



HMRC Charities Unit
St Johns House
Merton Road
Liverpool, L75 1BB

23 June 2009

Dear [REDACTED],

Your Reference: [REDACTED]

Re: Wiki UK Limited (operating name Wikimedia UK)

I refer to your letter dated 17 April 2009 regarding our charitable status and to our telephone call on 1 May, during which we discussed the legal situation regarding the "advancement of education" and the ways we can take our case forward.

I also refer to your letter dated 8 June in which you asked us to cease collecting Gift Aid Declarations in our favour. Thank you for drawing these regulations to our attention. We have updated our Donation and Membership forms removing reference to these Declarations as requested and clarified our webpages where appropriate.

Regarding our charitable status, having read and considered your earlier correspondence and obtained legal advice we continue to believe that our activities and our objects are charitable under English law and constitute the charitable advancement of education. The Wikimedia Foundation, whose projects we support, is recognised as a charity under the law of Florida and several of our sister "chapters" - including Wikimedia Hong Kong, Wikimedia Germany, Wikimedia Sweden and Wikimedia CH (Switzerland) - are also recognised in their jurisdictions as charities. Whilst the specific legal framework for charities in these countries is, of course, different, this does show that the activities we undertake are widely considered charitable.

We do, however, accept that we are not aware of any existing English charities whose activities are similar to ours. We understand your reluctance to grant tax benefits in the absence of these examples. Therefore, we would like to ask you to refer our case to the Charity Commission, using the mechanism we discussed on the phone, asking their view on whether our activities are charitable or not.

We have set out in our previous letters an outline of our activities and the reasons why we think we are charitable. The charitable object of "advancement of education" is already accepted for libraries, museums and art galleries. We consider our activities to be directly analogous to those undertaken by these organisations. Like libraries, we make educational material available to the public; like art galleries, we make works of art and works of historical interest available for the public to see; and like museums, the projects we support are not simply an indiscriminate collection of facts: they accept only articles that are considered notable, newsworthy or educational.¹

1 Wikipedia, for instance, has the following content policy:

"Wikipedia is not an indiscriminate collection of information; merely being true or useful does not automatically make something suitable for inclusion in an encyclopedia" - <http://en.wikipedia.org/wiki/WP:NOT>

We enclose with this communication a set of examples showing how the resources that we support are used in structured learning. We also enclose an analysis of the case law on the “Advancement of Education” supporting our case. Please let us know if you feel there is anything else we need to demonstrate to support our application.

Thank you once again for the assistance you have given. We look forward to hearing from you in due course.

Yours sincerely,

Andrew Turvey

Company Secretary

Appendix 1 - Use of Wikimedia resources in structured learning

When Wikipedia was founded, the aim was explicitly focused not on creating knowledge in isolation, but in making it available to everyone throughout the world as an educational resource. The mission statement was:

“Imagine a world where the entire sum of human knowledge was available to all”

Wikipedia is used around the world as a valuable teaching tool, and has been shown by Nature to be as reliable as Encyclopaedia Britannica¹. These are some examples of the range of educational activities that use our projects:

Use in college and university courses

Wikipedia is used in many school and university courses to teach everything from technical communication and creative writing to foreign language translation and the critical examination of sources. Wikipedia article writing is also often set as an assignment to enable active learning of subject material. Some of these courses set the creation or expansion of a Wikipedia article as an annual project and others have used the translation of Wikipedia articles to further foreign language learning. Over a hundred current and past examples are listed on the Wikipedia website² which we have attached.

Use as a resource in schools

The “Wikipedia for Schools” project is run by the English children's charity “SOS Children's Villages”. They run over 450 extended residential homes and schools for orphaned children, predominantly in the developing world. *Wikipedia for Schools* selects content from Wikipedia, filters it to be child-friendly, and puts it onto DVDs and as an online download. These are then sent to schools throughout the world to be used by primary and secondary school teachers in their classes³.

A similar project is also run by Commonwealth of Nation's WikiEducator scheme. This project promotes the development of free educational resources for e-learning and re-uses content from both Wikipedia and Wikibooks⁴.

Wikipedia as a research tool

Wikipedia is regularly used as a research tool by academics when they want to get a basic understanding of a new subject. A recent survey showed that 88% of scientists using the Public Library of Science also used Wikipedia as part of their professional work⁵. Almost half of American doctors use Wikipedia as a research tool medical information⁶. Over a hundred examples of Wikipedia used in academic citations are listed on our website⁷.

Please let us know if you would like us to provide further examples of the use of these projects in education.

1 Internet encyclopaedias go head to head, *Nature*, **438** 900-901 (15 December 2005), available online at <http://www.nature.com/nature/journal/v438/n7070/full/438900a.html>

2 See <http://en.wikipedia.org/wiki/WP:SUP> . More details are given at http://en.wikinews.org/wiki/Wikinews_interviews_team_behind_the_2,000th_featured_Wikipedia_article and <http://www.insidehighered.com/views/2009/03/12/cummings>

3 See <http://schools-wikipedia.org> for more information

4 See <http://www.wikieducator.org> for more information

5 See <http://blog.wikimedia.org/2009/04/27/scholarly-community-gives-feedback-regarding-wikipedia/>

6 See <http://www.mmm-online.com/Docs-look-to-Wikipedia-for-condition-info-Manhattan-Research/article/131038/>

7 <http://en.wikipedia.org/wiki/WP:ACSO>

Appendix 2 - Legal analysis

The “Advancement of Education” as applied to the Wikimedia Foundation projects

The charitable head of “advancement of education” can cover “almost any form of worthwhile instruction or cultural advancement”: Hanbury and Martin, *Modern Equity*, 16th ed, p404. It will be noted that the following activities have been held to be charitable under the head of “advancement of education”:

- The production of a dictionary: *Re Stanford* [1924] 1 Ch 73 (see also [1971] Ch 626, 630);
- The publication of Law Reports: *Incorporated Council of Law Reporting for England and Wales v AG* [1972] Ch 73, Court of Appeal;
- The establishment and maintenance of museums: *British Museum Trustees v White* (1826) 2 Sm & St 595; *Re Pinion* [1965] Ch 85

The Charity Commission has also recognised libraries and art galleries as charitable.¹

Re Shaw

In the case of *Re Shaw's WT* [1957] 1 WLR 729, Harman J's held that “... if the object be merely the increase of knowledge, that is not in itself a charitable object unless it be combined with teaching or education”. We note, first of all, that the requirement of “teaching or education” is assumed to be an additional requirement **only** where the primary object is the conduct of original research (“the mere increase of knowledge”) rather than the dissemination of existing knowledge and research, as in the case of *Re Shaw*. The main project that we support, Wikipedia, is exclusively concerned with the public dissemination of existing knowledge, rather than with the conduct of original research.²

However, and in any event, in *Re Hopkins* [1965] Ch 669, Wilberforce J held:

“I think, therefore, that the word "education" as used by Harman J. In *re Shaw, decd.; Public Trustee v. Day* must be used in a wide sense, certainly extending beyond teaching, and that the requirement is that, in order to be charitable, research must either be of educational value to the researcher or must be so directed as to lead to something which will pass into the store of educational material, or so as to improve the sum of communicable knowledge in an area which education may cover...”

It is therefore not correct as a matter of law to say that only direct “teaching” or instruction will be covered under the head of education. This was disapproved in *Re Hopkins*. Instead, in order to be charitable, the research must lead to something that will pass into the store of educational material or improve the sum of communicable knowledge. The decision in *Re Shaw* that a (highly unusual) trust to 'research the advantages' of a phonetic alphabet was not charitable, was seen in *Re Hopkins* as having been made on the grounds that such an object would not lead to increase “the sum of communicable knowledge”, presumably because there would not be any real public or scholarly interest in the outcome of such a project.

For those reasons, the decision in *Re Shaw*, which concerned a highly unusual trust, has very little relevance to our company's objects and hence to its application for charitable status. Indeed, nothing in that decision serves to indicate that the publication of a widely disseminated online encyclopaedia would not constitute a charitable “advancement of education”.

1 The Advancement of Education for the Public Benefit - see <http://www.charity-commission.gov.uk/Library/publicbenefit/pdfs/pbeductext.pdf>

2 The Wikipedia policy “No Original Research” states:

“Wikipedia does not publish original thought: all material in Wikipedia must be attributable to a reliable, published source” - <http://en.wikipedia.org/wiki/WP:NOR>

Appendix 2 - Legal analysis (continued)

Incorporated Council of Law Reporting for England and Wales

The decision in *Incorporated Council of Law Reporting for England and Wales v AG* [1972] Ch 73 would be applied in this situation. In that case, the Court of Appeal held that the publication of the Law Reports series was within the charitable head of “advancement of education”. By analogy, an online facility for the collection and dissemination of knowledge and other “educational, cultural and historic content” would be taken to fall within this head of charity.

In the *Incorporated Council of Law Reporting* case, Sachs LJ said:

“It would be odd indeed and contrary to the trend of judicial decisions if the institution and maintenance of a library for the study of a learned subject or of something rightly called a science did not at least *prima facie* fall within the phrase 'advancement of education'.”

The justification for treating the publication of a free, online encyclopaedia, as within the rubric of “advancement of education” is even stronger, because the particular issue in the *Incorporated Council* case (of whether a resource used by professionals for the advancement of their careers could be said to be within the realm of “advancement of education”) does not apply to freely available resources aimed at the general populace, such as the Wikipedia website and the other projects of the Wikimedia Foundation.

You will note, finally, that in *Re Stanford* [1924] 1 Ch 73, it was assumed by all parties that a gift for the completion and publication of a dictionary was charitable. This case was cited at first instance in the *Incorporated Council of Law Reporting* case: [1971] Ch 626 at 630. This is a very close analogy to the objects of our company.