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**Panel 08H:
The State of Teaching the European Union:
Challenges and Opportunities**

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Teaching EU Law & Policy in an Online Setting[1]

Don C. Smith[2] and **Jessica Hogan**[3]

“**A**t the dawn of the twenty-first century, a geopolitical revolution of historic dimensions is under way across the Atlantic: the unification of Europe…Americans have largely ignored this European revolution…[However,] it's time to take a look over our shoulder. The new United States of Europe – to use Winston Churchill's phrase – has more people, more wealth, and more trade than the United States of America…The result is global economic and political clout that makes the European Union exactly what its leaders want it to be: a second superpower that can stand on equal footing with the United States.”[4]

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[4] T.R Reid, THE UNITED STATES OF EUROPE: THE NEW SUPERPOWER AND THE END OF AMERICAN SUPREMACY 1 (2004).

"The EU is quickly developing a body of law that is having a significant impact on American companies doing business in Europe, even as it diverges in some key ways from U.S. law. In an increasingly global legal environment, U.S. lawyers will have no choice but to take notice when uniform laws and standard legal practices are established for such a large number of countries…That creates opportunities, as well as obstacles, for U.S. lawyers representing clients who do business in Europe."[5]

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"The consensus among lawyers, CEOs, NGO activists, and others is that the people whom they would most like to hire are those who understand how to navigate between cultures and who have at least some cultural competence…At a minimum is should include exposure to at least one foreign culture, through lots of courses…Law schools must train students to be boundary-crossers, literally and figuratively."[6]

Abstract

The teaching of EU Law at the University of Denver Sturm College of Law has been enhanced by the development of an on-line delivery platform and course that take advantage of the strengths of the internet to deliver a robust, challenging, and timely look at European integration. First offered in late 2002, the on-line course provides students a structured way in which to learn about the EU while also providing opportunities for students to improve cross-cultural communications skills with European experts. The course is convenient for students – allowing them to complete assignments at a time and place best suited for them – while also providing a means for delving more deeply into important issues through class discussions, on-going feedback from the professor, and learning about the EU's evolution as it takes place. The practical day-to-day issues involved with offering such a course are explored along with an assessment of key lessons – both from a substantive and technology standpoint – learned.

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[5] Martha Neil, *Old Continent, New Deal*, ABA JOURNAL, Sept. 2004, at 51, 53.

[6] Anne-Marie Slaughter, *The International Dimension of Law School Curriculum*, 22 PENN ST. INT'L LAW REV. 417, 418 (2004). Prof. Slaughter is Dean of the Princeton University Woodrow Wilson School of Public and International Affairs, and formerly the J. Sinclair Armstrong Professor of International, Foreign, and Comparative Law at Harvard Law School.

I.   Introduction

The University of Denver Sturm College of Law has offered two European Union-related courses via the internet: "European Union Law & Policy" (EU Law) and "European Union Environmental Law & Policy" (EU Environmental Law).[7] The courses are aimed at educating future American lawyers about the challenges and opportunities represented by European Union legislation and policy-making, a notion that is beginning to take hold as American lawyers realize the increasing importance to their clients of EU legislation.[8]

A key element of the courses is to introduce students – through the use of technology – to some of the nuances and subtleties involved with EU law including its historical underpinnings and present day status. Technology allows the concepts to be focused on – to an extent never before easily possible – with the involvement of European experts from the policy-making, judicial, legislative, executive, and business worlds. Moreover, on-line learning allows for course delivery that addresses multiple learning styles.

The purpose of this paper is to consider how the University of Denver Sturm College of Law has gone about developing and delivering online versions of: (1) EU Law & Policy; and (2) EU Environmental Law & Policy. In Section II., the paper considers the teaching of EU law in American law schools. On-line teaching generally is explored in Section III. while Section IV. looks at on-line teaching in U.S. law schools. Section V. describes the development of the initial EU law course. In Section VI. a closer look is taken at the structure of the EU Law & Policy course. The course development team is described in Section VII. Assessing student performance is treated in Section VIII. Section IX. considers the course from students' perspective in the form of student evaluations. Several additional issues are considered in Section X. The last two sections, XI. and XII. respectively, contain more personal observations and conclusions. An Appendix is found at Section XIII.

II.   Teaching EU Law in American Law Schools

While there has always been some interest in European Community and EU law in American law schools, the interest in the subject grew substantially in the 1980s. "The substantial development of EC antitrust and trade law in the 1980s, together with the

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[7] "EU Environmental Law & Policy Course" is being offered in spring 2005 on an "experimental basis." That means the offering of the course was approved by Associate Dean Roberto Corrada on a one-time basis subject to further faculty review. The faculty consideration step will take place before the course is offered again. The course website is available at:
http://www.law.du.edu/donsmith/environment/environment.htm (note that password access may be required).

[8] Peter H. Loedel and John Occhiphinti, *Europe Matters: Teaching the EU in the U.S.*, EUROPEAN UNION STUDIES ASSOCIATION REVIEW, Winter 2005, at 9, 12. Profs. Loedel and Occhiphinti refer to commentators who teach in law programs and note the "increasing importance to commercial law (e.g., antitrust regulations impacting U.S.-based firms)." Perhaps the best example of this is the recent dispute between the European Commission and Microsoft. In December, Judge Bo Vesterdorf, president of the Court of First Instance, ordered that competition law penalties imposed by the European Commission against Microsoft be re-imposed and not stayed as Microsoft had sought. Tobias Buck, *Microsoft loses EU appeal*, FINANCIAL TIMES, Dec. 23, 2004.

manifest success of the internal market program, with its harmonization of company, securities, banking, insurance, intellectual property, employee rights, consumer rights, and environmental law greatly expanded legal academic studies," one of the pre-imminent EU legal scholars, Roger J. Goebel, professor and head of the Center on European Union Law[9] at Fordham Law School Goebel, has written.[10]

Looked at another way, there are several good reasons to undertake study of EU law. In this regard Prof. Goebel and three academic colleagues, George A. Bermann,[11] William J. Davey,[12] and Eleanor M. Fox,[13] have written that three reasons, in particular, stand out:

- Because the European Community has become the largest U.S. trading partner, constitutes the largest overseas single market in the world, and is a major location for U.S business investment, pragmatism requires that U.S. lawyers have an understanding of Community institutional structure, law-making processes, as well as substantive law;
- European Community and EU law provide rich content for comparative legal studies, particularly involving EU and U.S. law; and
- The study of EU law allows students to consider law formation, that is to say "the development of an entire legal system in modern times."[14]

III.   On-line Teaching Generally

The advent of using the internet for teaching has changed the way many educators are approaching their profession. Even the popular press has caught on to this new trend, with the *Wall Street Journal* suggesting, "[E]ducators are working digital technology into every corner of the curriculum."[15]

The use of online teaching, while not new to university settings generally nor to graduate programs in particular, is expanding rapidly. Universitas 21 Global, a consortium of 16 universities including the University of Virginia in the U.S. and the University of Edinburgh in the EU, began offering an on-line MBA last summer.[16] Moreover, the success of Duke

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[9] See http://law.fordham.edu/htm/ce-echome.htm (last visited March 17, 2005).

[10] Roger J. Goebel, Teaching the EU: Pedagogical Goals and Approaches in Teaching European Union Law, *available at* http://www.eurunion.org/infores/teaching/goebel.htm (last visited March 17, 2005).

[11] George A. Bermann, Beekman Professor of Law, Jean Monnet Professor of EU Law, and Director, European Legal Studies Center, Columbia University School of Law.

[12] William J. Davey, Edwin M. Adams Professor of Law, University of Illinois College of Law.

[13] Eleanor M. Fox, Walter J. Derenberg Professor of Trade Regulation, New York University School of Law.

[14] George A. Bermann, Roger J. Goebel, William J. Davey, Eleanor M. Fox, CASES AND MATERIALS ON EUROPEAN UNION LAW 2ᴺᴰ ED. (2002), at v.

[15] Kevin J. Delaney, *Teaching Tools: How do you communicate with students who have grown up with technology?* THE WALL STREET JOURNAL, Jan. 17, 2005.

[16] Sumathi Bala, *Time to break out from campus*, FINANCIAL TIMES, July 26, 2004.

University's Fuqua School of Business on-line MBA offering "has given tremendous credibility to online MBA programs."[17]

There is also the matter of how today's students view the internet in general. In a recent study, 79 percent of students said that their college experience was made more positive by using the internet.[18] For example, just less than six in 10 students said using the internet resulted in improved relationships with professors.[19]

Bearing all of this in mind, there are clearly opportunities as well as risks associated with the on-line delivery of educational courses:

Opportunities
- Incorporates forms of "active learning." Active learning has been characterized as "…an orientation of educators and institutions which shifts the focus of teaching away from the idea of delivering instruction, and toward a notion of facilitating learning. The primary objective of active learning is…'to stimulate lifetime habits of thinking…'" as contrasted with forms of teaching relying on more "passive" approaches to learning.[20]
- On-line based teaching is "completely scalable with very low marginal cost. Education providers can potentially reach large audiences cheaply."[21]
- Ability to "transcend distance and space, by organizing faculty and students in diverse locations into common 'virtual classrooms.'"[22]
- Convenience for students and accessibility for institutions that results in "allowing for the creation of learning communities that…[provide] access to knowledge that was once difficult to obtain."[23]
- Chance for students to engage in cross-cultural discussions (i.e., with European experts).[24]
- Provides platform for innovative uses of multimedia[25] (e.g., streaming video and audio).

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[17] Robert J. Salzer, *Juris Doctor.com: Are full-time internet law schools the beginning of the end for traditional legal education?* 12 COMMLAW CONSPECTUS 101, 104 (2004).

[18] Diana Oblinger, *Boomers, Gen-Xers & Millennials: Understanding the New Students*, EDUCAUSE REVIEW, July/August 2003, at 37, 39.

[19] *Id* at 39.

[20] Ruth Buchanan and Sundhya Pahuja, *Using the Web to Facilitate Active Learning: A Trans-Pacific Seminar on Globalization and the Law*, 53 J. LEGAL EDUC. 578, at 583 (2003).

[21] Austan Goolsbee, Education and the Internet, *available at* http://gsbwww.uchicago.edu/fac/austan.goolsbee/research/educ.pdf, (2000), at 3 (last visited March 14, 2005).

[22] Michael Baun and Phil Wilkin, *Web-Teaching the EU: Online Sources and Online Courses*, THE STATE OF THE EUROPEAN UNION VOL. 6 – LAW, POLITICS, AND SOCIETY 334, 345 (Tanja A. Börzel and Rachel A. Cichowski eds., 2003).

[23] Elizabeth D. Kaiser, *The Legal Implications of Online Universities*, 8 RICH. J.L. & TECH. 1, 19 (2002); *available at* http://www.law.richmond.edu/jolt/v8i3/article19.html (last visited March 14, 2005).

[24] Brian Murphy, *Embracing Collaboration and Technology: Georgia's EU Studies Curriculum*, EUROPEAN COMMUNITY STUDIES ASSOCIATION REVIEW, Fall 2001, at 10, 10.

[25] Baun and Wilkin, *supra* note 22, at 345.

Risks
- Although the costs of replicating and delivering a course may be low, "…[T]he creation of internet education can be very costly and time consuming…"[26]
- Online courses that are "haphazardly thrown together" generally fail.[27]
- The difficulty in assuring identity[28] (although, when "outside" papers are written for a "on site" course, the potential for the same problem exists).

IV.   On-line Teaching at U.S. Law Schools

For well more than a century, the predominant methods for teaching U.S. law have been case studies and lectures.[29] However, the "seemingly endless potential" represented by the internet made it "only a matter of time before someone harnessed the technology to sneak under the iron gates of traditional legal education."[30]

The American Bar Association (ABA), the body that accredits U.S. law schools, has recognized that change is on the way. Barry A. Currier, the ABA's former Deputy Consultant on Legal Education, has said, "…[I]t is essential that legal education…take into account how we are living our lives…Our business and cultural communities will be increasingly global. Technology will become increasingly pervasive."[31] In this regard, Currier has noted that the ABA is now allowing "some credit for distance education instruction."[32]

While the development and implementation of distance education-based courses offered by U.S. law schools is still in its formative stages, a new report[33] by the ABA notes that "a small but stable group of schools…have begun to experiment with this type of instruction."[34]

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[26] Goolsbee, *supra* note 21, at 4.

[27] Salzer, *supra* note 17, at 103.

[28] Goolsbee, *supra* note 21, at 4.

[29] Robert H. Woods, *"Order in the Virtual Law Classroom…Order in the Virtual Law Classroom": A Closer Look at American Law Schools in Cyberspace: Constructing Multiple Instructional Strategies for Effective Internet-based Legal Education*, 3 JOURNAL OF INFORMATION, LAW AND TECHNOLOGY (2001), *available at* http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2001_3/woods/ (last visited March 14, 2005).

[30] Salzer, *supra* note 17, at 101.

[31] Barry A. Currier, Address at the University of Denver College of Law Ricketson Law Building Dedication and Celebration (April 2, 2004).

[32] *Id.*

[33] American Bar Association, A Survey OF LAW SCHOOL CURRICULA 1992-2002 (2004), at 40; executive summary *available at* http://www.abanet.org/legaled/publications/curriculumsurvey/executivesummary.pdf (last visited March 17, 2005). The report was based on survey contributions of 152 of the 187 ABA-accredited law schools.

[34] The American Bar Association has defined "distance education" as "…[A]n educational process characterized by the separation, in time or place, between instructor and student. It includes courses offered principally by means of…technological transmission, including internet…;"text *available at* http://www.abanet.org/legaled/distanceeducation/Standard306.doc (a)(1) (last visited on March 13, 2005). Peter Martin, a former Dean of Cornell Law School, is largely responsible for introducing the concept of using the internet in legal education. He was also involved with the establishment of ABA Standard 306 relating to distance learning. A strong proponent of the use of computers in the law and educational process, Prof. Martin co-founded Cornell's Legal Information Institute (LII) (http://www.law.cornell.edu/), the first internet law resource and today's most heavily used non-profit legal web site. In addition to

According to the report, in 2003 10.5 percent – 16 schools – taking part in the survey offered asynchronous online distance education courses.[35]

Standard 306

The ABA has promulgated a rule, Standard 306,[36] which sets the standard for distance learning in U.S. law schools. Standard 306 (a) provides in part:

> "A law school may offer credit toward the [juris doctorate] degree for study offered through distance education consistent with the provisions of this Standard and Interpretations of this Standard. Such credit shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process."

Other key sections of the standard state:

> Standard 306 (c) – "A law school may award credit for distance education…if: (1) there is ample interaction with the instructor and other students both inside and outside the formal structure of the course throughout its duration; and (2) there is ample monitoring of student effort and accomplishment as the course progresses."
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> Standard 306 (d) – "A law school shall not grant a student more than four credit hours in any term, nor more than a total of 12 credit hours, toward the J.D. degree for courses qualifying under this standard."
>
> Standard 306 (e) – "No student shall enroll in courses qualifying for credit under this standard until that student has completed instruction equivalent to 28 hours toward the J.D. degree."

Pursuant to Standard 306 (a), the EU Law & Policy course received College of Law faculty approval in September 2003. At the time of the approval, the following Standard 306 Interpretations and comments were considered:

- "Interpretation 306-4: Law schools shall take steps to provide students in distance education courses opportunities to interact with instructors that equal or exceed the opportunities for such interaction with instructors in a traditional classroom setting."

  Response: In EU Law & Policy, students are encouraged to interact via e-mail (as well as by phone) with the professor. Questions are answered in a timely manner, typically on the same day received. In some instances students who may be reluctant

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serving as LII's co-director since its founding in 1992, Prof. Martin teaches a course in Social Security law via the internet and has authored numerous articles on the use of the internet in the legal profession.
[35] America Bar Association, *supra* note 33, at 42.
[36] *Available at* http://www.abanet.org/legaled/distanceeducation/Standard306.doc (last visited March 13, 2005).

to ask questions in a classroom setting may be more comfortable asking by e-mail. In addition, all written student submissions receive a response explaining how a grade was determined and noting ways for future improvement. Moreover, the on-line nature of the course allows students access to outside experts in a manner that would be difficult, if not impossible, to replicate in a classroom setting.

- "Interpretation 306-5: Law schools shall have the technological capacity, staff, information resources, and facilities required to provide the support needed for instructors and students involved in distance education."

  Response: The College of Law enjoys considerable technological capacity in the form of a robust and dependable server system and web development experience. The technology staff provides excellent support to and ideas about how to improve web courses. In regard to the latter, numerous key technology-related course improvements have been suggested and implemented by the technology staff. The College of Law's Westminster Library provides student access to a wide range of on-line resources including card catalogs, electronic databases, etc. Finally, the current facilities, which are excellent, will be enhanced even further through the implementation of the live video conferencing capacity.

- "Interpretation 306-6: Law schools shall establish mechanisms to assure that faculty who teach distance education courses and students who enroll in them have the skills and access to the technology necessary to enable them to participate effectively."

  Response: A critical aspect of delivering EU Law on-line has been, and will continue to be, the close involvement of the school's educational technology group. From the beginning of the course, students are encouraged to contact the technology group with questions or concerns. Students are advised of several contact persons, thus averting problems associated with trying to reach only one contact who might be out of the office for several days. The technology group has developed context sensitive help screens for the discussion boards as well as a "drop box" where students can upload papers. In the few instances where questions or problems have arisen, they have been addressed quickly and thoroughly. The continued vitality of the web offering will be enhanced and improved because of the active involvement of the technology group.[37]

- "Interpretation 306-7: Faculty approval for a distance education course shall include a specific explanation of how the course credit was determined. Credit shall be awarded in a manner consistent with the requirement of Interpretation 304-5 that requires 700 minutes of instruction for each credit awarded."

  Response: Students are evaluated through a combination of writing assignments, participation on an on-line discussion board, and a final paper. The amount of time necessary to satisfactorily undertake the reading and writing assignments, participate in the discussion boards, and watch the streaming videos is estimated to be at least

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[37] No significant technology problems have arisen in any of the EU Law & Policy courses.

2,100 minutes.

Other Major On-Line Efforts[38]

There are several U.S. law schools that have focused considerable attention on on-line offerings. Concord Law School, which holds itself out as the "nation's premier on-line law school,"[39] offers students the chance to matriculate without ever having stepped foot in the school itself. However, the drawback is that Concord graduates are eligible to take the bar examination in only one state – California.[40] Despite that limitation, legal educators are paying increasing attention to Concord's overall academic and business model. "The principle contribution that Concord, its very existence, has made – which I think is a good one – is really pushing and prodding the rather conservative ABA, and also all of us in legal education, to think more outside of the box about the utility of distance education," Daniel B. Rodriguez, dean of the School of Law at the University of San Diego, has said.[41]

The St. Thomas University School of Law has established the first on-line LL.M. in international taxation.[42] William H. Byrnes IV, founder and executive director of the program, has said that legal education at master's level requires a diversity of teaching methodologies that include on-line learning. "My opinion may be biased by my experience of international tax practice on global cross-border issues: using diverse teams comprised of attorneys that I would not meet face-to-face, to advise clients that I would not meet face-to-face," Byrnes has written.[43]

Nova Southeastern University Law Center offers an on-line two-year, 30-credit Master's Degree in Health Law.[44] The degree program is open to law students, lawyers, and non-lawyers.

Finally, outside the law school setting attorneys in most states are now able to obtain some continuing legal education credits through online offerings.[45]

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[38] Outside the U.S. it is worth noting that the Glasgow University Graduate School of Law uses a heavily web-oriented approach it calls "information and communication technology" in its Diploma in Legal Practice program; see http://www.ggsl.strath.ac.uk/courses/diploma.html (last visited March 17, 2005).
[39] See http://www.concordlawschool.com/info/custom/concord/index.asp?GUID=ECAD1B025D8447F9BE2FA3 04D7A643B2278658118605662939 (last visited March 15, 2005).
[40] Texas is considering legislation, HB 826, to allow graduates of distance-learning law programs to take the state bar exam. A similar bill was defeated in 2002 in the state senate. Andrea L. Foster, *Texas Weighs bill to Allow Graduates of Online Law Schools to Take Bar Exam*, THE CHRONICLE OF HIGHER EDUCATION, March 11, 2005, at 35.
[41] Martha Neil, *Members of Online Law School's First Graduating Class Are Off to a Good Start*, ABA JOURNAL, July 2004, at 14, 15.
[42] See http://www.llmprogram.org/ (last visited March 15, 2005).
[43] William H. Byrnes IV, *A Review of the Development of an Internet Delivered LL.M. Program in the United States*, 2001 (3) THE JOURNAL OF INFORMATION, LAW AND TECHNOLOGY, *available at* http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2001_3/byrnes/ (last visited March 15, 2005).
[44] See http://www.nsulaw.nova.edu/online/mhl/index.cfm (last visited March 15, 2005).
[45] Robert J. Ambrogi, *Most States Now Allow Web-based Courses*, LAW TECHNOLOGY NEWS, Jan. 10, 2005, 71, at 71. For example offerings see: American Law Institute–American Bar Association, *available at* http://www.ali-aba.org/ (last visited March 15, 2005); and West Publishing Legal Education Center, *available at* http://westlegaledcenter.com/home/homepage.jsf (last visited March 15, 2005).

Observations: The Keys to Success in a Law School On-Line Setting

There are several identifiable keys to success in on-line legal teaching. First, there needs to be considerable institutional support and involvement. Peter Martin, Cornell University School of Law professor and "dean" of on-line teaching at U.S. law schools, has offered these cautionary words for those thinking about setting up a distance education course: "For both the faculty members involved and the offering institution successful distance education entails major investment – under such headings as course design and construction, staff, technical infrastructure."[46]

Moreover, the instructor's role should be one of an interactive facilitator. One former law professor who is now involved in on-line learning has observed, "The role of the instructor in an on-line course, as with the role of a law teacher, is not to impart knowledge but rather to design an experience and guide students through a process of discovery through this experience. Unlike conventional teacher-centered education, students in a student-centered learning environment, whether computer-mediated or in a traditional classroom, must actively participate in the educational experience designed by the teacher or, more likely than not, they will fail."[47]

V.   Development

In the fall of 2002, the associate dean[48] at the University of Denver Sturm College of Law (COL), first approached us about developing and implementing an on-line that would focus on EU law. While EU law had been taught at the COL, it had always taken the form of an on-site offering.

The plan was to offer the course during the winter interterm – that is between mid-December 2002 and mid-January 2003. Generally speaking, this timeframe is one in which law students have not been offered any courses, much less an on-line offering.

In October and November 2002, the framework for the first on-line offering began to take shape. Ms. Hogan was responsible for developing the "web platform" while Mr. Smith was responsible for organizing the substantive content for the course. The effort proceeded in tandem and by early December 2002 the course was ready and in mid-December the course began.

As the first course kicked off, there were several fundamental questions we asked ourselves:
- How would students react to the on-line delivery?

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[46] Peter Martin, A Cornell (LII) Playbook: Marketing, Conducting, and Administering an Inter-School, Internet-Based Course, *available at* http://www.law.cornell.edu/background/distance/codec/04_conducting_playbook.pdf (2004) (last visited March 13, 2005).

[47] Kathy Marcel, *Can Law be Taught Effectively Online?* JURIST (December 2002); *available at* http://jurist.law.pitt.edu/lessons/lesdec02.php (last visited March 14, 2005).

[48] J. Robert Brown, Professor of Law, University of Denver Sturm College of Law.

- Was the course, as organized and delivered, too rigorous or not rigorous enough?
- Would students submit written assignments on time?
- Would the platform provide the functionality needed to make the substantive aspect of the course work?
- What would student reaction be to the self-discipline required to progress in an on-line course?
- Would students perceive they had enough interaction with the professor?
- Would any technology-based issues arise that would impact the quality of the course?

Our observations – based on experience gained in six on-line courses – about these issues are discussed more fully in Section XI.

VI.   Course Structure

The EU Law and EU Environmental Law courses are based on a "modular system" of presenting and arranging the underlying concepts and associated materials. The courses are organized into a set of modules, each of which considers a specific aspect of the subject at hand. Thus, the December 2004-January 2005 offering of EU Law included these modules:

1. History – From "War" to "Union" and The Transatlantic Relationship
2. Structure and Constitutional Principles of the EU
3. Sources of Community Law; Institutional Framework
4. Decision-Making
5. European Community Court System
6. Methods of Judicial Interpretation; Preliminary Ruling Jurisdiction; Community Law and National Legal Orders
7. Competition Law and Policy

Each module was further organized in the following fashion (this example is from Module 1: History – From "War" to "Union" and the Transatlantic Relationship):

Module I: **History – From "War" to "Union" and the Transatlantic Relationship**	
Key Themes	1. The search for Europe and European Unification 1.1. European Cooperation 1.2. European Integration 1.3. Enlargement 2. Transatlantic Relationship 2.1. Historically 2.2. Currently
Reading Assignment	1. John Fairhurst and Christopher Vincenzi, LAW OF THE EUROPEAN COMMUNITY 1.1. Chapter 1, "An Introduction to the European Communities and the European Union," pp. 3-31 2. Winston Churchill, "The Tragedy of Europe," Sept. 20, 1946, Zurich, Switzerland, http://euro-know.org/speeches/paperchurchill.html 3. Martha Neil, "Old Continent, New Deal," ABA JOURNAL, Sept. 2004, pp. 51-56

	4. Robert Kagan, "Power and Weakness," POLICY REVIEW ON-LINE, http://www.policyreview.org/Jun02/kagan_print.html 5. "After Babel, a new common tongue," THE ECONOMIST, Aug. 5, 2004
Optional Reading	1. Klaus-Dieter Borchardt, THE ABC OF COMMUNITY LAW (ABC) 1.1. "Introduction: From Paris Via Rome to Maastricht and Amsterdam," http://europa.eu.int/eur-lex/en/about/abc/abc_02.html 2. Establishing the Marshall Plan, Truman Presidential Museum & Library, http://www.trumanlibrary.org/whistlestop/study_collections/marshall/large/index.php
Streaming Audio/Video Assignment	1. "Jean Monnet: Father of Europe," http://www.law.du.edu/donsmith/eulaw/streamingvideo/eulawstreamingvideo.htm (when you get to this website, click on the "down arrow" box next to the "Please select which video you wish to view" and scroll down to "Jean Monnet" 2. "Public Opinion in Europe," ONLINE JIM LEHRER PUBLIC BROADCASTING SYSTEM NEWSHOUR, March 17, 2004, (click on "Click here to watch this segment in streaming video") http://www.pbs.org/newshour/bb/international/jan-june04/survey_3-17.html
Writing Assignment	Assignment 1 (covering Module I): **The first writing assignment has two parts. First, identify two key events in the history of the European Union. Explain the significance of each event and consider what its impact has been. Second, consider and comment on the relationship between the EU and U.S. since the end of World War II.** Assignment 1 is due not later than Dec. 20, 2004. The writing assignment should be submitted via the "drop box" on the website.
Helpful Websites	• *History of the European Union: A Chronology from 1946 to 2003* http://europa.eu.int/abc/history/index_en.htm • *Map of the European Union* http://europa.eu.int/abc/maps/index_en.htm# • *Glossary of EU Terms* http://europa.eu.int/scadplus/leg/en/cig/g4000.htm
Notes	✓ Familiarity with the historical underpinnings of the EU is essential to understanding how and why the EU has developed as it has. ✓ In addition, awareness of the EU-U.S. relationship will also provide context for future course modules.

This organizational approach has been used for several reasons. First, the student sees – right at the beginning – the key themes around which the materials are organized. The purpose of noting key themes is to provide the students with a "framework" in which to consider the relevant materials.

Second, the reading assignment (arranged in "required" and "optional" categories) is set out with references and links to textual materials (at some point, publishers may license text materials but unfortunately that's not the case yet), freely available on-line materials, and in the context of this course some materials that are proprietary in nature (e.g., the article from *The Economist* that is available via Lexis-Nexis.) (It's worth noting that all of these materials have been chosen with a purpose in mind. While students are free to "Google" other materials, the ones listed in the syllabus are the ones that will be looked for during the written assignment grading procedure.)

Another type of resource, streaming audio and video selections, is also listed and the links provided.[49] In some modules (although not the one mentioned above) video selections have included interviews with key EU figures (e.g., former ECJ Judge David Edward; former Member of the European Parliament Richard Balfe; Competition DG Official Stephan Simon; Environment DG Official David Grant Lawrence; Michael Shackleton, Head of Unit, Conciliations and Codecision Secretariat of the European Parliament) as well as American-based experts (e.g., TR Reid[50]).

Finally, each course includes a series of on-line discussions aimed at encouraging students to consider and comment about current issues within the European Union. For example, in the December 2004-January 2005 course, students were expected to participate in three approximately one-week discussions:

- Current Issues in Europe (e.g., what the admission of Turkey may mean for the EU).
- Transatlantic Relationship.[51]
- Looking Ahead: What Should American Lawyers be Thinking About in Terms of Representing Clients Doing (or Thinking About) Business in Europe.

One discussion in the just finished interterm course was moderated by a Swedish journalist,[52] who examined the status of the Transatlantic Relationship. In earlier courses, discussions have been moderated by a European Commission official,[53] a Canadian lawyer with expertise in Canadian and U.S. anti-trust matters and EU competition matters,[54] and an environmental expert in a London-based think tank.[55] Following last summer's EU Parliamentary elections, academic and business leaders in Germany, the Netherlands, Spain, and the U.K. offered their observations to and fielded questions from the students.

On an on-going basis, Mr. Smith also posts "In the News" observations and links to newspaper, magazine, and journal articles, and TV and radio programs focusing on the EU. In addition, postings also typically call attention to key speeches and reports.

Taken as a whole, students have a host of ways to learn about the European Union.

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[49] See http://www.law.du.edu/donsmith/eulaw/streamingvideo/eulawstreamingvideo.htm.

[50] Reid, *supra* note 4.

[51] The tensions in the Transatlantic relationship may actually represent an increased opportunity for learning. For example, Judith Kelley, assistant professor of Public Policy and Political Science at Duke University, has written, "The increased attention to the relationship brought about by the disagreement over Iraq has meant several things – all of which are very healthy for conducting a good course: More interested students, more recent academic work on the subject, and more opportunities to engage the students…" Judith Kelley, *Transatlantic Tensions: Opportunities for Learning*, EUROPEAN UNION STUDIES ASSOCIATION REVIEW, Spring 2004, 9, at 9.

[52] Marcus Oscarsson, Stockholm, Sweden.

[53] Stephan Simon, European Commission Competition Directorate General, Brussels, Belgium.

[54] Richard D. Harlow, Barrister, Solicitor, and Notary Public, Toronto, Canada.

[55] Clare Coffey, Institute for European Environmental Policy, Brussels, Belgium.

VII.   Course Development/Instruction Team

The teaching of an on-line course involves a range of individuals from various backgrounds and areas of expertise. The common theme focuses on how best to help students learn in the context of the substance and delivery of materials as well as opportunities to interact with and benefit from European-based experts.

Course Organization and Substance

Mr. Smith has taken the lead in organizing the content. He has been assisted by an impressive group of Europeans who have been involved in helping develop the syllabi, authoring course materials, leading modules, grading papers, and moderating discussion boards.

Among this group have been:
- Clare Coffey, Senior Fellow with the Institute for European Environmental Policy in Brussels (IEEP). Within the IEEP she is responsible for general European Community and international environmental law and policy, as well as being a major contributor to the Institute's work on the Common Fisheries Policy.
- Maria Lee, Senior Lecturer in the School of Law at King's College, London, where she teaches European Community Environmental Law and Policy. Ms. Lee qualified as a solicitor with Clifford Chance, a major City of London law firm.
- Marcus Oscarrson, M.B.A., a Swedish journalist with expertise in EU and American politics.
- Dr. Stephan Simon, Ph.D., LL.M. in EU Law, official with the European Commission Competition Directorate General.
- Dr. Neil Summerton, Ph.D., former water policy advisor to the U.K. Secretary of State for Environment and director of the Oxford University Centre on Environment, Ethics, and Society.

Other Europeans have taken part from time-to-time in specific discussion boards. These individuals have largely been from academic and business backgrounds.

Care has been taken in selecting individuals who combine the key attributes of being on one hand mentors while also being knowledge facilitators. "This dualistic role of the instructor proves critical: Students, while indeed more self-directed, need to know that a 'human,' who knows the subject and is capable of replying in an articulate, professional manner, is on the receiving end of their materials."[56] In addition, personalized e-mail from the teaching team to individual students is used as a way to encourage and/or advise individual students.[57]

Another contributor on the teaching team has been Martha W. Keister, Foreign, Comparative & International Law Librarian at the College of Law's Westminster Law

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[56] Elizabeth A. Buchanan, Assessment Measures: Pre-Tests for Successful Distance Teaching and Learning? *available at* http://www.westga.edu/~distance/buchanan24.html (last visited March 14, 2005).
[57] See Robert Woods and Samuel Ebersole, *Social Networking in the Online Classroom: Foundations of Effective Online Learning*, EJOURNAL (March 2003), *available at* http://www.ucalgary.ca/ejournal/archive/v12-13/v12-13n1Contents.html (last visited March 15, 2005).

Library. In the context of EU courses, a librarian can play a vital role since he or she is likely to be aware of new approaches to research including what journals are available electronically, where key EU materials are located on the web, etc.[58] In this regard, Ms. Keiser has put together EU-focused "research guides" as well as a videotaped research session[59] that is available on the course website. On the video, Ms. Keister points out the normal on-line sources that a U.S. law student might think of (e.g., Lexis-Nexis and Westlaw) as well as those they might not be as familiar with (e.g., Academic Source Premier, Business Search Premier, and LegalTrac; these sources tend to have greater coverage from European-based journals than what are found on Lexis-Nexis and Westlaw). She also explains where to find the full-text of various EU primary legal sources as well as how to navigate through the Europa website. Finally, she introduces students to helpful sites such as the European Research Papers Archive[60] and Euobserver.com.[61]

Technology Development and Implementation

It has been said that "on-line course design is inseparable from its teaching."[62] That has certainly been, and continues to be, the case with COL's EU law offerings. As a consequence, the technology team, led by Ms. Hogan, has played a central role in developing and implementing the technology that allows the course to operate smoothly and efficiently.

More specifically, the technology team includes the following members:
- Carrie Mahan-Groce, Web Manager.
- Wayne Rust, Media Service Coordinator.
- Joan Pope, Helpdesk Coordinator.
- Saul Wiley, Educational Technology Specialist.

VIII.   **Assessing Student Performance**

A question often posed about on-line teaching is how to assess student performance. In the context of the College of Law on-line offerings several strategies are in place to address this. First, each module generally includes a 1,500 word (footnotes excluded) writing assignment. The writing assignments are graded bearing in mind the following (which are clearly communicated to the students at the outset of the course):
- Degree to which the student demonstrates an understanding of and responds to the question;

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[58] Ann Snoeyenbos, *EU Teacher-Librarian Collaboration*, EUROPEAN UNION STUDIES ASSOCIATION REVIEW, Winter 2003, at 12, 12.

[59] See http://www.law.du.edu/donsmith/eulaw/streamingvideo/videos2004/eulawlegalresearchhighrez.htm.

[60] See http://eiop.or.at/erpa/ (last visited March 17, 2005). Phil Wilkin, West European Studies Bibliographer for the University Library System, University of Pittsburg, has estimated that there are almost 800 papers on this website which began in 1998. Phil Wilkin, *Guide to Research Materials for EU Studies on the Web*, EUROPEAN UNION STUDIES ASSOCIATION REVIEW, Fall 2004, at 6, 7.

[61] See http://euobserver.com/ (last visited March 17, 2005).

[62] Laurie A. Buonanno, *Combining Synchronous (EU Simulation) With Asynchronous Teaching (EU On-Line)*, EUROPEAN UNION STUDIES ASSOCIATION REVIEW, Spring 2002, 8, at 8.

- Citations to relevant supporting materials from the module (or other modules where appropriate);
- How well course materials are brought into consideration of the question;
- Degree to which "outside" (i.e., non-required) materials are reflected in the answer;
- Clear and concise writing style; and
- Was the submission on time? Late submissions are marked down by one grade level per day late.

Each assignment is graded and commented on and returned the students generally two or three days after the due date for the assignment. When students receive their "comment report," they are also given a short summary of what the professor has deemed the most important concepts.[63] Thus, students can – and often do – improve their performance by noting past mistakes and correcting them in the future.

The second critical component is a student's participation on the discussion board. This participation is a key element in a student's eventual performance since it generally comprises about 20 percent of the total grade. Discussion board postings are graded in one of three ways:

- If a student merely repeats what has been said before and offers no original thoughts, the grade will be .5.
- If a student's posting offers an original thought but nothing else, the grade will be 1.0.
- If a student's posting clearly indicates that the student has thought about the question, offered an original thought, and done a bit more (e.g., provided a link to another website or article that supports the student's comments or raised and commented about an ancillary issue), the grade will be 1.5.

Finally, most classes include a final paper in which a student analyzes and writes about a specific question. The grading scheme for final papers is:

Presentation
- Clear;
- Easy to read;
- Grammatically correct.

Analysis
- Identification of key issues; level of comprehensiveness;
- Consideration of issues (e.g., what are the various "aspects" of the issue and what are the differing views associated with those aspects);
- Does conclusion flow from analysis.

Organization
- Introduction;
- Identification of key issues;
- Analysis;

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[63] See Appendix B for an example comment report.

- Conclusion;
- Bibliography (i.e., a complete listing of all sources used in writing the paper).

Research
- Types of materials used (e.g., EC Treaty, cases, journals, books, reports, etc.);
- Number of each type (e.g., 4 journal articles, 5 books, 6 reports, etc.);
- How well are course materials (e.g., materials from the course book and course readings) used in the paper;
- Appropriate use of footnotes;
- Length: Between 3,000 and 4,000 words (excluding footnotes).

Observations: Student Assessment

Taken as a whole, this grading scheme has worked well in providing a complete picture of a student's performance for these reasons:
- A student cannot simply remain "anonymous" in the course; there are far too many required assignments.
- The on-going series of writing assignments provide a framework in which the professor can point out mistakes, suggest ways to correct errors, and encourage a student to improve his or her performance.
- The writing assignments also allow the professor to see how an individual student is analyzing a particular issue and what extra efforts – if any – the student has undertaken in the research of her or his paper.
- If a student is having trouble with a particular concept, the professor can spot this straightaway and work to address it. By contrast, in a classroom setting, it is sometimes difficult to assess whether a particular concept is actually being understood by the entire class.
- A student's final grade reflects her or his performance on a series of assignments. Thus, no student's performance – be it good or bad – on one particular assignment will have an undue impact on the final grade.

IX.   Online Course Evaluations

This course has been taught online five times:
- Winter Interterm 2002: December 2002 - January 2003.
- Summer 2003.
- Winter Interterm 2003: December 2003 – January 2004.
- Summer 2004.
- Winter Interterm 2004: December 2004 – January 2005.

Review of the Survey Data

- First online course evaluation (Winter Interterm 2002: December 2002 – January 2003). The first course had the most complete online survey and assessment and the

summary of that follows:

- o Background and Methodology

  - In early January 2003, the Educational Technology Department created and implemented an evaluation survey for the first online only course offered at the Sturm College of Law, European Union Law & Policy. The survey instrument was delivered online in the Student Computer Lab and taken in class by 23 of the 28 students enrolled in the course. The response rate for this survey is 82% which is consistent with recording higher response rates for evaluations that are completed in class.

- o Overall Results and Comparisons – Key Findings

  - All of the students in this course who responded to the survey found the website either easy or very easy to navigate. Many of the students who responded did not use the media-related links (56% said that they did not look at the streaming media). Of those who did watch the streaming media files, 34% found them either useful (17%) or somewhat useful (17%).

  - Frequency of Use: While 43% of students accessed the web course daily, 30% checked 2 to 3 times per day.

    Although a few disadvantages were listed, most of the students thought that there were more advantages than disadvantages to this type of course. The number one advantage: flexibility. Nineteen out of the 23 students (or 82%) said that they would take another course in this format again (three of those "absolutely" would). Nearly 64% of those surveyed indicated that the pace of the course was just right but about 32% thought that it was too fast.

    All of the students surveyed thought the course was well organized and almost all agreed that the professor taught at a challenging level (48% strongly agreed and 43% agreed that the course was challenging). Eighty-three percent of the students said that they either strongly agree (48%) or agree (35%) that they would recommend to others that they take this course and 22 of the 23 students in this class either strongly agreed (56%) or agreed (39%) that they would enjoy taking another course from this professor. Ninety-six percent of the students thought that the modules handled by the outside experts were either useful (74%) or very useful (22%).

    In this group of 23 students, only 13% have some type of high speed Internet access. Seventy-eight percent were still using either 56.6K (56%) or 28.8K (22%) modems.

All of the 8 students who chose to write narrative comments were positive about their experiences with this course overall.

- Second online course evaluation (Summer 2003). The second and subsequent online courses were evaluated in different ways with various survey instruments.

    o Background and Methodology

    In the Fall of 2002, The Sturm College of Law began testing the idea of administering course evaluations online. The pilot project was successful with an average response rate of 80% for all 11 substantive law school courses that participated in the pilot. Sixty-five (65%) of the students in the second European Union online course completed this newly created online course evaluation, the results of which remain online for student and faculty review. Hence, these online students began participating in the general law school online survey process in the summer of 2003.

    o Key Findings

    Seventy-two percent of the summer 2003 students who responded to the online survey about their online-only course indicated that they either strongly agreed or agreed that their professor was willing to assist them *outside of class*. A narrative comment further indicated that "I appreciate the way the course is administered and how Professor Smith is so hands on even though it is an online course."

    Eighty-one percent of the students who answered the survey indicated that they either strongly agreed or agreed that the professor taught the class at a level that challenged them. Ninety percent of the students responded that they strongly agreed or agreed that they would recommend that others take this course and that they would enjoy taking another course from this professor.

- Third course evaluation (Winter Interterm 2003: December 2003 – January 2004)

    o Background and Methodology

    One year after the first EU online course, the students in this winter interterm course completed a modified version of the initial survey instrument that was created. Please note: We must look with caution at the conclusions drawn from the results of this survey because the response rate was only 25%.

    o Key Findings

    As in the first course, all of the students who completed the survey

responded that the course website was either very easy or easy to navigate. Most indicated that they did not have any problems finding items on the site.

Whereas 56% of the students in the first survey said they did not look at the streaming media files, only one student indicated that in this survey and 57% said that they found the streaming media files either very useful or useful.

As found in the first survey results, more advantages than disadvantages were listed for this type of course. The only disadvantages listed in this course both related to problems with slow internet connections from students accessing at a slow modem speed (28.8.)

As with the first course, most of the students either strongly agreed or agreed that the professor taught at a challenging level. Of the students who responded to the question "Would you take another course given in this format again?" all said yes. About 70% said that the modules handled by outside experts were useful or very useful.

One year later, in a marked increase, 42% of the students surveyed reported that they now have high speed Internet access (as opposed to 13% in the first course offering.) Having high speed Internet access appears to contribute to the overall positive student experience of taking an online course.

- Fourth course evaluation (Summer 2004).   Each offering of the EU online only course produced new iterations of the course website with either enhanced or new features. Questions to reflect these changed were added to the survey instrument in the fourth course.

     o Background and Methodology

        The students who participated in the fourth online EU course completed *both* the generally administered online course evaluation *and* a further modified version of the original survey instrument, with additional questions about specific aspects of the online course that had changed over time.

     o Key Findings

          ▪ Survey #1 – regularly administered course evaluation

             Sixty-five percent of students enrolled in this course completed the generally administered class evaluation. As with the summer 2003 course, a similar and quite high number of students in this course agreed that their professor was willing to help them outside of class (In the summer 2003 survey 72%; in the summer 2004 survey 84 %.) This is a remarkable result given that this course is taught completely online and the contact that the students have with their professor is via email, course discussion board and possibly telephone. There is

no face to face contact with these students.

The narrative comments generally indicate a high level of enthusiasm and interest in this online course offering, stressing in several cases the responsiveness and accessibility of the professor. "I have absolutely nothing negative to say. This has been one of the most challenging, yet most enjoyable classes I have taken at this school." "Great organization and module assignments. Prof. Smith designed an extremely comprehensive introduction to EU Law."

The negative comments in the narrative section of this survey ranged from not liking the text or casebook to "this course took a lot more effort than the credits would suggest."

- Survey #2 – modified version of the online-only course survey

  Forty percent of the students enrolled in this course responded to the modified version of the original online-only course survey. The students indicated that they generally found everything they needed on the website and 87% percent of those surveyed said that the digital drop box was very easy to use.

  Frequency of Use: All but one student indicated accessing the course website at least once daily (25% more than 3 times per day; 37% 2 – 3 times per day and 25% once per day).

- Most of the students indicated that the discussion boards were at least somewhat useful with 37% indicating that they were either very useful or useful.

  Sixty percent of the students who responded to the survey indicated that the interactions with the Europeans who participated in the discussions were helpful and of those who benefited from these discussions, 80% said that they would like to see more of them.

  As with previous surveys, students indicated that some key advantages of taking an online course are convenience and flexibility.

  Eighty-seven percent of the students thought the course was well organized and strongly agreed that the Professor was responsive to their questions. All of the students either strongly agreed or agreed that the course was challenging and that they would recommend that others take this course.

  The students were mixed on whether a group assignment might add to the course with a half indicating that a group project would not be a good option for an online course. However, from the answers

given, it's possible that they misunderstood the nature of this group project idea. They would not have to meet in person but instead would meet "virtually" online with their group members.

Though high speed Internet access is required in this course, two students still reported having modem access (56.6) at home.

- Fifth course evaluation (Winter Interterm 2004: December 2004 – January 2005)

  o Background and Methodology

    Sixty-six percent of the students in this course completed the same modified survey instrument that was administered in the summer 2004 online course. These students did not complete the generally administered online course evaluation.

  o Key Findings

    The survey results for the fifth course evaluated largely mirror the results in the fourth evaluation as described above in survey number 2.

    Frequency of Use: None of the students said that they accessed the course website less than once per day. Over 60% reported that they accessed the site 2 – 3 times per day.

    All of the students who responded to this survey indicated that they either had high speed Internet access or they didn't know. As with the previous surveys, most of the students are using Internet Explorer to browse the Internet.

    The narrative comments of the students who completed this survey indicated that the professor was responsive, helpful and an asset to DU.

Overall Course Evaluation Conclusions

- Level of Satisfaction: The students who have taken the European Union online courses at the Sturm College of Law have generally had a positive experience. They indicated that the course was more rigorous than they originally anticipated and they learned a great deal from the course. The students said that the course materials were well-organized and that their professor was responsive and available to them.

- Frequency of Use: The high satisfaction reported may be based on the high frequency of use of the course website, possibly correlating with a deeper understanding of the course materials throughout the semester, rather than trying to learn all of the materials at the end of the semester for a final exam.

- Pedagogical differences: Is the delivery mode of the information (online) secondary to its structure (multiple assignments and feedback)? The structure of the course which includes multiple assignments with frequent feedback (as opposed to one evaluation at the end of the term) makes it difficult to separate the new *delivery* (online) of the information with the different *pedagogical* approach (frequent feedback throughout the semester.)

- Class size: The professor, Don Smith, says that having fewer students in the online-only courses allows for more interaction with the students and provides the opportunity for more comprehensive online discussions and feedback.

- Given these overall positive results, it appears that offering additional robust, online courses in the area of European Studies for our students to enhance the existing curriculum is a good idea.

X.   Other Key Issues

There are several other key issues that are worth consideration. While these may seem like small issues, each in its own way is important and must be borne in mind:

Setting student expectations

There is no more important issue in relation to on-line courses than setting student expectations realistically and early. It is not fair to anyone to have a student begin a course with one idea in mind in terms of the workload and style of learning required only to be disappointed new several weeks into the course. Thus, at the outset of the course students are unequivocally told the following:
- The course requires the same commitment of time, study, and efforts as a typical "on-site" three-credit law school course.
- Since the course takes place entirely on-line, students must be able to work independently. In this regard, the on-line nature of the course will allow assignments to be undertaken on a schedule most convenient to each student. Nevertheless, there will be firm assignment deadlines that will be part of the grading scheme.
- The course requires broadband internet access.

It is also imperative that students be comfortable participating in on-line discussion sessions and be willing to listen to and respect others' opinions in those discussions.[64]

The need for the professor to be familiar with technology issues

In the overwhelming number of instances, there are no problems with the website. However, there are those occasions where something may come up that needs immediate attention (e.g., around holiday time) and the professor must be willing and able to help figure

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[64] Elizabeth Buchanan, *supra* note 56.

out a "work around" until the issue can be more fully addressed. This also requires the professor to be flexible and make "mid course corrections."

Jean Monnet Module Award

In the autumn of 2002, the European Commission's Jean Monnet Project[65] awarded the College of Law (COL) a grant to further expand its EU law offerings. The center-piece of the COL's proposal was to enrich and expand the reach of the university's EU law-related courses through the use of the internet.

Receiving the grant has benefited the on-line EU courses in several ways including: calling more attention to EU law generally within the COL faculty and student body; helping attract attention and support from European institutions and leaders; and raising the visibility and credibility of the COL's EU law courses within a regional law school context.[66]

XI.   Observations

In section V. above, a number of questions were mentioned. These were questions that Mr. Smith and Ms. Hogan and their teaching team asked prior to the first course offering in December 2002-January 2003. With the benefit of having offered the course five times (with the sixth now in progress), some further observations – based on conversations and correspondence – can be made:

- How would students react to the on-line delivery?
  In the great majority of cases students have reacted positively to on-line delivery. In fact, we can't recall any student who has been unhappy with either the content or delivery scheme.

- Was the course, as organized and delivered, too rigorous or not rigorous enough?
  The students to whom we have spoken have indicated that the course was just about right, with the additional comment that it was much more difficult than they had envisioned. We think that the writing assignments, particular, ended up being more difficult for many than they had anticipated. Having said that, however, in most every case students improved their performance from the first few papers to the last few papers.

- Would students submit written assignments on time?
  Yes. This has not been a problem. There have been some instances where students requested more time (e.g., family emergency, students having babies, personal emergency, etc.) and those have been dealt with on a case-by-case basis. However, there has been only one instance where a student's explanation simply did not align

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[65] European Commission, Jean Monnet Project, see
http://europa.eu.int/comm/education/programmes/ajm/index_en.html (last checked March 15, 2005).
[66] For example, students from another regional law school (that does not have an EU Law course) have completed the EU Law & Policy course and plans are underway to broaden the offering in the future to other Rocky Mountain region law schools (that do not otherwise teach EU law).

with reality. In that case, the paper in question was the final paper and the student lost one whole grade as a result.

- Would the platform provide the functionality needed to make the substantive aspect of the course work?
  The answer to this is yes. It's also worth noting that as we've gone along, the platform has been upgraded and made easier to use. After every course we ask students for recommendations and try to implement these where appropriate and feasible.

- What would student reaction be to the self-discipline required to progress in an on-line course?
  In a great number of instances this has not provided any problems. That may be because the students are "self selecting" in the sense that highly-motivated and self-disciplined students are drawn to a course such as this one.

- Would students perceive they had enough interaction with the professor?
  Mr. Smith has been told by some students that they had more interaction with him than they did on-site professors. This may be for a variety of reasons, but suffice it to say no one has complained, that he is aware of, that they did not have enough communication with him.

- Would any technology-based issues arise that would impact the quality of the course?
  Early on, we tried to make the course accessible for students who only had access to dial up connections. However, after the second course offering, we decided that it was important to have broadband access. Some of the materials (e.g., the streaming videos) can only really be seen in a broadband context.

- During all five previous on-line courses, no student has ever challenged a final grade. It seems likely that this is the case because of the on-going communication between Mr. Smith and each student with regard to every submitted assignment. Consequently, there are no "surprises" when the final grade is received.

XII.   <u>Conclusions</u>

<u>Lessons learned in terms of content preparation, organization, and maintaining student involvement</u>

- The professor must fill the role of "social facilitator" in the sense of introducing the students to European-based experts and academics who the students may not always, in the first instance, feel comfortable interacting with.
- Regular and on-going professor-student communication (through web-postings, e-mail, and phone conversations) helps maintain students' attention and addresses the potential issue of student isolation.

- Time involved in keeping the course on schedule (e.g., answering e-mails, clarifying assignments, etc.) is considerable, and the professor must devote at least one hour (and oftentimes more) to this every day (including holidays and weekends).
- There must be a seamless line of communication between the professor and the technology support team. It is not always possible to address technology-related issues involving substantive content on a convenient schedule. Thus, both sides of the instructional team must be aware of the need to resolve issues quickly.

<u>Lessons learned in terms of the web platform and internet delivery</u>

- Student feedback suggests that it is worthwhile for the College of Law to continue to develop and offer select online courses.
- With faculty approval for each course offered, and operating within the ABA strictures mentioned earlier in this paper, we can increase student options to experience high-quality online courses while in law school.
- Having high-speed internet access is critical to a student having a successful experience taking the course.
- It is important for the website delivery platform to reflect student feedback about what functionality works well and what does not.

<u>Final Thoughts</u>

From a modest beginning, the College of Law's EU Law & Policy course has evolved into a more robust offering complete with considerable student-professor interaction as well as opportunities for cross-cultural learning. There is also a major component of writing assessment and review. To some extent, the evolution was planned. In other ways, however, it was implemented as the result of student feedback.

Through the December 2004-January 2005 offering of EU Law on-line, nearly 100 students had successfully completed the course and currently about 20 students are taking the EU Environmental Law & Policy course.

It would be presumptuous to suggest that one course changes anyone's educational career. However, it can be said that students who have completed the course are considerably more aware when they finished than when they began about the European Union. They are also more than likely to have a better understanding of their own abilities to study, analyze, and perform in a setting that places a premium on many of the skills they will be using everyday in their careers.

> **"The advent and continued development of the internet (or Web) provides a tremendous boon for teachers of the EU. Benefits include the availability of vast new sources of information for use in the classroom or for student projects. The Web provides teachers and students with direct and quick assess to official documentation and even policy makers. It also creates new possibilities for teaching courses on the EU, allowing teachers**

and students to transcend the limitations of distance and time that constrain conventional classroom methods."[67]

XIII. Appendix

A. Key Web Addresses: EU Environmental Law & Policy (spring 2005)

- Homepage
  http://www.law.du.edu/donsmith/environment/environment.htm

- Discussion board
  http://www.law.du.edu/donsmithnew/eulaw/discussion/default.asp

- Streaming video
  http://www.law.du.edu/donsmith/eulaw/streamingvideo/eulawstreamingvideo.htm

- Digital drop box
  http://www.law.du.edu/donsmith/environment/dropbox/

- EU Policy Headlines
  http://www.law.du.edu/donsmith/eulaw/eunews/eunewsheadlines.htm

B. Sample "Comment Sheet"

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[67] Michael Baun and Phil Wilkin, Web-Teaching the EU: Online Sources and Online Courses, The State of the European Union Vol. 6 – Law, Politics, and Society 334, 334 (Tanja A. Börzel and Rachel A. Cichowski eds., 2003).

EUROPEAN UNION LAW – INTERTERM 2004-2005

Jan. 7, 2005
Comment Sheet for

Writing Assignment #5

This question has two parts.
- **First, explain and analyze the methods of interpretation used by the European Court of Justice.**
- **Second, why are the concepts of "supremacy" and "state liability" important in the context of EU law?**

Overall Comments:

Part 1:

The ECJ generally uses four methods of interpretation:[1]

- Literal. Words are construed in the context of their plain meaning.
- Historical. In this method, the court attempts to determine the author's intent (e.g., legislative intent).
- Contextual. Here the court examines the text in the context that it appears (e.g., along with other provisions).
- Teleological. European Community objectives and aims are relied on to inform the interpretation.

The ECJ has often used the teleological approach. This approach has given the ECJ significant flexibility and freedom in interpreting community law. The use of this method has been important since, as Fairhurst and Vincinzi suggest, "[T]he Court's policies could be said to consist of strengthening the Union's structure, increasing the scope and effectiveness of Community law and enhancing the power of the Community institutions."[2]

A common law judge, England's Lord Denning, explained the difference between how the ECJ interprets measures and how a typical English judge might, in this fashion:

> "The EC Treaty is quite unlike any of the enactments to which we [i.e., English judges] have become accustomed…It lays down general principles. It expresses aims and purposes…But it lacks precision…An English lawyer would look for an interpretation clause, but he would look in vain. There is none…All the way through the Treaty there are gaps and lacunae. They have to be filled in by the judges, or by regulations, or by directives…[W]hat are English courts to do when they are faced with a problem of interpretation? They must follow the European pattern. No

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[1] Fairhurst, John and Vincenzi, Christopher, LAW OF THE EUROPEAN COMMUNITY 4TH EDITION, Pearson Longman (2004), pp. 105-108.
[2] Fairhurst, n. 1 above, p. 108.

> longer must they argue about the precise grammatical sense. They must
> look to the purpose and intent…They must divine the spirit of the
> Treaty…"[3]

Part 2:

The supremacy of EU law simply means that Member State law cannot conflict with
Community law. The ECJ began to fully develop its supremacy doctrine in 1963 in the
landmark case *Van Gend en Loos*,[4] but the more expansive definition came in 1964 in *Costa.* v.
ENEL where the court said:

> "By contrast with ordinary international treaties, the EEC Treaty has created
> its own legal system which on entry into force…became an integral part of
> the legal systems of the member states and which their courts are bound to
> apply…The transfer by member states from their national orders in favour of
> the Community order…carries with it a clear limitation of their sovereign
> right upon which a subsequent unilateral law, incompatible with the aims of
> the Community cannot prevail…"[5]

Supremacy has been expanded to mean that a national court should not apply national
legislation even if the legislation was adopted after the member state joined the Community.[6]
Combined with the concept of direct effect, the ECJ has established "a powerful
mechanism" to contest whether national law is compatible with European Community law.[7]

The concept of state liability is important because it establishes a powerful incentive for
member states to correctly implement EU law. To put this in context, the EC Treaty
includes no provisions expressly permitting the initiation of proceedings by private persons
alleging member state breaches of EU law.[8] To address this "gap," the ECJ in *Francovich*
established the principle that member state courts must grant relief to individuals who, as a
result of a member state's breach of community law, have suffered damage or injury.[9]
However, the ECJ did set out three conditions that must be established:

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[3] Brown, L. Neville and Kennedy, Tom, THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES 5TH ED.,
Sweet & Maxwell (2000), pp. 321-322.

[4] *Van Gend en Loos* v. *Hederlandse Administratie Der Belastingen*, Case 26/62 (1963); see
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&numdoc=61962J0026
&lg=EN.

[5] *Flaminio Costa* v. *ENEL* (Case 6/64),
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=6196
4J0006.

[6] *Italian Minister of Finance* v. *Simmenthal* (Case 106/77),
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=6197
7J0106.

[7] Dinan, Desmond, ENCYCLOPEDIA OF THE EUROPEAN UNION, updated version, Lynne Rienner Publishers,
(2000), pp. 441-442.

[8] Coles, Joanne, LAW OF THE EUROPEAN UNION 3RD ED., Old Bailey Press (2004), p. 122.

[9] *Francovich and Bonifaci* v *Italian Republic* (Cases C-6 and 9/90),
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=6199
0J0006

1. The community obligation [in this case a directive] had to confer rights on private persons;
2. The content of the rights had to be identifiable; and
3. A causal link had to exist between the member state's failure to carry out the law and the injury or damage suffered by the person.

Subsequently the ECJ has required that the breach be "sufficiently serious" before state liability may be established.[10] However, the ECJ has held that the issue of fault (intentionally or negligently) "is not in itself one of the conditions which is necessary to satisfy in order for state liability to be established."[11]

□ □ □ □ □

Your Paper:

There were 10 points possible. You received __ out of 10 points.

Individual Comments/Suggestions:

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[10] Coles, n. 8 above, p. 123.
[11] Fairhurst, n. 1 above, p. 206-207.

C.   Modified Survey for Online Courses

Professor Don Smith

Online Interterm Course - Web Page Evaluation Form

This survey is anonymous and designed to obtain information so that we can provide better online course resources in the future.

Class Title: European Union Law Course
Instructor: Don Smith

Use the **scrollbar** or the **space bar** to move through the form. Use **tab**, **down arrow** or **mouse** to move to the next field. Use **mouse** to select boxes. Don't use the **enter** key.

Course Web Site - 6 Questions

1. How easy was it to use/navigate the Course Web site?

☐ Very Easy ☐ Easy ☐ Difficult ☐ Very Difficult

2. What, if anything, did you look for on the Course Web site that you couldn't find?

3. How easy is was it to use the Assignment Drop Box?

☐ Very Easy ☐ Easy ☐ Difficult ☐ Very Difficult

4. How often did you use the course Web Page?

☐ More than 3 times/day ☐ 2 - 3 times/day ☐ once/day ☐ less than once/day ☐ Never

5. How useful were the features listed below to your understanding of the course materials?

Syllabus?

☐ Very Useful ☐ Useful ☐ Somewhat Useful ☐ Not at all Useful
☐ Didn't Use

Were you generally able to access materials that were located on Lexis and Westlaw?

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely

Discussion Boards?

▢ Very Useful ▢ Useful ▢ Somewhat Useful ▢ Not at all Useful

▢ Didn't Use

Interaction with the Europeans who participated in the discussions?

▢ Very Useful ▢ Useful ▢ Somewhat Useful ▢ Not at all Useful

▢ Didn't Use

If you benefited, would you like to have more of these types of discussions?

▢ Yes ▢ No

Streaming Video and Audio?

Judge David Edward

▢ Very Useful ▢ Useful ▢ Somewhat Useful ▢ Not at all Useful

▢ Didn't Use

Dr. Stephan Simon

▢ Very Useful ▢ Useful ▢ Somewhat Useful ▢ Not at all Useful

▢ Didn't Use

TR Reid

▢ Very Useful ▢ Useful ▢ Somewhat Useful ▢ Not at all Useful

▢ Didn't Use

National Public Radio audio clips

▢ Very Useful ▢ Useful ▢ Somewhat Useful ▢ Not at all Useful

▢ Didn't Us

European Comission Videos

▢ Very Useful ▢ Useful ▢ Somewhat Useful ▢ Not at all Useful

▢ Didn't Use

Readings?

▢ Very Useful ▢ Useful ▢ Somewhat Useful ▢ Not at all Useful

▢ Didn't Use

Class Announcements?

☐ Very Useful ☐ Useful ☐ Somewhat Useful ☐ Not at all Useful

☐ Didn't Use

Calendar Document?

☐ Very Useful ☐ Useful ☐ Somewhat Useful ☐ Not at all Useful

☐ Didn't Use

European Union Research Guide?

☐ Very Useful ☐ Useful ☐ Somewhat Useful ☐ Not at all Useful

☐ Didn't Use

EU Policy Headline News?

☐ Very Useful ☐ Useful ☐ Somewhat Useful ☐ Not at all Useful

☐ Didn't Use

6. If you selected either "very useful" or "not at all useful" for any of the above please explain your response.

General Questions - 16 questions

7. What additional features would you like to see in an online course?

8. What are the advantages and disadvantages of having an online course?

9. What, if any, problems did you encounter while using the web site in this course? Please give details.

10. What did you think about the "pace" of this course?

☐ Too fast ☐ Too Slow ☐ Just Right

If you could have changed something about the pace, what would it have been?

11. Would you take another course given in this format again? Please explain.

12. Would it have been helpful to have "live" meetings either online or over the phone with the professor.

☐ Very Useful ☐ Useful ☐ Somewhat Useful ☐ Not at all Useful

☐ Didn't Use

If so, how many would have been useful and when?

13. How useful were the weekly writing assignments in helping your study/understanding of EU law?

☐ Very Useful ☐ Useful ☐ Somewhat Useful ☐ Not at all Useful

☐ Didn't Use

14. Was the feedback helpful on the weekly writing assignments?

☐ Very Useful ☐ Useful ☐ Somewhat Useful ☐ Not at all Useful

☐ Didn't Use

If you answered "very useful" or "not at all useful," please explain your response.
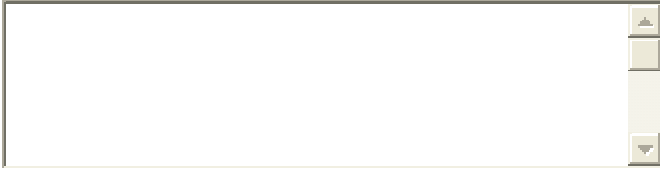
15. I found this course well organized.

☐ Strongly Agree ☐ Agree ☐ Neutral ☐ Disagree

☐ Strongly Disagree

16. This professor was responsive to my questions.

☐ Strongly Agree ☐ Agree ☐ Neutral ☐ Disagree

☐ Strongly Disagree

17. This professor taught the class at a level that challenged me.

☐ Strongly Agree ☐ Agree ☐ Neutral ☐ Disagree

☐ Strongly Disagree

18. I would recommend to others that they take this course.

☐ Strongly Agree ☐ Agree ☐ Neutral ☐ Disagree

☐ Strongly Disagree

19. I was able to keep up with the work load for this course.

☐ Strongly Agree ☐ Agree ☐ Neutral ☐ Disagree

☐ Strongly Disagree

20. I would enjoy taking another course from this professor.

☐ Strongly Agree ☐ Agree ☐ Neutral ☐ Disagree

☐ Strongly Disagree

21. The course materials were sufficient to complete the writing assignments.

☐ Strongly Agree ☐ Agree ☐ Neutral ☐ Disagree

☐ Strongly Disagree

22. Consideration has been given to substituting a "group participation exercise" for some of the individual writing assignments. While there are several ways this might take place, one envisions organizing students into groups of say 4 or 5, assigning them a topic (e.g., "Turkey should be admitted to the EU" or "Turkey should not be admitted to the EU") to research, and then having each group present (e.g., through a paper and PowerPoint presentation) their findings. Is this something you would find worthwhile? Please explain

your answer.

Computer Use -   4 Questions

23. Other than access through DU, please list the name of your Internet Service Provider if you have one.

24. What is the speed of your Internet connection at home?   Please mark the appropriate response.

☐ 28.8k ☐ 56.6k ☐ High Speed / DSL / Broadband ☐ Don't Know

25. Do you prefer Internet Explorer, Netscape Navigator, America Online (AOL) or Other as an Internet browser? If Other, please name.

☐ Internet Explorer ☐ Netscape Navigator ☐ AOL ☐ Don't Know

☐ No Preference ☐ Other

26. Comments

Submit   Reset

D. General Law School Survey – Administered Online

Course: 9999 - Test Course - 9999   Professor: Smith

Note: Only one evaluation is allowed per student. Once you hit the submit button you cannot return to this form. If you wish to complete the evaluation at a later time, you will need to close and restart your browser.

Click here for detailed instructions

1. Approximately how many times were you absent from this class since the beginning of the semester?

Select One ▼

 2. What was the usual reason for your absence?

Select One ▼

3. Indicate how often, on the average, you read the assigned materials prior to classes.

Select One ▼

4. Professor Smith stimulated my interest in the subject matter of this course.

Select One ▼

5. The assigned readings were valuable to my understanding of this course.

Select One ▼

6. Professor Smith covered the course material in depth.

Select One ▼

7. I found this course to be well organized.

Select One ▼

8. Professor Smith held my attention in class.

Select One ▼

9. Professor Smith is always prepared prior to class.

Select One ▾

10. Professor Smith was willing to assist me outside of class.

Select One ▾

11. Professor Smith was responsive to my questions.

Select One ▾

12. Professor Smith makes good use of class time.

Select One ▾

13. Professor Smith taught the class at a level that challenged me.

Select One ▾

14. Professor Smith effectively communicated the content of the course to me.

Select One ▾

15. I would recommend to others that they take this course.

Select One ▾

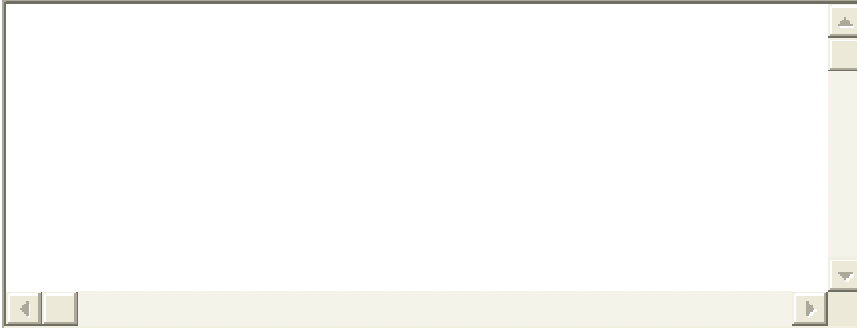16. Professor Smith motivated me to do my best work.

Select One ▾

17. I was able to keep up with the work load for this course.

Select One ▾

18. I would enjoy taking another course from Professor Smith.

Select One ▾

Positive and Negative comments about Professor Smith:

Positive and negative comments about the course materials: