

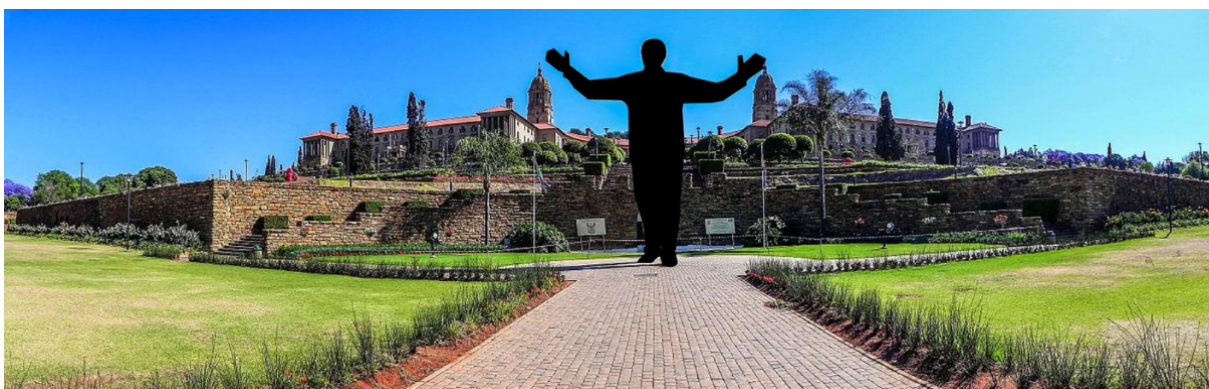
11 January 2023

Dear Ms Noziphiwo Dinizulu and Ms Mahdiyah Koff,

I write today on behalf of Wikimedia South Africa, the volunteer driven non-profit membership organisation for South African Wikipedia, the free online encyclopaedia, editors and free knowledge contributors. The unpaid volunteer activities of our members in providing free knowledge has given us a strong understanding of the important role that access to knowledge plays in the lives of South Africans from all walks of life. That is why we have spent the past 8 years advocating for amendments to South Africa's copyright act, amendments that will allow all South Africans to fully participate and access free knowledge. These amendments are now part of the Copyright Amendment Bill, and I ask this bill be gazetted into law.

The two aspects of the Copyright Amendment Bill that we are most strongly supportive of are a) the introduction of a Freedom of Panorama clause and b) the adoption of the Fair Use doctrine into South African copyright law.

The adoption of Freedom of Panorama, as outlined in section 14 (ii) which amends section 15 of the original act, will allow South Africans to freely celebrate our recent history. It will allow the people to share photographs of public monuments and works of art over the internet to celebrate our struggle against apartheid. So images such as the one below (of the Nelson Mandela statue at the Union Buildings in Pretoria) will no longer need to be censored before they can confidently be shared over the internet without fear of violating our nation's copyright law. The amendment will also allow Wikipedia to feature these images on the free encyclopaedia along with other educational public benefit uses of similar images such as the facades of notable buildings or works of public art.



In the photograph above the relatively recently erected statue to Nelson Mandela at the Union Buildings in Pretoria has to be censored out of the images as the copyright status of the statue is unknown to the general public. The Union Buildings though can be shown only because the copyright to their likeness has expired due to the building's age.

(Late Nelson Mandela Statue, Pretoria South Africa Redux.png by Paul Saad, censored by Discott, Wikimedia Commons, CC-BY-SA 4.0)

Under the current act the public is effectively at risk if they share photographs or multimedia of recently built monuments celebrating the struggle against apartheid. However the public is free to

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share without any copyright related hindrance such images or multimedia of monuments built during colonial times. In other words, people can not freely celebrate the struggle against apartheid through images of public monuments but they could do so, if they so wished, of colonial era monuments. The Copyright Amendment Bill (CAB) fixes this perverse situation.

Wikimedia South Africa supports the codifying of Fair Use in South Africa, as outlined in section 12 of the CAB. Fair use, and its less expansive counterpart, fair dealing, have been adopted by countries around the world to empower their creators, educators, journalists, and innovators. One of the largest test markets for fair use is the United States, where citizens have been benefiting from these laws for years. Some examples of fair use in the United States include: critics using stills or clips from content they are criticising; investigative reporters telling their stories using primary sources; and artists building their work on foundations laid by prior generations.

A lack of fair use in our laws only serves to further a status quo where the rest of the world can freely use and benefit from the work of South African creators, but South Africans cannot do the same. Fair use, at its heart, protects publicly beneficial uses of copyrighted works. The introduction of fair use in this bill will simply allow South Africans to be better protected when they choose to use both domestic and foreign copyrighted works in their art, criticism, reporting, and research the way others have been doing across the globe for years. On Wikipedia, fair use plays an important role in contextualising 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. This is why we respectfully ask that you sign this bill into law.

Regards,

Douglas Ian Scott
Advocacy lead
Wikimedia South Africa