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Global Education, Global Challenges: Licensing for the New American University

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For the past few decades, a combination of standard license terms and copyright exceptions has made it possible, if not always easy, for libraries to provide the information resources that are needed by our communities. Model licenses, such as the **CRL LibLicense Model License**, have helped create widely used definitions for authorized users. Access through IP authentication and proxy servers allows us to connect large communities to our licensed content as seamlessly as we can. And an increased understanding of copyright law and fair use evaluations allow us to work with instructors to incorporate the content we provide in their classes. But what do we do when our educational aspirations expand beyond currently enrolled students, outside of the standard definition of authorized user? How does fair use apply when delivering content on an offline server to an island in the South Pacific?

As we work to become the **New American University**,¹ **Arizona State University (ASU)** has been exploring new pathways for providing educational opportunities to students around the world. Our charter measures our success “not by whom we exclude, but rather by whom we include and how they succeed”² with an emphasis on overcoming barriers that prevent people from being able to complete their educational goals.

As an example, the **Global Freshman Academy**³ (GFA) is a series of Massively Open Online Courses (MOOCs) offered on the EdX platform. These general studies courses are designed to be the equivalent of a traditional online course that a student would take for credit. Students who enroll in the verified identity track can also choose to pay a fee to receive full **ASU** credit for the course at any time, even after they’ve completed the course. Receiving a passing grade (a B or higher) in eight courses qualifies as a full freshman year and guarantees admission to **ASU**. The credits are recorded as full **ASU** credit on a student’s transcript, so they can also choose to transfer those credits to another university if they desire.

The flexibility of the GFA provides options to people who might not otherwise be able to go to school — online programs have already proven to be useful for working students, parents, or others whose schedules don’t permit them to attend class at specific times. The option

to pay to receive credit after passing a course

helps people who don’t have the financial means to pay up front with the possibility of failure, and the fee is lower than most online college courses. Finally, the option of automatic admission to an accredited research university after successfully receiving credit opens the door for students who have followed non-traditional educational paths before college, perhaps without high school diplomas, GEDs or other standardized test scores. It allows people who had previously dropped out of college for whatever reason an opportunity to make a new start with confidence after proven success.

Another example is **ASU**’s participation in the MasterCard Foundation Scholars⁴ program, a 10-year initiative to educate and prepare young people (primarily from sub-Saharan Africa) to lead change and make a positive social impact in their communities. This program intends to serve an estimated 15,000 young people at the secondary and university levels by 2023. **ASU**’s EdPlus received a grant from the MasterCard Foundation to design the Baobab Scholars Community Platform,⁵ a custom learning and social networking platform which delivers a personalized learning experience based on each Scholar’s interests. This platform was tested in Summer 2016 and expanded to include all MasterCard Scholars in Fall of 2016. Content includes learning modules, discussion boards, and other electronic resources designed to help each Scholar further their personal and academic development. The platform also allows Scholars to earn credentials that enable them to demonstrate their progress towards developing leadership skills, and provides information about internships and job opportunities to help improve employment opportunities. A key component of this program is a commitment to lifelong learning and building a sustained community, so this network will continue to be available to Scholars after the students complete their education, including access to curated resources and educational content.

As a final example, the Solar Powered Educational Learning Library⁶ (SolarSPELL) is a digital library of educational resources that generates its own Wi-Fi signal and runs on solar power. The plastic case containing the technical components of the SolarSPELL is waterproof and weatherproof, and it is covered with a compact solar panel. SolarSPELL uses a Raspberry Pi as a server to host the content and deliver it through a Wi-Fi hotspot. All that is needed to access the information is an Internet-capable device, such as a tablet, laptop or smartphone. It was designed by **ASU**

professor **Dr. Laura Hosman** to provide relevant, localized information and educational resources to populations who may not otherwise

have access to the Internet, to a library, or even reliable electricity. **Dr. Hosman** partners with the **U.S. Peace Corps** in the Pacific Islands, such as Tonga, Vanuatu, Micronesia and Samoa. These **Peace Corps** volunteers are stationed at remote, rural schools for two years and have a mission to teach English and provide technology training. They train local educators on how to use the SolarSPELL to not only deliver educational content, but also communicate and preserve local knowledge, culture, and traditions.

These are only a few of the many innovative ways **ASU**, through a variety of partnerships, is expanding access to education around the globe. Similarly, the **ASU** library has revised its strategic goals to more explicitly support the **ASU** charter and aspires to deliver appropriate content and resources for all of **ASU**’s educational initiatives. However, there are several challenges facing us.

The copyright and licensing issues surrounding MOOCs have already been explored for a number of years by scholars such as **Brandon Butler**.⁷ To summarize, since MOOC students aren’t officially enrolled in a university, most of the traditional copyright exceptions related to classroom use do not apply. Similarly, most online content licensed by a library will not include MOOC students as authorized users. This means that the majority of our library content is off-limits to our GFA instructors unless a fair use argument can be made. Accepted best practices regarding fair use for MOOCs, however, place unacceptable restrictions when there is a commitment to delivering an equivalent educational experience to MOOC students as to officially enrolled **ASU** students. For example, linking out to a website or embedding content from YouTube does not guarantee that a student located in China will be able to reliably access the content due to technological or political restrictions.

Along with these well-documented legal challenges for MOOCs, content for our other initiatives on the Baobab platform or SolarSPELL, for example, needs to be fully incorporated within the platform. These initiatives can’t assume that the users will be able to have consistent Internet access or even electricity. And just to make things more complicated, international copyright laws come into consideration when making determinations about including local content or creating localized digital libraries.

Our most obvious solution is to locate and use content that is not protected by copyright, such as public domain material or content that is open access and licensed for reuse. Unfortunately, that doesn’t cover much of the material we need in order to create an experience equivalent to more traditional educational

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environments. Audio and visual content is particularly challenging in this respect. Video, along with transcripts, is in high demand, especially when designing learning opportunities for a multilingual audience.

We do our best to make fair use determinations when necessary, but it is challenging to provide consistent training and education regarding fair use to instructors and instructional designers. While we can explain copyright exceptions and help develop fair use best practices for different scenarios, it is very difficult to keep up with new developments in this fast-paced environment. And as we all know, Library Guides and tutorials can only go so far. Ultimately, there are some uses which require permission. However, seeking permissions from copyright holders can be complicated, time consuming, and expensive. Without dedicated staff working on identifying and securing permissions, it is not a sustainable option for most projects.

Another strategy is to develop our own content, which we do when we have no other solution. However, this does require extra time and effort on the part of instructors and instructional designers, and there isn't always enough lead time on development deadlines. We are investigating options for a learning object repository to reuse our own work and

share with others, but it is one of the many technology projects we're juggling.

Our copyright issues are compounded by the speed with which new initiatives are being generated, along with the comparatively glacial pace of change to library service models and publishing models. At the library, we've been scrambling to keep up with only one librarian specifically assigned as a liaison to EdPlus for the past year along with me as the Scholarly Communication Librarian (and copyright expert) for the university. We have plans to scale up our efforts as part of a complete reorganization, but it will take some time for these changes to take effect.

As a result, the ASU library is reaching out to our content providers to seek solutions. We'd like to explore new business models that will be mutually beneficial. We're willing to pilot new ideas, and pay for them, but we have to move beyond pricing by FTE. We're asking them to consider new possibilities for licensing resources that will allow us to meet our needs. We need to be able to provide content to users beyond currently enrolled students. We need to be able to embed content within platforms, not just link to it. We need to be able to provide consistent messaging about what can be used and how, without a complicated decision tree based on who, what, where, and how much.

These needs aren't new. Libraries and educators have struggled with many of these questions for a long time, but the pressure is increasing and time is short. We have similar

initiatives multiplying constantly, which all provide new challenges for meeting our informational resource needs. When the focus of a university extends to a global scale and builds bridges to traverse the digital divide, but the majority of the library collection is off limits, how does the library serve its purpose?

Fundamentally, the ways libraries and content providers have historically provided access to our content has to change. These initiatives are only the beginning, and ASU is certainly not alone in exploring new ways of providing education on a global scale. By working together to experiment and innovate, we can forge a path forward that will be responsive to a rapidly changing educational environment. We can create new model license terms and ways of providing content that will overcome these challenges and open educational pathways around the globe. 🌍

Endnotes

1. <https://newamericanuniversity.asu.edu/>
2. <https://newamericanuniversity.asu.edu/node/25>
3. <https://gfa.asu.edu/>
4. <https://ui.asu.edu/projects/mastercard-scholars>
5. <https://ui.asu.edu/projects/scholars-community-platform>
6. <http://solarspell.org/>
7. <https://osf.io/preprints/socarxiv/fwzph/>

Contradictory or Complimentary? Copyright Law & the Americans with Disabilities Act

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In recent years numerous colleges and universities have been investigated by the United States (U.S.) Department of Education's Office for Civil Rights (OCR) and the U.S. Department of Justice (DOJ) regarding their compliance with the *Americans with Disabilities Act (ADA)*. These investigations are often initiated on behalf of students with disabilities who express concern about being unable to access and engage with learning materials and resources made available by these institutions in the same way those without disabilities can. *ADA* violations identified through these investigations include "websites, digital coursework, learning management systems, multimedia, and library resources" being "partially or completely inaccessible to students with visual, hearing, cognitive, learning, or physical disabilities."¹

Librarians need to consider accessibility issues not only because of the legal implications but also because, ethically, our profession is committed to providing "the highest level of service to all library users through... equitable service policies [and] equitable access."²

Ideally, libraries would make all items in their collection readily available in formats that would meet the needs of users with disabilities; however, practically, this would be almost impossible to do. Barriers include:

- Vendor-supplied platforms and resources that have accessibility issues.
- The small percentage of published works that are actually made available for purchase in formats that can be used by those who are blind or visually impaired, hard of hearing, who have other print disabilities, or who have mobility and dexterity impairments.
- Stagnant or shrinking budgets which impact the funding available to acquire items for library collections.

Accessibility Requests & Copyright Considerations

In response to these challenges, librarians often find that they need to start from scratch when making accessible copies of resources

available to patrons. This usually involves making a copy of the original work, modifying it in some way that creates an alternate version (e.g., a machine-readable version of a book, a captioned copy of a film), and then giving the copy of the alternate version to the patron who requested it.

U.S. copyright law (Title 17, United States Code [USC]) grants certain exclusive rights to the creators of copyrightable works, including but not limited to:

- (1) Making copies of the work;
- (2) making alternate versions (derivatives) based upon the original work; and,
- (3) distributing copies of the work to others.

Making a copy of a work, altering it for accessibility purposes, and giving (distributing) it to a patron who requested it involves taking advantage of these exclusive rights and, as such, could be considered an act of copyright infringement. In this way copyright law

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