

Creative Commons Certificate Course

Assignment 5

Alert on Policies on Open Educational Resources

1. Context

Creative Commons licences are being promoted in South Africa by individuals and organisations to support the sharing of educational resources that have been created using donor or public funds. There are concerns that some organisations and government departments may consider creating their own, custom copyright licenses which would create increased complexity and confusion for potential users of open resources. There is an increased risk that educators and students will not understand how to re-mix globally available materials with other materials that do not carry a CC licence and may result in the infringement of copyright laws.

The South African Copyright Amendment Bill is awaiting assent by the State President.

This Bill will bring the South African copyright law up to date by introducing various limitations and exceptions. It takes into account more kinds of users including those in libraries and archives, galleries and museums, and people with disabilities. Denise Nicholson (<https://africanlil.org/node/24>) at the University of the Witwatersrand provides these resources:

- Final Version of the Bill (2019):
https://libguides.wits.ac.za/ld.php?content_id=47021252
- Senior Counsel Opinion on Constitutionality of the Bill:
https://libguides.wits.ac.za/Copyright_and_Related_Issues/Opinion
- Genesis of the Bill:
https://libguides.wits.ac.za/Copyright_and_Related_Issues/Bill_Genesis_Process
- FAQs on the Copyright Amendment Bill:
https://libguides.wits.ac.za/Copyright_and_Related_Issues/FAQs_CAB
- Fair Use/Fair Dealing:
https://libguides.wits.ac.za/Copyright_and_Related_Issues/fairuse_fairdealing

2. Values and practices

Educators in South Africa are committed to providing the best possible service to learners and students but have limited resources. Schools and institutions provide encouragement to educators to use freely available materials such as those under public domain, fair use (if legally available) and CC licences.

Open resources to support the understanding of licences and their re-mixing are available, such as:

- a) Policy Brief on OER: https://www.thecommonwealth-educationhub.net/wp-content/uploads/2016/11/Policy_Brief_OER_2017_07.pdf
- b) Remixing CC-Licensed Work: <https://certificates.creativecommons.org/cccertedu/chapter/4-4-remixing-cc-license-d-work/>
- c) The CC Mixer: <http://ccmixer.edu-sharing.org/>

There is a draft policy document by the Department of Higher Education and Training on Open Learning in the post-school sector (<http://pmg-assets.s3-website-eu-west-1.amazonaws.com/170407openlearningframework-postschooleduc.pdf>). This however, has not been updated or advocated to educators as yet and so is quite unknown. The draft policy document only refers to “open licences” and not to Creative Commons licences which leaves scope for all government departments and entities to create non-standard open licenses.

In addition, a potential ethical issue appears to be that educators are sometimes ill-advised to use open licenses without being told of the implications and consequences of using such licences. If not discussed honestly and openly, educators could use a licence without understanding the consequences and be disappointed or economically disadvantaged later.

A country chapter has recently been created in South Africa and membership is growing rapidly (39 members as at 25 October). The chapter now has online methods to join, participate in discussions and distribute newsletters and updates. The chapter will need to find ways and means to communicate broadly in an attempt to prevent the creation of non-standard open licenses.

3. Current challenge

The draft policy on open learning has created the potential for government departments and entities to create a plethora of non-standard open licenses.

Lecturers and teachers are able to search and download from the more than 1.6 billion available works that are useful to them for use either in their classrooms or for distance education materials (online, print or blended). They may however have limitations in understanding the clauses in a potentially wide range of non-standard custom-written, open licences.

CC provides a compatibility table to support users to understand how to mix materials that carry different CC licences. This will not apply to non-standard licences that other organisations may produce.

The newly re-established South African Chapter of Creative Commons will work across all provinces with the aim of informing educators and students of the value of sharing open works that carry Creative Commons licences.

4. Actions

Recommendations:

- a) Policies to use open education resources in institutions, government departments and their entities need to specifically point to an institutional default Creative Commons licence and a method to apply a different licence when required and approved. Failing this action risks confusion with the massive number of available works that carry CC licences.
- b) OER policies should include access to information and orientation programmes for educators on how to identify CC licenses in source materials and to mix materials with different CC licences.
- c) Information needs to be provided to institutions and organisations on the organisational-standard CC licenses, how to mix materials carrying different CC licences and the potential for confusion if custom licences are developed. The newly re-established South African Chapter will help to share this information.

5. Copyright

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This resource is available online at:

<https://1drv.ms/w/s!AiDw-h69Jqkene5gePBGXI5iDn4I6A?e=nvdxOq>