

Metadata Dictionary for Public Broadcasting

Phase 3 Intellectual Property Issues – Report from Task Team A

When considering intellectual property issues, Task Team A first thought it best to be explicit about what we felt was the value and the intended use of the PBMD:

The Public Broadcasting Metadata Dictionary (aka PB Core) is a set of protocols regarding the description of “rich media” assets, designed to facilitate the exchange of data within public broadcasting, with our editorial distributors and partners and with our diverse audiences. Rich media includes video and audio programs and clips, graphics, scripts, rundowns, etc. The PB Core stipulates not only what is important to know about our rich media, but how that information is to be expressed. Significant information, such as titles, descriptions, rights, intended audience, etc. are captured within a structured set of data elements and qualifiers. The Dictionary is based on the popular publishing metadata standard, the Dublin Core, and reflects the natural interests of our constituencies, both internal (program distributors, broadcast operations, producers, etc.) and external (viewers, listeners, K-12 educators, museums, universities, etc.)

Also pertinent to the matter of intellectual property is the manner in which the PBMD was created:

The PB Core was created as a joint effort by a cross-organizational, cross-discipline Working Group, made up of local and national public broadcasting staff, as well as subject matter experts from the academic community (see attached list of participants). The Corporation for Public Broadcasting has supported travel to project meetings, facilitation of conversations in person and via phone and web, various conference presentations, and several project websites. Participating organizations have contributed not only in-kind staff time, but in numerous instances, substantial previous metadata work. They did so with motivations similar to participants in any standards-making body; they knew that the creation and adoption of shared protocols would ultimately assist their organizations by developing the capacity of the whole industry. As opposed to other commodities, or intellectual property, standards increase in value as they become ubiquitous, rather than scarce. In the case of the PBMD, it is intended as an interoperability tool – an instrument that creates a “Rosetta Stone” for extracting, translating and importing content data across different software and systems in the production, broadcasting and web environments.

We also wanted to express our thoughts about how the Dictionary would be “complied with” as a standard, and used, ideally:

To the extent that local stations, national distributors, vendors, libraries, universities, even our broadcast and cable competitors, comply with the standard, we will all be more successful in creating, exchanging, re-formatting, and in general, deriving the greatest benefit from the rich media assets we own or manage. Obtaining “compliance” within public broadcasting institutions, and by the vendors and partners with whom they work, is of great concern. Considerable effort must be made to promote the Metadata Dictionary’s existence and value, and to encourage its adoption.

Most importantly, from our conversations within the Working Group and especially with the core contributors to the Dictionary (WGBH, PBS, NPR, Minnesota Public Broadcasting and KUED), we believe that only through the free and open distribution of the Public Broadcasting Metadata Dictionary, will future business and service models be realized.

Task Team A wondered whether the PBMD could or should have copyright protection, and we did some initial web research, interviewed CPB's Director of Business Affairs, Susan Ross, and looked at other standards. Here are the issues:

The PBMD currently exists as a "preliminary version," consisting of 58 recommended data elements/qualifiers, with assorted usage information associated with each element.

Because the Dictionary is already "fixed in a tangible medium of expression," (e.g. our website, our Dublin Core paper, etc.) it is possibly subject to copyright protection. No formal effort has been made to copyright the PBMD under the auspices of any particular organization, but none may be required. The assumption has been made throughout the project (by the participants) that if copyright was to be granted, it would be to the Corporation for Public Broadcasting. This is unclear, however, as it is actually a joint work, with multiple "authors."

Moreover, because the PBMD is based upon the already copyrighted and licensed Dublin Core Metadata Initiative intellectual property, (<http://dublincore.org/about/copyright/>) it is not clear whether we can own or license what is effectively a derivative work. Perhaps we could or do own the copyright on the unique data elements that we've contributed, the "PBCore" elements.

We believe that there are two main considerations in treating the PBMD as an intellectual property, though we are not necessarily sure of how to respond to these questions:

The principle consideration is that if possible, the PBMD be irrevocably available, without compensation, to licensees and other organizations within the public broadcasting community.

Of secondary consideration is that to the degree that other parties are able to exploit the PBMD, and in so doing, may generate substantial revenues, that public broadcasting reap some percentage of this benefit.

As mentioned above, widespread compliance with this set of metadata protocols is seen by the project participants as desirable and of benefit to public broadcasting's internal and external constituencies. We believe that there is little sense that the Dictionary will tip the scales within our industry, providing a benefit to one company or institution at the cost of another.

If we could in fact protect the PBMD in some fashion, because it had commercial value for PB, it might be through licensing. There are several options:

We could establish an entity which would either a) own the copyright and license the Dictionary, or b) just manage the licensing process, on behalf of a joint ownership group.

In the case of a) above, the current “owners” of the Dictionary (yet to be established!) either CPB, or the entities participating in the core Dictionary creation (CPB, WGBH, PBS, NPR, MPR and KUED), or perhaps all entities participating in the Working Group, would be required to assign their “ownership” to this entity, and would need to indemnify the entity from any claims resulting from passing on material which they did not own. Things are equally complicated with the b) scenario, joint ownership.

In our opinion, licensing could be the opening of Pandora’s Box; the various entities may see a potential commercial value in their ownership of the Dictionary which would contradict the “all boats rise with the tide” philosophy that has been the underpinning of this highly cooperative project thus far.

One option in a licensing scenario is to offer an Open Content License (see <http://www.opencontent.org/opl.shtml>), which is extremely flexible, and requires not much more than attribution. It is interesting to note that the BBC has chosen to license the SMEF Data Model, but has moved away from its original plan of charging a fee; the scheme may now be licensed without charge. (See http://www.bbc.co.uk/guidelines/smf/smf_dm_licence.shtml). It is also interesting to note that the license language for the BBC specifically states that obtaining the license in itself in no way qualifies the licensee to claim they are “SMEF compliant.”

We then wondered about “public domain” distribution:

If we are in fact, or could be the copyright owners for all or part of the PBMD, another option that MAY be available is to place the PBMD in the public domain by “deliberate act.” In that case, participants in the PBMDWG or specifically the core Dictionary Team, would have to volunteer to “disclaim any proprietary interest” in the work. We would simply affix a notice to the Dictionary stating that it is in the public domain. Anyone would be free to use it in any way, including commercialization, without asking permission. No one would be able to obtain a copyright or patent protection for any of the material.

These matters deserve more attention during the next phase of this project, especially the Dublin Core question. It’s quite likely that we can’t or shouldn’t view the PBMD as an intellectual property, but we should make that determination officially and publicly.

If we do end up “publishing” via our own public website, certainly much of the content, including our User’s Guide, will have to be copywritten.