

8 July 2021

To: Portfolio Committee on Trade & Industry Parliament of South Africa
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We write today on behalf of Wikimedia South Africa, the volunteer driven non-profit chapter for South African Wikipedia (the free online encyclopedia) editors and free knowledge contributors. We are writing to express our support for the Copyright Amendment bill as it codifies both freedom of panorama (clause 14) and fair use (clause 13). With regards to the sections that are currently open for commentary we would like to voice our support for clause 13; sections 12A-D of the Copyright Amendment Bill [B13B-2017].

One of the most important inclusions for free knowledge in this bill is the codifying of fair use in South Africa. Fair use has been adopted by countries around the world to empower their creatives, educators, journalists, and innovators. It also allows for the use of copyrighted work for certain specific social beneficial purposes like criticism, reporting, and education. All whilst protecting the rights of copyright holders to derive an income from their work. Indeed often the rights of copyright holders are enhanced by reuse of their works through fair use as it can also act as a type of free advertising for them.

Fair use is extensively used in other countries; most notably the United States where it has expanded the rights of creators of novel works to a) create new works, b) engage in social commentary, c) expand access to education, and d) develop new employment creating industries and technologies. For many years now citizens of countries that enjoy the provisions of fair use, such as the United States or Singapore, can freely use works in both prosocial and economically expanding ways. Such as investigative reporters using primary sources to tell their stories; artists building on top of the work of prior generations to create new creative works; new technologies and industries being created through the opportunities offered by building on existing works in a way that doesn't negatively impact the original author's rights.

Paradoxically a lack of fair use in our laws only serves to further a status quo where the rest of the world can freely use, reuse, build off of and benefit from the work of South African creators, but South Africans cannot do the same. In short, without it South African creatives are exposed to all the limitations of restrictive copyrights without being able to enjoy any of the rights people the rest of the world enjoy.

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On Wikipedia, fair use plays an important role in contextualizing facts, and illuminating knowledge. At Wikimedia South Africa, we want South Africans to be able to share their knowledge with the world, and fair use is an important part of that.

At Wikimedia South Africa, we are proud to share our knowledge of South Africa and its people with the world. The Copyright Amendment Bill will be a big step toward enabling Wikimedia South Africa and all South Africans to fully access, share, and participate in knowledge online. Wikimedia South Africa fully supports the passage of the Copyright Amendment Bill in its current form.

Yours sincerely,

Douglas Ian Scott
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Wikimedia South Africa
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&

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