International Competition Network (ICN) – may serve to harmonise and extend the ambit of competition law. In particular, the essay focuses on the role of the ICN as a “grass-roots provocateur” (p. 180) in providing soft-law network-based solutions to many existing convergence problems. Although covering a topic on which much has already been written, including by these authors, the essay itself is succinct, well written, and insightful.

The second “multinational” essay, by Alberto Heimler and Frédéric Jenny, examines the use of regional agreements to further facilitate the development of competition law. Taking the European Union as the archetype of regional cooperation in this regard, the authors examine a series of such agreements involving developing nations in various parts of South America and Africa. They conclude that the institutional design of such agreements is crucial to their potential success, noting, in particular, the need for an effective competition enforcement framework.

Taken together, the essays contained within this collection provide a compelling account of the potential challenges – internal and external, legal and political – that a country may face as it endeavours to implement an effective system of competition law. Given that, to date, more than 100 countries have adopted antitrust regimes, the coverage of this work is decidedly non-exhaustive, at times almost impressionistic, in nature. Yet, despite this obvious limitation, this thoughtfully curated collection has much to offer, providing nuanced insights into an increasingly global phenomenon that has, as these essays demonstrate, inescapably local components nonetheless.

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This work offers a sophisticated examination of the operation of the privilege against self-incrimination in criminal proceedings in England and Wales. Drawing on the jurisprudence of the European Court of Human Rights (ECtHR) and other jurisdictions, the author gives a comprehensive overview of the privilege and its important role in criminal procedure. Choo also offers an extended analysis of the scope and boundaries of the privilege, assessing the impact of statutory provisions in England and Wales, which are said to abrogate the privilege by requiring potentially self-incriminatory information from suspects on pain of criminal sanction. This review assesses the success of Choo’s attempt to bring clarity to this murky area of criminal justice procedure, taking a critical view of his doctrinal analysis of the case law concerning the privilege against self-incrimination. Choo takes his working definition of “self-incrimination” from the Evidence Act 2006 of New Zealand, which defines self-incrimination as “the provision by a person of information that could reasonably lead to, or increase the likelihood of, the prosecution of that person for a criminal offence” (Evidence Act 2006 (NZ), s. 4). From this, he suggests that the logical implication of recognising a privilege against self-incrimination is that “a person cannot be legally required or legally compelled to provide information which could reasonably lead to, or increase the likelihood of, that person’s prosecution for a criminal offence” (p. 1).

In the first chapter, Choo outlines the rationales for this privilege and sets out the existing legal framework. Choo then goes on to examine the general
implications of the privilege for statutory provisions that criminalise the failure or refusal to comply with a request for (potentially self-incriminatory) information. Using the jurisprudence of the ECtHR as a springboard for his analysis, Choo focuses on two questions regarding the privilege. First, where there has been a failure to provide information requested under a statutory provision, would prosecution for this failure be appropriate? Secondly, if information is provided when requested under a statutory provision, would the use in evidence of this information be appropriate?

Choo frames his analysis around two judgments of the ECtHR: *Funke v France* [1993] 16 EHRR 297 and *Saunders v United Kingdom* [1996] 23 EHRR 313. In answer to the first question, Choo cites the judgment in *Funke v France* as the exemplar of a logical approach to ascertaining whether the privilege should apply. Here, Funke was held to be entitled to the privilege against self-incrimination because he was considered to be “charged” with a criminal offence in the autonomous sense when a request for him to produce his overseas bank statements was made by French customs officers. This is because, despite the fact that Funke was not charged with a criminal offence in the technical sense, he was sufficiently in peril of incrimination upon production of the bank statements that he could be considered charged with a criminal offence in the autonomous sense for the purposes of Article 6.

Choo gives a clear and consistent overview of *Funke* and how it conflicts with the domestic case of *R v Hertfordshire County Council, ex parte Green Environmental Industries Ltd* [2000] 2 AC 412 (HL). Here, Lord Hoffmann takes a narrower view of the privilege, arguing that the privilege should only be given effect where compelled information has actually been obtained and it is sought to be used in a criminal trial. Arguing that Lord Hoffmann’s reasoning is obscure, Choo suggests that, because the primary implication of the privilege is that individuals should be entitled to refuse to provide potentially self-incriminatory information, it follows that a prosecution for such refusal would fundamentally undermine the privilege. Choo then goes on to show how the privilege against self-incriminating evidence will be engaged where it is sought to use compelled self-incriminating information in a subsequent criminal trial. Drawing on the *Saunders* case, Choo concludes that, whilst at first sight this might suggest a wide role for the privilege in criminal justice, there are a range of instances where the privilege does not bite, such as when the threat of prosecution is insufficiently proximate or where compelled information has already been obtained by the authorities and is not to be used in the subsequent prosecution of the information provider.

Choo then questions what “information” should be covered by the privilege. In his working definition, Choo suggests that self-incrimination involves “the provision by a person of information that could reasonably lead to, or increase the likelihood of, the prosecution of that person for a criminal offence” (p. 1). However, it is not entirely clear what the term “information” should encompass. Here, Choo demonstrates the inconsistencies that exist across jurisdictions and case law. In the jurisprudence of the ECtHR, for instance, *Saunders v UK* [1996] 23 EHRR 313 and *Funke v France* [1993] 16 EHRR 297 take seemingly contradictory approaches to the question of whether or not pre-existing documents can be protected by the privilege against self-incrimination. Choo effectively explains several different bodies of jurisprudence and their (somewhat inconsistent) interpretations of what information is protected. This uncertainty regarding the reach of the privilege may be related to a lack of consensus regarding the rationales for the privilege, or a failure or unwillingness to engage with the question of what constitutes “information” in this context.

In Chapter Four, Choo takes issue with the balancing approach of the ECtHR, when considering whether or not Article 6 § 1 of the convention has been violated
by a statutory provision abrogating the privilege against self-incrimination. In the case law of the ECtHR, the privilege can be engaged without the automatic violation of the accused’s fair trial rights under Article 6 § 1 of the convention. In order to determine whether or not Article 6 § 1 has been violated in such cases, the ECtHR must balance the interests protected by the privilege against self-incrimination against competing public interest considerations, taking account of the nature of the compulsion to provide information, any appropriate safeguards in place, and the use of any material obtained through compulsion (Jalloh v Germany [2006] 44 EHRR 32, at [101]). Choo raises concerns that the implied right to the privilege against self-incrimination may be devalued over time when it is the subject of such a balancing process. According to Choo, this principle of fair balance gives competing interests too much weight when considering whether Article 6 § 1 has been violated. Choo also criticises the principle of fair balance as such an approach does not provide any clear guidance on whether the privilege has been violated in a particular case.

The principle of fair balance has been controversial from its inception. In the Belgian Linguistics case (No 2) [1968] 1 EHRR 252, Judge Terje Wold opposed the use of the principle of fair balance as it “carries the Court into the very middle of the internal political questions of each Member State, which it has never been the intention that the Court should deal with” (Belgian Linguistics case (No 2) [1968] 1 EHRR 252, at [101]). However, Mowbray highlights how the court has deployed a variable margin of appreciation doctrine as a means of adjusting the intensity of the principle of fair balance when making determinations on Convention rights (A. Mowbray, “A Study of the Principle of Fair Balance in the Jurisprudence of the European Court of Human Rights”, (2010) 10 Human Rights Law Review 289, at 316). This gives States the ability to decide for themselves how community goals and the rights of individuals should be balanced, whilst giving the protection of fundamental human rights special weighting in any balancing process. The principle of fair balance operates symbiotically with the rights of the ECtHR, but this does not necessarily mean that the principle devalues Convention rights by balancing them away. Rather, the principle of fair balance allows national authorities to balance community interests with individual rights, whilst also allowing the Court to make determinations where it is alleged that national authorities have failed to give due weight to these individual rights. However, Choo’s argument that the balancing approach of the ECtHR offers limited guidance for application and, therefore, runs the risk that domestic courts may fail to take the implied right to a privilege against self-incrimination seriously is compelling.

In the final chapter, Choo focuses on situations where individuals might feel compelled to provide information even though they will not be criminalised for doing so. Referred to as instances of “indirect compulsion”, these situations involve the accused being put under some kind of pressure to provide information which could incriminate them at a later trial. Choo divides his analysis of indirect compulsion into two parts: (i) instances of indirect compulsion that occur during the questioning of suspects, and (ii) the indirect compulsion that can occur when adverse inferences are drawn from an accused person’s silence. In the first part, Choo successfully elucidates the jurisprudence of the ECtHR, noting how, whilst the court is generally of the view that circumventing interview procedures to obtain incriminating statements violates the privilege, there are instances where the Court has upheld such practices. For instance, in the case of Bykov v Russia App no 4378/02 (ECtHR Grand Chamber, 10 March 2009), the ECtHR found no violation of Article 6 § 1 where the applicant made incriminating statements to a police informant at his “guest house”. Choo makes a convincing argument that the reasoning in this case
Moving on to discuss legislation that provides for the drawing of adverse inferences from an accused’s silence, Choo argues that such legislation may compromise the privilege against self-incrimination. In particular, Choo suggests that one of the main justifications for such measures – that exculpatory evidence may also be adduced from statements made by the accused – does not do much to alleviate concerns regarding the privilege. For example, any exculpatory evidence that is provided through this indirect form of compulsion may lead to the finding of self-incriminating information by public authorities. This raises concerns that provisions, which allow the trier of fact in a trial to draw adverse inferences from silence, may endanger the privilege. Here, Choo successfully demonstrates that the privilege against self-incrimination must be viewed in light of these indirect forms of compulsion to provide information and the broader right to silence.

Choo’s work accurately elucidates the operation of the privilege against self-incrimination in criminal proceedings in England and Wales, drawing on the jurisprudence of the ECtHR and domestic courts. Though the book does not employ a comparative methodology in the strictest sense, it does give consideration to the treatment of the privilege in other – predominantly common law – jurisdictions. This gives the reader a comprehensive insight into the privilege, its scope, and the implications of its status as an implied right in the jurisprudence of the ECtHR. Choo’s contribution draws attention to some of the problems with the implementation of a lofty right to the privilege against self-incrimination, demonstrating the need for more clarity regarding the scope of the privilege. Though Choo’s argument, that the principle of fair balance presents a danger that the privilege will be devalued over time, is as yet unsubstantiated, his argument that the balancing approach does not offer much guidance to domestic courts is persuasive. The introduction of robust regulation of pre-trial procedures could offer more effective protection from abuse by public authorities than a lofty implied right with no clear scope or boundaries.

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Raymond Wacks has been writing about privacy for nearly 40 years. Those who have enjoyed the clarity and concision – and the sometimes provocative tone – of his earlier works will not be disappointed by his latest book. Privacy and Media Freedom is very timely, coming as it does on the heels of the Leveson Inquiry Report. It also fills a gap in the current literature, by aiming to canvass, and critique, the increasingly complex principles applicable to England’s dynamic action for the “misuse of private information” in a form far shorter, and hence arguably more accessible to students, than the two impressive tomes published recently on the same subject (Gurry on Breach of Confidence, 2nd ed. (OUP 2012); Tugendhat and Christie’s Law of Privacy and the Media, 2nd ed. (OUP 2011)).

Chapter 1 surveys the notorious difficulties courts and commentators have encountered when trying to conceptualise “privacy”. Wacks argues that for too long scholars have simply equated privacy with the values (of freedom, liberty, dignity, and autonomy) which underpin it, leading to a myriad of protean definitions