

# **Distribution Plan of AGICOA GmbH for revenues collected as compensation for cable retransmission rights**

(Version from March 3, 2020)

## **Part I General Terms**

### **Article 1 General Conditions**

I. The amount available for distribution is the gross revenue assigned to a given calendar year ("distribution period"). From the gross revenue per calendar year the following deductions shall be made

1. administrative costs
2. the operating and financial costs accruing outside the rights administration in the course of business
3. allocation to reserves
4. allocation to the social- and cultural fund

The deduction made by AGICOA GmbH for administrative costs are based on the budgeted administrative costs in the year of distribution (section 31 (2) VGG).

II. The remaining amounts after these deductions shall be the basis for the distribution (net distribution amount).

III. As long as there are no objective reasons against the execution of the distribution, the amount available for distribution per category of rights is distributed to the entitled persons no later than nine (9) months after the end of the fiscal year during which it was collected. Objective reasons in this sense are in particular:

1. the registration process is not yet finished
2. the extent of the rights claimed by the entitled person is not yet clear and a re-examination is necessary
3. the assignment of data to specific works is not yet finished
4. the costs of a distribution of revenue are in no reasonable relationship to the distributable amounts.

IV. Decisive for the consideration of a work longer than 10 minutes are the registrations filed by the entitled persons. The registration must be in the form prescribed by AGICOA GmbH and must provide for the prescribed contents.

V. If the distribution amount for an entitled person does not reach an amount of EURO 10 such amount will not be distributed but be added to the revenues for the next distribution period.

- VI. Rights revenues for which the entitled person has not been identified or located within three (3) years are deemed as non-distributable revenues and will be added to the revenues for the next distribution period.

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

- I. 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 B of this Distribution Plan.
- II. 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. Based on a decision of the shareholders and advisory board members an allocation to the social fund can be stalled.
- III. 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 fund to promote culturally important works or performances . Special guidelines will be established within respect to the distribution of this amount. Based on a decision of the shareholders and advisory board members an allocation to the cultural fund can be stalled.

\* not applicable for the distribution 2017, 2018, 2019

**Article 3**  
**Release of Reserves/Preclusive Periods**

- I. The reserves referred to in Article 2, para. 1 will, if and to the extent that they have not been exhausted, be released three (3) years after expiration of the respective distribution period and be allocated to the next following distribution period.
- II. Entitled persons may file subsequent registrations for non-registered works as long as the reserves for the claimed distribution period is not exhausted or released. Subsequent registrations will be taken into consideration in order of receipt thereof.
- III. Three (3) 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 three-year period is an absolute preclusive period.

**Article 4**  
**Subsequent Distribution and Systematic Distribution Error**

- I. 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 entitled persons 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.

## II. 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 an entitled person may be set off against future distributions to the same entitled person 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 5**

#### **General Assessment Criteria**

- I. Out of the distribution 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.
- II. The distribution principles and the calculation methods of the number of points attributable to the work are set forth in the special terms and conditions in Part B.

### **Article 6**

#### **Distribution files/Obligation to provide information pursuant to section 54 VGG**

The distribution file of AGICOA GmbH will be sent to the entitled persons only through a password protected access to the free webportal EFS (Electronic File System) <https://efs.agicoa-gmbh.de>.

These distribution files are containing all required information concerning section 54 VGG. The obligation to provide this information no later than twelve (12) months after completion of a fiscal year in electronic form is hereby accomplished.

### **Article 7**

#### **Indemnification**

The company will be obligated to make distributions only if and when the entitled persons of AGICOA 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 GmbH harmless from any and all claims of third parties relating to the asserted rights.

### **Article 8**

## **Withholding Tax**

In the event that foreign entitled persons 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).

### **Article 9 Bank details**

The distribution amount will be paid through bank transfer on an account stated by the entitled person. Changes of the bank details have to be indicated immediately. In case no bank details will be provided the distribution amount will not be paid to the entitled person. AGICOA GmbH will assume no liability for payments on incorrect and/or wrong bank details.

### **Article 10 Double registration of works**

In case a film work is claimed by two (2) parties for the same or for overlapping rights periods, the revenues for these works will be blocked until the claiming parties have settled the conflict. AGICOA GmbH has established special regulations for works in conflict.

## **Part II Special Distribution Principles**

### **I. What will be distributed are**

1. the revenues received from cable operators for the right of simultaneous unchanged and complete, analog and digital retransmission of broadcasts in Germany through cable systems, IP-TV, microwave systems, via satellite , terrestrial or other wired or wireless distribution paths (section 20b German Copyright Act),
2. the revenues collected by ZWF for the right of communication of broadcasts to the public by way of simultaneous, unchanged and complete delivery of broadcast signals to provided receivers in hotels, hospitals, homes for the elderly, prison, fitness and sport facilities and similar institutions pursuant to Sections 15/20b UrhG.
3. Lump sum payments for the overspill of German broadcasts in Denmark

### **II. Distribution scheme**

1. The revenues received from cable operators, from ZWF as well as the lump sum payment will be added and distributed as one distribution (gross revenue) for cable retransmission.

2. Distributions will be made on a calendar year basis (“distribution period”)
3. For the „cable retransmission rights“, distribution will be made to entitled persons 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. From the gross revenues, attributable to the U.S. productions, a share of twenty-five percent (25%) shall be made available from the distribution period 2005 on, to satisfy the U.S. authors.
5. Only works broadcast by TV-stations having a market share of equal or more than 1% during the distribution period shall be considered for distribution. Exceptions from this rule can be made by decision of the shareholders and advisory board in cases TV stations are broadcast nearly no AGICOA GmbH repertoire.
6. After deduction of the costs, reserves will be set aside for non-registered works pursuant to Article 2, para. I of Part I hereof. The amount of the reserves is hereby fixed at ten percent (10 %) for the distribution period 2017 and for further years.
7. The remaining amount shall be reduced by the amounts added to the social fund and the cultural fund pursuant to Art. 2 para II and III of Part I hereof. The amount remaining thereafter shall be the basis for the distribution („the net distribution amount“)
8. 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 II.5. above on the basis of the principles and calculation outlined hereinafter (the „distribution amount per work“).
9. 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.

### **III. 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.

1. The number of points attributable to each audiovisual work to be considered is calculated as follows:
  - a) Length of the work x actual audience figure per broadcast = number of points attributable to the work.

b) Works within the meaning of Sec. 95 German Copyright Law shall receive only thirty percent (30%) of the above mentioned calculated points.

2. The broadcasters to be considered, holding a market share of equal/or more than one (1) percent (see II.5. above) are set out in the Appendix.

## **Appendix: Broadcasters to be considered**

Distribution Period 2019 ff

<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
3SAT	3SAT	3SAT	3SAT
ARD	ARD	ARD	ARD
ARTE	ARTE	ARTE	ARTE
BFS	BFS	BFS	BFS
DMAX	DMAX	DMAX	DMAX
HR	HR	HR	HR
Kabel 1	Kabel 1	Kabel 1	Kabel 1
MDR3	MDR3	MDR3	MDR3
N3	N3	N3	N3
		ONE	ONE
Pro7	Pro7	Pro7	Pro7
RBB	RBB	RBB	RBB
RTL	RTL	RTL	RTL
RTL2	RTL2	RTL2	RTL2
RTLNITRO	RTLNITRO	RTLNITRO	RTLNITRO
RTLplus	RTLplus	RTLplus	RTLplus
SAT1	SAT1	SAT1	SAT1
SAT1 Gold	SAT1 Gold	SAT1 Gold	SAT1 Gold
Super RTL	Super RTL	Super RTL	Super RTL
Tele 5	Tele 5	Tele 5	Tele 5
SW3	SW3	SW3	SW3
VOX	VOX	VOX	VOX
WDR3	WDR3	WDR3	WDR3
ZDF	ZDF	ZDF	ZDF
ZDFinfo	ZDFinfo	ZDFinfo	ZDFinfo
ZDFneo	ZDFneo	ZDFneo	ZDFneo