



# BILD-KUNST

## 2017 ANNUAL REPORT

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### I. The 2017 financial year at a glance

The 2017 financial year was a year with extreme contrasts: on the one hand, Bild-Kunst achieved total revenue income of EUR 129,159k, more than ever before, but on the other hand legal and technical obstacles prevented us from distributing the money speedily. Most of the payouts will be substantially completed in the first half of 2018.

The primary cause of the record results in 2017 was the back payments from the Central Organisation for Private Copying Rights (ZPÜ) for mobile phones for the 2008 – 2016 years of usage and tablets for the 2010 – 2016 years of usage. These back payments totalled EUR 79,318k.

The 2017 General Meeting saw electronic voting prior to the AGM for the first time, and the meeting itself was streamed live on the internet to registered members. While technically and organisationally everything worked well, the uptake of these new options remained very limited. How they will develop remains to be seen.

A completely restructured distribution plan that considers the requirements of the new Collecting Societies Act (VGG) also applies from 2017. That made preparation of the annual financial statements for 2017 significantly more complex. In particular, the procedure for allocations to Stiftung Sozialwerk and Stiftung Kulturwerk had to be fundamentally altered: whereas in the past percentage deductions decided by the General Meeting were made and transferred to the foundations at the time of the annual financial statements, from now on the allocations are only made with the respective payouts within the year.

#### 1. Total income

EUR 129,159k in total income was realised, EUR 59,009k more than in the 2016 financial year. Both years are affected by back payments for the past. In 2016 we received payments for PCs (2001 – 2007 years of usage) of EUR 28,505k. In 2017 Bild-Kunst received back payments totalling EUR 87,847k for mobile phones (2008 – 2016), tablets (2010 – 2016) and PCs (2015 and 2016). Both financial years are thus significantly impacted by back payments received for previous years. The other administration areas performed inconsistently, but within normal fluctuation ranges. To that extent the 2017 financial year was essentially normal.

### 2. Payouts

A total of EUR 30,281k was paid out in the 2017 financial year, EUR 9,413k to rightholders of professional groups I and II and EUR 19,904k to rightholders of professional group III. Manual corrections and the payout of the central collection under section 52a UrhG amounted to another EUR 964k. In addition to the payouts, EUR 107k was allocated to Stiftung Sozialwerk and EUR 198k to Stiftung Kulturwerk.

### 3. Key events

Legislative activity did not abate even after the entry of the VGG into force in May 2016, necessitating further amendments to the Articles of Association and statutes of Bild-Kunst.

December 2016 saw the addition to the VGG of section 27a, which is intended to enable publishers to share in the statutory remuneration claims of authors on a voluntary basis. As this obliges Bild-Kunst to offer the option of participation from the 2017 year of usage.

In addition, the German Act to Align Copyright Law with the Current Demands of the Knowledge-based Society (UrhWiss G) came into force on 1 March 2018. The law seeks to establish an exception for teaching and research in order to regulate the use of copyrighted works in schools, universities and libraries. It is not yet possible to assess the impact this will have on Bild-Kunst's collections.

The General Meeting was held in Bonn on 29 July 2017. At this meeting technical means of participating were offered for the first time: proxys could be given electronically in advance of the meeting and voting electronically on the motions brought before the meeting, rather like a postal vote. The General Meeting was also streamed live on the internet to registered members. The technology worked perfectly, but very few members availed of the electronic options. The option of technology-enabled participation will be offered again for the 2018 General Meeting because this is now required by law.

The distribution plan adopted in 2016, which is a complete restructuring of the previous regulations, applies for the 2017 financial year. The new distribution plan will apply fully for all revenue for the 2017 year of usage. The only exceptions will be the revenue from the “copying royalty digital sources (fine arts and image)” distribution lines, the distribution schemes for which will not be fleshed out until the 2018 General Meeting.

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**Note:** All figures have been rounded to thousands of euros in accordance with standard commercial practice. This may result in slight differences in presentation.

## 4. Administrative costs

Administrative costs for the 2017 financial year totalled EUR 4,270k, comprising EUR 3,288k in personnel costs, EUR 1,719k in other expenses, EUR 149k in amortisations and write-downs and EUR 10k in tax. These costs are reduced by EUR 896k for other operating income, particularly reimbursements for administrative services. Overall, administrative costs declined by EUR 130k on the 2016 financial year. This was essentially due to the fact that a total of 3 AGMs had to be held in the 2016 financial year.

Where possible, money that Bild-Kunst receives or administers as distribution reserves is invested in interest-bearing accounts in accordance with the investment guidelines. Due to recent developments on the money market, for the first time it was not possible to achieve positive interest rates. In fact, a total of EUR 52k in negative interest had to be paid in the 2017 financial year. It is, unfortunately, expected that this trend will worsen.

The average administrative cost ratio of the 2017 financial year stands at 3.31 %, compared with 6.27 % in 2016.

In accordance with the new regulations of the VGG, the administrative costs were assigned causally to the administration areas.

## 5. Members and committees

At the end of 2017 Bild-Kunst had 60,365 members in total, 1,209 more than in the previous year.

Professional group I has 13,973 members, professional group II 34,902 and professional group III 11,490 altogether.

The General Meeting was held in Bonn on 29 July 2017. The Administrative Council met in Bonn on 4 May 2017 and 28 July 2017. The professional group meetings were held on 5 May 2017, likewise in Bonn.

## 6. Office

The office of Bild-Kunst in Bonn had 26 full-time and 21 part-time staff in 2017. The office's lease runs until 31. 12. 2019.

Bild-Kunst also has an interest in a Berlin office held jointly with VG Wort.

## Development of total income

Net income in 2017 compared with previous years (in thousands of euros – €k):

Revenue stream	2013	%	2014	%	2015	%	2016	%	2017	%
Resale rights	6,682	10.9	7,206	9.2	5,672	6.4	6,963	9.9	6,082	4.7
Reproduction & online rights (reproduction)*	3,754	6.1	4,181	5.3	3,998	4.5	3,631	5.5	3,777	2.9
Broadcasting rights	710	1.2	710	0.9	668	0.8	668	1.0	668	0.5
Library royalties	1,181	1.5	95	0.1	2,079	2.4	1,099	1.6	1,045	0.8
Reprography hardware and storage media levy	12,663	20.6	18,137	23.1	50,847	57.5	45,344	64.6	11,349	8.8
Private copying, image	6,560	10.7	13,820	17.6	3,001	3.4	0	0.0	52,702	40.8
Reprography operator levy	759	1.2	974	1.2	783	0.9	1,114	1.6	817	0.6
Reprography operator levy, schools	569	0.9	607	0.8	765	0.9	869	1.2	983	0.8
Press reviews	128	0.2	181	0.2	207	0.2	250	0.4	301	0.2
Reading clubs	68	0.1	67	0.1	65	0.1	2	0.0	66	0.1
Cable retransmission, fine arts/images	638	1.0	561	0.7	552	0.6	627	0.9	657	0.5
Cable retransmission (film)	8,190	13.4	6,083	7.8	6,671	7.5	6,672	9.5	7,722	6.0
Video rental	242	0.4	208	0.3	163	0.2	106	0.2	55	0.0
Private copying, film	16,009	26.1	22,390	28.6	7,160	8.1	906	1.3	36,990	28.6
Primary broadcasting rights, foreign	2,099	3.4	1,315	1.7	1,870	2.1	1,779	2.5	950	0.7
Intranet use, education	1,093	1.8	1,818	2.3	1,568	1.8	118	0.2	3,021	2.3
Section 1371 UrhG			11	0.0	0,2	0.0	2,0	0.0	3	0.0
Advertising film					2,358	2.7	0	0.0	1,971	1.5
<b>Total</b>	<b>61,346</b>	<b>100.0</b>	<b>78,363</b>	<b>100.0</b>	<b>88,429</b>	<b>100.0</b>	<b>70,150</b>	<b>100.0</b>	<b>129,159</b>	<b>100.0</b>

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

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

## II. Results of operations in 2017 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. Fine arts and image income

The income presented in this section stems from what are known as primary rights (exclusivity rights) that Bild-Kunst administers in the sphere of fine arts, 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 fine arts is resold by an art dealer or auctioneer, the artist acquires a statutory claim to a share of the proceeds of the sale. In Germany this resale right (section 26 UrhG) is administered by Bild-Kunst. Blanket contracts exist with the professional associations BVDG, BDK, KD and VDA, simplifying administration procedures.

#### Administration Agreement

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

#### Collection sources

Bild-Kunst generated income in Germany from its own administration of resale rights. For foreign sales it received fees for its members from its sister organisations.

#### Basis of distribution

Section 23 of the distribution plan (fine arts and image resale rights distribution line), formerly distribution plan 1, applies. 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.

#### 2017 income

##### • Total income

Income from resale rights in 2017 totalled EUR 6,082k and was thus EUR 881k below that of the previous year. Following

the fall in the 2015 financial year due to the dissolution of AV Kunst, in-house administration in subsequent years enabled earnings to return to the normal level of the previous financial years. The change of system was thus completed successfully. The EUR 881k drop in revenue reflects the general situation on the art market.

- **Income from Germany**

In Germany we generated EUR 4,220k in income from ancillary rights settled individually. EUR 51k had to be spent on reversing transactions of AV Kunst.

- **Foreign income**

Our foreign sister societies transferred EUR 1,912k to us for sales of works subject to resale rights of our members abroad.

#### Netting (interest, deductions, allocations)

The distribution plan of 29.07.2017 fixed administrative cost deductions from year-to-date revenue at 15 % for direct and 5 % for indirect revenue. The standard cost ratio of the financial year is 14.62 % for direct revenue and 3.81 % for indirect revenue.

Administrative costs of EUR 682k and EUR 1k pro rata for negative interest rates were incurred. From the payouts in 2017, EUR 83k was allocated to Stiftung Sozialwerk and EUR 165k to Stiftung Kulturwerk. EUR 5,151k was allocated to the distribution reserves.

### **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 (fine arts).

#### Administration Agreement

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

#### Collection sources

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

Uses abroad are managed by the sister societies of Bild-Kunst.

#### Basis of distribution

The name of the rightholder is known when the rights and licences are granted. This means that there are normally no non-distributable sums. Revenue is paid out to rightholders in accordance with section 24 of the distribution plan Primary rights (fine arts and images) distribution line, formerly distribution plan 2. Where rights are granted collectively and there is no information about the works used or the rightholders concerned, the revenue is allocated to the copying royalties distribution lines.

#### 2017 income

EUR 3,777k in total was received in 2017, EUR 145k more than in the previous year. This stems from a drop of EUR 47k in domestic income and a rise of EUR 192k in foreign income. There were also slight increases due to the adaptation of valuation adjustments to arrears.

EUR 81k was realised for media control supplements, EUR 25k less than in the previous year.

#### Netting (interest, deductions, allocations)

The distribution plan of 29.07.2017 fixed administrative cost deductions from year-to-date revenue at 25 % for direct and 20 % for indirect revenue. The standard cost ratio of the financial year is 16.64 % for direct revenue and 15.00 % for indirect revenue.

The total income of EUR 3,777k must be set against administrative costs of EUR 607k. The allocation to Stiftung Sozialwerk amounted to EUR 24k and to Stiftung Kulturwerk EUR 34k. The rapidity of the payouts naturally resulted in little interest being received, amounting to EUR –0.1k. EUR 3,112k 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 (fine 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

The blanket contract with the ARD, concluded in 2015, runs until the end of 2018. The individual blanket contract with the ZDF was likewise extended until the end of 2018 in order to create parity. The contract with Deutsche Welle continues without notice of termination.

#### Basis of distribution

Section 27 of the distribution plan, governing the flat-rate broadcasting rights (fine arts) distribution line, formerly distribution plan 3, applies. 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 three 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.

#### 2017 income

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

#### Netting (interest, deductions, allocations)

The distribution plan of 29.07.2017 fixed administrative cost deductions from year-to-date revenue at 25 % for direct and 20 % for indirect revenue. The standard cost ratio of the financial year is 16.07 % for direct and indirect revenue. Attributable interest came to EUR –0.2k, pro rata administrative costs to EUR 107k. No allocations were made (with the annual financial statements) to Stiftung Sozialwerk and Stiftung Kulturwerk.

### **d. Reprography levies**

This section covers all levies that constitute statutory compensation for the permission-free copying of (only) 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 both VG Wort and Bild-Kunst have reached a blanket 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

Revenue is paid out to rightholders through the distribution lines in accordance with section 28 Copying royalties analogue sources (fine arts), section 29 Copying royalties digital sources (fine arts), section 32 Private copying royalties analogue sources (image) and section 33 Private copying royalties digital sources (image) of the distribution plan, formerly distribution plan 6.

In accordance with the relevant distribution schemes, distributions are based on reports from the rightholders and, for fine arts, also via supplements on payouts for the primary rights. A lump sum is transferred to the sister societies for copies of foreign publications in Germany and from foreign websites. The report-based system means there is no non-distributable income.

### 2017 income

The reprography hardware levy for photocopiers, faxes, scanners and printers is collected through VG Wort.

With Bild-Kunst having in the previous year received a back payment of EUR 28,505k for PCs in the 2001 – 2007 years of usage, revenue in the financial year returned to normal levels. The share for self-illustration is already eliminated from the revenue for 2017, leading to an additional drop of EUR – 5,490k. Income totalled EUR 11,349k overall. The revenue comprises EUR 9,361k in income for multifunctional devices, EUR 29k for faxes, EUR 632k for scanners and EUR 1,327k for printers.

### Netting (interest, deductions, allocations)

The distribution plan of 29.07.2017 fixed administrative cost deductions from year-to-date revenue at 3.50 % for direct and indirect revenue for fine arts and images. The standard fine arts cost ratio of the financial year is 2.98 % for analogue and 2.95 % for digital private copying royalties. For image rights, the cost ratios are 2.60 % for analogue and 2.55 % for digital copying royalties.

The pro rata administrative costs for the hardware levy came to EUR 291k. Interest is not added. The amounts for the foundations will not be allocated until the income for the following year is paid out.

### **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 devices, 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 Schule, ZFS).

### Basis of distribution

Section II.1.d.1) also applies here.

### 2017 income

#### • Total income

EUR 817k was realised through the operator levies, EUR 297k less than in the previous year.

#### • Major operators through VG Wort

The revenue received through the major operator levy in 2017 included EUR 143k from universities, EUR 130k from copy shops, EUR 63k from retailers and EUR 55k from colleges of

further education. All figures are down on the previous year. VG Wort's commission accordingly fell to EUR 20k.

#### • Copies dispatched to order

Receipts for copies dispatched to order have been in decline for years. Revenue of EUR 83k was realised in 2017, EUR 10k less than in the previous year. It is likewise collected through VG Wort.

#### • School copying

School copying is administered by the ZFS, which is operated by VG Wort. In 2017 we received EUR 983k, EUR 113k more than in the previous year. This is due to the new blanket royalty agreements negotiated with the federal states and a new distribution ratio between the participating collecting societies.

#### • Foreign income

We received EUR 356k in total from 12 sister societies abroad compared with EUR 497k the previous year. Although some of this income stems from foreign hardware levies, it is generated under the operator levy because the sister societies do not differentiate between the two. However, this has no effect on the distribution by Bild-Kunst.

### Netting (interest, deductions, allocations)

The administrative cost ratios are identical to those of the hardware levy. Administrative costs came to EUR 48k. This total must be set against negative interest of EUR 35k. Allocations to the foundations will not be made until the income for the following year is paid out. EUR 1,717k can be allocated to the distribution reserves.

### **d.3. Press reviews**

No permission is required for the reproduction and distribution of image 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 analogue press reviews are collected through VG Wort. Bild-Kunst itself collects the royalties due for electronic press reviews.

### Basis of distribution

Revenue is paid out to rightholders through the distribution lines in accordance with section 30 Press review royalties (fine arts) and section 34 Press review royalties (images), formerly distribution plan 8.

For fine arts the distribution is made by means of copying royalty (art exhibition). For images the distribution is based on reports from the rightholders. There is no non-distributable income.

### 2017 income

#### • Total income

A total of EUR 301k was received in the 2017 financial year. The increase of EUR 51k is, as in previous years, due to the rise in electronic exploitation. By contrast, use in print products has been declining sharply for years.

#### • Print products via VG Wort

EUR 27k was realised for print products compared with EUR 29k the previous year.

#### • Digital products by individual agreement

Contracts exist with Presse-Monitor Deutschland GmbH and Landau Media. Revenue in 2017 totalled EUR 274k, a rise of EUR 53k on the previous year.

### Netting (interest, deductions, allocations)

The distribution plan of 29.07.2017 fixed administrative cost deductions from year-to-date revenue at 3.50 % for direct and

indirect revenue for fine arts and images. The standard cost ratio of the financial year is 2.91 % for fine arts and 2.49 % for images.

The low amounts resulted in only EUR –0.06k being earned in interest. Administrative costs came to EUR 8k. There were no allocations to the foundations. EUR 293k was allocated 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 blanket 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 is along the same lines as the press review royalties. Prior to 2017 distribution plan 9 was applied.

##### 2017 income

Revenue in the 2017 financial year came to EUR 66k, thus about average.

##### Netting (interest, deductions, allocations)

Section II.1.e.1) also applies for the administrative cost ratios. Administrative costs amounted to EUR 2k, with no interest to be taken into account. EUR 64k will be allocated to the distribution reserves.

## **2. Income from image and film royalties**

This section sets out income from statutory royalty claims concerning both images 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 lending 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 reading 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: sec. 1 c); 1 m)

##### Collection sources

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

##### Basis of distribution

Of the revenue from the library royalty, 60.75 % is allocated to the library royalty distribution line in accordance with section 25 and 39.25 % to the private copying royalties (film) distribution line in accordance with section 38. Prior to 2017, revenue from the library royalty was distributed among image rightholders in accordance with distribution plan 5. The pro rata revenue from film rights was assigned to distribution plan 12 (rental of video carriers). There is no non-distributable income.

##### 2017 income

###### • Income from Germany

Der Gesamterlös ist im Geschäftsjahr 2017 um TEUR 33 auf TEUR 963 zurückgegangen. Dieser Inlanderlös setzt sich zusammen aus Erträgen für den Bildbereich mit TEUR 571 und aus Erträgen für den Filmbereich mit TEUR 392.

###### • Foreign income

Bild-Kunst received EUR 83k from abroad in 2017. All the foreign income is attributable to audiovisual rights.

##### Netting (interest, deductions, allocations)

Administrative costs totalled EUR 25k, negative interest EUR –0.3k. There were no allocations to the foundations. On balance EUR 1,020k 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 an agreement with the federal states for intranet use at colleges and universities.

##### Basis of distribution

There had not previously been a separate distribution plan due to the different terms of the agreements with the federal states. Since the 2017 distribution plan revenue has been assigned to the distribution lines in accordance with section 29 Private copying royalties (digital sources) fine arts and section 33 Private copying royalties (digital sources) image and, for audiovisual rights, in accordance with section 38 Private copying royalties (film).

##### 2017 income

###### • Total income

A total of EUR 3,021k was collected in 2017, compared with EUR 118k the year before. The increase is due to the fact that some of the revenue for 2016 was not received until 2017.

###### • Universities

Collection of the royalties, on behalf of all other participating collecting societies as well, is the responsibility of Bild-Kunst. EUR 799k in total was collected centrally. In the financial year Bild-Kunst received a total of EUR 2,104k in revenue for the 2016 and 2017 years of usage.

###### • Schools

Collection is the responsibility of ZBT. The revenue for 2017 came to EUR 118k, the same as in previous years due to the agreements that have been concluded.

##### Netting (interest, deductions, allocations)

EUR 2,963k was allocated to the distribution reserves after allowing for interest and administrative costs of EUR –58k. There were no allocations to the foundations.

#### **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

Revenue is paid out to rightholders of the distribution lines in accordance with section 31 Cable retransmission (fine arts), section 35 Cable retransmission (image) and section 37 Cable retransmission (film). Prior to 2017, distribution plan 10 applied for fine arts and images and distribution plan 11 for audiovisual works.

## 2017 income

- Total income

In 2017 we received a total of EUR 8,379k for cable retransmission rights, comprising EUR 657k for fine arts and images and EUR 7,722k for film. Total revenue has thus come in EUR 1,080k higher, although trends within the individual segments varied.

- Total income from Germany

EUR 5,177k in total was received from Germany, compared with EUR 3,570k in 2016. The share for still image rights in 2017 amounted to EUR 467k, up just EUR 54k on the previous year. Film rights in 2017 accounted for EUR 4,710k, EUR 1,554k more than in 2016. This is due to a period deferment from the annual financial statements of the previous year.

- Income from retransmission to private households

We received a total of EUR 4,015k from GEMA and ARGE Kabel, including EUR 310k for still images and EUR 3,634k for film.

- Revenue from retransmission to institutions (ZWF)

Bild-Kunst received EUR 1,168k from ZWF compared with EUR 1,097k the year before. Image royalties account for a EUR 92k share, film royalties EUR 1,077k.

- Miscellaneous

EUR 6k had to be spent on reversals of image royalties for previous years.

- Foreign income

EUR 3,202k in total was received from abroad, EUR 527k less than in the previous year. Revenue from image rights fell by EUR 24k to EUR 190k. We received the majority of the revenue from neighbouring countries, particularly the Netherlands and Austria.

By contrast, revenue from abroad for film royalties fell by EUR 503k to stand at EUR 3,012k in total. However, the income is only received every now and then. In the film segment, too, we received the highest payments from neighbouring countries, such as Switzerland (EUR 1,040k), Austria (EUR 512k), Denmark (EUR 205k) and France (EUR 241k), but also from other countries, like Spain (EUR 373k). 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 8k was incurred as interest. Administrative costs totalled EUR 184k, including EUR 18k for image rights and EUR 166k for

film rights. There were no transfers to the foundations. EUR 639k was allocated to the distribution reserves for image rights, EUR 7,548k 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

Claims 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).

In the past ZPÜ has only been able to realise income collected for PCs. In the 2017 financial year, revenue was realised for the first time from the new inclusive agreements on mobile phones and tablets reached in 2015 and covering years of usage from 2008 (mobile phones) and 2010 (tablets). This income had a significant impact on 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

Revenue from the private copying levy for fine arts and images is apportioned to the distribution lines according to the specific device and in accordance with sections 28 Private copying royalties (fine arts) analogue sources and 29 Private copying royalties (image) analogue sources respectively and sections 32 and 33 Private copying royalties (fine arts) digital sources and 33 Private copying royalties (image) digital sources respectively. Previously distribution plans 6 and 7 were applicable. For the audiovisual rights, the revenue from the private copying levy is distributed to rightholders of the distribution line in accordance with section 38 Private copying royalties (film). Previously shares revenues from film rights was assigned to distribution plan 13. There is no non-distributable income because use of the works is either known or based on reports.

Fine arts and image rightholders of the foreign sister societies have, firstly, the same opportunity to report on the copying sources that Bild-Kunst administers as members of Bild-Kunst do. Secondly, the sister societies receive empirically determined flat-rate shares for copying sources that Bild-Kunst does not itself administer.

Foreign audiovisual authors rightholders register their works directly, usually through foreign sister societies.

Bild-Kunst has been receiving separate income for advertising films since 2015. This income is forwarded for distribution to the TWF, with which a representation agreement exists. Section 39 Advertising films, formerly distribution plan 14, applies.

## 2017 income

- Total income

No revenue was received through the ZPÜ in the previous year, 2016, because the participating collecting societies had not yet agreed a distribution between repertoires and respective CMOs. An agreement was reached in December 2016, only

being finalised in 2017. In the 2017 financial year Bild-Kunst generated total revenue of EUR 87,847k. Of this total, PCs accounted for EUR 8,528k for the 2015 and 2016 years of usage, mobile phones EUR 61,054k for the 2008 – 2016 years of usage and tablets EUR 18,264k for the 2010 to 2016 years of usage.

- **Income from Germany**

Domestic revenue consists of the above income from the ZPÜ. Revenue for fine arts and image royalties totalled EUR 52,702k, comprising EUR 5,134k in revenue for PCs, EUR 36,367k for mobile phones and EUR 11,201k for tablets.

EUR 35,145k in total was received for film rights, including EUR 3,394k for PCs, EUR 24,687k for mobile phones and EUR 7,063k for tablets. There were additional shares for advertising film authors of EUR 1,971k.

- **Foreign income**

For the private copying levy we only receive revenue from abroad for films. This came to EUR 1,845k in 2017, compared with EUR 906k the year before. Payments from abroad are received at irregular intervals and cover a number of years of usage. The reason for the increase is that in 2017, unlike in 2016, we again received payments from Austria. These totalled EUR 745k. Payments from Switzerland (EUR 524k) and France (EUR 102k) should also be mentioned. Overall revenue can be broken down into EUR 1,631k in payments for authors and EUR 215k for producers.

#### Netting (interest, deductions, allocations)

Administrative costs for fine arts and image rights came to EUR 1,393k, supplemented by negative interest of EUR 2k. There were no allocations to the foundations. This meant that EUR 51,306k could be allocated to the distribution reserves.

Interest for film rights came in at EUR –3k overall, while administrative costs totalled EUR 843k. Again, no sums were allocated to the foundations. The distribution reserves thus rose by EUR 36,144.

### **3. Income from film royalties**

This section 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 137I UrhG.

#### **a. Video rental**

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 the ZVV, the central video rental agency managed by GEMA.

##### Basis of distribution

The revenue is apportioned by percentage, with 99% being assigned to the private copying royalties (film) distribution line in accordance with section 38. Of the other 1%, 30% is allocated to the cable retransmission (fine arts) distribution line in accordance with section 31 and 70% to the cable retransmission (image) line in accordance with section 35. Prior to 2017, distribution plans 12 and 10 were applicable.

##### 2017 income

Income from video rental has been declining steadily for years, an indication of its diminishing relevance. Total revenue fell from EUR 106k to reach EUR 54k in total, although this is in particular also due to delays in the preparation of quarterly accounts.

#### Netting (interest, deductions, allocations)

Administrative costs came to EUR 1k. There was no negative interest to take into consideration, and no allocations were made to the foundations. EUR 53k will be allocated to the distribution reserves.

#### **b. Primary broadcasting rights, foreign**

The film authors of professional group III generally assign their primary 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 primary rights are managed by collecting societies. Where film works of members of Bild-Kunst are used, the respective 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. Section 36 Film (individual) distribution line applies.

##### 2017 income

In the financial year we received a total of EUR 950k through foreign sister societies, EUR 828k 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 910k compared with EUR 1,684k the previous year, while from France (SCAM) we received EUR 89k in 2016, but only EUR 6k in 2017. The rest is made up of smaller amounts from SGAE (Spain), SPA (Portugal), DirectorsUK (Great Britain) and, for the first time, DAC (Argentina).

#### Netting (interest, deductions, allocations)

Negative interest of EUR 0.2k was accrued and administrative costs came to EUR 20k. In total, EUR 929k will be allocated to the distribution reserves. There were no deductions for Stiftung Sozialwerk and Stiftung Kulturwerk.

#### **c. Section 137I UrhG**

Film authors were unable to assign any primary 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 footage 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. Section 36 Film (individual) distribution line applies.

## 2017 income

Since 2014 Bild-Kunst has been receiving income through VG Wort, although at a very low level. While it came to EUR 2k in 2016, in the 2017 financial year it totalled EUR 3k. The income had been paid through VG Wort for exploitation by ZDF and WDR.

## Netting (interest, deductions, allocations)

Deductions for administrative costs and negative interest totalled EUR 0.1k. EUR 3k was allocated to the distribution reserves.

## **4. Other non-copyright-related income**

Bild-Kunst manages 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 and distribution of the revenue to the participating collecting societies. In 2017 Bild-Kunst received EUR 191k compared with EUR 179k 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. In the 2017 financial year, though, it realised EUR 21k in income.

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 105k, compared with EUR 114k in 2016, while from Stiftung Kulturwerk it received EUR 98k compared with EUR 125k the previous year.

Due to the extremely unfavourable situation on the financial markets and the obligation to hold receipts available and absolutely safe, it is no longer possible to achieve positive interest rates. Net interest income in 2017 including the compounding of pension reserves came to EUR – 1k, while for pure money investments it was EUR – 52k. Regrettably, it must be assumed that the situation will deteriorate drastically in the future.

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

## **III. Deductions and administrative costs**

Administrative costs in the financial year totalled EUR 4,270k, EUR 130k less than in the previous year. The average administrative cost ratio fell from 6.27 % in 2016 to 3.31 % in 2017, mainly due to the sharp rise in revenue.

### **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 incurred EUR 437k in costs relating to the Articles of Association. Despite the introduction of the electronic voting system, costs relating to the Articles of Association in 2017 fell by EUR 77k to reach EUR 360k.

Costs for IT and associated services also declined slightly to EUR 436k. The costs of administration, particularly for leases, ancillary costs and office operations, likewise eased down, falling by EUR 62k to EUR 414k. By contrast, personnel expenses rose EUR 178k to reach a total of EUR 3,288k.

Despite the new and varied transparency obligations and the need to offer electronic voting in 2017, we have been able to keep administrative expenses at a low level.

### **2. Appropriation of non-copyright-related income**

No non-copyright-related income other than that set out in section II.4 is 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 in 2017 of Frauke Ancker, Werner Schaub and Jobst Christian Oetzmann.

At the start of 2017 the foundation had capital of EUR 8,216k. With no additions having been made, the amount at the end of 2017 is unchanged.

Stiftung Kulturwerk was able to grant funding totalling EUR 1,236k, EUR 61k more than in the previous year.

EUR 650k of this went on 11 projects of PG I, EUR 391k on 55 projects of PG II and EUR 196k on 14 projects of PG III. A total of 80 projects were funded, compared with 77 the year before.

Expenses on business activities fell by EUR 28k on the previous year to EUR 157k. They comprised EUR 32k for expenses relating to the Articles of Association, EUR 7k for third-party services and EUR 118k for office operations.

The expenses were distributed between PG I (EUR 39k), PG II (EUR 83k) and PG III (EUR 36k).

Receipts from Bild-Kunst dropped from EUR 2,157k in 2016 to EUR 198k for 2017. This is due to a change of system as a result of the VGG and the new distribution plan, on the basis of which transfers from the revenue of the financial year will not be made until this revenue is paid out in the course of 2018. The percentages applicable then will prevail.

## **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. In the 2017 financial year it consisted of Frauke Ancker, Werner Schaub and Jobst Christian Oetzmann.

Stiftung Sozialwerk has the same registered share capital of EUR 13,765k. There were no additions during 2017.

A total of EUR 954k in payments to persons in need was approved in 2017, compared with EUR 1,037k the previous year.

One-off assistance of EUR 42k to 17 recipients and EUR 200k in recurring support payments for 85 recipients were approved in PG I.

Nineteen one-off payments totalling EUR 43k and EUR 160k in recurring support payments to 55 recipients were approved in PG II.

One recipient in PG III received a one-off payment of EUR 2k, while EUR 41k in recurring payments was promised to 15 recipients.

In all, 1,694 grants were made 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 1,703 recipients. The 2017 payments reached 718 members of PG I, 735 members of PG II and 241 members of PG III.

EUR 157k was spent for administrative services in the financial year, EUR 9k less than in the previous year. This total comprises EUR 18k in outlays for expenses relating to the Articles of Association, EUR 9k for third-party services and EUR 131k for office operations.

Receipts from Bild-Kunst dropped from EUR 1,338k in 2016 to stand at a total EUR 107k for 2017. As with Stiftung Kulturwerk, this can be attributed to the change in system as a result of the VGG and the new distribution plan, on the basis of which transfers from the revenue of the financial year will not be made until this revenue is paid out in the course of 2018. The percentages applicable then will prevail.