

Distribution rules¹

VdFS
Verwertungsgesellschaft
der Filmschaffenden
Gen.m.b.H

I. General Provisions

- 1 Entitled to the proceeds of VdFS are a. Film authors and b. performing artists in the audiovisual (AV) sector. a. includes the professional groups of directing, cinematography, film editing, production design and costume design, b. includes the professional groups of acting and voice. The rights and claims of scriptwriters in Austria are administered by the Literary Mechana, those of composers of film music by the AKM, those of film producers by the VAM and those of broadcasters by the VGR.
- 2 The distribution is made separately to the group of film authors and performers in the audiovisual sector, whereby the shares can be calculated differently depending on the source of income. Income is generally divided between film authors and performing artists in the audiovisual sector in a ratio of 80:20.
- 3 From the revenues for a. Storage media, b. Cable TV, c. Public reproduction and Other, distribution budgets shall be formed in the following manner:
 - a. **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.
 - b. **Cable:** 100% of the revenues from conventional cable TV, IP-TV and

mobile TV are available for royalty distribution. Before distribution, a deduction of 10% is generally formed, which goes to social and cultural purposes. If 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 exploitation shares. The income accruing to VdFS is generally allocated to the year of broadcasting in which the income was received (inflow principle). Exceptions to this are determined by the Board of Management. This can also take the form of additions to existing distribution budgets. A deduction is initially made from the incoming amounts for expenses (administrative expenses), and provisions are made from the remaining amount for future claims in this broadcasting year. If these provisions are not used or not used in full, they are allocated to the distribution budget of the following broadcasting year after three years (statutory limitation pursuant to Section 90 (2) UrhG) (e.g., the budget residues of the 2019 distribution budget are allocated to the distribution budget of 2023).

c. Public reproduction and other: Revenues from remuneration for public screen reproduction (of authors' films), the use of video or audio carriers, public reproduction in teaching and in accommodation establishments, use by people with disabilities, public provision for teaching and learning, and library royalties (lending remuneration) are also distributed after deductions for expenses (administrative expenses), provisions and SKE (generally 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 all revenues pursuant to Item I. 3. lit a-c (storage media, cable, public communication and other) is offset in the same way.

4 The selection of television programs that are relevant for the distribution shall be made by resolution of the Board of Management, whereby the aim shall be to select as many of these programs as possible, considering the expenditure required for this. In the selection of programs, the program selection of foreign sister companies is also to be considered. According to the resolution of the Management Board of 17/05/2021 and the approval of the Supervisory Board of 27/05/2021, the following programs will be considered from the broadcasting year 2021 onwards: ORF 1, ORF 2, ORF 3, ARD, ZDF, 3SAT, Servus TV, ATV, ATV 2, Puls 4, Puls 24 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 2023 are as follows:

ORF 1	97
ORF 2	99
ORF 3	96
ARD	89
ZDF	89
3SAT	92
Servus TV	96
ATV	90
ATV 2	88
Puls 4	90
Okto-TV	79
Puls 24	88

The broadcasting factors are adjusted annually on the basis of current statistical data (AGTT/GfK Teletest) and applied to all main and supplementary accounts for the respective broadcasting year. The period under consideration for determining market share and reach is the respective calendar year (01/01-31/12), while the key date 31/12 is used for determining reception potential. The stations relevant for billing and their station ratings ("culture factors") are evaluated annually and are valid until further notice.

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 10

In the case of magazine broadcasts, only designed contributions of 10 minutes or more in length are remunerated, but not the studio portion.

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
- Scenic Documentation/Documentary
Play from 41 min factor 100
- Scenic Documentation/Documentary
Play 21-40 min factor 50
- Scenic Documentation/Documentary
Play 10-20 min factor 20
- Soap-Opera/Daily Soap/Telenovela factor 10
- Sitcom / Comedy-Format factor 10

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 The distribution is based on the length of the works in full minutes, whereby works of less than 10 minutes are not charged by VdFS.

Furthermore, the following TV broadcasts are not included in the distribution:

- Up-to-date reporting, news & infotainment
- Sports broadcasts
- Commercials
- Animation/animated and live-action cartoons, puppetry
- Show formats (e.g., entertainment, game, quiz, casting, dome or jumble shows)
- cooking formats
- Talk shows, talk formats, readings, society formats & interviews
- TV broadcasts of events, award ceremonies, etc.
- Music clips, live music broadcasts or recordings thereof (e.g. concerts, operas, operettas, musicals and other musical performances)
- Live broadcasts or recordings of stage works in front of an audience (e.g. theater and ballet performances, cabaret)
- School and educational television (e.g. language courses, children's science programs)
- Editorial editing/editing of third-party material.

9 Accounts shall be settled considering 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 The beneficiaries must declare in their work registration in which function they are involved in the film and whether other persons share this function with them. If the function is not 100%, the percentage of participation must be stated. Should the percentage not be declared, VdFS reserves the right to make the distribution independently on the basis of available information (e.g. credits, IMDB, etc.) until otherwise notified by the beneficiary.
- 11 If contradictions arise in the work registration, for example, that a function is claimed by several persons or that the shareholding ratios in a function do not match according to the information provided by the parties involved, all parties involved must first be informed of the contradictions and asked to make a statement.
- If the objections then still exist, the shares must first be set aside from the settlement. If the payment has already been made, the beneficiary to whom the payment was made shall be provisionally debited with this amount. The offsetting shall take place as soon as the parties involved have reached an agreement in or out of court or a final court judgment has been issued which clarifies the matter.
- 12 If the function designations used in practice do not correspond to those used by VdFS, the following applies:
Production Design, Film Architecture and Equipment correspond to the VdFS category Production Design.
In case of ambiguity, the staff list, which must be submitted by the participants, shall be decisive.
- If there is more than one person under the function titles of director, camera, film editor, costume designer or production designer ("production design, architecture, equipment"), the person who is first on the staff list (the so-called "head of department", i.e. the creatively responsible position) is considered the author. Assistant activities in these functions (e.g. assistant director, assistant camera operator, panning operator, Camera in the compound, drone camera, underwater camera, prop master, etc.) are not 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 The billing is based on the length of the works in full minutes, whereby works of less than 10 minutes are not billed by VdFS.

Furthermore, they will not be remunerated:

- Up-to-date reporting, news & infotainment
- Participation in soaps/telenovelas/sitcoms (e.g. "Rote Rosen", "Sturm der Liebe", etc.)
- Show formats (such as entertainment, quiz, casting or cooking shows)
- Talk shows, talk formats, readings, society formats & interviews
- TV broadcasts of events, award ceremonies & the like.
- Music clips, live music broadcasts or recordings thereof (e.g. concerts, operas, operettas, musicals and other musical performances)
- Live broadcasts or recordings of stage works in front of an audience (e.g. theater and ballet performances, cabaret)
- Commercials
- Animation/animated and real animated films
- Participation in mockumentaries, docusoaps & scripted reality formats
- Presentations/host/reporter (e.g. in docutainment)
- Stunt performance & double activities

- 3 Income from all revenues pursuant to Item I.3. lit a-c (storage media, cable, public communication and other) shall generally be accounted for in the same way.
- 4 The same television programs, broadcast factors and time factors shall be used for distribution as for film authors. Point II. 4. 5. and 9. shall apply accordingly.
- 5 The cable revenues from the overall contracts with the Association of Telecommunications and Broadcasting Companies (cable TV, IP TV and mobile TV) for commercially produced films, and the cable revenues from non-commercially produced films ("au-tor films") and live performances by actors from the Articles of Association of the Cable Tariff Arbitration Commission of 03/11/1998 are allocated 80% to the settlement to film authors, and 20% to the settlement to performing artists.
- 6 In the distribution for performing artists, the expiry of the term of protection shall be taken into account for cinematographic works as defined in section III.1. Point III.1., the expiration of the protection period of 50 years must be taken into account. This means that, for example, only film works produced in 1973 or later will be included in the distribution for the broadcasting year 2023. Subsequently, the production year must be taken into account in the distribution budgets.
- 7 The following evaluation criteria also apply to the billing of performers: Film length, broadcasting time and television station. Film authors and performers are treated equally in this respect.
- 8 Contributions in the area of acting are divided into the categories A to D. The categorization 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	10-59 min	60-75 min	from 76 min
1973-1979	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
2000-2022	9 shooting days	13 shooting days	21 shooting days
since 2023	7 shooting days	11 shooting days	19 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 > 60%	37%
Category B:	shooting days 15% - 60%	45%
Category C:	shooting days < 15%	13%
Category D:	Dubbing actors	5%

- 9 Actors and actresses are obliged to report the number of shooting days and the names of the roles (obligation to report). If no filming days are reported to VdFS, these participations will be provisionally assigned to category C until otherwise reported.
- 10 VdFS is entitled to inspect the acting contracts in order to verify the reported shooting days (right of inspection). Furthermore, a plausibility check shall be carried out based on the order of naming in the credits in the opening and closing credits of the film works.
- 11 In the event of a dispute, the classification of the category may be changed at the request of an actor/actress. The commission mentioned in point II. 7. shall decide on this request. The procedure provided for in this provision shall be applied mutatis mutandis.
- 12 Voice actors/actresses (dubbing roles) and voice actors/actresses for documentary types of work pursuant to item II. 6 lit a categories 1-4 shall be included as category D in the distribution. The distribution within this category shall be made in equal parts.

IV. Entry into force

These distribution provisions shall enter into force following the adoption of a resolution by the Executive Board and approval by the Supervisory Board and shall apply until revoked to all main, supplementary and special accounts as of the broadcasting year 2023.