

D I S T R I B U T I O N P L A N

of AGICOA Urheberrechtsschutz GmbH  
for the Amounts paid by Cable Operators  
as Compensation for the terrestrial Cable Retransmission  
Rights

Distribution Period  
2010

**PART I**  
**GENERAL TERMS AND CONDITIONS OF DISTRIBUTION**

**Article 1**  
**General Distribution Principles**

1. What will be distributed are the revenues from the remuneration paid by cable operators for the „cable retransmission rights“ for the year 1984 and subsequent years less all costs and less the deductions and reserves to be made pursuant to Part II of this Distribution Plan.
2. Distribution will be made on a calendar year basis („distribution period“)
3. For the „cable retransmission rights“, distribution will be made to rightowners for their works on the basis of the broadcasts made by TV-stations and retransmitted in Germany during the distribution period. Works are all audiovisual works as defined in section 2 Nr. 6 UrhG (German Copyright Law) with the exception of works represented by the collecting societies VFF, VGF and VG Bild-Kunst.
4. The general criteria of distribution are as follows:  
Market share of broadcaster, length of work and audience determined by MEDIAMETRIE for each work (for details see Part II).
5. The registration filed by the rightholders will be decisive for the consideration of a work. The registrations must be in the form prescribed by AGICOA Urheberrechtsschutz GmbH and must provide for the prescribed contents.

The registration deadlines for the respective distribution periods are set forth in the requests of the company to file the registrations. Registrations received after expiration of the time limit will be taken into consideration in the next following distribution period out of the reserves which have been set aside, unless thus consideration is excluded pursuant to Article 4, para. 3.

In the event of difficulties in the registration, the management at its free discretion will be entitled to extend the registration period twice for six (6) months each.

6. The distribution is described in detail in the special distribution principles and assessments of the works specified in Part II of this Distribution Plan.
7. If the distribution amount of a rightholder does not reach an amount of EURO 50,00 in any year, such amount will not be distributed, but be added to the revenues for the next distribution period.

**Article 2**  
**Reserves, Promotion and Social Fund**

1. For each distribution period, reserves will be set aside each year for non-registered works and for other claims of third parties. The amount of such reserves for the individual groups and distribution periods is specified in Part II of this Distribution Plan.
2. Out of the remaining sum, an amount equal to one percent (1%) thereof will, for each distribution period, be allocated to a social fund. Special guidelines will be established with respect to the distribution of this amount.
3. Out of the sum remaining after the setting aside of the reserves and the allocation to the social fund, an amount equal to three percent (3%) thereof will be allocated to a cultural promotion fund.

**Article 3**  
**Promotion Fund**

The funds of the cultural promotion fund created pursuant to Article 2, para. 3 will be used to promote cultural works and performances, mainly in the audio-visual field, as well as talents as producers and directors in the film and television sectors.

**Article 4**  
**Release of Reserves/Preclusive Periods**

1. The reserves referred to in Article 2, para. 1 will, if and to the extent that they have not been exhausted, be released five (5) years after expiration of the respective distribution period and be allocated to the next following distribution period.
2. Rightholders may conclude collection agreements and file subsequent registrations for non-registered works also after expiration of the registration period specified in Article 1, para. 5. Such registrations will be taken into consideration pursuant to Article 1, para. 5 and be satisfied out of the reserves in accordance with the principles of this Distribution Plan taking into account the need for the maintenance of certain reserves for other claimants. Subsequent registrations will be taken into consideration in order of receipt thereof. Once the reserves are exhausted, no further claims may be asserted.
3. Five (5) years after expiration of the respective distribution period, no subsequent registrations may be filed any longer and no claims for participation in the revenues as compensation for the cable retransmission rights may be asserted any longer. The five-year period is an absolute preclusive period.

**Article 5**  
**General Assessment Criteria**

1. Out of the distributable amount each work will receive an amount which corresponds to its number of points in proportion to the total number of points attributable to all works for a distribution period. The number of points attributable to works is set forth in the special terms and conditions of distribution in Part II.
2. The producers of the German dubbed version are entitled to participate in the amounts to be distributed. The percentage allocated to the dubbed version is set forth in the special terms and conditions of distribution in Part II I 6.
3. Re-runs of works which are calculated under the criteria of Part II B are set forth in the special terms and conditions of Part II, II B b.

**Article 6**  
**Subsequent Distribution and Systematic Distribution Error**

1. Subsequent Distribution  
Received payments which concern years for which distributions have already been made will be attributed to the year(s) for which payment has been made. They will be distributed to the respective rightholders by way of subsequent distribution. With the consent of the advisory board, subsequent calculation and subsequent distribution may be dispensed with if the related costs are commercially unreasonable. In this case, the subsequent payment will be made together with the next distribution.
  
2. Systematic Distribution Error  
If a distribution is faulty or invalid, in whole or in part, such faulty or invalid distribution must be reversed. Non-recoverable faulty distributions to a rightholder may be set off against future distributions to the same rightholder or, where this is not possible, be withdrawn from the provisions set up for the relevant year(s) of distribution. In all other respects, the details of such reversal will be regulated by the management with the consent of the advisory board on a case-by-case basis. With the consent of the advisory board, such reversal may be dispensed with if the related costs are commercially unreasonable.

**Article 7**  
**Indemnification**

The company will be obligated to make distributions only if and when the rightholders of AGICOA Urheberrechtsschutz GmbH have proved the asserted rights and declare in a legally binding manner that they own/hold the „cable retransmission rights“ and that they will release, indemnify and hold AGICOA Urheberrechtsschutz GmbH harmless from any and all claims of third parties relating to the asserted rights.

**Article 8**  
**Withholding Tax**

In the event that foreign rightholders do not provide a tax exemption certificate, the company will be entitled and obligated to retain withholding tax pursuant to Sect. 50a EStG (German Income Tax Act).

**PART II**  
**Special Distribution Principles**

I. General

1. The amounts received from cable operators for 1984-1985 will be added to the distribution year 1987 and the amounts received for 1986 will be added to the distribution year 1988 and will, together with the amount received for such year, constitute the gross revenues for the distribution periods 1987 and 1988. For the subsequent distribution periods, the amounts received for the individual years will be deemed to be the gross revenues.

From the gross revenues, attributable to the U.S. productions, a share of 25,00 % shall be made available from the distribution period 2005 on, to satisfy the U.S. authors.

2. Only works broadcast by TV-stations having a market share of more than 1% during the distribution period shall be considered for distribution.
3. After deduction of the costs, reserves will be set aside for non-registered works pursuant to Article 2, para. 1 of Part I hereof. The amount of the reserves is hereby fixed at fifteen per cent (15 %) for the distribution period 2002 and for further years.
4. The remaining amount shall be reduced by the amounts added to the social fund and the promotion fund pursuant to Art. 2 para 2 and 3 of Part I hereof. The amount remaining thereafter shall be the basis for the distribution („the net distribution amount“)

5. The net distribution amount shall be allocated to each work (longer than 10 minutes) broadcast during the distribution year by a TV-station as per I 2 above on the basis of the principles and calculation outlined hereinafter (the „distribution amount per work“).
6. 20 % of the distribution amount per work shall be allocated to the German dubbed version. If the producer of the films is also producer of the dubbed version than he shall receive 100 % of the distribution amount per work.

If the filmproducer is not the owner of the German dubbed version the owner of the German dubbed version shall receive 20 % of the distribution amount per work unless the filmproducer and the owner of the German dubbed version have agreed differently.

## II. Calculation of the distribution amount per work

Each work broadcast shall receive a certain number of points based on the calculation outlined hereinafter. The net distribution amount shall be divided by the total number of points of all works broadcast during the distribution period in order to establish a „per point EURO-value“. The distribution amount per work shall be the per point EURO-value multiplied with the number of points of the particular work in question.

- A Works which have been broadcast by TV-stations for which the actual audience figure is determined and available by MEDIAMETRIE. Calculation of the points attributable to each of these works
  - a) Length of the work x actual audience figure =  
number of points attributable to the work.
  - b) Works within the meaning of Sec. 95 German Copyright Law shall receive only thirty (30%) of the above mentioned calculated points.

B Works which have been broadcast by TV-stations for which the actual audience figure cannot be determined

Calculation of the points attributable to each of these works

- a) The calculation of the points attributable to each work shall be calculated according to the distribution plan for section 54 UrhG in effect for the respective distribution year.
- b) Re-runs shall not be calculated if the re-run is within a shorter period than 48 hours after the first broadcast per distribution period on the same TV-station. Re-runs after the 48 hours period on the same TVstation during the distribution year shall receive hundred percent (100 %) of the calculated points.
- c) Works within the meaning of Sec. 95 German Copyright Law shall receive only thirty percent (30 %) of the above mentioned calculated points.

C Calculation of the distribution amount per work

If, for certain distribution years, points have to be calculated according to A and B above, then the net distribution amount shall be split and shall be allocated partly to the works calculated pursuant to A and partly to the works calculated pursuant to B in relation to the total number of minutes of the works calculated pursuant to A and the total number of minutes of the works calculated pursuant to B.

