Encouraging a culture of reuse? Copyright policies of nonprofit organizations in international development

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November 2, 2011

In the library and information science field, we often hear about innovative approaches to copyright, such as Creative Commons licenses, and the value to society of encouraging at least some material to be shared and re-used in this way. How much and exactly how is debated, but the concept draws attention and growing support. These issues attract attention in other fields focused on information, such as publishing and journalism. But is there much awareness of the possibilities, and perhaps even value, of promoting greater re-use of information in other, less information-focused fields? A brief look at one small part of the U.S. nonprofit sector – nonprofit organizations focused on international development – suggests the need for more attention to easy reuse of information the organizations produce.

Some premises

This essay is built on two premises. One is that nonprofit, public-serving organizations in the United States have an ethical obligation to share information about their work. This obligation can be set aside when it is at odds with other important goals of the organization, such as the pursuit of its mission, the privacy of constituents (donors, beneficiaries, staff, board, or others), or the wellbeing (financial, reputational, or in other ways) of the organization itself. But in the absence of one or more of such concerns, there are two reasons that nonprofit organizations should share information. First is to improve transparency and accountability about themselves and their use of benefits from the public (both donations, and the indirect benefit of receiving funds that reduce donors' taxes). This principle is well-established in codes of conduct for nonprofit organizations, such as the Panel on the Nonprofit Sector's *Principles for good governance and ethical practice* (2007), which states that, "a charitable organization should make information about its operations, including its governance, finances, programs and activities, widely available to the public."

The second reason is not as clear-cut, but is that insofar as an organization collects or creates information about how to address a particular problem in society, it should share that information so others can use it to address that same problem. (An exception to this is for a problem the organization feels it can completely resolve itself).

The second premise of this essay is that it is often easier to copy a document, or section of a document containing information, than to extract specific facts. While facts cannot be copyrighted, and thus copyright need not limit the reuse of facts produced by nonprofit organizations, wholesale copying may be easier for users both technically and in side-stepping concerns about possible illegality.

Culture of sharing

The first premise above is analogous to, though not as strong as, the rationale for why material produced by the U.S. Government is placed (with a few exceptions) outside copyright. We expect such information to be shared in ways that allow reuse by the public because the public paid for it. Another example of governments recognizing the value of widespread sharing of information is the World Summit on the Information Society's *Declaration of principles* (2003), which contains a section on access to knowledge that states, "The sharing and strengthening of global knowledge for development can be enhanced by removing barriers to equitable access to information for economic, social, political, health, cultural, educational, and scientific activities."

A culture of sharing has emerged outside government, through initiatives such as Creative Commons, which produces text to allow people and organizations to license their creations in ways that allow copying and reuse by others (while retaining copyright themselves). In a little over a decade, an estimated 350 million items have been released with Creative Commons licenses (Creative Commons, n.d.). Other initiatives to make it easy to license material for reuse by others have become widespread as well; for example, the GNU Free Documentation License is used by Wikipedia to allow copying of its material, with certain restrictions, without requirements that users ask for permission to do so.

Nonprofit organization practices on copyright

What then are current nonprofit practices toward encouraging reuse of their information? To get a sense of choices nonprofit organizations make toward this question, I looked at a small but distinct

sub-set of such organizations – the 193 members of InterAction, an association of U.S. nonprofits working internationally. The largest organization has an annual budget of almost $1 billion, the smallest less than $100,000. They work on large, difficult-to-solve problems such as poverty, disease, conflict, human rights violations, and lack of access to vital services. None are schools or libraries themselves, though some support education and literacy.

I looked only at the homepage of each organization for copyright information or, if none existed but a link to a terms of use or "legal" page was available, that other page. Thus this survey is superficial, and not an analysis of all content on these sites. And it includes a tiny fraction of the more than one million nonprofit organizations in the United States.

Of the 193, only two (International Medical Corps and American Friends Service Committee) used Creative Commons licenses. This low number surprised me. Both chose forms of the CC attribution-non-commercial-no derivatives licenses. Ten others used their own language to allow sharing of their content for non-commercial or educational purposes, with some attribution. These seemed similar to CC attribution-non-commercial licenses (but, for users, lacked the standardization of a Creative Commons license). One hundred thirty-five had explicit statements indicating they reserved copyright for themselves. Forty-six had no copyright statement at all. The lack of a copyright statement does not mean a site's owner meant to give up copyright (though that is possible) – such a statement is unnecessary to retain copyright.

Copyright terms of InterAction member homepages/terms of use pages	
Traditional copyright statement	135
No copyright statement	46
Custom non-commercial statement	10
Creative Commons BY-NC-ND	2
Total	193

In total, we see just 12 explicitly encouraging copying of their material (apart from fair use), and all of those required such use to be non-commercial. The low number was disappointing, and suggests several possibilities. One is that, in general, these organizations take a very proprietary view toward information they produce. Certainly some do – several even had terms of use of their material that attempted to assert rights beyond what copyright provides. For example, the terms of use of Handicap International's website states, "You may not modify, copy, distribute, transmit, display, post, reproduce, publish, create derivative works from, transfer or sell any pages, data,

information....unless you have the prior written consent from Handicap International..." "Data" is are generally facts, which cannot legally be restricted in this manner.

Related to this is a fear of damage to an organization's reputation if critics in some way copy and distribute some of their information. But one form of the fair use of copyrighted material is "...quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; use in a parody of some of the content of the work parodied..." (U.S. Copyright Office, 2009), so even retaining copyright does not protect from critique using an organization's own material.

Another possibility is that many of these organizations do not view material on their websites as useful to others, and merely as marketing material. But in such cases, protecting against easy reuse would not seem important. Allowing others to copy and distribute an organization's material, with the organization's name on it, could be beneficial in terms of publicity.

The last possibility is a lack of understanding of the purposes of copyright to a rights holder, or of available options to promote sharing of information that might benefit the public, while retaining recognition for the creation of that information. I would hope that more nonprofit organizations in international development become aware of options to promote reuse of their work while retaining ownership of it. These issues may be well-discussed among educational and library-related groups, but appear not to be in this subset of the nonprofit sector.

Beyond that, the fact that of the 12 organizations that explicitly allowed copying and reuse of their material all required such re-use be noncommercial in character is also disappointing. There is a visceral argument to restricting the outputs of a nonprofit endeavor to noncommercial reuse: why should a company or individual profit from work done for a charitable purpose? But is that argument correct?

Erik Möller makes a compelling two-part counter-argument that noncommercial restrictions in licensing undermine easy reuse of information. On the one hand, he points to large-scale collections of material such as Wikipedia not accepting content that does not allow commercial reuse. This policy is designed to encourage reuse in as many ways as possible, and the success of Wikipedia suggests it is valid. If a content producer wants material to be placed in a collection such as Wikipedia, it should be aware of the policies of such large collections.

His second argument is more simply to question why such a noncommercial should be put in place – if information is valuable and the owner wants it shared, why restrict reuse? He writes, "The use of an-NC license is very rarely justifiable on economic or ideological grounds. It excludes many people, from free content communities to small-scale commercial users, while the decision to give away your work for free already eliminates most large-scale commercial uses" (2006). There are other examples of "re-publishers" not accepting open-license material due to non-commercial restrictions on that material. One is the CBC-Radio Canada's decision to stop using Creative Commons-licensed music, about which Peter Kern write "The popular 'non-commercial' restriction is problematic. It does too little to prevent exploitation, and too much to prevent exactly the kind of use that's the reason you'd choose CC in the first place" (2010).

A report from Creative Commons states that "compelling use cases for NC licensing remain – most obviously when an existing significant revenue stream from a work would be compromised by release under liberal terms" (2009, p.80). This actually bolsters the argument for less use of noncommercial licenses by nonprofit organizations. It is unlikely that much material in the websites I examined can produce revenue other than donations to the producer. And it is very unlikely that a competing nonprofit organization seeking the same donations would re-use material and credit the source because doing so would be publicizing their competitor.

Conclusion: An opportunity

This suggests an opportunity for information professionals in some parts of the nonprofit sector to advocate more sharing of information in ways that encourage re-use. Creative Commons licenses are an obvious choice for much material, but we should not just see the phrase "noncommercial" and think that that sort of license is appropriate for organizations that are themselves noncommercial. Rather, we should look at the purposes of sharing and choose licenses or policies based on those goals. Creative Commons offers a variety of licenses without restrictions on commercial use. If widespread re-use of information is a goal, avoiding noncommercial terms might be more appropriate.

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