2005 – 2012: The OpenCourseWars

Note to the Reader: The editors of the book asked me to write a chapter about the future of the OER movement. I struggled with how to do this, playing with ideas for different things that might happen, clustering these, trying to connect them together causally in concept maps, etc. I found that writing sentences beginning with phrases like "And then, this might happen…" quickly became tiresome, so I decided to write the whole chapter as if my predictions had already come true. The chapter is therefore written as an excerpt from an autobiography I hope to write at some point in the future. Whether or not any of it comes true, I hope that it provokes *useful* discussion within the OER community.

MIT OCW and the OCW Consortium

Shortly after the launch of MIT OpenCourseWare, MIT began an effort to recruit other "top" universities into the OpenCourseWare Consortium (OCWC). In the early days of the information age, when information literacy was low even in the developed world, name brands like MIT and Yale were the only proxies for quality many people had as they made decisions. (Keep in mind that movies, TV, and magazines were still telling people how to dress and how much they should weigh at this point.) Either way, not many years after the Consortium's launch, many of the top universities around the world had launched similar initiatives and joined the OCWC. Each of them followed MIT's lead in adopting the Creative Commons Attribution, Noncommercial, ShareAlike (By-NC-SA) license, although they were technically free to choose any open license.

During this period the number of courses shared by OCW projects outside MIT passed the number of courses shared by MIT OCW. This was a huge event for the field. They had been first, after all, and would continue to be seen as the leaders of the OCW movement well beyond the scope of time covered by this chapter. While the reader may not count Utah State University with MIT, Yale, University of Tokyo, and other "name brand" universities, we had an OpenCourseWare during this period as well[1]. It was during this period that I first felt that there was trouble on the horizon with regard to our licenses, and that we changed most of the courses in USU OCW from By-NC-SA to just By-SA.

Utah, the Legislature, and OCW

The first statewide initiative emerged during this period, as well. We had conversations with people from the Utah Centers for Applied Technology, Weber State University, Utah Valley State College, Brigham Young University, the University of Utah, and other Utah schools and asked if they would share their courses as part of a "Utah OCW Alliance" (UOCWA). Everyone responded favorably, and the work progressed slowly until the winter of 2007. Representative Urquhart from St. George put a wiki online that

[1] This and most of the other open education work I did during this period was funded by the William and Flora Hewlett Foundation, to which I'll always be grateful.

he called Politicopia. He asked for comments on pending legislation and new ideas Utahns thought were interesting. I described OCW on the wiki, and in later emails suggested that USU OCW and the struggling UOCWA would be a good place to put a little money. By the end of February, barely two months later, the Utah Legislature had become the first in the country to fund OpenCourseWare – with a one-time appropriation of $200,000 dollars.

The Utah OpenCourseWare Alliance (UOCWA) website aggregated courses from across the Utah schools and marketed itself as the place where Utah taxpayers could get something back for the tax dollars they put into higher education. Over half the public universities in the state accepted USU's offer of a portion of the $200,000 to get their own OCW going. The site enjoyed modest success with Utahns, and even garnered a few public mentions during the 2008 election cycle.

Of particular historical interest is a town hall meeting held by the Governor during the elections, in which a computer science student from the University of Utah asked why the state wasn't doing more to encourage state-funded universities to participate in the UOCWA. The Governor answered that since this kind of sharing of course materials was easily possible in the information age, and because the taxes paid by the citizens of Utah were supporting the state's public universities, he felt that schools should be encouraged to participate. The Utah Legislature created an on-going appropriation of $500,000 per year for the UOCWA in the 2008-2009 budget – an amazing feat given the budgetary climate, but only an average of $50,000 per public institution of higher education in Utah.

Google Enters and then Leaves the Game

I can only speculate as to the why of what happened next. Personally, I believe that a University of Utah Computer Science professor made contact with a former PhD advisee who had taken a job at Google. Others say it was just Google being their opportunistic selves. Regardless of why, though, Google announced that it would extend its university partnerships for book digitization into university *courses*. Google offered $500,000 of course development support to any university that would make a commitment to put 500 of its courses into an OCW-like repository with a CC By-NC-SA license *and* give Google an exemption to the NC clause. This meant that Google would be able to use the materials for internal training and other purposes, while other corporations would not.

Mostly people were just outraged. Pundits like David Noble were instantly back on their horses decrying the interference of private industry in academia. Google pointed out that their corporate mission was simply to enable all people to access all information. They were supporting projects to digitize books, weren't they? They were digitizing back issues of academic research journals, weren't they? Why should this be any different, except that there would be no copyright problems with the opencoursewares? After all, the logic went, surely educational information is some of the most important information they could help people find.

The UNESCOs, aid agencies, and NGOs of the world were uncomfortable but weren't quite sure why. University administrators knew exactly why they were uncomfortable. They quickly pointed out that MIT had spent on the order of $29 million putting less than 2000 courses into opencourseware. Google responded that they felt like $1000 per course was enough to provide a great stipend to some web-savvy undergraduates, that eduCommons exists now whereas MIT had to spend hundreds of thousands of dollars on infrastructure, and that if a university didn't feel like it could get the project done for $1000 per course then they shouldn't apply for a grant. I was flattered to see eduCommons mentioned so prominently. But I have to admit that I was a little uncomfortable, too.

The small schools went first. Many of them had fewer courses in their catalog and already offered courses or degrees in multimedia development. They parceled out most of the course development as senior capstone projects and independent studies (meaning that students actually paid tuition to build the courses), and the schools put as much as half of the grant into their operating budgets at a time when many colleges and departments had been running on empty. It was a Godsend for the small schools.

The medium-sized schools were in a real pickle now. Most of the "premier" institutions had already developed OCWs; many had done so with financial support from the Hewlett Foundation and other donors. Now the smaller schools had OCWs as well. The academic literature was filling up with articles about the benefits of these projects (lower drop rates among students because they could preview courses before enrolling, better ties with alumni since they could always come back to review class material, etc.). Google realized the medium-sized schools had no choice but to launch their own OCW initiatives. Since they "weren't needed" to catalyze the development of OCWs anymore, Google announced they would no longer be providing the grants.

OCW Goes to Washington

This was a dark time for the state schools and other mid-sized colleges. Huge pressure from students, parents, alumni, and their communities forced them to make excuses about why they weren't providing the same level of service to their stakeholders. Analysts went back to the language of "transparency" and "accountability" from the 2006 Commission on the Future of Higher Education in their criticisms of the state schools. This was yet another example of their inability to innovate and keep pace with the "real world." I used these same arguments as part of the panel that had testified to the Commission about the importance of openness, but no one seemed to hear or care in a time when the national higher education policy priority was "No Undergraduate Left Behind" (or 'No Academic Freedom Left to Find" as we briefly called it).

In the most unbelievable part of the history of openness in education (for me as a native West Virginian, anyway), West Virginia Senator Robert Byrd announced that his current term in office would be his last. (I think he was like 108 at this point.) His final piece of legislation would be a third Morrill Act that would support the land grant institutions in creating OCW-like projects to provide increased access to educational opportunity to the

general public. The so-called “Byrd Bill” passed, creating a small pot of dedicated monies for public schools to draw on in order to support their OCW initiatives.

Congress had turned their back on the publishing industry, or so it seemed. Everyone waited for the publishing industry backlash, but it never came. It was like the silence in a horror movie just before the guy with the chainsaw jumps around the corner – when you suddenly realize the music has stopped, and all you can hear is breathing. But no chainsaw-wielding publisher ever appeared.

Then it happened all at once.

Courts, Clauses, and Campuses

Google notified several of the small schools whose OCWs it had funded that IBM was using their OCW materials internally for employee training. Google saw this as a blatant violation of the Noncommercial clause in the OCW licenses, and told the schools it expected legal action to be taken. The expectation was leaked to the public. Supposedly the dispute was really between IBM and the schools, but because Google was paying the legal costs, the media played it as Google versus IBM. Suddenly even the stock market knew what opencourseware was, and everyone knew what noncommercial meant – or thought they did.

The IBM vs Google excitement led two US engineering firms to the federal government with accusations that Chinese companies were utilizing MIT OCW and other schools’ OCW materials in training their employees as well. They expected the government to take some kind of legal or diplomatic action. The news rode the wave of the Google-IBM hype and was soon all over the technical sites like Slashdot and Digg, even making its way to CNN and MSNBC a time or two. The Chinese admitted openly that they were in fact not only using the materials, but relying on them heavily. They contended that they were exempt from Noncommercial clause for two reasons. First, because they were state-owned and not private, for profit companies, they were in complete compliance. And second, they said that according to MIT OCW’s own Terms of Use webpage, using MIT OCW materials for internal corporate training does not violate the Noncommercial license.

Ironically, it was Larry Lessig who coined the term “IP McCarthyism.” And that is exactly what came. A junior senator from California brought the argument to the floor of Congress in no uncertain terms. “These idiots like Byrd and others who supported the third Morrill Act are traitors of the worst kind – traitors who believe they are patriots but who, through sheer stupidity, sell out our country. We have now put in place federally-funded machinery that makes the best of American teaching and learning available to the Communist competition but places it squarely out of the grasp of American companies.” The sound byte got its fifteen minutes on all the major networks. Public opinion toward the OCWs ranged from sour to hostile. Indignant citizens brought lawsuits against the third Morrill Act and the Utah legislative funding. Organizers took steps to block seven bills making their way through other state legislatures.

MIT OCW tried to redirect public opinion by focusing on the second point the Chinese had made. It wasn't ok for the companies to use the materials because they were state-owned, it was ok for the companies to use them for internal training because it didn't violate the terms of the Noncommercial clause. It was, in fact, ok for any corporation to use By-NC-SA licensed materials as long as they only used them internally. Everyone immediately saw that this was exactly the opposite of what Google representatives had been telling the media and preparing to tell the court.

It may be hard to believe that such different interpretations can be made of a document (unless the document is scripture), but there had long been significant confusion around the meaning of the non-commercial clause. Creative Commons' own publicly posted discussion draft of *Proposed Best Practice Guidelines to Clarify the Meaning of Noncommercial in the Creative Commons Licenses* suggested we approach the meaning of the term noncommercial from the "Nature of the User." To put it simply, the guidelines asked if the would-be user of the noncommercially-licensed material was an individual or non-profit institution. If so, everything was kosher. If not (if the would-be user was a for-profit company), then they were not permitted to use materials. Seems very straightforward, right? MIT OCW, however, saw things in a very different way. They provided their own definition of Noncommercial, in which they said, "Determination of commercial vs. non-commercial purpose is based on the use, not the user," and that as long as you're not trying to make money off of their materials, they were cool with whatever else you did.

So on the one hand you had Creative Commons suggesting that Noncommercial should be determined by the nature of the user, and on the other hand you had MIT OCW defining the very same clause of the very same license in the completely opposite way. I had known about this problem for years, and had email discussions with a number of people at both Creative Commons and MIT hoping to get it fixed. But the problem was extremely thorny politically, and nothing had happened yet.

The National Academies, long supporters of openness in higher education, tried to reclaim the discussion by hurriedly issuing a joint report supporting opencourseware and openness generally, but condemning the Noncommercial clause specifically. They cited a number of blog posts, online discussions, and even transcripts of public addresses by people affiliated with Creative Commons that described the NC option as being so incredibly vague as to be nearly meaningless beyond it's "common sense meaning."

This, it turned out, was what the publishers had been patiently and silently waiting for. A coalition of publishers worked behind the scenes to coordinate strategy on the existing lawsuits, combining them when possible, and bringing new suits as opportunity provided, dedicating an incredible amount of resource to the effort. It was all-out war, and the undoing of the Noncommercial clause was the goal.

The publishers' strategy was brilliant. Allow the opencourseware laws to pass, allow the universities to create tens of thousands of high quality educational materials with funding

from the government, and allow these to be published under the Creative Commons By-NC-SA license. Then sue and wait. What no one but the publishers seemed to understand were the interactions of two terms from all Creative Commons licenses. Term 7b of the Creative Commons licenses says that the licenses are "perpetual," and that once material has been licensed with a CC license that licensing cannot be undone. Once a CC work, always a CC work. Term 8c of the licenses is a standard severability clause, which says that if a court should void any portion of the license for any reason, the remainder of the license would remain in force.

In other words, the CC licenses are both irrevocable and designed so that if any part is nullified, the remainder stands in tact. The publishers only had to wait until the NC clause was struck down in court, and there would be a world of free, high-quality content waiting to be leveraged in print and other media by the industry that already had the connections, the machinery, the marketing, and the know-how to do it. They didn't have to wait long. While the public was still angry over the whole pro-Communist appearance of opencourseware, the Noncommercial clause was struck down in New York and the ruling quickly upheld in the Supreme Court.

Tens of thousands of courses worth of opencourseware that had been licensed for noncommercial use only when we all went to bed were free to be used commercially when we woke up the next day. And there was nothing anyone could do about it.

Backlash and a Break

Faculty were furious. Lawsuits blossomed across the country with faculty suing their institutions for "knowingly stripping their faculty of commercial interest in their own intellectual property." But in a miraculous rash of right thinking by the courts, the first three suits failed. The rest were dropped. Faculty resigned themselves to a world of opencourseware in which commercial use rights were granted *carte blance* to the world. Several bloggers wondered if the current state of things wasn't more communist than the previous. Others pointed out that since the Communists no longer had an advantage over US companies, it couldn't be.

As the original champion of OCW in Utah I was the special target of criticism and frustration at USU and around the state. I tried to remind faculty and the media that USU had dropped the Noncommercial clause from most of our courses years before because the ShareAlike clause provided all the protection we really needed. Even if publishers derived all kinds of new commercial curriculum from our OCWs, there were required by the remaining SA clause to share these new works with the academic community (and everyone else) for free. But nobody listened; nobody seemed to care. Lawsuits or not, the whole situation stank, and I was the stinkiest of all the people in Utah, to be sure. It was hard times for a while.

A colleague called one morning to tell me how wrong I was. The publishing companies had begun selling their first books derived from OCW content – he had received one from Amazon. And while they were attributing the materials' sources as required by the

licenses, they didn't re-license any of the materials By-SA as required by the license. They built complete curricula around the materials and began selling the books, teacher's manuals, tests, and other accessories with no mention of the Creative Commons license. It turns out the publishers' end game included more than the Noncommercial clause – they were going after the ShareAlike clause as well. They were waiting for a lawsuit to come, with the goal of overturning the SA clause and reducing all of the opencourseware material (and all the other open educational resources) in the world to no-investment, no-obligation fodder for their textbooks and other materials.

Their arrogance should have set off shrieking warning sirens in their own minds; but apparently they were too drunk with their first successes in court. Or put too much faith in momentum. Stanford finally brought a suit against the publishers on behalf of its faculty, with Lessig arguing the case on for Stanford. This court battle was uglier and much more protracted than the battle over the NC clause. Some questioned whether Lessig should have been involved at all after losing the Supreme Court fight over copyright extension and for having created the licenses that started the whole mess.

Of all the low blows thrown during the OpenCourseWars, those thrown at Larry during this time were the most despicable. First, Lessig had consistently been one of the most vocal, hardest working, and most intelligent supporters of openness generally. And second, no one seems to recall that Creative Commons had inherited the notion of options and the specific option themselves (options on commercial use and derivative works) that I had put in the original Open Publication License back in the late 1990s. If retiring the Open Publication License in favor of the Creative Commons licenses had been one of the most difficult things I ever had to do professionally, hearing some of the things that were said about Larry during this time were a close second.

I am very happy to say, however, that Lessig turned out to be the right choice for the case as the ShareAlike clause was upheld in the lower court and in every appeal at each level of the judicial system.

Publishers now found themselves in a bigger mess than even the universities had been in. Universities could still charge tuition even if their course materials were freely available online. The publishers would have a much harder time selling their textbooks for $100 a piece when the court had just re-licensed the majority of the their last eighteen months of work with a Creative Commons Attribution-ShareAlike license.

Students, Zealots, and Compatibility

Campuses went crazy. It turned out that students hated textbook publishers almost as much as they hated classes and exams. Even the least academically inclined fraternities and sororities held parties where textbooks went under the box cutter, the scanner, and the OCR software. One week later free electronic copies of the newest major textbooks were circulating on the net. This catalyzed a number of unexpected developments.

First, the decade-old struggling ebook hardware market suddenly came to life as students could buy a $100 piece of hardware that let them read, annotate, print, and wirelessly trade all their textbooks at no additional cost. Sharing class notes came to mean something very different than it had just one semester before. Second, Wikipedia's struggling textbook project came to life. People cut-and-pasted the textbooks into Wikibooks and began annotating them like crazy. Test questions that had been used on real tests began showing up as in-context chapter annotations. Phone photos of professors' classroom demonstrations began showing up. Clandestine mp3 recordings of lectures were uploaded. Student re-explanations of key topics, clothed in the language that only teens and young adults can use, made their ways into the books. Apparently when students feel like they're helping each other beat the system they will go to great lengths to produce incredibly valuable educational materials. I hope no one ever tells them.

Just when everything seemed to be going well for openness and higher education, terrorists got involved. Not everyday suicide-bombing type of terrorists, but what came to be (derisively) known as the Libre License League (LLL). They had been a permanent fixture in the space for a number of years, having repeatedly hijacked every online discussion or conference presentation on any topic relating to open education and forcibly turning the discussion topic to licenses and why the nonfree Creative Commons licenses were inferior to the GFDL.

In a coordinated bot attack that lasted a full week, all the new textbooks, annotations, photos, and other contributions on Wikibooks were deleted and replaced with messages that read:

> These stuffz originally uzed a ***NONFR33*** Creative Commons lisenz. Everything posted on wikipedia must uze the GFDL. RTFM you m0r0nz!!!! The CC lisenz don't work with the GFDL! Keep your ***NONFR33*** (expletive removed) off wikipedia!!!

The vast majority of students couldn't even interpret the message. Of course, all the material was preserved in the fully revisioned history of the wiki pages and had not been lost at all. But for most students who had come to rely on the site everything seemed to be gone permanently. The outrage was first directed at faculty, who the students were certain were behind the attack. The unknown terrorists who had actually carried out the attach were designated the LLL at this time, but as a translation of their message spread around the net anger was eventually redirected toward the Free Software Foundation and Creative Commons for several years' worth of (what were characterized as) half-hearted, failed attempts to make the two most common open content licenses compatible with one another.

The William and Flora Hewlett Foundation, which had funded MIT and several of the other early opencoursewares, announced a $500,000 dollar bounty to be split evenly between the Free Software Foundation and Creative Commons the day the two

organizations could make a joint announcement regarding license compatibility. It took the FSF and CC another nine months to reach an accord.

Reemergence, MetaU, and K-12

The Wikibooks content, complete with test questions, fifth row photos of professors' slides, and other annotations, finally returned on a new wiki set up and run by students called MetaU.org (the MetaUniversity) and dually licensed under newly compatible CC and GFDL licenses. Many younger university faculty began bypassing their institutions' opencoursewares altogether in favor of working together with their students to get their materials directly into the new MetaU site. As an undergraduate friend once said to me:

> Putting professors' lecture notes and things on an university website where students can't trib test questions and photos and things makes about as much sense as using email. It's for old people who just don't get it. I mean, even this ebook reader thing I just got from my sister (who finally graduated, by the way) is pointless. Why would anyone use a device that won't let you trib?

For future readers too young to remember, "trib" is short for "contribute" (three syllabus apparently being to many to say), and was the popular slang for uploading user-contributed content, whether video, music, photo, or – and I can't believe I'm actually typing this – class notes.

But her attitude about trib'ing is indicative of the general feeling of the time. While the individual opencoursewares were online all along, their "read-only" nature ("R/O" being about the rudest adjective one could use when speaking about a website) was so anathema to then current sensibilities that one would have thought that when the Wikibooks site went down all the open educational resources in the world had been lost. (As a note of historical interest for future readers, R/O as a derogatory term is still with us decades later, even as I am writing. And though it sounds like "groovy" did to my generation, R/O is still associated with the kind of "authority" young folks want to rebel against, and embodies an entire generation's frustration with top-down, un-democratic, un-participatory approaches generally.)

With the return of the MetaU content the public once again had access to open textbooks, opencourseware, actual test questions, the phone photos and mp3 recordings of professors' classroom presentations, and other content all remixed and massively interlinked with itself and interlinked with other online content from the BBC and Wikipedia, as well as open data streams coming out of places like NOAA and the International Linear Collider. Faculty began integrating links to open access journal articles into these mashups, but student wiki-gardeners consistently moved them to the bottom of the pages. (I suppose they didn't permanently delete them out of respect for the lessons they learned from the LLL.)

The reemergence of MetaU made its way onto the evening television news and into the homes of several parents in North Carolina one evening. It seems the school board in

their county had just adopted a very expensive commercial pre-engineering curriculum for the local high school. One of the parents, a professor at Duke University, had just completed an external review of an NSF-funded, CC/GFDL licensed pre-engineering curriculum out of Purdue. He knew it was as good or better than anything a commercial company could offer, and rallied dozens of other parents to hold their children out of school until a public hearing could be held defending the decision to spend so much money on the commercial curriculum when a much less expensive alternative of equal or higher quality existed. The parents got their meeting, and before the late 2000s were over, the curriculum was in literally hundreds of high schools around the country.

MetaU, WGU, and the EMOs

While it was a fight getting there, the situation at this point can only be described as a "learner utopia." It took less than a decade to get from the words "open content," to Creative Commons, to MIT OCW, to the Byrd Bill, to the MetaU. We had gone from a handful of pages on renegade faculty's personal websites, to tens of thousands of courses from over seventy countries freely and openly accessible online, to student-driven mixing and remixing of resources in ways more innovative than any instructional designer could possibly imagine. But there were still a few big surprises left before the year could end.

At the time, the Western Governors University was a fully accredited, completely online, *competency-based* university where students were required to demonstrate their competencies through assessments, not suffer through classes whose content they may have already mastered. If you passed the tests, you got the degree. If students needed some refreshing or outright teaching, WGU would work with other universities to get students into online classes where they could gain the skills, knowledge, and confidence they needed to pass the WGU exams.

Back in 2006 I had met with folks from WGU and recommended that they look at OCW content as a free, high quality alternative to traditional online classes for their students. The timing was all wrong, though – everything was still R/O and there was little momentum among higher education generally. But during the summer of 2012, WGU announced a deal with MetaU. It was a classic IBM / Linux-like arrangement between a business and an open source effort, and the first example of a successful partnership of its kind in the open content space. WGU agreed to hire two full-time wiki-gardeners to contribute to the care of the MetaU site and connect the WGU's existing competency standards with MetaU's content structure. This allowed WGU students to leverage the MetaU's open content *directly* as they prepared for their exams, without needing to wait for guidance counselors to tell them what to study or helping them find online classes at universities; quicker service for the WGU students and cost savings for the WGU organization. It was brilliant.

After years of waiting to be widely recognized as the leader in the innovative educational offerings, WGU finally made good by shedding it's traditional university, R/O reputation. Ten years before they had plugged into the internet technically; now they plugged in culturally. I actually heard WGU President Bob Mendenhall use the word trib (properly!)

in a keynote at the 2010 Open Education Conference. A university president who really got it… you could have pushed me over with a feather.

The WGU – MetaU deal had two main repercussions. Technically, these bled into 2013 somewhat, but they belong to this narrative so I include them here.

First, MetaU spun off a company called LearnerSupport. For MetaU users who couldn't afford to (or didn't want to) wait up to an hour to get a question answered in one of the site's self-organizing discussion forums, users could get live instructional support via Skype (which was still the dominant player in the audio conferencing space). A credentialed freelancer, a Neal Stephenson-style ractor in India, China, Hoboken, or who-knows-where, answered the phone and provided real-time help to students. Users paid LearnerSupport before they were helped, and then rated the service they got after talking to the ractor. If the service was unsatisfactory the learner got bounced to another ractor. The ractor who actually answered the user's question to their liking got a cut of the money the user had paid LearnerSupport up front.

It was brilliant: a competitive market in actually helping people learn. When a ractor couldn't answer a question they didn't bother trying. Those that could answer did the best job they could, since their pay depended on it. Students claimed to love the service because they knew it that the vast majority of ractors were other students. Students really do have a thing for "keeping it in the family." The feeling of us versus them may be the eternally defining trait of students' relationships with universities.

For-profit universities, like Walden and Capella (which had made extensive use of open content since the nullification of the NC clause), all made deals with LearnerSupport that gave each of their tuition-paying students all-you-can-eat access to the LearnerSupport service, effectively outsourcing two-thirds of their student support services. Advising and other services remained in-house for a while, until university advisors figured out that most of the advising calls had stopped coming because students were asking the ractors these questions, too. The University of Phoenix spun off its own LearnerSupport-copycat company, which also did very well. It's all that's left of UoP now. None of the traditional universities in the US made the move, but several in Europe did almost as quickly as the US for-profits. The Open Universities of Catalunia and the Netherlands were the first in the chute. And having supported the WGU, the University of Phoenix, and the Spanish and Dutch Open Universities in their initial forays into the world of OpenCourseWare, I was consulting there again during these transitions.

These were truly amazing times to be alive… Higher education was changing before my very eyes. Not all of it, granted. Not even most of it. But some of it *was* changing.

The second repercussion was the emergence of the much-predicted Education Maintenance Organization (EMO). Overnight a dozen companies sprang up ready to provide corporations with "the ultimate lifelong learning / training solution" for their employees. These companies were also LearnerSupport knock-offs who relied primarily on the MetaU content, but their ractors took a more formal tone of voice that corporate

execs could imagine was credible. The ridiculously rich companies like Google and Microsoft would be the first to include EMO membership in their corporate benefits packages, but that takes us well into 2013.

Postlude to the Excerpt

Critics will be upset that my discussion of the critical open education issues during this period is too US-centric. Well, yes, it is. It's part of an autobiography, and I spent most of these years in the US. It is worth noting, however, that countries with speakers of languages other than English developed their own MetaU-like sites. I'm told that the Chinese and Indian versions are both absolutely astounding. They would be, of course, with so many more students to trib and tend the wikis. Apparently there are also those who claim that the Chinese MetaU was the final brick in the basket that tipped things in the direction of democracy in that country… it would be incredible if that were true, but I'm not qualified to judge such things.

Critics will also wonder where the discussion of the broader OER movement is in this chapter. Those who do will have failed to see that MetaU is the quintessential OER project. Generally speaking, OCWs were difficult-to-sustain R/O endeavors that relied on relatively small numbers of university employees and outside funding. As important as they were, they could never scale and were unsustainable in the ways their original funders wanted them to be. On the other hand, OER projects were generally *democratic remix projects that lived and died on the quality of the trib'ing.* Rice's Connexions was a great example early in this period. If the acronym OER is missing from my description of events, it is because the student trib'ers didn't use it. Students associated every site that tried to promote either an "OCW brand" or an "OER brand" or any other brand with R/O thinking, whether the sites were open to trib'ing or not.

The editors of the book have asked me, "if you could travel back in time to 2005 what would you say to the OER field? How could we avert the crises that occurred with the Noncommercial clause, the Libre License League, and such?"

We all tend to fight the fires that burn the hottest, and we all tend to pick the lowest hanging fruit. The Noncommercial clause had two things working against it in this regard. First, there were only "hypothetical" problems with the clause before the real crises emerged, and no one wants to spend time on hypotheticals when there is "real" work to be done. So there was little incentive to fix the problem. And second, the NC problem was a *terribly* complex issue. Few people understood this well enough. Every group of NC users felt like NC should mean something different, something specific to their space. How was CC supposed to choose to side with one group's interpretation and alienate all the others? The only possible result would have been license proliferation on an unprecedented scale, with each community writing *boutique* licenses that defined "commercial use" just so. Dozens of them. It would have completely undercut the communicative simplicity that the CC licenses were designed to create. (The only worse outcome might have been the infinite proliferation that would have occurred if the courts upheld the clause, allowing every licensor to define noncommercial differently. This

would not only have undercut the communicative simplicity that was CC's goal, it would have destroyed it completely.) So in addition to having little incentive to work on a hypothetical problem, this particular hypothetical problem appeared intractable. While it caused upheaval, strife, persecution, and anger (some of it directed toward me personally, mind you), in the long run a crisis resulting in a court ruling that invalidated the NC clause was the best possible outcome for teaching and learning worldwide.

My second answer is that at the beginning of the 21st century, college students had largely become self-absorbed and apathetic. As the old saying goes, 'a person all wrapped up in themselves makes a small package indeed.' Without the misbehavior of the publishing companies (a fuse that was just waiting to be lit anyway, thanks to the rising costs of traditional textbooks) and the crisis brought on by the LLL takedown of the Wikibooks site, the kind of passion, energy, and effort that went into the initial trib'ing that gave MetaU the critical mass to become a success would never have appeared, much less have been channeled into the site.

So if I could go back in time and give one bit of specific advice to those early open education pioneers, it would be this: embrace the trib culture sooner than later. Higher education doesn't have to remain stuck in its traditional R/O ways. In this history the only schools that successfully made the transition from the R/O to the trib culture were the WGU, the for-profits, and the open universities. But it didn't have to be that way – higher education didn't have to be the 21st century's version of the ice delivery industry. I would beg those early pioneer to open their eyes to what was happening all around them (on YouTube, on Flickr, on Wikipedia, and the other pioneers of the trib'ing movement) and to evolve with the times rather than be left behind by them.