



Wikimedia Deutschland e. V., Tempelhofer Ufer 23-24, 10963 Berlin

Bundesministerium der Justiz und für Verbraucherschutz, per E-Mail

## Stellungnahme

**von Wikimedia Deutschland, Gesellschaft zur Förderung Freien Wissens e. V. zur Öffentliche Konsultation zu Fragen der EU-Kommission zu Wirksamkeit und Auswirkungen der DSM-Richtlinie in den Mitgliedstaaten vom 19. März 2026**

Berlin, den 19.03.2024

Wikimedia Deutschland e. V. (WMDE) ist ein **gemeinnütziger Verein** und eine von rund 80 internationalen Vertretungen der weltweiten Wikimedia-Bewegung, die sich für Projekte zur Erstellung, Sammlung und **Verbreitung freier Inhalte** einsetzen. Wikipedia, die freie Online-Enzyklopädie, ist das bekannteste darunter. WMDE setzt sich für **Chancengleichheit beim Zugang zu Wissen und Bildung** ein und unterstützt die vielen Tausend Ehrenamtlichen, die unter anderem in Wikidata und der Wikipedia tagtäglich ihr Wissen mit allen Menschen teilen. **Mit über 110.000 Mitgliedern** ist WMDE die größte zivilgesellschaftliche Interessenvertretung für **freien Zugang zu Wissen** in Deutschland. Wir unterstützen die ehrenamtlich Engagierten der Wikipedia bei ihrem Engagement für Freies Wissen und setzen uns für das Prinzip "Öffentliches Geld, öffentliches Gut" und digitale Freiheitsrechte ein. Wir danken für die Einbeziehung im Rahmen der Öffentlichen Konsultation und nehmen zur Frage der Gemeinfreien Werke der bildenden Kunst wie folgt Stellung.

**Wikimedia Deutschland –  
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## **II.6. Article 14 - Works of visual art in the public domain**

### **25. To what extent has your national implementation of Article 14 facilitated the use of non-original reproductions of works of visual art which are in the public domain?**

The German implementation of Article 14, primarily through § 68 UrhG, has to a large extent facilitated the use of non-original reproductions of works of visual art in the public domain. By clarifying that reproductions of two-dimensional public domain works do not give rise to new copyright protection, the reform addressed a long-standing legal uncertainty and removed a significant barrier to the reuse of cultural heritage, particularly in digital contexts.

In practice, this has enabled broader access to and reuse of digitised cultural heritage, including for free knowledge projects such as Wikipedia. Prior to the reform, the reuse of reproductions of public domain artworks was often restricted or subject to licensing fees, creating substantial obstacles for research, education, and dissemination. The new legal framework has therefore solved an important structural problem and contributed to a noticeable increase in both the availability and the quality of reusable images.

The reform has also had a positive impact on institutional practices. Some cultural heritage institutions have adapted their policies by providing more permissive access to digitised collections, including the adoption of open licences or the removal of restrictive terms. In certain cases, high-quality institutional images have increasingly replaced user-generated photographs in open knowledge platforms, illustrating the practical benefits of the reform.

However, important limitations remain. In particular, contractual or quasi-contractual restrictions, such as terms and conditions, house rules (e.g. restrictions on photography), or download barriers, can still be used to limit the practical usability of reproductions of public domain works. This creates a risk of de facto re-monopolisation of public domain material, which runs counter to the objective of Article 14. Concerns about such practices have been raised by civil society organisations, which stress the need to ensure that the public domain is not undermined through contractual means.

In addition, implementation in practice remains uneven. Some institutions continue to apply restrictive or legally inaccurate licensing frameworks (e.g. asserting rights over public domain reproductions), while others have been slower to adapt their policies. There are also practical challenges in ensuring that updated licensing conditions are consistently reflected in downstream reuse, including on collaborative platforms. Finally, certain edge cases and legacy arrangements—for example where digitisation has been carried out in cooperation with third parties—may still involve additional restrictions, further complicating the legal and practical landscape.

Overall, while the German implementation of Article 14 has significantly improved the legal conditions for the reuse of reproductions of public domain works and has had a clearly positive effect in practice, its full potential is not yet realised due to remaining contractual, institutional, and practical barriers.