



BILD-KUNST

Verwertungsgesellschaft BILD-KUNST 53113 Bonn Weberstraße 61 Rechtsfähiger Verein kraft staatlicher Verleihung Sitz Frankfurt am Main

Distribution Plan of Verwertungsgesellschaft Bild-Kunst

as amended by resolution of the General Meeting of 27 July 2019

The generic masculine is used in this text. All masculine grammatical references for persons that do not apply solely to men based on the context apply for all persons regardless of gender.

Contents

General Part	3
General Part - Chapter 1: Definitions	3
Sec. 1 Rightholder.....	3
Sec. 2 Work category	3
Sec. 3 Distribution line.....	3
Sec. 4 Distribution scheme.....	3
Sec. 5 Income and special revenue	3
Sec. 6 Receipts	3
Sec. 7 Distribution reserve	3
Sec. 8 Administrative costs and other costs	3
Sec. 9 Cost ratio	3
Sec. 10 Credits and payouts	4
Sec. 11 Year of usage	4
General Part - Chapter 2: Distribution Principles	4
Sec. 12 Subject matter, financial year	4
Sec. 13 Distribution system	4
Sec. 14 Payout beneficiaries	4
Sec. 15 Administrative costs	5
Sec. 16 Deductions for social and cultural purposes	5
Sec. 17 Payment dates.....	5
Sec. 18 Determination of the payout beneficiaries	6
Sec. 19 Use of non-distributable distribution reserves.....	6
Sec. 20 Correction of systematic distribution errors.....	6
Sec. 21 Powers of the Executive Board and Administrative Council	6
Sec. 22 Entry into force and transitional rules	7
Sec. 22a Publishers' participation (rightholding authors).....	7
Sec. 22b Publishers' participation (non-rightholding authors)	8



Notes on the distribution plan

Parameters for the distribution plan stipulated by the Administrative Council

According to law and statutes, the Membership Assembly of VG Bild-Kunst is authorised to make amendments to the distribution plan. However, in section 21, as per distribution plan, some authorities to stipulate distribution plan parameters, which are not included in the text of the distribution plan, are delegated to the Administrative Council. The following gives an overview of these parameters.

Special Part – Chapter 2: Distribution Schemes

Sec. 42 Distribution scheme 3 - “Public lending right”

Paragraph 3 sentence 2 – flat-rate foreign share:

The Administrative Council stipulates the division of the 10 % share in foreign-language books, which are transferred to foreign sister societies on a flat-rate basis.

On 26 April 2018, the Administrative Council decided on the following distribution key:

No.	Category	10 % share	Countries	Societies	Share			
1	English EU-USA	28.5 %	UK	Clarification Final distribution	15.33 %			
			USA	DACS	13.17 %			
2	Large EU-countries	28.5 %	France	ADAGP	9.50 %			
				Matisse				
				Picasso				
				SAIF SCAM (Dok-Film)				
3		Italy	SIAE	9.50 %				
4		Spain	VEGAP	9.50 %				
5	Neighbouring countries	28.5 %	Belgium	SABAM	4.75 %			
				SOFAM				
				Others (via Reprobel)				
				6		Netherlands	PICTO-RIGHT	4.75 %
				7		Denmark	COPYDAN Billedkunst	4.75 %
				8		Czech Rep.	OOAS	4.75 %
9	Austria	BILDRECHT	4.75 %					
10		Switzerland	PRO LITTERIS	4.75 %				
11	Others	9.5 %	Norway	Bono Kopinor	0.95 %			
12			Sweden	Bildupphovsrätt	0.95 %			
13			Finland	KUVASTO	0.95 %			
14			Slovakia	LITA	0.95 %			

15	Hungary	HUNGART	0.95 %
16	Rumania	VIS-ART	0.95 %
17	Portugal	SPA	0.95 %
18	Australia/ New Zealand	Copyright Agenca, VISCOPY	0.95 %
19	Latvia	AKKA/LA	0.475 %
20	Lithuania	LATGA-A	0.475 %
21	Ireland	IVARO	0.95 %
22	Overall reserves	5.0 %	5.00 %

Paragraph 6.b – Supplementary distribution books:

The Administrative Council establishes a fictitious tariff which results in a fictitious licence for certain non-licensed works which, in turn, constitutes the basis for the proportional additional distribution.

On 26 April 2018, the Administrative Council decided on the following fictitious tariff:

Fictitious book tariff:

Print run	Fictitious tariff per image:
up to 250	3 EUR
up to 1,000	10 EUR
from 1,000	24 EUR

Enforcement: Members of the professional group I will report on corresponding uses in advance. In case of doubt, the low number of print runs up to 250 will be applied if the print run circulation is not confirmed in the context of the notification (e. g. by the publisher).

Sec. 43 Distribution scheme 4 - “Private Copying fine arts/image, analogue”

Paragraph 3 sentence 2 – flat-rate foreign share:

The Administrative Council stipulates the division of the 10 % share in foreign-language books, which are transferred to foreign sister societies on a flat-rate basis.

On 26 April 2018, the Administrative Council decided on a distribution key that is identical to the distribution key for section 42 paragraph 3 sentence 2 (public lending right). Please refer to the respective section for further information.

Paragraph 7.b – Supplementary distribution publications:

The Administrative Council establishes a fictitious tariff which results in a fictitious licence for certain non-licensed works which, in turn, constitutes the basis for the proportional additional distribution.

On 26 April 2018, the Administrative Council decided on the following fictitious tariff:

Fictitious book tariff:

Print run	Fictitious tariff per image:
up to 250	3 EUR
up to 1,000	10 EUR
from 1,000	24 EUR

Fictitious magazine tariff:

Print run	Fictitious tariff per image:
up to 10,000	30 EUR

Enforcement: Members of the professional group I will report on corresponding uses in advance. In case of doubt, the low number of print runs up to 250 will be applied if the print run circulation is not confirmed in the context of the notification (e.g. by the publisher).

Paragraph 8.c – Fine arts / copying royalty art exhibitions distribution:

The Administrative Council stipulates the share for foreign exhibition venues (creation class A) based on appropriate data. For this purpose, VG Bild-Kunst had an empirical study carried out in March 2018. On 24 April 2019 and based on the results of the study, the Administrative Council set the share of the creation class A to

→ **26.4 %**.

Sec. 44 Distribution scheme 5 - “Private copying (fine arts/image, digital)”

Paragraph 2 – fine arts / shares for payout lines:

Four payout lines are formed on the basis of empirical studies. For this purpose, VG Bild-Kunst had an empirical study carried out in March 2018. On 27 July 2018 and based on the results of the study, the Administrative Council set the shares of the creation classes as follows:

Creation class A: **29 %**
Creation class B: **16 %**
Creation class C: **15 %**
Creation class D: **27 %**
Creation class E: **13 %**.

Paragraph 2.b – fine arts / fictitious shares resale rights:

According to the distribution plan, 50 % of the creation class B will be distributed as a surcharge to the distribution of resale rights. The problem is that fine art artists from countries that do not know resale rights are not entitled to resale rights in Germany. Thus, a surcharge cannot be charged. This mainly refers to artists from the USA and Switzerland.

Therefore, the distribution plan stipulates in section 44 2.b that CMOs of these countries be allocated flat-rate shares, which

are determined by the Administrative Council. According to the decision of the Administrative Council, the calculation of these shares for the years of usage 2016 and 2017 is to be calculated on the basis of the following fictitious distribution of resale rights:

- ProLitteris EUR 43,500
- ARS EUR 137.500

Paragraph 2.b – fine arts: shares for creation class E/abroad

The distribution plan provides in section 44 paragraph 2 [b] that distribution reserves of the web presence of artists are apportioned into a share for German web presences and a share for foreign web presences. According to the decision of the Administrative Council on 26 July 2019, which bases on the results of empirical studies, the figures are set as follows:

German web presences: **63 %**

Foreign web presences: **37 %**

Allocation of foreign countries:

The share “Class E - foreign web presences” is divided amongst the countries according to the decision of the Administrative Council:

Land	Anteil
Australia	3.9 %
Austria	3.0 %
Belgium	6.0 %
Brasil	2.6 %
Bulgaria	3.6 %
Canada	1.6 %
Czech Republic	1.1 %
Denmark	6.2 %
Estonia	2.2 %
Finland	1.0 %
France	12.2 %
Greece	1.4 %
Ireland	3.8 %
Israel	0.5 %
Italy	2.8 %
Japan	2.4 %
Kroatia	5.2 %
Netherlands	2.0 %
Russia	3.4 %
South Africa	0.6 %
Spain	2.3 %
Sweden	2.7 %
UK	16.1 %
USA	13.7 %

Paragraph 3.a.i – image / distribution by country, source pages:

On 27 July 2018, the Administrative Council instructed the office to apportion the distribution reserves of the creation class “private copying digital sources image” to individual countries based on the empirical study carried out in March 2018, and an

additional analysis carried out in August 2018. The shares correspond to the ratio of copies of images on websites from the respective countries that are produced in Germany. The office set the following values:

Share Germany: **80.44 %**

Share foreign countries: **19.56 %**

The allocation of foreign countries to individual countries is made according to the requirement that only countries whose share of the foreign share amounts to at least 0.5 %:

Country	Share
Argentina	0.5 %
Australia	2.1 %
Estonia	2.1 %
Finland	0.8 %
France	9.1 %
Ireland	6.5 %
Italy	1.5 %
Canada	0.8 %
Netherlands	3.3 %
Austria	1.7 %
Russia	5.5 %
Switzerland	1.9 %
Spain	0.7 %
USA	51.6 %
UK	7.7 %
Other countries	4.2 %

The share for other countries will be transferred to a reserve.

Paragraph 3.b – image / shares creation classes Germany:

The share for Germany will be split among the creation classes “photography” and “illustration, design, other visual works”. For this purpose, VG Bild-Kunst had an empirical study carried out in March 2018. On 27 July 2018 and based on the results of the study, the Administrative Council set the share of the creation class “photography” to

→ **63.62 %**

and the share of the creation class “illustration, design, other visual works” to

→ **36.38 %**.

Paragraph 3.c.vii – image / fictitious levy for free usage:

On 27 July 2018, the Administrative Council set the fictitious levy for free usage to

→ **200 EUR**

For the years of usage 2016 and 2017, this fictitious levy will be attributed to the distribution line “private copy royalties for digital sources image” pursuant to section 45 3.f

Paragraph 3.e – image / proprietary web presence:

On 27 July 2018, the Administrative Council set the fictitious levy for proprietary web presence

→ **200 EUR**

As per distribution plan, this fictitious levy will be attributed to the distribution line “private copy royalties for digital sources image”.

Special Part	8
Special Part - Chapter 1: Distribution Lines	8
Sec. 23 Resale rights (fine arts) and resale rights (image).....	8
Sec. 24 Primary rights (fine arts) and primary rights (image)	9
Sec. 25 Public lending right (fine arts)	9
Sec. 26 Public lending right (image).....	10
Sec. 27 Flat-rate broadcasting rights (fine arts)	10
Sec. 28 Private copying royalties analogue sources (fine arts)	11
Sec. 29 Private copying royalties digital sources (fine arts)	11
Sec. 30 Press review royalties (fine arts)	12
Sec. 31 Cable retransmission (fine arts).....	13
Sec. 32 Private copying royalties analogue sources (image)	13
Sec. 33 Private copying royalties digital sources (image)	14
Sec. 34 Press review royalties (image).....	14
Sec. 35 Cable retransmission (image).....	15
Sec. 36 Film (individual)	15
Sec. 37 Cable retransmission (film).....	16
Sec. 38 Private copying royalties (film).....	17
Sec. 39 Advertising films	18
Special Part - Chapter 2: Distribution Schemes	18
Sec. 40 Distribution scheme 1 - “Direct distribution”	18
Sec. 41 Distribution scheme 2 - “Broadcasting”	18
Sec. 42 Distribution scheme 3 - “Public lending right”	19
Sec. 43 Distribution scheme 4 - “Private copying (fine arts/image), analogue”	20
Sec. 44 Distribution scheme 5 - “Private copying (fine arts/image), digital”	22
Sec. 45 Distribution scheme 6 - “Press review”	26
Sec. 46 Distribution scheme 7 - “Cable retransmission (image)”	26
Sec. 47 Distribution scheme 8 - “Cable retransmission (film)”	26
Sec. 48 Distribution scheme 9 - “Private copying (film)”	29
Sec. 49 Annexes to distribution schemes 8 and 9	32
Special Part - Chapter 3: Reporting Procedure	33
Sec. 50 Principles.....	33
Sec. 51 Written reporting procedure	34
Sec. 52 Online reporting procedure	34
Sec. 53 Verification of reports.....	34
Sec. 54 Special rules for new members	34
Supplementary annexes to the distribution plan	35

General Part

General Part - Chapter 1: Definitions

Sec. 1 Rightholder

A “rightholder” within the meaning of this distribution plan is any holder of rights who is represented by VG Bild-Kunst in accordance with the Articles of Association and is in an administration relationship with VG Bild-Kunst. The distribution plan distinguishes between “members” and “external rightholders”. A “member” is a rightholder who has concluded an administration agreement with VG Bild-Kunst. His successor in title is also considered a “member”. An “external rightholder” is someone who has concluded an administration agreement with a sister society of VG Bild-Kunst which has in turn granted its rights to VG Bild-Kunst under a representation agreement. An author who has granted Bild-Kunst rights by way of a collection mandate in the cases provided for in the distribution plan is equivalent to a member unless this conflicts with the meaning and purpose of a provision.

Sec. 2 Work category

The work categories of the distribution plan are not based on a definition of what is meant by the terms “fine arts”, “image” and “film”, but instead correspond to the rights and remuneration claims that are granted to VG Bild-Kunst under the various administration agreements:

- Fine arts work category: Administration Agreement PG I
- Image work category: Administration Agreement PG II
- Film work category: Administration Agreement PG III

Sec. 3 Distribution line

In each work category payouts are made within distribution lines in which the income for one or more rights and remuneration claims administered by VG Bild-Kunst is bundled on the basis of economic and administrative criteria. Rights and remuneration claims of lesser economic significance are allocated to the existing distribution lines. The distribution lines are regulated in chapter 1 of the Special Part. The distribution plan can provide for maximum and minimum limits for payouts to individual rightholders in individual distribution lines.

Sec. 4 Distribution scheme

A “distribution scheme” is the distribution model for one or more distribution lines. The distribution schemes are regulated in chapter 2 of the Special Part. Distribution is performed either directly or collectively.

The “direct distribution” scheme is applied if income is realised for the exploitation of a specific work or for a specific rightholder.

A “collective distribution” scheme is always applied if direct distribution is not possible, or is only possible at disproportionate expense. The distribution model consists of general valuation and distribution rules enabling a flat-rate approximation to the share that cannot be measured individually. The extent to which the work is used and the cultural or artistic significance of the works are taken into appropriate account.

In collective distribution, a distinction is made between:

a) Usage-based collective distribution:

In “usage-based collective distribution”, a distribution scheme based on an external data collection, e. g. usage reports from the users of the work, is applied.

b) Report-based collective distribution:

In “report-based collective distribution”, a distribution scheme based on information provided by the rightholders and/or sister societies is applied.

Sec. 5 Income and special revenue

Within the meaning of this distribution plan, “income” refers to the revenue for the administration of rights and statutory remuneration claims according to German and foreign copyright law. By contrast, “special revenue” is all revenue of VG Bild-Kunst that is not classified as income.

a) Direct income – indirect income

“Direct income” refers to that share of the income that VG Bild-Kunst itself realises through dependent and independent collection organisations and through collecting societies who essentially represent rightholders of other work categories than VG Bild-Kunst. “Indirect income” is realised by VG Bild-Kunst through sister societies which essentially represent rightholders of the same work categories as VG Bild-Kunst and have concluded a representation agreement with it.

b) Internal income – external income

“Internal income” refers to that proportion of the income that VG Bild-Kunst realises for its members. “External income” refers to that proportion of the income that VG Bild-Kunst realises for its external rightholders, i. e. the rightholders of other sister societies.

Sec. 6 Receipts

“Receipts” refer to cross-line income that VG Bild-Kunst realises in total or for a work category over a particular period of time, e. g. a financial year.

Sec. 7 Distribution reserve

The “distribution reserve” is all income that – regardless of when it was received – it was possible to realise in a distribution line for a particular period of time, after deducting pro rata administrative costs.

Sec. 8 Administrative costs and other costs

“Administrative costs” are the expenses that VG Bild-Kunst incurs through the administration of rights and remuneration claims. They include the expenses for its activities as an association and its pursuit of the purposes defined in section 2 of the Articles of Association, namely promoting copyright and strengthening the rights of members of VG Bild-Kunst, insofar as the measures taken to this end benefit all rightholders of the relevant professional category of VG Bild-Kunst. “Other costs” are the costs that VG Bild-Kunst incurs that are not administrative costs.

Sec. 9 Cost ratio

The “cost ratio” is the percentage share of the income of a distribution line that is utilised in order to cover the administrative costs.

Sec. 10 Credits and payouts

A “credit” is taken to mean the posting of the pro rata distribution reserves to the internal account of a rightholder after the deduction of any contributions for social and cultural purposes. By contrast, a “payout” – depending on the context – refers either to the administrative process of calculating the credits through to payment to the rightholders, or the total of all credits that were calculated within the relevant payout.

Sec. 11 Year of usage

The “year of usage” is the financial year in which a right is exploited or in which the elements establishing a statutory remuneration claim arise. The “following year” is the financial year following the year of usage.

General Part - Chapter 2: Distribution Principles

Sec. 12 Subject matter, financial year

[1] This distribution plan pursuant to section 27 of the German Collecting Societies Act (Verwertungsgesellschaftengesetz, VGG) regulates the use of the revenue of VG Bild-Kunst, i.e. the sums received less any VAT to be paid on them, and the calculation of the payments to its rightholders.

[2] The financial year is the calendar year.

Sec. 13 Distribution system

[1] The income of VG Bild-Kunst is distributed in the following distribution lines:

Fine arts work category:

- Public lending right
- Resale rights (fine arts)
- Primary rights (fine arts)
- Flat-rate broadcasting rights (fine arts)
- Private copying royalties analogue sources (fine arts)
- Private copying royalties digital sources (fine arts)
- Press review royalties (fine arts)
- Cable retransmission (fine arts)

Image work category:

- Public lending right
- Resale rights (image)
- Primary rights (image)
- Private copying royalties analogue sources (image)
- Private copying royalties digital sources (image)
- Press review royalties (image)
- Cable retransmission (image)

Film work category:

- Film individual
- Cable retransmission (film)
- Private private copying royalties (film)
- Advertising film

In each distribution line a distinction is made between direct and indirect income according to the source of the income, and

between internal income and external income according to how the income is assigned.

[2] The income realised is allocated in time to the years of usage and materially to the distribution lines for which it arises. Direct income is materially allocated to distribution lines on the basis of the regulations in chapter 1 of the Special Part. Indirect income is materially allocated on the basis of how it is earmarked by the sister society.

[3] The relevant period for allocation is determined by when settlement was made by those liable to pay the royalties. In the absence of any such allocation, and if it cannot be established at reasonable expense, allocation will be determined by the managing Member of the Executive Board on the basis of objective criteria.

[4] In a second step, the income that has been allocated to the individual distribution lines and years of usage is transferred to distribution reserves after the respective pro rata administrative costs have been deducted from the income according to the provisions of section 15.

[5] Credits for the distribution lines are made on the respective payment dates set out in chapter 1 of the Special Part and in accordance with the distribution schemes set out therein.

[6] The Administrative Council may allocate a specific payout of the collective distribution to another year of usage or social and/or cultural purposes if the costs of the payout are manifestly out of proportion in financial terms to the relevant distribution reserves.

[7] If income of less than EUR 1.00 is calculated for one or more rightholders within a distribution, these amounts will not be credited to the rightholders concerned, but will instead be used to lower the administrative costs. The Executive Board may decide to allocate the amounts for a distribution to the Stiftung Kulturwerk or the Stiftung Sozialwerk. In all cases the relevant professional group must benefit from the amounts.

[8] A deduction for social and cultural purposes will be made pursuant to section 16 before the distribution reserves are credited.

[9] Credits are paid out by being transferred to the rightholders on the payment dates.

Sec. 14 Payout beneficiaries

[1] Rightholders of VG Bild-Kunst receive credits if distribution reserves have been formed for their rights and remuneration claims and the use of their works or their entitlement has been established in accordance with the rules of this distribution plan.

[2] Credits from distribution reserves of the fine arts work category are made in accordance with paragraph 1

- to members who have concluded the administration agreement of professional group I;
- to external rightholders whose comparable rights have been granted to VG Bild-Kunst.

[3] Credits from distribution reserves of the image work category are made in accordance with paragraph 1

- to members who have concluded the administration agreement of professional group II;
- to external rightholders whose comparable rights have been granted to VG Bild-Kunst.

[4] Credits from distribution reserves of the film work category are made in accordance with paragraph 1

- to members who have concluded the administration agreement of professional group III;
- to external rightholders whose comparable rights have been granted to VG Bild-Kunst.

In the film work category separate payouts are made to film authors and film producers.

[5] The proportion relative to external rightholders depends primarily on the respective representation agreement.

[6] The proportion relative to members who assert assigned rights and/or remuneration claims is governed by the rules of this distribution plan even if deviating agreements have been made in the licensing agreement between the original rightholder and the member.

Sec. 15 Administrative costs

[1] Administrative costs must be justified, reasonable and verifiable in their entirety. They are composed of the overheads, the specific costs of the distribution lines and specific costs across lines.

[2] The administrative costs for a financial year are generally covered by the receipts of the relevant financial year and special revenue. If insufficient receipts are collected in a financial year, recourse may be made first to non-distributable distribution reserves, and then to distribution reserves; the principle of equal treatment must be observed. Further details are regulated by the Administrative Council.

[3] The cost ratios for the distribution lines are set out in chapter 1 of the Special Part. In the distribution lines, where the annual financial statements are normally prepared in the time between when the money is received and when it is paid out, a “standard cost ratio” and a “year-to-date cost ratio” are stated. Where necessary, different cost ratios may be stated for direct and for indirect income, observing the efficiency principle.

[4] In distribution lines that state only one cost ratio, it is reviewed where necessary and adjusted to the expected requirement for the remaining financial year if appropriate on the basis of a trend forecast for receipts, line-specific costs and overheads. If the annual financial statements show differences between the cost deduction and the actual requirement in a distribution line, these increase or reduce the overheads.

[5] In distribution lines that state a standard and a year-to-date cost ratio, the standard cost ratio applies if the annual financial statements are prepared between when the money is received and when it is paid out. Otherwise the year-to-date cost ratio is applied. Paragraph 4 applies for year-to-date cost ratios. Standard cost ratios are calculated after the annual financial statements have been prepared by comparing the line-specific receipts of the financial year against the line-specific total costs of the financial year. The year-to-date cost contributions already made are taken into account for the line.

[6] The line-specific cost ratios are calculated taking account of the pro rata overheads, the line-specific costs and the pro rata cross-line costs.

[7] Special revenue reduces the overheads. Positive interest rates reduce and negative interest rates increase the costs of the distribution line in which they arise.

[8] VG Bild-Kunst is not to show a profit or loss. The Chief Executive Officer takes reasonable and appropriate corrective action in respect of the cost ratios in order to ensure compliance with this principle in the annual financial statements.

Sec. 16 Deductions for social and cultural purposes

[1] For each distribution line the General Meeting will decide on the deduction rates for social and cultural purposes that are stated in chapter 1 of the Special Part. Social and cultural deductions are applied until the date on which a change decided by the General Meeting comes into effect. The current deduction rates at the time of the payout prevail, not the deduction rates at the time the income is received.

[2] The social deduction and cultural deduction are each applied to the portions of the distribution reserves that accrue on internal income or on external income that is paid out to sister societies who have consented to this deduction.

[3] The funds made available through the social deduction are transferred to the Stiftung Sozialwerk of VG Bild-Kunst, the funds made available through the cultural deduction to the Stiftung Kulturwerk of VG Bild-Kunst. Chapter 1 of the Special Part indicates for each deduction the work category for which the funds are to be utilised. The Administrative Council decides whether the funding provided is allocated to the foundation capital or transferred to the foundations as reserves for purposes set out in the Articles of Association.

[4] VG Bild-Kunst obligates the foundations to employ social and cultural contributions from a work category for rightholders of this work category. It must also be ensured that the social and cultural contributions are used for the members of VG Bild-Kunst and for external rightholders of such sister societies with whom this has been agreed. The cultural contributions can additionally be used for institutions, events for projects of particular cultural or cultural policy significance for a not insignificant number of members of the relevant professional lines of VG Bild-Kunst.

It must also be ensured that the allocation of funds is decided by an advisory board of the respective professional group, elected by the General Meeting of VG Bild-Kunst, that lays down the general criteria for applications and decisions in funding guidelines.

Sec. 17 Payment dates

[1] The payment dates for each distribution line are set out in chapter 1 of the Special Part.

[2] If a payment date cannot be kept for material reasons, the payment will be made as soon as the reason no longer applies. Material reasons are in particular technical or administrative problems that objectively

- prevent the preparation or implementation of a payout as a whole;
- prevent the performance of credits;
- prevent payments.

[3] If income is received in the form of an instalment payment, a reserve can be formed for this in the same or a lesser amount on the basis of commercial requirements. This and other cases in which the formation of a reserve is appropriate are considered material reasons within the meaning of paragraph 2 sentence 1.

Sec. 18 Determination of the payout beneficiaries

[1] It is incumbent upon VG Bild-Kunst to determine the payout beneficiaries and it is incumbent upon the rightholder to provide all the information that is required for a credit and a payment.

[2] In the distribution lines of direct distribution the payout beneficiaries are generally known. Should identification problems occur, VG Bild-Kunst will take appropriate measures to rectify these. If a payout beneficiary can still not be determined, VG Bild-Kunst will publish the known information on its website three months after the payment date, in particular the name of the rightholder as recorded in the distribution information and where necessary the professional group and the description of the work used.

[3] In the distribution lines of report-based collective distribution, it is incumbent upon the rightholder to cooperate by making the report information available to VG Bild-Kunst in the specified report format by the reporting deadlines in accordance with the provisions of chapter 3 of the Special Part. VG Bild-Kunst will inspect the reports on a random basis. A rightholder who cannot provide evidence of his reports will not receive any credit; if this is repeated, or if particularly seriously incorrect reports are submitted, a criminal complaint will be filed and the contract will be terminated. When the reporting deadlines have passed, the distribution reserves will be split among the relevant rightholders whose correctly completed reports have been received in due form and time and who thus acquire a claim to a credit in accordance with the rules of the distribution plan. Rightholders can no longer submit reports or assert claims once the reporting deadlines have passed. Line-specific reserves will be formed and released as shown in chapter 1 of the Special Part for claims subsequently asserted by new members or by new sister societies who bring their claims for past periods upon concluding the contract.

[4] In the distribution lines of usage-based collective distribution, VG Bild-Kunst determines the distribution-related usage of works on the basis of the data specified by the relevant distribution scheme. It is incumbent upon the rightholders to report their authorship or co-authorship of works within the normal three-year limitation period (work report), regardless of the reasonable measures that VG Bild-Kunst itself will take for this purpose. Furthermore, the rightholders may be granted the option by the relevant distribution scheme to verify the data determined by VG Bild-Kunst in respect of their own usage of works in order to instigate a correction (correction report). Correction reports must be made available to VG Bild-Kunst by the reporting deadlines and using the specified report formats in accordance with the provisions of chapter 3 of the Special Part. No correction reports may be submitted once the reporting deadlines have passed. Three months after the end of the initial distribution regulated in the distribution lines in respect of the usage of works whose authorship or co-authorship is not known, VG Bild-Kunst will publish the available information on its website insofar as it can help to establish the rightholders.

[5] If a payment cannot be made because a rightholder has died and his heirs are not known, VG Bild-Kunst will take reasonable measures to determine the missing information. If this does not bring success, VG Bild-Kunst will publish the name of the rightholder, his professional group and any other information

that might be useful for determination three months after the payment date.

Sec. 19 Use of non-distributable distribution reserves

[1] Non-distributable distribution reserves from direct distribution will be used to reduce the administrative expenses at the start of the fourth financial year after the end of the payout year.

[2] Distribution reserves from usage-related collective distribution are non-distributable if they cannot be allocated to a rightholder for the final payout. In this case they are assigned pro rata to the payout beneficiaries of the corresponding year of usage and the corresponding distribution line in the proportion of their credits and paid out with the last payment for the year of usage, unless otherwise determined by special rules in the Special Part. Credits to rightholders from whom a deduction for cultural and social purposes had been made will be adjusted by these deductions for the purposes of calculation.

[3] No non-distribution distribution reserves arise in report-based collective distribution.

[4] Sums that cannot be paid will be used to reduce the administrative expenses at the start of the fourth financial year after the end of the year of the payment date.

Sec. 20 Correction of systematic distribution errors

If it subsequently turns out that the distribution system applied for some or all distributions in an accounting period had errors, further payouts based on this system will be suspended. The General Meeting will decide on the correction of the deficient provision and on the question of whether and for what period the distributions based on the deficient provision will be reversed. The decision will be reached after balancing the costs and benefits with due consideration for fiduciary principles. The reversal is normally to comprise a period of not more than three years. Consolidation into lump sums is allowed for the purposes of reversal. This will be decided by the Administrative Council. Positive differences will be paid out to the rightholders, negative differences generally carried forward to future accounts. The principle of equal treatment must be applied and due consideration must be given to cases of hardship.

Sec. 21 Powers of the Executive Board and Administrative Council

[1] When necessary, the Administrative Council adapts the information on sources of income provided in chapter 1 of the Special Part.

[2] The Administrative Council is authorised to determine the allocation of the income to the distribution lines and to subordinate lines or categories in chapter 1 of the Special Part. In doing so it takes account of how the income is earmarked. Results of empirical studies are to be taken into reasonable consideration. The Administrative Council commissions empirical studies where necessary.

[3] If necessary, the Executive Board adapts the reserves reported in chapter 1 of the Special Part.

[4] The Administrative Council decides in accordance with section 13 paragraph 6 whether not to perform a collective distribution for financial reasons.

[5] On the recommendation of the Executive Board, the Administrative Council decides on a change in the cost ratios set out in chapter 1 of the Special Part. The same applies for a decision pursuant to section 15 paragraph 2 sentence 2.

[6] The Administrative Council is authorised on the recommendation of the Executive Board to amend the reporting deadlines and payment dates laid down in chapter 1 of the Special Part, having due consideration for the requirements of the VGG and the distribution plan.

[7] The Executive Board and Administrative Council furthermore have all powers allocated to them in the Special Part of this distribution plan or the Articles of Association.

[8] The Administrative Council is authorised to make interim adjustments to the distribution plan if this becomes necessary due to new statutory regulations or a new legal position and the change cannot be made in time by the next ordinary General Meeting. The next ordinary General Meeting will decide on the final version of the amended provisions.

Sec. 22 Entry into force and transitional rules

[1] The distribution plan takes effect on 1 January 2017.

[2] This distribution plan applies in its entirety for income realised from usage in 2017 or a subsequent year. The same applies for special revenue that is realised from the 2017 financial year.

[3] This distribution plan also applies for income that is realised from 2017 for usage in 2016 or earlier years. However, the respective corresponding distribution models of the distribution plan that applied on 31 December 2016 (“old distribution plan”) will be applied instead of the distribution schemes in chapter 2 of the Special Part. This distribution plan will apply fully to income under sections 29 and 33 for usage in 2016 that is realised from the 2017 financial year. In respect of income from private copying royalties, the Administrative Council is authorised to apportion these royalties on a product basis between distribution plans 6 and 7 where necessary. It is also authorised in distribution plan 7 to determine a flat-rate proportion for external rightholders according to product and year of usage that deviates from the resolution of the General Meeting of 11 July 2015 and to determine the corresponding distribution modalities in detail.

[4] The following provisions apply for distribution reserves that exist on 31 December 2016:

- a. The distribution models of the old distribution plan apply. This does not apply for distribution reserves for the 2016 year of usage that would have to be distributed in accordance with distribution plan 7 of the old distribution plan. For these distribution reserves, the distribution model of section 44 of this distribution plan applies instead.
- b. Section 13 applies *mutatis mutandis* in respect of the distribution system, but with the exception of paragraph 1.
- c. Section 14 applies in respect of the payout beneficiaries.
- d. The provisions of the old distribution plan apply in respect of the administrative cost deductions and the deductions for cultural and social purposes.
- e. Section 18 paragraphs 1 to 3 and 5 apply *mutatis mutandis* in respect of the determination of the payout beneficiaries. All income that under this distribution plan would have to

be classified under usagerelated collective distribution will be paid out in accordance with the system for report-based collective distribution.

- f. Sections 28 and 46 VGG apply in respect of the payment dates, with the following proviso: The Chief Executive Officer will without undue delay prepare a schedule of all distribution reserves, showing the earliest possible payout dates and where appropriate the material reason for the deviation from the requirements of the VGG, and will submit this to the supervisory authority.
- g. Section 19 paragraphs 1, 3 and 4 apply in respect of non-distributable distribution reserves.
- h. The powers of the Administrative Council according to paragraph 3 sentences 4 and 5 apply *mutatis mutandis* in respect of the income from private private copying royalties.

[5] Contrary to section 29 paragraph 6, the reporting deadline for the distribution reserves of the “Private copying royalties digital sources (fine arts)” line concerning usage in 2016 is 30 June 2018. The payout date regulated in section 29 paragraph 7 is also postponed to the 2018 financial year, but the regulations otherwise remain unchanged.

[6] Contrary to section 33 paragraph 6, the reporting deadline for the distribution reserves of the “Private copying royalties digital sources (image)” line concerning usage in 2016 is 30 June 2018. The payout date regulated in section 33 paragraph 7 is also postponed to the 2018 financial year, but the regulations otherwise remain unchanged.

Sec. 22a Publishers’ participation (rightholding authors)

[1] Principle

Rightholding authors of the fine arts and image work categories pursuant to section 27a VVG may give publishers who are members of VG Bild-Kunst a participation in their credits for the distribution lines set out in paragraph 2 in the amount of the relevant quotas defined in paragraph 3 according to the procedures described in sections 4 to 6.

[2] Distribution lines

Participations pursuant to paragraph 1 are possible in the “library royalty”, the “copying royalty analogue sources” and the “press review royalties” distribution lines and – to 10 % – in the “copying royalty digital sources” line.

[3] Quotas

The publishers’ quota for each work category is

For the distribution line	In the visual arts work category	In the image work category
Public Lending Right	25 %	20 %
Press Review	25 %	20 %
Private copying royalties, analogue sources	25 %	20 %
Private copying royalties, digital sources (10 %)	25 %	20 %

[4] Credits

Credits for rightholders of the fine arts and image work categories, which are calculated in accordance with section 13 paragraphs 5 to 8, are provisional in every case and for each distribution line until it has been established whether or not the individual rightholder consents to a publishers' participation. If he does not consent, the provisional credit becomes a final credit. If he does consent, the provisional credit less the publishers' quota pursuant to paragraph 3 becomes the final credit. In this case the publishers' quota is credited to the beneficiary publisher(s).

[5] Beneficiary publishers

If a rightholding author consents to the publishers' participation for a distribution line, he must inform VG Bild-Kunst of the publisher(s) to whom the publishers' quota is to be credited. Only publishers in whose publications image works of the rightholder have been used in the relevant year of usage may be designated.

[6] Procedure

The Administrative Council decides on the consent procedure. The rightholding authors may be set a deadline by which to declare finally whether they consent to a publishers' participation. Accounts to beneficiary publishers may not contain any information about the authors who consented to a publishers' quota in their favour.

[7] Affected years of usage

The procedure according to section 27a VGG that is regulated in paragraphs 1 to 6 applies for the 2017 up to and including 2019 years of usage. The Administrative Council may decide to extend it by a further year in each case.

Section 22b Publishers' participation (non- rightholding authors)

[1] Principle

Non-rightholding authors have not entered into a contract with any collecting society for the administration of their statutory remuneration claims that VG Bild-Kunst represents in the image category. If these claims have been assigned with legal effect to a publisher or picture agency who is a member of Bild-Kunst, the publisher or agency can claim the shares mentioned in section 22a paragraphs 2 and 3.

[2] Fictitious consent

The legally effective assignment of the statutory remuneration claims by a non-rightholding author to a publisher or picture agency will be regarded as consent to the publishers' quota participation pursuant to section 27a VGG.

[3] Affected years of usage

The procedure according to section 27a VGG that is regulated in paragraphs 1 and 2 applies for the 2018 and 2019 year of usage year of usage. The Administrative Council may decide to extend it by a further year in each case.

Special Part

Special Part - Chapter 1: Distribution Lines

The regulations of this chapter flesh out the provisions of the General Part for the specific lines and take precedence over them.

Sec. 23 Resale rights (fine arts) and resale rights (image)

[1] Sources of income

VG Bild-Kunst realises direct income through collection of the statutory royalty payments from those liable to pay the royalties in Germany. To facilitate collection, it has concluded inclusive contracts with user associations. It also realises indirect internal income from its foreign sister societies.

[2] Allocation of income

Income for members belonging to professional group I and for comparable external rightholders is allocated to the **resale rights (fine arts)** distribution line, income for members belonging to professional group II and for comparable external rightholders to the **resale rights (image)** distribution line.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the work categories fine arts and image, depending on the distribution line.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 1 (direct distribution).

[5] Reserves

No reserves are formed. Claims of new rightholders can only be administered from the time the rights are transferred.

[6] Reporting deadlines

There are no reporting deadlines because VG Bild-Kunst generally receives usage reports.

[7] Payment dates

Direct internal income is paid out in weeks 20 and 46, indirect internal income also in weeks 7 and 33. Payments are made on the next date following receipt of the money, in the case of indirect internal income alternatively on the next-but-one date.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex "VK".

[9a] Cultural and social deductions, primary rights (fine arts) for fine arts work category

- Cultural deduction: from 29.7.2017: 5,00 %
- Social deduction: from 27.7.2019: 6,00 %

[9b] Cultural and social deductions, resale rights (image) for image work category

- Cultural deduction: from 29.7.2017: 5,00 %
- Social deduction: from 29.7.2017: 2,00 %

[10] Transfer of rights by administration agreement

The members of VG Bild-Kunst grant it the rights for this distribution line under

- sec. 1 no. 1 d AA PG I/II.

Sec. 24 Primary rights (fine arts) and primary rights (image)

[1] Sources of income

VG Bild-Kunst administers reproduction, distribution, broadcasting and presentation rights of the fine arts work category and communication to the public rights of the image work category vis-a-vis users on the basis of contracts and tariffs. Online rights of the fine arts work category are licensed for the society OLA (Online-Art) on the basis of the OLA tariff. Likewise, online rights of the fine arts work category are granted to users on a flat-rate basis under blanket agreements. Furthermore, VG Bild-Kunst grants German private broadcasters and film producers the rights it represents to broadcast works of fine art according to a tariff as individual licenses, realising direct income thereby. It realises direct income from its own business. It receives indirect income through sister societies.

[2] Assignment of income

Individualisable income of the fine arts work category is allocated to the **primary rights (fine arts)** distribution line, income of the image work category to the **primary rights (image)** distribution line. Flat rate income for which there is no information on the works used or the rightholders affected is allocated to the distribution lines as follows:

- Income from online rights for fine arts is allocated to the private copying royalties digital sources (fine arts) line
- Income from online rights for image is allocated to the copying royalties digital sources (image) line
- Income from reproduction and distribution rights for fine arts is allocated to the private copying royalties analogue sources (fine arts) line
- Income from reproduction and distribution rights for image is allocated to the private copying royalties analogue sources (image) line

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the work categories fine arts and image, depending on the distribution line.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 1 (direct distribution).

[5] Reserves

No reserves are formed. Claims of new rightholders can only be administered from the time the rights are transferred.

[6] Reporting deadlines

There are no reporting deadlines because the actual use of the work is known when the income is received.

[7] Payment dates

Direct internal income is paid out in weeks 20 and 46, indirect internal income also in weeks 7 and 33. Payments are made on the next date following receipt of the money, in the case of indirect internal income alternatively on the next-but-one date.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex "VK".

[9a] Cultural and social deductions, primary rights (fine arts) for fine arts work category

- Cultural deduction: from 29.7.2017: 1,00 %
- Social deduction: from 27.7.2019: 6,00 %

[9b] Cultural and social deductions, primary rights (image) for image work category

- Cultural deduction: from 29.7.2017: 0,00 %
- Social deduction: from 29.7.2017: 1,00 %

[10] Transfer of rights by administration agreement

The members of professional group I grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 a AA (presentation rights)
- sec. 1 no. 2 a AA (reproduction rights)
- sec. 1 no. 2 a, b AA (online rights)
- sec. 1 no. 2 b AA (broadcasting rights)
- sec. 1 no. 1 n AA (new types of exploitation pursuant to sec. 137 (1) UrhG)
- sec. 1 no. 1 r AA (online rights for publications in out-of-commerce books)
- sec. 1 no. 1 l AA (reproductions for the benefit of visually unpaired persons)

The members of professional group II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 a AA (presentation rights)
- sec. 1 no. 1 n AA (new types of exploitation pursuant to sec. 137 (1) UrhG)
- sec. 1 no. 1 r AA (online rights for publications in out-of-commerce books)
- sec. 1 no. 1 l AA (reproductions for the benefit of disabled persons)
- sec. 1 no. 3 a AA (reproduction of collections in multimedia)
- sec. 1 no. 3 b AA (broadcasting rights for illustrations in books)

Sec. 25 Public lending right (fine arts)

[1] Sources of income

VG Bild-Kunst realises income from the public lending right through ZBT, income from electronic reading points through a common master agreement with VG Wort. To that extent it realises direct income. It also receives indirect income through sister societies.

[2] Allocation of income

12.5 % of the income from the public lending right is allocated to the **public lending right (fine arts)** distribution line, as is 20.5 % of the income from electronic reading points.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the fine arts work category.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 3 (public lending right). This is a report-based collective distribution scheme.

[5] Reserves

Reserves are formed for new rightholders in the amount of 10 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

The reporting deadline is 30 June of the following year.

[7] Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). The same applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions

- Cultural deduction: from 29.7.2017: 6,00 %
- Social deduction: from 27.7.2019: 6,00 %

[10] Transfer of rights by administration agreement

The members of professional groups I and II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 e AA (public lending rights - libraries)
- sec. 1 no. 1 h AA (electronic reading points)

Sec. 26 Public lending right (image)

[1] Sources of income

VG Bild-Kunst realises income from the public lending right through ZBT, income from electronic reading points through a common master agreement with VG Wort. To that extent it realises direct income. It also receives indirect income through sister societies.

[2] Assignment of income

48.25 % of the income from the public lending right is allocated to the **public lending right (image)** distribution line, as is 79.5 % of the income from electronic reading points.

[3] Payout beneficiaries

Payout beneficiaries are rightholders of the image work category.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 3 (library royalty). This is a report-based collective distribution scheme.

[5] Reserves

Reserves are formed for new rightholders in the amount of 10 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

The reporting deadline is 30 June of the following year.

[7] Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions

- Cultural deduction: from 29.7.2017: 1,00 %
- Social deduction: from 29.7.2017: 1,25 %

[10] Transfer of rights by administration agreement

The members of professional group I grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 e AA (rental and lending rights – libraries)
- sec. 1 no. 1 k AA (electronic reading points)

Sec. 27 Flat-rate broadcasting rights (fine arts)

[1] Sources of income

VG Bild-Kunst grants the German public television broadcasters the broadcasting and online rights to works of art it represents on a flat-rate basis, realising direct income thereby.

[2] Allocation of income

The income resulting from the flat-rate contracts with the public broadcasters are allocated to the **flat-rate broadcasting rights (fine arts)** distribution line.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the fine arts work category. Since VG Bild-Kunst has given public broadcasters an indemnification for the usage of all works, payouts are also made to non-members in this distribution line.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 2 (broadcasting). This is a usage-related collective distribution scheme, except that VG Bild-Kunst researches the usages for the public broadcasters.

[5] Reserves

Reserves of 10 % are formed for the usage of works of rightholders and of statutory rightholders that were not covered. The reserves will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

There are no reporting deadlines because VG Bild-Kunst researches the usage of works itself.

[7] Payment dates

Payments are made in week 49 of the following year.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions for fine arts work category

- Cultural deduction: from 29.7.2017: 1,00 %
- Social deduction: from 27.7.2019: 6,00 %

[10] Transfer of rights by administration agreement

The members of professional group I grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 2 b AA (broadcasting and online rights)

Sec. 28 Private copying royalties analogue sources (fine arts)

[1] Sources of income

VG Bild-Kunst realises direct income from private copying of the fine arts work category

- through VG Wort on a device-related basis (formerly reprography payment);
- through ZPU on a device and storage medium-related basis;
- through VG Wort in respect of the general operator levy and for copies dispatched to order;
- through ZFS for the schools and community colleges operator levy.

VG Bild-Kunst also receives indirect income through its sister societies.

[2] Allocation of income

The device and storage medium-related income from VG Wort and ZPU and the income from ZFS are allocated to the line as follows:

	Private copying royalties analogue sources (fine arts)
Printers	50.2 % analogue sources, of which 20.6 % for fine arts
Fax machines	67.5 % analogue sources, of which 20.6 % for fine arts
Scanners	100 % analogue sources of which 20.6 % for fine arts
Multipurpose devices	59.4 % analogue sources, of which 20.6 % for fine arts
Burners and blanks	48.2 % analogue sources, of which 20.6 % for visual arts
Hard drives	44.7 % analogue sources, of which 20.6 % for visual arts
PCs	44.7 % analogue sources, of which 20.6 % for fine arts
Tablets	44.7 % analogue sources, of which 20.6 % for fine arts
Mobile phones	20.0 % analogue sources, of which 20.6 % for fine arts
ZFS	88.0 % analogue sources of which 33.0 % for fine arts

The income from the operator levy and copies dispatched to order are treated as income from multipurpose devices.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the fine arts work category.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 4 (private copying fine arts/image, analogue). This is a report-based collective distribution scheme.

[5] Reserves

Reserves are formed for new rightholders in the amount of 10 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

The reporting deadline is 30 June of the following year.

[7] Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex "VK".

[9] Cultural and social deductions for fine arts work category

- Cultural deduction: from 29.7.2017: 6,50 %
- Social deduction: from 27.7.2019: 6,00 %

[10] Transfer of rights by administration agreement

The members of professional group I grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 f AA (private private copying royalties, operator levy)
- sec. 1 no. 1 j AA (copies dispatched to order)
- sec. 1 no. 1 o AA (copies for the purposes of illustration in teaching)
- sec. 1 no. 1 s AA (copies in businesses)

Sec. 29 Private copying royalties digital sources (fine arts)

[1] Sources of income

VG Bild-Kunst realises direct income from private copying of the fine arts work category

- through VG Wort on a device-related basis (formerly reprography payment);
- through ZPU on a device and storage medium-related basis;
- through VG Wort in respect of the general operator levy and for copies dispatched to order;
- through ZFS for the schools and community colleges operator levy.

VG Bild-Kunst also receives indirect income through its sister societies.

The private copying royalties digital sources (fine arts) line is also allocated

- income transferred by ZBT from intranets in schools;
- income generated by itself from intranets in colleges;
- flat-rate income generated by itself for online rights of the fine arts work category.

[2] Allocation of income

The device and storage medium-related income from VG Wort and ZPU and the income from ZFS are allocated to the line as follows:

	Private copying royalties digital sources (fine arts)
Printers	49.8 % digital sources, of which 11.2 % for fine arts
Fax machines	32.5 % digital sources, of which 11.2 % for fine arts
Multipurpose devices	40.6 % digital sources, of which 11.2 % for fine arts
Burners and blanks	51.8 % digital sources, of which 11.2 % for visual arts
Hard drives	55.3 % digital sources, of which 11.2 % for visual arts
PCs	55.3 % digital sources, of which 11.2 % for fine arts
Tablets	55.3 % digital sources, of which 11.2 % for fine arts
Mobile phones	80.0 % digital sources, of which 11.2 % for fine arts
ZFS	12.0 % digital sources, of which 33.0 % for fine arts

The income from operator levys is treated like the income from multipurpose devices. Flat-rate income for online rights is allocated to the **private copying royalties digital sources (fine arts)** line. 78.18 % of the income from intranets in schools and 96.25 % of the income from intranets in colleges is allocated to the fine arts and image work categories. 22.1 % of each is allocated to the **private copying royalties digital sources (fine arts)** line.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the fine arts work category.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 5 (private copying fine arts/image, digital). This is a report-based collective distribution scheme.

[5] Reserves

Reserves are formed for new rightholders in the amount of 10 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

The reporting deadline is 30 June of the following year.

[7] Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex "VK".

[9] Cultural and social deductions for fine arts work category

- Cultural deduction: from 29.7.2017: 6,50 %
- Social deduction: from 27.7.2019: 6,00 %

[10] Transfer of rights by administration agreement

The members of professional group I grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 f AA (private private copying royalties, operator levy)
- sec. 1 no. 1 h AA (intranet in schools and colleges)
- sec. 1 no. 1 o AA (copies for the purposes of illustration in teaching)
- sec. 1 no. 1 m AA (online rights for book illustrations in search engines)
- sec. 1 no. 1 s AA (participation in press publisher neighbouring rights)
- sec. 1 no. 1 q AA (online rights for scientific databases)
- sec. 1 no. 1 i AA (retro-digitisation)
- sec. 1 no. 1 t AA (copies in businesses)

Sec. 30 Press review royalties (fine arts)

[1] Sources of income

VG Wort collects the royalties for print press reviews on behalf of VG Bild-Kunst. VG Bild-Kunst generates income for electronic press reviews itself on the basis of contracts with users. Income for book club rental is realised on the basis of a joint general agreement between VG Wort and VG Bild-Kunst on the one side and the user association on the other. In all cases the income is direct income.

[2] Allocation of income

20 % of the income is allocated to the **press review royalties (fine arts)** distribution line.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the fine arts work category.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 6 (press reviews). This is a report-based collective distribution scheme.

[5] Reserves

Reserves are formed for new rightholders in the amount of 10 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

The reporting deadline is 30 June of the following year.

[7] Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year. Distribution reserves for the same year of usage that are formed subsequently will be paid out in week 13 or 39, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex "VK".

[9] Cultural and social deductions for fine arts work category

- Cultural deduction: from 29.7.2017: 6,00 %
- Social deduction: from 27.7.2019: 6,00 %

[10] Transfer of rights by administration agreement

The members of professional group I grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 g AA (press review royalties)
- sec. 1 no. 1 e AA (rental and lending rights – book clubs)

Sec. 31 Cable retransmission (fine arts)

[1] Sources of income

VG Bild-Kunst receives direct income from the cable retransmission of fine arts through GEMA, ZWF, ZVV and Arge Kabel. It also receives indirect income from sister societies.

[2] Allocation of income

15.5 % of the income received through GEMA is allocated to the fine arts and image work categories. 7.85 % of the income received through ZWF and 1 % of the income received through both ZVV and Arge Kabel is allocated to those categories.

30 % of the joint income for the fine arts and image work categories, is allocated to the **cable retransmission (fine arts)** distribution line.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the fine arts work category.

[4] Distribution scheme

Payouts are made as a proportional supplement to the payouts in the **flatrate broadcasting rights (fine arts)** line on an accrual basis.

[5] Reserves

Reserves of 15 % are formed for the usage of works of rightholders and of statutory rightholders that were not covered. The reserves will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

No special reports are required because distribution follows the distribution of the income for the broadcasting rights.

[7] Payment dates

Payments are made simultaneously with the payments for the **flatrate broadcasting rights (fine arts)** line.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions for fine arts work category

- Cultural deduction: from 29.7.2017: 6,00 %
- Social deduction: from 27.7.2019: 6,00 %

[10] Transfer of rights by administration agreement

The members of professional group I grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 b AA (cable retransmission rights)
- sec. 1 no. 1 c AA (public communication of broadcasts)

Sec. 32 Private copying royalties analogue sources (image)

[1] Sources of income

VG Bild-Kunst realises direct income from private copying of the image work category

- through VG Wort on a device-related basis (formerly reprogramming payment);
- through ZPU on a device and storage medium-related basis;
- through VG Wort in respect of the general operator levy and for copies dispatched to order;
- through ZFS for the schools and community colleges operator levy.

VG Bild-Kunst also receives indirect income through its sister societies.

[2] Allocation of income

The income from VG Wort, ZPU and ZFS is allocated to the lines as follows:

	Private copying royalties analogue sources (image)
Printers	50.2 % analogue sources, of which 79.4 % for image
Fax machines	67.5 % analogue sources, of which 79.4 % for image
Scanners	100 % analogue sources, of which 79.4 % for image
Multipurpose devices	59.4 % analogue sources, of which 79.4 % for image
Burners and blanks	48.2 % analogue sources, of which 79.4 % for image
Hard drives	44.7 % analogue sources, of which 79.4 % for image
PCs	44.7 % analogue sources, of which 79.4 % for image
Tablets	44.7 % analogue sources, of which 79.4 % for image
Mobile phones	20.0 % analogue sources, of which 79.4 % for image
ZFS	88.0 % analogue sources, of which 67.0 % for image

The income from the operator levy and copies dispatched to order are treated as income from multipurpose devices. Income from rights-direct licences that VG Wort passes on to VG Bild-Kunst is allocated to the line in its entirety.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the image work category.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 4 (private copying, analogue). This is a report-based collective distribution scheme.

[5] Reserves

Reserves are formed for new rightholders in the amount of 15 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

The reporting deadline is 30 June of the following year.

[7] Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. Distribution reserves for the same year of usage that are formed following the first payout will be paid

out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions for image work category

- Cultural deduction: from 29.7.2017: 2,00%
- Social deduction: from 29.7.2017: 2,00%

[10] Transfer of rights by administration agreement

The members of professional group II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 f AA (private copying royalties, operator levy)
- sec. 1 no. 1 j AA (copies dispatched to order)
- sec. 1 no. 1 o AA (copies for the purposes of illustration in teaching)
- sec. 1 no. 1 t AA (copies in businesses)

Sec. 33 Private copying royalties digital sources (image)

[1] Sources of income

VG Bild-Kunst realises direct income from private copying of the image work category

- through VG Wort on a device-related basis (formerly reprography payment);
- through ZPU on a device and storage medium-related basis;
- through VG Wort in respect of the general operator levy and for copies dispatched to order;
- through ZFS for the schools and community colleges operator levy.

VG Bild-Kunst also receives indirect income through its sister societies.

To the private copying royalties digital sources (image) line is also assigned

- income transferred by ZBT from intranets in schools;
- income generated by itself from intranets in colleges.

[2] Allocation of income

The income from VG Wort, ZPU and ZFS is allocated to the lines as follows:

	Private copying royalties digital sources (image)
Printers	49.8 % digital sources, of which 88.8 % for image
Fax machines	32.5 % digital sources, of which 88.8 % for image
Multipurpose devices	40.6 % digital sources, of which 88.8 % for image
Burners and blanks	51.8 % digital sources, of which 88.8 % for image
Hard drives	55.3 % digital sources, of which 88.8 % for image
PCs	55.3 % digital sources, of which 88.8 % for image
Tablets	55.3 % digital sources, of which 88.8 % for image
Mobile phones	80.0 % digital sources, of which 88.8 % for image
ZFS	12.0 % digital sources, of which 67.0 % for image

The income from operator levys is treated like the income from multipurpose devices. 78.18 % of the income from intranets in schools and 96.25 % of the income from intranets in colleges is allocated to the work categories fine arts and image. 77.9 % of each is allocated to the **private copying royalties digital sources (image)** line.

[3] Payout beneficiaries

Payout beneficiaries are rightholders of the work category image.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 5 (private copying, digital). This is a report-based collective distribution scheme.

[5] Reserves

Reserves are formed for new rightholders in the amount of 15 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

The reporting deadline is 30 June of the following year.

[7] Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions for image work category

- Cultural deduction: from 29.7.2017: 2,00%
- Social deduction: from 29.7.2017: 2,00%

[10] Transfer of rights by administration agreement

The members of professional group II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 f AA (private private copying royalties, operator levy)
- sec. 1 no. 1 h AA (intranet in schools and colleges)
- sec. 1 no. 1 o AA (copies for the purposes of illustration in teaching)
- sec. 1 no. 1 m AA (online rights for book illustrations in search engines)
- sec. 1 no. 1 s AA (participation in press publisher neighbouring rights)
- sec. 1 no. 1 q AA (online rights for scientific databases)
- sec. 1 no. 1 i AA (retro-digitisation)
- sec. 1 no. 1 t AA (copies in businesses)

Sec. 34 Press review royalties (image)

[1] Sources of income

VG Wort collects the royalties for printed press reviews on behalf of VG Bild-Kunst. VG Bild-Kunst generates income for

electronic press reviews itself on the basis of contracts with users. Income for reader circle rental is realised on the basis of a joint general agreement between VG Wort and VG Bild-Kunst on the one side and the user association on the other. In all cases the income is direct income.

[2] Allocation of income

80 % of the income is allocated to the **press review royalties (image)** distribution line.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the image work category.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 6 (press reviews). This is a report-based collective distribution scheme.

[5] Reserves

Reserves are formed for new rightholders in the amount of 15 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

The reporting deadline is 30 June of the following year.

[7] Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex "VK".

[9] Cultural and social deductions for image work category

- Cultural deduction: from 29.7.2017: 1,00 %
- Social deduction: from 29.7.2017: 1,25 %

[10] Transfer of rights by administration agreement

The members of professional group II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 g AA (press review royalties)
- sec. 1 no. 1 e AA (rental and lending rights – book clubs)

Sec. 35 Cable retransmission (image)

[1] Sources of income

VG Bild-Kunst receives direct income from the cable retransmission of images through GEMA, ZWF, ZVV and Arge Kabel. It also receives indirect income from sister societies.

[2] Allocation of income

15.5 % of the income received through GEMA is allocated to the fine arts and image work categories. 7.85 % of the income received through ZWF and 1 % of the income received through both ZVV and Arge Kabel is allocated to those categories.

Of the joint income for the work categories fine arts and im-

age, 70 % is allocated to the cable retransmission (image) distribution line.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the image work category.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 7 (cable retransmission [image]). This is a report-based collective distribution scheme.

[5] Reserves

Reserves are formed for new rightholders in the amount of 15 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

The reporting deadline is 30 June of the following year.

[7] Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex "VK".

[9] Cultural and social deductions for image work category

- Cultural deduction: from 29.7.2017: 1,00 %
- Social deduction: from 29.7.2017: 1,25 %

[10] Transfer of rights by administration agreement

The members of professional group II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 no. 1 b AA (cable retransmission rights)
- sec. 1 no. 1 c AA (public communication of broadcasts)

Sec. 36 Film (individual)

[1] Sources of income

VG Bild-Kunst realises direct, individualised income for the rightholders of the audiovisual work category through the remuneration claim under section 137 (1) UrhG. It receives indirect, individualised income from sister societies, e. g. for cable retransmission or private copying.

[2] Allocation of income

This individually allocated income is allocated to the **film (individual)** distribution line.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the cinematographic work category (film authors and film producers).

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 1 (direct distribution).

[5] Reserves

No reserves are formed. The income is individualised.

[6] Reporting deadlines

There are no reporting deadlines because the actual use of the work is known when the income is received.

[7] Payment dates

The payments are made in weeks 11, 24, 37 and 50. Payments are made on the next or next-but-one date after the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions for film work category

- Cultural deduction: from 29.7.2017: 1,00 %
- Social deduction: from 29.7.2017: 1,00 %

[10] Transfer of rights by administration agreement

The members of professional group III grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 h) & n) AA (broadcasting rights, foreign)
- sec. 1 a) AA (new types of exploitation pursuant to sec. 137 (1) UrhG)
- sec. 1 g) AA (reproduction of documentation for educational purposes)
- sec. 1 i) AA (digitisation of analogue films)
- sec. 1 j) AA (online rights, if not section 89 (II) UrhG)
- sec. 1 k) AA (public film communication for non-profit-making purposes)

Sec. 37 Cable retransmission (film)

[1] Sources of income

VG Bild-Kunst receives direct income from the cable retransmission of film through GEMA, ZWF and Arge Kabel. It also receives indirect income from sister societies.

[2a] Allocation of income

84.5 % of the GEMA income, 92.15 % of the ZWF income and 99 % of the ARGE Kabel income is allocated to the **cable retransmission (film)** distribution line.

Indirect income from sister societies is allocated to the **cable retransmission (film)** distribution line if it is received as a lump sum.

Income that is received in the year of usage or the following year is allocated to the usage of the work in the year of usage. Income for the year of usage that is not received until after the following year can be allocated to the year the money is received if distribution in the relevant period would incur disproportionate expense. The decision is taken by the Executive Board.

[2b] Formation of payout categories

The “film authors” and “film producers” payout categories are formed in the **cable retransmission (film)** distribution line. Subject to the accounts being earmarked for other purposes, 73.6 % of the the income from both GEMA and ZWF is allocated to the film authors category and 26.4 % to the film producers category. 100 % of the income from ARGE Kabel is allocated to the film authors category.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the film work category. Film authors participate in the income of the film authors payout category, film producers in the income of the film producers payout category.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 8 (cable retransmission [film]). The distribution reserves of the film authors payout category are distributed partly according to the usage-based collected distribution system and partly according to the report-based collective distribution system. The distribution reserves of the film producers payout category are distributed solely according to the report-based collective distribution system.

[5] Reserves

A reserve of 2.5 % is formed within the film authors payout category in order to service late reports of new rightholders in report-based work types. A reserve of 1 % is formed in order to service work-based individual claims of other film authors in all work types. Late reports of new rightholders in usage-based work types are serviced from the usage-specific reserves. Reserves of 5.0 % of a payout are formed within the film producers payout category for new rightholders.

All reserves will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

In the film authors payout category, the reporting deadline for correction reports and for work reports in the report-based work types is 30 June of the following year, and for work reports in the usage-based work types 31 December of the fourth year after the year of usage. In the film producers payout category, the reporting deadline is 30 June of the following year.

[7] Payment dates

The income for a year of usage and for the film authors payout category is paid out for the first time in the second half of September of the following year for all distribution reserves formed until then and all rightholders whose contributions to works have been identified by then (first payout). This also applies for external income for this year of usage that is transferred to VG Bild- Kunst more than six months before the first payout.

For all distribution reserves that can only be formed after the first payout for the relevant year of usage, and/or arise for rightholders whose contributions to the usage-based work types can only be identified after the first payout, the income is paid out in weeks 13 or 39 of the following years, whichever follows the date the money is received or the identification is made.

The last payment for income that is received in the year of usage or the following year is made in the 13th week of the fifth year after the year of usage. The last payment of income that is received later is made in the 13th week of the fourth year after the year the money is received. The income for the film producers payout category is paid out for the first time in the second half of September of the following year for all distribution reserves formed until then. Distribution reserves for the same year of usage that are formed following the first payout will be paid

out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions for film work category

- Cultural deduction: from 29.7.2017: 1,00%
- Social deduction: from 29.7.2017: 1,00%

[10] Transfer of rights by administration agreement

The members of professional group III grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 f) AA (cable retransmission rights)
- sec. 1 b) AA (public communication of broadcasts)

Sec. 38 Private copying royalties (film)

[1] Sources of income

For the film work category, VG Bild-Kunst receives indirect income from sister societies as well as direct income

- through ZPU from private copying royalties;
- through ZBT for the public lending right and for school intranets (section 52a UrhG);
- through ZVV from video store royalties;
- through its own receipts for educational intranets (section 52a UrhG).

[2a] Allocation of income

The **private copying royalties (film)** line is allocated

- 99 % of the income from ZVV and 100 % of the income from ZPU, with the exception of income for advertising films;
- 39.25 % of the income from public lending right and 21.81 % of the income from school intranets;
- 3.75 % of the income from college intranets.

Indirect income from sister societies is allocated to the **private copying royalties (film)** distribution line if it is received as a lump sum.

Income that is received in the year of usage or the following year is allocated to the usage of the work in the year of usage. Income for the year of usage that is not received until after the following year can be allocated to the year the money is received if distribution in the relevant period would incur disproportionate expense. The decision is taken by the Executive Board.

[2b] Formation of payout categories

The “film authors” and “film producers” payout categories are formed in the **private private copying royalties (film)** distribution line. Income is allocated to these categories as earmarked.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the film work category. Film authors participate in the income of the film authors payout category. Film producers participate in the film producers payout category. Where film producers represent the rights to feature films or series, any payout claims are made through VGF, the amount depending on the distribution plan of VGF.

[4] Distribution scheme

Payouts are made in accordance with distribution scheme 9

(private copying (film)). The distribution reserves of the film authors payout category are distributed partly according to the usage-based collected distribution system and partly according to the report-based collective distribution system. The distribution reserves of the film producers payout category are distributed solely according to the report-based collective distribution system.

[5] Reserves

A reserve of 2.5 % is formed within the film authors payout category in order to service late reports of new rightholders in report-based work types. A reserve of 1 % is formed in order to service work-based individual claims of other film authors in all work types. Late reports of new rightholders in usage-based work types are serviced from the usage-specific reserves. Reserves of 5.0 % of a payout are formed within the film producers payout category for new rightholders.

All reserves will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

[6] Reporting deadlines

In the film authors payout category, the reporting deadline for correction reports and for work reports in the report-based work types is 30 June of the following year, and for work reports in the usage-based work types 31 December of the fourth year after the year of usage. In the film producers payout category, the reporting deadline is 30 June of the following year.

[7] Payment dates

The income for a year of usage and for the film authors payout category is paid out for the first time in the second half of September of the following year for all distribution reserves formed until then and all rightholders whose contributions to works have been identified by then (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout.

For all distribution reserves that can only be formed after the first payout for the relevant year of usage, and/or arise for rightholders whose contributions to the usage-based work types can only be identified after the first payout, the income is paid out in weeks 13 or 39 of the following years, whichever follows the date the money is received or the identification is made.

The last payment for income that is received in the year of usage or the following year is made in the 13th week of the fifth year after the year of usage. The last payment of income that is received later is made in the 13th week of the fourth year after the year the money is received.

The income for the film producers payout category is paid out for the first time in the second half of September of the following year for all distribution reserves formed until then. Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions for film work category

- Cultural deduction: from 29.7.2017: 2,00 %
- Social deduction: from 29.7.2017: 2,00 %

[10] Transfer of rights by administration agreement

The members of professional group III grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 e) AA (private copying)
- sec. 1 c) AA (rental and lending rights – video stores)
- sec. 1 d) AA (school radio)
- sec. 1 m) AA (electronic reading points)
- sec. 1 o) AA (intranet in schools and colleges)
- sec. 1 l) AA (reproductions for the benefit of disabled persons)

Sec. 39 Advertising films

[1] Sources of income

VG Bild-Kunst does not receive any flat-rate income for advertising films. ZPU transfers the income to the collecting society TWF. VG Bild-Kunst receives individualised income from TWF for its rightholders on the basis of a representation agreement. This is indirect income. Where VG Bild-Kunst in the past received and distributed flat-rate income for advertising films from ZPU, it will now forward this to TWF on the basis of its representation agreement with TWF.

[2] Allocation of income

The individually allocated income is allocated to the **film (individual)** distribution line.

[3] Payout beneficiaries

The payout beneficiaries are rightholders of the film work category (film authors).

[4] Distribution scheme

The distribution plan of the collecting society TWF is applied.

[5] Reserves

No reserves are formed. The income is individualised.

[6] Reporting deadlines

The reporting deadlines and procedures used by the collecting society TWF apply. VG Bild-Kunst will inform its rightholders of the film work category of these deadlines and procedures regularly.

There are no separate reporting deadlines, because the actual use of the work is known when the income is received by VG Bild-Kunst.

[7] Payment dates

The payments are made in weeks 11, 24, 37 and 50. Payments are made on the next or next-but-one date after the money is received.

[8] Administrative costs

Deduction rates for administrative costs are set out in Annex “VK”.

[9] Cultural and social deductions for film work category

No deductions are made because deductions have already been made by TWF.

[10] Transfer of rights by administration agreement

The members of professional group III grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 f) AA (cable retransmission, advertising)
- sec. 1 e) AA (private copying, advertising)

Special Part - Chapter 2: Distribution Schemes

The regulations of this chapter flesh out the provisions of the General Part and for the first chapter of the Special Part for the specific lines and take precedence over them.

Sec. 40 Distribution scheme 1 - “Direct distribution”

[1] In cases of direct distribution, credits of the corresponding distribution reserves are made to the identified rightholders or to the rightholders of the identified works.

[2] If the shares of co-authors in an identified audiovisual work are not specified, the apportionment regulated in paragraph 1 of sections 47 and 48 applies. If another co-author is recognised for the relevant audiovisual work pursuant to section 49 paragraph 2, he is initially credited with the share recognised by the valuation committee, which is based on the shares of the standard participants mentioned in paragraph 1 of sections 47 and 48. The shares of all co-authors of the relevant audiovisual work, including that of the other co-author, must then be modified so that their total is 100 %.

Sec. 41 Distribution scheme 2 - “Broadcasting”

[1] Basis of distribution

The distribution reserves for a year of usage are apportioned on the basis of the broadcasts established for this year of usage of works in German public television programmes. Every broadcast of a work is given a points score calculated from the parameters of the duration of the broadcast, the repeat frequency, the broadcaster rating and news reporting in accordance with the following provisions. The payout share per point corresponds to the quotient of the distribution reserve divided by the total number of allocated points for the year of usage.

[2] Duration of broadcast

Every broadcast work is given one point per commenced 30 seconds of transmission. A maximum of five points is given for every work broadcast in a television item.

[3] Broadcaster evaluation

The public television broadcasters in which the work was broadcast are rated as follows:

Broadcaster	Factor
ARD main programme, ZDF main programme	x 100
Third programmes of ARD, 3Sat	x 20
Phoenix	x 13
Digital special-interest programmes of ARD and ZDF	x 5

[4] Repeat frequency

If an item containing a work is repeated, the repeat is rated like the first broadcast. However, not more than five broadcasts of the same item by the same broadcaster in the same year of usage are rated.

[5] News reporting

In news reporting on an exhibition, the broadcasting of up to ten works per item is deemed justified by the purpose and hence royalty-free under section 50 UrhG. If the number of broadcast works exceeds 10, a score will be given for works above that figure in accordance with the preceding paragraphs with the proviso that the points total determined thereby will be allocated pro rata to all works broadcast in the item. In news reporting in the form of a book or film presentation, sentences 1 and 2 apply mutatis mutandis with the proviso that the broadcast of up to three works is deemed royalty-free.

Sec. 42 Distribution scheme 3 - “Public lending right”

[1] Basis of distribution

For each distribution line, the distribution reserves for a year of usage are distributed to the rightholders on the basis of the publication of their works in books. The remuneration for foreign-language publications that are offered by libraries in Germany is paid out to sister societies at a flat rate in advance. The payout of the remuneration for German-language books in the “public lending right (image)” distribution line is based on the reports of the rightholders. In the “private copying royalties (fine arts)” distribution line, payouts are based firstly on the payout information of VG Bild-Kunst in the “primary rights (fine arts)” distribution line, supplemented with reports of the rightholders. Secondly, royalties in this line that arise for catalogues and news reporting are distributed in a lump sum in the form of an “art exhibition copying royalty”.

[2] Foreign-language publications

In each distribution line 10% of the distribution reserves are allocated to the foreign-language publications. A publication is classed as foreign language if its text is not compiled in German. Publications whose text is compiled both in German and in one or more other languages count as German-language publications.

[3] Distribution for foreign-language publications

In the “public lending right (image)” distribution line, the distribution reserves allocated to foreign-language publications are paid out to the sister societies that represent rightholders of the image work category based on pertinent criteria. The Administrative Council is authorised to reach the decision on apportionment. In the “public lending right (fine arts)” distribution line, the distribution reserves allocated to foreign-language publications are paid out to the sister societies as a lump sum in the proportion of their internal income from the licensing of fine arts reproduction rights as reported to CISAC. The last published figures prior to the payout are considered in each case.

[4] German-language publications

The distribution reserves for German-language publications in the “public lending right (image)” distribution line are allocated on the basis of the information reported by the rightholders on books. In the “public lending right (fine arts)” distribution line, the distribution reserves for German-language publications are apportioned 87.5% for publications and 12.5% for the art exhibition copying royalty pursuant to section 43 paragraph 8.

[5] Image/book distribution

[a] Reportable books

To be considered in the payout, books must meet the following criteria:

[i] Books must have appeared in a minimum print run of 250 copies. Books that are produced by print-on-demand processes and books that are self-published must have had verifiable sales of 200 copies.

[ii] Books without an ISBN can only be considered if a customer copy and proof of the print run are provided. In the case of exhibition catalogues, the transmission of a copy of the cover sheet and the imprint is sufficient in place of the customer copy.

[iii] Books are reportable for the year of usage of their first edition and the four following years. To distinguish them from reprints of existing editions, new editions are counted as first editions within the meaning of sentence 1 if the content and/or design of the book have been more than insignificantly changed compared with the previous edition.

[iv] Books must have appeared in German or, in the “Science” category, also in English. Books without text (with the exception of the title, imprint, blurb, etc.) are considered to be in German within the meaning of the distribution plan if the rightholder demonstrates that at least 1,000 copies had been sold in Germany.

[v] Signed and numbered art books and portfolio works cannot be reported.

[vi] E-books cannot be reported at present because no income is realised for them.

[vii] Card kits, blank books, brochures, instruction manuals, voucher books, colouring books, notebooks and notepads, postcard books, programme and event booklets, prospectuses, pocket calendars, telephone books and mail-order and advertising catalogues are not books within the meaning of the “Public lending right” distribution scheme.

[b] Reportable works

Reportable works are determined on the basis of the reports of the rightholders. Illustrations of a scientific or technical nature by self-illustrators (authors who create text and the associated picture works) in academic, non-fiction and reference books are not reportable since their royalties are administered by VG Wort.

[c] Lending frequency

Depending on the type of book, the points score for a work is modified as follows:

Type of book	Factor
Children’s and young adults’ books	x 9
Non-fiction and reference book	x 5
Fiction, image & art books, other books	x 5
School books	x 3
Academic works	x 0,2

An academic work is given the factor 5 if it is held in general public libraries. A non-fiction or reference book is classed as an academic work if it has a footnote system.

[d] Work factor

Depending on the type of work, the points score for a work is rated as follows:

Type of book	Factor
Photography / illustration / other image work	x 1
Title design	x 5
Overall graphic design	x 10

[e] Number of works per book

A maximum of 200 works per book is considered with the full points score. If the number of reported works per book exceeds 200, the points per work are reduced by the factor “200/number of works”.

[f] Maximum amount

The maximum amount of a rightholder’s share in the payout for a year of usage is 0.5 % of the available distribution total.

[6] Fine arts/publications distribution

The distribution reserves for the lending of books in the “library royalty (fine arts)” distribution line will be paid out to the rightholders per year of usage in the proportion of their eligible credits in the “primary rights (fine arts)” distribution line. Publications of works in books for which a licence would have been possible, but was not applied for on the rightholder’s instruction, are also included.

[a] Eligible credits

Credits for the relevant year of usage and for the licensing of publications in books are eligible for consideration. Credits to rightholders from whom a deduction for cultural and social purposes had been made will be adjusted by these deductions for the purposes of calculation.

[b] Supplementary reports (fine arts)

In cases where the reproduction and distribution of a work of art could have been licensed by VG Bild-Kunst, but was not – e. g. on the basis of the “Non-commercial exploitation” guideline – the rightholder reports the relevant publications and the representations of his works that they contain to Bild-Kunst. In the case of self-published books, a report is possible if the requirements for reportable books (see [5] Picture/book distribution, [a] Reportable books) are met. A fictitious licensing agreement that considers the parameters of circulation and number of publications is taken into account. The Administrative Council is authorised to establish and vary such a fictitious tariff. It is to be based on the pertinent tariffs of VG Bild-Kunst, but considerably simplify the calculation work of the VG Bild-Kunst office.

Sec. 43 Distribution scheme 4 -

“Private copying (fine arts/image), analogue”

[1] Basis of distribution

For each distribution line, the distribution reserves for a year of usage are distributed to the rightholders on the basis of the publication of their works in printed publications. The royalties for works in foreign-language publications that are used in Germany as a source of copies are paid out to sister societies as a lump sum in advance. Royalties for works in German-language publications in the “private copying royalties analogue sources (image)” distribution line are paid out based on the reports of the rightholders. In the “private copying royalties analogue sources (fine arts)” distribution line, payouts are based firstly on the payout information of VG Bild-Kunst in the “primary

rights (fine arts)” distribution line, supplemented with reports of the rightholders. Secondly, royalties in this line that arise for catalogues and news reporting are distributed in a lump sum in the form of an “art exhibition copying royalty”.

[2] Foreign-language publications

In each distribution line 10 % of the distribution reserves are allocated to the foreign-language publications.

A publication is classed as foreign language if its text is not compiled in German. Publications whose text is compiled both in German and in one or more other languages count as German-language publications.

[3] Distribution for foreign-language publications

In the “private copying royalties analogue sources (image)” distribution line, the distribution reserves allocated to foreign-language publications are paid out to the sister societies that represent rightholders of the image work category based on pertinent criteria. The Administrative Council is authorised to reach the decision on apportionment.

In the “private copying royalties analogue sources (fine arts)” distribution line, the distribution reserves allocated to foreign-language publications are paid out to the sister societies as a lump sum in the proportion of their internal income from the licensing of fine arts reproduction rights as reported to CISAC. It is always the last published figures prior to the payout that are taken into account.

[4] German-language publications

In the “private copying royalties analogue sources (image)” distribution line, the distribution reserves for German-language publications are apportioned 60 % for books and 40 % for periodicals. In the “private copying royalties analogue sources (fine arts)” distribution line, the apportionment is 80 % for publications and 20 % for copies in connection with exhibitions (“art exhibition copying royalty”).

[5] Image/book distribution

The distribution reserves for photocopying from books in the “private copying royalties analogue sources (image)” distribution line per year of usage are divided into the “photography” and “illustration/design” categories and distributed to the corresponding rightholders on the basis of the publication of their works in books. In the case of reportable books, each reportable work is given a points score of “one” that is modified by the parameters of copying frequency and work factor in accordance with the following provisions. The payout share arising for a reportable work corresponds to its individual points score relative to the total points of the payout in the corresponding line.

[a] Payout lines

The “photography” category is allocated a 63.5 % share, the “illustration/design/other visual works” category a 36.5 % share.

[b] Reportable books

To be considered in the payout, books must meet the following criteria:

[i] Books must be in physical form. E-books cannot be reported in this line. Likewise, signed and numbered art books and portfolio works cannot be reported.

[ii] Books must have appeared in a minimum print run of 250 copies. Books that are produced by print-on-demand processes

and books that are self-published must have had verifiable sales of 200 copies.

[iii] Books without an ISBN can only be considered if a customer copy and proof of the print run are provided. In the case of exhibition catalogues, the transmission of a copy of the cover sheet and the imprint is sufficient in place of the customer copy.

[iv] Books without text (with the exception of the title, imprint, blurb, etc.) are considered to be in German within the meaning of the distribution plan if the rightholder demonstrates that at least 1,000 copies had been sold in Germany.

[v] Books are reportable for the year of usage of their first edition and the four following years. To distinguish them from reprints of existing editions, new editions are counted as first editions within the meaning of sentence 1 if the content and/or design of the book have been more than insignificantly changed compared with the previous edition.

[vi] Card kits, blank books, brochures, instruction manuals, voucher books, colouring books, notebooks and notepads, postcard books, programme and event booklets, prospectuses, pocket calendars, telephone books and mailorder and advertising catalogues are not books within the meaning of the “Private copying analogue” distribution scheme.

[vii] Books must have appeared in German or, in the “Science” category, also in English.

[c] Reportable works

Reportable works are determined on the basis of the reports of the rightholders. Illustrations of a scientific or technical nature by self-illustrators (authors who create text and the associated picture works) in academic, non-fiction and reference books are not reportable since their royalty is administered by VG Wort.

[d] Frequency of copying

To take the frequency of copying into account, the points score is modified as follows, depending on the type of book:

Type of book	Factor
Children’s and young adults’ books	x 1
School books	x 3
Non-fiction and reference book	x 10
Fiction, image & art books, other books	x 10
Academic works	x 20

A non-fiction or reference book is classed as an academic work if it has a footnote system.

[e] Work factor

Depending on the type of work, the points score for a work is rated as follows:

Type of work	Factor
Photography / illustration / other image work	x 1
Title design	x 5
Overall graphic design	x 10

[f] Number of works per book

A maximum of 200 works per book is considered with the full points score. If the number of reported works per book exceeds 200, the points per work are reduced by the factor “200/number of works”.

[g] Maximum amount

The maximum amount of a rightholder’s share in the payout for a year of usage is 0.5 % of the available distribution total.

[6] Image/periodical distribution

The distribution reserves for photocopying from German-language periodicals in the “private copying royalties analogue sources (image)” distribution line per year of usage are divided into the “photography” and “illustration/design/other image works” categories and distributed to the corresponding rightholders on the basis of the publication of their works in German-language periodicals that are sold in Germany. The levys that the rightholders realise for the publication of their works in periodicals, modified by scoring factors, are used as the basis. The share of the payout that a rightholder is entitled to corresponds to the total of his distribution-relevant levys realised in the year of usage, modified in accordance with the following rules, relative to the total sum of all levys determined in this way.

[a] Payout lines

The “photography” work category is allocated a 55.7% share, the “illustration/design/other image works” work category a 44.3 % share. Payouts to the respective rightholders are made separately for each category.

[b] Reportable fees

Reportable fees are determined on the basis of the reports of the rightholders. Reports for the 2018 year of usage or later are made in accordance with the regulations of section 44 [3] paragraphs [c] and [d]. Section 43 [6] as amended by the distribution plan of 29.07.2017 applies for reports up to and including the 2017 year of usage.

[7] Visual arts/publications distribution

The distribution reserves for photocopying from publications (books, periodicals) in the “copying royalty analogue sources (visual arts)” distribution line per year of usage are paid out to the rightholders in the proportion of their eligible credits in the “first rights (visual arts)” distribution line. In addition, representations of works in publications that could have been licensed, but were not, can also be reported.

[a] Eligible credits

Credits for the relevant year of usage and for the licensing of publications in books and periodicals are eligible for consideration. Credits to rightholders from whom a deduction for cultural and social purposes had been made will be adjusted by these deductions for the purposes of calculation.

[b] Supplementary notifications (fine arts)

In cases where the reproduction and distribution of a work of art could have been licensed by VG Bild-Kunst, but was not – e.g. on the basis of the “Non-commercial exploitation” guideline – the rightholder reports the relevant publications and the representations of his works that they contain to Bild-Kunst. In the case of self-published books, a report is possible if the requirements for reportable books (see [5] Picture/book distribution, [b] Reportable books) are met. A fictitious licensing agreement that considers the parameters of circulation and number of publications is taken into account. The Administrative Council is authorised to establish and vary such a fictitious tariff. It is to be based on the pertinent tariffs of VG Bild-Kunst, but

considerably simplify the calculation work of the VG Bild-Kunst office.

[8] Fine arts / copying royalty (art exhibitions) distribution

The distribution reserves for the photocopying of representations of fine arts in connection with their exhibition (“art exhibition copying royalty”) in the “copying royalty analogue sources (fine arts)” distribution line are paid out to the rightholders per year of usage on the basis of the presentation of their works in exhibitions and other forms of event and presentation. Reportable exhibitions are each given a points score that is modified by the parameters of number of artists and catalogue. The share of the payout attributable to a reportable domestic or foreign exhibition corresponds to the proportion of points score relative to the total points of the payout for domestic or foreign exhibitions within the art exhibition copying royalty.

[a] Definition of art exhibition

An exhibition of art within the meaning of the distribution plan is generally a presentation for the viewing of one or more works of a visual artist that is typically

- available to the public,
- organised by a third party on a regular basis and
- advertised to the public in Germany.

These typical features may be more or less marked in the individual case if, in an overall consideration, the presentation for viewing appears capable of giving cause for private copying to a not insignificant extent.

Presentations for viewing on multiple days and at multiple locations that are grouped together as multiple parts of a programme or repetitions of the same theme close together in time count as one art exhibition within the meaning of the distribution plan. The following examples give indicators for such a classification:

[i] Art exhibitions within the meaning of the distribution plan are generally **presentations of works of visual art** in museums, art clubs, galleries or community institutions. Permanent exhibitions and collections can usually only be reported in the first year of their presentation or the inclusion of a work, because afterwards there is not sufficient advertising to the public.

[ii] **Artworks in the public space and art in architecture** that is on view to the public can be reported once when the artwork is opened/delivered at an event previously advertised. Evidence of this event must be enclosed with the report.

[iii] **Performances, participatory projects and video art** are generally considered art exhibitions within the meaning of the distribution plan if a third party offers a public venue for them and advertises them to the public.

[iv] **Artistic interventions, artistic walks, street art and spontaneous performances** can be considered art exhibitions within the meaning of the distribution plan if they take place before an unusually large public. Evidence of the public must be enclosed with the report.

[v] **Internet art** can be considered if it is sufficiently advertised to the public in Germany. Evidence of the advertising to the public must be enclosed with the report.

Cases of doubt will be decided by the valuation committee of PG I.

[b] Reportable art exhibitions

An art exhibition is reportable if it belongs to one of the following lines:

[i] Line A comprises art exhibitions that are held in foreign exhibition venues, are known to the general public in Germany and are held on a conclusive list.

[ii] Line B comprises German art exhibitions.

[c] Foreign exhibition venues

The total share for foreign exhibition venues (line A) is determined by the Administrative Council on the basis of suitable data, to be collected by VG Bild-Kunst where appropriate. These exhibition venues are held on a conclusive list to be updated regularly that is determined by the valuation committee of professional group I and adapted as required. Where art is exhibited in these exhibition venues, advertising to the public in Germany is assumed.

[d] Rating factors

A rightholder receives the following points score for a reported art exhibition, depending on the number of visual artists whose works are presented for viewing in the art exhibition:

- Group exhibitions with more than 10 artists: 1 point
- Group exhibitions with three to 10 artists: 2 points
- Individual exhibitions (1 to 2 artists): 3 points

Where a catalogue exists, the points score of the corresponding art exhibition is increased by 25 % (to 1.25 points, 2.5 points or 3.75 points).

[e] Maximum amounts

The number of reportable art exhibitions per year of usage is limited to twelve in line B.

[f] Valuation committee of PG I

A valuation committee will be formed for professional group I, the members of which will be made up of the same people as members of the Administrative Council of professional group I. The business of the committee is managed by the Chief Executive Officer of VG Bild-Kunst together with the honorary board member of professional group I. The valuation committee of professional group I decides on the following groups of cases by majority of votes:

[i] cases in which the Chief Executive Officer doubts whether a presentation for viewing of one or more works constitutes an art exhibition within the meaning of paragraph [a];

[ii] the preparation of the list of foreign exhibition venues pursuant to paragraph [c].

Sec. 44 Distribution scheme 5 -

“Private copying (fine arts/image), digital”

[1] Basis of distribution

In each distribution line and for each year of usage the distribution reserves for private duplication from digital sources are allocated to the rightholders on the basis of supplements or reports. For the “private copying royalties digital sources (fine arts)” distribution line, the distribution is made as a proportional addition to other payouts. The distribution reserves for the “copy-ing royalty digital sources (image)” distribution line are initially apportioned by country on the basis of empirical studies. The shares for countries other than Germany are paid out

to the corresponding sister societies as a lump sum on the basis of empirical studies. VG Bild-Kunst pays out the share for Germany in two lines for works on the basis of levy and single-image reports.

[2] Visual arts distribution

Five payout lines are formed, the proportions of which are determined empirically and set by the Administrative Council. The distribution reserves applicable to payout lines A to D are allocated to other payouts in the appropriate period and distributed there as an addition. Section 13 paragraph 6 applies for the distribution of the additional amount.

[a] Payout lines

The various internet and social media sites that serve as digital copying sources are allocated to the following five payout lines:

Line A – websites of

- museums
- art clubs
- exhibition buildings
- online press
- art blogs
- artists
- galleries with an exhibition programme
- authors’/producers’ galleries

Line B – websites of

- art dealers
- auction houses
- galleries without an exhibition programme

Line C – websites of

- broadcasters

Line D – websites of

- companies, local authorities, associations, clubs

Line E – websites of

- artists

[b] Allocation

The distribution reserves of line A are allocated to the art exhibition copying royalty (section 43 paragraph 18).

Half of the distribution reserves of line B are allocated to the resale rights payout (sections 40, 23), the other half to the payout for fine arts reproduction rights (sections 40, 24). In the allocation for the resale rights payout, sister societies that essentially represent artists who do not have any claim to resale rights in Germany receive a reasonable flat-rate share in advance that is determined by the Administrative Council.

The distribution reserves of line C are allocated to the broadcasting rights payout (section 41).

The distribution reserves of line D are distributed to VG Bild-Kunst and its sister societies on the basis of a key that corresponds to their revenue from OLA income. It is generally the income for the previous year that is applied; if this cannot be determined, the Chief Executive Officer decides on the basis of the available information. The distribution reserves attributable to VG Bild-Kunst are assigned to the payout for online rights (sections 40, 24); for the 2016 and 2017 years of usage, however, they will be assigned to Stiftung Kulturwerk (professional group I).

The distribution reserves of line E concern the web presences of artists which can serve as a digital copying source. A web presence consists of one or more websites and/or social media pages operated by the rightholder themselves or by a third party acting for them. The distribution reserves are apportioned into a share for German web presences and a share for foreign web presences. The apportionment is made by the Administrative Council on the basis of the results of empirical studies. The share for German web presences is distributed equally to the rightholders who have reported their own German web presence during the year of usage. The share for foreign web presences is allocated appropriately to the countries by the Administrative Council on the basis of the results of empirical studies. In the second step these country shares are then allocated to the collecting societies whose areas of activity cover the respective countries, if Bild-Kunst has reached representation agreements with them.

[3] Image distribution

Distribution is based on the copying of the works of the rightholders from “websites”. The other digital sources – “e-books”, “social media”, “apps”, “gaming” and “digital offline data media” are not considered at present.

The following 14 website lines will be formed. The amount of copying they are responsible for will be determined empirically and they may be adjusted by the Administrative Council:

- Line 1: Media companies
- Line 2: Information services, wikis, directories
- Line 3: E-commerce dealers, online shops
- Line 4: Providers of auctions, small ads, classified ads
- Line 5: Web communities
- Line 6: Online banks
- Line 7: E-mail portals
- Line 8: Other companies
- Line 9: Education providers (e. g. universities, schools, educational institutions)
- Line 10: Authorities (e. g. government offices, ministries, administrations)
- Line 11: Cultural institutions (e. g. museums, theatres)
- Line 12: Churches and charitable institutions
- Line 13: Clubs, associations and parties
- Line 14: Private websites

For each line the empirical study determines how the source pages are apportioned by country.

[a] Apportionment to collecting societies

[i] Based on the results of the empirical study, the Administrative Council apportions the distribution reserves appropriately by country.

[ii] The share of the distribution reserves arising for Germany will be paid out by VG Bild-Kunst in accordance with the regulations of the following sections (Germany share).

[iii] Base on the country apportionment, the Administrative Council allocates the other distribution reserves to the collecting societies whose sphere of activity covers the respective countries, provided that VG Bild-Kunst has concluded representation agreements with them.

[iv] The share of a sister society benefits not only its own rightholders, but all rightholders whose works are available as copying sources on the websites of the corresponding country in the accounting period. If a sister society does not have any distribution mechanism that also takes reasonable account of the potential rightholders of VG Bild-Kunst, VG Bild-Kunst can withhold an appropriate share of the transfer amount and make it available to the Stiftung Kulturwerk of PG II. If the sums are considerable, the Administrative Council can, having regard to the principle of economy, decide to implement a report-based special payout that takes reasonable account of the foreign element.

[v] Shares for countries in which no sister society exists will be held back for a period of three years after the end of the year in which the distribution reserve was formed. Paragraph [iv] sentences 2 and 3 apply mutatis mutandis. VG Bild-Kunst is, where possible, to conclude a representation agreement with a suitable organisation within that period. When the time limit expires the Administrative Council will decide on the use of the reserves.

[b] Payout of the Germany share by work categories

The Germany share will be split into the “photography” and “illustration / design / other image works” categories. The Administrative Council will determine their shares on the basis of the results of the empirical study and they will be paid out separately. Rightholders of the image work category can participate in both payouts. For each work category, either levys pursuant to section [c] or single images pursuant to section [d] can be reported. In both cases the report of a proprietary web presence according to section [e] will lead to a flat-rate supplement. Each reporting rightholder receives that share of each payout that corresponds to the ratio of his reports to the total reports.

[c] Levy reports

[i] Levys must be eligible for reporting according to [ii] and be assigned to one of the client categories listed under paragraph [iii], which in turn governs the assignment to the distribution lines and the weighting factors to be applied. The weighting factors will be determined by the Administrative Council on the basis of the results of the empirical study. Paragraphs [iv] and [v] also apply for the client categories of agencies

[ii] Levys that are itemised in levy invoices can be reported if the client has its official or business address or the prevailing branch that issued the order in Germany. Levys that comprise at least half the copyright remuneration for the use of one or more works of the reporting rightholder that belong to the image work category can be reported. Salaries, pensions, interest income, donations, insurance benefits and general social security benefits cannot be reported, nor can pure levys for work. The reporter must properly apportion levys that concern works from more than one work category to the work categories. Salaries can be reported from the 2018 year of usage subject to the requirements of paragraph [viii]. Net fees (excluding the VAT share) will be reported. The assignment to years of usage is determined by the invoice date. Fees for illustrations of a scientific or technical nature by self-illustrators (authors who create the text and associated picture works) in “academic publications” and “non-fiction and reference works” cannot be reported because their royalties are administrated by VG Wort.

[iii] The reporter allocates each levy invoice properly to one of the following client categories. In case of doubt the more specific category has precedence. The Chief Executive Officer has the right to correct obvious errors in classification himself. The reported levys will be apportioned to the “private copying royalties analogue sources (image)”, “private copying royalties digital sources (image)” and “cable retransmission (image)” distribution lines on the basis of their assignment to a client category according to the following table and then multiplied by the corresponding weighting factor. The Administrative Council is authorised to determine and to modify the apportionment to distribution lines.

Client Category	Apportionment to category lines	Weighting factor for distribution line	Weighting factor illustration/design
Press publishers with print runs over 300,000	Sec. 32: 50 %	x 1,25	x 1,25
	Sec. 33: 50 %	x 1,20	x 1,00
Press publishers with print runs under 300,000	Sec. 32: 50 %	x 1,00	x 1,00
	Sec. 33: 50 %	x 1,20	x 1,00
Radio & TV broadcasters and institutions	Sec. 32: 20 %	x 1,25	x 1,25
	Sec. 33: 50 %	x 1,20	x 1,00
	Sec. 35: 30 %	x 1,00	x 1,00
Other media companies	Sec. 32: 30 %	x 0,75	x 0,75
	Sec. 33: 70 %	x 1,20	x 1,00
Operators of web-based information services, wikis	Sec. 33: 100 %	x 1,00	x 1,00
E-commerce dealers, online shops	Sec. 33: 100 %	x 0,80	x 1,00
Operators of web communities	Sec. 33: 100 %	x 1,00	x 1,00
Operators of email portals	Sec. 33: 100 %	x 1,00	x 1,00
Operators of web auctions, small ads	Sec. 33: 100 %	x 0,80	x 1,00
Online banks	Sec. 32: 10 %	x 0,25	x 0,25
	Sec. 33: 90 %	x 1,00	x 1,00
Other companies outside the media sector	Sec. 32: 40 %	x 0,25	x 0,25
	Sec. 33: 60 %	x 1,00	x 1,00
Universities, schools, other educational institutions	Sec. 32: 70 %	x 0,25	x 0,25
	Sec. 33: 30 %	x 1,00	x 1,00
Authorities, government offices, ministries, administrations	Sec. 32: 60 %	x 0,50	x 0,50
	Sec. 33: 40 %	x 1,00	x 1,00
Cultural institutions and establishments	Sec. 32: 50 %	x 0,75	x 0,75
	Sec. 33: 50 %	x 1,20	x 1,00

Churches and charitable institutions	Sec. 32: 80 %	x 0,75	x 0,75
	Sec. 33: 20 %	x 1,20	x 1,00
Clubs, associations, parties	Sec. 32: 40 %	x 0,25	x 0,25
	Sec. 33: 60 %	x 1,20	x 1,00
Operators of private websites	Sec. 33: 100 %	x 1,00	x 1,00
Stock picture agencies	Sec. 32: 40 %	x 0,75	x 0,75
	Sec. 33: 60 %	x 1,00	x 1,00
News agencies	Sec. 32: 40 %	x 1,25	x 1,25
	Sec. 33: 60 %	x 1,20	x 1,00
Press photo agencies	Sec. 32: 40 %	x 1,25	x 1,25
	Sec. 33: 60 %	x 1,20	x 1,00
Press photo agencies	Sec. 32: 40 %	x 1,25	x 1,25
	Sec. 33: 60 %	x 1,20	x 1,00
Advertising agencies	Sec. 32: 40 %	x 0,05	x 0,05
	Sec. 33: 60 %	x 1,00	x 1,00
Web agencies	Sec. 32: 10 %	x 1,00	x 1,00
	Sec. 33: 90 %	x 1,00	x 1,00

[iv] Levys of agencies (image agencies, advertising agencies, web agencies) can be reported if the levy is clearly related to usage of the works of the reporter on German websites and/or in German-language periodicals distributed in Germany.

[v] In derogation from the basic rules for agencies pursuant to paragraph [iv], the Chief Executive Officer is authorised to determine for individual agencies on the basis of data from or about the agency:

- a flat-rate share of the levy that reflects the quota of the German customers;
- an individual apportionment to sections 32 and 33;
- individual weighting factors for the share arising for section 33 on the basis of information on the customer composition of the agency and the factors set out in paragraph [iii].

[vi] If the reported net fee total of both payout lines for a year of usage in all client categories before any supplements according to paragraph [iii] and/or section [e] exceeds EUR 30,000.00, a list of the fee totals per client must be submitted with the report. The total and the list must be confirmed by a tax adviser or auditor. As an alternative to this confirmation, digitised copies of all levy invoices can be submitted to VG Bild-Kunst.

[vii] A fictitious levy determined by the Administrative Council for usage free of charge can be allocated to a rightholder who reports levys. The Administrative Council likewise determines the flat-rate apportionment of the fictitious levy to the “private copying royalties analogue sources (image)” and “private copying royalties digital sources (image)” distribution lines.

[viii] Photographers employed by German press companies (e. g. newspapers and magazine publishers), German news agencies and German press photo agencies (e. g. dpa Deutsche Presse-Agentur, the German branch of Agence-France-Press, the Evangelische Pressedienst, the Katholische Nachrichten-Agentur, Reuters or sid Sport-Informationen-Dienst) can report their gross annual salaries in the year of usage instead of fees. To ensure comparability with fees, a flat-rate discount of 35 % is applied.

The member must present their employment contract once and a confirmation from their employer – or a comparable confirmation – annually stating whether up to 25 %, up to 50 %, up to 75 % or up to 100 % of the working time of the member in the year of usage was spent in the creation of photographic works that were to be used in periodicals or on websites. The salary will be credited at this factor.

On the request of Bild-Kunst, the member must provide evidence that a proportion corresponding to the activity quota of 100 works appeared in print periodicals and a same proportion of 200 works was published on websites in the year of usage.

[d] Single-image levys

[i] Rightholders have the option of reporting single images rather than levys. If both levys and single images are reported for a work category, only the levy reports are weighted. The Administrative Council determines fictitious levys for each work of the work types listed below:

Type of works	Fictitious levy per single image
Photography	EUR 15,-
Illustration	EUR 20,-
Caricature / comic book image	EUR 20,-
Print design, web design	EUR 20,-
Logo	EUR 20,-
Infographic	EUR 20,-

The fictitious levys are to be a minimum royalty. The fictitious levy for an image work, for instance, is to be fixed below the average levy that photographers realise in the journalism industry. Fictitious levys for works of other work types are to be towards the bottom end of what is customary on the market.

[ii] Single images can be reported if they are placed on a German website for six or more months in the year of usage to be billed. A website counts as German if it has the top-level domain “.de”; it likewise counts as German if a generic top-level domain was used and the site content is (also) provided in German for a public in Germany. Single images on websites behind paywalls or on websites of image agencies cannot be reported. A single image can only be reported once per domain. It must have a resolution that makes it possible to identify the copy-right-related image features on the screen and in a printout. A rightholder can report not more than 200 single images on websites in total per year of usage. The fictitious levy according to paragraph [i] will be credited to the “private copying royalties digital sources (image)” distribution line without a weighting factor being applied.

[iii] Single images can likewise be reported if they have appeared in the eligible year of usage in a German-language newspaper or magazine (periodical) that is distributed in Germany. Single images of self-illustrators (authors who create the text and associated image works) in “academic publications” and “non-fiction and reference books” cannot be reported because their royalties are administrated by VG Wort. The fictitious levy according to paragraph [i] will be credited to the “private copying royalties analogue sources (image)” distribution line without a weighting factor being applied.

[e] Proprietary web presence

For a proprietary web presence, a rightholder receives a flat-rate supplement in the form of a fictitious levy total determined by the Administrative Council. A proprietary web presence consists of one or more web pages operated by the rightholder himself or a third party. The fictitious levy is allocated to the “private copying royalties digital sources (image)” distribution line.

[f] Transitional arrangement

For the 2016 and 2017 years of usage, there will be no apportionment of levys to distribution lines in accordance with section [c] paragraph [iii]. Instead the levys will be allocated in their entirety to the “private copying royalties digital sources (image)” distribution line. If rightholders receive a levy for granting the reproduction right and the online right, they can report it twice in the “private copying (image), analogue” and “private copying (image), digital” distribution schemes.

[g] Maximum amount

The maximum amount of a rightholder’s share in the payout for a year of usage and a work category is 0.2 % of the available distribution total.

Sec. 45 Distribution scheme 6 - “Press review”

[1] Basis of distribution

The distribution reserves of the “press review royalties (fine arts)” distribution line for a year of usage are allocated to the relevant art exhibition copying royalty pursuant to section 43 (8).

The distribution reserves of the “press review royalties (image)” distribution line for a year of usage are apportioned to the “photography” and “illustration/design/other image works” categories and distributed to the corresponding rightholders on the basis of the publication of their works in German-language periodicals distributed in Germany. The levys that the rightholders realise for the publication of their works in periodicals, modified by weighting factors, are used as the basis. The share of the payout that a rightholder is entitled to corresponds to the total of his distribution-relevant levys realised in the year of usage, modified in accordance with the following rules, relative to the total sum of all levys determined in this way.

[2] Payout lines

The “photography” category is allocated a 83.75 % share, the “illustration/design/other image works” category a 16.25 % share. Payouts to the respective rightholders are made separately for each category.

[3] Reportable levys

Reportable levys are determined on the basis of the reports of the rightholders. Reports for the 2018 year of usage or later are made in accordance with the regulations of section 44 [3] paragraphs [c] and [d]. Section 44 as amended by the distribution plan of 29.07.2017 applies for reports up to and including the 2017 year of usage.

Sec. 46 Distribution scheme 7 - “Cable retransmission (image)”

[1] Basis of distribution

The distribution reserves for a year of usage are distributed to the rightholders on the basis of the transmission of their works

in television programmes that are retransmitted in Germany. The levy that a rightholder receives for the transmission of his work in a TV item is used as the basis. The rightholder’s share of the payout corresponds to the total of his distribution-relevant levys realised in the year of usage relative to the total of all distribution-relevant levys.

[2] Apportionment in the cable retransmission (image) line

The distribution reserves are apportioned as follows into a share for photographic works and a share for other works of the image work category:

- Photographic works: 85.75 %
- Other works: 14.25 %

The levys are apportioned into those for photographic works and those for other works of the image work category. The levys are calculated separately for each area.

[3] Reportable levys

Reportable levys are determined on the basis of the reports of the rightholders. Only net levys for the granting of rights of use can be reported. Levys for work will not be considered. The time of allocation is determined by the invoice date.

Section 44 3.c.vi applies mutatis mutandis.

[4] Rightholders are at liberty to report single images instead of fees. If both fees and single images are reported for a work category, only the fee reports will be weighted. The fictitious fee for a single image of any work category is EUR 50.00. Single images must have been broadcast on a TV station which can be received in the German cable network, the average coverage of which throughout Germany in the year of usage must be at least 1.0 %.

[5] Maximum amount

The maximum amount of a rightholder’s share in the payout for a year of usage is 0.5 % of the available distribution total per distribution line.

Sec. 47 Distribution scheme 8 - “Cable retransmission (film)”

[1] Basis of distribution

The distribution reserves for a year of usage are distributed to the rightholders if they demonstrate claims to eligible cinematographic works that have been broadcast by a eligible TV broadcaster.

The payouts are made separately for distribution reserves that have been allocated to the “film authors” and “film producers” payout categories. The distribution reserves in the film authors category are further subdivided into the following payout lines:

Category:	Payout line
95 % direction, camera and editing	66.0 % direction
	19.5 % camera
	14.5 % editing
5% set and costume design	56.7 % sets, architecture
	43.3 % costume design

The rightholder’s share of the payout for an audiovisual work corresponds to the total of the points attributable to this work in the year of usage relative to

- (for film authors) the total points of all audiovisual works eligible for payout in the respective distribution line;
- (for film producers) the total points of all cinematographic works eligible for payout in the distribution category.

Film producers must report their entitlement to a cinematographic work. VG Bild-Kunst requires an indemnity declaration from the film producers as constitutive evidence prior to any payout. Film authors report their entitlement to cinematographic works in the reportable work types. VG Bild-Kunst will research the entitlement of film authors in usage-based work types having due consideration for the efficiency principle.

The entirety of the audiovisual works eligible for payout is

- in the case of film authors, composed of the eligible cinematographic works from work types of usage-based distribution and the eligible, reported audiovisual works of work types of report-based distribution;
- in the case of film producers, the eligible, reported cinematographic works.

[2] Eligible TV broadcasters

A TV broadcaster that broadcasts in Germany is eligible if it was able to achieve a share of the total German market of at least 0.3% in the year of usage, based on the data of AGF/GfK television research. A broadcaster is also eligible if it has no market share, but other factors enable comparability. Teleshopping channels are not included in the payout. The valuation committee of professional group III will authorise the list of eligible TV broadcasters for a year of usage by 15 January of the following year. As soon as this is done, VG Bild-Kunst will publish the list on its website.

[3] Eligible audiovisual works

VG Bild-Kunst determines all eligible audiovisual works that have been broadcast by the eligible broadcasters on a proprietary station on the basis of the data of PPS Presse-Programm Service GmbH or a data source of equal reliability. The payouts of audiovisual works that are part of magazine shows pursuant to section 49 (1) (n) are not determined, but can be billed if they are reported. Audiovisual works with a duration of less than three minutes are not eligible. For animations and cartoon films the minimum duration is one minute. US productions are also not eligible.

[4] Work types and their allocation to distribution categories

All eligible audiovisual works are divided into the following 17 work types:

No.	Work types	Special feature	Classification
1	Feature film, television film, TV movie, serial, cinema short		<ul style="list-style-type: none"> • Film authors payout category only • Usage-based billing
2a	Animation and cartoon film over 30 minutes	The shares for camera, editing, set and costume design will be allocated to the rightholder who performed the graphic design work	<ul style="list-style-type: none"> • Film authors payout category only • Usage-based billing

2b	Animation and cartoon film up to 30 minutes	The shares for camera, editing, set and costume design will be allocated to the rightholder who performed the graphic design work	<ul style="list-style-type: none"> • Film authors payout category only • Report-based billing
3	Live-action animated film	In live-action animated films, the author of the figures/objects receives the shares for set and costume design	<ul style="list-style-type: none"> • Film authors payout category only • Usage-based billing
4	Filmed stage production	In filmed puppet shows, the creator of the puppets receives the shares for both production and costume design	<ul style="list-style-type: none"> • Film producers payout category; of which report-based billing • Film authors payout category; of which likewise report-based billing
5	Musical broadcast	The individual film items are each longer than three minutes and in total make up at least 25% of the total length	<ul style="list-style-type: none"> • Film producers payout category; of which report-based billing • Film authors payout category; of which likewise report-based billing
6	Mini series		<ul style="list-style-type: none"> • Film authors payout category only • Usage-based billing
7a	Fictional series from running length 40 minutes		<ul style="list-style-type: none"> • Film authors payout category only • Usage-based billing
7b	Fictional series from running length 20 minutes		<ul style="list-style-type: none"> • Film authors payout category only • Usage-based billing
8	Soap opera, sitcom, telenovela (daily, weekly)		<ul style="list-style-type: none"> • Film authors payout category only • Report-based billing
9a	Documentary film / documentary film series from running length 40 minutes		<ul style="list-style-type: none"> • Film producers payout category; of which report-based billing • Film authors payout category; of which usage-based billing
9b	Documentary film / documentary film series from running length 25 minutes		<ul style="list-style-type: none"> • Film producers payout category; of which report-based billing • Film authors payout category; of which report-based billing
9c	Documentary film / documentary film series from running length 15 minutes		<ul style="list-style-type: none"> • Film producers payout category; of which report-based billing • Film authors payout category; of which report-based billing

9d	Documentary film / documentary film series, magazine items under running length 15 minutes		<ul style="list-style-type: none"> Film producers payout category; of which report-based billing Film authors payout category; of which report-based billing
10	Docu-Soap (daily, weekly)		<ul style="list-style-type: none"> Film producers payout category; of which report-based billing Film authors payout category; of which report-based billing
11	TV recording (set and costume design only, against evidence)	A film of these categories will be allocated to work categories 4 or 5 if the rightholder provides the appropriate evidence by the deadline for correction reports	<ul style="list-style-type: none"> Film authors payout category only / set and costume design line Report-based billing
12	Live transmission (set and costume design only, against evidence)		

The work types are defined in annex 1 of the film distribution scheme. The office determines the work type of films of usage-based work types for which no reports are received by the closing date for reports. Where there is serious dispute or doubt, the valuation committee of professional group III is asked to make a final ruling.

[5] Calculation of the points per payout beneficiary

The points value of a audiovisual work is obtained by adding together the points for each broadcast of the film work by a eligible broadcaster in the year of usage. The points for a broadcast are calculated by multiplying (a) the time factor, (b) the broadcaster value, (c) the culture factor and (d) the work factor.

[a] Time factor

The time factor is the length of the broadcast of the cinematographic work rounded down to whole minutes. The time factor for films which are broadcast for between 3 and 15 minutes and are not animated or cartoon films are calculated using the following formula:

$$d \times \frac{\left(\frac{d}{3}\right)^2}{25}$$

where “d” is the length of the broadcast rounded down to whole minutes.

For scripted film works that form part of a magazine show, the durations of the broadcasts are added together.

[b] Broadcaster value

The broadcaster value is ten times the average annual market share of a eligible broadcaster in the year of usage. However, for each broadcaster not more than two broadcasts of the same work in any period of 48 hours, not more than three broadcasts in any period of seven days, not more than 4 broadcasts in any period of 30 days and not more than six broadcasts in the whole year of usage will be valued. The valuation committee of professional group III will decide on the broadcaster values of the eligible broadcasters by 15 January of the following year, in particular the broadcaster values of broadcasters for which no measured market share exists but which are comparable to other broadcasters with a proven market share.

[c] Culture factor

Broadcasters receive a culture factor if they predominantly broadcast programmes providing culture, education and information (cultural programmes). The valuation committee of professional group III prepares a catalogue of criteria and determines the cultural factors for eligible broadcasters by 15 January of the following year. The cultural factors are determined on the basis of data about the shares of the cultural programmes per broadcaster from programme analyses. The cultural factor is multiplied by the broadcaster value. It has a value between “1” and “5”

[d] Work factor

Depending on the work type, a audiovisual work is given the following work factor:

<i>Work type</i>	<i>Description</i>	<i>Work factor</i>
Work type 1	<i>Feature film, television film, TV movie, serial cinema short</i>	<i>Factor 1.00 Factor 1.50 (with cinema analysis)</i>
Work type 2a	<i>Animation & cartoon film over 30 minutes</i>	<i>Factor 1.00 Factor 1.50 (with cinema analysis)</i>
Work type 2b	<i>Animation & cartoon film up to 30 minutes</i>	<i>Factor 0.60</i>
Work type 3	<i>Live-action animated film</i>	<i>Factor 1.00 Factor 1.50 (with cinema analysis)</i>
Work type 4	<i>Filmed stage production</i>	<i>Factor 0.50</i>
Work type 5	<i>Musical broadcast</i>	<i>Factor 0.10</i>
Work type 6	<i>Mini series</i>	<i>Factor 1.00</i>
Work type 7a	<i>Fictional series at least 40 minutes</i>	<i>Factor 0.60</i>
Work type 7b	<i>Fictional series at least 20 minutes</i>	<i>Factor 0.40</i>
Work type 8	<i>Soap opera, sitcom, telenovela (daily, weekly)</i>	<i>Factor 0,25</i>
Work type 9a	<i>Documentary film, documentary film series, at least 40 minutes</i>	<i>Factor 1.00 Factor 1.50 (with cinema analysis)</i>
Work type 9b	<i>Documentary film documentary film series, at least 25 minutes</i>	<i>Factor 0.60</i>
Work type 9c	<i>Documentary film documentary film series, at least 15 minutes</i>	<i>Factor 0.25</i>
Work type 9d	<i>Documentary film / series, magazine items under 15 minutes</i>	<i>Factor 0.25</i>
Work type 10	<i>Docu-soap (daily, weekly)</i>	<i>Factor 0.25</i>
Work type 11	<i>TV recording (set and costume design only, against evidence)</i>	<i>Factor 0.10</i>
Work type 12	<i>Live broadcast (set and costume design only, against evidence)</i>	<i>Factor 0.10</i>

A cinema analysis of a audiovisual work within the meaning of the distribution plan exists if this arises from the pertinent data of the FFA and SPIO.

[6] Special rule for other film authors

Co-authors of eligible film works of work types 1, 2a, 2b, 3, 6 and 9a that are not covered by the payout lines of paragraph 1 can claim an entitlement on a case-by-case basis if they provide evidence of their co-authorship to VG Bild-Kunst pursuant to section 49 annex 2. The same applies for audiovisual works of other work types if the income for the relevant work is expected to be comparable in economic terms.

If the co-authorship is recognised, the other co-author is allocated the share determined by the valuation committee from the reserves for the recognised audiovisual work formed for such cases. This share is based on the shares of the standard participants mentioned in paragraph 1 of sections 47 and 48. For the audiovisual work overall, the points score corresponding to 1.6 times the points score of the direction payout category is applied as the assessment basis for the purposes of the payout to the other film author.

[7] Treatment of non-distributable distribution reserves

Non-distributable distribution reserves can arise in the film author payout categories. The reserves of a payout line pursuant to paragraph [1] are allocated pro rata to the credit recipients considered for the relevant year of usage in this line in the proportion of their credits to the last payout.

[8] Valuation committee of professional group III

A valuation committee will be established, to be composed as follows: a director, a film author from camera and from editing, an author from set/costume design and a producer. The General Meeting confirms the members and deputy members of the committee on the proposal of the meeting of professional group III. The business of the committee is managed by the Chief Executive Officer of VG Bild-Kunst together with the honorary board member of professional group III.

The valuation committee of professional group III decides on the following groups of cases by majority of votes:

- in case of doubt about the existence of claims to cinematographic works within the meaning of section 2 no. 6 UrhG;
- in case of doubt about the percentage apportionment of claims of several authors of the same professional line to the same audiovisual work;
- the question of co-authorship of possible other film authors pursuant to section 47 paragraph 6;
- in those cases in which it has been given authority in this distribution scheme;
- in the event of doubt about the definition of the work type of a audiovisual work.

At the request of a member of the Administrative Council, the decisions of the valuation committee will require confirmation of the Administrative Council.

Sec. 48 Distribution scheme 9 - “Private copying (film)”

[1] Basis of distribution

The distribution reserves for a year of usage are distributed to the rightholders if they demonstrate claims to eligible cinematographic works that have been broadcast by a eligible TV broadcaster.

The payouts are made separately for distribution reserves that have been allocated to the “film authors” and “film producers” payout categories. The distribution reserves in the film authors category are further subdivided into the following payout lines:

Category:	Payout line
95% direction, camera and editing	66.0% direction
	19.5% camera
	14.5% editing
5% set and costume design	56.7% sets, architecture
	43.3% costume design

The rightholder’s share of the payout for a audiovisual work corresponds to the total of the points attributable to this work in the year of usage relative to

- (for film authors) the total points of all audiovisual works eligible for payout in the respective distribution line;
- (for film producers) the total points of all audiovisual works eligible for payout in the distribution category.

Film producers must report their entitlement to a cinematographic work. VG Bild-Kunst requires an indemnity declaration from the film producers as constitutive evidence prior to any payout. Film authors report their entitlement to cinematographic works in the reportable work types. VG Bild-Kunst will research the entitlement of film authors in usage-based work types having due consideration for the efficiency principle.

The entirety of the audiovisual works eligible for payout is

- in the case of film authors, composed of the eligible cinematographic works from work types of usage-based distribution and the eligible, reported audiovisual works of work types of report-based distribution;
- in the case of film producers, the eligible, reported cinematographic works.

[2] Eligible TV broadcasters

A TV broadcaster that broadcasts in Germany is billable if it was able to achieve a share of the total German market of at least 0.3% in the year of usage and its broadcaster value (paragraph 5.b) modified by the culture factor (paragraph 5.c) was at least “5” in the year of usage. The market share is determined on the basis of the data of AGF/GfK television research. A broadcaster is also eligible if it has no market share, but other factors enable comparability. Teleshopping channels are not included in the payout. The valuation committee of professional group III will authorise the list of eligible TV broadcasters for a year of usage by 15 January of the following year. As soon as this is done, VG Bild-Kunst will publish the list on its website.

[3] Eligible audiovisual works

VG Bild-Kunst determines all eligible audiovisual works that have been broadcast by the eligible broadcasters on a proprietary station on the basis of the data of PPS Presse-Programm Service GmbH or a data source of equal reliability. The payouts of audiovisual works that are part of magazine shows pursuant to section 49 (1) (n) are not determined, but can be billed if they are reported. Audiovisual works with a duration of less than three minutes are not eligible. For animations and cartoon films the minimum duration is one minute. US productions are also not eligible.

[4] Work types and their allocation to distribution categories

All eligible audiovisual works are divided into the following 17 work types:

No.	Work types	Special feature	Classification
1	Feature film, television film, TV movie, serial, cinema short		<ul style="list-style-type: none"> Film authors payout category only Usage-based billing
2a	Animation and cartoon film over 30 minutes	The shares for camera, editing, set and costume design will be allocated to the rightholder who performed the graphic design work	<ul style="list-style-type: none"> Film authors payout category only Usage-based billing
2b	Animation and cartoon film up to 30 minutes	The shares for camera, editing, set and costume design will be allocated to the rightholder who performed the graphic design work	<ul style="list-style-type: none"> Film authors payout category only Report-based billing
3	Live-action animated film	In live-action animated films, the author of the figures / objects receives the shares for set and costume design	<ul style="list-style-type: none"> Film authors payout category only Usage-based billing
4	Filmed stage production	In filmed puppet shows, the creator of the puppets receives the shares for both production and costume design	<ul style="list-style-type: none"> Film producers payout category; of which report-based billing Film authors payout category; of which likewise report-based billing
5	Musical broadcast	The individual film items are each longer than three minutes and in total make up at least 25 % of the total length	<ul style="list-style-type: none"> Film producers payout category; of which report-based billing Film authors payout category; of which likewise report-based billing
6	Mini series		<ul style="list-style-type: none"> Film authors payout category only Usage-based billing
7a	Fictional series from running length 40 minutes		<ul style="list-style-type: none"> Film authors payout category only Usage-based billing
7b	Fictional series from running length 20 minutes		<ul style="list-style-type: none"> Film authors payout category only Usage-based billing
8	Soap opera, sitcom, telenovela (daily, weekly)		<ul style="list-style-type: none"> Film authors payout category only Report-based billing

9a	Documentary film / documentary film series from running length 40 minutes		<ul style="list-style-type: none"> Film producers payout category; of which report-based billing Film authors payout category; of which usage-based billing
9b	Documentary film / documentary film series from running length 25 minutes		<ul style="list-style-type: none"> Film producers payout category; of which report-based billing Film authors payout category; of which report-based billing
9c	Documentary film / documentary film series from running length 15 minutes		<ul style="list-style-type: none"> Film producers payout category; of which report-based billing Film authors payout category; of which report-based billing
9d	Documentary film / documentary film series, magazine items under running length 15 minutes		<ul style="list-style-type: none"> Film producers payout category; of which report-based billing Film authors payout category; of which report-based billing
10	Docu-Soap (daily, weekly)		<ul style="list-style-type: none"> Film producers payout category; of which report-based billing Film authors payout category; of which report-based billing
11	TV recording (set and costume design only, against evidence)	A film of these categories will be allocated to work categories 4 or 5 if the rightholder provides the appropriate evidence by the deadline for correction reports	<ul style="list-style-type: none"> Film authors payout category only Report-based billing
12	Live transmission (set and costume design only, against evidence)		

The work types are defined in annex 1 of the film distribution scheme. The office determines the work type of films of usage-based work types for which no reports are received by the closing date for reports. Where there is serious dispute or doubt, the valuation committee of professional group III is asked to make a final ruling.

[5] Calculation of the points per payout beneficiary

The points value of a audiovisual work is obtained by adding together the points for each broadcast of the film work by a eligible broadcaster in the year of usage. The points for a broadcast are calculated by multiplying (a) the time factor, (b) the broadcaster value, (c) the culture factor and (d) the work factor.

[a] Time factor

The time factor is the length of the broadcast of the cinematographic work rounded down to whole minutes. The time factor for films which are broadcast for between 3 and 15 minutes and are not animated or cartoon films are calculated using the following formula:

$$d \times \left[\frac{(d)^2}{3} \right]$$

where “d” is the length of the broadcast rounded down to whole minutes.

For scripted film works that form part of a magazine show, the durations of the broadcasts are added together.

[b] Broadcaster value

The broadcaster value is ten times the average annual market share of a eligible broadcaster in the year of usage. However, for each broadcaster not more than two broadcasts of the same work in any period of 48 hours, not more than three broadcasts in any period of seven days, not more than four broadcasts in any period of 30 days and not more than six broadcasts in the whole year of usage will be valued. The valuation committee of professional group III will decide on the broadcaster values of the eligible broadcasters by 15 January of the following year, in particular the broadcaster values of broadcasters for which no measured market share exists but which are comparable to other broadcasters with a proven market share.

[c] Culture factor

Broadcasters receive a culture factor if they predominantly broadcast programmes providing culture, education and information (cultural programmes). The valuation committee of professional group III prepares a catalogue of criteria and determines the cultural factors for eligible broadcasters by 15 January of the following year. The cultural factors are determined on the basis of data about the shares of the cultural programmes per broadcaster from programme analyses. The cultural factor is multiplied by the broadcaster value. It has a value between “1” and “5”.

[d] Work factor

Depending on the work type, a audiovisual work is given the following work factor:

Type of work	Description	Work factor
Work type 1	<i>Feature film, television film, TV movie, serial cinema short</i>	<i>Factor 1.00 Factor 1.50 (with cinema analysis)</i>
Work type 2a	<i>Animation & cartoon film over 30 minutes</i>	<i>Factor 1.00 Factor 1.50 (with cinema analysis)</i>
Work type 2b	<i>Animation & cartoon film up to 30 minutes</i>	<i>Factor 0.60</i>
Work type 3	<i>Live-action animated film</i>	<i>Factor 1.00 Factor 1.50 (with cinema analysis)</i>
Work type 4	<i>Filmed stage production</i>	<i>Factor 0.50</i>
Work type 5	<i>Musical broadcast</i>	<i>Factor 0.10</i>
Work type 6	<i>Mini series</i>	<i>Factor 1.00</i>
Work type 7a	<i>Fictional series at least 40 minutes</i>	<i>Factor 0.60</i>
Work type 7b	<i>Fictional series at least 20 minutes</i>	<i>Factor 0.40</i>
Work type 8	<i>Soap opera, sitcom, telenovela (daily, weekly)</i>	<i>Factor 0.25</i>

Work type 9a	<i>Documentary film, documentary film series, at least 40 minutes</i>	<i>Factor 1.00 Factor 1.50 (with cinema analysis)</i>
Work type 9b	<i>Documentary film documentary film series, at least 25 minutes</i>	<i>Factor 0.60</i>
Work type 9c	<i>Documentary film documentary film series, at least 15 minutes</i>	<i>Factor 0.25</i>
Work type 9d	<i>Documentary film / series, magazine items under 15 minutes</i>	<i>Factor 0.25</i>
Work type 10	<i>Docu-soap (daily, weekly)</i>	<i>Factor 0.25</i>
Work type 11	<i>TV recording (set and costume design only, against evidence)</i>	<i>Factor 0.10</i>
Work type 12	<i>Live broadcast (set and costume design only, against evidence)</i>	<i>Factor 0.10</i>

A cinema analysis of a cinematographic work within the meaning of the distribution plan exists if this arises from the pertinent data of the FFA and SPIO.

[6] Special rule for other film authors

Co-authors of eligible audiovisual works of work types 1, 2a, 2b, 3, 6 and 9a that are not covered by the payout lines of paragraph 1 can claim an entitlement on a case-by-case basis if they provide evidence of their co-authorship to VG Bild-Kunst pursuant to section 49 paragraph 2. The same applies for cinematographic works of other work types if the income for the relevant work is expected to be comparable in economic terms.

If the co-authorship is recognised, the other co-author is allocated the share determined by the valuation committee from the reserves for the recognised audiovisual work formed for such cases. This share is based on the shares of the standard participants mentioned in paragraph 1 of sections 47 and 48. For the audiovisual work overall, the points score corresponding to 1.6 times the points score of the direction payout category is applied as the assessment basis for the purposes of the payout to the other film author.

[7] Treatment of non-distributable distribution reserves

Non-distributable distribution reserves can arise in the film author payout categories. The reserves of a payout line pursuant to paragraph [1] are allocated pro rata to the credit recipients considered for the relevant year of usage in this line in the proportion of their credits to the last payout.

[8] Valuation committee of professional group III

A valuation committee will be established, to be composed as follows: a director, a film author from camera and from editing, an author from set and costume design and a producer. The General Meeting confirms the members and deputy members of the committee on the proposal of the meeting of professional group III. The business of the committee is managed by the Chief Executive Officer of VG Bild-Kunst together with the honorary board member of professional group III.

The valuation committee of professional group III decides on the following groups of cases by majority of votes:

- in case of doubt about the existence of claims to cinematographic works within the meaning of section 2 no. 6 UrhG;
- in case of doubt about the percentage apportionment of claims of several authors of the same professional line to the same audiovisual work;
- the question of co-authorship of possible other film authors pursuant to section 47 paragraph 6;
- in those cases in which it has been given authority in this distribution scheme;
- in the event of doubt about the definition of the work type of an audiovisual work.

At the request of a member of the Administrative Council, the decisions of the valuation committee will require confirmation.

Sec. 49 Annexes to distribution schemes 1, 8 and 9

[1] Annex 1 to distribution schemes 8 and 9

The typical work types are described as follows:

a. Feature film

Feature films are fictional narrative formats with a running time generally of at least 79 minutes (filling the evening). They are made independently by one or more (cinema) producers and usually co-financed by institutions that subsidise film-making. Broadcasters acquire the licence to broadcast from producers or lenders. Often the broadcasters are co-production partners. Dramaturgically they are generally characterised by – highly heterogeneous – linear narrative styles. Normally they are produced, recorded and filmed with a camera.

Television dramas/TV movies are fictional narrative formats with a running length generally of 88-89 minutes. They are made on behalf of or internally by broadcasters and supported by the editorial team of a broadcaster. These also include formats of classic series such as “Tatort” and similar that are likewise made in a 90-minute format and, while demonstrating continuity by a constant main cast list, are separate filmed narratives. Dramaturgically they are generally characterised by a linear narrative style. Normally they are produced, recorded and filmed with a camera.

Cinema shorts are a short, fictional narrative format that is originally shot as a short – often in film schools – and has found a place in the cinema as a supporting film. The running length is usually no longer than 15 minutes. Dramaturgically they are generally characterised by a linear narrative style. Normally they are produced, recorded and filmed with a camera.

b. Animation & cartoon film

A cartoon film is a film that has been animated / drawn / painted / modelled, whether by analogue or digital means. It used to consist of many drawings, usually hand-made, that were filmed in quick succession, giving the viewer the impression that they were moving images. (Examples: “Benjamin Blumchen”, “Lauras Stern”). Today cartoon films are usually computer-animated. The way and manner of the visual presentation in the form of drawn material have not changed. (Example: modern episodes of “Die Sendung mit der Maus”).

c. Live-action animated film

A live-action animated film is a film in which real objects / figures are animated with movement and modelled, usually by analogue means. It is frequently also called a puppet animation.

Here puppets are adjusted between every image and individual images are taken. The technique is also called stop-motion. Marionette films, in which the puppet-master acts in real time or can even be seen in shot, are not considered live-action animated films. Modern examples of live-action animated films are “Shaun the Sheep” and “Pingu”.

d. Serial

A serial (also called “two-parter” or “three-parter”) is a complete, self-contained fictional story in multiple parts for broadcasting on television because the subject matter would be too extensive for a single TV movie. (Example: “Der Fall Barschel”; “Generation War”). In theory, however, all parts could be viewed one after the other, in which case it could be described as a single, very long feature film.

e. Mini-series

Mini-series are a fictional narrative format with a running length of 30, 45 or 60 minutes. They are made on behalf of or internally by broadcasters and supported by the editorial team of a broadcaster. The films are not self-contained, or only to a limited extent, and tell their story over multiple episodes, so that viewers cannot easily skip individual episodes, i. e. dramaturgically they are generally characterised by a horizontal narrative style. Normally they are produced, recorded and filmed with a camera.

f. Fictional series

The fictional series format usually means the classic, early evening series with a permanent main cast list and individual fixed locations (e. g. a police station). Dramaturgically they are generally characterised by a linear narrative style and self-contained episodes. Fictional series are filmed in individual “seasons”, i. e. in groups of typically eight to 25 episodes, and presented to the viewing public on an ongoing basis, usually weekly. In terms of content the individual episodes normally do not have any continuity of action, so that viewers can easily skip individual episodes. (Examples: “Forsthaus Falkenau”, “Der Bergdoktor”).

g. Soap opera, sitcom, telenovela

A soap opera is a serial entertainment format on television that is broadcast in a particular rhythm, usually daily or weekly. Soap Opera refers to shorter, afternoon/early evening series with a constant main cast and fixed narrative locations, almost exclusively shot on permanent studio sets. Dramaturgically they are generally characterised by a parallel, linear narrative style and self-contained episodes. They differ from fictional series by the few shot sequences per take, almost identical settings in every episode and low levys. (Example: “Gute Zeiten, Schlechte Zeiten”).

They are generally shot and filmed with multiple, usually permanently installed cameras, under permanently installed lighting and with very long takes, with the cameras unable to respond to the actors.

h. Documentary film

The documentary or non-fiction film interprets physical phenomena and events of the present or historic world using film equipment in a large bandwidth of creative forms. The compression and structuring of the reality are usually executed without the use of actors.

In addition to the long documentary film as the “supreme discipline” of the non-fiction film, many other forms of documen-

tary programming also exist, such as documentation, the magazine item, the feature, reportage, etc.

i. Docu-soap

Docu-soaps are like soap operas in terms of the frequency of broadcasting and the production costs. They, too, are an entertainment format. In docu-soaps, however, it is not usually genuine actors who are in front of the camera, but people from “real life”. This, at any rate, is the impression given to viewers. Usually storylines of different protagonists are run in parallel. (Examples: “Goodbye Deutschland”, “Super-Nanny”).

j. Filmed stage production

Filmed stage productions are recordings of theatre or opera pieces that are staged specially for the camera. Such a filmed recording thus focuses on a staged production (theatre, opera). The play is not simply “filmed”, but instead individual takes by the stage actors are recorded and edited in order to create a particular dramaturgical effect. A “pure recording” exists if, for instance, an existing production is simply filmed, or recorded, using a multi-camera system.

k. Musical broadcast

Musical broadcasts are staged recordings of a musical interpretation or performance. A musical broadcast is generally a live performance, even if it is broadcast at a later point in time. A “pure recording”, however, exists if, for instance, only the singer(s) or musicians of an orchestra are recorded or filmed using a multi-camera system. The addition of prologues or breaks is not sufficient on its own to establish a stage production. Normally they are recorded and filmed with multiple cameras. Musical broadcasts are relevant in the distribution plan in respect of intros (short items) that can constitute short cinematographic works.

l. TV recording

TV recordings are co-edited or specially made TV formats in which performances, competitions or the like are presented. Frequently, extensive (studio) sets are built in order to emphasise the presentation. Normally they are recorded with multiple cameras.

m. Live broadcast

Live broadcasts are broadcasts that record major (usually sporting, or musical) events. Frequently, extensive (studio) sets are built in order to emphasise the presentation. Normally they are recorded with multiple cameras.

n. Magazine show

Programmes that do not in themselves constitute an independent film work, but in which various independent, generally shorter items are broadcast, are known as “magazine shows”. Magazine shows are broadcast in a variety of genres, e. g. politics (example: “Panorama”), culture (“Aspekte”), consumer advice (“Gesundheitsmagazin Praxis”), comedy (“Ladykracher”) or children’s TV (“Die Sendung mit der Maus”).

[2] Annex 2 to distribution schemes 1, 8 and 9

Co-authors of eligible audiovisual works that are not covered by the payout lines of paragraph 1 of sections 47 and 48 can provide evidence of their co-authorship solely in accordance with the procedure regulated in the “Film co-author” guideline. In the event of recognition, the procedure also regulates the

amount of the share in the particular case. There is no deduction for cultural and social purposes.

The Administrative Council is authorised to determine and to vary the requirements of form and content for the recognition of co-authorship and the detailed procedural rules in this guideline. It may make the processing of a request dependent upon the payment of a reasonable service charge per case. This must be refunded if the claim is recognised.

For evidence, the following criteria for determining co-authorship of a audiovisual work must be met independently of each other:

- Personal, freely provided intellectual creation:
 - Distinct conceptualisation of the activity independently of instructions of the director or another participant or within a broad framework that allows a variety of stand-alone configurations.
- Threshold of originality:
 - Above the level of mere craftsmanship.
 - Activity makes a significant contribution to the narration of the audiovisual work, exerting a perceptible, stand-alone influence on the film experience.

Special Part - Chapter 3: Reporting Procedure

The Administrative Council is authorised to formulate the rules for the reporting procedure in detail.

Sec. 50 Principles

[1] Scope of application

The reporting procedure regulated in this chapter applies for the distribution schemes of report-based collective distribution pursuant to section 18 paragraph 3 and for the work and correction reports within the scope of usage-based collective distribution pursuant to section 18 paragraph 4. Which type of collective distribution is applied depends on the pertinent distribution lines (Special Part chapter 1).

[2] Object of the reports

The reports serve to provide information and evidence. The information to be reported (report content) is based on the requirements of the distribution schemes of the distribution plan (Special Part chapter 2) and is fleshed out by the report form (section 51 paragraph 3) and alternatively, where applicable, the online report portal (section 52). In some cases the distribution schemes specify that particular evidence must be provided with the report content (constitutive evidence). In addition, VG Bild-Kunst may demand suitable evidence for the purposes of its regular checks of the accuracy of reports (control evidence).

[3] Reporting deadlines

The reporting deadlines are set out in the rules for the individual distribution lines in chapter 1 of the Special Part. The report content must reach Bild-Kunst by the reporting deadlines; the constitutive evidence must be submitted within not more than two weeks after the reporting deadline. Incomplete reports are treated as equivalent to missing reports.

[4] Reporting procedure

VG Bild-Kunst uses the written reporting procedure (section 51). In some areas an online reporting procedure (section 52) is also offered. Verbal or telephone reports are not permitted.

Sec. 51 Written reporting procedure

[1] Methods

Report content and constitutive evidence can be submitted in the written procedure. This includes dispatch by post, sending a fax, sending an email or otherwise delivering the documents to the offices of VG Bild-Kunst.

[2] Addresses

Reports must be submitted to the offices of VG Bild-Kunst either in Bonn at Weberstraße 61, 53113 Bonn, or in Berlin at Köthener Straße 44, 10963 Berlin. The available fax numbers and email addresses are shown on the VG Bild-Kunst website.

[3] Report format

Report content must conform to the current published report form specified by VG Bild-Kunst. The report form contains the specific information to be reported and is arranged in a layout that simplifies data entry. The individual report forms can be found on the VG Bild-Kunst website or requested from the office. For reports submitted by email, the completed report form must be scanned in and sent in a standard format.

[4] Deadline

In the written reporting procedure, the time the reports including the constitutive evidence are received by the office determines whether they are received in time. The following provisions apply:

- **Physical dispatch:** The documents must be in the letterbox of the VG Bild-Kunst office in Bonn by 24.00 hours on the day the time limit expires. The date of the postmark is irrelevant.
- **Dispatch by email:** The email must be in the electronic mailbox of VG Bild-Kunst by not later than 24.00 hours on the day the time limit expires.
- **Dispatch by fax:** The fax must be in the print tray of the fax machine by not later than 24.00 hours on the day the time limit expires.

The reporter bears the transmission risk.

[5] Constitutive evidence

In the case of a written report, necessary constitutive evidence must be submitted at the same time as the report content. Please refer to the options set out in paragraph 1. Customer copies must be given to VG Bild-Kunst in the original.

Sec. 52 Online reporting procedure

[1] Availability

For some areas report content can be submitted online via an electronic report portal, if VG Bild-Kunst offers the relevant reporting options in its report portal. There is no legal right to use an online reporting procedure.

[2] Technical faults

The reporter bears the risk of technical faults in the report portal and the risk of his own technical access requirements not being met. VG Bild-Kunst will post a message on its website if there are faults in the report portal.

[3] Deadline

In the online reporting procedure, the time the reports including the constitutive evidence are received determines whether they are received in time. The online reporting procedure, if offered, is available for a particular period of time until the reporting deadline. If there is a technical fault at VG Bild-Kunst on the day the deadline expires, the time limit will be extended until the end of the day after the day the fault is rectified.

VG Bild-Kunst will post a message about this on its website. The report process is only complete if the member receives a corresponding on-screen confirmation. If the member cancels the report process beforehand, VG Bild-Kunst does not receive a report.

[4] Constitutive evidence

If a report is sent via the online portal, necessary constitutive evidence must be submitted at the same time or very soon thereafter. It can be given to the office optionally by post, fax or electronically as an email attachment in a standard file format. Customer copies must be given to VG Bild-Kunst in the original.

Sec. 53 Verification of reports

[1] Performance of checks

VG Bild-Kunst will check the reports if there is a concrete suspicion that the information is incorrect. It also carries out regular checks based on random samples.

[2] Control evidence

VG Bild-Kunst contacts the member who is to be checked in writing and asks him to substantiate the report content by submitting suitable and appropriate control evidence. It sets a time limit of at least three and not more than six weeks. In justified exceptional cases the time limit can be extended once, but the request must be received before the time limit expires. The regulations of section 52 apply to the procedure.

[3] Inspections

VG Bild-Kunst inspects the control evidence that is submitted. If the result is positive, the member is informed accordingly. If the result is negative, the member is given an opportunity to clarify the problems that VG Bild-Kunst sees. If this is not successful, no credits are made based on the reports and any payouts already distributed are claimed back.

[4] Further consequences

The Articles of Association set out the legal consequences of erroneous reports that are submitted knowingly, while the consequences in terms of administration are set out in the Administration Agreement. In the event of a repetition, or if the incorrect report is particularly serious, a criminal complaint will be filed.

Sec. 54 Special rules for new members

New members have the option of submitting reports for years of usage that have not yet become out of time and for which the standard reporting deadline has already passed or will pass in less than three months. The reporting deadline for these late reports is three months from the date the Administration Agreement is concluded. Late reports are submitted in the written reporting procedure (section 51).

Supplementary annexes to the distribution plan

Below are special resolutions that have been adopted by the General Meeting on distributions:

On 29 July 2017 the General Meeting adopted the following regulation in respect of the income for remuneration claims pursuant to section 52a UrhG for usage in the years 2015 and 2016:

“The pro rata “image” income from section 52a UrhG is allocated equally to distribution plans 6 and 7 with the provisos that a) the 25 % allocation to DP 6 as provided for in DP 7 will not take place and b) in DP 6 the income from section 52a UrhG “schools” will be distributed as school copying and the income from section § 52a “colleges” as the operator levy. The pro rata “film” income from section 52a UrhG will be allocated to DP 13.”



Annex to administrative costs

for the distribution plan of VG Bild-Kunst

According to law and statutes, the Membership Assembly of VG Bild-Kunst is authorised to make amendments to the distribution plan. However, in section 21 paragraph 5 of the distribution plan, the authority to stipulate the administrative cost rates is delegated to the Administrative Council, as this is a bound decision in accordance with section 15 of the distribution plan, which must be reviewed several times a year.

Direct proceeds are proceeds achieved by VG Bild-Kunst itself or other German CMOs. Indirect proceeds are proceeds achieved by VG Bild-Kunst via its foreign sister societies.

The table is to be read in such a way that the indicated cost rates are always applied to distributions made during the respective period for which the cost rate applies. All current distributions will be made according to the most recently stipulated cost rates.

Sec. 23 Resale rights fine arts and resale rights image

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 01/01/2017	14.00 %	4.00 %
From 04/05/2017	15.00 %	5.00 %
From 26/04/2018	15.00 %	5.00 %
From 24/04/2019	17.00 %	7.00 %

Sec. 24 Primary rights fine arts and primary rights image

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	25.00 %	20.00 %
From 26/04/2018	18.00 %	15.00 %

Sec. 25 Public lending right fine arts

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/2019	10.00 %	10.00 %

Sec. 26 Public lending right image

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/2019	10.00 %	10.00 %

Sec. 27 Flat-rate broadcasting rights fine arts

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	25.00 %	–
From 26/04/2018	18.00 %	–

Sec. 28 Private copy royalties for analogue sources fine art

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/20189	10.00 %	10.00 %

Sec. 29 Private copy royalties for digital sources fine art

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/2019	10.00 %	10.00 %

Sec. 30 Press review royalties fine arts

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/2019	10.00 %	10.00 %

Sec. 31 Cable retransmission fine arts

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/2019	10.00 %	10.00 %

Sec. 32 Private copy royalties for analogue sources image

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/2019	10.00 %	10.00 %

Sec. 33 Private copy royalties for digital sources image

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/2019	10.00 %	10.00 %

Sec. 34 Press review royalties image

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/2019	10.00 %	10.00 %

Sec. 35 Cable retransmission image

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	8.00 %	8.00 %
From 24/04/2019	10.00 %	10.00 %

Sec. 36 Film individual

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 01/01/2017	5.00 %	5.00 %
From 04/05/2017	5.00 %	5.00 %
From 24/04/2019	7.00 %	7.00 %

Sec. 37 Cable retransmission film

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	7.00 %	7.00 %

Sec. 38 Private copying royalties film

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	3.50 %	3.50 %
From 26/04/2018	7.00 %	7.00 %

Sec. 39 Advertising films

Period	Deduction rates administrative costs	
	Direct proceeds	Indirect proceeds
From 04/05/2017	0.50 %	0.50 %
From 26/04/2018	–	0.50 %



Notes on the distribution plan

Parameters for the distribution plan stipulated by the Administrative Council

According to law and statutes, the Membership Assembly of VG Bild-Kunst is authorised to make amendments to the distribution plan. However, in section 21, as per distribution plan, some authorities to stipulate distribution plan parameters, which are not included in the text of the distribution plan, are delegated to the Administrative Council. The following gives an overview of these parameters.

Special Part – Chapter 2: Distribution Schemes

Sec. 42 Distribution scheme 3 - “Public lending right”

Paragraph 3 sentence 2 – flat-rate foreign share:

The Administrative Council stipulates the division of the 10 % share in foreign-language books, which are transferred to foreign sister societies on a flat-rate basis.

On 26 April 2018, the Administrative Council decided on the following distribution key:

No.	Category	10 % share	Countries	Societies	Share			
1	English EU-USA	28.5 %	UK	Clarification Final distribution	15.33 %			
			USA	DACS	13.17 %			
2	Large EU-countries	28.5 %	France	ADAGP	9.50 %			
				Matisse				
				Picasso				
				SAIF SCAM (Dok-Film)				
3		Italy	SIAE	9.50 %				
4		Spain	VEGAP	9.50 %				
5	Neighbouring countries	28.5 %	Belgium	SABAM	4.75 %			
				SOFAM				
				Others (via Reprobel)				
				6		Netherlands	PICTO-RIGHT	4.75 %
				7		Denmark	COPYDAN Billedkunst	4.75 %
				8		Czech Rep.	OOAS	4.75 %
9		Austria	BILDRECHT	4.75 %				
10		Switzerland	PRO LITTERIS	4.75 %				
11	Others	9.5 %	Norway	Bono Kopinor	0.95 %			
12			Sweden	Bildupphovsrätt	0.95 %			
13			Finland	KUVASTO	0.95 %			
14			Slovakia	LITA	0.95 %			

15	Hungary	HUNGART	0.95 %
16	Rumania	VIS-ART	0.95 %
17	Portugal	SPA	0.95 %
18	Australia/ New Zealand	Copyright Agenca, VISCOPY	0.95 %
19	Latvia	AKKA/LA	0.475 %
20	Lithuania	LATGA-A	0.475 %
21	Ireland	IVARO	0.95 %
22	Overall reserves	5.0 %	5.00 %

Paragraph 6.b – Supplementary distribution books:

The Administrative Council establishes a fictitious tariff which results in a fictitious licence for certain non-licensed works which, in turn, constitutes the basis for the proportional additional distribution.

On 26 April 2018, the Administrative Council decided on the following fictitious tariff:

Fictitious book tariff:

Print run	Fictitious tariff per image:
up to 250	3 EUR
up to 1,000	10 EUR
from 1,000	24 EUR

Enforcement: Members of the professional group I will report on corresponding uses in advance. In case of doubt, the low number of print runs up to 250 will be applied if the print run circulation is not confirmed in the context of the notification (e. g. by the publisher).

Sec. 43 Distribution scheme 4 - “Private Copying fine arts/image, analogue”

Paragraph 3 sentence 2 – flat-rate foreign share:

The Administrative Council stipulates the division of the 10 % share in foreign-language books, which are transferred to foreign sister societies on a flat-rate basis.

On 26 April 2018, the Administrative Council decided on a distribution key that is identical to the distribution key for section 42 paragraph 3 sentence 2 (public lending right). Please refer to the respective section for further information.

Paragraph 7.b – Supplementary distribution publications:

The Administrative Council establishes a fictitious tariff which results in a fictitious licence for certain non-licensed works which, in turn, constitutes the basis for the proportional additional distribution.

On 26 April 2018, the Administrative Council decided on the following fictitious tariff:

Fictitious book tariff:

Print run	Fictitious tariff per image:
up to 250	3 EUR
up to 1,000	10 EUR
from 1,000	24 EUR

Fictitious magazine tariff:

Print run	Fictitious tariff per image:
up to 10,000	30 EUR

Enforcement: Members of the professional group I will report on corresponding uses in advance. In case of doubt, the low number of print runs up to 250 will be applied if the print run circulation is not confirmed in the context of the notification (e.g. by the publisher).

Paragraph 8.c – Fine arts / copying royalty art exhibitions distribution:

The Administrative Council stipulates the share for foreign exhibition venues (creation class A) based on appropriate data. For this purpose, VG Bild-Kunst had an empirical study carried out in March 2018. On 24 April 2019 and based on the results of the study, the Administrative Council set the share of the creation class A to

→ **26.4 %**.

Sec. 44 Distribution scheme 5 - “Private copying (fine arts/image, digital)”

Paragraph 2 – fine arts / shares for payout lines:

Four payout lines are formed on the basis of empirical studies. For this purpose, VG Bild-Kunst had an empirical study carried out in March 2018. On 27 July 2018 and based on the results of the study, the Administrative Council set the shares of the creation classes as follows:

Creation class A: **29 %**
Creation class B: **16 %**
Creation class C: **15 %**
Creation class D: **27 %**
Creation class E: **13 %**.

Paragraph 2.b – fine arts / fictitious shares resale rights:

According to the distribution plan, 50 % of the creation class B will be distributed as a surcharge to the distribution of resale rights. The problem is that fine art artists from countries that do not know resale rights are not entitled to resale rights in Germany. Thus, a surcharge cannot be charged. This mainly refers to artists from the USA and Switzerland.

Therefore, the distribution plan stipulates in section 44 2.b that CMOs of these countries be allocated flat-rate shares, which

are determined by the Administrative Council. According to the decision of the Administrative Council, the calculation of these shares for the years of usage 2016 and 2017 is to be calculated on the basis of the following fictitious distribution of resale rights:

- ProLitteris EUR 43,500
- ARS EUR 137.500

Paragraph 2.b – fine arts: shares for creation class E/abroad

The distribution plan provides in section 44 paragraph 2 [b] that distribution reserves of the web presence of artists are apportioned into a share for German web presences and a share for foreign web presences. According to the decision of the Administrative Council on 26 July 2019, which bases on the results of empirical studies, the figures are set as follows:

German web presences: **63 %**

Foreign web presences: **37 %**

Allocation of foreign countries:

The share “Class E - foreign web presences” is divided amongst the countries according to the decision of the Administrative Council:

Land	Anteil
Australia	3.9 %
Austria	3.0 %
Belgium	6.0 %
Brasil	2.6 %
Bulgaria	3.6 %
Canada	1.6 %
Czech Republic	1.1 %
Denmark	6.2 %
Estonia	2.2 %
Finland	1.0 %
France	12.2 %
Greece	1.4 %
Ireland	3.8 %
Israel	0.5 %
Italy	2.8 %
Japan	2.4 %
Kroatia	5.2 %
Netherlands	2.0 %
Russia	3.4 %
South Africa	0.6 %
Spain	2.3 %
Sweden	2.7 %
UK	16.1 %
USA	13.7 %

Paragraph 3.a.i – image / distribution by country, source pages:

On 27 July 2018, the Administrative Council instructed the office to apportion the distribution reserves of the creation class “private copying digital sources image” to individual countries based on the empirical study carried out in March 2018, and an

additional analysis carried out in August 2018. The shares correspond to the ratio of copies of images on websites from the respective countries that are produced in Germany. The office set the following values:

Share Germany: **80.44 %**

Share foreign countries: **19.56 %**

The allocation of foreign countries to individual countries is made according to the requirement that only countries whose share of the foreign share amounts to at least 0.5 %:

Country	Share
Argentina	0.5 %
Australia	2.1 %
Estonia	2.1 %
Finland	0.8 %
France	9.1 %
Ireland	6.5 %
Italy	1.5 %
Canada	0.8 %
Netherlands	3.3 %
Austria	1.7 %
Russia	5.5 %
Switzerland	1.9 %
Spain	0.7 %
USA	51.6 %
UK	7.7 %
Other countries	4.2 %

The share for other countries will be transferred to a reserve.

Paragraph 3.b – image / shares creation classes Germany:

The share for Germany will be split among the creation classes “photography” and “illustration, design, other visual works”. For this purpose, VG Bild-Kunst had an empirical study carried out in March 2018. On 27 July 2018 and based on the results of the study, the Administrative Council set the share of the creation class “photography” to

→ **63.62 %**

and the share of the creation class “illustration, design, other visual works” to

→ **36.38 %**.

Paragraph 3.c.vii – image / fictitious levy for free usage:

On 27 July 2018, the Administrative Council set the fictitious levy for free usage to

→ **200 EUR**

For the years of usage 2016 and 2017, this fictitious levy will be attributed to the distribution line “private copy royalties for digital sources image” pursuant to section 45 3.f

Paragraph 3.e – image / proprietary web presence:

On 27 July 2018, the Administrative Council set the fictitious levy for proprietary web presence

→ **200 EUR**

As per distribution plan, this fictitious levy will be attributed to the distribution line “private copy royalties for digital sources image”.