



Centre for Competition, Regulation and Economic Development

Law for Economic Regulation Short Learning Programme

10 March – 14 March 2014

1. Introduction

This short learning programme is offered as part of a suite of short learning programmes for the Regulatory Entities Capacity Building Project (RECBP) aimed at strengthening financial analysis and accounting, strategic planning and knowledge management, economic and legal analysis in economic regulation in South Africa. The Project is funded under a Memorandum of Agreement between the University of Johannesburg (UJ) and the South African Government's Economic Development Department (EDD).

The law of economic regulation involves specialist knowledge relating to the powers of economic regulators and their exercise, in line with the mandate of specific regulators. The course will cover the key concepts in economic regulation and the challenges facing legal practitioners in the applying them to the issues of their particular sector. Case studies will be used in the main sectors of economic regulation, namely energy, telecoms and transport. This will enable participants to be better equipped to work as lawyers for economic regulatory bodies, as well for other organisations in the field of economic regulation.

2. Programme Aims and Outcomes

The purpose of the programme is to enable course participants to gain a good understanding of the legal principles and practices of economic regulators. The participants in this short learning programme will be able to apply the knowledge gained in order improve their legal analysis in order to support better decision-making and outcomes for regulators, government and regulated companies.

Course participants will be able to:

- engage with the main concepts in economic regulation;
- take account of principles of administrative justice in investigations and decision;
- frame an investigation/enquiry into a possible breach of a regulation or order, including how to undertake cross-examination of submissions made in hearings
- exercise the appropriate powers to obtain information and hold hearings
- apply the appropriate tests to evaluate information in order to make regulatory decisions
- understand appropriate evidence, including how to critically consider expert evidence such as of economists, financial analysts and industry experts
- consider the ways in which orders can be made and monitored by economic regulators

- build links with regulators across sectors in South Africa to facilitate the sharing of knowledge, experiences and best practices

Approach

The course will be taught by means of lectures on theory and practical case studies on actual regulator decisions, where possible, in order for course participants to develop a working knowledge of regulatory economics in practice.

The course is registered with the Department of Higher Education and is certificated. Participants will be required to successfully complete class case study exercises.

3. Key Topics and Themes Covered

The following topics and themes will be covered in the programme:

- Introduction to economic regulatory procedures and processes;
- Models for enabling public participation;
- State and economic regulator relations;
- Legal powers of economic regulators (including for evidence gathering through summons, interrogation and search warrants);
- Legal drafting, including drafting regulations and decisions;
- Confidentiality and information gathering for investigations and assessments by economic regulators, including the importance of PAIA and the Competition Act and the role of confidentiality undertakings to protect information;
- Gather and understand appropriate evidence;
- Interview and cross-examination techniques;
- Rules and procedures for holding hearings;
- Making and enforcing decisions; and
- Issues related to concurrent jurisdiction between regulators and competition authorities, including legal provisions for this and mechanisms to implement it through memoranda of understanding.

4. Targeted Participants

The programme is targeted at regulatory professionals including those working for economic regulators, government departments and regulated enterprises. Participants are expected to have completed a Bachelor's Degree in Arts, Business, Commerce, Management or Science or an equivalent qualification at National Qualification Framework (NQF) level 7.





The course is not aimed to be an introductory law course but will provide a solid understanding of specific regulatory legal principles and practical issues regarding the work of economic regulators.

5. Cost and venue

The programme cost is R15 000 per participant.

The course will be held at Melrose Place Conferencing, 12A North Street, Melrose, Johannesburg. Transport will be organised to pick up participants from the nearby Rosebank Gautrain station.

6. Programme Lecturers and Facilitators

	<p>Dominic Cull specializes in regulatory issues in the electronic communications industry, and has acted as the regulatory advisor to the Internet Service Providers' Association (ISPA), the Wireless Access Providers' Association (WAPA) and Department of Communications, amongst others. He lectures telecommunications law to masters students at UCT. He has extensive experience in dealing with matters before ICASA and has been closely involved in the development of the regulatory framework under the Electronic Communications Act. Dominic runs Ellipsis Regulatory Solutions, a consultancy focused on assisting electronic communications licensees to comply with the large amount of new regulation passed under the Electronic Communications Act of 2005.</p>
	<p>Ngwako Hamilton Maenetje SC was admitted as an attorney on 18 February 1998, and as an advocate on 3 November 1999. He became a member of the Johannesburg Bar in June 2000. Hamilton was previously a high school teacher in Mpumalanga and a lecturer at the Wits School of Law where he lectured amongst others intellectual property law and insurance law. Hamilton has served as a member of the Johannesburg Bar Council on several occasions in the past, and has also served in organisations outside the Bar. His main areas of practice include constitutional and administrative law, competition law, labour law and commercial law. He has acted for regulatory bodies, such as the Competition Commission, ICASA and the Council for Medical Schemes, and serves as an alternate chairperson of the latter's Appeals Committee. He formerly served as chairperson of the Advertising Standards Committee of the Advertising Standards Authority.</p>
	<p>Wendy Mkwanzani is Chief Legal Counsel at the Competition Commission and head of the Legal Services division. The division provides legal support and advice to the Commission, which includes conducting litigation on behalf of the Commission. The bulk of the division's work comes from the Commission's mergers and acquisitions, and enforcement work. As well managing the Commission's legal division and liaising with external legal advisors and counsel Wendy advises the Commissioner on critical legal questions. During her time at the Commission Wendy has been involved in the major cases undertaken and settlements reached, including with companies such as Telkom, Sasol, SAA and SAB-Miller.</p>
	<p>Carla Raffinetti is an experienced and highly regarded international telecoms and technology lawyer. Before relocating to the UK and joining Preiskel & Co, she headed up the telecoms, media and technology department at Edward Nathan Sonnenbergs, where she qualified as an attorney. Carla has also consistently been ranked in major independent research guides as one of South Africa's leading communications lawyers. Carla has extensive experience in the telecommunications and IT sectors, as well as in the media and broadcasting sectors. She has been involved in some of the largest and most important telecommunications cases in South Africa. While engaged as an attorney in South Africa, Carla frequently made submissions to and appeared before parliament and the regulator on behalf of her clients on policy and regulatory issues.</p>