LEARNING OUTCOME

After participating...

...you will be able to apply copyright laws more appropriately in creating and using MOOCs.
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
WHAT’S A MOOC?

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

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

- 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

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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”
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
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
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

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?
# AIwebcast

**USING THIRD-PARTY MATERIALS**

**POLL**

Where do your faculty get copyright advice?
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?
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

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?
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

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
Thank you!

Please remember to complete the event evaluation. Your comments will help us continually improve the quality of our programs.