

Educators, copyright and Open Education Resources in Massive Open Online Courses

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Abstract

This study explored how educators, in an enabling open environment, understand and express copyright, licences, and the legal dimensions of openness as they moved from a traditional teaching role to creating massive open online courses (MOOCs). The MOOCs were produced in partnership with the Centre for Innovation in Learning and Teaching (CILT) at the University of Cape Town (UCT). CILT has a long-standing engagement with an enabling open environment and support for OER and the university has an open access policy. Nevertheless, it could not be assumed that the educators making the MOOCs had a commitment to or knowledge of open education resources (OERs), nor could it be assumed that they were interested in or had expertise in copyright, particularly as pertaining to MOOCs. While there are several other open practices relevant to making MOOCs, this paper focuses on the legal aspects, on educator engagement with OER content that has used legal mechanisms for sharing. Legal openness draws on understanding and engaging with copyright; using legally open content; making content legally open in different ways; open licensing expertise and advice (Hodgkinson-Williams, 2014). It is premised on an understanding of the legal mechanisms required to adopt (including both creation and use) such content, and therefore within the ambit of copyright management. Thus an understanding alternative forms of licensing means *a priori* an engagement with copyright.

Keywords

copyright, open education, licenses, MOOC, Creative Commons

Introduction

This study explored how educators, in an enabling open environment, understand and express copyright, licences, and the legal dimensions of openness as they moved from a traditional teaching role to creating massive open online courses (MOOCs). The MOOCs were produced in partnership with the Centre for Innovation in Learning and Teaching (CILT) at the University of Cape Town (UCT). CILT has a long-standing engagement with an enabling open environment and support for OER and the university has an open access policy. Nevertheless, it could not be assumed that the educators making the MOOCs had a commitment to or knowledge of open education resources (OERs), nor could it be assumed that they were interested in or had expertise in copyright, particularly as pertaining to MOOCs. While there are several other open practices relevant to making MOOCs, this paper focuses on the legal aspects, on educator engagement with OER content that has used legal mechanisms for sharing. Legal openness draws on understanding and engaging with copyright; using legally open content; making content legally open in different ways; open licensing expertise and advice (Hodgkinson-Williams, 2014). It is premised on an understanding of the legal mechanisms required to adopt (including both creation and use) such content, and therefore within the ambit of copyright management. Thus an understanding alternative forms of licensing means *a priori* an engagement with copyright.

The four MOOCs, which were the sites of study are *Medicine and the Arts: Humanising Healthcare* (Med Arts), *What is a Mind?* (Mind), *Understanding Clinical Research: Behind the Statistics* (UCR) and *Education for All: Disability, Diversity and Inclusion* (Ed4All). Med Arts is an introductory course about the emerging interdisciplinary field of the medical humanities. Mind explores scientific and philosophical concepts pertinent for understanding our own minds. UCR is designed to build capacity in research skills through scaffolding students' ability to read and interpret clinical data and research. The Ed4All course is aimed at teachers and educational managers, particularly those in low-resource settings, and presents a strategy for how to integrate children with disabilities into mainstream classroom teaching. The four courses studied ran across two platforms and had enrolments ranging from just over 9000 participants to near 35000 participants.

The literature

The growth of online education provision, that includes offering MOOCs, has surfaced tensions and contradictions in the institutional terrain regarding the copyright of teaching resources in general. The implications of differing institutional intellectual property policies have become sites of struggle for academics (Nelson, 2012; Schmidt, 2013) and educator associations (Rivard, 2013). The issues raised include ownership of forms of copyright (individual or institution), new forms of rights such as performance rights, as well as what the evolution of partnerships with external platform providers is coming to mean for individual academics (Porter, 2013). The view is that commercial MOOC providers operate with restrictive copyright terms (Literat, 2015) and generally hold copyright over user-generated content (Cheverie, 2013). Even against this backdrop, it is the case that educators do sometimes retain the copyright in their teaching resources (Cox & Trotter, 2016; Klein, 2005), and that academics do sometimes have the option to make their MOOC content available using open licenses or as OER. It is also interesting to note that in the numerous policies regarding online provision in universities which are currently being developed, new forms of licensing are being included and recognized (Cate, Drooz, Hohenberg & Schulz, 2007). Of interest in this area are the platforms and initiatives which specifically support and encourage open approaches and the adoption of legally open content, i.e. OER in online courses, including MOOCs.

On the whole, educator and academic awareness of copyright has been found to be limited or low (Duncan, Clement, & Rozum, 2013; Smith et al., 2006), with confusion about copyright and licensing being typical (Chen, 2014; Davis et al., 2010). Surveys have found a distinct lack of educator clarity regarding ownership of the teaching resources they produce (Reed, 2012). In addition to a general lack of awareness of intellectual property issues, lecturers have also been found to be unaware of CC licenses (Reed, 2012) and open licensing, describing these as hazy and "grey areas" (Cox, 2016, p. 19).

In addition to the shift online, it has, perhaps ironically, been the Open Access movement which has brought copyright issues to the fore for many academics (Kawooya, 2007; Literat, 2015). In particular, the matter of third party copyright has surfaced, a key consideration when educators wish to share materials beyond their traditional face-to-face classrooms (Gertz, 2013), and thus become aware of the affordances of openly licensed content (Kapczynski, Chaifetz, Katz, & Benkler, 2005). Through the shift online and through exposure to open access, academics are being reminded that as copyright holders they can apply open licensing solutions to moderate the terms of use of their content, while still receiving attribution (Butcher, 2011; Schmidt, 2013).

The OER literature pays a great deal of attention to degrees of legal openness of copyrighted content in terms of the continuum of open licensing provisions (Hilton, Wiley, Stein, & Johnson, 2010; Hodgkinson-Williams & Gray, 2009), and there is some research which addresses how educators and academics engage with the legal dimensions and nuances of licensing through the adoption of OER (Cox, 2016; Davis et al., 2010; Nikoi & Armellini, 2012). However, there is a lack of evidence of such consideration in MOOC research, where the question of adapting OER in and for MOOCs and the reuse of MOOC content, specifically from the educator view, has received scant attention.

Methodology

The study employed a qualitative approach. Data was obtained through semi-structured interviews with MOOC educators and their academic assistants, focus group discussions with MOOC educators and MOOC learning designers, and observations of the MOOC-making process. Other sources of data included proposals submitted to the MOOC Advisory Committee, monitoring and evaluation reports, promotional videos created by the

educators, institutional policies and strategic plans, permission forms for MOOC content rights, and artefacts of course content.

The educators of each of the four MOOCs were interviewed at three time intervals: just before the MOOC was launched (T1), after the first run of the MOOC (T2), and ten months after the launch (T3). The first interviews provided a baseline for the educators' existing practices; similar questions were asked at each stage to enable comparison, and the responses to earlier interviews were used to further refine interview questions for the interviews at later intervals. A total of 19 interviews were conducted with MOOC lead educators, two focus groups with the MOOC implementation team, and three post-course reflection sessions (for MedArts, MIND and UCR). In the analysis these are referred to in the following shortened form: MOOC1 Lead Educator: Med Arts LE1/2/3 where the last digit refers to the interview stage. We interviewed lead educators from Med Arts, UCR and Ed4All as well as the lead educator and the lead educator's assistant from Mind. Guest presenters on Med Arts were also interviewed. We also conducted focus groups discussions with the educators after the first run of their respective MOOCs and focus groups with the MOOC implementation team.

Interview and focus group data were coded using NVivo10. The initial codes were shaped by the conceptual framework through an iterative process of engaging with the data, which led to a consolidated analytical framework.

Findings and discussion

The MOOCs creation process influenced how educators understand and expressed copyright, licences and informed the nature of legal dimension of openness.

MOOC 1/ MATA

The educators of the first MOOC were committed to openness in terms of reach, and had issues of copyright drawn to their attention at the outset when two of their colleagues decided not to participate in the MOOC citing concerns about losing control of copyright of their work if it became available beyond the confines of the traditional classroom. SR2 thought that this colleagues raised important issues which "forced us to think about it in a bit more detail."

E1 said that he was aware of the complexities of copyright in relation to research but not in terms of teaching. After the course had run, he acknowledged that he had not realised that copyright would be an issue, especially in terms of third party copyright. He gratefully acknowledged the role of the MOOC design team who had taken care of this. At the same time he also expressed shock when he realised that he was not able to use certain teaching materials that he wished to, including some of their own research papers. As he put it, "it was just a bit of a shock realization that so many of our intellectual resources are locked up in, by the journals, by the editors, into exclusive, you know, subscription-paying agreements. And that, that is a huge problem." (SR3)

Despite this realization, it did not seem that the lead educators had become familiar with the specifics of the different types of licenses and said so themselves ("what is non-derivative"? (SL2)]. They were clear on what they wanted to achieve and, as they said, "the beauty of it is the expert team" who made much of this possible (SL2).

After running the MOOC, and making the resources available under a Creative Commons licence one of the lead educators commented on being pleased because they wanted the content to be as widely available as possible, and that they would not do anything differently. This was articulated clearly in: "it was about the democratisation of education, it's about putting it out there to as broad an audience as possible. I don't think that I'd do anything differently." (SR2)

In sum the lead educators were alerted to complexities of copyright and open licensing, and recognised limits of their current understanding of the issues when two educators did not wish to have their video lectures openly licensed for the MOOC. The lead educators were also alerted to the issue of not being able to use intellectual resources that were "locked up" for their open course. The educators considered that open licenses were a useful tool for making their course and course material widely available and in line with the spirit of democratising education. They were, however, content to allow a division of labour where MOOC design team handled the technicalities of openly licensing MOOC content.

MOOC 2/ MIND

In the interviews with the lead educator and the head tutor while MOOC 2 was being developed, it became clear that making the MOOC brought the issue of copyright to the attention of the educators at the outset. They noted

the restrictions they experienced due to third party copyright considerations and would have liked more of the materials they could offer to have been available under more open conditions so that they had a wider range available for use. The tutor observed that “People can be very possessive of their copyright things, and it’s understandable” (AD1). She felt that “the resources aren’t as good as they should be and that probably the negative is the restriction on, like, licensing and that sort of thing” (AD1). They either had to get permissions (“we were quite lucky that the two academic papers we could use, we did get permission for”) or they had to use materials which were available in an open access form (AD1). Through designing the MOOC, they came to realise that they could use research resources which had been made available through the university’s open access repository.

During the process of MOOC development the tutor developed a working knowledge of CC licenses through the team and realised that the educator resources could be shared but would have to be attributed. At the very beginning there were misunderstandings, a limited understanding of open licenses, and the encountering of the widely shared misconception that an open access meant losing copyright. Through working with the MOOC design team, the lead educators were exposed to the different types of open licenses and chose to go with one of the most open ones available. Neither of them learnt the specifics (the technical details) and it was not important for them to do so. Describing CC licenses one of them said is: “... like an open access thing, while still having, like, your name on it, basically. I don’t know if I understood it correctly but there wasn’t really a need for me to go right into the depths of those sort of licenses, yes, but I just know that it does mean that it can be freely used and accessed and available” (AD1).

The lead educator was very keen on the re-use of his materials. He reflected that it was the Internet made sharing and advancing knowledge more possible, and observed that in a networked online world, the spread of content is happening anyway. When he came to reflect on his experience during an interview several months after the first MOOC run, he said unequivocally, that he doubted the role of copyright, and was in strong support of open licensing.

At the same time he was aware of the ethics and considerations of privacy and anonymity online. He differentiated the legal and the ethical, observing that “once it is in print, technically you don’t have control over it. Even if in law you do, but from an ethical point of view you don’t. So I never publish anything, either have recorded anything or publish anything which involves that sort of material without making absolutely sure that I do have all the rights to control its dissemination.” Thus understanding that legal openness is only one aspect to be considered when making materials open and relatable to concerns in his medical field.

When interviewed several months after the MOOC had run, the lead educator said that his experiences had reaffirmed that academia is not about making money, and furthermore that he did not believe that this is even possible: “it’s not as if you’re sacrificing a great income that you otherwise would have had. And the more you think like that, the more you’re actually not doing what science and academia are about” (MS3) This was why he was not interested in holding on to the resources he had created in the MOOC. “So I have no interest in owning rights to anything like this.” Because “And it’s not about ownership of knowledge, it’s the exact opposite. It’s about spreading knowledge.” (MS3)

The lead educator was making a MOOC in order to grow the new discipline in which he worked, and to spread knowledge, and CC licenses helped him do so. As he said, “So any mechanism that will enhance your capacity to do that is the one that I like.” MS3

As with Med Arts the Mind lead educator and tutor came to recognise early on that copyright prevented the wider use of learning and intellectual resources, since ‘closed’ resources could not be used in their MOOC. Again like Med Arts, the Mind educator and tutor were happy to let the MOOC design team work through the technical aspects of open licensing material and came to consider closed licensing as “antithetical” to the intellectual project. The Mind lead educator was also impressed with open licenses in terms of their ability to widen access to materials.

MOOC 3/UCR

At the start of the project the lead educator was deeply committed to making teaching resources freely available: “ And so putting that knowledge out or that educational resource available to anyone, with potential access to it at least, to me is... that is the point of departure” (JK1). He expressed his aversion to educational resources

remaining within universities as well as to the notion of individual ownership and repeated his disinterest in the variations and specifics of licensing and copyright.

JK began his MOOC-making process with a strong commitment to having educational resources available to “anyone”, and was convinced of the benefits of doing so, however, as with the other educators, he was not interested in himself mastering the technical aspects of open licensing.

MOOC 4/ Ed4A

The Ed4All Educators were clear that they wanted to make their resources available. Despite some exposure to open access and to copyright they found MOOC copyright issues a complicated landscape to negotiate. While they knew about copyright, they had not been familiar with the scope of open licenses and experienced copyright issues as a burden and more complex than anticipated due to the nature of the MOOCs project. This point was reiterated by a member of the MOOC design team who pointed out that as this was “an institutionally branded project, so it has to be very risk averse [with regards to clearing copyright]” (FG, JS).

Thus, the process of making the MOOC instigated discussions about licence types to be applied in any future formal courses taught by these same educators. JM appears to have carefully considered licensing of the MOOC material and weighed the benefits of open licencing. She noted that they had decided to openly licence the MOOC in such a way that even if educators wanted to reuse part of the MOOC in a paid-for course this would still serve the purpose of Ed4All namely to offer strategies to make (especially) low-resourced schools more inclusive (JM1).

Common to all these experiences of engaging with legal openness in MOOCs, OER creation is an important opportunity as it makes resources available to current MOOC participants as well as making it possible for resources to be reused beyond the specific parameters of the MOOC run. By the completion of their MOOCs, none of the educators had spoken of a negative experience associated with creating OER, other than the effort and practicalities involved. Two aspects affected the adoption of OER in the study: (1) the institutional and university policy context that values openness; and (2) learning designers, experienced with CC licensing, suggesting the benefits of open licensing to the educators. Across the four MOOCs studied (MedArts 17, Mind 1, UCR 1, Ed4All 2), which comprised 21 educators, only two guest educators in MedArts were reluctant to try out open licensing of their own educational materials. This suggests that in such a context educators were not opposed to open licensing of their materials. Further, when the use of openly licensed materials, as in the MOOCs, was combined with open pedagogies, the educators witnessed how openly licensed materials can serve their educational objects. Our research did not reveal ideological barriers to open licensing among the MOOC educators, although it has been suggested that the educators did not wish to learn the technicalities of open licensing themselves.

Furthermore, much of the feedback to educators from MOOC learners can be related to content that was openly licensed, thus increasing recognition of the value of open licensing across all four MOOCs. Our research indicates that at least two conditions are required to support OER creation. First, educators should have a sense of the value of open licensing for achieving reach and reuse of materials, this value being made apparent through interaction with potential and actual users. This occurs manifestly when MOOC contents are openly licensed. Second, as indicated by the educator practices studied, educators perceive the technicalities of CC licensing as beyond the ambit of their skills or labour. Thus it is important that a staff member knowledgeable of CC licensing is available to assist educators who wish to openly license materials. Recognizing the value of OER comes first, preceding the desire to ask advice from an open licensing staff member. Across all four MOOCs studied, educators, while valuing the power of OER for approaching their objects, did not wish to acquire the skills associated with open licensing and saw this as the province of someone else’s work.

MOOC partnership agreements with universities require choices to be made regarding copyright ownership and licensing - this becomes a MOOC Design tool which itself is mediated by the choices of MOOC educators and design team. The outcomes of these choices apply to all forms of content including user-generated conversations, videos, assessments, articles, and readings. MOOCs are not covered by the blanket copyright licenses many universities, including UCT, have, which make some copyrighted material accessible to registered students and staff. Changing business models observed over the duration of the project period is seeing a shift towards models which can limit free access to some or all materials by first requiring payment. This can constrain OER access, as even though materials may be licensed with accommodating permissions, barriers to access can be in place. While FutureLearn does not restrict access to resources, Coursera, for

example, is increasingly following a model of requiring payment for access to assessments. Coursera mitigates this by offering a no-cost financial aid especially for developing countries.

While the MOOC design could enable OER creation and reuse, it also led to some contradictions. Even though most of the MOOC materials were OER, technically these materials are only directly accessible to those who have enrolled. Thus, although all MOOC content is openly licensed, the OER material would not necessarily be persistently accessible via the MOOC platform, for example, and therefore strictly speaking might not be considered OER. The educators though have not experienced this as a contradiction. Other facets of the MOOC design go some way to mitigating this apparent contradiction. The frequent runs of the course make the materials available to new cohorts of learners; there are also “open steps” with learning materials that are always available as standalone objects; and selected learning materials are shared as OER in repositories or “on-demand”. A perceived strength of using the course format for the course content, as recognised by the educators, is that learning materials are presented in a context, so that the embedded pedagogy, course structure, and cohort of learners collectively give the learning material value for reuse and sharing. Despite the design of the MOOC platform limiting some forms of openness, the educators can (and do) engineer other strategies for sharing, and thus adopt open practices through sharing MOOC materials to make their content and knowledge publicly available.

Another potential contradiction is that while the MOOC design requirements would seem to encourage OER adoption, because this involves non-registered students, copyrighted materials cannot be used without permission. This was felt to be a limitation on how the educators could teach their course. In Med Arts, the educators could not set the same reading list for the MOOC as the prescribed list for their formal course due to copyright restrictions. They were thus compelled to find OER or Open Access literature that could be included. Med Arts LE12 saw the “lack of copyright access to key readings in the field” as reducing the “intellectual integrity” of the course while the other lead educator considered this a “limitation ... of the depth of the course” (Med Arts LE22). Here intellectual property laws restricted the educators and forced them to consider OER from other authors; however, their frustration and reluctance suggests that their emerging open practices were mediated by what they saw as a restriction on their teaching freedom.

Conclusion

The intention to create OER was rarely expressed or perceived as important by MOOC educators. Although they were not particularly ideologically committed to OER, they were happy for materials to be openly licensed and delighted by the re-use that this enabled. Nevertheless they preferred others to take the responsibility for choosing legal compliance as well as use and sharing of OER.

The educators had not articulated their own intentions regarding openness, licensing, and content using concepts such as OER in part due to a lack of awareness or experience. The influence of the MOOC design format and the UCT context of supporting openly licenced content meant that the MOOC educators became more cognisant of the technical aspects of content licensing and expressed appreciation for the practical aspects involved in OER creation. Although not an institutional requirement, all UCT MOOCs carried predominantly CC licenced content, with the specific licensing provisions negotiated with the educators and the design team.

No negative experiences were attributed to the creation of OER, beyond an expressed lack of familiarity with good practices, implications of licensing choices, and the practicalities of creating more OER. None of the educators resisted creating OER, but it is not possible to predict how and to what extent they would create OER when the onus once was fully on them individually. Certainly, in the course of our study, examples did emerge where educators inquired about the possibility of creating new OER independent of the MOOC. MOOC-making with OER therefore was conducive to OER in general, and can be viewed positively as leading to subsequent OER creation. More time would be needed to see if these educators have become strong advocates or could function autonomously in creating and sharing OER.

We know of a number of cases where MOOC materials were used in other contexts. Some used the materials from the MOOC platform and in a few cases we were approached to provide materials in other formats. However, the UCT MOOC materials were not shared in a separate OER or open content repository that would have made it possible to run an identical course on a different platform, partly because none of the educators were keen for this scenario as they did not see their courses initially suited to this form of reuse and it was envisaged that the MOOCs would be updated in their first few runs making version control a concern.

Additionally agreements with MOOC platforms did not allow running of an identical MOOC on other platforms concurrently and in the case of a few materials, licences and permissions has been granted for the materials to be shared only in that MOOC format.

We do see a number of cases where other MOOCs created on the same platforms make use of open licensing either through reuse of existing OER or releasing their content as OER. The release of content as OER in other MOOCs appears comparatively low, in part because this is not a default options on these platforms. As releasing content as OER would involve additional effort, we speculate that there is a link with the goal or object of the MOOC and why educators were willing and in some cases enthusiastic about releasing MOOC materials as OER and how they were prepared to engage with copyright.

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