

Education 4.0 - Recent Challenges to Copyright

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Background of the study



- **Sparkling Science Research Project:** „From ‚User-Generated-Content‘ to ‚User-Generated-Copyright‘“ (funded by the Austrian Ministry of Science, Research and Economy)
- Interdisciplinary Approach / “Citizen Science”
 - Inclusion of young students, aged 14-20 (digital natives), as “young scientists”
- **Goal:** Definition of requirements for a modern, well-balanced copyright system in the light of the “prosumer”-paradigm.

Standing on the Shoulders of Giants / monopolistic gatekeepers

Dicebat Bernardus Carnotensis nos esse quasi nanos, gigantium humeris incidentes, ut possimus plura eis et remotiora videre, non utique proprii visus acumine, aut eminentia corporis, sed quia in altum subvehimur et extollimur magnitudine gigantea

(John of Salisbury, Metalogicon liber III, cap IV.; 12th century)

- Research and teaching is based on pre-existing knowledge, which is expressed in concrete (copyrighted) works
- Freedom of speech / information (knowledge) limits the scope of copyright protection: Distinction between (copyrightable) expression and (free) idea / information
- **Are rightholders (authors and/or publishers) monopolistic gatekeepers controlling the access to our giant's shoulders?**

'1.0 SCHOOLS CANNOT TEACH 3.0 KIDS.'

(Moravec, J. W. (Ed.). (2013). Knowmad Society.
Minneapolis: Education Futures)

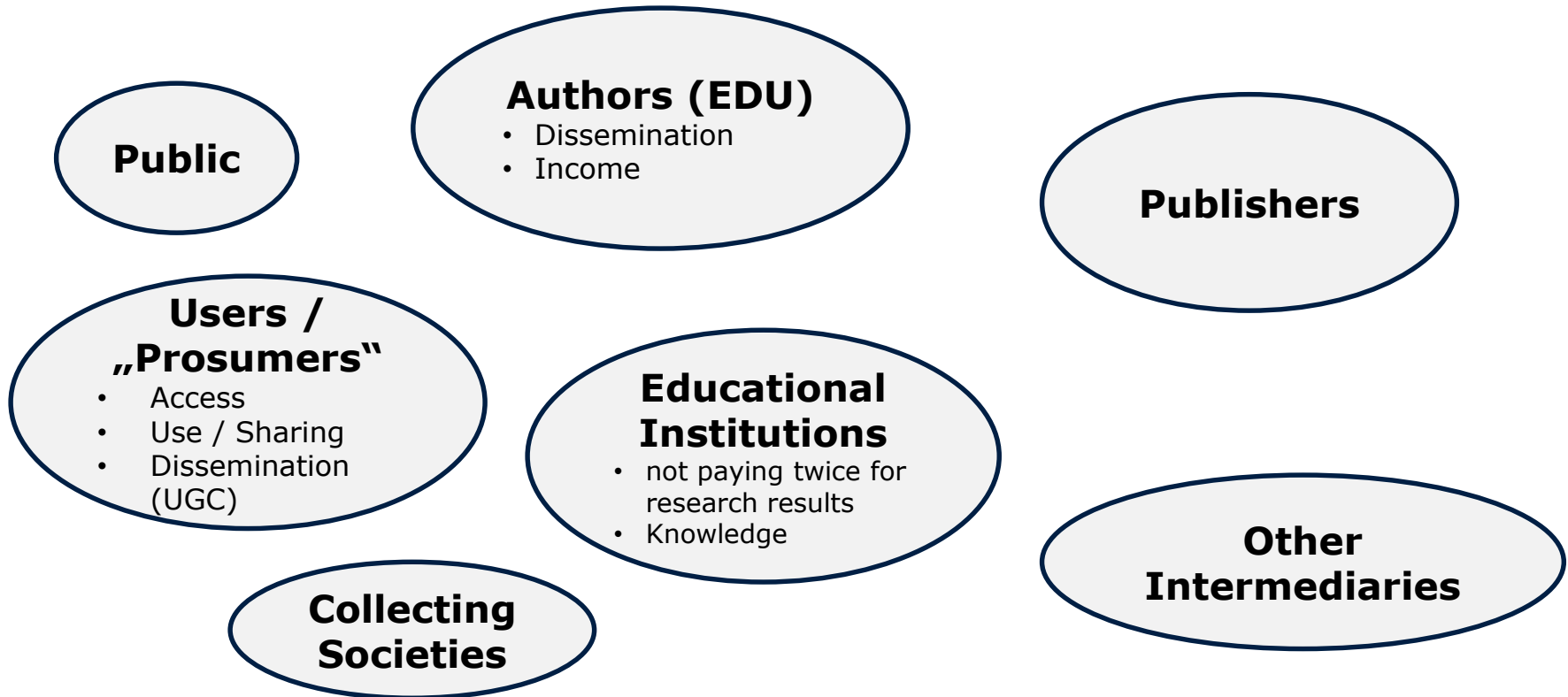
'NEW TECHNOLOGIES
SHOULD NOT BE
USED TO DO THE
SAME OLD STUFF.'

„Innovation Producing Education“

(Harkins, A. M. (2008). Leapfrog principles and practices: Core
components of education 3.0 and 4.0. Futures Research Quarterly,
24(1))

- More interactive
- Blurring role models (prosumer in the „classroom“)
- More decentralized
- The „global classroom“ in the global village (distant learning, MOOCs)

Stakeholders - Interests



Learning/Education 4.0 from a copyright perspective

- Which rights are required?
- To which extent are these requirements already met by exceptions (de lege lata)?
- Are/Should these „free uses“ (be) remunerated? (balance of interests!)
- If remuneration is required – how are/should rightholders be compensated?

E-Learning: typical forms of usage

- Lecture Casts; Download-ressources; digital coursepacks;
- collaborative learning; “student generated content”
- **Educational institution / Teachers**
 - Performance / Display (lecture cast)
 - Digital reproduction
 - Editing
 - Online-Distribution
- **Learners:**
 - Reproduction (personal digital copies)
 - Sharing (collaborative learning)

Using copyrighted works in educational (online) settings – legal framework US

- Statutory limitations on exclusive rights
 - **Free performance and display in off- and online settings** (Sec 110[1-2])
 - **Fair Use** (Sec 107) – covering quotation, teaching (classroom copies), scholarship and research uses

- Fall back:
 - Privately negotiated licenses
 - **Linking** to publicly accessible works
 - Unlawfull source?
 - Open Access Publications

Using copyrighted works in educational (online) settings – legal framework EU

InfoSoc-Directive 2001/29/EC

- Art 5 [2.a+b] **reproduction on paper and other media**
- Art 5 [3+4] Reproduction, Distribution and Transmission
 - Art 5 [3.a] use for the sole purpose of **illustration for teaching or scientific research**, as long as the source, including the author's name, is indicated, unless this turns out to be impossible and to the extent justified by the non-commercial purpose to be achieved;
 - Art 5 [3.d] **quotations** for purposes such as criticism or review, provided that they relate to a work or other subject-matter which has already been lawfully made available to the public, that, unless this turns out to be impossible, the source, including the author's name, is indicated, and that their use is in accordance with fair practice, and to the extent required by the specific purpose;
 - Art 5 [3.i] **incidental inclusion** of a work or other subject-matter in other material;
- Fall back: licenses; hyperlinking; open access

- **„Free“ uses and equitable remuneration:**
 - Unrestricted access and exploitation of works for free ("**All-or-nothin**"-concept)
 - **„Permitted but Paid“**
 - In Austria/Germany: Statutory Licenses -> Levy system for Educational institutions and on storing devices;
 - -> pre-determined levies

- **„License it or leave it“**
 - privately negotiated licenses
 - Mandatory License -> FRAND terms & conditions, FRAND royalties

- **Risk of double compensation?**
 - Unclear legal framework + uncertainty -> royalties + license fee
 - Funded research -> back licensing

- **Who benefits from copyright levies?**
 - Authors / rightholders???
 - Example: Collecting Societies Literar (AT) / VG Wort (GER)
 - 50 % deduction for social and cultural purposes, 50 % shared between authors/publishers

Preliminary Policy Implications

Free Access to knowledge and scientific content

- Think free as in free speech, not free beer (Stallman)
- "Libre", not necessarily "gratis"
- Promote creativity, innovation, research – and the knowledge society

Requirements:

- Express regulations with a clear scope; general clauses are not workable within the edu sector
- Preventing a double remuneration of rightsholders
- Rethinking the role of publishers -> Social Publishing / sharing economy ("uber for edu")
- Effective protection of moral interests – reviewing social norms

Kontaktinformation



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Research Project - Details:
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