

## **Does Citizens' Involvement Always Improve Outcomes: Procedures, Incentives and Comparative Advantages of Public and Private Law Enforcement**

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**Abstract :** Comparative social efficiency of private and public enforcement of law is debated. This question is not of academic interest only, it is also important for the development of the legal system and regulations. Generally, involvement of 'common citizens' in public law enforcement is considered to be beneficial, while involvement of interest groups representatives is not. Institutional economics as well as law and economics consider the difference between public and private enforcement to be rather mechanical. Actions of bureaucrats in government agencies are assumed to be driven by the incentives linked to social welfare (or other indicator of public interest) and their own benefits. In contrast, actions of participants in private enforcement are driven by their private benefits. However administrative law enforcement may be designed in such a way that it would become driven mainly by individual incentives of alleged victims. We refer to this system as reactive public enforcement. Citizens may prefer using reactive public enforcement even if private enforcement is available. However replacement of public enforcement by reactive version of public enforcement negatively affects deterrence and reduces social welfare. We illustrate the problem of private vs pure public and private vs reactive public enforcement models with the examples of three legislation subsystems in Russia - labor law, consumer protection law and competition law. While development of private enforcement instead of public (especially in reactive public model) is desirable, replacement of both public and private enforcement by reactive model is definitely not.

**Keywords :** public enforcement, private complaints, legal errors, competition protection, labor law, competition law, russia

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