

PADM7008

ICT Policy, Law & Institutions

Course Syllabus & Readings

Convenor: Luci Abrahams

2 – 6 June 2009



CONTENTS

1 Content overview

This core course examines the legal environment and institutional structures within which policy formulation and regulation for the ICT sector are located. Policy and regulation is conceptualised against constitutional foundations and legal frameworks, and in the context of the legal principles of separation of powers and administrative justice. National legislation governing telecommunications, broadcasting and the Internet is contextualised and reviewed in relation to legal principles and its impact on policy, institutions and regulatory practice in the sector.

2 Session Summary

	Date	Topic	Presenter Contact Details
1	09:00 – 12:00 Tues 2 June	Policy analysis and evaluation	Gavin Cawthra, P&DM
2	13:00 – 16:00 Tues 2 June	Reform of Telecommunications & Broadcasting in South Africa: an overview	Charley Lewis, LINK
3	I 09:00 – 10:15 II 10:30 – 12:00 Weds 3 June	I Constitutional and Legal Frameworks for ICT Policy, Law and Institutions II Case Study: Vodacom Listing 2009	Kerron Edmundson, Attorney & Solicitor Dobek Pater, Africa Analysis
4	13:00 – 16:00 Weds 3 June	Electronic Communications Legislation in South Africa: telecommunications policy, legislation & institutions	Carla Raffinetti, Edward Nathan Sonnenbergs
5	09:00 – 12:00 Thurs 4 June	Competition Policy, Legislation and Institutions in South Africa	Ryan Hawthorne, Competition Commission Keith Weeks, ICASA
6	13:00 – 16:00 Thurs 4 June	Electronic Communications Legislation in South Africa: broadcasting policy, law & institutions	Silas Dziike, Pygma Consulting
7	09:00 – 12:00 Fri 5 June	Electronic Commerce legislation in South Africa	Michael Silber
8	13:00 – 14:30 Fri 5 June	ICT Policy, Law and Institutions: Issues and Conclusions	Luci Abrahams, LINK
9		Study Time	
10	09:00 – 12:00 Sat 6 June	Examination	Luci Abrahams

3 Course Outcomes

On completion of this course, participants will be able to:

- describe the constitutional and legal frameworks within which national ICT legislation is located, including the bill of rights, administrative law, etc;
- describe the relationship between policy, law and regulation;
- articulate the impact of the principles of separation of powers and administrative justice on ICT policy formulation;

- articulate the roles of key stakeholders in respect of policy formulation parameters and processes;
- discuss the key regulatory issues that are dealt with in the legislation governing broadcasting, telecommunications;
- analyse the impact and implications of specific ICT legislation on the development of the ICT sector.

4 Core Readings

The following readings are recommended for the course.

- White, J (2006) 'South Africa', Chapter 30 in Long, C (ed) (2006) *Global Telecommunications Law and Practice*, Sweet & Maxwell, London
- Thornton, L, Carrim, Y, Mtshaulana, P & Reburn, P (2006) *Telecommunications Law in South Africa*, STE Publishers, Johannesburg

5 Required Readings

One or more required readings will be provided for each session. Many of these readings are available online and can be accessed via the relevant URL. Some will be printed out and included in your course pack. You are expected to complete those readings required for each session **in advance** as the lecturer will assume familiarity with their content. In particular, please read the relevant legislation, for which the documents or URLs have been emailed to you. You can also consult the website www.polity.org.za for Acts, Bills, Documents for Public Comment, Notices and Regulations, and Policy Documents.

Lecturers / facilitators who use teaching aids or provide additional material, will distribute these notes to you as they become available. These notes should be added to your course file and included as part of your course materials.

6 Additional Readings

Electronic copies of presentations by lecturers, as well as additional reference material relevant to each lecture topic, together with important course information and resources, will be made available on a WebCT course web site (accessible via <http://chrysalis.wits.ac.za:8901/>). You will be provided with a logon id and password to this site, and are strongly encouraged to make extensive use of its resources. The WebCT site will be updated throughout the duration of the entire programme.

7 Preparation Requirements

Your preparation work – mainly reading - should be done individually before you come on the course. Questions to guide your reading have been provided for this reason. Please note that there may be tasks to prepare for specific sessions. These will assist you to work through the conceptual and theoretical understandings in each of the readings and begin to apply these to cases and issues. Read through each session outline carefully to ensure that there are no mishaps.

We assume that for every 1 hour that you spend in the classroom, 30 in total, you will need to spend approximately 4 additional hours in preparation. This includes reading, writing assignments and examinations.

8 Syndicates and Group Learning

An interactive and intensive learning methodology is utilised, which involves a combination of lectures, case studies, group and individual projects. Given that many participants are active in shaping the telecommunications sector, the P&DM endorses the “syndicate method” of teaching, which requires that some of the learning will be done in groups. This approach is designed to enable course participants to contribute to the course, bringing in their own practical experience, knowledge and expertise together with those of their peers to create a rich learning environment.

Each participant will be assigned to a syndicate group. Syndicates and group work are a vital component of the learning process and attendance at all syndicate meetings is required and compulsory.

Syndicate meetings will be organised by the group members at a time and place suitable to them in accordance with the programme’s schedule. Although the P&DM will make syndicate meeting rooms available, these meetings need not be held on campus. Syndicate meetings and interactions may also take place virtually, through the course WebCT site and via the mailing lists which will be made available for this purpose.

Problems within syndicate groups are to be reported timeously to the Academic Convenor of this course, so that steps may be taken to resolve them. Syndicates will only be able to change their syndicate group composition under exceptional circumstances, and at the sole discretion of the Academic Convenor.

9 Course Assessment

There are two components to the assessment for this course: a group assignment, which is done in syndicate groups following the week of the module, and a written examination, which is done individually.

The group assignment will be distributed during the course of the week, and will count 50% towards your final mark for the course. Its due date for submission is Monday 22 June 2009.

The written examination will take place on Saturday 6 June 2009 and will count 50% towards your final mark for the course. Your lecturers will discuss its requirements during the course of the week. It is likely to be in open-book format with respect to the legislation only, designed to test application of concepts and theoretical tools, rather than to focus on rote learning.

9 Information on Content Sessions

Session 1: Policy analysis and evaluation	
Presenter	Gavin Cawthra, Wits P&DM
Outcomes	Participants will be able to: <ul style="list-style-type: none"> • Use policy-relevant concepts and terms appropriately; • Understand public policy processes; • Be able to apply the basic steps in a policy analysis process • Engage with issues in evaluation
Content	<ul style="list-style-type: none"> • Introduction to public policy processes • Frameworks for understanding the policy process: cycles & models • Policy evaluation
Core Readings	<ul style="list-style-type: none"> • Patton, C & Sawicki, D (1993). <i>Basic Methods of Policy Analysis and Planning</i>, Prentice-Hall, Englewood Cliffs, chapter 1. •
Activity	Applied exercise
About your Lecturer	Gavin Cawthra is Professor of Defence and Security Management at the Graduate School of Public and Development Management (P&DM) at the University of the Witwatersrand, South Africa. He holds a PhD from the University of London and has published extensively.

Session 2: Reform of Telecommunications & Broadcasting in South Africa	
Presenter	Charley Lewis, LINK Centre
Outcomes	<p>Participants will be able to:</p> <ul style="list-style-type: none"> • Describe key features of the inherited telecommunications and broadcasting environment in SA; • Articulate the roles and positions of key stakeholders shaping ICT sector reform; • Analyse the major developments in ICT policy and legislation over the last decade.
Content	<ul style="list-style-type: none"> • Posts, telecommunications and broadcasting in SA prior to 1990; • Transitional reforms in telecommunications and broadcasting; • Reshaping telecommunications for a democratic South Africa; • Tinkering with telecommunications and broadcasting in the new millennium.
Core Readings	<ul style="list-style-type: none"> • Gillwald, A (2002) 'Experimenting with institutional arrangements for communications policy and regulation: the case of telecommunications and broadcasting in South Africa', <i>The Southern African Journal of Information and Communication</i>, Vol 2 No 1, LINK Centre, University of the Witwatersrand, Johannesburg, available online at http://link.wits.ac.za/journal/j0201-ag.htm • Horwitz, R & Currie, W (2007) 'Another instance where privatization trumped liberalization: The politics of telecommunications reform in South Africa - A ten-year retrospective', <i>Telecommunications Policy</i>, No 31, Elsevier, New York
Additional References	<ul style="list-style-type: none"> • Ayogu, M & Hodge, J (2002) 'Understanding Telecom Sector Reforms in South Africa: A Political Economy Perspective', <i>Journal of Contemporary African Studies</i>, No 20, 2002 • Cogburn, D (1998) 'Globalization and State Autonomy in the Information Age: Telecommunications Sector Restructuring in South Africa', <i>Journal of International Affairs</i>, Vol 51 No 2, Spring 1998 • Cohen, T (2003) 'Rethinking (Reluctant) Capture: The Development of South African Telecommunications 1992-2002 and the Impact of Regulation', <i>Journal of African Law</i>, Vol 47 No 1, 2003 • Fokane, T (2003) 'The transformation of broadcasting in South Africa: A history of the Campaign for Open Media (COM) and the Campaign for Independent Broadcasting (CIB)', <i>Freedom of Expression Institute</i>, Johannesburg, available online at http://fxi.org.za/earchive/transformation.pdf • Horwitz, R (2001) 'Negotiated Liberalization': Stakeholder Politics and Communication Sector Reform in South Africa', paper presented to 29th TPRC Conference, September 2001, available online at http://arxiv.org/html/cs.CY/0109097.html • Horwitz, R (2001) <i>Communication and Democratic Reform in South Africa</i>, Cambridge University Press, 2001 • Janisch, H and Kotlowitz, D (1998) 'African Renaissance, Market

	<p>Romance: post-apartheid privatisation and liberalisation in South African broadcasting and telecommunications’, unpublished symposium paper, Columbia University, 1998</p> <ul style="list-style-type: none"> • Kaplan, D (1990) <i>The Crossed Line: The South African Telecommunications Industry in Transition</i>, Wits University Press, Johannesburg, 1990 • RSA (1995) <i>Telecommunications Green Paper</i>, Republic of South Africa, Pretoria, available online at http://www.polity.org.za/html/govdocs/green_papers/telecomms.html • RSA (1996) <i>White Paper on Telecommunications Policy</i>, Republic of South Africa, Pretoria, available online at http://www.polity.org.za/html/govdocs/white_papers/telewp.html
Activity	
About your Lecturer	<p>Charley Lewis is a senior lecturer and researcher at the LINK Centre of the School of Public and Development Management at the University of the Witwatersrand. His areas of interest include: labour, work and ICT; ICT sector policy and regulation; universal service and access; the Internet, and business process outsourcing. He has lectured and presented widely, on a number of ICT policy, regulation and development issues. He has undertaken research in a number of areas, including the Internet, call centres, e-learning and universal access and service. He holds the degree of Master of Commerce in the Management of Information Systems from the University of the Witwatersrand.</p>

Session 3: Constitutional and Legal Frameworks for ICT Policy, Law and Institutions + Case Study: Vodacom Listing 2009	
Presenter	Kerron Edmunson, Attorney & Solicitor Dobek Pater, Africa Analysis (case study)
Outcomes	Participants will be able to: <ul style="list-style-type: none"> • Understand the process of Constitution making; • Analyse the key rights in the Bill of Rights that impact upon the ICT sector; • Undertake a limitations clause analysis of rights-related issues; • Understand the key constitutional concepts of separation of powers and constitutional supremacy; • Describe the principles for the public service; • Analyse the particular constitutional situation of ICASA; • Understand how transparency and rules regarding administrative justice aid in substantive decision-making; • Describe the grounds of judicial review available in terms of legislation; • Analyse when different administrative process provided for in legislation are to be used; • Describe key issues regarding administrative action, natural justice and the right to administrative justice generally.
Content	<ul style="list-style-type: none"> • Constitutional framework for communications regulation • The Bill of Rights • Section 192 of the Constitution • Section 195 of the Constitution • The principle of separation of powers between the three branches of government • Law versus regulation • Stakeholder roles: government, the regulator, operators • Inter-governmental relationships • The Constitutional role of ICASA • Policy formulation parameters and processes • Administrative justice and ethics • Constitutional provisions regarding administrative justice • Detailed analysis of the provisions of the Promotion of Administrative Justice Act

<p>Core Readings</p>	<ul style="list-style-type: none"> • RSA (1993) <i>Constitution of the Republic of South Africa</i>, Republic of South Africa, Pretoria, available online at http://www.constitutionalcourt.org.za/site/constitution/english-web/ Or at www.polity.org.za • RSA (2000) <i>Promotion of Administrative Justice Act 3 of 2000</i> (as amended), Republic of South Africa, Pretoria, available online at http://www.constitutionalcourt.org.za/site/constitution/english-web/ • Currie, I & Klaaren, J (2001) 'Introduction to the Promotion of Administrative Justice Act', in Currie, I & Klaaren, J (2001) <i>The Promotion of Administrative Justice Act Benchbook</i>, Siber Ink Publishers, Cape Town. • White, J (2005) 'Independent Communications Authority of South Africa (ICASA)', Chapter 24 in Woolman, S., Roux, T., & Bishop, M. <i>Constitutional Law of South Africa</i>, see also www.constitutionallawofsouthafrica.co.za
<p>Additional References</p>	<ul style="list-style-type: none"> • Mosco V (2002) 'Bridging the Gap: Processes of Communication and Institutions of Political Economy', in Mansell, R, Samarajiva, R & Mahan, A (eds) <i>Networking Knowledge for Information Societies: Institutions and Intervention</i>, Delft University Press, available online at http://www.lirne.net/resources/netknowledge/mosco.pdf • Currie, I & de Waal, J (2004) 'Just Administrative Action ', in Currie, I & de Waal, J (2004) <i>The Bill of Rights Handbook</i>, 5th edition,
<p>Activity</p>	
<p>About your Lecturers</p>	<p>Kerron Edmunson is a qualified attorney and solicitor operating a consultancy business in Johannesburg, offering strategic legal, regulatory and commercial support to clients in the information and electronic communications industries (formerly known as telecommunications and broadcasting); and to corporate commercial clients in utility and other industries, working in the public and private sector. Kerron qualified with a BA LLB in 1994 and has since held the position of director at Edward Nathan (Pty) Ltd (SA), been appointed a senior solicitor in the Royal Mail (UK) legal department, been employed as a senior solicitor in private practice at Denton Wilde Sapte (UK) for 4 years and worked as in-house legal counsel for one of the mobile telecommunications operators in South Africa.</p> <p>Dobek Pater currently works at Africa Analysis in the capacity of a Telecommunications and Market Analyst. Dobek has participated in numerous telecommunications projects, assessing both telecommunications markets and telecommunications technologies in various countries in Africa. Dobek has experience in servicing a diverse base of clients: operators, service providers, infrastructure suppliers, government departments and agencies, as well as market monitoring bodies, such as regulators.</p>

Session 4: Electronic Communications Legislation in South Africa: telecommunications policy, legislation & institutions	
Presenter	Carla Raffinetti, Edward Nathan Sonnenbergs
Outcomes	<p>Participants will be able to:</p> <ul style="list-style-type: none"> • Analyse telecommunications licensing provisions, including how licences are granted and what the different licence categories mean, with regard to both telecommunications; • Distinguish between the regulator's differing powers and functions regarding broadcasting and telecommunications.
Content	<ul style="list-style-type: none"> • Overview of the regulatory landscape of telecommunications • Different types of telecommunications licences and their respective licensing processes • Frequency spectrum management • Type approvals • The Universal Service Agency, the Universal Service Fund and the Media Diversity and Development Agency • Differing powers between the Minister and ICASA with regard to telecommunications and broadcasting
Core Readings	<ul style="list-style-type: none"> • RSA (2000) <i>Independent Communications Authority of South Africa Act No 13 of 2000</i> (as amended), Republic of South Africa, Pretoria, available online at http://www.internet.org.za/icasa-act.html • RSA (2005) <i>Electronic Communications Act, No 36 of 2005</i>, Republic of South Africa, Pretoria, available online at http://www.icasa.org.za/Manager/ClientFiles/Documents/EComsAct_2005_No_36.pdf or www.polity.org.za at 2005 • RSA (2006) <i>Independent Communications Authority of South Africa Amendment Act No 620 of 2006</i>, Republic of South Africa, Pretoria • White, J (2006) 'South Africa', in Long, C (ed) (2006) <i>Global Telecommunications Law and Practice</i>, Sweet & Maxwell, London • White, J (2005) 'Independent Communications Authority of South Africa (ICASA)', Chapter 24 in Woolman, S., Roux, T., & Bishop, M. <i>Constitutional Law of South Africa</i>, see also www.constitutionallawofsouthafrica.co.za
Activity	
About your Lecturer	<p>Carla Raffinetti is a director at the law firm Edward Nathan Sonnenbergs, where she specialises in communications law. Her areas of speciality include telecommunications, satellite, broadcasting and media law. Prior to joining Edward Nathan, Carla was employed as a specialist in Telkom's regulatory department and also served as a director at Cheadle Thompson & Haysom.</p>

Session 5: Competition Policy, Legislation and Institutions in South Africa	
Presenter	Ryan Hawthorne, Competition Commission & Keith Weeks, ICASA
Outcomes	<p>Participants will be able to:</p> <ul style="list-style-type: none"> • Describe the institutional structures set up in terms of the Competition Act; • Articulate key substantive issues in competition law as they effect the ICT sector; • Analyse the differences between competition law and public regulation; • Analyse the competition provisions in the 2005 Electronic Communications Act and their implications; • Debate jurisdictional questions raised by the presence of sectoral and competition regulators.
Content	<ul style="list-style-type: none"> • Principles of competition policy • Competition legislation in South Africa • Institutional framework governing competition in South Africa • Competition vs sector specific regulation • MoA between Competition Commission and ICASA • 2005 Electronic Communications Act (competition provisions)
Core Readings	<ul style="list-style-type: none"> • RSA (1998) <i>Competition Act No 89 of 1998</i> (as amended), Republic of South Africa, Pretoria, available online at http://www.compcom.co.za/thelaw/ConsolidatedAct.doc • Competition Commission (2002) 'Memorandum of Agreement Entered into between the Competition Commission and the Independent Communications Authority of South Africa', Competition Commission, Pretoria • RSA (2005) <i>Electronic Communications Act, No 36 of 2005</i>, Republic of South Africa, Pretoria, available online at http://www.icasa.org.za/Manager/ClientFiles/Documents/EComsAct_2005_No_36.pdf • Intven, H, Oliver, J & Sepúlveda, E (2000) 'Competition Policy', in <i>Telecommunications Regulation Handbook</i>, Intven, H (ed), World Bank, Washington DC, available online at http://www.infodev.org/projects/314regulationhandbook/module5.pdf • Ngwepe, W (2003) 'Serving two masters: Concurrent jurisdiction between the Competition Commission and the Independent Communications Authority of South Africa', <i>SA Law Journal</i>, Vol 120, Issue 2 • MEMO/07/274 Antitrust: Commission decision against Telefonica – frequently asked questions, Brussels 4th July 2007 • Supreme Court of the United States, October Term 2008, <i>Pacific Bell Telephone Co. Vs Linkline Communications Inc.</i>
Additional References	<ul style="list-style-type: none"> • Hodge, J (2001) 'Promoting Competitive Outcomes in the Fixed Line Telecommunications Sector in South Africa', unpublished conference paper, TIPS 2001 Annual Forum, Muldersdrift, available online at http://www.tips.org.za/f2001/hodge.pdf • ICN (2006) 'The Role For Competition In The Telecommunications Services Sector', International Competition Network
About your Lecturers	Ryan Hawthorne is an economist at the Competition Commission. Ryan has worked on a number of horizontal and vertical mergers, abuse of dominance cases, and

restrictive horizontal and vertical practices cases in a range of sectors, including the forestry, telecommunications (fixed and mobile), and other sectors. Ryan has also submitted inputs into the telecommunications regulatory authority's regulatory processes, in processes to amend the Competition Act, 1998, and in electricity pricing policy development.

Keith Weeks is General Manager: Markets and Competition at ICASA.

Session 6: Electronic Communications Legislation in South Africa: broadcasting policy, legislation & institutions	
Presenter	Silas Dziike, Pygma Consulting
Outcomes	<p>Participants will be able to:</p> <ul style="list-style-type: none"> • Analyse broadcasting licensing provisions, including how licences are granted and what the different licence categories mean; • Analyse key competition issues regarding broadcasting; • Analyse ownership concerns regarding broadcasting; • Analyse content concerns regarding broadcasting; • Distinguish between the regulator's differing powers and functions regarding broadcasting and telecommunications; • Describe the different regulatory matters provided for in the different pieces of legislation, including, signal distribution, frequency spectrum management.
Content	<ul style="list-style-type: none"> • Broadcast licensing under the EC Act • Broadcasting content regulation under the EC Act • Regulation of broadcasting ownership and control under the EC Act
Core Readings	<ul style="list-style-type: none"> • RSA (1993) <i>Independent Broadcasting Authority Act No 153 of 1993</i> (as amended), Republic of South Africa, Pretoria • RSA (1999) <i>Broadcasting Act No 4 of 1999</i> (as amended), Republic of South Africa, Pretoria • RSA (2000) <i>Independent Communications Authority of South Africa Act No 13 of 2000</i> (as amended), Republic of South Africa, Pretoria, available online at http://www.internet.org.za/icasa-act.html • RSA (2005) <i>Electronic Communications Act, No 36 of 2005</i>, Republic of South Africa, Pretoria, available online at http://www.icasa.org.za/Manager/ClientFiles/Documents/EComsAct_2005_No_36.pdf • RSA (2006) <i>Independent Communications Authority of South Africa Amendment Act No 620 of 2006</i>, Republic of South Africa, Pretoria • Thornton, L, Cupido, C & Edmunson, K (2006) 'The Regulation of Broadcasting Services in South Africa under the Electronic Communications Act', Lisa Thornton Inc, Johannesburg

<p>Additional References</p>	<ul style="list-style-type: none"> • Armstrong, C & Collins, R (2004) <i>Digital Dilemmas for South African TV</i>, LINK Centre, University of the Witwatersrand, Johannesburg, available online at http://link.wits.ac.za/papers/ddtvcarc.pdf • Meier W (2002) 'Media Ownership - Does it Matter?' in Mansell, R, Samarajiva, R & Mahan, A (eds) <i>Networking Knowledge for Information Societies: Institutions and Intervention</i>, Delft University Press, available online at http://www.lirne.net/resources/netknowledge/meier.pdf • Raboy M (2002) 'Media Policy and Public Interest', in Mansell, R, Samarajiva, R & Mahan, A (eds) <i>Networking Knowledge for Information Societies: Institutions and Intervention</i>, Delft University Press, available online at http://www.lirne.net/resources/netknowledge/raboy.pdf • Raboy, M (2003) 'Media and Democratization in the Information Society', in O'Siochru, S & Girard, B (eds) <i>Communicating in the Information Society</i>, United Nations Research Institute for Social Development, Geneva, available online at http://files.crisinfo.org/cris/raboy.pdf
<p>Activity</p>	
<p>About your Lecturer</p>	<p>Silas Dziike specialises in regulatory law, competition, consumer protection and administrative law in the electronic communications sector. He has participated in numerous projects in the broadcasting and telecommunications sector including assisting applicants for broadcasting licences in South Africa. In 2006 Silas joined Werksmans Attorneys' Media, Communications and Technology department researching on the national and international policy and regulation of the communications sector. In 2008 he joined Pygma Consulting as Senior Legal Consultant providing regulatory and legal support to clients in the information and electronic communications sector in the public and private sectors. Silas holds an LLB (2002) and LLM (2005) specialising in Communications Law from the University of the Witwatersrand.</p>

Session 7: Electronic commerce legislation in South Africa	
Presenter	Michael Silber
Outcomes	<p>Participants will be able to:</p> <ul style="list-style-type: none"> • Discuss the legal factors inhibiting and promoting Electronic Commerce generally; • Describe the UNCITRAL approach to Electronic Commerce legislation; • Articulate the South African approach to Electronic Commerce legislation; • Analyse the approach in the Electronic Communications and Transactions Act with regard to: <ul style="list-style-type: none"> ○ Functional equivalence, ○ Media neutrality, ○ Electronic contracting, ○ Electronic signature, ○ Electronic evidence / storage etc.
Content	<ul style="list-style-type: none"> • Electronic Commerce in development • Analysis of Legal factors in Electronic Commerce • Overview of the UNCITRAL Model Law on Electronic Commerce and the UNCITRAL Model Law on Electronic Signature • Detailed analysis of the Electronic Communications and Transactions Act
Core Readings	<ul style="list-style-type: none"> • RSA (2002) <i>Electronic Communications and Transactions Act, No 25 of 2002</i>, Republic of South Africa, Pretoria, available online at http://www.internet.org.za/ect_act.html • RSA (2002) <i>Regulation of Interception of Communications and Provision of Communication-related Information Act, No 70 of 2002</i>, Republic of South Africa, Pretoria, available online at http://www.internet.org.za/ricpci.html • UN (1996) UNCITRAL Model Law on Electronic Commerce (1996) with additional article 5 bis as adopted in 1998 and Guide to Enactment, United Nations, Geneva

<p>Additional References</p>	<ul style="list-style-type: none"> • Dempsey, J (2003) 'Creating the Legal Framework for ICT Development: The Example of E-Signature Legislation in Emerging Market Economies', Global Internet Policy Initiative, Washington, DC, available online from http://www.internetpolicy.net/e-commerce/ • Mann, C, Eckert, S & Knight, S (2000) 'Chapter 1: Overview', in <i>Global Electronic Commerce: A Policy Primer</i>, Institute for International Economics • Mann, C, Eckert, S & Knight, S (2000) 'Chapter 7: Government and the Environment of Certainty and Trust, , in <i>Global Electronic Commerce: A Policy Primer</i>, Institute for International Economics • Moodley, S, Morris, M & Velia, M (2003) 'E-commerce for exporting garments from South Africa: "digital dividend" or leap of faith?'"', IDS Working Paper No 182, Institute for Development Studies, Brighton, available online from http://www.gapresearch.org/production/Wp182form.pdf • RSA (1999) <i>Discussion Paper on Electronic Commerce Policy</i>, Republic of South Africa, Pretoria, available online at http://www.polity.org.za/html/govdocs/discuss/ecom.html • RSA (2002) <i>Regulation of Interception of Communications and Provision of Communication-Related Information Act, No 70 of 2002</i>, Republic of South Africa, Pretoria, available online at http://www.internet.org.za/ricpci.html • UNCTAD (2003) 'Executive Summary' in <i>E-Commerce and Development Report 2002</i>, United Nations Conference on Trade and Development , Geneva
<p>Activity</p>	
<p>About your Lecturer</p>	<p>Michael Silber is an admitted attorney (non-practising) and has worked in the area of intersection of law, policy and technology for a number of years. Michael trained and worked at a leading South African law firm and one of the leading multi-disciplinary practises and was the General Manager of the South African Post Office's Trust Centre before starting his own consultancy. Michael has acted for numerous South African information and communication technology companies and organisations, serves on the board of the South African Domain Name Authority and the Nominating Committee of the Internet Corporation for Assigned Names and Numbers (ICANN) and is involved in a number of industry and standard setting bodies.</p>

Session 8: ICT Policy, Law and Institutions: Issues and Conclusions	
Presenter	Luci Abrahams, LINK Centre
Outcomes	<p>Participants will be able to:</p> <ul style="list-style-type: none"> • Describe the constitutional and legal frameworks within which national ICT legislation is located, including the bill of rights & administrative law; • Describe the relationship between policy, law and regulation; • Articulate the impact of the principles of separation of powers and administrative justice on ICT policy formulation; • Articulate the roles of key stakeholders in respect of policy formulation parameters and processes; • Discuss the key regulatory issues that are dealt with in the legislation governing broadcasting, telecommunications; • Analyse the impact and implications of specific ICT legislation on the development of the ICT sector.
Content	<ul style="list-style-type: none"> • Constitutional and legal frameworks for ICT policy & regulation in SA; • ICT legislation in SA; • ICT reform in SA; • Stakeholder perspectives and roles; • Impact and implications of ICT legislation.
Core Readings	<ul style="list-style-type: none"> • Gillwald, A (2005) 'Good intentions, poor outcomes: Telecommunications reform in South Africa', Telecommunications Policy, Volume 29, Issue 7, August 2005 • Garnham, N (2005) 'Contradiction, Confusion and Hubris: A Critical Review of European Information Society Policy', in Verhoest, P (ed) (2005) Contradiction, Confusion and Hubris: A Critical Review of European Information Society Policy, European Network for Communication & Information Perspectives, Brussels, available online at http://www.encip.org/document/garnham.pdf
Additional References	<ul style="list-style-type: none"> • Esselaar, S & Gillwald, A (2007) '2006 South African ICT Sector Performance Review, LINK Centre Public Policy Research Paper No 8, LINK Centre, Johannesburg, available online at http://www.researchictafrica.net/images/upload/SA_SPR31Jan%202007_v21d.pdf • Janisch, H (2006) 'Freer Markets, More Rules: Confronting the Paradox of Telecommunications "Deregulation"', public lecture, LINK Centre, Johannesburg, March 15, 2006
Activity	
About your Lecturer	Luci Abrahams is Director of the LINK Centre. She lectures and conducts research in relation to 'institutions and economic sectors in the network knowledge economy'.