What a Difference a MOOC Makes!

Copyright management for online courses
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The MOOC Context

• “Massive” means more attention
  – Some course have 100,000+ participants
• “Open” means that much of our traditional copyright analysis does not work
  – TEACH Act, i.e.
• Rapidly changing environment.
  – No final answers!
Who MOOCs?

• About 2/3 of participants from outside U.S.
  – 31% Europe, 16% Asia, 10% Latin America, 3% Oceania & 2% Africa
  – Coursera taking steps to increase enrollment from China
• Over 80% have college degree(s).
• Wide range of ages.

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Why should libraries care?

- Disruption of teaching & library models
- Changing fast, externally-driven
- A vast experiment in the social construction of learning.
  - Role of discussion forums, flipped classrooms
- ??s re place of MOOCs in an environment of rising costs and questions about quality

= A laboratory for changing library services (including around copyright & permission)

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© in MOOCs -- A taxonomy of issues

• Ownership of course content
  • Work Made for Hire?
  • Joint authorship
  • Campus policy
  • Contractual relationships

• Using third-party materials
  – Linking (legally OK, but practical issues)
  – Use in courseware (transformative fair use)
  – As assignments (permission)
A note on “closed” online courses

• TEACH Act
  – Requires access be limited to students enrolled in course that is “regular part of systematic mediated instructional activities.”
  – Must not normally allow downloads.

• MOOC & social media platforms
  – Usually do not meet TEACH Criteria
WMFH & Joint Authorship

• “Work Made for Hire” would apply, by definition, to most academic work.
  – Usually renounced by policy, at least for books & articles.

• MOOCs, like digital humanities projects, always created by joint authors.
  – Need for agreement about ownership, use.
Campus policies

• Often claim online courseware as WMFH.
  – Sometimes because of extra support or use of extraordinary resources.

• Alternative is a license to the university for broad use & reuse, leaving © with faculty creator.

• Also need to look at Conflict of Interest policies
Contractual relationships

University

Instructor/Course creator

MOOC Platform
Using 3\textsuperscript{rd}-party content (i.e. other people’s stuff)
Linking

• Probably no legal issue.
  – Could a link be contributory infringement, if material is itself clearly infringing?
    • How could we know?
    • Good faith is important

• Practical problems
  – Reliability
  – Access in other countries
  – Access for the disabled
In courseware

**I just want SOME content**

- Use public domain material
- Use licensed material
  - Open license
  - Blanket license

**I want THAT content**

- Determine © status
- License?
- Is it fair use?
  - Transformative?
- Can I get permission?

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Transformative fair use

• Transformation when it becomes part of something new, or is re-purposed.

• Much content incorporated into lectures is transformative fair use.
  – Analogy with quotations in an article
  – Evaluate need for THIS content
    • Good teaching = good © practice
Three questions

• Does it help me make my new point?
• Will it help my students get the point?
• Did I use just what was needed?
As assignments

• Wide distribution makes fair use problematic
  – Less clearly transformative
  – Does commercial nature of platform matter?
• Best to rely on
  – Open Access materials (lots of options!)
  – Permission
Getting permission

• Result vary greatly.
• First task is getting a response.
• Emphasize new marketing opportunity
  – Mutual benefit

Publishers want
• Link to purchase
• Download stats
• Click-through data

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Questions?

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