regulation will be used as a starting point. By searching for literature that cited this source and related articles new literature on (responsive) regulation can be found.

Furthermore, literature can be found using a combination of the words listed below. Responsive regulation refers to the theory used in the work of Ayres & Braithwaite (1992). By using 'responsive regulation', including quotation marks, in <https://scholar.google.com/> relevant articles can be found. This is also true for the other combinations of words.

- Regulation combined with responsive, pyramid or ladder.
- Intervention combined with ladder or pyramid.

To analyze the documents found on the websites of the various ministries (<https://www.ilent.nl/>, <https://www.afm.nl/> <https://www.nza.nl/>) the theoretical framework as described in chapter 2.1. will be used. A description will be given of the various intervention instruments used by the

supervisory body and these will, at the end of the chapter, be placed within a framework. The structure that will be used will be the same as the structure used by the ministries in the policy documents, for example, separated on the basis of non-legal or legal.

Coding is required to analyze the policy documents as published by the various ministries. Gibbs (2007, p. 38) states that 'Coding is a way of indexing or categorizing the text in order to establish a framework of thematic ideas about it'. Since all the policy documents are written in Dutch the coding has to be done in Dutch as well. A translation of the different words used in coding will be given to provide clarity.

Dutch		English	
Categorie: Toezicht		Category: Supervision	
Subcategorie 1:	Interventie instrumenten	Subcategory 1:	Intervention instruments
Code:	Legaliteit (legal/non-legal)	Code:	Legality (legal/non-legal)
Code:	Doel	Code:	Purpose
Code:	Middel	Code:	Means
Code:	Regels	Code:	Rules

These codes will be used to analyse the functioning and objectives of the intervention instruments as they are available to the various supervisors. For each of the instruments the purpose will be described. Behavioural changes, punishment or reimbursement of costs are possible examples of purposes. The means describe the measures the supervisory body can take to achieve the purpose. A fine, subsidy or withdrawal of a permit are examples of activities that fall within this code. The rules describe the producers to whom the supervisor must adhere. Examples of rules are a maximum height of a fine, the opportunity for a possible offender to give his perspective on a situation or the requirement that the supervisor must first send a warning letter before it proceeds to sanctions.

3.3. Operationalization

The seven principles as described in the regulatory framework by the Nuffield Council on Bioethics (2007) will each have to be operationalized for the context of this research. The need for this operationalization is because the various regulatory tools available for the selected supervisory bodies can then be placed in the regulatory framework based on the characteristics that will be described here.

The first level of the regulatory ladder is to provide information and is described by the Nuffield Council on Bioethics (2007) as: 'Inform and educate the public, for example as part of campaigns to encourage people to walk more or eat five portions of fruit and vegetables per day'. The PLACE

Research Lab Project Team (2017) gives a more elaborate description of this step stating:

‘Interventions that aim to educate or provide information to the general public, but in a way so that individuals are still free to choose whether they want to uptake this information, and the information provided does not actively direct them to make a healthier choice’. The description by the Science and Technology Committee (2011) on providing information is: ‘Providing information in e.g. leaflets showing the carbon usage of household appliances’. One interesting note about their approach on the Nuffield Council on Bioethics (2007) is an additional step called ‘Use of social norms and salience’ which is being described as ‘Providing information about what others are doing e.g. information about an individual’s energy usage compared to the rest of the street’. Both of the described levels provide information from a different perspective.

The provision of information includes all the activities that give information with the intent to educate or to solely provide information. Providing information can be specific, for example by calling a company or sending a letter with the latest changes to all the organisations. They can also be of a more general nature, for example by publishing the results of their supervisory activities on the website. Naming would fall within the scope of this level but faming (pointing out the good aspects) or shaming (pointing out the negative aspects) would not. This could be seen as providing information but the intent is much stronger aimed towards changing behaviour.

The second level of the regulatory ladder is enabling choice. The Nuffield Council on Bioethics (2007) describes this level as: ‘Enable individuals to change their behaviours, for example by offering participation in an NHS ‘stop smoking’ programme, building cycle lanes, or providing free fruit in schools’. The PLACE Research Lab Project Team (2017) describes this level as: ‘Interventions that aim to facilitate a healthier choice by providing the knowledge and infrastructure to do so, and may explicitly direct or encourage individuals towards the healthier choice, but in a way so that individuals are still free to choose (without added harm or benefit) whether they want to use these resources or make the healthier choice’. In both descriptions there is a strong focus on health. In these cases the focus on health comes from the field the regulatory ladder is used in but this would also be applicable in this situation. The Science and Technology Committee (2011) refrains from this step as shown in the framework of supervision and appendix 2.

The focus of step 2, enabling choice, is on giving the individual or the organization that is supervised the ability to change their behaviour by giving the tools to make the choice. To an extent this shows similarities with step 4, guide choices through incentives. If for example to aim of an organization is to increase the number of children playing outside and to achieve this they build a playground one might question if building the playground can be seen as enabling choice or if it can be seen as an incentive. In certain cases it might be hard to determine when a regulatory tool can be labelled as

enabling choice and when a regulatory tool can be seen as guiding through incentives. For this research enabling choice describes all the tools that make options available that weren't previously available. If healthy eating is promoted and a school does not have fruit on the menu than a regulatory tool that puts fruit on the menu would fall within this category and a regulatory tool that subsidizes fruit would be seen as an incentive instead.

Guiding choices through changing the default policy is step 3 on the intervention ladder. The Nuffield Council on Bioethics (2007) sees this regulatory level as self-explanatory, giving only the following example: 'For example, in a restaurant, instead of providing chips as a standard side dish (with healthier options available), menus could be changed to provide a more healthy option as standard (with chips as an option available)'. The PLACE Research Lab Project Team (2017) describes this regulatory tool more extensively stating: 'Interventions that alter what the default option looks like, but individuals are still free to choose (without added harm or benefit) whether they want to make a healthy/unhealthy choice'. The Science and Technology Committee (2011) also supplies only examples: 'requiring people to opt-out of rather than opt-in to organ donation or providing salad as the default side dish'.

If the third regulatory should be seen as an incentive or a disincentive might depend on the policy that it is affecting and personal preference of the people affected. If vegetarian options are the new default policy than people who prefer a meat-based diet might experience this new policy as a disincentive. Changing the default policy is however not restrictive in nature as there should always be the option to choose the non-default option. If the default options are changed (e.g. meat-based to vegetarian-based) and the previous or in some cases an alternative option is not available any more than it is not a change to the default policy but instead it would fall under step 6 of the regulatory ladder, restricting choice.

Guiding choices through incentives is the fourth step and is described by the Nuffield Council on Bioethics (2007) as 'Regulations can be offered that guide choices by fiscal and other incentives, for example offering tax-breaks for the purchase of bicycles that are used as a means of travelling to work'. The PLACE Research Lab Project Team (2017) describes this regulatory step as: 'Interventions that encourage the general public to make the healthier choice by making it appealing to do so through incentives'. The Science and Technology Committee (2011) also described guiding choices through incentives but separates the incentives in the groups non-fiscal and fiscal. Non-fiscal regulation is described as: 'policies rewarding certain behaviour (e.g. time off work to volunteer)' and fiscal incentives are described as: 'fiscal policies to make behaviours financially beneficial (e.g. tax breaks on the purchase of a bicycle)'.

Guiding choices through incentives comes down to rewarding positive behaviour. This can be either directly with money, (e.g. a subsidy), in goods (e.g. a new playground) or through other non-fiscal incentives (e.g. more free time to raise children). These incentives can happen both before the actual behaviour has changed (e.g. tax cuts on the purchase of a bicycle) or afterwards.

The fifth step is the opposite of the fourth step as choices are now guided through disincentives. The Nuffield Council on Bioethics (2007) describes regulatory disincentives as: 'Fiscal and other disincentives can be put in place to influence people not to pursue certain activities, for example through taxes on cigarettes, or by discouraging the use of cars in inner cities through charging schemes or limitations of parking spaces.' The PLACE Research Lab Project Team (2017) describes regulatory disincentives as 'Interventions that discourage the general public from making unhealthy choices by making it unappealing to do so through disincentives or consequence'. The Science and Technology Committee (2011) also makes a distinction at this level between fiscal and non-fiscal regulatory tools. The description of the non-fiscal disincentives is similar to the incentives: 'policies penalising certain behaviour'. The fiscal disincentives are described as: 'fiscal policies to make behaviours more costly e.g. taxation on cigarettes'. Based on these descriptions there are no significant differences between fiscal incentives and disincentives except one being of a rewarding nature and the other being of a more punishing nature.

Restrict choice is described by The Nuffield Council on Bioethics (2007) as 'Regulate in such a way as to restrict the options available to people with the aim of protecting them, for example removing unhealthy ingredients from foods, or unhealthy foods from shops or restaurants'. The PLACE Research Lab Project Team (2017) describes restricting choice as 'Interventions that restrict the general public from deciding on whether they want to make a healthy/unhealthy choice, without completely banning these choices'. The Science and Technology Committee (2011) describes restricting choice as: 'restricting the options available to individuals e.g. outlawing smoking in public places'.

As opposed to changing the default policy there are options that disappear because of restrictions while leaving the preferred options available. Looking at regulatory tools like a fine or a charge under administrative pressure, the offender could choose to not heed the warnings sent out by the supervisory body. This choice does however not fall within the same scope as this regulatory step. This step only looks at restricting regulatory tools and not if the supervised organisation conforms to the restriction. In case of noncompliance, the regulatory agency has the ability to upscale their regulatory tools, a step up the ladder, to force the offender to comply.

The Nuffield Council on Bioethics (2007) describes eliminating choice as 'regulate in such a way as to entirely eliminate choice, for example through compulsory isolation of patients with infectious'. The PLACE Research Lab Project Team (2017) describes eliminating choice as: 'interventions that eliminate the general public's freedom to decide whether they want to make a healthy/unhealthy choice, through mandatory bans or compulsory healthy programs. This includes policies that eliminate choices for certain subpopulations or subsettings only'. The used definition of eliminating choice by the Science and Technology Committee (2011) is: 'prohibiting goods or services e.g. banning certain drugs'.

Eliminating choice, following the given definitions, removes all the options a person or organization has. It is not clearly stated if this leaves only one choice or no choice at all. Revoking a permit, resulting in a business being closed, is a clear example of eliminating choice as the business owner is no longer allowed to do business. Giving the business owner only one option before closing his business is to an extent also eliminating choice. From this perspective, both would fall under this regulatory step.

3.4. Ethical concerns

The main focus of this research is on comparing the regulatory options of multiple supervisory bodies with literature on supervision and regulation to propose intervention options that are applicable to the situation of the NVAO. The information used for this research is mainly collected through publicly accessible sources like the Dutch law and documents published by the various supervisory bodies. Because there is no data collected or used from any humans and no otherwise sensitive data is being used in this research there are no noteworthy ethical concerns.

3.5. Limitations

Only a relatively small fraction of the supervisory bodies in the Netherlands will be compared for this research, mainly because of time restrictions. By using various criteria to select a wide variety of supervisory bodies the aim is to research a wider variety of regulatory instruments. There does remain a chance that regulatory instruments used in the Netherlands will not be included in this research.

Another limitation is that some of the regulatory tools will only be tested for a particular group or organizations that might not directly relate to the groups or organizations that the NVAO regulates. The effect that a fine or the publication of the name of an offender might have on a company could significantly differ from the effect that the same regulatory tool might have on a university or a university of applied sciences. If the NZa, for example, has good experiences with giving a fine to

insurers than this does not automatically mean that the NVAO fining a university would give the same results. To reduce this effect the description of the administrative culture within higher education can provide a framework in which the various intervention tools can be placed to see if they would be appropriate to be used within the field of higher education.

4. The case studies

In this chapter, the cases as described in chapter 3.1 case selection will be investigated. First, a general description of the supervisory body and its activities will be given followed by the intervention tools available for these supervisory activities. In the sub-conclusion the intervention tools will be placed in a table to more easily display the findings. Finally, the intervention tools will be compared with the intervention ladder as set out by the Nuffield Council on Bioethics (2007) by placing the intervention tools at the appropriate step in the ladder. The order in which the cases are investigated follows the same random order as in chapter 3.1, which hold no specific meaning.

4.1. Dutch Healthcare Authority

The NZa is an independent administrative body (zbo) and the goal of the NZa is described by the government as: 'The NZa ensures that good and affordable care is available on time. The NZa makes rules for this and supervises care providers and health insurers' (Rijksoverheid, n.d.). Using this description of the activities of the NZa there are two types of objects of supervision for the NZa. The first type of object of supervision are the care providers in the Netherlands. The term care providers is an overarching term that consists of all the sectors of care within the Netherlands. The NZa has divided this care up in eleven sectors, include the health insurers. Because health insurers are named separately by the definition given by the government insurers will also be treated separately in this thesis. The ten remaining care sectors, which is the first type of object supervised by the NZa, are pharmaceutical care, birth care, mental health care and forensic care, general practice care, short-term care, long-term care, medical specialist care, dental care, paramedical care and home nursing (Nederlandse Zorgautoriteit, n.d.), the second type of object are the health insurers.

Health insurers are singled out by the government in the description of the supervisory activities of the NZa but a reason for this is not given. Looking at some characteristics of the various sectors one reasonable explanation could be that health insurers focus on financing care where the ten other sectors focus on providing care. This also raises the question of whether the NZa has different intervention options for the various sectors or whether they have one set of options that serve all their needs.

One of the ways the NZa supervises organizations is by giving citizens the option to request an assertion of a situation. If such a request granted, for example when a citizen has a reasonable suspicion that a dentist is charging too much, the NZa will investigate the matter. For a citizen to be able to request such an assertion he or she needs to have a stake in the situation and describe this stake, describe the alleged offence and person(s) involved, describe what is expected from the NZa and with as much evidence as possible. Based on the level of priority the NZa will take further actions

or might refer the situation back to either the insurer or the caregiver (Nederlandse Zorgautoriteit, n.d.)

According to the NZa (Nederlandse Zorgautoriteit, 2014, p. 5), their assessment, 'just as every other government regulator', is based around both risk-based and problem-oriented supervision but not every individual request will be researched and acted upon. For each of the supervision activities of the NZa there are four starting points.

- the main importance when enforcing the rules is the functioning of the system and with it the importance of it for the consumer.
- The choice for an enforcement tool is based on effectiveness and efficiency
- The NZa acts when there is a reason to act
- But certain activities get priority over others.

The working of the Dutch care system and the importance of it as described in the first starting point is further discussed by the NZa in how they operate and decide what intervention tool to use.

Whenever using a tool the NZa asks themselves the question: What would be the benefit for the consumer. These benefits are categorized as quality, accessibility and affordability with extra attention for freedom of choice and complete, correct and transparent information.

4.1.1. Instruments used by the Dutch Healthcare Authority

Non-legal instruments

The instruments used by the NZa can be divided into two groups, legal instruments and non-legal instruments. Of the non-legal instruments there are two specifically mentioned. The first one is to give information, mainly when the information in the laws and regulations are vague. An example of this is when one caregiver receives a formal remark and the NZa sends an explanation to the rest of the branch or an information letter to the branch organisations (Nederlandse Zorgautoriteit, 2014).

The second non-legal measure the NZa can take is that of publicity. The names of institutions can be made public in case of an offence so that it is clear for other parties which offence is committed and what the reaction of the NZa was. Another effect of this measure is according to the NZa that it can act as an (extra) reason for the party that committed the offence to change their behaviour. The opposite can also take place, organizations that perform exceptionally well are mentioned by the NZa. Other organizations can see which behaviour is considered good and for which behaviour they should strive.

According to van Erp (2011), this so-called naming (without shaming) is not to deter but to increase the 'transparency, visibility, and accountability of the supervision process'. Van Erp (2011, p. 303)

found while researching the Autoriteit Financiële Markten (Authority for the Financial Markets) that naming large financial institutions as a regulatory offender is not perceived as a threat to their reputation itself but more the possibility that the media publishes a story about it. If publicity is to be used as a penalty instead of a guidance tool only naming the offender is not enough, demonstrating the harmfulness and creating enough exposure would then be needed. For smaller organizations like financial intermediary services that the effect can work as a deterrence (van Erp, 2011). Publishing the names of offenders can have negative consequences like being stigmatized and adversarial.

Legal instruments

The legal instruments the NZa can use in their supervision activities can be divided into two groups. The first group consists of administrative actions the NZa can take and the second group consists of actions that fall under criminal law. These activities and their legal ground can be found back in the Healthcare Market Regulation Act (Wet marktordening gezondheidszorg), art 75. till art. 107.

The first instrument the NZa can use is the indication (art. 76 – 81, aanwijzing). The indication is described as a formal decision in which the NZa states what the offending party needs to do, not do, change or undo. For this alteration the NZa will give out a specified term in which they expect the offending party to make the appropriate change. The NZa gives the following reasons for the use of an indication:

- Regulation of prices, presentations and declaration options;
- Imposing obligations for the administration and the internal and auditing;
- The collection and provision of information to the NZa;
- compliance with generally applicable obligations of healthcare providers and insurers, including the provision of information to the consumer;
- The development and organization of the market
- Compliance with the healthcare law and the law on extended healthcare

The second instrument the NZa can use is a charge under administrative pressure (art. 82 – 84, last onder bestuursdwang). This instrument is used to collect the costs on the offender. The NZa does have the duty to inform the offender and to give the offender the to chance to restore any of the shortcomings made. Reasons given by the NZa to give a charge under administrative pressure are the same as the reasons for the indication with one addition:

- To make an offender comply with an indication within the stipulated period

The third instrument is a charge under penalty (dwangsom) and is used is to prevent future offences. For deciding the height of the charge the NZa has a certain degree of freedom but the height does

need to be proportional to the gravity of the offence and the intended effect of the penalty. If the penalty did not have the wanted effect the NZa has the option to give another, possibly higher, penalty. Another option if the penalty does not have the intended effect would be to use the second instrument, the charge under administrative pressure.

The fourth instrument is the administrative fine (art. 85 – 104, bestuurlijke boete). The goal of this fine (ranging from €500,000 or 10% of the revenue if that is more and in some cases up to €10,000,000) is to prevent the offence from happening again or to take away any financial benefits that the offender not would have had if not for the offence itself. Reasons to give a fine are the same as the reasons given for the first instrument.

Violations of the healthcare market regulation act can also be violations of the economic offences act (Wet op de economische delicten, WED). Offences that violate both acts are seen as an economic offence which in turn is considered to be a crime. In these situations the NZa works together with The Fiscal Information and Investigation Service and the prosecution.

4.1.2. Sub-conclusion

The NZa has in its supervisory role various tools at their disposal to force offenders to conform to the norms as set out by the NZa and the law. By doing so the intent is to protect the interest of Dutch citizens. The first two tools are non-legal and are therefore not included in the Healthcare Market Regulation Act. The goal of both tools, giving information and naming (without shaming), is to inform organisations of the norms and rules. This information can be given as a formal instruction or as a letter to the whole branch or branch organisations. Naming (without shaming) has certain favourable side effects. The visibility of the NZa as a supervisory is increased and naming can act as a deterrence when the organization is small. For larger organisations the harmfulness of the offence needs to be demonstrated and enough exposure needs to be created.

The NZa also has a range of legal tools to force the offender to positively change their behaviour. The first tool is the formal indication. The offender is informed in what to do, not do, change or undo and in what time period. The next tool is the charge under administrative pressure and its purpose is to collect costs on the offender and to make the offender comply with the formal indication. The third tool is the charge under penalty and the aim of this tool is to prevent future offences. The NZa has to a certain degree the freedom to decide the height of the penalty. The administrative fine is the fourth tool and is clearly defined in the law. Ranging with a maximum from €500,000 to 10% of the revenue for organisations (e.g. caregivers, hospitals) and €10,000,000 for insurers.

If the regulatory tools available to the NZa are compared to responsive regulation as set out by Ayres & Braithwaite (1992) and the regulatory ladder as set out by the Nuffield Council on Bioethics (2007) it becomes clear (see table 5) that the focus is on informing and on punishing or correcting behaviour. This deterrence based approach is made visible by the lack of regulatory incentives to guide or persuade the choices made by the supervised organisations.

4.1.3. Regulatory instruments of the Dutch Healthcare Authority

Non-Legal instruments	Goal	Rules and implementation	Healthcare Market Regulation Act art.	Severity/height fine
Supplying information	Informing the branch or branch organisations of norms and rules.	Can consists of formal instruction in a specific case or a general remark to the whole sector.	-	
Naming and/or faming	Same as supplying information with the additional effect of transparency, visibility and possibly as a deterrence.	The NZa decides on publishing names based on if it benefits the operation of the system or the interests of consumers.	-	
Legal instruments				
Formal indication	Making offender conform to norms	NZa sets a period in which the offenders needs to resolve the offence.	Art 76 - 81	
Charge under administrative pressure	Making the offender pay for any offences committed	NZa needs to inform the offender beforehand and the offender gets the chance to restore the issue before paying the fine.	Art 82 - 84	height depending on the offence committed.
Charge under penalty	Resolving offences. The purpose of the penalty is to restore and to punish.	Only used against insurers and healthcare providers.	Art 82 - 84	Freedom in deciding the height. The penalty, however, needs to be proportionate to the gravity of the offence.
Administrative fine	To punish the offender for the offence committed and to prevent the offence from happening again in the future.	Limited amount of offences for which an administrative fine can be used (see Nederlandse Zorgautoriteit, 2014, p. 16).	Art 85 - 92	Ranging from €2250 to €500,000 to €10,000,000 or 10% of the revenue depending on the organisation.

Table 5: Regulatory instruments of the NZa

The table depicting the regulatory instruments of the Dutch Healthcare Authority (table 6), gives an overview of the tools available to the NZa, the goal of the instruments, the rules surrounding the instruments, the relevant law and the severity or height. These regulatory tools are then placed in the theoretical framework on supervision as constructed in chapter 2.1., using the operationalization as described in chapter 3.3. Table 7 shows that there exists a gap in intervention options between providing information and restricting choice, showing that the NZa is using a form of deterrence based regulation.

	Levels of intervention	Regulatory tools available to the NZa
7	Eliminate choice	Administrative fine
6	Restrict choice	Formal indication, charge under penalty, charge under administrative pressure
5	Guide choice through disincentives	
4	Guide choices through incentives.	
3	Guide choices through changing the default policy	
2	Enable choice	
1	Provide information	Naming (without shaming) and supplying information
0	Do nothing	

Table 6: Regulatory tools of the NZa compared to the intervention ladder

4.2. Authority for the Financial Markets

According to the Dutch government (Rijksoverheid, n.d.), the financial markets are supervised by both the Nederlandsche Bank (DNB) and the Authority for the Financial Markets (AFM). The DNB is the supervisor for the whole financial system and focusses on financial stability for example by checking the financial stability of a company. The AFM supervises the way in how financial institutions treat their clients and how various parties interact with each other on the financial market. By stimulating honesty and transparency the AFM tries to protect costumers and the economic reputation of the Netherlands. The focus of this chapter will be on the supervisory activities of the AFM.

The AFM in its supervisory role focusses on banks, insurers, pension administration organizations, accountancy organizations, financial advisers, intermediaries, mortgage lenders and stock exchanges. The role of the NZa as supervisor has been discussed in the previous subchapter, including their focus on the activities of insurers. The difference between the activities of the NZa and the activities of the AFM is that the NZa focusses on the basic insurance and the AFM focusses on additional insurances (Autoriteit Financiële Markten, 2013). Not only do the NZa and the AFM divide tasks but in certain situations they also work together, for example in the case of financial reporting from health insurers (Autoriteit Financiële Markten, 2014).

An important principle of their supervision is according to the AFM (Autoriteit Financiële Markten, 2017, p.2) that the responsibility for proper compliance lies with the market parties themselves. The supervisor's task is to monitor the various parties and to make them comply with the regulations. As is the case for the NZa the AFM also uses risk-based and problem-oriented supervision. According to the AFM they have to prioritize cases because of the large number of cases they receive. Based on the risk the case may cause for consumers, investors and market parties the AFM decides to act or not.

This choice is according to the AFM based on the work of Sparrow (2008) stating that Sparrow's message is: 'Pick important problems, fix them, then tell everybody'. Societal problems are central, even more central than what is legal. 'The first thing a supervisor should focus on is behaviour that is both illegal and harmful, followed by behaviour that is harmful but not perse illegal. In the case of harmful behaviour that is not illegal the AFM uses an informal approach in which they inform the offender. Another option is that the AFM requests the legislator for more legal options on the matter.

The AFM states (Autoriteit Financiële Markten, 2017) that they use three forms of supervision: supervision at the gate, continuous supervision and problem-oriented supervision. This differs from

the previous statement in which they stated that the AFM uses risk-based and problem-oriented supervision. Supervision at the gate is described as the first step organisations have to take for access to financial markets. During this type of supervision the AFM only checks if the application meets the legal requirements. Another form of supervision at the gate is the assessment of new board members of financial companies.

The second form, continuous supervision, is done by maintaining contact with various companies and the focus can be on one or multiple companies or a whole market. An example of continuous supervision is a self-assessment tool like the Marktmonitor. The Marktmonitor is a questionnaire in which questions are asked regarding the activities and possible incidents that the may have organization had (Autoriteit Financiële Markten, 2019). Problem-oriented supervision is the third form of supervision, one of the forms also used by the NZa. The AFM describes this form of supervision as focused on a specific company and is being used after the AFM has received signals, information after doing research or a combination of both.

4.2.1. Instruments used by the Authority for the financial markets

Non-legal instruments

An extensive list of the various tools used by the AFM (see table 7) is provided by the AFM but not explained in-depth, in this chapter an attempt at explaining this list will be made. The choice for which intervention option is used is based on the effectiveness of the specific intervention option. The AFM, however, does not use the term non-legal but instead uses the term informal influence to describe the activities that are not included in the law. For reasons of continuity the term non-legal will be used to describe the informal influence activities of the AFM.

The first non-legal instrument named by the AFM is calling a listed company when there are notable transactions or price movements in the companies stock. The company then has the chance to explain these notable changes to the AFM. The intended effect is to create clarity for the financial market.

Another non-legal tool is the conversations with a party about norms in the financial field. This conversation happens after a party breaks a law and during this conversation, the AFM asks the party how they plan to conform to the norm and how they will prevent from deviating from the norm in the future. The idea behind these non-legal actions is to reduce the amount of legislation necessary and to prevent norm violating behaviour in an early stage.

Legal instruments

The legal instruments described by the AFM are charges by a prosecutor (overdragen van een zaak aan het Openbaar Ministerie), disciplinary complaint (Tuchtklacht indienen), sending a board member away (heenzending bestuurder), administrative fine with publication (bestuurlijke boete en publicatie), an independent burden with publication (individuele last met publicatie), withdrawal of permit (intrekken van een vergunning), charge under penalty and publication (last onder dwangsom en publicatie), public warning (publieke waarschuwing), silent curator (aanwijzing stille curator), the authority to make commitments (toezegging), setting limitations to permits (het instellen van beperkingen aan vergunningen).

The charge under penalty is used by the AFM to force companies to conform to a certain norm or to stop violating a certain norm. The amount for the charge can be either a one time sum, a sum for each a set amount of time during which the offender violates the norm or a set amount for each individual violation. If the offender resolves the issues in the predetermined amount of time no amount of money has to be paid (Autoriteit Financiële Markten, sd).

The administrative fine is filled in by a penalty officer from the AFM. The penalty officer is called in after the AFM detects an offence and the main task of the penalty officer is to advise the board if a penalty should be given and how high it should be. The penalty officer also contacts the offender to allow the offender to give his or her view on the situation. After a fine is given it is published by the AFM. The offender is allowed to object the fine in which case the AFM will reconsider the fine. If the objection is found to hold no ground than the offender can appeal the fine with the Board of Appeal. When the Board of Appeal also denies the objection the fine is final (Autoriteit Financiële Markten, sd). The height of the fine is based on a roadmap as set out by the AFM, based on seven steps (Autoriteit Financiële Markten, 2015).

Another tool the AFM can use is the withdrawal of a permit. This can happen on the request of the permit holder or on the initiative of the AFM. The AFM withdraws a permit when a company does not meet the norms as set out by the AFM and when there is no other option to make the offender conform to norms.

The disciplinary complaint is used against an accountant. If there is a reasonable suspicion that the accountant has neglected to report fraud to the public prosecutor the AFM can fill in a disciplinary complaint to the Audit Chamber. The Audit Chamber has various tools to punish or warn the accountant. The tools the Audit Chamber has to their disposal are a warning, a reprimand, a fine, a temporary cancellation of the accountant's registration and permanent cancellation of the accountant's registration.

4.2.2. Sub-conclusion

The AFM has in its supervisory role a large selection of both informal and formal tools to their disposal. The AFM oversees a large number of different organisations, institutions and companies and some of the intervention options that the AFM has focuses on a small, specific section of the organizations they supervise. Supervision on accountants falls for example within the scope of the activities of the AFM but outside of the Financial Supervision Act, instead it falls under its own law, the Audit Firms Supervision Act.

There are ten informal instruments that the AFM uses to influence the behaviour of companies, organisations and individuals. These tools are not so much designed to punish the other party but more often to inform. The tools of the AFM strongly focus on restricting and eliminating choice. As shown in table 8 the focus of the regulatory tools is on one side very strong on providing information but on the other side, it switches immediately to disincentives. From this perspective, the regulatory options available do not match responsive regulation as described by Ayres & Braithwaite (1992), Nielsen & Parker (2009) and the regulatory ladder as set out by the Nuffield Council on Bioethics (2007). It is more an example of deterrence based regulation with only options for informing and punishing.

Non-legal	Legal
Publication dashboard scores/research rapport	Charges by prosecutor
Publishing guidelines	Disciplinary complaint
Round table meeting	Sending a board member away
Newspaper interview	Administrative fine with the publication of the fine
Benchmarking results	Independent burden with the publication
Assessment of the adaptability of financial companies	Withdrawal of permit
Self-assessment	Charge under penalty and publication
(informal) conversation with board members	Public warning
Re-assessment of board members	Silent curator
Faming or shaming	Authority to make commitments
	Setting limitations to permits

Table 7: Instruments used by the AFM

4.2.3. Intervention instruments Authority for the financial markets

Table 3:

Non-Legal instruments	Goal	Rules	WFT art.	Severity/height fine
Calling a company	Creating clarity for the financial market.	Reason of contact is based on notable public information like unusual price changes.	-	
Normtransferring conversation	Restoring the breached norms and preventing future violations.	The conversation is initiated after the norm/law is broken.	-	
Legal instruments				
Charge under penalty	Conform to a certain norm or to stop violating a certain norm.	The offender gets the chance to conform to the rules and by doing so.	Art 1:79	one time sum, a sum for each a set amount of time or a set amount for each individual violation.
Administrative fine and publication	Punishing offender for breaking the law.	The penalty officer decides if there is a fine and how high it will be. The offender has two opportunities to appeal the fine.	Art 1:81	Ranging from €10,000 to €40,000,000 depending on the organization/company.
Withdrawal of a permit	To protect the general interest when there is no other way to make the organization conform to the set out norms.	Initiative of either the permit holder or the AFM.	Art 1:104	High, after a permit is withdraw an organization may lose its ability of operate.
Disciplinary complaint	Focussed on accounts to make sure they report potential fraud.	Decision made by the Audit Chamber after a complaint by the AFM.	WTA (Disciplinary Court Accountants Act) Art. 2	a warning, a reprimand, a fine, a temporary or permanent cancellation of the accountant's registration.

Table 8: Regulatory instruments of the AFM

As is the case for chapter 4.1.3., table 9 gives an overview of the regulatory tools available to the Authority for the Financial Markets and the second table, table 10, places the various intervention instruments into the regulatory framework from chapter 2.1., by using the operationalization described in chapter 3.3. As is the case for the Nza, the AFM is using a form of deterrence based regulation as shown in the gap of intervention options between 1. providing information and 4. Guiding choices through incentives. The AFM does, however, has the option to guide choices through disincentives in the form of a public warning, allowing the AFM to more specifically react to situations.

	Levels of intervention	Regulatory tools available to the AFM
7	Eliminate choice	Withdrawal of a permit, disciplinary complaint (depending on the final punishment), administrative fine and publication, (silent curator)
6	Restrict choice	Disciplinary complaint (depending on the final punishment), charge under penalty, silent curator
5	Guide choices through disincentives	Public warning (e.g. shaming)
4	Guide choices through incentives.	Faming
3	Guide choices through changing the default policy	
2	Enable choice	
1	Provide information	Calling a company, newspaper interview
0	Do nothing	

Table 9: Regulatory tools of the AFM compared to the intervention ladder

4.3. Human Environment and Transport Inspectorate

The Dutch Human Environment and Transport Inspectorate (Inspectie Leefomgeving en Transport, ILT) is the supervisor of the Ministry of Infrastructure and Water Management. The goal of the ITL is described by the Dutch government as to work on the safety in the transport, infrastructure, environment en housing sectors (Rijksoverheid, n.d.). Based on this description the ITL supervises four different sectors. On the one side, this may offer a wider variety of regulatory tools. On the other side the chance exists that there are four different supervisory bodies within the ITL, each supervising one sector. The constructed models as shown in 4.1.4. and 4.2.4. might in that case not be sufficient.

The ITL describes in their regulatory approach the usages of an intervention ladder (Inspectie van Leefomgeving en Transport, n.d.). The ITL does however not state whether their intervention ladder is based on the work of the Nuffield Council on Bioethics (2007) or on another theory. The constructed intervention ladder is based on five categories of intervention:

- Preventive intervention
- Corrective intervention
- Repressive intervention
- Punitive intervention
- Reputative intervention

Within these categories the public prosecutor is responsible for the punitive intervention options where the ITL is responsible for the other four categories. There are restrictive conditions when using this intervention ladder for the ITL. For some offences multiple intervention options are possible. This follows the idea of the regulatory arena as set out by Ayres & Braithwaite (1992) in which for each specific offence there must be a certain range of intervention options available to effectively handle the situation. Certain other intervention options are only able to be used after previous options have been tried (Inspectie Leefomgeving en Transport, n.d.).

Corrective interventions may be followed by another corrective intervention and a combination of different punitive sanctions is also allowed. Corrective or repressive interventions may, in turn, be combined with punitive interventions but only if they each protect a different interest. For a combination of these sanctions it is up to the inspector to substantiate the reason for this combination of interventions. Repressive and corrective intervention options may also be combined if necessary. Two corrective intervention options may not be applied at the same time but only one after the other. Another restriction is that there may not be a combination of repressive and punitive intervention options for the same offence.

When a situation is considered to be so dangerous that immediate intervention is deemed necessary the ITL inspector has the power to use alternative intervention options to immediately intervene in a situation. These interventions do fall out of the scope of the intervention ladder used by the ITL as these intervention options are embedded in laws like the Railways Act or the inland shipping law.

The NZa and the AFM made in their description of the available regulatory tools a division between the non-legal and the legal tools. The ITL does mention when certain regulatory tools are considered to be of a non-legal nature but instead make a division of the regulatory tools based on the five categories used in their intervention ladder. For the next subchapter a division for non-legal and legal tools will be made for consistency but the format that will be used will be the same format as used by the supervisory body.

4.3.1. Instruments used by the Human Environment and Transport Inspectorate

Preventive regulatory tools

The intervention ladder used by the ITL starts off with preventive regulatory tools. Collective communication, providing information and naming and faming is part of this first step. Naming and faming is used by the ITL to reward companies in the hope that other companies follow the behaviour of the company that is being rewarded (Inspectie Leefomgeving en Toezicht, n.d.). Collective communication and providing information are to an extent the same regulatory tool as both are based around supplying various parties with information. Collective communication is focused on supplying a whole sector or branch with the information where the providing information step is more focused on the individual. The ITL gives the following examples of supplying information (Inspectie Leefomgeving en Transport, n.d.):

- Oral information from the inspector (mondeling informatie van de toezichthouder)
- Information on the ILT website (informatie op de website)
- Information meetings by sector (Informatie bijeenkomsten per sector)
- Folders and fact sheets (Folders en feiten lijstjes)
- Information campaigns (for example about enforcement of new regulations) (informatie campagnes)
- Publicity following inspections (publicatie na inspectie)

Corrective regulatory tools

Corrective interventions are used by the ITL to restore the damage done by offenders or to prevent offences from happening in the future. For each of the corrective interventions the offender has the time to resolve the issue and to prevent any potential sanctions.

A warning letter (waarschuwingsbrief) is the first tool the ITL uses to inform an offending company of the offence it is committing. The warning letter is described by the ITL as an informal intervention tool which has an additional effect, the offending company is not able to appeal the letter. The warning letter itself has to contain a clear description of the offence committed, a set of measures the offender can take to restore the situation and a timeframe in which the offender is expected to restore the situation (Inspectie Leefomgeving en Transport, n.d.). A conversation with the board members (gesprek met raad van bestuur) of an organization is another corrective intervention instrument the ITL can use. This is considered an informal intervention option and just as the warning letter it can not be appealed. A conversation with the board members happens after the warning letter is sent and is considered by the ITL to be an effective tool in resolving situations and preventing future offences (Inspectie Leefomgeving en Transport, n.d.).

The next corrective intervention instrument is an objection of the Wabo license¹ (bezwaar tegen de Wabo vergunning). Every company or organization that wants to build in or use the surroundings in the Netherlands is required to possess a Wabo license. The ITL actively uses the Wabo license application to make companies reconsider the decision they made. During these applications everyone is able to give their opinion or perspective on the draft decision (Inspectie Leefomgeving en Transport, n.d.).

The ITL can increase its supervision activities (verzwaring toezicht) after a serious incident, multiple complaints or when an organization does not resolve and issue quickly enough. Increased supervision is however not laid down in laws or rules. This gives the ITL inspector room to tailor the increased supervision to a particular situation. Before the ITL increases its supervisory activities a conversation with board members is customary. Two conditions apply for increased supervision, the offender needs to be informed about increased supervision beforehand and the ITL needs to inform the company under which conditions the increased supervision will be lifted (Inspectie Leefomgeving en Transport, n.d.).

The goal of the charge under penalty (dwangsom) is a penalty with as goal to recover a situation or to prevent the situation from happening in the future. It can be used to restore infringements but it can also be used in a preventive way. The ITL uses the charge to try to force the offender to change his behaviour. If this behaviour is not changed in the predetermined timeframe it has to pay the predetermined fine. The ITL inspector is only able to use the charge under penalty when it has the legal power to do so and when there is an (imminent) violation. Before a charge under penalty enters

¹ The Wabo (Wet algemene bepalingen omgevingsrecht) license is required to build in the surroundings. An objection of this license may result in the license not being given, thus prohibiting the usage of the surroundings.

force the ITL first sends a warning letter. This is not a warning letter as the already described regulatory tool but a letter stating the intention of the ITL to set out a charge under penalty. The offender gets the chance to share its perspective on the situation. If this perspective does not result in a deviation from the charge than the charge goes into force. After the charge entered into force an ITL inspector has the power to check if the offender has changed its behaviour. If the offender has changed its behaviour the charge does not automatically disappear. An ITL inspector can check again in the future and if he finds that the offence is currently being committed again the offender still has to play the initial penalty. The high of the penalty is not specified but the ITL does state that it should be as high as necessary to force the offender to change its behaviour (Inspectie Leefomgeving en Transport, n.d.).

The charge under administrative pressure (last onder administratieve dwang) is like the charge under penalty a restorative sanction aimed at restoring damages caused by the offender. The difference is that the charge under administrative pressure directly tries to recover the cost of the damages on the offender. The ITL acts and tries to recover the costs on the offender. With the charge under penalty the ITL tries to make the offender act with a potential impending fine. The charge under administrative consists of two parts. The first part consists of an order to restore the damages done. The second part consists of the jurisdiction of the ITL to restore the damages themselves and to recover the costs of these restorative actions on the offender. The ITL does have to inform the offender beforehand of their intent to charge the offender for its shortcomings. The offender then has the opportunity to share its perspective on the situation, just as happened with the charge under penalty. In extreme cases the ITL inspector can make an exception to this rule. For example, if there is immediate danger (Inspectie Leefomgeving en Transport, n.d.).

Repressive regulatory tools

The aim of repressive regulations is focused on punishing the offender. To an extent there is also the aim to undo the offences committed like is the case for corrective regulations but repressive regulation deviates from this by also punishing the offender on top of trying to correct its behaviour.

The administrative fine (bestuurlijke boete) is the first repressive regulatory tool described. As opposed to the corrective regulatory tools like the administrative charge the administrative fine always has to be paid, even if the offender adjusts its behaviour. Before the offender has to pay the fine the ITL inspector has to inform the offender of its intention to give out the fine. The offender then has the possibility to share its perspective on the situation. After this offender has given its perspective and any possible effect it may have had on the fine has happened the offender is presented with the fine. The height of the fine is laid down in the law and the way the ITL interprets

this law can be found back in a specific fines policy. Each of the various fields the ITL supervises has a specific law and policy document that states under which conditions the height of a fine is decided (Inspectie Leefomgeving en Toezicht, n.d.). In the case of inland shipping the administrative fines are a fixed height. Research agency Panteia (2018) states about inland shipping fines with a fixed height that it limits the policy freedom of the supervisor.

The administrative penalty decision (bestuurlijke strafbeschikking) is in many ways similar to the administrative fine. The major difference is that the administrative penalty decision punishes a criminal offence. The ITL gives the fine but any appeal of the fine goes to the public prosecution. Examples of offences that fall under the administrative penalty decision are offences that pollute drinking water, offences surrounding asbestos or offences regarding dangerous amounts of radiation (Inspectie Leefomgeving en Transport, n.d.).

Withdrawal or suspension of permit, certificate or acknowledgement and the operating ban or closure of a business (intrekken of opschorten van een vergunning / sluiten van een bedrijf) are the next regulatory steps and are considered by the ITL to be heavy intervention tools. The consequences when a permit is suspended can be severe. The ITL described loss of income as one of the major effects. Suspension of a permit does often not happen as the first regulatory option but tends to follow when multiple corrective regulatory tools do not have the desired outcome (Inspectie Leefomgeving en Transport, n.d.).

Reputation regulatory tools

Naming and faming (publicatie en prijzen) is named by the ITL as a preventive regulatory tool to adjust behaviour before an offence is committed. The opposite of this tool, naming and shaming, can be used if other regulatory tools do not have the desired outcome. This tool is from an informal nature and is considered by the ITL to be of a punishing nature. Shaming creates negative publicity and reputational damage that is very hard to reverse. Because of these reasons, it is a tool that the ITL only uses in few situations (Inspectie Leefomgeving en Transport, n.d.).

Punitive regulatory tools

Punitive regulatory tools are located separately from the other four regulatory categories as the responsibility of these intervention tools are not located with the ITL but instead with the public prosecutor. The ITL has made an agreement for certain supervisory domains with the public prosecutor surrounding which offences will be handled by the public prosecutor and which offences will be handled by the ITL. The penalties that can be given are the penalties that are named in the general criminal law like a fine, a prison sentence or community service.

Legal / non-legal

The division between legal and non-legal tools is clearly pointed out by the ITL in their description of the used regulatory categories. Regulatory tools can, in turn, be divided based on various categories. In the first two cases this division was done on the basis of its legal status, if the tool was embedded in the law or not. The ITL divided the regulatory tools on the basis of regulatory steps as used in the intervention ladder. To see if the regulatory tools used by the ITL are comparable from a legal/non-legal perspective an overview of the legal/non-legal ITL regulatory tools will be. The punitive regulatory tools are clearly embedded in the law but since the public prosecution has the lead in the usage of this tools it will not be included in this overview of the regulatory tools used by the ITL.

Non-legal	Legal
Naming and faming	Charge under penalty
Collective communication/ providing information	Charge under administrative pressure
Warning letter	Administrative fine
Increased supervision	Administrative penalty decision
Naming and faming	Withdrawal or suspension of a permit
	an objection of the Wabo license

Table 10: Non-legal / Legal status of the ITL regulatory tools

4.3.2. Sub-conclusion

The ITL is the only supervisory body in this research that uses an intervention ladder for their regulatory activities. The intervention ladder uses various categories of increases severity to regulate the behaviour of the supervised companies. This increased severity can also be found back in the within the various categories itself. When a company commits an offence the first action is usually to send a letter of warning unless the offence is of such severity that immediate actions are required. If the warning letter does not have the desired outcome the ITL will have a conversation with the board members of the company. If these informal tools do not give the desired outcome than the ITL will use a charge under administrative penalty to try and force the offender to act or the ITL can act itself and make the offender pay for the costs.



Figure 5: Regulatory steps of corrective intervention used by the ITL

These intervention steps and the intervention ladder as used by the ITL closely resemble the regulatory arena as shown in figure 1, described by Ayres & Braithwaite (1992). For each level of possible committed offences there is a range of (politically) acceptable regulatory options available. A wider selection of regulatory tools allows the ITL to better and more precisely respond to situations.

4.3.3. Intervention instruments

Preventive	Goal	Rules
Collective communication/ providing information	Letting companies know the rules and the norms. Both for individuals and organizations.	Various tools e.g. oral information, pamphlets, website, folders and factsheets.
Naming and faming	Rewarding companies so other companies follow the first companies behaviour.	Companies need to have a covenant with the ITL to be famed.
Corrective		
Warning letter	Informing the offender of its offence.	Needs to contain 1) description of the offence, 2) set of measures to the offender can take in order to restore the offence, 3) a timeframe in which the offence should be resolved.
Conversation with board members	Exchanging viewpoints and resolving the offence.	Happens if a warning letter has not had the desired outcome.
An objection of the Wabo license	Showing the organization different viewpoints so they reconsider their current path.	Reactive in nature. The different viewpoints can be brought in by everyone, not only the ITL.
Increasing supervision activities	More closely monitoring the offender.	Only after a serious incident, multiple complaints or not resolving offences. ITL needs to inform the offender about increased supervision and how to resolve the issue.
Charge under penalty	Recover a situation or preventing it in the future.	A warning letter stating the intention of the ITL to enforce a charge under penalty needs to be sent before the charge can enter in force.
Charge under administrative pressure	Recovering a situation and collect the cost on the offender.	Need to inform the offender beforehand of the charge.
Repressive		
Administrative fine	Punishing an offender and recovering a situation.	ITL needs to inform the offender of the fine so it can offer its perspective. Height of the fine is based on a field-specific policy document.
Administrative penalty decision	Same as administrative fine except it punishes a criminal offence.	Only for a specific set of offences (e.g. fireworks, drinking water, asbestos).
Withdrawal or suspension of a permit	Temporarily or permanently forcing the offender to stop its activities.	Happens when multiple corrective instruments do not have the desired outcome.
Reputative		
Naming and shaming	Adjusting behaviour if other regulatory tools do no give the desired outcome. Causes reputational damage.	Considered to be a heavy measure because of the irreversible reputational damage. Only in exceptional circumstances used by the ITL.

Table 11: Regulator instruments used by the ITL

The Human Environment and Transport Inspectorate is the only one of the compared supervisory bodies that name and use the intervention ladder in their supervisory activities. When the regulatory activities of the ITL are placed in the framework on supervision as given in chapter 2.1. (table 13), it shows that more steps of the ladder are filled. This is, in turn, characterises it more as responsive regulation than as deterrence based regulation. Comparing the intervention ladder used by the ITL with the regulatory arena as described by Ayres & Braithwaite (1992), then for most of the possible offences there are multiple regulatory tools to respond with. Even though the ITL has an extensive list of intervention instruments available to regulate with it, the options to guide choices through changing the default policy and the option to enable choice are still left open. One of the possible reasons these options are left open is because the ITL based their intervention ladder on a different intervention ladder that did not include these options. As shown in appendix 2: Table of interventions by the Science and Technology Committee, an intervention ladder can consist of additional steps depending on the theory used. Another possibility is that these steps are very situational and not relevant for the supervisory activities of the ITL.

	Levels of intervention	Regulatory tools available to the ITL
7	Eliminate choice	Withdrawal or suspension of a permit, administrative fine
6	Restrict choice	Charge under penalty, charge under administrative pressure, administrative penalty decision
5	Guide choice through disincentives	Naming and shaming, increasing supervision activities, objection to the Wabo license
4	Guide choices through incentives.	Naming and faming
3	Guide choices through changing the default policy	
2	Enable choice	
1	Provide information	Collective communication/providing information, Naming, warning letter, conversation with board members
0	Do nothing	

Table 12: Regulatory tools of the ITL compared to the intervention ladder

5. Analysis

The analysis of the intervention tools used by the three compared supervisory bodies, the NZa, the AFM and the ITL will consist of three steps. The first step is to summarize the intervention options used by the NZa, AFM and ITL into one table (table 13). Step two consist of comparing each of the levels of the intervention ladder, as set out by the Nuffield Council on Bioethics (2007), with the intervention options available to the NZa, the AFM and the ITL. In the third step the current intervention options of the NVAO and the intervention options that might be useful for the NVAO will be placed in one table, creating table 14.

	Levels of intervention	Regulatory tools available to the NZa	Regulatory tools available to the AFM	Regulatory tools available to the ITL
7	Eliminate choice	Administrative fine	Withdrawal of a permit, disciplinary complaint (depending on the final punishment), administrative fine and publication (silent curator)	Withdrawal or suspension of a permit, administrative fine, administrative penalty decision
6	Restrict choice	Formal indication, charge under penalty, charge under administrative pressure	Disciplinary complaint (depending on the final punishment), charge under penalty, silent curator	Charge under penalty, charge under administrative pressure
5	Guide choice through disincentives		Public warning (e.g. shaming)	Naming and shaming, increasing supervision activities, objection to the Wabo license
4	Guide choices through incentives.		Faming	Naming and faming
3	Guide choices through changing the default policy			
2	Enable choice			
1	Provide information	Naming (without shaming) and supplying information	Calling a company, newspaper interview	Collective communication/providing information, Naming, warning letter, conversation with board members
0	Do nothing			

Table 13: Overview of the regulatory tools available to the NZa, AFM and ITL

Provide information

The first level of the intervention ladder, providing information, holds regulatory options from all the supervisory bodies investigated in this research. Intervention options that fall within this category are the case of the Nzanaming (without shaming) and supplying information. The AFM contributes to this level with the intervention option of calling a company and a newspaper interview. The ITL uses a warning letter, conversation with board members and collective communication and naming. Providing information as used by the compared supervisory bodies has as the main goal to inform the various parties that are involved in the respecting field of the existing or changing norms, violations of these norms or to collect additional information (e.g. conversation with board members). For the NVAO these intervention options could contribute to their ability to inform universities or other stakeholders of new or changing norms, possible violations of the norms or as a way to collect additional information.

The first of these options, naming (without shaming) is one that the NVAO is already using in two ways. The first way is by publishing the accreditation reports on their website (named publicizing accreditation reports in table 14). The second way is by specifically mentioning successful accreditations of both institutions and programs on the Dutch version of its website. Because this only seems to be the case for positive news it would more fall within the scope of faming than it would fall within the scope of naming.

The intervention option of calling a company (in this situation calling a higher education institution) would not be suitable as an intervention option for the NVAO. How an intervention option affects the autonomy of a university is an important factor in deciding which intervention options would suitable and which will not be suitable. If a program has to improve the quality within the recovery period and the NVAO would call the university to check up upon the progress of the program it would affect the autonomy of the university to a certain degree.

The newspaper interview can be a positive addition to the intervention instruments used by the NVAO. To an extent there are already interviews published, for example, the dialogue between current and previous chair of the NVAO, published on the website of ScienceGuide (ScienceGuide, 2015), which is not a newspaper but an online source. The number of publications are however few and mainly through specific sources, like the website ScieneGuide which focusses on the higher education sector. By seeking more publicity the NVAO is able to explain higher standards, general shortcomings or any behaviour it likes to see changed without influencing the autonomy of universities. The AFM specifically mentions the newspaper interview to achieve these objectives but

seeking publicity can also be done using other platforms. The NVAO could, for example, use Youtube or Instagram as a platform to explain accreditation decisions to a wider audience.

Using the description of collective communication as used by the ITL, the NVAO is already performing collective communication to some extent as shown in the information provided on their website or through publication of a newsletter. An addition for the NVAO besides information on the website and the newsletter would be factsheets and folders as used by the ITL. These folders can be used to specifically provide information to relevant persons or more for the general provision of information. In the case of the general provision of information (e.g. factsheets distributed in places where students meet), it would match the objective of the usage of social and mass media and could to an extent be used together, for example by referring in the fact sheet to the Instagram or Youtube page.

A warning letter, as described by the ITL, can be used when an offence is committed. In the case of the NVAO the main 'offence' an educational institution can commit is a decrease in quality, currently resulting in being forced into a recovery period and a conditional accreditation. The warning letter itself is a good intervention instrument as it allows organisations to increase their intervention activities step by step. First trying to deescalate before actually punishing the offender if the offending behaviour is not changed. A requirement for sending a warning letter is that the NVAO needs to be aware of offences committed and this would require an increase of the supervisory activities. The Ministry of the Interior and Kingdom Relations (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2005, p. 10) summarized supervision as collecting information, judging information, and if necessary intervening. Increasing direct supervision of universities would not be in line with the idea of trusting universities where possible. One possibility might be similar to how the Nza collects information in which relevant third parties would be able to ask the supervisor to force an institution to provide the information requested. To what extent this would create a tension with the supervisory activities of Inspectorate of Education is however not part of this research.

The conversation with board members can be seen as an extension of the warning letter. The conversation with board members would be the second step of the step by step increase that was described for the warning letter. First, the warning letter would warn and if that does not have the desired effect than the board members would be asked to give their perspective on the situation. This would not directly decrease autonomy and therefore would be suitable from this perspective. Being able to send a warning letter would however be a requirement, linking the feasibility of this intervention option to that of the warning letter.

Enable Choice

None of the intervention instruments used by the compared supervisory bodies fall within the step of enabling choice. The institutional audit (Instellingstoets kwaliteitszorg, ITK) can to an extent, however, be seen as an intervention option in which choice is enabled. The ITK is not mandatory in nature and when an institution has passed this audit the individual programs only have to be assessed through a limited procedure. During an ITK the institution has the chance to show their vision and policies regarding quality assurance. A successful ITK influences the level of supervision while also promoting the autonomy of the institution because institutions themselves may choose for an ITK, and because of the lighter accreditation processes afterwards. Since there are no intervention options of the compared supervisory bodies that fall within this step, no further comparison can be made.

Guide choices through changing the default policy

There are no intervention tools for guiding choices through changing the default policy that are used by the compared supervisory bodies. To still address this point the description as given in the operationalization will be used. Changing the default policy alters behaviour because parties have to take an extra step to get the unwanted option. To an extent, this alters the level of autonomy as parties have to put in extra effort to get the choice they want. The effect it may have on autonomy is however not as great as the following steps like guiding choices through incentives, disincentives or even restricting choices. From this perspective, it can be a good addition to the intervention options of a supervisory body that wants to respect the autonomy of an organization.

One possible way in which the NVAO can guide choices through changing the default policy is with the ITK. Currently, the ITK is optional for universities and universities of applied sciences. They can choose to do the ITK which would make it an intervention option that falls under enabling choice. The change would be that universities and universities of applied sciences would be expected to do the ITK while still having the ability to cancel the ITK. The idea behind this change is that more institutions would do the ITK.

Guide choices through incentives.

Guiding choices through incentives is seen at both the AFM and the ITL in the form of faming. Faming in this context is used with the intention of convincing the various supervised parties to conform to norms or to increase the quality of their work to a level for which the supervisor has decided it should receive special recognition. The NVAO can use this type of intervention for the same purpose: informing the sector by 'best practices' to increase the quality of programs while not directly influencing the autonomy of an organization.

Guiding choices through incentives is already being used by the NVAO in the form of a special feature that can be bestowed upon a program (described as bestowing a special recognition in table 14). For instance, when the education is small-scale and intensive, has a strong focus on internationalization or is considered to be a sustainable program it can receive a special feature, allowing the program to increase its tuition and select students based on certain criteria. Faming can be used broader, stimulating general programs to perform better. To some extent higher education institutions in the Netherlands are already being 'famed' by the Keuzegids (selection guide) which ranks programs in the Netherlands and gives the designation of 'Topopleiding' (top-level education) to the highest-scoring program (Keuzegids, n.d.), although the information used for these rankings is the national student satisfaction survey (NSE) rather than accreditation status.

Guide choice through disincentives

Guiding choices through disincentives are used by the AFM in the form of a public warning and by the ITL in the form of shaming, increasing supervision activities and an objection to the Wabo license. The AFM uses a public warning as a disincentive which differs from shaming to an extent as shaming consists of deliberately damaging the reputation of an offender. A public warning might damage the reputation of an offender but this is a side-effect, not the main goal. The main goal is to warn other parties of the offence committed while also trying to influence the offending party to adjust its behaviour. The ITL uses besides shaming also an increase in supervision and an objection to the Wabo license. Where shaming and an increase of supervision might be relevant for the NVAO, the objection of the Wabo license is irrelevant (the Wabo license is not used in higher education).

During increased supervision the offender is placed under a magnifying glass, its actions more closely examined. This intervention option does not directly affect the level of autonomy as organisations still have the ability to make the same decisions as they are used to. On the one side it does not fall within the idea of trusting an organisation but on the other side if increased supervision is needed than the organisation has already done things to make this trust misplaced.

Restrict choice

Restricting a choice is an intervention option that is used by all three of the compared supervisory bodies. The NZa uses a formal indication, charge under penalty and the charge under administrative pressure. The AFM uses the disciplinary complaint, charge under penalty and the silent curator and the ITL uses the charge under penalty and charge under administrative pressure as well. All these intervention types can be applied by the NVAO, as these options are not exclusively used in a specified field or for a specific purpose.

Restricting choice greatly influences the level of autonomy. Autonomy is taken away from an offender to force it to change its behaviour. This does not mean these tools are therefore not useful for a higher education context. Autonomy is only taken away from an institution when there are serious reasons to do so. The tool used by the NVAO to achieve this is a recovery period during which the program gets a conditional accreditation for two years in which it has the time to increase the quality of the program (described in table 14 as forcing the offender into a recovery process). As explained in guiding choice through disincentives, the increased supervision would fall in that category, the ultimatum in which the program has to improve or otherwise it would lose accreditation would fall within restricting choice.

The intervention tools used by the compared supervisory bodies are the silent curator, the charge under penalty and the charge under administrative pressure. The silent curator would strongly affect the autonomy of an organisation as this intervention tool would take away some of the organisations' autonomy and places it with the curator. This option could, however, be an alternative to the recovery period as it would allow an external party, appointed by the NVAO or experts in the field, to partly take over control or at the very least advise the program on how to increase the quality. The exchange between losing autonomy over gaining control might however not be desirable in a university context and is probably only justifiable in extreme cases.

The charge under penalty and the charge under administrative pressure are intervention tools that are used to stop a certain kind of offensive behaviour. This intervention tool would however not be suitable to use for increasing the quality of a program because if the program fails to increase its quality it already loses its accreditation. This intervention tool could, however, be used for other offences committed by higher education institutions if these offences would fall within the scope of the activities of the NVAO.

Eliminate choice

Eliminating choice takes away the choice of the supervised party, preventing them from committing the offence or forcing them to pay for the committed offence. The NZa does this in the form of an administrative fine that is based on a fixed maximum or 10% of the revenue in case of insurers. The AFM has the ability to withdraw a permit, use an administrative fine, install a silent curator or issue a disciplinary complaint. The result of the disciplinary complaint can vary depending on the punishment. One possible punishment is the withdrawal of the operating licenses (for accountants), thus eliminating their ability to perform their job. The ITL can also withdraw or suspend licenses or hand out fines. For the NVAO the use of this type of interventions would imply two main options: either suspending or withdrawing a license and to impose a fine.

The final step of the intervention ladder consists of eliminating choice altogether. The NVAO achieves this by advising the minister of Education to withdraw the accreditation of the program, effectively closing the program (withdrawal of the accreditation in table 14). This intervention tool is much in line with the intervention tools of other supervisory bodies that eliminate choice like the withdrawal or suspension of a permit. The administrative fine is as an intervention tool mainly used to punish the offender for an offence. Just as the charge under penalty, the usage of the administrative fine may be limited to few offences that currently do not fall within the scope of the activities of the NVAO.

	Levels of intervention	Regulatory tools available to the NVAO
7	Eliminate choice	Withdrawal of the accreditation
6	Restrict choice	Forcing the offender into a recovery process
5	Guide choice through disincentives	
4	Guide choices through incentives.	Bestowing a special recognition (named faming by the compared supervisory bodies)
3	Guide choices through changing the default policy	<i>Changing the ITK from optional to expected while still maintaining the option to not do it.</i>
2	Enable choice	Institutional audit ITK (to an extent)
1	Provide information	Publicizing accreditation reports, <i>Collective communication/providing information (e.g. providing information through mass or social media)</i>
0	Do nothing	

Table 14: Overview of the existing regulatory tools available to the NVAO and possible additions based on comparison

The intervention options available to the NVAO are depicted in table 14. The intervention options in normal letters are the intervention options the NVAO currently has. Based on the analysis one additional intervention option is added to the table. This additional intervention option is depicted in cursive.

6. Conclusion

The purpose of this thesis was to find out whether the intervention tools used by the supervisory bodies in the Netherlands could be applicable for the NVAO. First, an overview of the intervention tools is given followed by an analysis of the tools and to which degree the intervention tools might be useful for the NVAO.

The intervention tools as described in the analysis can be divided into multiple categories. The first category consists of tools that are not likely to be suitable for use by the NVAO. Either because they would not fit with institutional autonomy, a key feature of the higher education field, or because they fall out of the scope of the activities of the NVAO. Shaming would, for example, cause reputational damage and for a program this damage can have far-reaching consequences. In the end it will probably not result in increasing the quality of the program that is being punished. The charge under penalty, the charge under administrative pressure and the administrative fine are also tools that would reasonably not be applicable for the NVAO. These options are used after an offence is committed. Low quality of a program is however not a crime. This makes these intervention tools only applicable when low quality is made a punishable offence which is unlikely.

The second category consists of intervention tools that could be used by the NVAO if certain conditions are met. A warning letter or a conversation with board members could be considered a useful intervention tool because it allows the supervisory body to scale up its interventions step by step. To send a warning letter or subsequently having a conversation with the board members would require the NVAO to collect additional information which would come down to increase their supervisory activities. Faming is an intervention tool that is already performed by the NVAO in the form of a special feature. Currently this is done for programs that are considered to be sustainable, internationally orientated or are of a small-scale and are intensive. The idea of faming is that in this case universities will perform better if they are rewarded for their performance. There are already organisations that rank universities (e.g. the Keuzegids) but there are also other ways to do so as shown by the NVAO.

The final category are intervention tools that currently can be used by the NVAO within the higher education culture. These tools are also the answer to the subquestion: which instruments are applicable for the NVAO? One tool might be added to the current set of intervention tools as used by the NVAO, the interview in mass or social media. Interviews are sometimes given and publications are released by the NVAO as shown by an example published on the website ScienceGuide (ScienceGuide, 2015). The number of interviews and publications is, however, limited. Besides giving interviews the NVAO can also use mass and/or social media to distribute information in other ways.

Youtube or Instagram could, for example, be used to reach a wider audience and folders and factsheets can be distributed on universities to inform students about the NVAO. By changing the default policy of the ITK, from optional to expected (while still having the option to not do it), the NVAO might be able to increase the number of ITK's that are being held.

The answer to the main question of this paper, to what extent are the intervention instruments used by other supervisory bodies in the Netherlands applicable to the NVAO? Is that for most of the intervention tools there is not enough ground to make clear recommendations. The NVAO might benefit from more active information distribution, e.g. through interviews, increased usage of mass and/or social media or distribution of folders and factsheets but it should also be mentioned that the NVAO is already ahead of the compared supervised bodies for the step of enabling choice.

6.1. Discussion and recommendations for future research

None of the supervisory bodies that were compared in this research included intervention tools that would fall within the guide choices through changing the default policy step of the intervention ladder. The step enabling choice is however to an extent already seen in the intervention options of the NVAO. During this step the organisation is given the additional choice of doing an ITK. More choices would, in turn, strengthen the autonomy which is preferable given the existing culture in higher education. Intervention tools that respect institutional autonomy are for this reason suitable for a higher education environment.

An increased amount of media presence such as interviews is an intervention tool that could be a useful addition to the intervention instruments of the NVAO. The effects that this tool would have on the quality of programs is however not investigated. Additional research could contribute to this question to see what the effects are of these tool on the quality of the higher education sector but also in which configuration it would be the most beneficial. A newspaper interview could, for example, be more focused on the general public or specifically on universities.

The proposed intervention instrument mainly focusses on increasing the quality of the higher education system in general. One important question that needs to be answered before additional intervention instruments can be advised is where the NVAO wants to focus on and if there would be room for increased supervision. Intervention options that would be suitable for changing behaviour in an earlier stage (e.g. a warning letter) would require some form of increased supervision because you can not send a warning letter if you do not know if there is anything wrong. This does not automatically entail that the NVAO has to increase its direct supervision over institutions as there are also other forms of collecting information. This might, however, create a tension between the activities of the NVAO and the activities of the Inspectorate of Education

6.2. Reflection on this thesis

This thesis has been written in partial fulfilment of the requirements for the degree of Master of Science, program Public Administration University of Twente. During the process of writing this thesis there have been various obstacles, learning opportunities and mistakes that have helped me grow. At the start of the thesis I chose to find an organization that would have a question where I could do my thesis about. Now that I have finished the thesis I am still not sure how I feel about this decision. On the one hand, I was able to work on a relevant and current topic for an organization that operates in the field of higher education. On the other side, the choice for desk research in combination with doing a topic from a large organization has cost me a lot of additional time.

The quality of the thesis would have increased if I would have written in a more concise manner. I tend to read a lot which I think is good but instead of properly summarizing the useful parts I would instead extensively describe the literature. Being more concise would, therefore, not only increase readability but also increase the general quality of the paper.

Spending more time in the preparation phase of the research would also have had a more positive effect on the thesis. I spend quite some time on describing various theories to include in the theoretical framework like New Public Management. In the end, these theories were not included. By spending more time on the theoretical framework before actually working things out some time and effort might have been saved. In general, I am moderately satisfied with the quality of the work. What saddens me is that I was not able to spend more time on the paper with as goal to increase the quality of it.

References

- Adviesraad voor het Wetenschaps- en Technologiebeleid. (1997). *Reactie op ontwerp-HOOP 1998*. Den Haag: Sdu.
- Algemene Rekenkamer. (2008, February 21). *Kaders voor toezicht en verantwoording*. Retrieved Oktober 24, 2019, from Algemene Rekenkamer: <https://www.rekenkamer.nl/binaries/rekenkamer/documenten/publicaties/2008/02/21/kaders-voor-toezicht-en-verantwoording/Handreiking+Kaders+voor+toezicht+en+verantwoording.pdf>
- Autoriteit Financiële Markten. (2013, December 11). *Zorgverzekeringen: wat doet de AFM?* Retrieved from Autoriteit Financiële Markten: <https://www.afm.nl/nl-nl/nieuws/2013/dec/zorgverzekeringen-wat-doet-de-afm>
- Autoriteit Financiële Markten. (2014, January 30). *Convenant NZa AFM*. Retrieved from Autoriteit Financiële Markten: <https://www.afm.nl/~profmedia/files/afm/convenant/convenant-nza-afm.pdf>
- Autoriteit Financiële Markten. (2015, March). *Boetetoemingsbeleid AFM*. Retrieved from Autoriteit Financiële Markten: <https://www.afm.nl/~profmedia/files/afm/maatregelen/boetetoemingsbeleid.pdf>
- Autoriteit Financiële Markten. (2017, May 3). *De toezichtaanpak van de AFM*. Retrieved from Autoriteit Financiële Markten: <https://www.afm.nl/~profmedia/files/afm/2017/toezichtaanpak.pdf>
- Autoriteit Financiële Markten. (2019). *Marktmonitor Marktmonitor Vragenlijst 2019*. Retrieved November 27, 2019, from Autoriteit Financiële Markten: <https://www.afm.nl/~profmedia/files/doelgroepen/beleggingsondernemingen/2019/printversie-vragenlijst-marktmonitor-bankbo-2019.pdf>
- Autoriteit Financiële Markten. (n.d.). *Bestuurlijke boete en publicatie*. Retrieved November 2, 2019, from Autoriteit Financiële Markten: <https://www.afm.nl/nl-nl/over-afm/werkzaamheden/maatregelen/boete>
- Autoriteit Financiële Markten. (n.d.). *Welke maatregelen kan de AFM opleggen?* Retrieved November 2, 2019, from Autoriteit Financiële Markten: <https://www.afm.nl/nl-nl/over-afm/werkzaamheden/maatregelen/soorten-maatregelen>
- Ayres, I., & Braithwaite, J. (1992). *Responsive Regulation: Transcending the Deregulation Debate*. New York: Oxford University Press.
- Baxter, P. E., & Jack, S. M. (2008). Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers. *Qualitative Report*, 13(4). Retrieved from <https://nsuworks.nova.edu/tqr/vol13/iss4/2/>
- Braithwaite, V. (2006). Ten things you need to know about regulation and never wanted to ask. *Australian Law Librarian*, 14(3), 19-28.
- Durby, R. J., & Paterson, R. G. (1993). Improving Compliance with State Environmental Regulations. *Journal of Policy Analysis and Management*, 12(4), 753-772. <https://www.doi.org/10.2307/3325349>

- Ferlie, E., Musselin, C., & Andresani, G. (2008). The steering of higher education systems: a public management perspective. *Higher Education*, 56(3), 325-348.
<https://doi.org/10.1007/s10734-008-9125-5>
- Gibbs, G. R. (2007). *Analyzing Qualitative Data*. Thousand Oaks, CA: Sage Publications Ltd.
<https://dx.doi.org/10.4135/9781849208574.n4>
- Griffiths, P., & West, C. (2015). A balanced intervention ladder: promoting autonomy through public health action. *Public Health*, 129(8), 1092-1098. <https://doi.org/10.1016/j.puhe.2015.08.007>
- Inspectie Leefomgeving en Toezicht. (n.d.). *Bestuurlijke boete*. Retrieved November 10, 2019, from Inspectie Leefomgeving en Toezicht: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/bestuurlijke-boete>
- Inspectie Leefomgeving en Toezicht. (n.d.). *Naming en faming*. Retrieved November 4, 2019, from Inspectie Leefomgeving en Toezicht: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/naming-en-faming>
- Inspectie Leefomgeving en Transport. (n.d.). *Beperkende voorwaarden bij toepassing interventieladder*. Retrieved November 11, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventieladder/beperkende-voorwaarden-bij-toepassing-interventieladder>
- Inspectie Leefomgeving en Transport. (n.d.). *Bestuurlijk gesprek*. Retrieved November 10, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/bestuurlijk-gesprek>
- Inspectie Leefomgeving en Transport. (n.d.). *Bestuurlijke strafbeschikking*. Retrieved November 8, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/bestuurlijke-strafschikking>
- Inspectie Leefomgeving en Transport. (n.d.). *Informatie en voorlichting geven*. Retrieved October 24, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/informatie-en-voorlichting>
- Inspectie Leefomgeving en Transport. (n.d.). *Intrekken of opschorten van vergunning, certificaat of erkenning*. Retrieved October 24, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/intrekken-of-opschorten-van-vergunning-certificaat-of-erkenning>
- Inspectie Leefomgeving en Transport. (n.d.). *Last onder bestuursdwang*. Retrieved October 28, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/last-onder-bestuursdwang>
- Inspectie Leefomgeving en Transport. (n.d.). *Last onder dwangsom*. Retrieved October 30, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/last-onder-dwangsom>
- Inspectie Leefomgeving en Transport. (n.d.). *Naming en shaming*. Retrieved November 4, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/naming-en-shaming>

- Inspectie Leefomgeving en Transport. (n.d.). *Verscherpt toezicht*. Retrieved November 2, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/verscherpt-toezicht>
- Inspectie Leefomgeving en Transport. (n.d.). *Waarschuwingbrief*. Retrieved October 27, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/waarschuwing>
- Inspectie Leefomgeving en Transport. (n.d.). *Zienswijze/Bezwaar Wabo-vergunning*. Retrieved October 12, 2019, from Inspectie Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventiecategorieen/zienswijze-bezwaar-wabo-vergunning>
- Inspectie van het Onderwijs. (2018). *De kwaliteit van het Nederlandse accreditatiestelsel hoger onderwijs 2018*. Utrecht: Ministerie van Onderwijs, Cultuur en Wetenschap. Retrieved from https://www.onderwijsinspectie.nl/binaries/onderwijsinspectie/documenten/rapporten/2018/07/03/de-kwaliteit-van-het-nederlandse-accreditatiestelsel-hoger-onderwijs/Rapport_onderzoek_naar_de_kwaliteit_van_het_accreditatiestelsel_hoger_onderwijs.pdf
- Inspectie van Leefomgeving en Transport. (n.d.). *Interventieladder*. Retrieved November 3, 2019, from Inspectie van Leefomgeving en Transport: <https://www.ilent.nl/over-ilt/handhaving-en-toezicht/interventie/interventieladder>
- Keuzegids. (n.d.). *Keuzegids*. Retrieved November 2, 2019, from Keuzegids: <https://keuzegids.nl/>
- Louw, R. G. (2011). Het Nederlands hoger onderwijsrecht: een thematisch commentaar op de Wet op het hoger onderwijs en wetenschappelijk onderzoek. (*Doctoral Thesis*). Leiden University Press. Retrieved from <http://hdl.handle.net/1887/17700>
- Maassen, P. A. (1987). Quality Control in Dutch Higher Education: internal versus external evaluation. *European Journal of Educatio*, 22(2), 161-170. <http://doi.org/10.2307/1503214>
- Mascini, P., & Van Wijk, E. (2009). Responsive regulation at the Dutch Food and Consumer Product Safety Authority: An empirical assessment of assumptions underlying the theory. *Regulation & Governance*, 3(1), 27-47. <https://doi.org/10.1111/j.1748-5991.2009.01047.x>
- Ministerie van Binnenlandse Zaken en Koninkrijksrelaties. (2005). *Publicaties*. Retrieved from Kennisbank Openbaar Bestuur: <https://kennisopenbaarbestuur.nl/media/255004/minder-last-meer-effect-kaderstellende-visie-op-toezicht-2005.pdf>
- Ministerie van Onderwijs en Wetenschappen. (1988). *Hoger Onderwijs en Onderzoek Plan*. Den Haag: Sdu.
- Ministerie van Onderwijs, Cultuur en Wetenschap. (2011). *Kwaliteit in verscheidenheid*. Den Haag. Retrieved from <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2011/07/01/kwaliteit-in-verscheidenheid/kwaliteit-in-verscheidenheidv2.pdf>
- Ministerie van Onderwijs, Cultuur en Wetenschappen. (1996). *Hoger Onderwijs en Onderzoek Plan 1996*. Den Haag: Sdu.
- Ministerie van Onderwijs, Cultuur en Wetenschappen. (1998). *Hoger Onderwijs en Onderzoek Plan*. Den Haag: Sdu.

- Ministerie van Onderwijs, Cultuur en Wetenschappen. (1999). *Hoger Onderwijs en Onderzoek Plan 2000*. Den Haag: Sdu.
- Ministerie van Onderwijs, Cultuur en Wetenschappen. (2004). *Hoger Onderwijs en Onderzoek Plan 2004*. Den Haag: Sdu.
- Nederlandse Zorgautoriteit. (2014, December 19). *Handhaving - TH/BR-016*. Retrieved from Publicatieplatform UitvoeringsContent: https://puc.overheid.nl/nza/doc/PUC_21400_22/1/
- Nederlandse Zorgautoriteit. (2018, March 14). *Verantwoordingsdocument jaarverslag en jaarrekening NZa 2017*. Retrieved from Nederlandse Zorgautoriteit: https://puc.overheid.nl/nza/doc/PUC_253701_22/1/
- Nederlandse Zorgautoriteit. (n.d.). *Nederlandse Zorgautoriteit*. Retrieved November 5, 2019, from Zorgsectoren: <https://www.nza.nl/zorgsectoren>
- Nielsen, V. L., & Parker, C. (2009). Testing responsive regulation in regulatory enforcement. *Regulation & Governance*, 3(4), 376-399. <https://doi.org/10.1111/j.1748-5991.2009.01064.x>
- Nuffield Council on Bioethics. (2007). *Public health: ethical issues*. London: Nuffield Council on Bioethics. Retrieved from <http://nuffieldbioethics.org/wp-content/uploads/2014/07/Public-health-ethical-issues.pdf>
- NVAO. (2017, January). *NVAO Kwaliteitsbeleid*. Retrieved from NVAO: https://www.nvao.net/files/attachments/.73/NVAO_Kwaliteitsbeleid_2017.pdf
- NVAO. (2018, September). *Assessment Framework for the Higher Education Accreditation System of the Netherlands 2018*. Retrieved from NVAO: https://www.nvao.net/files/attachments/.139/Assessment_Framework_for_the_Higher_Education_Accreditation_System_of_the_Netherlands_2018.pdf
- NVAO. (2018). *Eenheid in verscheidenheid NVAO jaarverslag 2017*. Den Haag. Retrieved from https://www.nvao.net/files/attachments/.130/NVAO_Jaarverslag_2017_Eenheid_in_verseidenheid.pdf
- NVAO. (2019, Februari 07). *Kwaliteit Nederlands hoger onderwijs stabiel*. Retrieved from NVAO: https://www.nvao.net/files/attachments/.141/NVAO_Nederland_Jaarbericht_2018_cijfers.pdf
- NVAO. (n.d.). *Nieuws*. Retrieved October 2, 2019, from NVAO: <https://www.nvao.net/nl/nieuws>
- NVAO. (n.d.). *NVAO*. Retrieved November 7, 2019, from Bijzonder kenmerk Kleinschalig en intensief onderwijs: <https://www.nvao.net/nl/procedures/nederland/bijzonder-kenmerk-kleinschalig-en-intensief-onderwijs>
- Panteia. (2018). *Boetebeleid Binnenvaart - Een sectorvergelijking*. Zoetermeer: Panteia.
- Parker, C. (2000). Reinventing regulation within the corporation: compliance-oriented regulatory innovation. *Administration and Society*, 32(5), 529-565. <https://doi.org/10.1177%2F00953990022019579>
- PLACE Research Lab Project Team. (2017). *PLACE Research Lab Intervention Ladder Policy Analysis Framework*. University of Alberta, School of Public Health, Edmonton, AB. Retrieved from PLACE Research Lab: http://placeresearchlab.com/wp-content/uploads/2017/11/final_interventionladder_kab_2017-11-14.pdf

- PO Raad. (2014, April 18). *Toezicht houden onder de loep*. Retrieved from PO Raad: https://www.poraad.nl/files/publicaties/publicaties_pdf/po_proj_221849_broch_toezichthouders.pdf
- Reeve, B. (2011). The regulatory pyramid meets the food pyramid: can regulatory theory improve controls on television food advertising to Australian children? *Journal of law and medicine*, *19*(1), 128-146.
- Rijksoverheid. (2015, January 1). *Kaderwet zelfstandige bestuursorganen*. Retrieved from Wetten: <https://wetten.overheid.nl/jci1.3:c:BWBR0020495&z=2015-01-01&g=2015-01-01>
- Rijksoverheid. (2019, Februari 1). *Wet op het hoger onderwijs en wetenschappelijk onderzoek*. Retrieved from Wettenbank: <https://wetten.overheid.nl/BWBR0005682/2019-02-01>
- Rijksoverheid. (n.d.). *Contactgids Nederlandse Zorgautoriteit*. Retrieved October 28, 2019, from Rijksoverheid: <https://www.rijksoverheid.nl/contact/contactgids/nederlandse-zorgautoriteit-nza>
- Rijksoverheid. (n.d.). *Inspectie Leefomgeving en Transport*. Retrieved October 26, 2019, from Rijksoverheid: <https://www.rijksoverheid.nl/contact/contactgids/inspectie-leefomgeving-en-transport-ilt>
- Rijksoverheid. (n.d.). *Verzoek om te handhaven*. Retrieved Oktober 15, 2019, from Nederlandse Zorgautoriteit: <https://www.nza.nl/over-nza/wat-doet-de-nza/toezicht-door-de-nza/verzoek-om-te-handhaven>
- Rijksoverheid. (n.d.). *Wet- en regelgeving*. Retrieved Augustus 10, 2019, from Wettenbank: <https://wetten.overheid.nl/zoeken>
- Rijksoverheid. (n.d.). *Wet op het financieel toezicht (Wft)*. Retrieved September 5, 2019, from Rijksoverheid: <https://www.rijksoverheid.nl/onderwerpen/financieel-toezicht-wft>
- Science and Technology Committee. (2011). *Behaviour Change*. London: House of Lords.
- ScienceGuide. (2015, June 16). *De angst voor oranje stoplichten*. Retrieved from ScienceGuide: <https://www.scienceguide.nl/2015/06/de-angst-voor-oranje-stoplichten/>
- Sunstein, C., & Thaler, R. (2008). *Nudge theory*. New Haven: Yale University Press.
- Toezichtmatrix. (n.d.). *Overzicht van Nederlandse publieke en private toezichthouders*. Retrieved October 5, 2019, from Toezichtmatrix: <https://www.toezichtmatrix.nl/bijgerechten-toezicht/overzicht-nederlandse-toezichthouders/>
- van Erp, J. (2011). Naming without shaming: The publication of sanctions in the Dutch financial market. *Regulation & Governance*, *5*(3), 287-308. <http://dx.doi.org/10.1111/j.1748-5991.2011.01115.x>
- van Heffen, O., & Klok, P. (2000). Institutionalism: state models and policy processes. In O. van Heffen, W. J. Kickert, & J. J. Thomassen, *Governance in Modern Society: Effects, Change and Formation of Government Institutions* (pp. 153-177). Dordrecht: Kluwer Academic Publishers.
- Vaste commissie voor Onderwijs, Cultuur en Wetenschappen1. (1996, January 16). *Voortgangsrapportage wetenschapsbeleid*. Retrieved from Officiële bekendmakingen: <https://zoek.officielebekendmakingen.nl/kst-24409-4.pdf>

Wetenschappelijke Raad voor het Regeringsbeleid. (1995). *Taken en functies van het hoger onderwijs HOAK, HOOP en WHW*. Den Haag.

Yin, R. K. (2013). *Case study research: Design and methods*. Thousand Oaks, CA: Sage Publications Inc.

Appendix

Appendix 1: Adjusted regulatory ladder (Griffiths & West, 2015, p. 1097)

+5?	Collective self-binding. A group collectively decides (e.g. a vote during a public forum) to ban or limit a certain product or behaviour.
+4	Enable choice. Enabling individuals to change their behaviour.
+3	Ensure choice is available.
+2	Educate for autonomy.
+1	Provide information.
0	Guide choices through changing the default policy.
-1	Guide choices through incentives.
-2	Guide choices through disincentives
-3	Restrict choice.
-4	Eliminate choice.

Table 15: Adjusted regulatory ladder (Griffiths & West, 2015, p. 1097)

Appendix 2: Table of interventions by the Science and Technology Committee (2011)

Table of interventions

	Regulation of the individual		Fiscal measures directed at the individual		Non-regulatory and non-fiscal measures with relation to the individual					
					Choice Architecture (“Nudges”)					
Interventions category	Eliminate choice	Restrict choice	Guide and enable choice							
			Fiscal disincentives	Fiscal incentives	Non-fiscal incentives and disincentives	Persuasion	Provision of information	Changes to physical environment	Changes to the default policy	Use of social norms and salience
Examples of policy interventions	Prohibiting goods or services e.g. banning certain drugs	Restricting the options available to individuals e.g. outlawing smoking in public places	Fiscal policies to make behaviours more costly e.g. taxation on cigarettes or congestion charging in towns and cities	Fiscal policies to make behaviours financially beneficial e.g. tax breaks on the purchase of bicycles or paying individuals to recycle	Policies which reward or penalise certain behaviours e.g. time off work to volunteer	Persuading individuals using argument e.g. GPs persuading people to drink less, counselling services or marketing campaigns	Providing information in e.g. leaflets showing the carbon usage of household appliances <i>*Regulation to require businesses to use front of pack nutritional labelling, or restaurants to provide calorific information on menus</i>	Altering the environment e.g. traffic calming measures or designing buildings with fewer lifts <i>*Regulation to require businesses to remove confectionery from checkouts, or the restriction of advertising of unhealthy products</i>	Changing the default option e.g. requiring people to opt out of rather than opt in to organ donation or providing salad as the default side dish	Providing information about what others are doing e.g. information about an individual’s energy usage compared to the rest of the street <i>*Regulation to require energy companies to provide information about average usage</i>

Table 16: Table of interventions