



BILD-KUNST

2016 ANNUAL REPORT

I. The 2016 financial year at a glance

Despite a sharp drop in net earnings compared with 2015, the 2016 year saw another disproportionate rise in income. This stems largely from a back payment for PCs from the equipment industry covering the period 2001 to 2007.

The new Collecting Societies Act (Verwertungsgesellschaftengesetz, VGG) necessitated bringing work on the annual financial statements forward. This meant that some income relating to exploitation 2016 could no longer be posted to the 2016 financial year. It will be taken into account in the following 2017 financial year.

1. Total income

EUR 70,150k in total income was realised, EUR 18,279k less than in the 2015 financial year. Both financial years are significantly impacted by back payments received for exploitation in the years 2001 – 2007. In the 2015 financial year we received EUR 31,434k for printers, in the 2016 financial year EUR 28,505k for PCs, i. e. a total of EUR 2,929k less by comparison. The key reason for the drop was the absence of revenue from the ZPÜ for the hardware levy and revenue for intranet use in universities and colleges pursuant to section 52a UrhG, as there was no valid distribution ratio between the societies. This income will accrue in the 2017 financial year. The General Meeting on 17.09.2016 decided to demand repayment of the distributions paid to publishers and picture agencies in the years from 2012. The repayment amount of EUR 26,402k had a positive effect in the 2016 financial year. The new provisions of the VGG made it essential to bring work on the annual financial statements forward. This resulted in EUR 2,715k being deferred to the 2017 financial year. Otherwise the financial year proceeded largely as normal.

2. Distributions

In addition to the annual distributions of the proceeds of the previous year, 2016 also saw the proceeds received in 2016 from the 2015 hardware levy being distributed. Provisions for film royalties from cable retransmission and private copying were also released. A total of EUR 51,142k was distributed to the rightholders, EUR 1,913k more than the previous year. Another EUR 3,521k was made available to the Stiftung Sozialwerk and Stiftung Kulturwerk in order to increase the foundation capital of PG III.

3. Key events

The new VGG came into force on 31 May 2016. As a consequence, a total of three general meetings had to be held in 2016 in order to amend the Articles of Association, the distribution plan and other statutes of Bild-Kunst. The new regulations now have to be implemented in practice. Alongside many different duties of transparency and disclosure, the statutory requirement to offer electronic participation rights for members must also be emphasised. For the 2017 General Meeting an opportunity will therefore be provided to vote electronically in advance on the resolutions brought at the General Meeting.

On 21 April 2016 the FCJ ruled in the Vogel ./. VG Wort case that a flat-rate participation of publishers in the income from statutory remuneration claims of authors is unlawful. In accordance with a resolution of the General Meeting, repayment of the unlawfully paid remunerations in the non-time-barred period from 2012 was demanded at the end of the 2016 financial year. The claims, value adjusted at EUR 25,875k, are shown as accruals to the provisions. It is proposed to distribute the repayments in 2017 in the form of a one-off distribution.

The new Executive Board and Administrative Council were elected at the Annual General Meeting on 2 July 2016.

Werner Schaub was re-elected for PG I, as was Frauke Ancker for PG II. With Rolf Silber no longer putting himself forward as a candidate for honorary board member for PG III, Jobst Christian Oetzmann was elected to this post.

Frank Michael Zeidler was confirmed as chairman of PG I and Lutz Fischmann in the same role for PG II, while Peter Carpentier was elected for PG III. The composition of the likewise newly elected Administrative Council can be found on the Bild-Kunst website.

A new distribution plan meeting the requirements of the VGG was adopted at the General Meeting on 17 December 2016. The following summaries are based on the distribution plan that still applied in 2016.

4. Administrative costs

In the 2016 financial year administrative costs totalled EUR 4,399k including amortisations and write-downs, thus EUR 290k above the EUR 4,110k in costs for the previous year.

The increase is essentially caused by the additional expenses of EUR 94k that arose for holding two additional general meet-

Note: The audited report was not yet available at the time of going to press. Slight deviations are therefore possible. All figures have been rounded to thousands of euros in accordance with standard commercial practice. This may result in slight differences in presentation.

ings. Personnel expenses also edged up by EUR 93k, while amortisations and write-downs rose EUR 47k due to the essential IT procurement in the previous year.

There was a slight fall of EUR 55k in the management fee received from the ZWF (Central Organisation for the Reproduction of Television Broadcasts). This fee is posted against costs. Income from media control of the reproduction rights also declined, by EUR 28k.

Where possible, the income received is invested in interest-bearing accounts until distributed. This is proving to be increasingly difficult due to trends on the capital market. All banks with whom Bild-Kunst has accounts charge negative interest rates, fees for credit balances or other deposit-related costs. While the net interest is still positive overall, it was only EUR 152k compared with EUR 320k the year before.

The average administrative cost ratio climbed from 4.65 per cent in the previous year to 6.27 per cent, essentially attributable to the much lower income.

In light of the new regulations of the Collecting Societies Act (VGG), the administrative costs were for the first time itemised by the administration tasks that caused them.

5. Members and committees

At the end of 2016 the total number of members stood at 59,156. This means that Bild-Kunst has 1,401 more members than it did on the same day the previous year.

The figure comprises 13,752 members of professional group I (visual arts), 34,215 of professional group II (photography and design) and 11,189 of professional group III (film).

The Annual General Meeting was held in Bonn on 2 July 2016. It was necessitated by the re-election of all committees, which is held every three years.

A first extraordinary general meeting was held on 17 September 2016, likewise in Bonn. It focused on the effects of the FCJ ruling in the Vogel ./. VG Wort case and the action and consequences to be taken as a result.

A second extraordinary general meeting was again held in Bonn on 17 December 2016. It dealt with the amendment of the Articles of Association and distribution plan to meet VGG requirements.

Development of total income

Net income in 2016 compared with previous years (in thousands of euros - EUR k):

Revenue stream	2012	%	2013	%	2014	%	2015	%	2016	%
Resale rights	6,194	10.6	6,682	10.9	7,206	9.2	5,672	6.4	6,963	9.9
Reproduction & online rights (reproduction)*	3,823	6.5	3,754	6.1	4,181	5.3	3,998	4.5	3,631	5.5
Broadcasting rights	700	1.2	710	1.2	710	0.9	668	0.8	668	1.0
Library royalties	901	1.5	1,181	1.5	95	0.1	2,079	2.4	1,099	1.6
Reprography hardware and storage media levy	14,795	25.2	12,663	20.6	18,137	23.1	50,847	57.5	45,344	64.6
Private copying, image	5,187	8.8	6,560	10.7	13,820	17.6	3,001	3.4	0	0.0
Reprography operator levy	780	1.3	759	1.2	974	1.2	783	0.9	1,114	1.6
Reprography operator levy, schools	485	0.8	569	0.9	607	0.8	765	0.9	869	1.2
Press reviews	125	0.2	128	0.2	181	0.2	207	0.2	250	0.4
Reading clubs	66	0.1	68	0.1	67	0.1	65	0.1	2	0.0
Cable retransmission, art/photography	582	1.0	638	1.0	561	0.7	552	0.6	627	0.9
Cable retransmission, film	8,932	15.2	8,190	13.4	6,083	7.8	6,671	7.5	6,672	9.5
Video store royalty	292	0.5	242	0.4	208	0.3	163	0.2	106	0.2
Private copying, film	12,643	21.6	16,009	26.1	22,390	28.6	7,160	8.1	906	1.3
Primary broadcasting rights, foreign	930	1.6	2,099	3.4	1,315	1.7	1,870	2.1	1,779	2.5
Intranet use, education	2,202	3.8	1,093	1.8	1,818	2.3	1,568	1.8	118	0.2
Section 1371 UrhG					11	0.0	0.2	0.0	2.0	0.0
Advertising film							2,358	2.7	0	0.0
Total	58,637	100.0	61,346	100.0	78,363	100.0	88,429	100.0	70,150	100.0

* "Reproduction rights" also include broadcasting rights settled individually;

"broadcasting rights" are the blanket broadcasting rights of public-sector broadcasters.

The Administrative Council met in Berlin on 4 March, Bonn on 1 July, Berlin on 25 and 26 August, Hamburg on 5 October and Bonn on 15 December.

6. Office

At the end of 2016 the Bild-Kunst office in Bonn had 25 full-time and 23 part-time employees. This is equivalent to 34.89 full-time positions when converted to a 40-hour week. The lease in the Haus der Kultur runs until 31.12.2019.

II. Results of operations in 2016 in detail

The income presented in section 1 relates solely to images (professional groups I and II), the income in section 3 solely to film (professional group III). The income presented in section 2 concerns both areas and thus benefits all members of Bild-Kunst.

1. Income from image royalties

The income presented in this section stems from what are known as first rights that Bild-Kunst administers in the sphere of visual art, namely (a) resale rights, (b) reproduction and online rights and (c) broadcasting rights. Statutory claims to remuneration are also collected in the form of (d) the reprography levy and (e) reading club royalties. These concern only still images and so only benefit rightholders of professional groups I and II.

a. Resale rights

When a work of visual arts is resold by an art dealer or auctioneer, the artist acquires a statutory claim to participation. In Germany this resale right (section 26 UrhG) is administered by Bild-Kunst. In the past debtors could settle their royalty payments (and their liabilities to the Künstlersozialkasse social insurance scheme for artists) by joining the "Ausgleichsvereinigung Kunst" (AV Kunst) and paying a uniform flat levy rate. The organisation was dissolved on 31 December 2014. Since 1 January 2015 resale rights have always had to be settled individually with Bild-Kunst.

Inclusive contracts exist with the professional associations BVDG, BDK, KD and VDA, simplifying the procedure for settling the resale rights.

Administration Agreement

Admin. Agreement PG I+II: sec. 1 para. 1 d)

Collection sources

Bild-Kunst posted income in Germany from its own administration of resale rights. For foreign business it received fees for its members from its sister societies.

Basis of distribution

Distribution plan 1 is applied. Since the name of the rightholder in every transaction subject to resale rights is known, settlement is on a net individual basis. This means that there is normally no non-distributable income.

2016 income

• Total income

Income from resale rights in 2016 totalled EUR 6,963k and was thus EUR 1,291k above that of the previous year. Following the fall in the 2015 financial year due to the dissolution of AV Kunst, in-house administration enabled earnings to return to the normal level of the previous financial years. The change of system was thus completed successfully.

• Income from Germany

In Germany we posted EUR 5,539k in income from ancillary rights settled individually.

• Foreign income

Our foreign sister societies transferred EUR 1,369k to us for sales of works subject to resale rights of our members abroad.

Netting (interest, deductions, allocations)

Distribution plan 1 provides for fixed deductions to be applied to the amounts distributed for ancillary rights. In 2016 the proceeds from 2015 were distributed. These must be set against administrative costs of EUR 390k, EUR 129k in allocations to Stiftung Sozialwerk and EUR 383k in allocations to Stiftung Kulturwerk. Pro rata interest income amounted to EUR 5k, leaving EUR 6,066k to be allocated to the distribution reserves in 2016.

b. Reproduction & online rights

Bild-Kunst allocates reproduction, distribution, online and presentation rights to users, mainly publishers, for those of its members belonging to professional group I (visual arts).

Administration Agreement

Admin. Agreement PG I+II: secs. 1 para. 1 a), 1 para. 2 b)

Collection sources

Bild-Kunst has published rates for reproduction and online rights. These form the basis on which Bild-Kunst licenses exploitation in Germany. In addition to these, there are three inclusive contracts: with the Börsenverein des Deutschen Buchhandels (bookshops), the Deutscher Museumsbund (museums) and the Deutscher Bibliotheksverband (libraries). Some further inclusive contracts from other areas also contain rules for the purchase of online rights.

Exploitation abroad is managed by the sister societies of Bild-Kunst.

Basis of distribution

The name of the rightholder is known when the rights and licences are awarded. This means that there are normally no non-distributable sums. Proceeds are distributed to the rightholders in accordance with distribution plan 2. Where rights are granted for a lump sum, such as in the online sector or because the royalties are low, the income is allocated in accordance with distribution plan 5 (library royalty).

2016 income

EUR 3,631k in total was received in 2016, EUR 367k less than in the previous year. This stemmed from a drop of EUR 291k

in domestic income and EUR 108k in foreign income. There were slight increases in the individual royalties for broadcasting rights and because of the change in valuation adjustments of arrears.

EUR 106k was realised for media control supplements, EUR 28k less than in the previous year.

Netting (interest, deductions, allocations)

The total income of EUR 3,631k must be set against administrative costs of EUR 796k. Allocations to the Stiftung Sozialwerk came to EUR 113k. The rapid distributions naturally resulted in little interest being received, amounting to EUR 1k. EUR 2,723k was allocated to the distribution reserves.

c. Broadcasting rights

Bild-Kunst grants public-sector broadcasters blanket broadcasting rights for the transmission of images of fine arts. These belong to members of professional group I (visual arts). Exploitation by private broadcasters is licensed according to the tariff.

Administration Agreement

Admin. Agreement PG I+II: sec. 1 para. 2 c)

Collection sources

In 2015 a new inclusive contract covering the years 2015 up to and including 2018 was reached with the ARD broadcasters, while an individual blanket agreement was reached with ZDF. It is due to expire at the end of 2017. The contract with Deutsche Welle continues without notice of termination.

Basis of distribution

Distribution plan 3 is applied. Bild-Kunst ascertains exploitation in television independently of its role in representing rights. For non-members, it searches for individual rightholders for a maximum period of five years and presents an offer for retroactive compensation. Income that still cannot be distributed after five years is added to the distribution total for the year concerned.

2016 income

We received EUR 668k for broadcasting rights (visual arts) from blanket agreements, the same figure as the previous year.

Netting (interest, deductions, allocations)

Attributable interest came to EUR 1k, pro rata administrative costs to EUR 146k. EUR 10k was allocated to Stiftung Sozialwerk and EUR 512k to the distribution reserves.

d. Reprography levies

This section covers all levies that constitute statutory compensation for the permission-free (exclusive) copying of text and images.

d.1. Hardware and storage media levy

Since the law was changed on 1 January 2008 the reprography levy has been a subset of the general private copying levy under section 54 ff. UrhG. It primarily concerns pure printers and multipurpose devices.

Administration Agreement

Admin. Agreement PG I+II: sec. 1 para. 1 f)

Collection sources

Bild-Kunst has a collection agreement with VG Wort and the collecting societies have reached an inclusive contract with BITKOM. The royalties collected by VG Wort are apportioned between VG Wort and Bild-Kunst on the basis of empirical studies of the individual hardware classes. The empirical studies are reviewed roughly every three years and the apportionment adjusted accordingly.

Bild-Kunst also receives money for reprography levies from abroad.

Basis of distribution

In accordance with distribution plan 6, royalties are predominantly distributed on the basis of reports from the rightholders, members and sister societies. A certain flat proportion is transferred to the sister societies for copies of foreign publications in Germany. The report-based system means there is no non-distributable income.

2016 income

The reprography hardware levy for photocopiers, faxes, scanners and printers is collected through VG Wort. Following victory in a legal dispute, the same also applies on a one-off basis for PCs in the period between 2001 and 2007.

In 2015 revenue received through VG Wort totalled EUR 50,847k. The bulk of this figure came from a back payment of EUR 31,434k for printers from 2001 – 2007. In the 2016 financial year Bild-Kunst also received a back payment covering the 2001 – 2007 period, this time for PCs. At EUR 28,505k, however, this back payment is less than the one received the previous year.

Total income in the 2016 financial year came to EUR 45,344k, EUR 5,503k down on the previous year.

EUR 14,243k was received for multipurpose devices, EUR 277k more than in the previous year. Revenue for faxes declined due to less usage, coming in at EUR 72k compared with EUR 87k the year before. EUR 2,457k less in revenue was received for scanners in 2016 following a high back payment in 2015. The EUR 542k, however, is roughly on a par with the average for previous years. Revenue for printers in 2016 amounted to EUR 1,982k, thus returning to normal after the back payment in 2015.

Netting (interest, deductions, allocations)

The pro rata administrative costs for the hardware levy came to EUR 2,183k. Interest is not added. Of the remaining surplus, 95 per cent was transferred for copying royalties and five per cent for school copying. Please refer to the next section for the amounts allocated to the foundations.

d.2. Operator levy

As additional compensation for the permission-free copying of text and images alongside the hardware and storage media levy, rightholders also receive payments from institutions that operate such appliances, pursuant to section 54c UrhG.

Administration Agreement

Admin. Agreement PG I+II: secs. 1 para. 1 f), 1 para. 1 o)

Collection sources

Collection of the operator levy from commercial institutions (e.g. copy shops), universities and libraries is also handled through VG Wort.

Royalties from schools are collected by the Central Organisation for Photocopying in Schools (Zentralstelle Fotokopieren an Schulen, ZFS).

Basis of distribution

Distribution plan 6 is applied. Section II.1.d.1) also applies here.

2016 income

- Total income

EUR 1,983k in total was received from the operator levy, EUR 435k more than the previous year.

- Major operators through VG Wort

The revenue received through the major operator levy in 2016 included EUR 197k from universities, EUR 192k from copy

shops, EUR 88k from retailers and EUR 74k from colleges of further education. Slight rises were recorded in all areas except other educational institutions, for which no revenue was received in 2016.

Total revenue came to EUR 551k compared with EUR 275k the year before.

VG Wort's commission therefore climbed to EUR 28k from EUR 14k the previous year.

- Copies dispatched to order

Revenues have been in decline for years, coming to EUR 98k in 2016 against EUR 109k in 2015. They are likewise collected through VG Wort.

- School copying

Copying in schools is part of the remit of ZFS, operated by VG Wort. In 2016 we received EUR 869k, a rise of EUR 105k on the previous year due to the new blanket royalty agreements negotiated with the federal states and a new distribution ratio between the participating collecting societies.

- Foreign income

A total of EUR 497k was received from abroad through 14 sister societies, EUR 89k up on the previous year. Although some of this income stems from foreign hardware levies, it is posted under the operator levy because the sister societies are unable to differentiate between the two. However, this has no effect on the distribution by Bild-Kunst.

Netting (interest, deductions, allocations)

Administrative costs came to EUR 93k. As a result of the reclassification from the hardware levy, EUR 903k can be allocated to Stiftung Sozialwerk and EUR 1,354k to Stiftung Kulturwerk, with interest income standing at EUR 75k. With EUR 43,163k being transferred from PC income (see private copying) on the basis of the distribution plan, a total of EUR 42,872k was allocated to the distribution reserves.

d.3. Press reviews

No permission is required for the reproduction and distribution of photographic works in press reviews, whether analogue or digital. However, section 49 (1) UrhG requires that compensation be paid to the rightholders.

Administration Agreement

Admin. Agreement PG I+II: sec. 1 para. 1 g)

Collection sources

Royalties for conventional press reviews are collected through VG Wort. Bild-Kunst itself collects the royalties due for electronic press reviews.

Basis of distribution

Proceeds for press reviews are distributed in accordance with distribution plan 8 and on the basis of the reports of the rightholders. In a report-based system, of course, no non-distributable income arises.

2016 income

- Total income

A total of EUR 250k was received in the 2016 financial year. The rise of EUR 43k can, as in previous years, be attributed to the rise in electronic exploitation. By contrast, exploitation in print products has been in decline for years.

- Print products via VG Wort

EUR 29k was realised for print products, EUR 1k less than in the previous year.

- Digital products by individual agreement

Contracts exist with Presse-Monitor Deutschland GmbH and Landau Media. Revenue in 2016 totalled EUR 221k, a rise of EUR 44k on the previous year.

Netting (interest, deductions, allocations)

The low amounts resulted in only EUR 0.3k being earned in interest. Administrative costs came to EUR 12k. EUR 5k was allocated to Stiftung Sozialwerk and EUR 7k to Stiftung Kulturwerk, allowing a total of EUR 227k to be transferred to the distribution reserves.

e. Reading clubs

Rental rights are regulated in section 17 (3) UrhG. For images, the right to forbid rests either with the creator of the work or with a user, such as a publisher, if the creator of the work has transferred the right to forbid to the latter.

Administration Agreement

Admin. Agreement PG I+II: sec. 1 para. 1 e) alt. 1

Collection sources

In this segment Bild-Kunst collects royalties for VG Wort as well. An inclusive contract exists with the Association of German Reading Clubs (Verband Deutscher Lesezirkel e.V.), which collects the contributions from those liable and forwards them to Bild-Kunst.

Basis of distribution

Distribution plan 9 is applied. Given the low level of income, it is transferred entirely to distribution plan 8 (press review).

2016 income

Only EUR 2k was received in the 2016 financial year. This is because the accounts for 2016 had not yet been finalised due to the need to complete the annual financial statements early. The proceeds can be reported subsequently in the 2017 financial year.

Netting (interest, deductions, allocations)

Because of the period deferment explained above, only a little netting was carried out. EUR 2k was allocated to the distribution reserves.

2. Income from image and film royalties

This section sets out income from statutory royalty claims concerning both image and film and therefore benefiting members of all professional groups of Bild-Kunst. These are (a) the library royalty, (b) income from section 52a UrhG (intranet use for educational purposes), (c) cable retransmission rights and (d) the private copying levy.

a. Library royalties

Section 17 (2) UrhG allows works to be lent after they have been brought onto the market. If the loan is through a publicly accessible institution, the rightholder is entitled to a remuneration pursuant to section 27 (2) UrhG. Both this and the royalty claim for terminals in libraries (section 52b UrhG) are grouped together here under "library royalties".

Administration Agreement

Admin. Agreement PG I+II: sec. 1 para. 1 e) alt. 2); para. 1 k) Admin. Agreement PG III: section 1 c); 1 m)

Collection sources

Royalties are collected by the Central Organisation for Library Royalties (Zentralstelle Bibliothekstantieme, ZBT). The royalties for electronic terminals are administered by VG Wort.

Basis of distribution

Proceeds from the library royalty are distributed among image rightholders in accordance with distribution plan 5. This is essentially done on the basis of reports from the rightholders as well as Bild-Kunst documents from the granting of first rights

in the visual arts. In this system no non-distributable income arises. The pro rata proceeds for film rights are assigned to distribution plan 12 (rental of video carriers).

2016 income

• Income from Germany

Since distribution between the participating collecting societies was re-regulated in 2015, Bild-Kunst had also received back payments for 2014 in 2015. Total income therefore dropped from EUR 1,991k in 2015 to EUR 996k in 2016. Income in 2016 comprised EUR 520k for image rights and EUR 475k for film rights.

• Foreign income

Bild-Kunst received EUR 104k from abroad in 2016. All the foreign income is attributable to audiovisual rights.

Netting (interest, deductions, allocations)

Administrative costs of EUR 66k compare with interest of EUR 1k. EUR 21k was allocated to Stiftung Sozialwerk, EUR 31k to Stiftung Kulturwerk. On balance EUR 983k was allocated to the distribution reserves.

b. Intranet use for educational purposes

Section 52a UrhG allows the use of protected works on the intranet of educational institutions (e-learning) and gives the rightholder a claim to remuneration in compensation.

Administration Agreement

Admin. Agreement PG I+II: sec. 1 para. 1 h)

Admin. Agreement PG III: sec. 1 o) (from 2015)

Collection sources

The royalty claims for intranet use in schools are administered by ZBT under the aegis of VG Wort. Bild-Kunst, acting on behalf also of the other participating collecting societies, has negotiated a new agreement with the federal states for intranet use at colleges and universities.

Basis of distribution

Because of the different expiry dates of the agreements with the federal states, no dedicated distribution plan has yet been created. In 2016, as in previous years, the General Meeting decided to allocate income from image rights equally between distribution plans 6 and 7 and income from film rights to distribution plan 13.

2016 income

• Total income

A total of EUR 118k was collected in 2016. The fall of EUR 1,450k is for the technical reason that the income from universities could not be posted.

• Universities

Collection of the royalties, on behalf of all other participating collecting societies as well, is the responsibility of Bild-Kunst. Since a new agreement had to be reached with the federal states, internal allocation between the societies also had to be agreed afresh. With it not being possible to agree a new distribution ratio in 2016, Bild-Kunst was unable to post any income. It will accordingly only be possible to report the accrual in the following 2017 financial year.

• Schools

Collection is the responsibility of ZBT. The income for 2016 came to EUR 118k, the same figure as in the previous year.

Netting (interest, deductions, allocations)

EUR 108k was allocated to the distribution reserves. After adding interest of EUR 1k and deducting administrative costs of EUR 6k, EUR 2k was allocated to Stiftung Sozialwerk and EUR 3k to Stiftung Kulturwerk.

c. Cable retransmission rights

Bild-Kunst manages the cable retransmission rights under section 20b UrhG for those of its members belonging to professional groups I and II and the corresponding claim to remuneration under section 20b (2) UrhG for those of its members belonging to professional group III. Retransmission is the simultaneous, unmodified and complete re-broadcasting of a television programme.

Administration Agreement

Admin. Agreement PG I-II: sec. 1 para. 1 b)

Admin. Agreement PG III: sec. 1 f)

Collection sources

Cable retransmission to private households in Germany:

- via GEMA as the collecting body for cable;
- via ARGE Kabel (cable working group).

Cable retransmission to institutions (hotels, hospitals, etc.) in Germany:

- via ZWF (“Central Organisation for the Reproduction of Television Broadcasts”).

Cable retransmission abroad:

- via the sister societies.

Basis of distribution

Income from the retransmission of film works is distributed in accordance with distribution plan 11, which refers largely to distribution plan 13 (see there for further details).

Income from the retransmission of image works is distributed in accordance with distribution plan 10, which essentially relies on the fee reports for first transmission rights. This report-based system does not leave any non-distributable income because exploitation of the works is not determined.

2016 income

- Total income

In 2016 we received a total of EUR 7,299k for cable retransmission rights, comprising EUR 627k for visual arts and photography and EUR 6,672k for film. Total proceeds have thus come in EUR 76 higher, although trends within the individual segments varied.

- Total income from Germany

EUR 3,570k in total was received from Germany, compared with EUR 4,993k in 2015. The share for still image rights in 2016 amounted to EUR 413k, just a slight EUR 30k down on the previous year. Film rights in 2016 accounted for EUR 3,156k, EUR 1,393k less than in 2015. The reason for this is that the need to complete the annual financial statements early did not allow the flat payments from public-sector broadcasters to be included in the 2016 accounts. The difference can therefore be posted in the following 2017 financial year.

- Income from retransmission to private households

We received a total of EUR 2,430k from GEMA and ARGE Kabel, including EUR 310k for still images and EUR 2,121k for film.

- Revenue from retransmission to institutions (ZWF)

Bild-Kunst received EUR 1,097k from ZWF compared with EUR 1,090k the year before. As in the previous year, image royalties accounted for a EUR 61k share, film royalties EUR 1,036k.

- Miscellaneous

An additional EUR 42k in image royalties was collected from other sources.

- Foreign income

EUR 3,729k in total was received from abroad, EUR 1,499k more than the previous year. Proceeds for image rights rose by EUR 105k to EUR 214k. The majority of the income was collected in the Netherlands and Austria.

Proceeds for film rights totalled EUR 3,156k, a rise of EUR 1,393k. However, the income is only received every now and then. Payments from Switzerland (EUR 1,099k), Denmark (EUR 870k) and France (EUR 456k) dominated in 2016. The differences in the payments received can be attributed to variations in the billed periods of use.

Netting (interest, deductions, allocations)

Of the revenue from cable retransmission, a total of EUR 29k was transferred as interest. Administrative costs totalled EUR 508k, including EUR 29k for image rights and EUR 478k for film rights. EUR 136k of the surplus was transferred to Stiftung Sozialwerk, EUR 205k to Stiftung Kulturwerk. EUR 570k was allocated to the distribution reserves for image rights, EUR 6,479k to the distribution reserves for film rights.

d. Private copying levy

Before the law was amended on 1 January 2008, for historical reasons it differentiated between a “reprography levy” covering the copying of images and text and a levy covering the copying of music and film. All claims now fall within the scope of section 54 UrhG. Although there are still pure reprographic devices in existence (cf. section II.1.d.1 above), there are no devices that can copy only music and film. All devices that are not reprographic devices can copy text, images, music and film.

Administration Agreement

Admin. Agreement PG I-II: sec. 1 para. 1 f)

Admin. Agreement PG III: sec. 1 e)

Collection sources

Rights for the copying of text, images, music and film, for both devices and storage media, are administered by the Central Organisation for Private Copying Rights (Zentralstelle für private Überspielungsrechte, ZPÜ).

So far ZPÜ has only been able to realise income collected for PCs. The new inclusive agreements for mobile phones and tablets concluded in 2015 will probably lead to revenue starting from the 2017 financial year.

As well as income from Germany through ZPÜ, Bild-Kunst also receives money for foreign private copying levies through its sister societies.

Basis of distribution

The shares in the PC royalties due for still images are distributed in a report-based system in accordance with distribution plan 7. Rightholders of foreign sister societies are remunerated by blanket shares decided by the General Meeting.

Distribution plan 13 applies for the film rights. All film authors and producers whose works have been transmitted by billable TV broadcasters in the accounting year are entitled to a share. The broadcasts must be reported by the rightholders. In 2016 43 broadcasters with an average market share of 0.3 per cent were added to the list of billable broadcasters. This system likewise does not produce any non-distributable income, since it relies on reports and a work is only considered exploited if this is reported.

Bild-Kunst has been receiving separate income for advertising films since 2015. This is covered by distribution plan 14, which was adopted by the General Meeting in 2015.

2016 income

- Total income

It is a prerequisite for the payment of income by ZPÜ to the participating collecting societies that they agree unanimously on a distribution ratio between the societies. Findings from new studies necessitated a change in the distribution ratio between the collecting societies. A commercial agreement was

reached in December 2016, with the ratio only being finalised in 2017. This meant that no proceeds were received in the 2016 financial year, either for images, film or advertising film.

- **Income from Germany**

No proceeds were received from Germany in the financial year. Income is expected to start coming in during the 2017 financial year. This applies for images, films, advertising films and foreign and US films.

- **Foreign income**

In 2016 we only received income from abroad for film rights, totalling EUR 905k. That compares with EUR 1,633k the previous year. Payments from abroad are received at irregular intervals and cover a number of years of exploitation. The main cause of the decline is that we did not receive any significant payment from Austria in 2016, whereas the year before the figure was EUR 830k. The highest payment received in 2016 was EUR 452k from Switzerland, alongside various smaller payments from other foreign sister societies. Overall proceeds can be broken down into EUR 877k in payments for authors and EUR 29k for producers.

Netting (interest, deductions, allocations)

Image rights brought only interest of EUR 8k. After the transfer of EUR 2k for analogue copying, EUR 6k was allocated to the distribution reserves.

Interest for film rights came in at a total EUR 26k. After deducting EUR 65k for administrative costs, EUR 17k for Stiftung Sozialwerk and EUR 26k for Stiftung Kulturwerk, EUR 823k was allocated to the distribution reserves. Advertising films brought only EUR 2k in interest. This was allocated to the reserves.

3. Income from film royalties

This section, finally, sets out income from film royalties alone and hence benefiting only the members of professional group III. It covers (a) the video store royalty, (b) income from foreign primary broadcasting rights and (c) income under section 137 I UrhG.

a. Video stores

Section 27 (1) UrhG provides for a claim to remuneration for the rental of video recordings.

Administration Agreement

Admin. Agreement PG III: sec. 1 c)

Collection sources

Responsibility for collection has been assigned to ZVV (Zentrale Videovermietung), the central video rental agency managed by GEMA.

Basis of distribution

Distribution plan 12 is applied, but refers to distribution plan 10 due to the declining significance of this revenue stream.

2016 income

Total income

Income from video rental has declined steadily for some years, an indication of its diminishing relevance. Due to the early work on the annual financial statements, settlements for the 4th quarter could not be included in the 2016 financial year. Total proceeds fell EUR 57k to a total of EUR 106k.

Netting (interest, deductions, allocations)

Administrative costs totalled EUR 8k and EUR 1k was deducted for both Stiftung Sozialwerk and Stiftung Kulturwerk. Pro rata interest accounts for EUR 0.5k. EUR 97k was allocated to the distribution reserves. EUR 64k of this amount is to be forwarded to American authors, so the adjusted share for Bild-Kunst is EUR 33k.

b. Primary broadcasting rights, foreign

The film authors of professional group III generally assign their first rights to the producers of the film, which means that Bild-Kunst normally only administers the statutory claims to remuneration. Abroad – and particularly in Italy – on the other hand, important first rights are managed by collecting societies. Where film works of members of Bild-Kunst are used, the relevant royalties are forwarded to the rightholders via Bild-Kunst.

Administration Agreement

Admin. Agreement PG III: sec. 1 n)

Collection sources

Bild-Kunst received income from abroad through its sister societies, mainly the Italian SIAE.

Basis of distribution

Since the names of the authors of every film work used are known, settlement is on a net individual basis. This means that there is normally no non-distributable income. Bild-Kunst sometimes has to search to find out who the rightholders are.

2016 income

In the financial year we received a total of EUR 1,779k through foreign sister societies, EUR 92k less than in the previous year. The fluctuations result from different accounting cycles and how various periods of use are grouped together by the sister societies.

From Italy (SIAE) we received EUR 1,684k, from France (SCAM) EUR 89k. The rest is composed of small amounts from DirectorsUK (Great Britain) and SACD (France).

Netting (interest, deductions, allocations)

Interest of EUR 2k was accrued and administrative costs of EUR 128k were incurred. In total, EUR 1,653k was allocated to the distribution reserves. There were no deductions for Stiftung Sozialwerk and Stiftung Kulturwerk.

c. Section 137 I UrhG

Film authors were unable to assign any first rights for unknown types of exploitation to producers for film works made between 1966 and 2008. In 2008 the law was amended to allow a statutory right of subsequent purchase, giving rightholders in return a claim to remuneration that Bild-Kunst administers.

Administration Agreement

Admin. Agreement PG III: sec. 1 a)

Collection sources

Bild-Kunst together with VG Wort has entered into an agreement with ZDF and some regional ARD broadcasters on the exploitation of parts of works in current productions. In 2015 negotiations on an agreement covering the online use of whole works were also brought to a conclusion.

Basis of distribution

The broadcasters pay for each instance of exploitation, so that settlement is on a net individual basis. This means that there is normally no non-distributable income.

2016 income

Bild-Kunst received income through VG Wort for the first time since 2014. It came to EUR 2k in the 2016 financial year, the same figure as the previous year. The income had been paid through VG Wort for exploitation by ZDF and WDR.

Netting (interest, deductions, allocations)

Deductions totalled EUR 0.2k and EUR 2k in total was transferred to the distribution reserves.

4. Other non-copyright-related income

Bild-Kunst manages the business of the Central Organisation for the Reproduction of Television Broadcasts (Zentralstelle für die Wiedergabe von Fernsehsendungen, ZWF), receiving a fee for its management of the collection process and distribution of the revenue to the participating collecting societies. In 2016 Bild-Kunst received EUR 176k compared with EUR 212k the year before.

The same applies for the management of income pursuant to section 52a UrhG. The management fee is linked to revenue. Since no section 52a UrhG revenue had been collected in 2016, Bild-Kunst did not receive any management fee. That compares with EUR 21k the previous year.

Bild-Kunst also benefits from cost reimbursements from Stiftung Sozialwerk and Stiftung Kulturwerk arising from shared offices and the shared use of equipment, as well as for the internal settlement of mutual services.

From Stiftung Sozialwerk Bild-Kunst received EUR 114k, compared with EUR 112k in 2015, while from Stiftung Kulturwerk it received EUR 125k compared with EUR 118k the previous year.

Bild-Kunst invests the income until it is needed for distribution. It earns interest on the investments, although this is much lower due to the current state of the financial markets. In 2016 net interest income including the compounding of pension reserves came to EUR 152k. By comparison, in the 2015 financial year Bild-Kunst had received EUR 261k.

Bild-Kunst did not receive any other non-copyright-related income in the broader sense.

III. Deductions and administrative costs

Administrative costs in the 2016 financial year totalled EUR 4,399k, EUR 290k more than the previous year's figure of EUR 4,110k. The average administrative cost ratio, which compares costs to income, rose from 4.65 per cent the previous year to 6.27 per cent, due in part to the sharp drop in income.

1. Breakdown of costs

The need to adapt to the requirements of the new VGG led to three general meetings being held in the 2016 financial year. This caused expenses relating to the Articles of Association to climb from EUR 193k to EUR 244k.

Other significant items are IT costs at EUR 334 and rents at EUR 196k. Both items are slightly down on the previous year, EUR 43k in the case of IT and EUR 9k for rents. Personnel expenses rose by EUR 93k to reach a total of EUR 3,110k.

In light of the many new and varied duties of transparency and the need to offer electronic voting in 2017, it is assumed that administrative costs will rise in 2017.

2. Appropriation of non-copyright-related income

No non-copyright-related income other than that set out in section II.4 was received.

Income for the performance of administrative services relating to collection and distribution for/to participating collecting societies are netted against the costs incurred.

IV. Stiftung Kulturwerk

The board of the foundation is made up of the same people as the honorary board members of Bild-Kunst, consisting of Frauke Ancker, Werner Schaub and Rolf Silber in 2015. Jobst Christian Oetzmann replaced Rolf Silber following the elections on 2 July 2016.

At the start of 2016 the foundation had capital of EUR 6,456. Additional funding in favour of PG III to the tune of EUR 1,760k saw the foundation's capital reach EUR 8,216k at the end of 2016.

Stiftung Kulturwerk was able to grant funding totalling EUR 1,176k in 2016, EUR 96k less than the previous year. The decline is almost entirely due to the quality of the applications.

Of the funds granted, EUR 639k was allocated to PG I, allowing a total of 17 projects to be funded. In PG II, EUR 370k was approved for 49 projects in total and in PG III EUR 167k for 11 projects in all.

Expenses for business operations in 2016 came to EUR 189k, comprising EUR 31k for expenses relating to the Articles of Association, EUR 7k for third-party services and EUR 151k for office operations.

The expenses were distributed between PG I (EUR 49k), PG II (EUR 101k) and PG III (EUR 39k).

Subject to the approval of the 2017 General Meeting, VG Bild-Kunst can transfer EUR 2,011k in allocations. Together with the other interest and income of EUR 147k, total revenue came to EUR 2,157k, of which EUR 661k was apportioned to PG I, EUR 1,216k to PG II and EUR 280k to PG III.

V. Stiftung Sozialwerk

As with Stiftung Kulturwerk, the board of Stiftung Sozialwerk is made up of the same people as the honorary board members of Bild-Kunst. The new elections confirmed Frauke Ancker and Werner Schaub in their posts and appointed Jobst Christian Oetzmann in place of Rolf Silber. At the start of 2016 Stiftung Sozialwerk had foundation capital of EUR 12,004k. PG III received additional funding of EUR 1,760k in the course of the year, bringing the foundation capital at the end of 2016 to EUR 13,765k.

In 2016 a total of EUR 1,037k in payments to those in need was approved. This compares with EUR 962k the previous year.

In 2016 14 one-off assistance of EUR 32k and EUR 205k in recurring support payments for 85 recipients were approved in PG I.

Fourteen one-off payments totalling EUR 25k and EUR 176k in recurring support payments to 61 recipients were approved in PG II.

In PG III, five recipients received one-off grants totalling EUR 11k and EUR 47k was paid in recurring support payments to 17 others.

In all, 1,703 cheques were sent in the Christmas cheque campaign. Any member over the age of 65 who is demonstrably in need is entitled to apply. Last year there were 1,639 recipients. The 2016 payments reached 704 members of PG I, 756 members of PG II and 243 members of PG III.

As regards administrative services, in the financial year EUR 19k had to be spent on expenses relating to the Articles of Association, EUR 9k on third-party services and EUR 138k on office operations. Total expenses came to EUR 166k compared with EUR 164k the year before.

Subject to the approval of the 2017 General Meeting, VG Bild-Kunst can transfer EUR 1,338k in allocations. Together with the other income and interest of EUR 38k, total revenue came to EUR 1,377k, of which EUR 551k was apportioned to PG I, EUR 662k to PG II and EUR 164k to PG III.