

## **DISTRIBUTION PLANS from 2021 onwards**

**as amended and resolved by the Assembly of Shareholders and Delegates on 23/11/2021**

### **I. GENERAL**

1. As long as individual shares can be established with adequate means, each rights holder shall receive their share relating to the usage of his contribution to a performance from the amount collected after deduction of the effective costs and any allocations for cultural and social purposes.
2. In cases where the individual usage share of the collected amount cannot be established with adequate means, general evaluation and distribution rules for a general approach to this method of measuring the relevant share shall be established. The scope of the usage, the cultural or artistic significance of each rights holder's performance shall be considered adequately. Minimum thresholds for collecting usage data and setting pay-out levels to rights holders shall be permissible.
3. Any rights holders' remuneration entitlements, their exploitation rights or other rights assigned to GVL shall be governed by the distribution plans, even if the agreement between the rights holder and the user includes deviating provisions.
4. The distribution includes:
  - a) remuneration collected for the respective financial year
    - for broadcasts of commercially published sound recordings<sup>1</sup> and video clips,
    - for public performance and reproduction/copying,
    - for rental and lending of commercially published sound recordings and films,
    - for re-transmission of artistic performances,
    - for the performer's entitlement to remuneration arising from the extension of the term of protection (Section 79a UrhG [German Copyright Act]).
  - b) remuneration which has not been included in the distribution yet, e.g. undeliverable distributable amounts, overpayments to rights holders which had to be recouped, unused reserves.

<sup>1</sup>Sound recordings are recordings of individual tracks irrespective of their format, i.e. including pure electronic formats such as MP3.

5. Collected revenue, interest accrued on funds prior to their distribution and all other revenue including any extraordinary income shall be paid out to rights holders after the necessary administration costs have been deducted. GVL's managing directors shall be authorised to withhold a reserve for economic risks to an extent as they see fit, amounting to a maximum of € 1,000,000. They must report their respective actions to the supervisory body.
6. If GVL gathers retroactive collections for one or several distribution periods already paid for outside its usual business (extraordinary collections), these extraordinary collections shall be calculated as a supplementary percentage to the pay-out made for the relevant distribution period for each distribution budget or [its] subcategory for the distribution period (supplementary distribution). If it is not possible to make a supplementary distribution specific to a certain period, the amounts shall be shared between all distribution periods in question.  
  
If the cost for any adjustments to the distribution is higher than 25% or if the total amount collected ready for an adjustment pay-out is lower than EUR 1m, the collections may be distributed together with other distributable amounts.
7. Up to 5% of the revenue ready for distribution shall be made available for cultural, politico-cultural and social purposes.

## II. DISTRIBUTION PLANS

### 1. Distribution Plan No. 1 – for performing artists and producers of sound recordings and video producers

Remuneration for broadcasts of commercially published sound recordings, for the reproduction and the making available of sound recordings shall be allocated 50%/50% between performing artists and record companies, and remuneration for rental and lending of commercially published sound recordings and films shall be allocated 50%/50%. Based on an overall ratio of 55%/45%, remuneration splits for public performance shall be 50%/50% for sound recordings and audiovisual recordings accompanying sound recordings (music video clips), for public performance of radio broadcasts 60%/40% and for public performance of TV broadcasts 90%/10%. The distribution of remuneration arising from private copying shall result from the allocation by ZPÜ to GVL's rights holder groups, including event organisers, and from the relevant share of the repertoire for which they are entitled to rights. Pay-outs already made, based on the previous distribution system, shall be offset against the amounts resulting from the new distribution system and shall either be credited or claimed back.

Remuneration for the re-transmission of performances not related to sound recordings or audiovisual recordings accompanying sound recordings (music video clips), shall be allocated exclusively to the performing artists, just like the rental revenues, as well as the remuneration entitlement arising from the extension of the term of protection (Section 79a UrhG).

Remuneration for audiovisual recordings accompanying sound recordings (music video clips) will be subject to a preliminary allocation of 60% for the producers, and the remuneration for lending of films will be subject to a preliminary allocation of 40% for the performing artists.

The distribution of the remuneration shares among the rights holders in the performer category, and among producers of sound recordings, music video clip producers and among event organisers shall be made in

proportion to the performances, sound recordings or music video clips that have been broadcast on national radio or TV in the respective financial year.

## 2. Distribution Plan No. 2 – for performing artists

### a) Basic Principles

aa) The distribution to performing artists shall – apart from distributions of recordings for the period prior to 2001 where evidence of the contributions cannot be supplied any more – be made separately in each distribution budget and within such budgets separately under the respective sub-budgets. In a first step distribution shares from the different usage categories are allocated to the relevant distribution budgets and sub-budgets. The result is the distributable total amount of the budgets.

aaa) The basis for the distribution of the budgets is – apart from the distribution for sound recordings without any relevant broadcast usage (Distribution Plan No. 2 b) bb) – usually the broadcast of all productions within a distribution budget or sub-budget. The broadcast duration of a production in minutes and seconds shall form the basis for this, and it can be increased or decreased by certain factors such as the share factor or cultural multiplier, transmission time etc. The result is the point value for the duration. In the case of the sub-budgets vi. – xii. in the budget “audiovisual productions except music video clips”, and the sub-budgets ii. for music in radio plays as well as iv. – v. in the budget “radio broadcasts of productions not based on commercially published sound recordings”, several productions might be subsumed; the weighting shall be made by applying a blanket / lump-sum factor. The production as such may be subject to a multiplier depending on its genre or work category. This multiplier shall be applied consistently to each sub-budget. Based on broadcasters with different weightings or broadcast durations, each production may obtain a different point value. If several broadcast transmissions took place, they may be subject to a regressive multiplier. For individual sub-budgets, the number of broadcast productions shall be taken into account instead of the broadcast duration.

The remuneration calculated for each individual performer per production shall depend on the nature of their contribution to the recording. Depending on the kind of contribution, the respective contribution point value shall be multiplied with the point value of the used production in that specific instance. As far as contributions of specific performers have already been established, their contribution point value shall be used. For contributions not yet specifically established, the contribution point values shall be calculated on the basis of a statistically calculated average number in a line-up. The total points of all rights holders within the distribution budgets or sub-budgets are thus added up. The total amount of the distribution budget and sub-budgets shall be divided by the total points after it has been reduced by a deduction for exploitations that have not been processed so far but can still be reported retroactively. The result thereof is the financial point value of each distribution budget and sub-budget. The number of points for each performer for each individual production, multiplied with the financial value per point shall equal the distributable value for each artist per production.

bbb) The basis for the distribution of the budget for sound recordings without any relevant broadcast usage (Distribution Plan No. 2 b) bb) are the reported licence revenues of a licensee for public performance and its pro-rata share in the public performance usage of a recording. The distributable amounts for the performing artists shall be determined by a pro-rata share of the

reported licence revenues pursuant to Distribution Plan No. 2 b) bb) per recording.

- ccc) In cases where a usage-based distribution based on the analysis of all broadcast products is deemed uneconomical for individual sub-budgets, the Assembly of Shareholders and Delegates may resolve that these sub-budgets are distributed based on different parameters such as individual/personal claims.
- bb) The distribution usually takes place once a year based on the annual distribution to be made per distribution budget or sub-budget. Pay-out dates may differ depending on distribution budget or sub-budget. As a rule, the distribution of rights' remuneration shall take place nine months after the end of the financial year during which it was collected, at the latest; except thereof are cases where there are objective grounds preventing GVL to do so. The Associates' and Delegates' Assembly may decide that distributions take place in shorter periods. For certain sub-budgets, it may also decide that the remuneration can be combined for several years if the distribution cost is disproportionate to the distributable amount.
- cc) Performing artists shall usually only receive pay-outs of individual allocations if, subject to any applicable tax or other deductions, a minimum amount of EUR 5.00 is reached. Allocated amounts not paid out shall be credited to the rights holder for a later distribution.
- dd) In order to be entitled to get a share of the remuneration, performing artists need to register their contributions with GVL.  
Rights holders shall be obliged to provide GVL with evidence of their contributions if they are prompted to do so.
- ee) The share reserved for rights holders whose contribution has not yet been established in line with dd) shall be calculated based on the reported usages of the relevant productions, increased by a risk premium for productions that have not been reported to GVL, but are relevant for distribution. Rights holders may establish their claims up to three years after the financial year during which income was collected for the rights has lapsed. In the fourth year, reserves still available must be dissolved and distributed on an accrual basis, as long as the total amount per distribution is more than EUR 500,000. In case the amount falls short of EUR 500,000, it can be allocated to the next regular distribution.
- ff) Any amounts still available after the statutory retention period pursuant to ee) has lapsed shall be paid as final distribution within the relevant distribution budgets or sub-budgets. In cases where the amount of rights holders' claims related to a sub-budget exceed the reserves available for it, the Assembly of Shareholders and Delegates can resolve that non-distributable collections from another distribution budget or sub-budget pursuant to Section 30 VGG [Collecting Societies' Act] may be used for the settlement of such claims.
- gg) The Assembly of Shareholders and Delegates may resolve that the non-distributable revenues pursuant to ff) may, pursuant to Section 30 VGG, be used for social and cultural purposes.
- hh) The following basic principles shall apply for qualifying contributions - with the exception of the distribution for sound recordings without any relevant broadcast usage (Distribution Plan No. 2 b) bb): Depending on the nature of their contribution, different weightings shall be applied to artists'

performances. On the basis of **Annex 1** the contributions are categorised (role and function) and a point value is allocated to each category.

- aaa) A maximum contribution of one artistic music producer shall be considered per recording and/or live transmission. If several artistic music producers made a contribution, their share shall be reduced proportionately.

In cases where a contribution as a conductor is determined, it is not possible for the artist to be considered additionally as an artistic producer or studio conductor.

bbb)

- If performing artists have contributed to a recording in more than one different artistic role, the role with the highest point value shall be fully considered, the second contribution only with the lowest point value. Further performances/contributions shall not be considered at all.

The following additional provisions shall apply to AV productions:

- Only one of the two different artistic contributions to be considered can have a performing character. The other one will be valued in conducting terms only (Dubbing, spoken word and stage directors, conductors, artistic producers, studio conductors).
- contributors to AV productions pursuant to AV sub-budget vii. (individual contributions in non-fictional formats) shall be considered only once per production; their highest contributory role shall be applied.

The following additional provisions shall apply to radio productions:

- Music contributors to radio productions pursuant to AV sub-budget ii. (radio plays, readings) shall be considered only once per production; their highest contributory role shall be applied.

- ccc) For recordings with contributions by performer ensembles, the total number of musicians in the ensemble is deduced from the actual number of parties contributing to the recording. Replacements shall receive the full point value.

A performer ensemble shall be a body established long-term including a minimum of 10 members who are linked to this ensemble in a setup often identical over a long period of time. Its members can be singers, instrumentalists or dancers.

Permanent members of the ensemble may usually only report their contribution via a representative they elected or who has been appointed by the board of the ensemble. The rules applicable for the respective board shall apply in cases of electing and deselecting representatives for ensembles. As a rule, only those members of the ensemble shall receive remuneration who have actually contributed to the productions which qualify for distribution. In cases where it is not possible to identify all contributors any longer, the remuneration shall be distributed on a pro rata basis to all members of the ensemble who have been members of said ensemble during the year where the production qualifying for distribution was made (solidarity distribution). The solidarity distribution can also take place if a binding resolution of the representative of the ensemble can be proven. Replacements must register their contributions themselves.

For the sub-budgets vi. - xii. in the budget “audiovisual productions except music video clips”, the sub-budgets ii. for music in radio plays and iv. - v. in the budget “radio broadcasts of productions not based on commercially published sound recordings”, solidarity distribution applies without exception.

Permanent members of an ensemble without a representative must carry out their registrations independently and autonomously. Confirmation of the registration of their contributions requires a complete list of all contributors for the production in question.

Remuneration of the productions qualifying for distribution shall only be paid to GVL rights holders who were actual contributors and have been registered.

## b) Creation of distribution budgets

The distributable amounts for performing artists shall first be allocated to various distribution budgets. These are distributed independently from one another to the rights holders who are entitled to receive remuneration pursuant to distribution plans specific to the relevant distribution budgets. Within each distribution budget, fixed shares may be determined for sub-categories which in turn may be distributed independently.

The following distribution budgets shall attract the following revenue shares:

- aa) **Commercially published sound recordings broadcast** during the distribution year in radio and TV programmes that are subject to analysis

Revenue for this category shall consist of 100% of sound recordings' broadcast remuneration, 99.7% of sound recordings' public performance remuneration, 75% of private copying audio remuneration, 5% of private copying video remuneration and 67.897% of lending remuneration of the relevant distribution year.

- bb) **Sound recordings which had public performance usages during the distribution year and a broadcast use of less than 200 broadcast minutes<sup>2</sup>**

For this purpose, the following is reserved: 0.3% of the income from the public performance of sound recordings.

- cc) **Music video clips (audiovisual recordings)**

Revenue for this category shall consist of 100% of video clips' broadcast remuneration, 100% of video clips' public performance remuneration, 1.85% of private copying video remuneration, 10% of rental remuneration and 0.363% of lending remuneration.

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<sup>2</sup>The Distribution Plan is preliminary in that regard. The level of this provision will be determined by the Assembly of Shareholders and Delegates in a timely manner.

dd) **Radio broadcasts of productions not based on commercially published sound recordings**

Revenue for this category shall consist of 100% of the public performance remuneration of radio broadcasts, 25% of private copying audio and 100% of retransmission remuneration of any other artistic audio productions.

ee) **Audiovisual Productions except music video clips**

Revenue for this category shall consist of 100% of the remuneration for public performance of TV broadcasts, 93.15% of private copying video remuneration, 90% of rental remuneration, 5% of lending remuneration and 100% of retransmission remuneration for any other artistic video productions.

c) **Individual distribution of the distribution budgets per distribution budget.**

aa) **Commercially published sound recordings broadcast** during the distribution year in radio and TV programmes that are subject to analysis

The distribution shall be made to rights holders which have contributed to commercially published sound recordings, subject to the qualifying total broadcast duration per recording during the distribution year (aaa) and the nature of their contribution to the recording (bbb).

aaa) Total broadcast duration per recording

The broadcast duration of a sound recording shall be taken into account based on broadcasters subject to analysis and to a weighting system pursuant to **Annex 2**. The selection and weighting of broadcasters subject to analysis in the sound recordings distribution in **Annex 2** shall be made on the basis of the criteria in **Annex 8**, item I:

Minutes broadcast via the “night programme of ARD” shall only count for the broadcaster in charge of the programme.

Title music, trailers/logos and jingles shall be weighted with 10% of the broadcast duration of a programme provided that they stem from various sound recordings. For all other types of usage, the broadcast duration shall be weighted in full.

“Weighted” broadcast minutes shall only be considered per distribution year, per recording, as follows:

Weighted broadcast minutes	Percentage considered for calculation
over 30,000 to 60,000	90%
over 60,000 to 90,000	80%
over 90,000 to 120,000	70%
over 120,000 to 150,000	60%
over 150,000 to 180,000	50%
over 180,000	40% only

bbb) Nature of contribution to the recording

Depending on the nature of the contribution the point value pursuant to **Annex 1** shall be applied. Narrators and literary directors shall be considered consistently without any further differentiation within the featured and non-featured categories. Music contributions to word productions shall be weighted with 25%. Music contributors to word productions shall not receive more than a joint share of 20% of the remuneration which is allocated to contributions to word productions.

bb) **Sound recordings which had public performance usages during the distribution year and a broadcast use of less than 200 broadcast minutes<sup>3</sup>**

The distribution shall be made to rights holders who contributed to commercially published sound recordings which generated a lower broadcast use than 200 broadcast minutes and which were demonstrably used by way of public performance. The distribution shall be calculated on the basis of the reported public performance licensing income of a licensee and the share of the respective sound recording in the total exploitation by the respective licensee.

The result thereof is the distribution amount per recording. The share allocable to the performers shall be relevant. The share of the party submitting the report shall depend on the number of contributors and their respective role. It shall be reduced by an administration cost rate of 15%. The process can only be used if the pay-out for the party submitting the report is at least EUR 10.00. In cases where the licensing revenues stem from various exploitation categories, the share relating to the exploitation category for which the public performance was established shall be taken as a basis.

cc) **Music video clips (audiovisual recordings)**

The broadcast duration of a music video clip shall be taken into account based on broadcasters subject to analysis and weighting pursuant to **Annex 2**. The selection and weighting of broadcasters subject to analysis in the music video clip distribution in **Annex 2** shall be made on the basis of the criteria in **Annex 8**, item I:

The distribution shall be made analogously to the distribution of sound recordings in TV broadcasts subject to the provision that the authors of the film work shall be paid for this usage as GVL rights holders, just like performing artists.

dd) **Radio broadcasts of productions not based on commercially published sound recordings**

The distribution shall be made to rights holders which have contributed to sound recordings which were not commercially published, in accordance with the relevant sub-budgets (aaa), the qualifying total broadcast duration per recording during the distribution year (bbb) and the nature of their contribution to the recording (ccc).

aaa) For this distribution budget, the following sub-budgets shall be created.

- i. Commissioned broadcasts (broadcasters' own productions) – music (recordings and live broadcasts): the sub-budget is subject to weighting factor 1

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<sup>3</sup> The Distribution Plan is preliminary in that regard. The level of this provision will be determined by the Assembly of Shareholders and Delegates in a timely manner.



- ii. Radio plays and readings. The sub-budget is subject to weighting factor 1.
- iii. Small literary formats. The sub-budget is subject to weighting factor 0.9.
- iv. Jingles (radio self-promotion) The sub-budget is subject to weighting factor 0.2 and comprises a maximum of 1.72 % of the distribution budget.
- v. Advertising. The sub-budget is subject to weighting factor 0.2 and comprises a maximum of 0.18% of the distribution budget.

bbb) Total broadcast duration of the sound recording

The broadcast duration of a recording shall be taken into account pertaining to sub-budgets i.-iii.). With regards to sub-budgets iv.-v., the broadcast duration shall be taken into account. The selection and weighting of broadcasters for the distribution budget “Broadcasts of productions that have not been released on commercially published sound recordings” in **Annex 3** shall be made pursuant to **Annex 8**, item II:

The following tiers shall apply for the calculation of broadcast minutes:

i. Broadcasters’ own music productions

“Weighted” broadcast minutes shall only be considered per distribution year, per recording, as follows:

Weighted broadcast minutes	considered percentage for calculation
over 15.000 to 30.000	90%
over 30,000 to 45,000	80%
over 45,000 to 60,000	70%
over 60,000 to 75,000	60%
over 75,000 to 90,000	50%
over 90,000	40% only

ii. Radio plays and readings

For spoken word contributors, the following shall apply: The first broadcast and the following three broadcasts shall be considered as 100% each, the fifth to the ninth broadcast with 50% each and the tenth and any further broadcasts with 10% each. The count of broadcasts shall relate to the entire usage period since 1 January 2010.

Uses for music contributions shall be rated as follows:

- 1-4 broadcasts:	14
- 5-10 broadcasts:	29
- 11-20 broadcasts:	35
- from 21 broadcasts:	43

The factors contain the weighting for share, culture and degression.

iii. small literary formats

In this sub-budget, the number of broadcasts is not subject to a regressive multiplier.

iv. Jingles (radio self-promotion)

Uses shall be rated as follows:

- 1-25 broadcasts:	13
- 26-50 broadcasts:	26

- 51-500 broadcasts: 60
- from 501 broadcasts: 303

The factors contain the weighting for share, culture and degression.

v. Advertising

Uses shall be rated as follows:

- 1-50 broadcasts: 26
- 51-200 broadcasts: 79
- 201-1000 broadcasts: 145
- from 1001 broadcasts: 384

The factors contain the weighting for share, culture and degression.

ccc) Nature of the contribution to the recording

Depending on the nature of the contribution the point value pursuant to **Annex 1** shall be applied.

Narrators and literary directors shall be considered consistently without any further differentiation within the featured and non-featured categories. Music contributions to radio plays and readings containing music shall be weighted with 25%. Contributions to jingles or advertising shall be weighted at 25%.

In the case of feature productions, neighbouring rights of the contributing speakers and literary directors shall only attract 25% of the usual point value.

Music contributors to radio plays shall not receive more than a joint share of 20% of the remuneration which is allocated to contributions to radio plays.

ee) **Audiovisual productions except music video clips**

A distribution shall be made to rights holders which have contributed to commercially published audiovisual recordings, in accordance with the relevant sub-budgets (aaa), the qualifying total broadcast duration per production during the distribution year (bbb) and the nature of their contribution to the production (ccc).

aaa) For this distribution budget, the following sub-budgets shall be created:

- i. Concert, ballet, opera, theatre: The sub-budget is subject to weighting factor 1.
- ii. Cabaret, comedy programmes. The sub-budget is subject to weighting factor 0.9.
- iii. Cinema movies: The sub-budget is subject to weighting factor 1.
- iv. TV movies, short films, TV series, comedy series: the sub-budget shall be subject to weighting factor 0.9
- v. Daily soaps / telenovelas. The sub-budget is subject to weighting factor 0.3.
- vi. Documentary soaps, courtroom shows. The sub-budget is subject to weighting factor 0.1.
- vii. Individual performances (such as live performances of music or comedy, fictional scenes, cartoon scenes) in non-fictional formats ("Aktenzeichen XY", childrens'

programmes, shows), other

The sub-budget is subject to weighting factor 1.

- viii. Jingles (TV self-promotion) The sub-budget is subject to the weighting factor 0.2 and comprises a maximum of 1.26 % of the distribution budget.
- ix. Advertising. The sub-budget is subject to the weighting factor 0.2 and comprises a maximum of 2.80 % of the distribution budget.
- x. Documentary cinema films. The sub-budget is subject to weighting factor 1.
- xi. Documentary TV productions. The sub-budget is subject to weighting factor 0.9.
- xii. Title and background music in other formats. The sub-budget is subject to weighting factor 0.9.

bbb) Total broadcast duration of the sound production

The broadcast duration and the transmission time of a production pertaining to sub-budgets i.- vii. and x.-xi.) With regards to sub-budgets viii.-ix., the broadcast duration shall not be taken into account. The basis shall be the broadcasters subject to analysis and weighting pursuant to **Annex 4**. The selection and weighting of broadcasters subject to analysis for the distribution of audiovisual productions (except music video clips) in **Annex 4** shall be made on the basis of the criteria in **Annex 8**, item III:

The following tiers shall apply for the calculation of broadcast minutes:

- i. Concert, ballet, opera, theatre: The first broadcast and the following three broadcasts shall be considered as 100% each, the fifth to the ninth broadcast with 50% each and the tenth and any further broadcasts with 10% each.
- ii. Cabaret, comedy programmes. The first broadcast and the following three broadcasts shall be considered as 100% each, the fifth to the ninth broadcast with 50% each and the tenth and any further broadcasts with 10% each.
- iii. Cinema movies: The first broadcast and the following three broadcasts shall be considered as 100% each, the fifth to the ninth broadcast with 50% each and the tenth and any further broadcasts with 10% each.
- iv. TV films, short films, TV series, comedy series: The first broadcast and the following three broadcasts shall be considered as 100% each, the fifth to the ninth broadcast with 50% each and the tenth and any further broadcasts with 10% each.
- v. Daily soaps / telenovelas. The first broadcast and the following three broadcasts shall be considered as 100% each, the fifth to the ninth broadcast with 50% each and the tenth and any further broadcasts with 10% each.
- vi. Documentary soaps, courtroom shows: If the contribution is in relation to continued productions, they are reported together. The uses are rated as follows:
 

- 1-100 broadcasts:	814
- 101-250 broadcasts:	1881
- 251-500 broadcasts:	2332
- from 501 broadcasts:	2935

The factors contain the weighting for share, culture and degression.
- vii. Individual performances (such as live performances of music or comedy, fictional scenes, cartoon scenes) in non-fictional formats ("AktENZEICHEN XY", childrens' programmes, shows), other: : If the contribution is in relation to several individual parts

of a broadcast or a continued production, they are reported together. The uses are rated as follows:

- 1-10 broadcasts: 105
- 11-50 broadcasts: 359
- 51-250 broadcasts: 682
- from 251 broadcasts: 1813

The factors contain the weighting for share, culture and degression. .

viii. Jingles:

The uses are rated as follows:

- 1-5 broadcasts: 88
- 6-10 broadcasts: 165
- 11-100 broadcasts: 360
- from 101 broadcasts: 1688

The factors contain the weighting for share, culture and degression

ix. Advertising:

The uses are rated as follows:

- 1-100 broadcasts: 1477
- 101-300 broadcasts: 3803
- 301-1000 broadcasts: 5645
- from 1001 broadcasts: 10070

The factors contain the weighting for share, culture and degression.

x. Documentary cinema films. The uses are rated as follows:

- 1-4 broadcasts: 59
- 5-10 broadcasts: 121
- 11-20 broadcasts: 148
- from 21 broadcasts: 181

The factors contain the weighting for share, culture and degression.

xi. Documentary TV productions: If the contribution is in relation to continued productions, they are reported together. The uses are rated as follows:

- 1-4 broadcasts: 47
- 5-20 broadcasts: 147
- 21-40 broadcasts: 195
- from 41 broadcasts: 249

The factors contain the weighting for share, culture and degression.

xii. Title and background music in other formats: If the contribution is in relation to continued productions, they are reported together. The uses are rated as follows:

- 1-5 broadcasts: 58
- 6-10 broadcasts: 108
- 11-100 broadcasts: 236
- from 101 broadcasts: 1106

The factors contain the weighting for share, culture and degression.

The count of broadcasts shall relate to the entire usage period since 1 January 2010.

## ccc) Nature of the contribution to the production

Depending on the nature and duration of the audio-visual production, the nature of contribution shall be categorised as follows:

- i. For films, series and other fictional productions and documentary formats from 40 minutes onwards, the following shall apply: Actors', dancers' and speakers' contributions shall be categorised based on the number of production units they took part in (shooting days, takes) in relation to the total production units pursuant to Annex 5 From distribution year 2018 onwards, the following shall apply: For contributions by dubbing actors or ensemble narrators for whom no more than five takes of a role with a role description can be established, only 50% of the point value of category C shall be taken into account.
- ii. Actors', dancers' and speakers' contributions to fictional formats and documentary formats under 40 minutes and on all daily series (daily soaps, telenovelas) and documentary soaps shall not be categorised and shall be treated consistently.
- iii. Performances of actors, including amateur actors shall only be taken into account if the contributor demonstrably changes into a role provided by the script, usually with text.
- iv. Contributions to fictional formats and documentary productions shall be weighted as follows:

1. Music contribution	20%
2. Spoken contribution/ dubbing	25%
3. Actors' contribution - dubbed	55%
4. Actors' contribution - not dubbed	80%
5. Dance contribution	80%
- v. Contributions to stage formats or individual contributions shall be weighted as follows:

1. All contributions	80%
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- vi. Music contributors to title and background music in other formats shall be rated as follows:

1. All contributions	20%.
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- vii. Music contributions to jingles and advertising shall be rated as follows:

1. All contributions	20%.
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- viii. Music contributors to fictional formats shall not receive more than a joint share of 20% of the remuneration which is allocated to contributions to fictional formats.
- ix. Music contributions to audio logos shall only be weighted at 25% of the normal point value.

ff) **Sound recordings which must be remunerated for performing artists arising from the extension of the term of protection (Section 79a UrhG).**

For sound recordings which are still exploited 50 years after their publication, a distribution shall be made to performing artists who contributed to them without having received recurring licence payments. The distribution shall be based on the proceeds yielded for each individual sound recording. They are then paid out in equal shares to the contributing parties.

#### d) Distribution of foreign remuneration to GVL rights holders who have assigned their foreign rights administration to GVL

In cases where performing artists who are rights holders have entrusted GVL with the administration of their foreign rights for specific countries, the remuneration shall be paid out based on existing and future representation agreements. These agreements shall provide for the remuneration for performers represented by foreign sister societies to be based on a calculation pursuant to these distribution plans. In return, the performers represented by GVL shall receive the remuneration specifically calculated on the basis of the sister societies' distribution plans. In cases where this is not achievable due to a lack of individual details for distribution purposes, and where these details cannot be acquired with a reasonable effort, GVL may, in the framework of the representation agreements, also agree to blanket arrangements, which are based on other available parameters. If sister societies receive lump-sum payments based on this methodology, the relevant payments allocated to the members of sister societies pursuant to items I – III, should they exceed the amounts calculated for the lump-sum payments, shall be paid as a supplement within each of the distribution budgets applicable to the rights holders of GVL who have assigned GVL with the administration of their rights for the territory of the sister society.

#### 3. Distribution Plan No. 3 – for event organisers

Distribution Plan No. 2 shall be applicable to event organisers. It contains a triple point value of the maximum point value provided for the respective media type.

#### 4. Distribution plan No. 4 – for producers of sound recordings or video producers relating to the remuneration for broadcasts, public performance, copying and lending<sup>4</sup>

Remuneration for sound recordings shall be distributed to producers for the respective financial year in relation to the actual usage (broadcast minutes) of their sound recordings in radio / TV broadcasts by public service and private broadcasters pursuant to **Annex 7** of Distribution Plan No. 4. The selection and weighting of broadcasters subject to analysis in the sound recordings and music video clip distribution in **Annex 7** shall be made on the basis of the criteria in **Annex 8**, item I:

Minutes broadcast via the “night programme of ARD” shall only count for the broadcaster in charge of the programme.

Title music, trailers/logos and jingles shall be weighted with 10% of the broadcast duration of a programme provided that they stem from various sound recordings. For all other types of usage, the broadcast duration shall be weighted in full.

Recordings commissioned by broadcasters themselves, or were produced with broadcasters pursuant to s. 15 AktG or other related enterprises and have been published as sound recordings or audiovisual recordings, shall be weighted at a maximum of 5% of the total broadcast duration relevant for distribution of the channel affected by this rule.

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<sup>4</sup>The Distribution Plan is preliminary in that regard.

In accordance with the broadcast minutes determined in line with paragraphs 1 to 4 of this Distribution Plan, even remuneration for broadcasters not chosen for analysis and remuneration for public performance and copying shall be distributed.

In the first three complete years after an agreement has been entered into, and in addition to a potential short financial year, the number of minutes shall be increased to 100, as long as broadcast minutes have accrued at all. Producers which generated less than 15 broadcast minutes for sound recordings shall not participate in the distribution (minimum threshold).

Remuneration for music video clips shall be allocated to the producers in proportion to the usage during the respective financial year by public service and private broadcasters pursuant to **Annex 7** of Distribution Plan No. 4. Each usage of a music video clip with a duration of over 45 seconds and a usage of 10 excerpts each with a duration up to and including 45 seconds shall qualify as one usage.

If video producers retain a remuneration entitlement pursuant to Section 94 (4) of the German Copyright Act for certain music video clip productions, the distribution to them shall be made on the basis of the data from the initial distribution of the relevant year, from the distribution year 2019 on the basis of the year before the previous year as follows: First, the total share due to video-clips for remuneration entitlements shall be calculated. The broadcasts of music video clips reported to GVL pursuant to this Distribution Plan shall be calculated as follows: excerpts shall be calculated at 45 seconds each and entire music video clips with 3 minutes. The total duration resulting from this is then doubled. The final amount shall be put into the ratio of the total determined broadcast minutes of sound recordings pursuant to this Distribution Plan. The result is the total remuneration share allocable to video clips. The remuneration specifically allocable to each individual clip shall now be calculated as a ratio between the total usage of this video clip and the total of all video clip usages. The amounts thus calculated must be deducted from the payments to the producers who had the broadcast rights assigned to them. If a producer of a sound recording has received an unreduced distribution payment, he must pay it back and the amounts in question may be recouped from future distributions. In the event that video producers and the commissioning producer of sound recordings claim any entitlements GVL shall put the distributable amount allocated to the video on hold. GVL shall only be obliged to pay one of the claiming parties if the parties either provide a contractual agreement or a legally binding court decision which proves the entitlement of one of the parties.

Entitlements and claims by producers of sound recordings and music video clip producers to participate in the remuneration requires that they declare their rights ownership to GVL. Rights holders shall be obliged to provide GVL with evidence of their rights ownerships if they are prompted to do so. The share reserved for rights holders whose rights ownership has not yet been established, shall be calculated based on the reported usages of the relevant productions, increased by a risk premium for productions that have not been reported to GVL, but are relevant for distribution. Rights holders may establish their claims up to three years after the financial year during which income was collected for the rights has lapsed. In the fourth year, the retention period ends; reserves still available must be dissolved and distributed on an accrual basis, as long as the total amount per distribution is more than EUR 500,000. In case the amount falls short of EUR 500,000, it can be allocated to the next regular distribution.

In the case where producers of sound recordings or video producers entitled to such rights have entrusted GVL with the management of their rights for specific countries, their participation in the respective remuneration shall be based on existing and future representation agreements. These agreements shall provide for the remuneration for producers of sound recordings represented by foreign sister societies to be based on a calculation pursuant to these Distribution Regulations. In return, producers of sound recordings and video producers represented by GVL shall receive the remuneration specifically calculated on the basis of the sister societies' distribution regulations. In cases where this is not achievable due to a lack of individual details for distribution purposes, and where these details cannot be acquired with a reasonable

effort, GVL may, in the framework of the representation agreements, also agree to blanket arrangements, which are based on other available parameters. If sister societies receive lump-sum payments based on this methodology, the relevant payments allocated to the members of sister societies pursuant to this Distribution Plan, should they exceed the amounts calculated for the lump-sum payments, shall be paid as a supplement to the rights holders of GVL who have assigned GVL with the administration of their rights for the territory of the sister society.

As a rule, the distribution of rights' remuneration shall take place nine months after the end of the financial year during which it was collected, at the latest; except thereof are cases where there are objective grounds preventing GVL to do so.

The Assembly of Shareholders and Delegates may resolve that the non-distributable revenues pursuant to ff) may, pursuant to Section 30 VGG, be used for social and cultural purposes.

**5. Distribution Plan No. 5** – regarding allocations for cultural, politico-cultural and social purposes

Specially reserved fees - up to a maximum of 5% of the amount available for distribution - shall be used in accordance with the guidelines agreed by the Board relating to grants for cultural, politico-cultural and social purposes as resolved by the Board on 12/03/2012 and 20/11/2012.



### III. DISTRIBUTION PROCESS

The pay-out of the distributable amounts for the respective financial year pursuant to Distribution Plans Nos. 1-4 shall be made to the rights holders, usually in September of the subsequent year (initial distribution) as well as in the consecutive distributions of the subsequent years up to the final distribution. The final distribution takes place once the registration deadline has expired. Remuneration entitlements arising from the distribution budget "Sound recordings that have been publicly performed without any relevant broadcast usage" can be submitted up to 31/12/2020 for the distribution years 2016-2018, and up to 31 December of the year following the year of usage for the distribution years thereafter.

1. Distributable amounts which, despite all necessary efforts undertaken by GVL to find and reach the addressee could not be delivered within three years from the first attempt to deliver the payment to the rights holder for reasons GVL is not responsible for, shall be allocated and distributed to the remaining performing artists and/or producers or event organisers.

Allocations for cultural, politico-cultural and social purposes in line with distribution plan no. 5 have already been paid out during the relevant financial year.

2. In the event that the distribution for a specific distribution period should turn out to be systematically faulty in its entirety or in parts, specifically in cases where this is due to the invalidity of a provision of the underlying distribution plans (including their Annexes), and if a complete reversal and rerun of the distribution is not possible or only feasible at disproportionate costs,
  - a) the level of the entitlements arising from the faulty distribution can be estimated if a precise calculation is not possible or only at disproportionate costs,
  - b) the entitlements of those adversely affected by the faulty distribution may be satisfied from current and future collections,
  - c) reclaim entitlements by the society may be offset against future payment entitlements
  - d) or, instead of these amounts being offset, reclaim entitlements by the society may be waived in their entirety or in part.

When selecting from these measures, the aim is to consider that the relevant entitlements are being fulfilled as completely as possible, and to observe the requirement of proportionality. The principle of equality shall be observed and cases of hardship must be taken into consideration.

3. Remuneration arising from rights shall continue to be collected, managed and distributed based on the general rules if the rights holder is entitled to income from the rights
  - a) for usages in a period before the rights representation relationship had been effectively terminated or the withdrawal of rights had entered into force, or
  - b) arising from an exploitation right which the collective management organisation/music licensing company had assigned before the rights representation relationship had been effectively terminated or the withdrawal of rights had entered into force.

Berlin, 23/11/2021

## Annex 1 to Distribution Plan No. 2 from 2021 onwards

Point values (weighting) -  
contributors' categories

### Sound recordings (TT) & music video clip productions (VC) / broadcasters' own productions (NTT)

#### A (4 points)

- Conductor
- Instrumentalist:  
Soloist
- Instrumentalist:  
Ensemble/band member
- Singer:  
Soloist
- Singer:  
Ensemble/band member
- Video clip director <sup>3</sup>
- Artistic speaker or  
raconteur  
(blanket category) <sup>1</sup>
- Literary director <sup>1</sup>

#### B (3 points)

- Other music video clip  
author <sup>3</sup>
- Artistic speaker or  
raconteur (blanket  
category) <sup>2</sup>
- Literary director <sup>2</sup>
- Actor (blanket category) <sup>3</sup>
- Artistic producer
- Dancer<sup>3</sup>

#### C (1 point)

- Instrumentalist:  
Studio musician / Line-up
- Instrumentalist:  
Orchestra musician
- Singer:  
Choir singer
- Singer:  
Background/studio singer
- Instrumentalist:  
Orchestra replacement
- Singer:  
Choir replacement
- Studio conductor

## Audio-visual productions (AV)

### A (6 points)

- Dubbing actor (category A)
- Dubbing director
- Actor (Category A)
- Artistic speaker or raconteur Actor (Category A)
- Dancer (category A)
- Literary director
- Contributions to individual features and to any other productions which are only taken into account in extracts

### B (3 points)

- Dubbing actor (category B)
- Actor (Category B)
- Artistic speaker or raconteur (Category B)
- Dancer (category B)

### C (1 point)

- Dubbing actor (category C)
- Dubbing artist Ensemble <sup>4</sup>
- Actor (Category C)
- Artistic speaker or raconteur Actor (Category A)
- Dancer (category C)
- Stunt player <sup>4</sup>

Actors', dancers' and speakers' contributions to fictional formats under 40 minutes and to all daily series (daily soaps, telenovelas) and documentary soaps shall not be categorised and shall be treated consistently (3 points) .

Actors', dancers' and speakers' contributions to documentary formats under 40 minutes shall not be categorised and shall be treated consistently (1 point).

In the sub-budgets AV - concert, ballet, opera, theatre, AV - cabaret, comedy programme, AV- jingles and AV - advertising as well as NTT - jingles and NTT - advertising all artistic contributions shall be treated as a general category (3 points).

In the sub-budgets NTT - radio plays, NTT - small literary formats, AV - cinema movies, AV - TV films, short films, TV series, comedy series, AV - daily soaps, telenovelas. And AV - documentary soaps, courtroom shows as well as AV - documentary cinema films and AV - documentary TV productions, music contributions shall be treated as a general category (3 points).

<sup>1</sup> In the sub-budgets NTT - radio plays and readings and NTT - small literary formats as well as the budget for sound recordings (spoken word productions)

<sup>2</sup> In the sub-budgets NTT - broadcasters' own music productions and in the budget sound recordings (music productions)

<sup>3</sup> In the budget music video clips

<sup>4</sup> Caveat: this is subject to evaluation. There may be reclaims resp. offset payments based on decisions to undertake corrections.

**Annex 2 to Distribution Plan  
No. 2 (Performing Artists) from  
2021 onwards for distribution  
year 2021** Sound recordings  
(broadcasts of commercially  
published sound recordings) and  
music video clips

*The list of stations to be evaluated will be determined in good time before the initial distribution according to the criteria in Annex 8.*

**Annex 3 to Distribution  
Plan No. 2 from 2021  
onwards for distribution  
year 2021** Broadcasts of  
productions that have not been  
released on commercially

*The list of stations to be evaluated will be determined in good time before the initial distribution according to the criteria in Annex 8.*

Unofficial Translation

**Annex 4 to Distribution Plan  
No. 2 from 2021 onwards for  
distribution year 2021**Audiovisual productions except  
music video clips

*The list of stations to be evaluated will be determined in good time before the initial distribution according to the criteria in Annex 8.*

Unofficial Translation

## Annex 5 to Distribution Plan No. 2 from 2021 onwards for distribution year 2021

(Dubbing) Actors' categories

### Actors' categories <sup>1</sup>

Average number of shooting days of an entire audiovisual production in certain decades

	<b>40 minute- productions</b>	<b>60 minute- productions</b>	<b>90 minute- productions</b>
▪ From 2000	7 shooting days	13 shooting days	21 shooting days
▪ 1990 - 1999	11 shooting days	17 shooting days	26 shooting days
▪ 1980 - 1989	13 shooting days	19 shooting days	27 shooting days
▪ 1970 - 1979	15 shooting days	20 shooting days	29 shooting days
▪ 1900 - 1969	16 shooting days	22 shooting days	30 shooting days
	Share of the total number of shooting days		
<b>Actors category A</b>	> 40 %		
<b>Actors category B</b>	20 % - 40 %		
<b>Actors category C</b>	< 20 %		

In the case of cinema productions, the average production duration of 0.42 shooting days per minute of the entire duration shall be taken as a basis.

<sup>1</sup> Also relates to dancers.

### Actors' categories <sup>2 3</sup>

Average number of takes of an entire dubbing/synchronisation production

	40-50 minute- production s	51-65 minutes- production s	66-84 minutes- productio ns	85-105 minutes	105+ minute- productio ns
Number of takes	440	561	726	935	1155
	Share of the total number of takes				
<b>Dubbing actors category A</b>	≥ 15 %	≥ 15 %	≥ 15 %	≥ 15 %	≥ 15 %
<b>Dubbing actors category B</b>	≥ 6 % and < 15 %	≥ 6 % and < 15 %	≥ 6 % and < 15 %	≥ 3 % and < 15 %	≥ 3 % and < 15 %
<b>Dubbing actors category C</b>	< 6 %	< 6 %	< 6 %	< 3 %	< 3 %

<sup>2</sup> Also relates to artistic speakers.

<sup>3</sup> For old productions, other criteria may be suitable according to the DPMA.



**Annex 6 to Distribution Plan  
No. 2 from 2017 onwards**  
Taking the income into consideration  
**(no longer applicable)**

Unofficial Translation

**Annex 7 to Distribution Plan  
No. 4 (producers of sound  
recordings) from 2021  
onwards for distribution year  
2021**

*The list of stations to be evaluated will be determined in good time before the initial distribution according to the criteria in Annex 8.*

## Annex 8

### Criteria for the selection and weighting of broadcasters subject to analysis<sup>1</sup> from distribution year 2021

#### I. **Commercially published sound recordings broadcast pursuant to distribution regulation no. 2 - Annex 2 and distribution regulation no. 4 - Annex 7 in radio and TV programmes subject to analysis**

The **selection of broadcasters subject to analysis in the sound recordings distribution** in Annex 2 is made on the basis of the following criteria:

- Broadcasters whose income in the year preceding the distribution year amounted to at least € 200,000 will be selected for analysis.
- In the case where broadcasters which are subject to analysis fall below this threshold by a maximum of 15% for a maximum of 3 years, they will be kept in the evaluation selection.
- On the basis of resolutions by the Associates' and Delegates' Assembly, additional broadcasters - irrespective of their annual income - can be selected for one-off or permanent analysis if they broadcast a high volume of niche repertoire or productions with a particularly high cultural value.<sup>2</sup> In this case, different resolutions can be made for distribution regulation no. 2 and distribution regulation no. 4.

The determination of the **share factor of the selected TV broadcasters** in Annex 2 is made on the basis of their annual market share (viewers' share). This will be broken down straight proportionally across a six-tier range from 5 to 15.

The **share factor of the radio broadcasters** shall always be indicated with 1.

Provided that programmes contain regional windows, they receive a 75 % share of broadcast minutes; in the case of sub-regional or local windows the share is 50 %.

<sup>1</sup> This Annex relates to distribution regulation no. 2 - Annexes 2 to 4 and the distribution regulation no. 4 – Annex 7

<sup>2</sup> This currently affects the broadcasters sunshine live, Flux FM as well as ByteFM (from 2019 onwards)

The **cultural factor of the radio and TV broadcasters** in Annex 2 shall be allocated as follows:

Category A: Culture programmes - factor 6

Category B: Broadcasters with a statistically determined programme diversity - factor 3

The determination shall be made according to the following criteria:

- The radio broadcaster has submitted broadcast reports for a minimum of 1,000 tracks of the respective distribution year AND the submitted broadcast reports have a repetition rate of < 2.0.  
The repetition rate is calculated as the quotient of broadcast reports and tracks.
- The radio broadcaster has submitted broadcast reports for a min. of 10,000 tracks for the respective distribution year.

Category C: other broadcasters - factor 1

The **selection of broadcasters subject to analysis in the music video clip distribution** in Annex 2 is made on the basis of the following criteria:

- Broadcasters whose income in the year preceding the distribution year amounted to at least € 20,000 will be selected for analysis.
- In the case where broadcasters which are subject to analysis fall below this threshold by a maximum of 15% for a maximum of 3 years, they will be kept in the evaluation selection.
- On the basis of resolutions by the Associates' and Delegates' Assembly, additional broadcasters - irrespective of their annual income - can be selected for one-off or permanent analysis if they broadcast a high volume of niche repertoire or productions with a particularly high cultural value.

For distribution regulation no. 2 - Annex 2, the following shall apply:

The determination of the **share factor of the selected TV broadcasters** in Annex 2 is made on the basis of their annual market share. This will be broken down straight proportionally across a six-tier range from 5 to 15.

## II. **Productions broadcast on the radio which do not stem from commercially published sound recordings pursuant distribution regulation no. 2 – Annex 3**

The criteria pursuant to I. shall apply. On top of that, the following additional criteria shall apply for the **broadcaster selection** in the respective sub-budgets:

- In sub-budget i., music, all public service broadcasters that are not purely digital and all private broadcasters with broadcasts of the relevant scope (broadcasts > 10 p.a.) shall be selected for analysis.
- In sub-budget ii., radio plays, all public service broadcasters that are not purely digital shall be selected for analysis.
- In sub-budget iii., small literary formats, all broadcasters which are analysed in accordance with Annex 2 of the distribution year, shall be selected for analysis.
- In the sub-budget iv., jingles, broadcasters whose daily reach for the distribution year subject to analysis amounted to at least 2.0%, shall be selected for analysis.

- In sub-budget v., advertising, broadcasters whose daily reach for the distribution year subject to analysis amounted to at least 2.0%, shall be selected for analysis.

The weighting of broadcasters (**cultural factor**) in sub-budgets i.-iii. shall be made analogously to the weighting of broadcasters in the distribution budget sound recordings (Annex 2).

### III. **Audiovisual productions except music video clips pursuant to Distribution Plan No. 2 - Annex 4**

The **selection of broadcasters subject to analysis** in Annex 4 is made on the basis of the following criteria:

- Broadcasters, whose market shares for the distribution year subject to analysis amounted to at least 0.8% shall be selected for sub-budgets i.-vii. and x.-xi. for analysis.
- Broadcasters, whose market shares for the distribution year subject to analysis amounted to at least 2.0 % shall be selected for sub-budgets vii.-ix. for analysis.
- Except thereof are broadcasters whose market share is at least 0.8% that do, however, transmit productions which are not relevant under a neighbouring rights aspect for the most part (news or sports broadcasters).
- On the basis of resolutions by the Associates' and Delegates' Assembly, additional broadcasters - irrespective of their market share for sub-budgets i.-vii. and x.-xi. - can be selected for one-off or permanent analysis for the distribution year if they transmit a high volume of niche repertoire or productions with a particularly high cultural value.<sup>3</sup>

The determination of the **share factor of the TV broadcasters** is made on the basis of their annual market share. This will be broken down straight proportionally across a ten-tier range from 1 to 10.

The **cultural factor** of the broadcasters in Annex 4 shall be allocated as follows:

Category A: Culture programmes - factor 3

Category C: other broadcasters - factor 1

In the case of culture programmes whose market share is below 0.8%, and whose analysis is made due to the fact that they transmit a high volume of niche repertoire or productions with a particularly high cultural value, on the basis of a resolution by the Associates' and Delegates' Assembly, a further weighting increase by the cultural factor shall not be applicable.

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<sup>3</sup> This shall affect the broadcaster ONE. The analysis shall be limited to distribution year 2016 initially.