

Licensing for learning

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The open source software movement has had a huge impact on the IT industry in the last decade. Education practitioners have been beneficiaries of open source developments in terms of infrastructure support for education. It is suggested that 'open content' will have similar impact on education. Education is increasingly a creator of learning resources and a user of those resources for its provision. At the same time the societal rate of change implies a shorter shelf life for learning resources. The digital environment creates a remixing environment but also creates the possibility of 'digital outing' if copyright is not properly taken care of. Education then needs quick access to easily adaptable learning resources and a methodology for leveraging those resources. Just like software, what are needed are cost effective mechanisms for sharing and trading of resources across all levels of activity. And, just as the open source software people discovered, a secure licensing system is required even for shareware. Licensing for learning will be a key activity in educational institutions as open content approaches take hold.

'We all know your idea is crazy; the question is whether it is crazy enough'
(Niels Bohr, Mindwerx, 2005)

'Don't worry about people stealing your ideas. If your ideas are any good, you'll have to ram them down people's throats.' (Howard Aiken, Mindwerx, 2005)

Background

You don't need a licence to learn. Sometimes you need a licence to teach. The proposition here, however, is that licensing of learning materials can add fantastic value to the whole education industry. In fact, it will be vital for its health and viability.

The open source software movement has had a huge impact on the IT industry in the last decade. Education practitioners have been beneficiaries of open source developments in terms of infrastructure support for education. Lots of educational institutions now enjoy access to free or cheap software with functionality that can be moulded to their circumstances.

'Open content' will have a similar impact on education as open source has had on IT, with flow-on benefits for students. Education is increasingly a creator of learning resources and a user of those resources for its provision. While part of the future will be wrought by 'wizzy' learning object repositories and the like, some of it will rely on a sound approach or underpinning to the exchange and barter process; that is, licensing.

The background to this approach is from two seemingly diametrically opposed forces. On the one hand there is an emergence of an approach that seeks to customise learning to individual student needs. On the other, there is a view that education must move away from an individual teacher cottage industry approach where learning resources are produced at the whim of a specific teacher, by that teacher and with little regard to what resources may already exist within and without the institution. Can a corporatisation of learning meld with a focus on individual needs? Or must it necessarily default to a central junk-food type resource repository with a one-size-fits-all resource? In order to avoid this dreaded educational world, local practitioners need

to have the option to **legally** adapt resources, wherever they are acquired from, including other practitioners.

Education then needs quick access to easily adaptable learning resources and a methodology for leveraging those resources. Practitioners working out such a methodology will not be able to keep up. The societal rate of change implies a shorter shelf life for learning resources, maybe even for knowledge itself.

The solution is straightforward, says Macnamara: practitioners need to assess what resources are available for trading and to take out a licence that allows them to use, and if necessary adapt, the resources to their particular students' needs. This trading gets materials into learners' hands quicker (Mitchell, 2005).

The digital environment creates a remixing/cut and paste environment but also creates the possibility of 'digital outing' if copyright is not properly taken care of. So, it is much easier to adapt resources in this world. But, it is also much easier to get caught if educational practitioners use and adapt without permission.

In order to be in a position to remix someone else's learning resources you have to:

- know they exist
- be able to find them
- be able to easily acquire them
- AND to easily acquire **permission** to remix them

Even the discovery part is not entirely solved by Google or Yahoo. The acquisition and permissions part is another story.

In the IT industry, as Open Source started to get some traction, practitioners realised they needed to do more than just say, 'yes, you can have it'. They needed to say, 'yes, you can have it, this is what you can do with it, this is what you cannot do,' and so on. They had to articulate the permissions; they had to 'license' the software. So even when they could give something away, they needed to be precise on the terms of the give-away. At the same time, they also had to know they had a right to give it away; that is, that they were the 'owner'.

In the education industry, teachers have long shared resources. This has tended to happen on a sub culture basis and relied on relationships between individuals rather than institutions. The sustainability, let alone the documentation, of these arrangements has been limited.

Macnamara says that twenty years ago a TAFE teacher needed expertise in using an overhead projector and operating a video recorder. 'Ten years ago the same teacher needed expertise in preparing PowerPoint slides. Five years ago the teacher needed expertise in receiving and sending emails and pointing students to useful websites. But today – in the age of customisation and just-for-you services – the teacher needs skills in producing learning materials and assessment tools to suit each and every learner, but can't keep up (Mitchell, 2005).

If serious and widespread sharing and trading of learning resources is to be achieved, then a much more robust infrastructure is required. The proposition here is that such sharing and trading will add fantastic value to the quality and quantity of learning that can be facilitated by educational institutions. If that is true, an investment in such infrastructure is desirable.

Education needs to pay closer attention to intellectual property management so that teachers are clearer about what they can share and trade in terms of learning resources. And once practitioners start trading, they need to operate within a secure licensing and copyright regime.

In the Australian vocational education and training (VET) sector alone it can be conservatively estimated that about one billion dollars is spent on development of learning resources (about 12% of the total spend on VET). If we can make a ten per cent improvement of value for effort by reducing duplication of effort, then \$100 million of value can be added to VET in Australia. So what is available to forge these potential gains?

Working models

A number of likely models exist for trading and sharing of open content including:

- EducaNext from Europe
- Creative Commons from USA
- AEShareNet Instant and Mediated licences from Australia

Whatever option used, and it is likely that many more will emerge, licensing for learning will be a key activity in educational institutions as open content approaches take hold.

EducaNext <http://www.educanext.org/ubp>

EducaNext is a service supporting the creation and sharing of knowledge for higher education largely in Europe although they have members even in Australia. EducaNext fosters collaboration among educators and researchers, allowing participation in knowledge communities to exchange learning resources and to work together on the production of educational material: textbooks, lecture notes, case studies and simulations. Ultimately the distributed delivery of educational activities: lectures, courses, and workshops, case study discussions are possible. The site articulates that electronic content can be distributed under licence although in reality the licensing arrangements are very unsophisticated and a little cumbersome.

What is interesting about EducaNext is the thrust to create a European wide network of educational practitioners all committed to sharing and cooperating for the development of learning resources and indeed ideas. But these are early days and less than 1000 resources are currently searchable on the site.

Creative Commons <http://creativecommons.org/>

The Commons movement has accelerated with the birth of Creative Commons, headed by Lessig since 2001. Creative Commons was borne out of a challenge by the US Copyright Office to come up with some new thinking' (Lessig 2005). Some would suggest that the Commons and Public Domain are often interchangeable; however, the Creative Commons is about public rights created by voluntary licensing by copyright owners. The movement was internationalised via iCommons Associates. Queensland University of Technology is the Australian 'agent' for Creative Commons.

'The Commons movement is similar in philosophy and approach to licence-based public rights such as AEShareNet and there are similarities and differences between the two models' (Oi, 2004). Prior to both these models, there has been a strong presence from both the Free Software Movement (Gnu operating system) and the Open Source Movement (e.g. Unix and Linux operating systems; Open office and Mozilla Web Browser).

Creative Commons has strong usage in the artistic and academic worlds and has a great 'human readable' licence version (as opposed to a legal one), and a machine readable one. Licence terms can be divined from a multiple choice set of questions, and about sixteen different options can be created. While there is not a specific educational focus, learning materials can be discovered and licensed via the Creative Commons website search engine.

AEShareNet www.aesharenet.com.au

While education is indeed a business, the development and publishing of materials is not the core business of the institutions and so it is often referred to as Resultant IP. 'In general, the education industry does not get into the publishing area either, unless they are a specialized distance delivery organization' (Gilding & Fripp 2004). So what emerges is a range of materials that are educationally sound, but not generally produced to be commercially marketable.

The Australian Government Solicitor was engaged by the Commonwealth Department of Education, Training and Youth Affairs to explore ways to avoid duplication of effort and to try to simplify the management of copyright for educational materials. The result, after some years of debate and investment, is an online copyright licensing platform to encourage greater sharing of learning materials across Australia.

As a company, AEShareNet operates with a website as its central core. The website offers general copyright information as a service to the community, while at the same time providing a secure part of the site where licences are transacted and stored. The Home Page focuses on the search-for-learning-materials function. Over 22,000 resources are listed in the catalogue as available for licensing from over fifty organisations.

The model has evolved and had to meet rapid changes as the digital world exploded (AEShareNet, Licensing Overview 2005). The model today has two distinctly different approaches: a brokered online facility to trade and manage licences, and the recently released Instant Licence approach.

All materials can be catalogued to assist discovery, and it is quickly obvious that some materials have 'Instant Licence' conditions. Instant Licences have only recently been launched and were in response to a world where web and digital resources were growing. A quick, identifiable and easily accessible mechanism was needed.

Instant Licences are basically automatic. The owner makes a choice to mark their material with one of the four trademarks and, as long as the user legitimately acquires a copy, the licence is 'Instant'. In the graphic there is a specific URL that leads the user to the actual conditions that are on offer. They are free, able to be used by anyone, anywhere, and are highly suited to electronic materials, digital repositories and websites.



Figure 1 The four trademarks of Instant Licences

Some owners are happy to share many of their resources through an instant licence mechanism, while concurrently they may have materials that have a higher value for which they want some money to change hands, or where they are prepared to negotiate variations.

This is where the AEShareNet trading platform takes over. The owner selects the conditions under which they are prepared to share their material from a standardised template and the Licence Contract is displayed on the website. When there is interest in accepting this offer, the user simply presses a 'request licence' button that generates an email back to the owner. The request might be to accept the conditions as displayed or to request a variation. Some licences go through in minutes while others take longer depending on the extent of negotiations.

There is a range of incentives to using a transaction approach. Licences are pre-prepared and avoid the need for legal advice; there is no need for paper to change hands, nor signatures; the licences are electronically stored on the AEShareNet site and provide a record and audit trail of all transactions over time. The Company operates as a typical broker: sending out electronic tax invoices, collecting monies, reconciling accounts, and transmitting funds to owners at the end of each quarter. It obviates the need for micro-collections and micro-payments. For those who have royalty schemes, it provides a range of facilities to manage the collection of monies over the licence period.

AEShareNet is not a downstream digital rights management system that enforces copyright conditions. But by clearly and simply articulating rights and permissions and making it quick and easy to trade, it is believed that most organisations will try to do the right thing and there will be greater compliance. Because it is easier to share and trade, more sharing and trading will

happen. At the same time, AShareNet is on a mission to make copyright and IP issues more accessible to the educational practitioner. Most of the adaptation rights have been simply summarised in the following diagram.

Derivatives

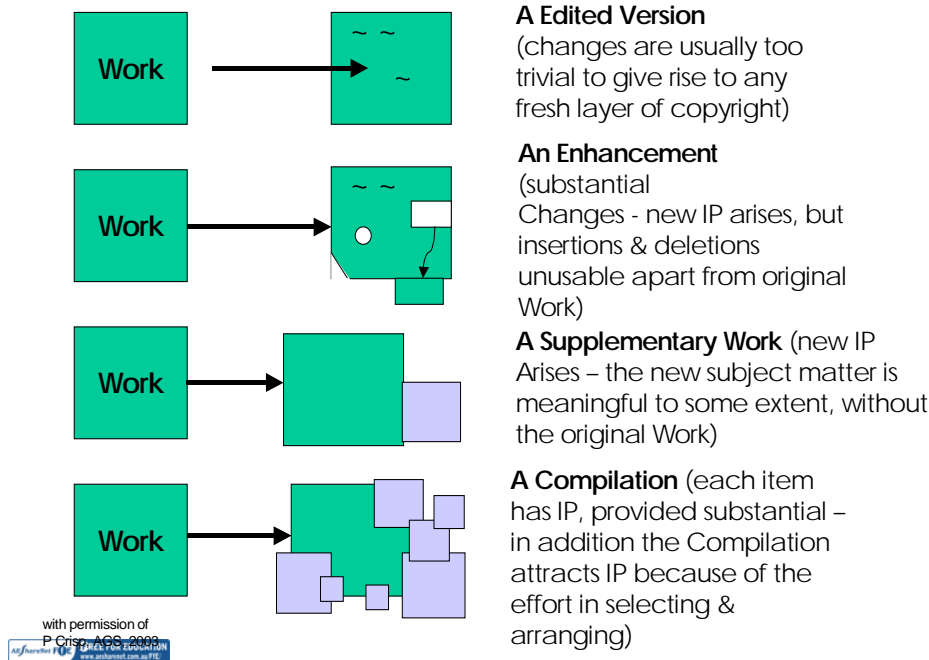


Figure 2 Adaptation rights

So far AShareNet has achieved some traction in the VET sector in Australia with over 1000 organisations regularly using the website to search for materials and license them. But in reality it has less than ten per cent market penetration so there is still a lot of potential to be realised.

Where to from here?

Just because systems are built does not mean people will come to play. Licensing for learning will not work just because there is system support. It will need a mindset change in the education industry. While it is posited that learning materials will become less important in an individual student seek and find world, I would argue that some resources provided by the teacher will always be needed. And teachers need to feel they have their fingerprints on those resources so that they are finely tuned to their students' needs. But they do not have to start from scratch each time, nor do they have to risk 'digital outing' by taking other peoples' resources, adapting them and web publishing them without permission. If teachers spend less time developing resources that often already exist, they will have more time for adding value to their students' experience in other ways, for example by facilitating sophisticated interactions. The following model (Mitchell 2005) is offered as a reflection of today. It may not be sufficient for 2006 and beyond.

Models for developing learning materials

Old model

- teacher/trainer hopes that uniform learning materials will suit groups of learners
- teacher develops own learning materials from scratch
- teacher unaware of who else has developed similar materials
- teacher doesn't know how to buy and sell learning materials

New model

- teacher analyses the learning preferences of each learner
- teacher decides what learning materials are to be built and what need to be bought
- teacher accesses online database to identify available learning materials
- teacher pays a modest license fee to use and modify available materials
- teacher decides which learning materials built in-house will be traded

Figure 3 Models for developing learning materials

In this emerging workplace for teachers they will have access to a range of open source and often free software. Let us hope that they, and more importantly their managers, will similarly make open and available to their colleagues across the education industry the materials they create with these tools. Leigh Blackall (Blackall 2005) makes the point that educational institutions have benefited from using open source software to produce content and they therefore have a duty to make their content open. But he also suggests that they will benefit from such an approach because 'Courseware that is open is generally more widely used.... and institutions who make their content open may therefore enjoy wider recognition'.

Dale Spender (2005) suggests that open source is well suited to the educational ethos creating a culture of openness freedom and ongoing innovation: 'This is why educational institutions should seriously consider choosing Open Source...but in philosophy and practice it is also closer to traditional educational values: it is both a subtle and very persuasive way of fostering the spirit of collaborative research and the global free flow of information between scholars and students' (Spender, 2005). On this basis, Open Content ought to be mandatory for educational institutions.

Current models for such exchange may be rudimentary and in elementary stages of development. New improved systems no doubt will evolve to meet this emerging marketplace of knowledge sharing and trading. But I would urge practitioners to get stuck in and use what is there now.

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