


LEARNING OUTCOME

After participating...

...you will be able to apply copyright laws more appropriately in creating and using MOOCs.


AGENDA

- Brief overview of MOOCs landscape
- TEACH Act and MOOCs
- Ownership of course content
- Using third-party materials
- Permissions
- Wrap-up: Policy and planning implications for your campus



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BRIEF OVERVIEW OF MOOCS LANDSCAPE



WHAT'S A MOOC?

- **M**assive - Often enroll tens of thousands of participants
- **O**pen - Anyone can enroll; no prerequisites or barriers other than Internet access
- **O**nline - Entire courses must be online and asynchronous, except for discussion forums
- **C**ourse - Attempt to make experience similar (maybe better!) than on-campus course



POLL

Is your institution offering any MOOCs?

MOOCs AT DOOK

- 13 courses offered at least once, a dozen more in development.
- Over 650K non-unique registrants across all Duke Courses.
- Rapidly changing environment.
- Significant positive feedback from instructors & participants.

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.



CHAT

What impact on US higher education will the MOOC movement have?

WHY SHOULD LIBRARIES CARE?

- Disruption of teaching and library models
- Changing fast, externally-driven
- Rapid uptake, but in an environment of rising costs and questions about quality

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

WHAT'S REALLY HAPPENING?

- A vast experiment in the social construction of learning.
 - MOOCs are VERY social spaces.
 - Much of the learning happens in discussion forums.
 - Flipping classrooms.
- If we ignore this phenomenon, we risk accelerating irrelevance (IMO)

© 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)

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TEACH ACT AND MOOCs

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WHY MOOCs ARE DIFFERENT

- In general, the teaching exceptions to the copyright law do not apply
 - Not face-to-face
 - Not “closed”
 - Courses not “regular part of systematic mediated instructional activities of an accredited non-profit educational institution”

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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 and social media platforms
 - Usually do not meet TEACH Criteria

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OWNERSHIP OF COURSE CONTENT

WMFH AND JOINT AUTHORSHIP

- “Work Made for Hire” would apply, by definition, to most academic work.
 - Usually renounced by policy, at least for books and articles.
- MOOCs, like digital humanities projects, always created by joint authors.
 - Need for agreement about ownership, use.

ABOUT WMFH

- By its plain terms, seems to apply to most faculty work
 - Policies may disclaim WMFH, for some works
 - Are they effective?
 - Not a signed agreement between the parties

CAMPUS POLICIES

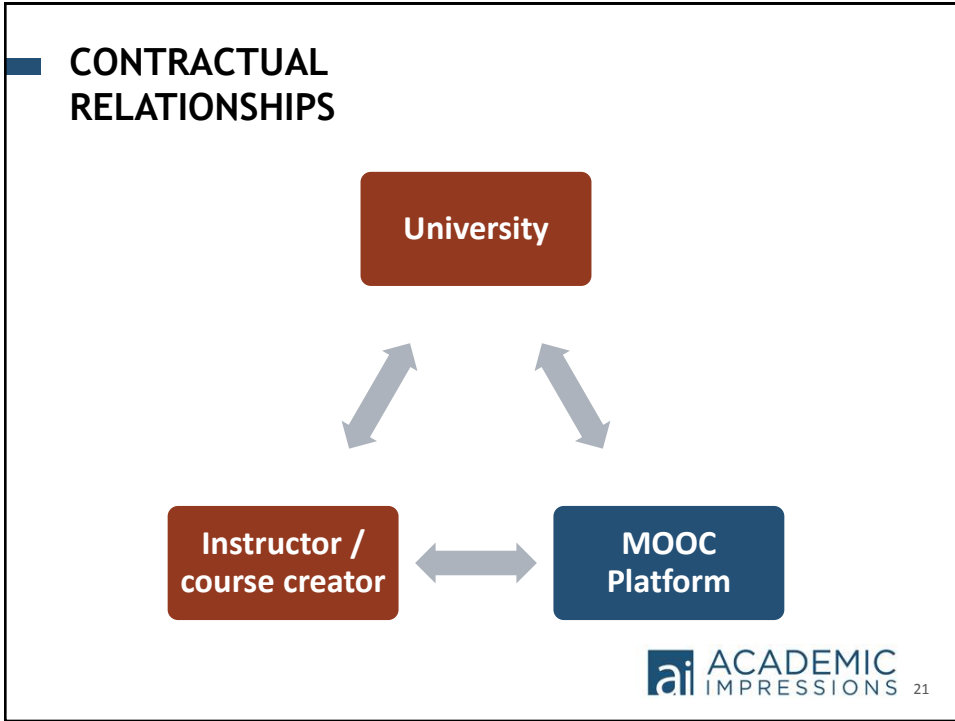
- Often claim online courseware as WMFH.
 - Sometimes because of extra support or use of extraordinary resources.
- Alternative is a license to the university for broad use and reuse, leaving © with faculty creator.
- Also need to look at Conflict of Interest policies



TAKEAWAYS

Policy takeaway

- What matters most is not ownership, but use rights.
 - Consider interests of several groups of constituents and license for those interests.
 - Ownership may be more of a political issue.
- Need to manage contractual relationships
 - Who will be “in privity” with whom?



? QUESTIONS

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USING THIRD-PARTY MATERIALS

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POLL

**Where do your faculty get
copyright advice?**

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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?

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

MONTY PYTHON IN MY MOOC

**PROFESSOR WANTS TO INCLUDE FULL 9 MINUTES
OF FAMOUS MONTY PYTHON CLIP IN HIS LECTURE.**

- Fair use?
- Should we link?
- Can we make a better situation for transformative fair use?

3 QUESTIONS



1. Does it help me make my new point?
2. Will it help my students get the point?
3. Did I use just what was needed?

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PERMISSIONS

GETTING PERMISSION

- Results 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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CELEBRITY FRUSTRATIONS

- Robert Redford editorial
 - No reply to permission request
 - Factors that strengthened fair use
- Driving Miss Daisy photo
 - Received a non-responsive reply.
 - Was this permission?
 - Intent
 - Fair use?

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WRAP-UP: POLICY AND PLANNING IMPLICATIONS FOR YOUR CAMPUS



THINKING ABOUT POLICY

- Usually specific to campus environment
 - Political as much as procedural
- Ownership can be hot potato
 - Cool it off by talking about interests
- Revenue and revenue sharing
- Support
 - Financial
 - Staff commitments



THINKING ABOUT POLICY - CONTRACTS

ISSUES FOR AGREEMENTS WITH INDIVIDUAL INSTRUCTORS

- Attribution
- Alteration
- Revenue
- Re-use



TAKEAWAYS

- MOOCs take more time to develop than you think.
- Ask why you want to MOOC.
 - Global outreach
 - Improved teaching
 - Experimentation
 - Money



TAKEAWAYS

How is support structured?

- Technology support
- Ownership issues
- Resource location - need for open access resources
- Copyright advising



TAKEAWAYS

Copyright considerations

- Traditional educational exceptions unavailable
- Fair use still possible
 - Distinguish lecture content from readings
- Seek open resources
- Permission is slow and uncertain
 - Be prepared to negotiate



QUESTIONS



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