

## Intellect Electronic Communications and Services Course for ICTtrain delegates - Version 1-2

### Course Objectives

1. The aim of the course is to ensure that the delegates understand:
  - How the EU *acquis* for electronic communications services impacts companies operating in this field.
  - Where to obtain further information on this subject.
2. The course should, at the outset, explore and explain the meaning of the term “EU *acquis*”. It is a difficult concept and it describes a very large and continuously growing body of law which exists alongside the national law of all member states. There are several different classes of EU legal instrument (eg treaty provisions, directives, decisions, regulations etc) and a growing body of jurisprudence. The *acquis* is organised, largely for convenience, into a number of more or less arbitrary “chapters”. For negotiations with Bulgaria and Romania there were 31 chapters in which chapter 19 was “Telecommunications and Information Society”. For negotiations with Croatia and Turkey the *acquis* has 35 chapters in which chapter 11 is entitled “Information Society and Media”, see Annex 2 for further details.
3. However, this arrangement of the *acquis* exists in parallel with the standing classification of EU legislation in force whereby there are 20 chapters. This classification has a chapter 13 “Industrial policy and internal market” within which there is chapter 13.20.60 “Information technology, telecommunications and data-processing”. This contains 194 legal instruments of various kinds, see Annex 3 for further details.
4. For less legalistic purposes, the *acquis* for electronic communications services can be regarded as the six directives and one regulation and some important subsidiary measures adopted under powers granted by these directives. These instruments are listed at Annex 4.
5. The course should also answer the questions:
  - what is the *acquis* for electronic communications services and how does it affect business?
  - what other *acquis* affects companies that trade in the electronic communications sector?
6. There are two main types of business interest that are affected commercially by the EU *acquis* for electronic communications. These can broadly be characterised as suppliers and consumers. These are not distinct groups of companies however because all companies are consumers of these services. Moreover, the commercial hierarchy among suppliers that distinguishes wholesalers from retailers in some other sectors is less obvious in this sector.

Many suppliers of services have as customers companies which are also competitors.

7. The group of EU Directives generally referred to as the 2002 (or 2003) Regulatory Framework for Electronic Communications contains important provisions that are vital for companies, large and small, that offer services or operate networks in this field. It also provides for consumer protection that is specific to this field (and additional to general consumer protection provisions). It also sets out requirements for National Regulatory Authorities and how they must cooperate with each other and with the Commission. The framework also provides the legal basis for the EU's activities in relation to radio spectrum policy and the switchover to digital television. The course outlined below is mainly concerned with these Directives and related legal and policy measures, their genesis, their relationship to earlier EU Directives, their implementation and likely future development.
8. Companies which are operating in the electronic services market must comply also with the full range of applicable law, eg company, environmental, employment, taxation etc. National laws in many of these more general fields have been made in compliance with various parts of the *acquis*. The proposed short course cannot and should not try to identify and summarise the vast range of EU *acquis* concerned.
9. However, some of these more general parts of the *acquis* are so important for suppliers and consumers of electronic communications services, that leaving them out of this course entirely would leave it unbalanced and less useful. The course outline below therefore includes some coverage of the following more general fields:
  - Competition.
  - Data protection.
  - Audio-visual and media.
  - Consumer protection.
  - Urban planning, rights of way, administration of property rights.
  - Privatisation.
  - Public procurement.
  - Technical standards and approvals.
10. For all parts of the course, it is important that the source of relevant official material is provided.

## **Outline programme for course**

16 The following course design principles are proposed:

- Normal working day will be from 9.30am to 5.30pm with one hour off at lunch time (1.00-2.00pm) and two other short breaks.
- Intellect will take responsibility three days.
- RHH will take responsibility for seven days – equivalent to 56 x 45 minutes periods some of which will be more participative (marked **P** below) in style.
- Ideally, delegates should not face more than four taught periods (marked **T** below) per day so it would be preferable for the Intellect visits to be interspersed as separate half-days.
- The class-room material should then be arranged into about 40 taught periods and 16 participative periods.
- RHH wishes to engage a colleague in some of the more commercial material and some participative periods. These parts should be on two consecutive days when the delegates will not be travelling away from the Intellect offices.
- Sessions for which Intellect will take responsibility will cover the following
  - Meeting at Ofcom SH
  - Visit an Intellect member (a telecoms manufacturer?) TWS- Ericsson
  - Visit an operator TWS - C&W
  - Have a pitch from someone in BT's European 'division' TWS -DS
  - Meet Intellect's two specialist telecomms members of staff SH
  - Meet Intellect's technical specialist on digital switchover SH

The overall schedule is as follows:

Date	Morning	Afternoon
3 <sup>rd</sup> Nov	Introductions – generalities, handouts	EU vocabulary
4 <sup>th</sup> Nov	The EU Framework 1	<b>BT meeting with Scott Broadley and two others. TWS arranging</b>
5 <sup>th</sup> Nov	The EU Framework 2	<b>Intellect</b>
6 <sup>th</sup> Nov	Implementation 1	<b>Ofcom briefing. NB Ofcom have just informed us they are unable to hold any briefings in November. We (Steve Hearnden and Tom W-S of Intellect) expect to use the Ofcom slides and brief the delegates ourselves.</b>
7 <sup>th</sup> Nov	Access problems	Consumer aspects 1

10 <sup>th</sup> Nov	Consumer aspects 2	Commercial aspects of regulation 1
11 <sup>th</sup> Nov	Commercial aspects of regulation 2	Main participative session
12 <sup>th</sup> Nov	<b>11.30 til 3pm Ericsson in Guildford</b>	<b>11.30 til 3pm Ericsson in Guildford</b>
13 <sup>th</sup> Nov	<b>Attend Intellect Wireless Council</b>	Spectrum and related aspects
14 <sup>th</sup> Nov	Implementation 2	Summary session and reports by delegates

***Provisional table of the subject material to be covered:***

No.	Subject	No. of periods	T or P	Trainer
	Formal welcome, domestic, logistics	1	T	TWS
	Introductory session	1	T	RHH
	EU legislation – what is the <i>acquis</i> ?	1	T	RHH
	What <i>acquis</i> is relevant to the delegates' members?	2	T & P	RHH & Dels
	What caused liberalisation? Why is it called de-regulation in the USA?	1	T	RHH
	The 2002 Regulatory Framework – genesis	1	T	RHH
	Situation in BG, RO, HR and TR	2	T & P	RHH & Dels
	A look at the sources <ul style="list-style-type: none"> <li>• Implementation reports</li> <li>• Cullen SEE reports</li> <li>• EU web-sites</li> </ul>	2	T&P	RHH & Dels
	• Transition from 1998 framework	1	T	RHH
	• <b>Framework Directive</b>	1	T	RHH
	• <b>Authorisation Directive</b>	1	T	RHH
	• <b>Access Directive</b> , RIOs and RUOs, collocation, masts & ducts	2	T	RHH
	Urban planning, rights of way, administration of property rights	2	T&P	RHH & Dels
	• <b>Universal Service Directive</b> – part 1	1	T	RHH
	Implementation of the regulatory framework	1	T	RHH
	• Article 7 procedure	1	T	RHH
	• Annual reports and Cullen SEE	1	T	RHH
	Analysis and comparison of BG, RO, HR, TR	2	P	RHH & Dels
	• Infringement proceedings	1	T	RHH
	• Communications committee	1	T	RHH
	• Spectrum policy group and Radio spectrum committee	1	T	RHH
	• <b>Liberalisation Directive</b>	1	T	RHH

Competition law, treaty provisions, cooperation with NRAs	1	T	RHH
Public procurement of goods and services	1	T	RHH
Technical standards and approvals	1	T	RHH
• <b>R&amp;TTE and EMC Directives</b>	1	1	RHH
CE marking, essential requirements, presumption of conformity	1	1	RHH
Switchover to digital television	1	T	RHH
National regulatory authorities	1	T	RHH
• European Regulators Group	1	T	RHH
• <b>Universal Service Directive</b> – part 2	1	T	RHH
Privatisation	1	T	RHH
Consumer protection	1	T	RHH
Situation in BG, RO, HR and TR	1	P	Dels
Audio-visual & media	1	T	RHH
Content regulation	1	T	RHH
Regulation of premium rate services	1	T	RHH
• <b>Privacy Directive</b>	1	T	RHH
Data protection	1	T	RHH
A practical look at the UK market	1	P	All
Convergence of regulation	1	T	RHH
The Review of the regulatory framework	1	T	RHH
Other recent and current EC initiatives	1	T	RHH
Other sources of <i>acquis</i>	1	T	RHH
• European Human Rights Convention			
• WTO GATS			
• Stability and Association Agreements			
Case exercise	2	T&P	RHH & Dels
How to choose? – <a href="http://www.uswitch.com/">http://www.uswitch.com/</a>	1	T	RHH
Public consultation mechanisms	2	T&P	RHH & Dels
Prepared reports by delegates	2	T&P	RHH & Dels
Formal closing session	1	T&P	TWS
Total	58		

17 The next step will be to review/ confirm this list and the relative weights/durations to be accorded to each. The above sequence is approximately right but, aside from ensuring that the basic material is dealt with first and keeping certain blocks together, there is some flexibility as regards most items. In any event, the sequence needs to be arranged to maintain a varied and interesting pace and to accommodate the Intellect parts. Some additional participative sessions remain to be devised.

18 For all parts of the course, it is important that the source of useful material is provided. There will be a certain volume of paper material to be distributed for use in class. It would be good if Intellect could arrange for the printing of sufficient copies for the delegates and instructors. RHH will send by e-mail in advance the documents to be included in a binder for each delegate.

19 It would be helpful for there to be a PC with wireless internet access in the training room along with a beamer and a screen.

London, 30<sup>th</sup> June 2008

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## EU's Business Support Programme for Bulgaria, Romania, Croatia and Turkey

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The understanding behind the Business Support Programme (BSP) is that the EU *acquis* has to be applied by a wide variety of organisations and economic operators at business and civil level in the Beneficiary Countries in addition to their national administrative bodies. The programme is an institution building facility assisting the operation of Business Representative Organisations (BROs) and spreading their acquaintance on the *acquis*. As accession gets closer, it is key for its success to ensure that the implementation of the EU legislation follows a global approach whereby economic actors are also supported in implementing and benefiting from the internal market *acquis*. This BSP will not cover the agriculture sector.

### OBJECTIVES OF THE PROGRAMME AND PRIORITY ISSUES FOR 2006

The BSP's overall objective is to contribute to the implementation of the *acquis* criteria set forth by the 1993 Copenhagen European Council<sup>1</sup> : the BSP aims at supporting the ability of BROs and their associate companies in the Beneficiary Countries to take on and implement the Community *acquis* and support its implementation in their member companies.

#### The first objective of the programme is:

“To contribute to the full familiarisation of target business representative organisations with the relevant *acquis* and its implications *vis-à-vis* their company members.”

Under this objective the BSP will support the BROs in the beneficiary countries to provide assistance to their member companies in order to be able to display a sufficient level of compliance with the *acquis*, particularly in environmental protection and -for those involved in foodstuffs- food quality and product safety, but also on other pressing issues for these countries notably liberalisation. Since businesses in the beneficiary countries continue to place their interest in improving their competitive position and market growth locally and in the EU, through the BSP BROs and their members will become familiar of the implications of the free movement of goods, with particular reference to standards and certification, which are becoming crucial areas for companies. Under BSP emphasis will be on the technical *acquis* relevant to the industrial processes of members of target BROs. In the case of Bulgaria and Romania the actions should focus on the implications of the *acquis* advising on the measures which may need to be taken in order to allow businesses to fully align with the *acquis* or to take benefit from the *acquis*.

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<sup>1</sup> Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

Each selected project will devote **no less than 80%** of the total European Union (EU) funding granted to support activities under this '*acquis*' objective.

**The second objective of the programme is:**

“to strengthen independent and effective Business Representative Organisations in the Beneficiary Countries.”

Sectoral and horizontal BROs are now in place in the beneficiary countries and important progress has been achieved in setting up legitimate and motivated BROs. When particularly relevant for the achievement of the first objective and the success of the project, the Commission can provide support to activities aiming to further strengthen the beneficiary countries' business representative organisations' management capacity in advocating the interests of their member companies in adopting and implementing the Community *acquis*.

Each selected project may devote **up to 20%** of the total EU funding granted to support activities under this 'capacity building' objective. In particular for Bulgaria and Romania this objective seems to be of interest.



## The chapters of the *acquis*

Correspondence between the chapters at different times:

BG and RO negotiations	HR and TR negotiations
1. Free movement of goods	1. Free movement of goods
	7. Intellectual property law
2. Free movement of persons	2. Freedom of movement for workers
	3. <b>Right of establishment</b> and freedom to provide services
3. Freedom to provide services	3. Right of establishment and <b>freedom to provide services</b>
	9. Financial services
4. Free movement of capital	4. Free movement of capital
5. Company law	6. Company law
6. Competition policy	8. Competition policy
	5. Public procurement
7. Agriculture	11. Agriculture and rural development
	12. Food safety, veterinary and phytosanitary policy
8. Fisheries	13. Fisheries
9. Transport policy	14. Transport policy
	21. Trans-European networks ( <b>one half of it</b> )
10. Taxation	16. Taxation
11. Economic and Monetary Union	17. Economic and monetary policy
12. Statistics	18. Statistics
13. Social policy and employment	19. Social policy and employment (including anti-discrimination and equal opportunities for women and men)
14. Energy	15. Energy
	21. Trans-European networks ( <b>one half of it</b> )
15. Industrial policy	
16. Small and medium-sized enterprises	20. Enterprise and industrial policy
17. Science and research	25. Science and research
18. Education and training	
19. Telecommunication and information technologies	26. Education and culture 10. Information society and media
20. Culture and audio-visual policy	
21. Regional policy and coordination of structural instruments	22. Regional policy and coordination of structural instruments
22. Environment	27. Environment
23. Consumer and health protection	28. Consumer and health protection

24. Cooperation in the field of Justice and Home Affairs	23. Judiciary and fundamental rights
	24. Justice, freedom and security
25. Customs union	29. Customs union
26. External relations	30. External relations
27. Common Foreign and Security Policy (CFSP)	31. Foreign, security and defence policy
28. Financial control	32. Financial control
29. Financial and budgetary provisions	33. Financial and budgetary provisions
30. Institutions	34. Institutions
31. Others	35. Other issues

## Directory of Community Legislation in Force

See: <http://eur-lex.europa.eu/en/legis/latest/index.htm>

- **01 General, financial and institutional matters** (number of acts: 1008)
- **02 Customs Union and free movement of goods** (number of acts: 856)
- **03 Agriculture** (number of acts: 3240)
- **04 Fisheries** (number of acts: 698)
- **05 Freedom of movement for workers and social policy** (number of acts: 426)
- **06 Right of establishment and freedom to provide services** (number of acts: 233)
- **07 Transport policy** (number of acts: 608)
- **08 Competition policy** (number of acts: 1608)
- **09 Taxation** (number of acts: 175)
- **10 Economic and monetary policy and free movement of capital** (number of acts: 374)
- **11 External relations** (number of acts: 3098)
- **12 Energy** (number of acts: 343)
- **13 Industrial policy and internal market** (number of acts: 1345)
- **14 Regional policy and coordination of structural instruments** (number of acts: 364)
- **15 Environment, consumers and health protection** (number of acts: 1050)
- **16 Science, information, education and culture** (number of acts: 373)
- **17 Law relating to undertakings** (number of acts: 106)
- **18 Common Foreign and Security Policy** (number of acts: 374)
- **19 Area of freedom, security and justice** (number of acts: 495)
- **20 People's Europe** (number of acts: 18)

### 13.20 Industrial policy: sectoral operations

- **13.20.10 Iron and steel industry** (number of acts: 56)
- **13.20.20 Shipbuilding** (number of acts: 11)
- **13.20.30 Aeronautical industry** (number of acts: 8)
- **13.20.40 Textiles** (number of acts: 24)
- **13.20.50 Leather, hides, skins and footwear** (number of acts: 0)
- **13.20.60 Information technology, telecommunications and data-processing** (number of acts: 194)
- **13.20.70 Other industrial sectors** (number of acts: 15)

## The regulatory framework for electronic communications services

The Commission's web-site is a good, informal, source for the currently applicable material. At or via:

[http://ec.europa.eu/information\\_society/policy/ecomm/current/index\\_en.htm](http://ec.europa.eu/information_society/policy/ecomm/current/index_en.htm)

It shows the following list of legal instruments:

- Directive (2002/21/EC) on a common regulatory framework
- Directive (2002/19/EC) on access and interconnection
- Directive (2002/20/EC) on the authorisation of electronic communications networks and services
- Directive (2002/22/EC) on universal service and users' rights relating to electronic communications networks and services
- Directive (2002/58/EC) on privacy and electronic communications
- Directive (2002/77/EC) on competition in the markets for electronic communications services
- Regulation (2000/2887/EC) on unbundled access to the local loop
- Recommendation of 17 December 2007 on relevant product and service markets
- Commission staff working document – explanatory note of 13 November 2007 - Accompanying document to the Commission Recommendation on relevant product and service markets
- Commission guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications networks and services (2002/C 165/03)
- Recommendation of 23 July 2003 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services

This is not a complete list of all applicable legal instruments in this field.