

**OPINION LETTER TO WIKIMEDIA  
FOUNDATION, INC.**

DRAFT

**DANIEL J. FUSCO & COMPANY, LLC**  
CERTIFIED PUBLIC ACCOUNTANTS  
AND CONSULTANTS

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Ms. Sue Gardner, Executive Director  
Members of the Board of Trustees  
Wikimedia Foundation, Inc.  
149 New Montgomery Street, 3<sup>rd</sup> Floor  
San Francisco, CA 94105

Dear Ms. Gardner and Trustees:

In accordance with the terms of our engagement, Daniel J. Fusco & Company, LLC has conducted a study of the revenue-sharing framework between Wikimedia Foundation, Inc. and its independent affiliates as implemented at or near the date of this report.

Based on our study, we are pleased to present our recommendations in the following report.

Respectfully yours,

Daniel J. Fusco & Company, LLC  
July 27, 2011

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## **I. ENGAGEMENT OBJECTIVES**

Daniel J. Fusco & Company, LLC (“DJF&Co.”) was engaged jointly by Sue Gardner, Executive Director of Wikimedia Foundation, Inc. and the Board of Trustees of Wikimedia Foundation, Inc. to provide advisory services in connection with the formulation of a revised revenue-sharing framework between Wikimedia Foundation, Inc. (“Wikimedia” or “the Foundation”) and its independent affiliates (“Local Chapters”).

As part of our engagement we conducted a study of the existing revenue-sharing framework with the objective of attaining familiarity with the current framework. That process included such procedures as requisition and review of relevant documents and consultations with relevant personnel of Wikimedia Foundation, Inc. After performing said procedures, we were in a position to identify deficiencies and risks inherent in the current framework.

Subsequent to our initial study, it was our task to provide recommendations for consideration in the development of a revised framework to address identified deficiencies and risks. This report serves to document our work process, identify deficiencies and risks in the current framework, identifies possible consequences of said deficiencies and risks, and offer recommendations as to a revised framework and their impact in the context of abating risk.

## **II. ENGAGEMENT SCOPE AND LIMITATIONS**

The focus of our engagement was confined to matters pertaining to the revenue-sharing framework between the Foundation and the Local Chapters as discussed above. Accordingly, we make the following disclosures :

- Our engagement was not an examination and did not include any attest services in accordance with generally accepted accounting principles, the objective of which is an expression of an opinion regarding the fair presentation of financial statements or other financial information.
- Our engagement was not intended to be a fraud examination and did not include any procedures, the objective of which would be to discover errors, fraud, or other illegal acts.
- Our engagement and report is not a legal opinion or memorandum and nothing in our report should be interpreted as legal advice. We are not attorneys and cannot make recommendations concerning matters of law.

Additionally, we do not provide assurance that, if implemented, our recommendations will prevent errors, fraud or other illegal acts from occurring. Events and circumstances frequently do not occur as expected, and we do not assume liability for any future errors, fraud, or other illegal acts.

DJF&Co. and its managing member have no conflicts of interest that we believe would impede our independence and objectivity in the performance of this engagement. The recommendations contained herein represent are our own unbiased opinions. Our fee for performing this

engagement is not contingent upon any findings or recommendations resulting from the engagement.

This engagement was performed in accordance with Statements on Standards for Consulting Services No. 1 of the American Institute of Certified Public Accountants.

### **III. SUMMARY OF SALIENT FACTUAL DATA**

#### **A. PRIMARY CHARITABLE FUNCTION**

Wikipedia ([www.wikipedia.org](http://www.wikipedia.org)) is the world's largest and most popular encyclopedia. It's online, free to use for any purpose, and free of advertising. Wikipedia contains more than 18 million volunteer-authored articles in over 282 languages, and is visited by more than 413 million people every month, making it the fifth most-popular site in the world.<sup>1</sup>

The Wikimedia Foundation, Inc. is the non-profit organization that operates Wikipedia and other free knowledge projects. It is a 501(c)(3) tax-exempt non-profit organization with offices in San Francisco, California, USA.<sup>2</sup> Wikimedia is an audited charity funded primarily through donations and grants.<sup>3</sup>

#### **B. WIKIMEDIA FOUNDATION INTELLECTUAL PROPERTY**

Wikimedia has developed and seeks to protect a number of intellectual properties including trademarks and domain names. The most prominent among these is the Wikipedia brand bundle. We are not aware of the existence of a formal valuation of the Wikipedia brand bundle, however, we expect its monetary value, as well as its value to the Foundation in the context of fulfilling its charitable purpose, to be considerable. According to a Pew Internet Study published in 2007, 36% of adult American internet users consulted Wikipedia<sup>4</sup>

#### **C. ROLE OF LOCAL CHAPTERS**

The Foundation describes the Local Chapters as follows:

“self-dependent organizations that share the goals of the Wikimedia Foundation and support them within a specified geographical region. They support the Wikimedia Foundation, the Wikimedia community and the Wikimedia projects in different ways - by collecting donations, organizing local events and projects and spreading the word of Wikimedia and Free Culture. They also provide the volunteer community and potential partners and supporters with a point of contact capable of fulfilling specific local needs.”<sup>5</sup>

We understand that there are 31 chapters in existence as of the date of this report. These chapters are independent entities from the foundation, having their own governance structure and version of a board of trustees. We also understand that substantially all have signed a chapter agreement with Wikimedia that confirms their right to use the Wikimedia trademarks and the

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<sup>1</sup> [http://wikimediafoundation.org/wiki/About\\_Wikimedia](http://wikimediafoundation.org/wiki/About_Wikimedia)

<sup>2</sup> [http://wikimediafoundation.org/wiki/About\\_Wikimedia](http://wikimediafoundation.org/wiki/About_Wikimedia)

<sup>3</sup> Notes, Wikimedia Foundation, Inc. Financial Statements, June 30, 2010

<sup>4</sup> Pew Internet & American Life Project Survey, Feb-Mar 2007

<sup>5</sup> <http://wikimediafoundation.org/wiki/Chapters>

conditions of their renewal of their chapter status. A current version of that agreement is set forth in Exhibit 1. In addition, it is our understanding that a growing number of local chapters have signed a version of the chapter fundraising agreement. That agreement specifies how the local chapter and the Foundation will share the task of developing and translating banners and other messages during a fundraiser, dividing traffic to donation pages, and interacting with donors.<sup>6</sup> The current version of the 2011-2012 Chapter Fundraising Agreement, covering chapter fundraising from July 1, 2011 to June 30, 2012 is set forth in Exhibit 2.

#### **D. FUNDRAISING ACTIVITIES**

The foundation generates the substantial majority of its contribution revenue during annual online fundraising drives (“WMF Fundraiser”) lasting relatively short periods of time. During the 2010 WMF Fundraiser, over \$21.5 million was generated over a three-month period ending January 31, 2011.<sup>7</sup> Our understanding is that approximately \$6.5 million of that contribution revenue was collected by payment-accepting websites of twelve local chapters, to which donors were redirected based on IP address geographic lookup subsequent to clicking on a fundraising banner.<sup>8</sup> This is done in accordance with the particular chapter fundraising agreement, for the purpose of solving logistical problems, for example, enabling donors to use local payment methods. A simplified description of the subsequent mechanism is that the Local Chapter retains contribution revenue up to an agreed-upon chapter “fundraising target” plus fundraising expenses, and is required to remit contributions in excess to the Foundation. Effectively, Local Chapters become donors to the Foundation.

#### **IV. DEFICIENCIES AND RISKS**

It is our opinion that some provisions of the chapter fundraising agreement, as set forth in Exhibit 2, present some significant risks to the Foundation. In particular, the provisions delegating responsibility to the Local Chapters for receiving and depositing online donations into dedicated chapter bank accounts, in our view, present a significant asset security risk to the Foundation.

We believe that a significant irregularity, involving donor contributions in Local Chapter custody, whether involving fraud or negligence, could have far-reaching consequences for the Foundation and its charitable mission. Possible consequences include:

1. *Monetary Loss* – monetary loss of donor contributions, recourse for which may be extremely limited.
2. *Reputational damage* – In the event of an irregularity that garners press coverage, the reputation of the Foundation, its fiduciary stewardship, and the value of the Foundation’s intellectual property could be adversely impacted. In addition, the Foundation’s human capital base, i.e. its reader/author/editor base could be de-energized. This type of damage may very well prove difficult to reverse and result in severe disruption to the Foundation’s charitable mission.

<sup>6</sup> [http://meta.wikimedia.org/wiki/Chapter\\_Agreements#Table\\_of\\_chapters\\_and\\_their\\_agreement\\_status](http://meta.wikimedia.org/wiki/Chapter_Agreements#Table_of_chapters_and_their_agreement_status)

<sup>7</sup> Page 13, Wikimedia Foundation 2011-12 Annual Plan

<sup>8</sup> [http://meta.wikimedia.org/wiki/Fundraising\\_2010/Fundraiser\\_report](http://meta.wikimedia.org/wiki/Fundraising_2010/Fundraiser_report)

Additionally, it is our opinion that it is a breach of fiduciary duty to permit contribution funds, donated ostensibly to the Foundation and by way of Foundation web servers, to be deposited into third-party bank accounts over which the Foundation has no authority.

While provisions of the chapter fundraising agreement require Local Chapters to adhere to financial reporting guidelines and legal/regulatory compliance in their respective countries, we believe these provisions cannot adequately mitigate this risk. The efficacy of financial reporting guidelines and legal/regulatory requirements will vary for each local chapter's host country, and in any event the Foundation will invariably have little control over the a local chapter's internal control environment. As there are currently 31 Local Chapters, located internationally, and growing in number, we believe the statistical probability of a Local Chapter experiencing an irregularity involving donor contributions is not immaterial, and will likely only increase.

## **V. RECOMMENDATIONS**

From a fiduciary responsibility perspective, it is our opinion that it would be prudent for the Foundation to revise its revenue-sharing framework and procedures and the provisions of the chapter fundraising agreement on a prospective basis. We recommend the following:

1. Implement procedures whereby donor contributions collected be deposited exclusively in bank accounts for which the Foundation has sole signature authority.
2. Modify the revenue-sharing provisions to a mechanism whereby Local Chapter operating budgets are funded by grants from the Foundation.

Respectfully Submitted,

Daniel J. Fusco & Company, LLC  
July 27, 2011

**VI. EXHIBIT 1**

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**VII. EXHIBIT 2**

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