Apart from learning substantive legal principles, practising lawyers need to develop certain professional skills, such as client interview skills. The challenge at Deakin University was to find a mechanism that was accessible to Deakin’s cohort of distance education students. ‘ClientView’ seeks to facilitate such through an e-simulation. Through ClientView the student interviews their new client, Miranda Koh. The e-simulation ClientView is designed to be used in company law and taxation units. It has since been used as the model for further e-simulations in the Faculty of Business and Law. This article discusses the use of e-simulations in legal education and in particular the development and implementation of ClientView.

I INTRODUCTION

Apart from learning substantive legal principles, practising lawyers need to develop certain professional skills, such as client interview skills. While an academic at each Bond University and Deakin University, the author sought to promote student development of such skills through role-playing in on-campus environments. The challenge at Deakin University was to find a mechanism that was also accessible to Deakin’s cohort of distance education students. ‘ClientView’ facilitates such experiential learning through an e-simulation.

In 2004 the author was part of a group who successfully applied for a grant under Deakin University’s Strategic Teaching and Learning Grant Scheme.

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The use of e-simulations at Deakin University involves both what Klabbers calls Design-In-the Large (‘DIL’) and Design-In-the Small (‘DIS’). In regard to the former, Deakin University has embraced the use of e-simulations as a strategic part of its teaching of professional skills. These five e-simulations have provided models for the development of further e-simulations. The e-simulations are now part of the broader institutional wide InSims program. As to DIS, there is no single model for the e-simulations. The academic dictated the specifics of each of the five e-simulations in light of the professional skills base of the relevant discipline.

This article primarily focuses on the e-simulation ClientView that is designed to be used in company law and taxation units; both being teaching areas in which the author is involved. Through ClientView the student interviews their new client, Miranda Koh. There are three sessions. In Session 1 the student has their first meeting with Miranda, who is seeking advice as to an appropriate business structure for a new venture. In Session 1 Miranda explains to the student her circumstances and there is no ability for the student to ask questions. In Session 2 the student has a second meeting with Miranda, where they can ask her questions. In Session 3, Miranda has requested a further meeting, after she has read the student’s letter of advice, to discuss the suitability of the business

1 ‘HOTcopy’ simulates a newsroom professional internship experience where students take on the role of reporter. ‘HOTCopy’ has received numerous institutional and national awards and is now published by Allen Unwin. See www.hotcopy.infor/guest/awards/index.htm.
2 ‘Mods & Rockers’ allows students to interview three practicing psychologists.
3 ‘Unreal Interviewing: Forensic Interview of a Child’ allows students to role-play as a police officer and interview a child witness for forensic purposes.
4 ‘Pressure Point! Virtual Practice: Getting Framed’ allows students to role-play three opposing public relations practitioners.
5 ‘First Australia Bank: Automatic Teller Machine (FAB ATM) Project’ allows students to role-play an information systems consultant interviewing two bank employees in regard to the design of an ATM.
6 ‘ClientView’ allows students to role-play as a solicitor interviewing a client. This is discussed in more detail below.
8 For example, ClientView, the subject of this article, provided the model for the 2008 e-simulation ‘Blue Apple Cruises’ which is used in teaching financial planning.
9 For example, ‘Penfield Virtual Hospital’ is used in teaching nursing and ‘NewLandia’ is used in teaching professional writing.
10 See further as to Deakin University’s ‘InSims program’ www.deakin.edu.au/alt/insims/index.php/Main_Page.
structure(s) suggested in light of late changes to her circumstances. Before more closely considering the design features of ClientView and the educational features of the e-simulation, the article provides a brief literature review of e-simulations in law.

II LITERATURE REVIEW

While there is a substantial body of work on the educational benefits of simulations, literature examining the use of e-simulations in the teaching law is comparatively limited. Nearly all the literature in this specific area is written by Maharg and/or his co-authors, discussed below. This is in turn linked back to the fact that initially e-simulations were used primarily in science related subjects such as medicine and nursing. Obviously, it is critical that students in these fields practice skills before they are required to do so in real life. It is only in more recent years that e-simulations are being used in a broader pattern to include humanities subjects. Moreover, while the potential benefits that e-simulations could provide in legal education were noted over a decade ago, legal education has been ‘slow to discover that virtual simulation is a valuable method of learning about the law, the legal profession and its transactions.’

The use of e-simulations in law continues to be rare. Apart from the relatively early discussion by Widdison et al, from a literature review there appears to be only one documented example of an e-simulation being used in legal education; namely Maharg’s virtual simulation used in teaching legal practice at, inter alia, Glasgow Graduate School of Law, University of Strathclyde. In his 2001, 2002, 2004, 2006 and 2007 papers Maharg

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12 C Aldrich, A field guide to educational simulations (2003), 8.
17 The e-simulation builds on an earlier pilot project Virtual Court Action, a computer based learning program designed to teach students court procedure by allowing students to role-play as prosecutors and defenders in a hypothetical court action. See K Barton, P McKellar and P Maharg, ‘Situated Learning and the Management of Learning: A Case Study’ (2000) 9 Legal Education Digest 15.
describes his development of a virtual legal community on the web. Students are divided into law firms and in this on-line environment they role-play as solicitors in the virtual town of Ardcalloch, interacting with businesses and legal institutions. The virtual town Ardcalloch has provided the basis for a much larger project called SIMulated Professional Learning Environment (‘SIMPLE’), involving the large-scale implementation of simulations across a number of law schools. Maharg et al describe how pursuant to this project they have sought to improve the teaching of professional skills by focusing the School’s curriculum around e-simulations. This was important, as the authors have concluded that the success or failure of e-simulations can be determined by its place in the broader curriculum.

In later publications in particular Maharg et al examine the research into scientific discovery learning and draw parallels with their e-simulations. Ultimately they argue that the effectiveness of e-simulations in law very much depends on the design of the particular e-simulation and its learning outcomes. This point has been subsequently reiterated by Maharg where he stresses that e-simulation must be very much discipline driven in terms of learning outcomes.

A premise of Maharg’s e-simulation is that experiential learning is more effective than learning undertaken in a formal academic setting. In fact it is contended that there may be some forms of learning that can only occur if the students actually go through the process of carrying out the transaction. It is suggested below that what Maharg calls ‘performativ’ legal skills, for example, interviewing, negotiation and advocacy skills, fall into this category. In turn the e-simulation is based on an approach to professional learning that is called ‘transactional learning.’ Transactional learning is ‘active learning, not passive.’ ‘[T]ransactional learning goes beyond learning about legal actions to learning from legal actions.’ Students need to be ‘involved in activities within

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Above n 11.


The e-simulation is now also used in teaching law in other partner institutions such as University of the West of England, University of Warwick and University of Stirling: P Maharg, Laminations: Dewey, constructivism & professional education (www.slideshare.net/paulmaharg).

Above n 23.

Above n 17; Maharg and Owen, above n 11; above n 24.


Barton and Maharg ibid; Maharg and Owen, above n 11.

Above n 24.

Above n 24.

Maharg and Owen, above n 11, [16].

Above n 15, 3.

Above n 11, [15].

Above n 15, 15; Maharg and Owen, above n 11, [16].

Maharg and Owen, above n 11, [16] (emphasis in original).
legal actions, rather than standing back from the actions and merely learning about them. In turn it is suggested that simulation is one of the most effective ways to teach skills-based learning. Ultimately Maharg believes e-simulations enable more engaged and deeper learning. These conclusions are supported by student feedback. This indicates that students’ professional skills were enhanced by the project, they developed a heightened awareness of client care, improved their IT skills and developed a fuller understanding of the subject matter. Ultimately Maharg et al argue that projects such as SIMPLE are essential to legal education.

The only other related example is the use of STream Indexing and Commenting System (‘STICS’) at Nagoya University’s Graduate School of Law in Japan. This does not strictly involve the type of e-simulation being considered in this article. Rather the project involves student simulations that are accessed by their teachers using information systems. More specifically, in their 2005 conference paper the authors explain that STICS is a software system that allows professors to attach written comments to streamed videos of students role-playing as lawyers in, for example, a mediation. The benefits of using STICS were said to be the ability to provide an individualised learning environment and the promotion of student reflection and analysis. In their 2007 conference paper the authors discuss improvements that have been made to STICS. In particular they discuss the benefits of a collaborative learning environment and the strategies adopted to overcome the students’ reluctance to share the comments on their video clips.

While the discussion below of ClientView concentrates primarily on DIS, in light of the limited documented use of e-simulations in teaching law it nevertheless makes an important contribution to the literature in this field.

III LIMITATIONS TO THE E-SIMULATION

By their very definition, simulations ‘are tools that give you ersatz (as opposed to real) experience.’ Thus while educational simulations ‘place students in true-to-life roles’ and the ‘simulated activities are “real world”, modifications occur for learning purposes.’ To this end the Introduction to ClientView explains to the student that because it is an e-simulation, there are some limitations in terms of replicating a real life interview. As explained below, these are designed to enhance the learning experience.

36 Above n 35.
37 Maharg and Owen, above n 11, 5.
38 Above n 24.
39 Above n 18, 356-357; above n 15, 18-19; above n 24.
40 Maharg and Owen, above n 11.
First, a transcript is provided. While this undermined the development of student note-taking skills, this feature is primarily included to promote equity. Enrolments in the relevant units have included some profoundly deaf students. While the feature was primarily included for such students, as ClientView is integrated into the units assessment, it was determined that it was fair to extend this added facility to all students, not just the hearing impaired. Ultimately, ClientView’s objective is ‘learning’ and a transcript will assist the students in completing the assessment task.

Second, the student can play the ClientView CD as many times as they like. Whether to include such a feature, rather than technically limiting the CD to just one play, was a difficult decision. To replicate a real interview, logic dictated that the student only be allowed to run a particular session once. Again, however, as the task was assessable it was concluded that the student should be able to review the e-simulation. Moreover, the reality was that a student might be interrupted in the course of running ClientView, so it was necessary that they be able to access the session more than once.

IV REPLICATION OF AN OFFICE INTERVIEW

The fidelity of an e-simulation, in terms of its replication of real life, is of course crucial to its effectiveness. To this end one important feature of ClientView is the replication of an office environment. To that end two interruptions are included in the course of Session 1, the first meeting with the client Miranda. Both of the interruptions were based on personal experiences when working with solicitors/barristers in their offices/chambers.

First, at one point the student’s personal assistant, Mr McInerney, interrupts the meeting with Miranda, by informing the student interviewer that a package has arrived. Second, the phone rings. It is the senior partner wanting an urgent response in regard to the progress of a Statement of Claim. During this reasonably lengthy phone discussion the client, Miranda, becomes impatient and ultimately indicates that she has to leave. This was the impetus needed to end the first session before the client had provided all the important relevant information to the student interviewer.

ClientView also seeks to replicate the real life interview experience in terms of Miranda’s answers to the student’s questions in Session 2. If the student asks the same question twice Miranda responds by asserting “Haven’t I already answered that?” Further, if there is an excessive pause in the Session 2 interview Miranda appears bored and fidgety and at times asserts “I’m a busy person you know.”

V PROFESSIONAL SKILLS

As noted above, the aim of ClientView is to develop relevant professional skills through student role-playing as a solicitor. In the course of the interview the student:

- practices note-taking skills;
- develops an ability to discern relevant/irrelevant material provided by the client; and
- develops the ability to ask relevant questions.

In regard to these skills, once the final version of ClientView is developed, the student will not know there are three sessions. The final version of ClientView will be on-line through Deakin’s newly developed ‘Conversational Character’ server. This will enable the selected release of each subsequent session once all
students have, for example, completed the previous session. This will ensure that the student focuses on Session 1 as potentially the only source of relevant information.

There is a debrief screen at the end of each session where the student can register comments about their experience and, in particular, note any further information they require. While that information may be provided in Session 2, it also allows the teacher to address, and respond to, say, any factual omissions. This debrief screen will be particularly important once the ability to selectively release each session is in place. Moreover, once ClientView is on-line the student’s comments in the debrief screen will be directly forwarded to the teacher via the University’s email system.

As noted above, the final version of ClientView will be offered on-line. The student will need to log into the University internet system to access ClientView. Currently the CD is run off-line and is a stand-alone product that does not need to be supported by any computer application, such as Quick time. Even once ClientView is offered on-line, where a student is studying in a remote area where internet access may be difficult, they will be allowed to undertake the task off-line.
In regard to note-taking and the ability to discern relevant/irrelevant material provided by the client, as noted above, in Session 1, the first meeting with Miranda, there is no ability to ask Miranda questions. From Miranda’s explanation of the basis for her new business venture in the area of e-commerce, the student identifies and notes relevant facts. Again to replicate a real life client interview, Miranda addresses both relevant and irrelevant matters. For example, Miranda’s explanation includes a long screed on e-commerce. While the session only runs for 4 minutes, it seems an eternity as Miranda garbles on about technical e-commerce issues. Thus the student must be discerning as to whether the information Miranda provides is in fact relevant.
With respect to the ability to ask relevant questions, in the Introduction to Session 2, the student is informed ‘you will be given the opportunity to ask questions of your client, Mrs Miranda Koh. As your time with the client will be limited, it is important that you focus on asking her the most relevant questions.’ The questions are categorised into themes, indicated in the above slide. Note there is a gender prompt so that the student may ask their questions in a female or male voice. When the final version of ClientView is connected to the University’s internet system, this will track which questions the student asks. This will enable the teacher to gauge the appropriateness of student questions and responses.
In Session 3 the ability to identify relevant facts is further tested. As noted above, here Miranda has requested a further meeting, after she has read the student’s letter of advice. Miranda asks the student interviewer whether certain changes in her factual circumstances impacts on the advice she has been given. The student is then given an option to change their advice in light of these new facts.

VI STUDENT COHORT

ClientView is designed for use in both taxation and company law units. It is suitable for undergraduate law and commerce programs, but would also be well suited to postgraduate units. In the case of company law units, the assessment task is a letter of advice on the various business structures available to Miranda. In the case of taxation units, the advice is confined to the taxation implications of the various business structures.

In semester 2 2007 ClientView was trialled for the first time with the final year bachelor of laws students undertaking MLL 406 Taxation. They used ClientView as the basis of an optional assignment that was worth 40 percent of the final mark in the unit. As it was an optional assignment, ultimately only a small group trialled ClientView. In semester 1 2008 ClientView constituted the primary interim assessment task in the bachelor of laws unit MLL 221 Business Organisations. In semester 2 2008 ClientView again provided the basis for the optional assignment in MLL 406 Taxation.

VII EVALUATION OF CLIENTVIEW

A Teachers’ perceptions

The formal evaluation of the teachers who used the STALGS e-simulations, discussed below, and the author’s personal self-reflection highlights a number of the same issues raised in the above literature review.

In 2006 the education designer who administered the above-discussed STALGS grant, Mr Stephen Segrave, was assisted by Ms Mary Rice to investigate what the teaching staff thought about using the e-simulations. Interviews were conducted with, *inter alia*, each of the five academics involved in the ‘Experiential Learning Through Simulations’ project, including the author. The interviews revealed a strong synergy in the academics’ experience in respect to desired teaching and learning outcomes.46 ‘The development of thinking professionals was a clear goal of the teaching strategies underpinning e-simulations. Rather than become technicians implementing recipe style solutions, the notion of presenting experiences that would challenge and change students’ thinking was highlighted.’47 In turn the academics believed that the e-simulations provided a valuable means of introducing students to higher order work-related

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47 Above n 46, 6.
skills such as decision making, analysing and interpreting information and discerning what was relevant.\textsuperscript{48}

In terms of self-reflection, two interrelated points can be made in regard to these comments. First, a premise of the development of ClientView was that the most effective skills-based learning occurs through simulation. In this case this occurs through the interviewing of the client, making strategic decisions based on the information provided and the student’s legal knowledge and the creation of a legal document, a letter of advice. Moreover, as stated above, the author believes that some skills can only be learned by actually undertaking the ‘transaction’ (to use Maharg’s terminology).\textsuperscript{49} Interviewing skills fall into the category of ‘performative’ legal skills\textsuperscript{50} that can only be learned through actual practice through performance. Thus from a teacher’s perspective, ClientView’s facilitates the ‘transactional learning’\textsuperscript{51} of, \textit{inter alia}, interview skills by all streams of students, including those studying by distance education, and thereby fills an otherwise gap in the author’s teaching of professional legal skills. Second, the e-simulation provides a framework for the development of skills that is integrated with substantive legal knowledge. This is the crucial aspect of the e-simulation that enables the development of what Biggs refers to as ‘functioning knowledge.’\textsuperscript{52} In turn this facilitates a deeper practical understanding of the law that ensures the above-discussed development of thinking professionals, rather than ‘technicians implementing recipe style solutions.’\textsuperscript{53}

In the interviews the teaching staff emphasised that the non-threatening e-simulation environment was preferable to the real work place for learning these professional skills.\textsuperscript{54} The benefit of e-simulations is that they operate in a ‘virtual world, relatively free of the pressures, distractions and risks of the real one, to which, nevertheless it refers.’\textsuperscript{55} ClientView enables students to practice legal skills that they will soon be practicing with real clients in relation to real legal transactions. Most importantly, this learning environment is safe. E-simulations allow students to experience and learn from their mistakes without any professional risk to themselves, their employer or their clients.

Integrating the e-simulations into the assessment of the unit was considered important by each of the academics.\textsuperscript{56} They recognised that the skills learnt through the e-simulation were important and valid and thus the e-simulations needed to be incorporated into the overall assessment.\textsuperscript{57} The underpinning conclusion was that assessment drives student learning.\textsuperscript{58} In turn the assessment tasks were strategically focused on the higher order skills required by the relevant profession.\textsuperscript{59}

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{48} Above n 46, 3.
\item \textsuperscript{49} Above n 11, [16].
\item \textsuperscript{50} Above n 15, 3.
\item \textsuperscript{51} Above n 11, [15].
\item \textsuperscript{52} J Biggs, \textit{Teaching for Quality Learning at University} (2002), 40.
\item \textsuperscript{53} Above n 46, 6.
\item \textsuperscript{54} Above n 46, 3.
\item \textsuperscript{55} Schon, \textit{Educating the reflective practitioner} (1987), 37.
\item \textsuperscript{56} Above n 46, 6.
\item \textsuperscript{57} Above n 46.
\item \textsuperscript{58} Above n 46.
\item \textsuperscript{59} Above n 46, 7.
\end{enumerate}
\end{footnotesize}
Ultimately, the academics found the e-simulations to solve teaching problems in relation to the deliver of professional skills and provided a rich, motivating, multimedia-based experience for students.\(^{60}\)

**B Students’ perceptions**

The learning experience from ClientView has not been formally evaluated as yet. Deakin University’s Institute of Teaching and Learning is currently leading an ALTC funded project in partnership with the Royal Melbourne Institute of Technology (‘RMIT’) and Charles Sturt University aimed at transforming professional learning through the design and development of e-simulations. Part of the project will entail gathering data on students’ experiences in relation to the e-simulations being used in the three institutions. It is expected that the ethics approved survey would be used for the 2009 offering of the unit MLL 406 Taxation in tri-semester 2.

In the interim, some students have provided the author with feedback. Overall this has been very positive. Students found this to be a fun way of undertaking the task and saw it as a positive feature in the Deakin Law School’s promotion of practical legal skills. Surprisingly, some of the 2007 Taxation students found the assessment task a little daunting. The reason for the author’s surprise is that they had completed a similar (but not through an e-simulation) mandatory interim assignment in their earlier unit MLL 221 Business Organisations. The students’ perception as to the difficulty of the task has been addressed through a fuller explanation at the outset as to what is expected from the students.

Ultimately, the students found the ClientView CD easy to use. Only one 2007 Taxation student encountered problems running the CD. The reason remains unclear as the e-simulation is a stand-alone program that does not need to be supported by another computer application. The only suggestion to date is that the student’s computer may have been very old and thus unable to run even very basic computer systems. At the beginning of semester 1 2008 some students using IBM computers were having trouble running the e-simulation. It was concluded that this was caused by the new version of Vista. In the interim students were advised to ensure Vista was turned off before running the e-simulation. Ultimately the problem was addressed and no 2008 Taxation students had any difficulties in running the CD.

\(^{60}\) Above n 46, 4.
VIII CONCLUSION

As with Maharg’s experience, ClientView is now part of the larger-scale implementation of e-simulations. As noted above, it is part of the broader institutional wide InSims program\(^{61}\) that Deakin University sees as a strategic part of its teaching of professional skills. Moreover, as also noted above, ClientView will in the future also play a part in a broader cross-institutional project. Deakin University’s Institute of Teaching and Learning ALTC grant will provide an important gathering of data on students’ experiences of all e-simulations being used in the three institutions. This evaluation will enable the author and other relevant teachers to reflect of our own use of e-simulations, but also provide the teaching institutions with data for their intended expanded use of this experiential teaching tool.

In terms of the author’s experience, creating ClientView has been a challenging and rewarding experience. While the underlying software was crucial in terms of achieving the learning outcomes sought, as Stewart and Brown note ‘one of the hardest tasks is the planning and storyboarding of the scenario itself.’\(^{62}\) This was far more time consuming than the author expected. In turn, the time required to develop an e-simulation has been seen by academics as a major barrier to their use.\(^{63}\) While the design and development of the initial five e-simulations

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\(^{61}\)See further as to Deakin University’s ‘InSims program’ www.deakin.edu.au/alt/insims/index.php/Main_Page.
\(^{63}\)See further PJ Francis and AP Byrne, ‘Use of role playing exercises in teaching undergraduate astronomy and physics’ (1999) 16(2) Publications of the Astronomical Society of Australia 206; B
was extremely time consuming and expensive, the subsequent e-simulations have been produced quite quickly as they have been able to use the former as models. Thus the initial outlay of time and money has provided the foundation for the broad institutional wide InSims program. Also, as indicated by the above discussed survey of the five academics involved in the initial e-simulations, ultimately all concluded that the learning outcomes were worth the effort.

Personally, in the course of the project the author learned a little about learning paedology and script writing. The author has a newly found respect for ‘Neighbours’ after her poor attempts at remembering her lines without cue cards. ClientView also served to remind the author how bad her Australian accent is! However, it has all been worthwhile as the ultimate goal of replicating a real life interview seems to have been achieved. One student remarked, ClientView ‘fits the Deakin mould of practically preparing students for life out of university, and short of live mock interviews this is the next best thing.’
