

December 2016

Newsletter 1/16 To the rightholders of the VGF

I. Information on changes by the German Collecting Societies Act (Verwertungsgesellschaftengesetz)

(VGG)

II. Information on prompt distributions

Dear Sir/Madam,

On 1 June 2016 the Collecting Societies Act (VGG) came into force. Adaptation of the previous structure of the VGF is currently being undertaken. It concerns both the internal structure of the VGF and among other things the collection agreement, the works registration forms and the publication requirements towards the rightholders. The agreement with the legal supervisory body, the German Patent and Trade Mark Office (DPMA), has not yet been completed. We would like to inform you in advance about some points.

I. Information on changes by the German Collecting Societies Act (Verwertungsgesellschaftengesetz) (VGG)

The VGG governs among other things the relationship between the VGF and its rightholders. The VGF is in particular required to write to all rightholders and inform them about certain right to which the rightholders are from now on expressly entitled vis-à-vis the VGF. You will in future be able to view your personal or society-related documents via the extended online portal of the VGF at any time by means of access data. This access will contain comprehensive download options such as works registrations, indemnity declarations etc. With respect to the obligations of the VGF towards you, we would like to draw your attention as of now to the following paragraphs of the VGG (Link: <https://www.gesetze-im-internet.de/vgg/>): Section 12 (Termination of management; withdrawal of rights), Section 28 (Time limit for distribution), Section 29 (Identification of entitled persons, Section 54 (Provision of information to entitled persons), Section 55 (Information regarding works and other subject matters). Section 56 (Disclosure of information to the public), Section 58 (Annual transparency report).

Below we would like to inform you about some important points regarding the future collection agreement:

1. Option of restricting the rights exercised by the VGF

The transfer of rights to the VGF is carried out based on the collection agreement entered into. In this the rights listed in Sections 1a-h of the applicable collection agreement have been transferred. Under the VGG you now have the option of excluding individual rights from collection by the VGF - for example to collect them yourself, where allowed by the Copyright Act, or to grant them to another collecting society. You can put in place this restriction for all works or only specify it for individual cinematographic works. Please note, however, that the essential sources of revenue of the VGF from private copying (PV) and cable retransmission (KW) are subject to payment to collecting societies and cannot be collected by individuals. If you wish to put restrictions in place in the future, please notify us of this in details.

Conversely, under VGG we shall continue to be required and of course also happy to collect at your request rights of your choice to works of your choice and for countries of your choice where these are part of our area of activity and no objective grounds stand in the way of the collection.

2. Restriction of countries

Under Section 1 (1) of the applicable collection agreement, you have as a rule transferred to VGF as trustee collection for German cinematographic works for all countries.

Under the VGG you can in future place restrictions with regard to countries in which the VGF is to collect your rights. For example you can exclude individual countries from collection by the VGF and commission another collecting society to do it. If you would like to make use of restrictions of this type, we ask you to notify us in detail of these restrictions.

3. Cancellation

As a rightsholder of the VGF, under the provisions of the new VGG you can cancel the collection contract with six months' notice. For restrictions of rights and/or countries six months' notice likewise applies. To avoid the additional administration costs that would arise for cancellations/restrictions effective for less than a year, the new collection contract will make use of the option laid down in the VGG that, taking into account the six months' notice period, cancellations issued always become effective from the end of the year.

Even after such a cancellation becomes effective, we shall collect, manage and distribute the revenues from the rights transferred to us up to then under the generally applicable regulations where the corresponding rightsholder is entitled to revenues from rights for uses from a period before termination of the collection contract or a withdrawal of rights becomes effective. The same applies to rights of use that the VGF has granted before the collection contract has been effectively terminated or the withdrawal of rights has become effective.

4. Uses for non-commercial purposes

In the course of the next few months we shall also lay down the conditions on which our rightsholders can grant the right to any third party to use their works for non-commercial purposes where these rights cannot be collected exclusively by collecting societies.

5. New collection contract

You can view/download the new collection agreement already decided by the shareholders' meeting, the advisory board and the DPMA on our website at <http://www.vgf.de/sites/default/files/Wahrnehmungsvertrag.pdf>

It is not necessary to sign this agreement again under Clause 5 (3) of the previous collection agreement. Compared with the previous version of the collection agreement it contains, as presented above, a whole range of improvements of the legal positions of the rightsholders in their interests.

II. Information on prompt distributions

In June 2015 distribution was carried out for private copying (PV) for 2008-2011 as well as cable retransmission (KW) for 2012.

In January 2016 the VGF carried out a distribution for PV and video (AV) for 2012 as well as for PV, AV and KW for 2013.

Since October 2016 we have been distributing to you the domestic payments for KW, PV, and AV for 2014. Thus in 2016 we are distributing over 8 million euros, more than in any other year between 2012 and 2015.

We had in addition planned to still be able to start with the distribution of the monies collected from abroad (especially for German works) at the end of the year. For this a comprehensive re- and new programming of our database is necessary. Unlike from the German debtors of the royalties, from the partner organisations abroad (AGICOA, VAM, Suissimage etc.) we collect settlements in very different data formats (Excel tables, Word documents, CSV, PDF, XML etc.) that have to be made capable of import for the database and subsequently editing for the settlements.

Simultaneously the conversion of the whole structure of the VGF by 31/12/2016 under the new Collecting Societies Act (VGG) likewise requires comprehensive adaptation of the database. The VGG requires a very much more extensive duty to inform vis-à-vis rightsholders and the public. Also for example the electronic communication between the VGF, the rightsholders and the public will be greatly expanded.

Despite all efforts, it was not possible to keep to the dates discussed with the IT specialists responsible. During the tests of the work results shortcomings have repeatedly been identified that needed additional programming. We want to send you clear and comprehensible documents on the distribution of the foreign payments to enable you to keep a corresponding check. So we have to ask you to bear with us on this. We expect to be able to start with sending the checklists by no later than the end of the first

quarter of 2017. The distribution volume will amount to about 6.5 million euros. We are sorry for this delay and assure you that we are doing everything we can to be able to start paying out as soon as possible.

However, we can give you a piece of good news. The Zentralstelle für Private Überspielungen (ZPÜ) [Central body for private re-recording] in which all collecting societies have joined together, has entered into an overall agreement for payment for smartphones and tablets. This agreement applies retrospectively from 2008 to 2017. The distribution of these payments between the collecting societies was extremely controversial. Particularly the cinematographic collecting societies - and thus also the VGF - had to fear considerable unfairness under a new distribution regulation. However, after a year of discussion, on 30/11/2016 it was possible to achieve agreement at a shareholders' meeting of the ZPÜ. The VGF expects revenue of about 11 million euros from this and receipt of a large part of these funds for the period 2008-2015 in the first quarter of 2017. The distribution of these payments can then be made promptly as a large part of the transmission data is already stored in our database.

We ask again for your understanding regarding the delay in the foreign settlement.

In this way we wish you a peaceful Christmas season and a successful and happy new year for 2017.

Alfred Hürmer

Johannes Klingsporn