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A Brief Overview of U.S. Public Policy on OER from California's Community Colleges to the Obama Administration

Essay by Carolina Rossini, Erhardt Graeff, October 1, 2009

This post draws significantly from an interview on August 10, 2009 with Hal Plotkin, a Senior Advisor at the U.S. Dept. of Education, who has closely followed and been involved with OER policies in California. The interview was part of research on the educational materials sector being conducted under the Industrial Cooperation Project at the Berkman Center at Harvard University. The research is part of a broader project being led by Prof. Yochai Benkler and coordinated by Carolina Rossini. In the research, we are seeking to understand the approaches to innovation in some industrial sectors, such as alternative energy, educational materials, and biotechnology. The intention is to map the degree to which open and commons-based practices are being used compared to proprietary approaches and what forces drive the adoption and development of these models.

Open Educational Resources

The reality of most educational resources is that they are restricted to a set of traditional players with access through institutional employment or enrollment. As such, many educational materials can cost a lot to access; or if access is free, copyright restrictions block creative re-use, restricting the actions of remix essential to modern pedagogical activity. This follows the economic market for educational resources, which is a typical content sales market. Educational materials are packaged up as copyrighted goods that have to be bought from a store or accessed through course fees, repositories with restricted access, or directly from the manufacturer-publisher.

From pre-K to high-school levels of public schooling, free and temporary provision **[1]** of educational material provided through governmental programs guarantees access for those attending public schools in many countries. However, problems regarding diversity, appropriateness, timeliness, and quality of these materials are common. Also, the provision of copyrighted educational material via public libraries has proven insufficient; the greatest barriers being the number of library buildings (and their structural conditions), the number of copies available, photocopying restrictions, as well as simply the opportunity costs involved in traveling to a library.

This situation is even more severe in developing countries such as Brazil, where, among other problems, teachers frequently need more and better training, resources are often scarce or non-existent, public library buildings are falling apart, and cost of textbooks are prohibitive for many college students and their families.

The philosophy of open educational resources (OERs) places educational materials as common and public goods **[2]** from which all should benefit;most especially those who receive the least benefit and support from current systems of education, whether publicly or privately funded. **[3]** This view is supported by the notion that sees knowledge itself as a collective social product that naturally forms a commons.

This philosophy finds fertile ground to bloom on the Internet, where the expansion of digital technologies ruptures pre-network barriers of space, time, and money, allowing socially beneficial consequences such as new forms of knowledge production and distribution to emerge.

The Cape Town Open Education Declaration addresses this philosophy by stating three main strategies for the OER community:

* Collaborative production: Educators and students are encouraged to participate in creating, using, adapting, and improving

*Open content licenses: OER should be freely shared through open licenses, which facilitate use, revision, translation, improvement, and sharing.

* Open education policy: Governments, school boards, colleges, and universities should ideally make taxpayer-funded educational resources OER.

California's Open Textbook Initiative

On May 6, 2009, as a possible answer for the state budget problems, California Governor Arnold Schwarzenegger announced a Free Digital Textbook Initiative to encourage the production of 12 level math and science e-Textbooks as a cost-effective alternative to traditional textbooks. The goal was to have these educational materials approved for instruction in Fall 2009. Twenty textbooks were submitted by nine publishers, 3 of whom are OER projects. Specifically: CK-12 Foundation submitted eight textbooks, Curriki submitted two, and Connexions submitted one.

On August 11, 2009, California released a report documenting the results of reviews of each textbook's coverage of the state's content standards, coordinated by the California Learning Resource Network. CK-12 with its focus on state standards for its "Flexbooks" met most content standards with only a few exceptions. However, the reviews did not cover California's "social standards" for textbooks under the state's adoption process. A note at the bottom of each page of the report explicitly reads: "Materials were not reviewed for alignment to California's social content review standards; inclusion in this report does not constitute endorsement by the State of California." Two steps forward, one step back.

It appears that these non-mandated free e-Textbooks will be relegated to supplementary resource status for classrooms that have fully-approved, but possibly out-of-date textbooks already on the shelves of their math and science classrooms. It is unclear how this will save money. And the OER movement is careful to distinguish California's initiative—which will distribute copyrighted PDFs—with the open-source and commons-based licensed materials characteristic of OER.

Criticism of Gov. Schwarzenegger's initiative often takes issue with his money saving logic for deficit-laden California. Arguably, digital materials require a personal computer available to every student, an e-Book reader like Amazon's Kindle, or mass printing of each reading assignment by the schools themselves. In a recent NY Times article, Tim Ward, an assistant superintendent in California, says his school district cannot afford any of those options.

Additionally, what Schwarzenegger seems to not have captured is that OER is a reaction to the move of proprietary, analog educational materials management onto the network. OER encourages and enables the open production, sharing of, and access to educational content and resources. This alone is a valuable societal good, increasing the value of investments made in education. But OER creates the opportunity for a more fundamental and transformative change: the move from passive consumption of educational resources to the formal engagement of educators and learners in the creative process of education content development itself. Thus, the core benefits of OER should probably not be conflated with cutting the costs of materials.

Hal Plotkin says he himself deserves some of the blame for the dependency on cost as the key argument. In 1998, when he first started advocating for innovative uses of digital technology in higher education, “cost” was the only demonstrable argument. Only later did he observe how the development of what he originally called “public domain learning materials” was “also about improving the quality of teaching and learning through resource-sharing, collaboration and the more rapid transfer of educational best practices”.

It was this realization that led him to campaign for Trustee position on the Board of Foothill-De Anza Community College District (FDHA) in 2003. During the first year of his trusteeship, he drafted and campaigned again, *within* FDHA, to enact the first college-wide policy offering institutional support to faculty pursuing development or adoption of OER.

The enactment of that policy in 2004 laid the foundation for his testimony alongside Martha Kanter, Chancellor of FDHA, to the California Assembly Committee on Education entitled “Creating 21st Century Community College Courses: Building Free Public Domain Textbooks for Students”, which in turn influenced Assemblyman Ira Ruskin's Assembly Bill 577 to establish an OER Center at FDHA.

Ironically, Gov. Schwarzenegger and legislators drafted a counter bill that expressly prohibited state funds from being used on OER projects for several years. Plotkin and Kanter lobbied against the bill with the support of Ruskin, and managed to renegotiate the language so that the funding moratorium was reduced to only 2 years and schools like FDHA were permitted to pursue OER adoption with other funding sources. FDHA soon applied for and eventually won a grant from the Hewlett Foundation to establish the Community College Consortium for Open Educational Resources (CCCOER).

Although the progress has not followed a straight path, California—in the same way it leads the U.S. on environment policies—so too seems to be a site for early innovation on OER adoption. Fortunately, OER's political incubation period appears to have been shortened with the election of President Obama—headhunting the leading minds in all policy areas. He recently recruited two of the aforementioned architects of OER adoption policy in California to the U.S. Department of Education, Kanter as Under Secretary, and Plotkin as a Senior Advisor.

American Graduation Initiative and the Push for Openness

The result of the president's appointments was quickly realized in Obama's July 14, 2009 announcement of the American Graduation Initiative, which includes a proposal to allocate $500 million in competitive grants for developing “new open online courses” for U.S. community colleges.

Kanter and Plotkin's hopes for the FDHA-based OER Center was to ensure that there was a state mandate to investigate more cost-effective and otherwise rewarding means to developing high-quality educational materials that could be standardized. The key is achieving the required textbook standard so that OER-based courses qualify for credit transfer, which is relied on by students who are using the model of two years at community college plus two years at a traditional four-year institution to achieve their bachelor's degree and often struggle to afford textbooks on top of their tuition costs.

This is, not surprisingly, also the central goal of the American Graduation Initiative's $500 million investment in open-source online courses. Plotkin says that although for-profit organizations will be on equal standing with non-profit/academic applicants, the competitive grants will encourage similar consortia poised to take advantage of Obama's call for hosting these new courses at individual institutions and distributing the resources under Creative Commons licenses. An additional stipulation will require that all OER products be compliant with the Americans with

Disabilities Act (ADA), which addresses an issue that has been, according to Plotkin, "regrettably" overlooked by the majority of OER projects. Non-ADA compliance currently represents a barrier to OER adoption, as schools fear law suits regarding disabled students' limited access to any common educational resources. Plotkin believes this will lead to even better OER output, in the same way that closed captioning has enabled search for video.

Future of the Policy Discussion

Plotkin also hopes that the focus on empowering teachers can stimulate OER adoption at all levels. With state and now federal officials starting to smile on OER at the Higher Education level, Plotkin trusts that the additional incentives necessary to encourage state and local K-12 initiatives surpassing Gov. Schwarzenegger's modest initiative will be rendered clearer. Similarly, the textbook publishing industry seems to lack the demand to act. Plotkin suggests that publishers find themselves in the same situation that the record industry has regarding digital content. He is sure publishers that want to innovate will eventually do so, and finally break what he terms the "historical alliance of publishers who have benefited from traditional practices, for whom this may appear to be more of a threat than an opportunity.".

For others within the U.S. OER community and those abroad, the mantra is one: taxpayer funded educational materials should be open and free as in freedom. To that, we add the hope for interoperability through open license schemes.

Footnotes

[1] in general the student can use the book just for the scholarly year, having to give back the book to the school at the end of each term

[2] In this sense, when the consumption of the educational resource by one individual does not reduce availability of that resource for consumption by others; and that no one can be effectively excluded from using the resource.

[3] [http://mitpress.mit.edu/catalog/item/default.asp?ttype=2&tid=11309 Opening Up Education], pg 149

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