

# Distribution rules<sup>1</sup>

VdFS  
Verwertungsgesellschaft  
der Filmschaffenden  
Gen.m.b.H

## I. General Provisions

- 1 Occupation groups including direction, camera, editing, film architecture, costume and acting are beneficiaries of the income of VdFS. The rights of screenwriters are exercised by Literar Mechana for Austrian revenue, those of film music composers by AKM, those of film-producers by VAM and those of broadcasters by VGR.
- 2 The distribution is separated into groups of audio-visual authors and film actors, whereby the shares according to source of income can be calculated differently. In principle, the income is divided between audio-visual authors and film actors at a ratio of 80 : 20.
- 3 A distribution budget is formed from the revenue for storage medias and cable television in the following manner:  
  
**Storage media:** 50% of this income shall be allocated to social and cultural institutions (SKE; Section 33 (2) of the Austrian Copyright Collecting Societies Act 2016), the remaining 50% are available for royalty distribution.  
  
**Cable:** 100% of this income from conventional Cable-TV, IP-TV and Mobile-TV is available for royalty distribution. A deduction of 10% shall be made basically before distribution, as part of the social and cultural pur-

poses. In case foreign legislation or a foreign company provides for deductions of more than 10% for these purposes, VdFS is entitled to make deductions of the same amount from these assignment shares.

In principal, income received by VdFS shall be allocated to that broadcast year, in which the income has been realised (principle of inflow). The board of directors shall determine exceptions to this. This can also involve surcharges to existing distribution budgets.

A deduction shall initially be made from the incoming amounts for administrative expenses; a further deduction of the remaining amount shall form a provision for future claims in this broadcast year. If the provisions are not or not completely utilised, after three years (statutory limitation period according to Section 90 (2) of the Austrian Copyright Act), they shall be accrued in the distribution budget for the following broadcast year (e.g. the residual budget from the distribution budget for 2013 shall be added to the distribution budget for 2017).

4 Income from the rental right, remuneration for public communication of films for educational purposes in schools, universities and for public screenings are also distributed after a deduction for charges (administration expense), reserves and social and cultural purposes (in general 10%).

## II. Distribution to audio-visual authors

1 The distribution of the budget of audio-visual authors (80%) is carried out according to fixed percentage rates and according to occupational groups:

Film Directors	54,00%
Cinematographers	15,00%
Editing	14,00%
Costume Design	8,50%
<u>Film Architecture</u>	<u>8,50%</u>
	100,00%

2 All films, which are still protected by copyright, shall be treated equally regardless of their country of origin and their production date. Flat-rate billing to foreign affiliated companies is permissible according to individual agreements with these companies.

3 Income from the storage media remuneration, cable television, rental remuneration and remuneration for public communication of films for educational purposes in schools, universities and public screenings shall be settled in the same way.

4 The use of television channels, which are relevant for the distribution, shall take place by decision of the board of directors, whereby the aim is the most complete use of this channel, taking into account the necessary costs. When selecting the programme in relation to foreign affiliated companies, the channel selection of these companies shall be used.

According to the decision of the board of directors and supervisory board (03/12/2015) the following channels shall be considered from the broadcast year 2015: ORF 1, ORF 2, ORF 3, ARD, ZDF, 3SAT, ARTE, BR-Bayrischer Rundfunk, Servus TV, ATV, ATV 2, Puls 4 and Okto-TV.

5 Broadcast factors shall be set for the individual channels, which are a result of the distribution rate and the potential for reception of these channels in Austria. The broadcast factors for 2017 are as follows:

ORF 1	96
ORF 2	100
ORF 3	95
ARD	96
ZDF	96
3SAT	95
ARTE	93
Bayrischer Rundfunk	93
Servus TV	96
ATV	91
ATV 2	89
Puls 4	91
Okto-TV	83

The broadcast factors are adapted every year based on statistical data (AGTT/GfK Teletest) and are applied to all main- and supplementary distributions of the relevant broadcasting year. The relevant period for the determination of the market share and the distribution rate is the calendar year (01/01-31/12), for the determination of the potential for reception the reference date 31/12 is considered. The distributable channels

and the broadcast-values ("cultural factors") are evaluated every year and are valid until revoked.

6 The following genre and factors are defined:

a Documentary formats:

- Documentary Film (Cinema) factor 100
- Documentary/Reportage/  
Magazine/Feature from factor 100
- Documentary/Reportage/  
Magazine/Feature 21–40 min factor 50
- Documentary/Reportage/  
Magazine/Feature 10–20 min factor 20
- Docu-Soap/Documentary as serial etc. factor 20

b Fictional formats:

- Full length Feature Film/TV Film/TV-Play factor 100
- TV-Film as serial/fiction serial from 30 min factor 50
- TV-Film as serial/fiction serial up to 29 min factor 30
- Soap-Opera/Daily Soap/Telenovela factor 20
- Sitcom / Comedy-Format factor 20

7 In case of doubt a commission, in which members of the Board of Directors and Supervisory Board are represented, decides to which category a work should be associated. The beneficiaries will be informed in the case of a modification of their works after a period of two weeks in written form. The change for the assignment has to be justified. If the beneficiaries do not agree to the decision of the commission, they can complain to the Supervisory Board that decides irrevocably.

8 Accounts shall be settled according to the length of the works in full minutes. Works under 10 minutes will not be charged. Furthermore no distribution will be done for broadcast of news, sport-events, advertisements, animated and trick-films, casting-and talk-shows, music-clips, TV-formats like charity-events, awards shows as well as live-concerts and recordings of music-shows, operas, musicals, ballets, live broadcasts of readings, theatre plays, cabaret as well as reality-TV and (educational) infotainment.

- 9 Accounts shall be settled taking into account the time of the day or night, in which the broadcast takes place:
- |                     |                |            |
|---------------------|----------------|------------|
| Start of broadcast: | 19:00 to 23:59 | factor 100 |
|                     | 24:00 to 18:59 | factor 30  |
- 10 When registering works, the beneficiaries must declare the role they had in the film and whether his role was shared with other persons. If the role was not 100% performed, the participation percentage which was performed must be stated.
- 11 If there are contradictions in the registration of works, i.e. a role is claimed by several persons or the participation structure of a role does not match with the details provided by the parties concerned, all parties concerned shall be informed of the contradictions and they will be invited to submit statements.
- If there are still contradictions, then initially the shares shall be reserved from the settlement. If the payment has already been made, then the beneficiary who has been paid shall be provisionally charged with this amount. The settlement shall take place as soon as the parties concerned have come to an agreement or there is a final court judgement that provides clarification.
- 12 If the role descriptions used in practice do not match the role descriptions used by VdFS, the following shall apply: Production design, architecture and fittings correspond to the VdFS category Architecture. In case of uncertainty, the staff list shall be decisive, which must be submitted by the parties concerned.
- If there is more than one person under the role descriptions of direction, camera, editing or “production design, architecture and fittings”, then these are considered the creators, which are stated at the top to the list (e.g. “head of department”). The assistance for these roles will not be charged.

### **III. Distribution to audio-visual performers (actors/actresses)**

The distribution of the budget of film actors (20%) takes place according to the following guidelines:

- 1 All cinema and television films, television plays, TV-films as serial/fiction serials (fictional formats), in which the actors' performance is still protected, are considered for the actors' distribution (genres and factors according to Art II.6 lit b, categories 1-3) and shall be treated equally regardless of their country of origin and their production date. Flat-rate billing to foreign affiliated companies is permissible according to individual agreements with these companies. Art II.7. and 8. apply accordingly.
- 2 Income from the storage media remuneration, cable television, rental remuneration and remuneration for public communication of films for educational purposes in schools, universities and public screenings shall be settled in the same way.
- 3 The same television channels, broadcast factors and time factors as for the audio-visual authors shall be used for the distribution. Art II.4. 5. and 9. apply accordingly.
- 4 80% of the cable income from the general agreements with the Professional Association of Telecommunication and Broadcasting Companies (Cable-TV, IP-TV and Mobile-TV) for professionally produced films shall be allocated to the film-maker settlement, 20% shall be allocated to the actor settlement.
- 5 20% of the cable income from non-professionally produced films ("auteur films") and live performances of actors/actresses from the statutes of the arbitration committee cable tariff from 03/11/1998 shall be allocated the film-maker settlement, 80% shall be allocated to the actor settlement.
- 6 When distribution for actors/actresses, the expiry of the term of protection of 50 years must be taken into account for film works according to Art III.1. This means that only film works, which were produced in 1966 or later are used for the distribution of the broadcast year 2016. Subsequently, the production year must be taken into account for the distribution budget.
- 7 The following assessment criteria apply for the actor settlement: Film length, broadcast time and television channel. Film authors and film actors are treated equally in this regard.

8 Contributions in the area of acting are divided into the categories A to E. The categorisation is based on the relation of the reported days of shooting to the average number of days of shooting in a work category, subdivided into decades:

Production years	10-29 min	30-59 min	60-89 min	from 90 min
1966-1979	Category E for all decades since 2000	15 shooting days	20 shooting days	29 shooting days
1980-1989		13 shooting days	19 shooting days	27 shooting days
1990-1999		11 shooting days	17 shooting days	26 shooting days
since 2000		9 shooting days	13 shooting days	21 shooting days

A share of the distribution budget for performers (20%) is assigned to every category. This share is distributed within the respective category to the actors/actresses equally.

Category A	shooting days > 75%	25%
Category B:	shooting days 15% - 75%	57%
Category C:	shooting days < 15%	12%
Category D:	Dubbing actors	5%
Category E:	Films 10 to 29 min	1%

9 Actors/actresses are obliged to announce contributions with the number of days of shooting and the role names (obligatory registration). If no days of shooting are notified to VdFS, these contributions are provisionally assigned to category C until a different announcement is made by the actor/actress.

10 VdFS is authorised to inspect the performing contracts to verify the reported days of shooting (verification right). Furthermore a plausibility check is carried out with the help of the running order of the naming in the credits of the film works.

11 In case of a dispute a change of the classification of the category can be carried out if applied by an actor/actress. The commission specified in Art II. 7. decides about this application. The procedure regulated in this provision shall be applied accordingly.

12 Dubbing actors/actresses (synchronous roles) and speakers in documentary work according to Art II. 6 lit a categories 1-4 are considered as

category D in the distribution. The distribution within this category occurs by equal shares.

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Works with a length from 10 to 29 min are assigned to the category E. The distribution within this category occurs without consideration of the shooting days by equal shares.

#### **IV. Entry into force**

Art I., II. and Art III. 1-7 of these distribution rules shall come into force after the decision of the board of directors and the authorisation by the supervisory board for the broadcast year 2016. Art III. 8-13 of these distribution rules shall come into force for the broadcast year 2017.