

LIBERTÀ DI CONCORRERE E BENESSERE. UN CONTRIBUTO DI STORIA DELLE IDEE SULLA RELAZIONE FRA ECONOMIA E DIRITTO*

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Abstract: Freedom of competition and economic welfare have identical economic foundations. These concepts diverged, however, as they became subject of the discipline of economics and law, of systems of philosophy or of narratives of probable or inevitable historical developments. This paper looks at some of the more influential philosophical ideas in terms of their persistent direct or indirect influence on our present understanding on competition and welfare. Particularly notable are perceived or received antinomic interpretations of competition as a condition of economic welfare, as an individual right, an instrument of economic organization or as purpose of rules against restrictions of competition. As far as the competition law relevance is concerned the crucial issue is the uncertain causal relation of competitive or anticompetitive conduct and its welfare effects. The theoretical and practical difficulties in verifying welfare effects are overcome by treating competition as a process of coordinating decentral economic planning and freedom of competition as a governing principle of a private law society.

Keywords: Freedom of competition, economic welfare, Michel Foucault, ordoliberalism, Adam Smith, *homo oeconomicus*, Immanuel Kant, European competition law, antitrust.

* Pubblicato in tedesco come: E. J. Mestmäcker, *Wettbewerbsfreiheit und Wohlfahrt. Ein ideengeschichtlicher Beitrag zum Verhältnis von Ökonomie und Recht*, in: *Ordo – Jahrbuch für die Ordnung von Wirtschaft und Gesellschaft*, vol. 63, pp. 429-448; traduzione a cura di Raffaele Mele, Università G. d'Annunzio, Chieti-Pescara.

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