


Legal Risk Management: A Best Practice for e-Learning Legal Issues

Carlo Bucciero 

University of Salento, Lecce, Italy
carlo.bucciero@libero.it,
bucciero.carlo@ordavvle.legalmail.it

Abstract. On-line education is a form of distance education” [8] and is usually defined as “An educational system in which the learner is autonomous and separated from his teacher by space and time, so that communication is by print, electronic, or other non-human medium” [12]. So - basic intent of e-learning is a moral good - making education available to those who have been deprived of it because location or expense or other circumstance is the main reason of on-line education. If ethical risks and vulnerabilities have to be acknowledged and to be addressed in the process, mainly eliminating the deepest reasons, legal issues have to be managed creating a best practice in order to protect both trainers and learners. In this way, legal risk management [16] is an innovative methodological approach aimed to integrated legal critical’s management to prevent, or to minimize, the occurrence of legal risks associated with them.

Keywords: e-Learning · e-Education · Training on line · Legal risk management · Ethical risk · Legal risk · Data protection · Intellectual property · Best practice · Integrated management · Legal security

1 Introduction

This paper is based on the legal issues related to e-learning, e-education and training on-line and also suggests an integrated management of the related risks [14]. Legal risks can be defined as the negative consequences to enterprise arising from non-compliance of laws, directives and regulations. So, these negative consequences are always the result of decisions contrary to the law. Therefore, decision-makers have to know legal issues related to the use of e-learning services; they have to identify areas of critical issues and recognize relevant regulations; they have to avoid making choices contrary to the law that would lead to personal and corporate responsibility. For these purposes, legal risk management aims to be a best practice for e-learning companies, protecting both trainers and learners [10].

2 Research

This research is focused on management of legal risks. In the literature there isn’t a real culture of integrated management about legal issues.

Similarly, literature reveals scant explicit concern in online education and e-Learning: e-Learning companies don't use their resources to create a system of integrated management and legal issues are usually managed individually; there isn't any process that can handle the connections between different risks.

To fill this methodological void is a new challenge for modern educational institutions and an important opportunity for the growth of e-learning and education on line [1]; research about e-learning must continue to investigate legal aspects, improve their integration, creating economies of scope through legal security of trainers and learners.

3 e-Learning: Ethic Values and Legal Issues

In a study of American Council on Education [6], R. A. Fass described early patterns of inappropriate behavior in e-Learning and identified the following categories of academic fraud in the e-Learning environment:

- *inappropriate assistance on examinations;*
- *misuse of sources on papers and projects;*
- *writing assistance and other inappropriate tutoring;*
- *misrepresentation in the collection and reporting of data;*
- *improper use of academic resources; disrespect for the work of others;*
- *lack of protection for human subjects in research;*
- *breaches of computer ethics;*
- *lack of adherence to copyright and copy-protection;*
- *inappropriate assistance to others;*
- *lack of adherence to academic regulations.*

The lack of ethic values is the real cause of academic fraud in e-learning, as is the case on campus, although dynamics are accentuated in the e-Learning environment by the phenomenon of psychological distance [5, 13]; e-Learning companies that have to manage ethical risks and their vulnerabilities [4], and also the legal issues [3], create the best practice in order to protect trainers and learners.

If ethic problems management is mainly linked to a rediscovery of lost values [7], in terms of efficiency and effectiveness a better management of legal issues is connected with an integrated approach. Main e-learning legal issues - identified in data protection, intellectual property [15], e-security, cybercrime, e-commerce - can be managed together, creating scope economies.

E-learning companies can achieve different goals with the same inputs (ex. same resources, same equipment, same know-how). By a complex process it is possible to manage different legal risks according to relatively fixed reports. To this end, a risk management of legal criticalities prevents the occurrence of connected risks or it minimizes negative impacts, representing a growth opportunity for the company [17].

4 Legal Risk Management: An Example of Best Practice

Legal risk management is an innovative methodological approach aimed at integrated managing of legal criticals and it is based on a series of activities designed to prevent

the occurrence of legal risks associated with them, or at least, to minimize their negative impacts on the company.

A global vision of legal risks related to the activity brings benefits in terms of time, cost and company organization. An integrated management plan avoids litigations or minimizes the possibility of occurrence, saving economic resources; improves processes making them safer and reducing time; choose the most suitable human resources to the objectives to be pursued; improves quality of products and services.

To look at risk as opportunity is the challenge of legal risk management and it becomes a real key success factor for the company. In particular, ICT companies have to be able to manage risks and opportunities: technological innovation, fatally impacts legal issues [9]. These companies are confronted with a constantly changing reality, which forces them to manage law changing [11]. ICT products and services require a legal risk management activity, with a protection of competitive advantage intrinsically linked to their introduction and to their use.

In this way, e-Learning, e-education and training on-line type companies have to start a new challenge, realizing a best practice of integrated management of legal issues in order to protect trainers and learners. Deming cycle (plan-do-check-act) helps e-companies in building an integrated protection system to manage main legal risks in data protection [2], intellectual property, e-security, cybercrime, e-commerce [18]. Through legal risk identification, analysis, assessment and control, they can realize a real best practice, taking care the rights of trainers and learners.

As shown in Fig. 1, first step is legal risk identification: predict, detect and decline all the potential legal risks connected to specific e-learning services; second step is legal risk analysis of all the potential risks previously identified. Then, it's necessary to do a legal risk assessment to predict the potential loss and the probability of occurrence of legal risks connected to e-learning, ensuring also the company's ability to bear the risks identified. Last step consists in legal risk control: e-companies have to define technical and legal strategies to control risks through the elimination or reduction of all the critical issues within the physiological limits.

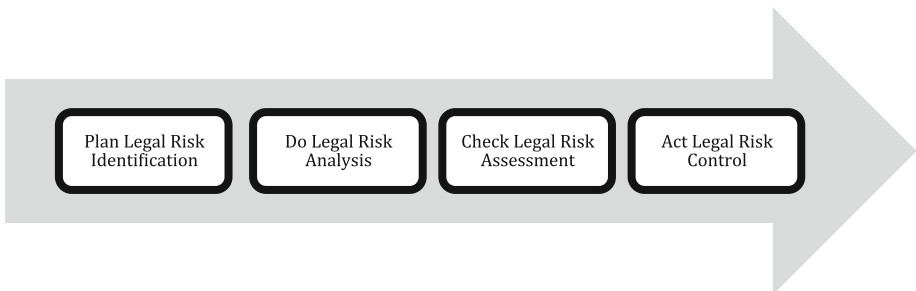


Fig. 1. Legal Risk Management process

5 Conclusions

E-Learning, e-education and training on-line inevitably have impact on ethical and legal issues [13]. Ethic issues find an appropriate solution in the rediscovery of lost moral values; otherwise, legal risks have to be managed through an integrated process, in order to protect trainers and learners.

The Legal risk management is an integrated approach aimed to prevent the occurrence of legal risks or to minimize their negative impacts; through the Deming cycle (plan-do-check-act), legal risk management is able to control legal risks, improving legal security of processes. In this way, e-companies can achieve different goals with the same inputs (same resources, same equipment, same know-how...), creating economies of scope through legal security of trainers and learners.

So, legal risk management is a real best practice, able to combine technological innovation and web 2.0 security in legal matters, and able to protect the competitive advantage related to e-learning services.

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