

Importance of Creative Commons Licensing and the Creative Commons Movement to Open Education Resources Initiatives in Nigeria

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1. INTRODUCTION AND BACKGROUND

For many reasons, initiatives like Open Education Resources (OERs), Creative Commons (CC), and others promoting openness (Open Distance Learning (ODL) and Open Access (OA)) are very important to Nigeria and should be promoted. The large number of adult illiterates and children of school age in the country creates need for education. For these people and others desiring education for various reasons, access to educational materials is important. Government policy towards promoting universal basic education (UBE) has also boosted the yearning for education and consequently created the need to access learning and teaching materials by students and faculty (UBEC). However, there are serious challenges and barriers to accessing educational materials by both educators and learners. These include scarcity of educational materials; financial constraints on the part of government, institutions and individuals; and copyright issues (Adeyinka, 2010; Eze, 2013).

The foregoing underscores the relevance and necessity of initiatives like OERs which encourage free sharing and use of educational materials. Creative Commons licensing model also plays a functional role in the creation, dissemination and use of these resources. The role of CC is linked to the concept of copyrights as the basic framework governing the use of literary and artistic works. This paper examines the importance of CC in realising the objectives of OERs. Section two deals with the concepts, section three discusses the Nigerian framework for CC, section four examines best practices from other jurisdictions and section five makes recommendations on promoting CC and OERs and concludes accordingly.

2. CONCEPTUAL FRAMEWORK

2.1 Open Education Resources (OERs)

According to OERs, open education is about free and open sharing, with open referring 'to the use of legal tools (open licenses) that give everyone permission to reuse', modify and redistribute educational resources for purposes of teaching, learning and research (OERs(a), 2013). The Electronic Information for Libraries (EIFL) notes that 'the most commonly used licenses for OERs materials are CC licenses (EIFL, 2013). By encouraging free and open sharing, OERs 'increases access to education and knowledge for anyone, anywhere and anytime. It makes education accessible and affordable as anyone can easily access educational materials and supportive learning communities for their benefit. It benefits both students and faculty (OERs(b), 2013).

2.2 Creative Commons

Creative Commons is a movement promoting the use of CC licenses and tools for publishing digital content with the vision of 'realizing the full potential of the Internet –universal access to culture, education and research – to drive a new era of development, growth and productivity' (Commons, 2011; Guibault, 2011). Creative Commons licenses comprises a set of copyright licenses created by CC that builds upon traditional copyright practices to create a balance between the standard 'all rights reserved' method of publishing and public domain 'no rights reserved'. The licenses provide a simple and standardised framework which allows creatives to maintain their copyright and still authorise certain uses of their works (some rights reserved) on certain conditions dictated by them. Such uses include copying, remixing and distribution subject to attribution. Today, the movement and the licenses have generated a pool of content 'that can be copied, distributed, edited, remixed and built upon within the framework of copyright law (Commons, 2011).

Thus, contrary to the belief of many lacking adequate understanding of the concept, CC is not inapposite copyright but actually depends on copyright for its legality. It only provides an alternative model of publishing which is more compatible with the internet than the 'all rights reserved' default model. The utility of OERs and CC is based on the fact that not all creators are motivated by economic advantages as envisaged by copyright. Rather, some creators are motivated by dissemination. This is the case with most OERs and CC published materials.

2.3 Copyrights

Copyright refers to the bundle of legal rights granted to creators of literary and artistic works to control certain uses of their work (such as reproduction, adaptation and distribution) subject to exceptions. The rights (which are assignable) are exercised through the grant of licenses by the right holder permitting uses over the work. They are also automatic subject to exceptions provided under the law (WIPO, 2004, pp. 45-50). Thus, unless the owner grants a license or otherwise permits the use of the work, copyright will prevent all protected uses even where such uses are not against the interest of the owner or would not be considered objectionable by them.

Copyright is regarded as an incentive to encourage creators to create more works and publish them for the benefit of the public. It is based on the notion that without such incentives fewer works would be available for use by the public. Thus, the grant of copyright is regarded as a temporary measure to allow creators derive enough benefit from their works before these works become freely available to the public (WIPO, 2004, p. 41). By its nature therefore, the automatic reservation of all rights to creative outputs also creates automatic barriers to the use of OERs unless authorised (Kim, 2008).

2.4 Importance of Creative Commons to Open Education Resources

By avoiding the automatic all rights reserved model, CC aligns more with and serves the ideals of OERs. The CC licenses make it easier for people to disseminate their works and share and build upon the work of others consistent with the rules of copyright. Thus, the more works are published through CC licenses, the more works are available for OERs purposes. The huge reservoir of CC licensed works on the internet provides a huge reservoir of resources that both learners and teachers can access to meet their individual requirements relating to scholarship.

3. Creative Commons Nigeria

3.1 Benefits of Creative Commons

Nigeria has the largest population in Africa estimated at about 174 million with many not educated. Even though rich in natural and mineral resources, the country is classified as poor with majority of the populace living below poverty line. Statistics for 2013 show that 61.3 per cent of persons over 15 years are literate recording a decreasing trend from 2003 (Index Mundi; CIA; Nigeria, 2008). This puts her position on the ranking of literacy at 24 and 175 in Africa and the world respectively (CIA). There are currently about 129 universities in the country besides polytechnics and colleges of education (NUC Website). At the lower level, there is an avalanche of public and private secondary, primary and nursery schools, in addition to technical colleges and specialised vocational schools. Lifelong learning and continuing education requirements are catered for by numerous training institutions and informal processes, including adult education initiatives. These different groups are potential beneficiaries of OERs and CC materials and their needs underscore the importance of CC and OERs in Nigeria.

Nigeria' education system is guided by the broad national objectives articulated in the National Policy on Education under which the UBE Programme was launched in 1999 and the Millennium Development Goals (MDGs) No. 2 on universal primary education is implemented. The UBE policy targets 9 years free and compulsory continuous education for young Nigerians leading up to the age of 15, to enable them acquire functional and life-long learning skills and experience to help them live meaningful life (UBEC). The policy has received statutory backing in the Compulsory, Free Universal Basic Education Act 2004 Act of 26th May 2004. It is intended to ensure access to education for children who cannot afford it without some form of assistance or as a result of poverty. Specifically, the Act together with the Child Rights Act No 1 of 2003 (section 2(15) provide the legal framework for the implementation of the UBE Programme. The major challenges hindering the Programme's objectives have been identified as lack of textbooks and non-textbook materials, and cost of equipping libraries in schools (Labo-Poopola, Bello, & Atanda, 2009; Adeyinka, 2010).

Creative Commons and OERs can serve as a strategic policy initiative for government to address some of these challenges by providing access to free books and learning materials for both students and teachers. It can also save government huge sums in book donation to students and in equipping libraries. Such money can be diverted to other important issues such as teachers' training and infrastructural

development. The mainstreaming of OERs and CC will definitely impact the education sector positively. Some states such as Lagos have been implementing the UBE initiative even beyond the target of nine years by extending it to three years of senior secondary school (SSS) education. Lagos State offers free education in public schools up to the completion of secondary school. It can also benefit children outside public school systems who cannot benefit from the UBE programme which is implemented mainly in public schools. The success of CC in driving these goals will depend on creating awareness about the nature and benefits of CC licensing and securing government support towards its promotion. A strong CC presence in Nigeria will strengthen the synergy that collaboration with other initiatives based on openness (such as OA) can produce in promoting access to education in Nigeria.

3.2 Legal Framework

The Copyright Act of Nigeria as amended in 1999 is the principal statute governing copyrights in Nigeria. The Act protects copyrights in respect of literary and artistic works in Nigeria for the duration of the life time of the author plus 70 years (section 2). To be eligible for protection, the work must be original and must be fixed in any medium whether existing or a future invention from which it can be viewed, produced or disseminated directly or with the aid of a machine (section 1(1)(b)). Rights protected include substantial copying, publishing by manual and electronic means and adaptation. While these are economic rights, the Act also protects the moral rights of the author to claim authorship and maintain the integrity of his work against deformation, transformation or mutilation. The rights so granted are absolute except where exceptions are provided. Exceptions are provided for educational and research purposes under the provisions of fair dealing but subject to the author's right of attribution. Exceptions are also provided for communication of work to public where no fee is charged and use of work is already made public. An important provision is that of assignment. It specifically allows authors to assign only some of their rights if they so wish or for a period only (Section 11(1)). Thus, the 'all rights reserved' approach is not a stipulation of the Act.

The provisions are compatible with CC licenses to the extent that they deal with literary and artistic works which, by virtue of section 1(1)(b), covers digital content as well. The CC requirement of attribution secures the moral rights of the author. Also, the flexibility allowed by CC licenses gives the author liberty to determine how the work should be used. It is clear that the 'all rights reserved' approach is a business model of choice and not a mandatory requirement of the Act. While the Copyright Act does not present any strong barrier to CC, it does to OERs where the resources are licensed under the default model. Moreover, the Copyright (Levy on Materials) Order 2012 imposes indirect barriers to both CC and OERs deployment by subjecting materials 'used or capable of being used for infringement of copyrights' to levies without clearly distinguishing between acts of infringements and genuine purposes given that they are achieved by the deployment of the same devices. No exceptions are made for genuine purposes.

3.3 The Creative Commons Nigeria Affiliate

The recently established CC Nigeria Affiliate (in December 2012) recognises the interconnectedness between the objectives of CC and OERs by having as one of its core objectives the promotion of OERs in Nigeria. This envisages the promotion of the two initiatives together with the mutual aim of facilitating access to education and learning materials in Nigeria. This is in addition to the wider objective of CC to promote creativity through sharing of creative content. At the moment, there is no doubt that these two initiatives have not been mainstreamed in Nigeria and that they are weak. The launching of CC Nigeria was a step forward in strengthening CC movement and licenses in Nigeria. The newly created Affiliate follows the same structure as CC Affiliates globally with a Public Lead, Legal Lead, OERs Lead and Tech Lead.

The vision of CC Nigeria is to encourage creativity through information and knowledge-sharing by encouraging CC licensing in Nigeria. It is premised on the belief that access to knowledge and knowledge sharing are concepts that have great potential to serve the needs of the huge educational sector in Nigeria and the creative sector as a whole. The goal is to build a community of creative minds and grow a strong network that will encourage knowledge-building and information-sharing through training, outreach, workshops and related events. So far, the Affiliate has identified education as one of its core areas of focus to be accompanied by policy advocacy and enlightenment towards the deployment of CC, OERs and OA initiatives by government policy makers, government institutions and educational institutions at all levels. These objectives will be executed through workshops, roundtables, monthly meet-ups and salons. Pilot projects will be initiated in Lagos and gradually spread out to other States. It intends to pursue collaboration with universities and other institutions of learning on its advocacy and enlightenment engagements. The Affiliate will launch a website to create visibility and serve as a portal for information sharing and dissemination about CC and related activities. There are plans to translate CC licence deeds into predominant Nigerian languages starting with Hausa as the most predominant. The Affiliate will also strengthen ties with other African Affiliates and CC Headquarters to have a global presence.

One of the greatest challenges facing the Affiliate is lack of awareness of CC licensing and models. This is compounded by the prevalence of scepticism about CC particularly in the publishing industry. This attitude is built on a false notion that CC is detrimental to their interest as they equate CC and OERs to loss of revenue. Another challenge is getting commitments and growing the Affiliate due to the fact that services at this stage are mainly on voluntary bases.

4. Other Jurisdictions

Looking at the practice in other jurisdictions has the advantage of revealing useful lessons on best practices to help the Nigerian Affiliate. In Africa, South Africa, Uganda and Kenya stand out. South Africa is credited with creating the first CC license in Africa, CC ZA 2.0 (Rens, 2009). Space would not permit the itemisation of all its achievements, but some are prominent. The Affiliate is a huge body comprising of universities, civil society organisations, authors and publishers. It has translated the Commons Deed into

Afrikaans, SeSotho and isiZulu languages. Projects successfully executed by the Affiliate include the Free High School Science Texts offering school textbooks in science subjects; teacher friendly projects like Siyavula that enable teachers to co-create learning materials; the Yoza described as a self publishing platform that enables mobile access to novels and short stories'. These OERs initiatives were only possible with open licenses such as CC licenses (Domicone, 2009). One factor that has facilitated these achievements is South Africa's team of talented dedicated volunteers (Domicone, 2009).

Uganda CC Affiliate was also established in 2012, but has certainly made more progress than Nigeria in law reform, building the community and creating international presence. It has created links with the library community in what has been described as marking the 'beginning of a new cooperation'. It also started a campaign for the reform of Uganda's copyright law to strengthen CC and OA repositories in Uganda, and joined in the campaign for the extension of the WTO TRIPS waiver for least developed countries, including Uganda. It is noteworthy that this effort paid off with the extension of the waiver until 2021(Saez, 2013). Moreover, the liaison with the library has encouraged universities to start considering adopting copyright and open access policies.

Kenya is also developing into a strong CC Affiliates incorporating many communities. These communities continue to promote CC and OERs ideals in their various constituencies. One such initiative is the school of open which targets high school students all over the country to introduce them to OERs the use of OERs. It aligns with the global initiative which is coordinated by Peer to Peer University (P2PU) and Creative Commons. The school of open focuses on enlightenment on the concept of openness (vnzomo, 2013; Mutunga, 2013).

5. RECOMMENDATIONS AND CONCLUSION

In the light of the foregoing, the following recommendations are useful. The Copyright Act should be amended to allow more flexibility for educational purposes. If publishers realise that uses for educational purposes cannot be reserved, they may be more willing to adopt CC licenses. Specific exceptions should be made to the Copyright Levy provisions for educational purposes. There is need for robust government policy towards CC and OERs to address the challenges of access to education in Nigeria. Public policy support will ease the process of porting CC tools. Schools should design and implement OA policies to guide their students and teachers on how to use open access tools such as CC licenses and OERs. Creative Commons Nigeria should develop policy briefs and guidelines for advocacy purposes.

In conclusion, OERs and CC are Siamese twins that complement each other. Both initiatives are much needed to promote access to education and learning materials in Nigeria. The mainstreaming of OERs would not be effective without relying on CC materials. Similarly, CC mainstreaming can greatly enhance OERs. It is therefore necessary that both be promoted.

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