Legal best practices for collaborative innovative clusters

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Summary

1) Nature of Clusters and PVCs
2) Clusters and PVC: similarities
3) The 3 C parameter
4) Clusters and PVCs: differences
5) Legal issues
6) Choice of legal structure
7) The best option: Unincorporated association
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Clusters and PVCs

Nature

Clusters:
Concentration of interconnective companies

PVCs:
Association of individuals
Clusters and PVCs

**Similarities**

- Pursuing an economic objective
- Identified by a specific knowledge
- Aimed to generate value through their collaboration
- Use of ICT
The 3 C parameter

In order to have a good chance of working successfully together, Partners must have:

- Compatibility
- Capability
- Commitment
Differences

Clusters and VEs:
Need an organizational structure

PVCs:
Require a more agile and flexible structure.
Ad-hoc task-teams of individuals self aggregate concurrently with the task definition, independently from organizational constraints
Legal issues for Clusters/PVCs’ players

Legal issues

- Protection of IPR
- Limitation of liability
- Indemnification for damages
- Decision making process
- Temporary nature (limited in time mobility of members)
Choice of legal structure

Amongst the various legal entities and legal forms available, the experience and cases studies show that the most suited and popular legal structure for both Clusters and PVCs seems to be the:

*UNINCORPORATED ASSOCIATION*
Unincorporated Association

- Is not a separate legal entity
- No need to be registered
- No limitation of liability
- Still some formalities to be accomplished
- Is a structure based upon solely on contractual agreements between the parties
Clusters: organizational structure

- Forming a partnership
- Forming an EEIG
- Forming a company
- EC corporate structures
Legal Structures for a specific cooperative network

Parties may need to start operation without having establish a legal entity

Joint Venture

Mandate to a partner

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The Cluster Broker

Role

Cluster Broker

Relationship With clusters members

Responsability

Remuneration
Other important legal issues

- **Competition law**
  - Art. 81 EC Treaty: prohibition against anti-competitive agreements
  - Art. 82 EC Treaty: prohibition against business abusing their dominant position

- **Data protection**
CONCLUSIONS

- Both Clusters and PVCs need an agile and flexible structure
- Unincorporated association is identified to be the best legal structure
- Partners/members still need to regulate their relationships with some contractual agreements
- Various levels and forms of agreements can be stipulated depending upon the nature of the business, the relationships between the members and the kind of customer
Additional information

• **ECOLEAD Info resources:**
  – [http://www.ecolead.org](http://www.ecolead.org)
  – [http://seminars.ijs.si/ecolead](http://seminars.ijs.si/ecolead)

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