

WGBH'S *TEACHERS' DOMAIN* RIGHTS ASSESSMENT

A REPORT TO THE WILLIAM AND FLORA HEWLETT FOUNDATION

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Overview

As part of its \$540,000 grant, WGBH has conducted research about the feasibility of converting *Teachers' Domain* to open content status. Findings to date suggest that the \$150,000 allocated will make a significant positive contribution toward this goal. WGBH is assessing the feasibility of this through a two-pronged approach – categorizing and determining licensing costs for the already-existing media assets contained in *Teachers' Domain*, and researching and identifying challenges and solutions to licensing issues.

At present, WGBH has identified all of the media assets and elements (the pieces that comprise a given asset) within the *Teachers' Domain* science collections, has researched the rights holders and licensing agreements associated with each one, and has created a classification system to identify rights status. This has made it possible to determine the action necessary to shift each asset toward open content status, and to estimate the associated costs (if any). This research has also begun to map the potential difficulties and the opportunities for progress in this area.

Media Assets and Elements in the *Teachers' Domain* Collections

The project staff has currently classified all of the resources in *Teachers' Domain's* four science collections:

- Life Science
- Earth & Space Science
- Physical Science
- Engineering

Within these topic areas are resource pages that contain media assets. A media asset could be a video clip derived from *NOVA* or an interactive activity designed for the *Teachers' Domain* site or from a television series' Web page. The assets are identified as one of six types:

- Audio
- Documents (which can include images as well as text)
- Images
- Interactives
- Lesson Plan Attachments
- Video

In addition, there are link-only assets served from other sites.

The level of the asset is determined by its most restrictive element. Consequently, it is necessary to identify each individual element and research the rights associated with it. For example, a video asset could contain ten or more shorter video elements, among which might be some licensed from third parties. This same asset could contain materials involving individuals who have signed an appearance release, and a narrator's voice and/or music that may carry specific restrictions. A Flash interactive could include licensed images or text. Even WGBH-owned material may be limited by rights defined in relevant appearance, location or materials releases.

Categories of Access

In light of The William and Flora Hewlett Foundation's open content priorities and analysis of the potential use and reuse of each asset by our target educational audience, WGBH developed the four categories of access listed below. After identifying and classifying the elements contained within each media asset, the project staff researched the releases and licenses for each element. Each element and asset was then assigned to one of the four categories, based on current licensing:

- **Level 0 – Not Available for Open Access.** The user can view the media asset only on the *Teachers' Domain* Web site.
- **Level 1 – Download Allowed.** The user can download the media asset from the *Teachers' Domain* Web site to a local computer, a local server, or a handheld media player device (like an iPod) and view it offline.
- **Level 2 – Download and Reuse Allowed.** The user can embed the entire media asset in a non-commercial educational presentation or email it to a colleague, as long as use of the asset remains non-commercial and educational, the entire asset is used and the source is acknowledged.
- **Level 3 – Download, Reuse, and Remix Allowed.** The user has the right to re-edit any of the individual elements of the media asset to create a derivative work, which derivative work may only be used for non-commercial educational purposes and must acknowledge the source.

Results

Teachers' Domain currently offers everything at Level 0 regardless of the existing rights status of individual assets. It will be necessary to change the *Teachers' Domain* user interface in order to differentiate the rights clearance categories noted above. Consequently, only through implementing this project will any of the site's assets be made accessible at the higher levels.

The table below shows the analysis of the existing rights status of the 905 media assets contained in the science collections. With changes to the *Teachers' Domain* user interface and no further rights clearance, WGBH can classify the current assets as follows:

Classification of Assets (905 total)

	Level 0 online	Level 1 download	Level 2 reuse / distribute	Level 3 remix
2 Audio	2			
26 Documents	6	8	9	3
52 Images	8	39	0	5
55 Interactives	10	16	0	29
94 Lesson Plan Att.	34	4	20	36
338 Videos	250	70	0	17
339 Link Only	339			
Totals	649	137	29	90
Total %	72%	15%	3%	10%

As these results show, only 13% of *Teachers' Domain* materials are currently at Levels 2 and 3, open content status. This leaves 87% of the assets in Level 1 or below, and 72% in Level 0. These numbers show the potential this project holds for freeing currently restricted assets.

Identifying Challenges and Solutions

Through the process of researching and categorizing the assets, WGBH has identified three significant issues that it will address as the project goes forward:

Negotiating with talent unions.

Because WGBH is signatory to a number of talent unions, most of WGBH's national programming narration uses AFTRA (American Federation of Television and Radio Artists) talent, and other elements may use SAG (Screen Actors Guild) talent. AFTRA represents performers, journalists, and artists in television and radio, and SAG represents actors in film, television, industrials, commercials, and music videos. Consequently it is necessary to negotiate rights with these organizations for use of material from the nationally broadcast programs.

Currently 211 out of the 338 video assets (62%) use AFTRA talent. AFTRA has agreed to allow *Teachers' Domain* to use program clips for free, but has not yet agreed to download rights for Levels 1 and 2. WGBH is hopeful that it will be able to secure these rights from the unions, but it may cost money and will take some time. *Teachers' Domain* has already been successful in securing enhanced rights from the WGA (Writers Guild of America), which represents the writers on our national series.

Clarifying the status of PBS link-only assets.

More than a third – 339 out of 905 – of the *Teachers' Domain* assets are classified as link-only. They have been categorized as Level 0 and the individual element rights have not been researched because they are located on outside Web sites. The overwhelming

majority of these (331 out of these 339) are on pbs.org and almost all are owned by WGBH. Currently PBS has exclusive Web rights for this material and negotiations will determine the accessibility of these assets. However, WGBH is encouraged by recent discussions that suggest PBS might consider moving to a more open system. This would allow *Teachers' Domain* to offer greater accessibility to these assets.

It should be noted though that not all of PBS's Web site assets will be freed up if PBS makes this change. While 278 of the 331 link-only assets are documents, images, and interactives that should easily shift to a higher category of open access, 53 are video clips containing many elements – and some of these elements may be owned by third parties. The rights information for each of these elements would need to be researched before estimating clearance costs. In addition, these video clips likely use AFTRA or SAG talent and will be affected by the union agreements noted above.

Determining the download format for interactives.

Because many of the interactives on *Teachers' Domain* involve more than one Flash or external file, the technical issues involved with download and use require further exploration.

By identifying and addressing these issues in *Teachers' Domain*, WGBH will smooth the path for other organizations that seek to launch similar projects. The solutions that it develops to these challenges will provide a framework for future efforts to move educational material to open content status.

Recommendations

To achieve the greatest progress in enhancing *Teachers' Domain* accessibility as open content, WGBH recommends that the next phase of the project focus on migrating as many Level 0 and Level 1 assets as possible to Level 2 (depending upon the availability of rights and their clearance costs). By focusing on migrating assets from Levels 0 and 1, the project staff will address the largest asset categories as well as the most restrictive.

Preliminary calls to rights-holders indicate that WGBH-owned interviews may be relatively easy to move to Level 2, and possibly Level 3. This requires contacting the interviewees and asking them to sign new releases that allow more open access. As the project staff is hopeful that most would be happy to do so, the cost would be in the labor of locating and contacting these interviewees.

We expect that many of the non-commercial stock houses may release elements to Level 2 for free or for a small fee. However, the commercial stock houses will likely charge to move such materials to Level 2, and may not allow an upgrade to Level 3. They may also consider either proposed change to be a completely new use and thus require an entirely new license and fee.

WGBH estimates that for \$150,000 and the staff time already allotted in the grant, *Teachers' Domain* should be able to migrate approximately 150 additional assets to open content status, making roughly 30% of *Teachers' Domain* assets accessible at Level 2 or 3. Securing the third

party clearances necessary for migrating the assets marks an important first step toward opening up greater access to *Teachers' Domain*.

If WGBH succeeds in its efforts to reach agreement with either AFTRA or PBS, the impact will be even more substantial. Agreements with both AFTRA and PBS would make roughly 75% of the total assets on *Teachers' Domain* eligible for open content, with approximately 40% eligible for Level 3.

Overall, these results provide encouraging information about the potential to transition *Teachers' Domain* toward a more open content status. With the Hewlett Foundation's help, WGBH hopes to move forward in making *Teachers' Domain* assets more accessible to teachers and students and to the educational community as a whole.