

Kyle K. Courtney

The MOOC syllabus blues

Strategies for MOOCs and syllabus materials

In library circles over the past two years, the elephant in the room has been “How will we support Massive Open Online Courses (MOOCs) at our institution?” edX is the not-for-profit organization founded by Harvard and MIT to transform education worldwide by offering MOOCs for free. edX has engaged in a number of partnerships with other educational institutions to offer interesting courses.

Many of the edX classes are offered through these institutions by their faculty, e.g., Harvard faculty teach HarvardX classes, MIT faculty teach MITx classes, etc. One of the distinct challenges to distributing a free, global curriculum online is the varied and unique copyright concerns. After some meetings with the edX teams, we decided that the library can support MOOCs best in two distinct areas: research and copyright.¹

Copyright has been front and center in many MOOC classes, and many libraries, mine included, have taken a lead in this area. This is where libraries, scholarly communication offices, and rights clearance departments have been most active with MOOCs. I think this arrives naturally from our patron’s knowledge of the role of libraries and resources. *Where do the resources exist?* Ask the library. *We need articles and journals for courses.* Ask the library. *We need copies from books.* Ask the library. *We need digital images for slides.* Ask the library.

With our role clearly outlined, and with plenty to do, many edX classes turned to the libraries for help with copyright and resources for classes. At HarvardX, we developed two specific tracks where we thought MOOCs intersected with copyright: 1) third-party materials in slides used in the lectures (presentation materials) and 2) third-party syllabus readings or course reserves (syllabus materials).

Because the copyright analysis for these two kinds of materials differs in important ways, we created separate guidelines for each category. There has been litigation involving libraries and electronic reserves, and litigation with libraries and transformative use.²

Although many of these disputes are presently in appeal, we have developed two distinct approaches to these categories based on the law to date. The approach for presentation materials relies heavily on educational, transformative fair use. The approach for syllabus materials relies on directing students

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to copies of the material lawfully available online or elsewhere (for example, in a library or for purchase).

For this article I will be focusing on strategies for the syllabus materials, and the opportunities it creates for faculty to learn about copyright, open access (OA), and publication.

In the traditional educational system, the library often serves as the place for course reserves or materials provided to students for their independent use in conjunction with the course. Sometimes these are in print; more recently they are available electronically through content management systems.

When we move a course to an online MOOC format, we lose the ability to have a course reserve, whether print or electronic. MOOC students are not traditional students of a college or university, therefore they do not have access to the multitudes of subscription databases that could provide these readings. Nor would the MOOC students be able to access any of the print reserves at the library. MOOC students can be located anywhere around the world with Internet access. Additionally, the licenses the library has with these databases do not allow the type of distribution necessary to sustain a MOOC. If we started to upload articles, textbooks, or other syllabus materials, we might find ourselves hauled into a court charged with direct, contributory, or vicarious copyright infringement.

To counter these issues, I playfully named these four strategies for dealing directly with all the problems associated with syllabus materials. Each has certain advantages and disadvantages, but I have used each tactic in many MOOC classes.

1. Let their (student) fingers do the walking. First, if the syllabus material (article or otherwise) is available online for free through an open link, then we encourage simply linking to that article. Or one can simply post the citation to the material with the expectation that students will acquire it for themselves (by purchasing it, borrowing it from a library, or finding it online). This method has its drawbacks. Frequently, faculty

do not have syllabus materials that are OA and/or linkable.

Secondly, many students (even MOOC students) expect to be able to acquire the readings, textbooks, or articles for free, or with as little burden as possible. One MOOC that was cancelled midstream this year, cited the students' dissatisfaction with the decision to assign a textbook that was not free.³

Accordingly, if the material is not available via an open link and may be difficult for students to obtain, we asked the faculty to consider substituting other material that is available, if feasible given the pedagogical aims, or retain a citation to the material but make it supplemental rather than required.

2. If you can't beat 'em, join 'em. There is definitely something to be said for making collaborative agreements with major publishers of textbooks or journals for MOOC access. This method has the library reach out to the publishers. Perhaps the faculty only need a few chapters of a text? Perhaps a "technologically impaired" version can be released? These methods have been successful in the past.

When edX launched Introduction to Computer Science and Programming (MITx: 6.00x), taught by John Guttag and others, MIT Press agreed to provide free access for students to an online version of the required textbook for the entire duration of the course. This open, online version offered the full-text of the book in a static, read-only format. It did not feature all the bells and whistles of a full e-version of the text (i.e., not downloadable for use offline, not searchable), but it still provided the students with the basic text they would need for the course. To enhance the deal further, MIT Press offered MOOC students a special price for the print and e-book editions at a 30 percent discount.

The interesting part of this method is that both the publishers and the students were very pleased with the outcome. From the publisher's side, it increased sales. Even though there was a free static book available,

sales of the print and e-book to students were quite substantial.

3. Permissions dance (or the permission two-step). Many reading this publication understand that, traditionally, when a journal accepts an article for publication, the publisher typically sends the author a publication agreement to sign and return. This agreement usually requires the author to assign the copyright to the publisher, with the author occasionally retaining limited rights.

It may not be a surprise to hear that many faculty, including the edX faculty, were not clear on how that agreement might impact their use of their authored textbooks and articles for their edX classes. For example: A faculty member wants to use his or her authored articles or book for class. Surprise! The faculty member has no rights to share this article per the publication agreement, and her or she cannot share it with the potential thousands of students that make up a MOOC course. Again, this level of distribution would be tantamount to serious contract breaches or copyright infringement.

However, this gives the library a great opportunity to talk with faculty about publication agreements, OA, and institutional repositories. At Harvard, through our Open Access Policy, faculty authors in participating schools grant the university a nonexclusive, irrevocable right to distribute their scholarly articles for any noncommercial purpose. Scholarly articles provided to the university are stored, preserved, and made freely accessible in digital form in DASH, Harvard University Library's OA repository.⁴ Many of our faculty learned about how their works could be located in DASH, and that this would be a great access point to provide links to the MOOC students.

Additionally, I witnessed some faculty exploring other open repositories (subject-specific or other institutions) with the express purpose of finding syllabus materials that matched their pedagogical aims, which were also open and freely linkable. This helped avoid the permission two-step, and routed us back to strategy 1.

Meanwhile, many faculty still felt they needed to use a specific article that was previously licensed to the publisher. At HarvardX, there is a very small team that will request, or guide faculty and staff in requesting, a free permission from the rights-holder for use in the HarvardX course. However, seeking this free permission may substantially limit the material they can acquire. Permission will likely come with some conditions and restrictions (for example, it may cover only a single semester), and there must be plenty of time for the permissions process. Lastly, the faculty should prepare for adjusting readings as necessary, if permission is not granted.

In my experience with all the HarvardX classes, many publishers were wary of granting permission, much less *free* permission. Some had never even heard of MOOCs. The responses varied.

For example, there was a negotiation for a chapter from an intellectual property law and economics book published by a large company (across the Atlantic), to be used a MOOC course. They asked for \$2,500 for permission to use the chapter (note: the chapter was 17 pages from a 2001 publication). We replied that this was a nonprofit, free course, and we had requested free permission. They responded with a \$1,800 offer. Again, it would have cost them nothing to give permission, and might have even driven up the sale of the book, which was printed over a decade ago. We even had the edX faculty member—who had published with them before and reviewed numerous articles—write to them asking for help, but all to no avail. The faculty member had to pick another article. The publisher, many of us agreed, had missed a golden opportunity to revive the sales of a book from 2001.

4. Let's make a deal. Many faculty and staff had learned from this previous episode with permissions. Sometimes, it is best to make a deal before publication. Greg Nagy paid attention carefully when he was signing the contract for his new book *The Ancient Greek Hero in 24 Hours*.⁵

Nagy was converting his course, *The Ancient Greek Hero*, which he had taught for 35 years at Harvard, to a new online HarvardX module. At the same time, he was in negotiations with Harvard University Press (HUP) for the textbook. He desired the textbook to be free and accessible to the HarvardX students, and wanted the ability to update the text for the class, should he need to for pedagogical reasons.

In a first for both Nagy and HUP, a contract was drawn up that had Nagy forego all his revenue from the sale of the print version of the book to gain an open and free copy of the textbook. The contract gave Nagy the right to make an OA copy, in addition to a HTML version for use with his edX course. The HTML copy could be enhanced with multimedia to enrich the user experience for the students. And lastly, it gave him the right to post the OA copy to the Web site of the Center for Hellenic Studies, where Nagy serves as director.

Other faculty heard about this agreement and, as a result, some faculty authors have “gone to the mattresses” for OA access to get similar deals. One current negotiation is between a faculty author creating a MOOC and a major textbook publisher. Reportedly, the faculty member is refusing to sign the publication agreement for the textbook unless it contains similar OA clauses for the HarvardX class access.

In my experience, when the faculty are fully informed of their options, and have a clearer understanding of their own publication agreements (and the pitfalls), they are likelier to ask for a different agreement, or amend the current agreement.

In the end

We never used only one method for helping with the syllabus materials for any HarvardX/edX class. Some were fortunate enough to have public domain readings available on the Internet Archive or Google Books, some had OA versions available, and some publishers granted access with no terms but a simple citation requirement. The

answers varied as much as the strategies. However, what I did find was that grappling with the syllabus problems for the HarvardX/edX courses helped drive a particular mission I feel very passionate about: getting the faculty authors to understand the modern, contract, copyright, and license-bounded world we live in today, and how it affects education. Online classes, like MOOCs, will suffer greatly, and will continue to lack the rich and vast resources necessary for true learning if we don't change the nature of where our scholarship ends up or who has access. These strategies were developed as a means of both solving a problem and educating the faculty authors. An opportunity to educate faculty authors about these access issues arises each time a MOOC is proposed, and a syllabus or reading list is assembled. We need to be there. It is our job as librarians to “spread the gospel” about copyright, OA, and licensing to make future MOOCs a place where the high level of analysis and lecture can be paired with the most interesting and thought-provoking scholarship we have available in the world today.

Notes

1. I will not be talking about support for MOOC research in this article. It should be noted that many MOOC's do not have a traditional research/term paper requirement like their on-ground counterparts yet.

2. See *Authors Guild, Inc. v. HatbiTrust*, 902 F.Supp.2d 445 (2012) and *Cambridge University Press v. Becker*, 863 F.Supp.2d 1190 (2102)

3. S. Kolowich, “Professor Leaves a MOOC in Mid-Course in Dispute Over Teaching,” *Chronicle of Higher Education*, Feb. 18, 2013, <http://chronicle.com/blogs/wiredcampus/professor-leaves-a-mooc-in-mid-course-in-dispute-over-teaching/42381> (accessed September 6, 2013).

4. Digital Access to Scholarship at Harvard, <http://dash.harvard.edu/>.

5. Greg Nagy, *The Ancient Greek Hero in 24 Hours* (Cambridge, MA: Harvard University Press, 2013). 