

Management Report for the 41st financial year 2017

A. General information on the company

The object of the company is the management and enforcement as trustee of rights and claims arising for the producers, authors and other holders of rights to films of all kinds in accordance with copyright law.

The company was established in 1976 by five film producers. Operation of a royalties collecting society requires a license in accordance with section 77 *Verwertungsgesellschaftengesetz* (VGG, Collecting Societies Act – formerly section 1 (1) *UrhWG*, German Copyright Administration Act). The relevant authority in this regard is *Deutsche Patent- und Markenamt* (German Patent and Trademark Office) in Munich, which issued the license to conduct operations to GÜFA, by agreement with the *Bundeskartellamt* (German Competition Authority), on 13 December 1976.

Due to the overall contracting and tariff obligation, there are now uniform fee rates that are published in *Bundesanzeiger* (Federal Gazette). Certain uniform fee rates also apply for activities outside Germany.

Outside Germany, GÜFA asserts the rights assigned to it for its administration services either directly (Netherlands, partly Belgium, partly Switzerland, Denmark, Sweden, Finland, Spain) or has entered into agency agreements with collecting societies or similar institutions (Austria, partly Switzerland, partly Belgium, Czech Republic, Latvia). In the Netherlands, GÜFA maintains a branch in Middelburg under the name “GÜFA Benelux”; it is entered in the local commercial register and is active in the Netherlands and Belgium.

Due to its function as trustee, GÜFA may not under stringent law post any profit, as regulated by section 2 (2), number 2, VGG. All revenues are to be distributed to beneficiaries after costs have been deducted in accordance with section 26 VGG. Beneficiaries in this sense are all rights holders that have a direct agency relationship to GÜFA on the basis of law or contract and for whose account GÜFA is active. These can also be the shareholders of GÜFA. All beneficiaries have accordingly the same rights.

Being a collecting society, GÜFA is subject to the supervision of the German Patent and Trademark Office. In this context, any claims under civil law, such as a shareholder’s claim to profit share, are replaced by the public-law provisions of VGG. GÜFA is thus a purely collection company without its own commercial interests or pursuit of profit. The balance sheet therefore has under “Equity capital” no “Profit carryforward” or “Net profit for the year” items. The distribution amount determined at the end of a year is accordingly not approved by the advisory board, but rather distribution of revenue is, since the amendment of the articles of association of GÜFA due to the new VGG as of 1 January 2017, undertaken according to a distribution plan established by the company through its council of members, which is recognised by the beneficiaries when the deed of assignment is concluded. The council of members, which advises the company, inter alia, when umbrella treaties are to be agreed and tariffs established, and which decides on the distribution plan, consists of eight persons. Five members are shareholders, and the other three members are delegates, i.e. elected representatives of the beneficiaries who are not shareholders (member in the sense of VGG).

B. Business report

I. Description and analysis of the course of business and the commercial result in 2017

Total revenue of € 9.3 million was realised in the 41st financial year (previous year € 4.0 million). The distribution amount that accordingly increased by around € 5.2 million measures € 8.2 million (previous year € 3.0 million). The overall result from public film showing rights continues to be in decline, and fell by around K€ 193 in the past year (compared to a fall of K€ 232 in the previous year). The number of film showing centres (cinemas and/or cubicles) continued to fall. This trend also continued in the countries Austria, Netherlands and Belgium, Switzerland, Czech Republic, Latvia, Spain, Sweden, Denmark and Finland. In these countries, GÜFA is active directly or is represented by local collecting companies.

Revenue generated by exercising rental rights for authors and film producers – and in particular for the former – showed a significant decline due to the continued reduction in the number of video rental stores.

Umbrella agreements are in place with Bundesverband Erotikhandel e. V. (BEH), Bundesvereinigung der Musikveranstalter e. V. (BMV), VEGAS and LSVD.

Against the background of new media (smartphones, tablets, computers, printers, etc.), the revenue volume from duplications for private and other own use in the form of charges for devices and blank media is becoming increasingly significant. Zentralstelle für private Überspielungsrechte (ZPÜ) generates revenue for all royalty collecting societies in Germany. In addition to computers, it was also finally possible to secure contracts for smartphones and tablets. This led to considerable follow-up payments to ZPÜ by members associated with BITKOM. Further negotiations (including in relation to consumer electronics and blank media) are currently underway or legal actions being taken.

The agreement signed with VG BILD-KUNST regarding participation in reprography und BTX revenue from digital sources led to an amount of K€ 79.8 being generated in 2017 (previous year: K€ 575). Further arrears payments following the aforementioned ZPÜ payments can be expected in the near future.

The ZPÜ was able to generate significant revenue in the area of private copies (charges for devices and blank media) over the past year (€ 6.1 million compared to K€ 41.0 the previous year).

The enforcement of rights from so-called cable retransmission is performed in Germany by the joint collection centre GEMA, and outside Germany by suitable local royalty collecting agencies.

GÜFA currently represents the film repertoire of 220 film producers/holders of rights and other holders of copyright performance protection (previous year 226) and 183 film authors (previous year 178).

In order to enforce rights, monitor film screening centres and pursue the interests of rights holders, GÜFA maintains a field service, which carried out regular and nationwide monitoring in the area of public film screenings in Germany, Austria, Switzerland, Netherlands and Belgium.

It is a member of Gesellschaft zur Verfolgung von Urheberrechtsverletzungen e.V. (GVU) in Germany and the Swiss Anti-Piracy Federation (SAFE) in Switzerland.

II. Company's financial situation

1. The asset situation improved compared to the previous year. The balance sheet structure continues to be stable. The most important asset items are liquid funds totalling K€ 3,031 (previous year: K€ 2,121). This is equivalent to 96.5 % of the balance sheet total (previous year: 94.7%). The increased generally came from arrears payments from ZPÜ for devices and blank media from the years 2008 to 2016 totalling € 7.5 million, which were offset by advanced payments to beneficiaries totalling € 5.9 million.
The payment practice among GÜFA's contract partners did not change in the year of the report. The number of insolvencies and unsuccessful enforcement attempts with recording of financial status measures 27 (previous year 30). Write-offs had to be undertaken totalling K€ 26 (previous year K€ 58). Further insolvency proceedings and write-offs are anticipated. On the liability side, the Other provisions at K€ 1,533.6 account for the largest part of the balance sheet total (48.8 % of the balance sheet total). K€ 1,400 of this increase was due to the aforementioned arrears payments from ZPÜ for devices and blank media, which could see a reversal in 2017 due to the intervention of the German Patent and Trademark Office. Liabilities towards beneficiaries showed a decline due to the payments on account made (K€ 1,366 compared to K€ 2,072 in the previous year).
2. The financial situation can be considered secure. Because most income and expenditure are also cash effective and the balance sheet structure is practically unchanged, all important information regarding the financial situation can be taken directly from the income statement. Reference is also made to the cash flow statement (see separate enclosure). Financial management is geared towards paying liabilities within the term of payment. Instalment payments to beneficiaries are made only after the liquid funds have been collected. Due to the special payments by ZPÜ in the report year, there were, in contrast to the previous year, additional advance payments made to beneficiaries besides the regular advance payments. Revenues from the rights are lodged as fixed deposits or overnight money exclusively with established banks in accordance with principles of risk management.
3. The income situation improved noticeably compared to the previous year. Significant rises in revenue were recorded, alongside a slight increase in expenses. The special payments by ZPÜ for previous years totalling € 7.5 million is a primary factor deserving mention, of which a partial sum of € 1.4 million was put in reserves due to the risk of reverse payment obligations. The previous year saw special payments totalling € 0.6 million. Revenues from public showings fell again by K€ 193 (previous year K€ 232).

C. Forecasts, opportunities and risks

I. Probable trend and opportunities in the company's business

The most important subject for ZPÜ is and will remain generating continuing "future revenues", specifically for the areas of smartphones, tablets, consumer electronics and data storage media. Following initial successes by ZPÜ in this regard (smartphones and tablets), the shareholders of the ZPÜ were finally able to agree on an internal distribution scheme at the end of November 2016. This applied to smartphones as of 2008, for tablets as of 2012 and for PCs as of 2015. After it became necessary to mix the quotas from the 2010 and 2015 studies, the shareholders of ZPÜ additionally receive for the years 2015 to 2017 an annual special payment of K€ 700. The quota due to the individual shareholders was successfully negotiated at the end of 2017. The annual special payments for the years 2015 and 2016 totalling € 1.4 million were at first paid to GÜFA, but had for the time being had to be held in reserve due to the intervention by the German Patent and Trademark Office, as there is a risk that these payments may have to be returned. After

successful clarification of the question of admissibility of the so-called "film adjustment" between ZPÜ and DPMA, GÜFA will in a positive scenario receive a further payment of T€ 700 for the year 2017.

Arbitration proceedings have been commenced regarding equipment and media liable for charges before the arbitration board of the German Patent and Trademark Office or are pending in follow-up proceedings before the Higher Regional Court in Munich and the Federal Court of Justice.

Further uncertainty is due to technical changes that have consequences for user behaviour: new forms of use such as "cloud computing" and the transfer of content to non-local storage centres outside the country have to be investigated and payment models developed. The collecting societies are in this regard jointly conducting important lobby work, commission expert opinions and observe closely all changes in the market, including outside Germany. The application for admission filed by VG Media is still being examined.

II. Risk report

The company has no currency risks of any significance. The liquidity situation was satisfactory at all times, and no shortages are to be anticipated. As a safeguard against liquidity risks and to maintain solvency at all times a running liquidity plan was drawn up, which will be continuously adjusted to current changes and will serve as a basis for cash management.

The goal of the financial and risk management measures taken by the company is to safeguard against all forms of financial risks. In its financial management, the company pursues a conservative risk policy, especially as the liquid means are held in trust for the company's beneficiaries and the relevant supervisory authority, the German Patent and Trademark Office, permits fixed-interest and call-money investments only in the case of debtors with a first-class credit rating, which also corresponds to the requirements for the investment guideline anchored in sections 24 ff. of the new VGG.

Credit and bad-debt risks on the receivable side are a regular part of the latent risks of the sector. The company has an efficient dunning system. Outstanding claims are collected by means of all possible out-of-court and in-court legal measures, both in Germany and abroad. The resulting risks are taken into account to a suitable extent by value adjustments and provisions at the balance sheet date. Any further losses of receivables can be disregarded due to the careful assessment of risks at the end of the year.

With effect from 1 June 2016, the law on collecting royalties and associated intellectual rights by the collection societies (the *Verwertungsgesellschaftengesetz* or Collecting Societies Act, hereinafter referred to as "VGG") came into force. The consequences of the new law for our company were, inter alia, that certain functions that had hitherto been performed by the shareholders' meeting have now become the responsibility of the membership meeting, or Council of Members, which in our case, however, will held its inaugural meeting in March 2017. A set of investment guidelines was agreed, of the kind required under section 25 VGG and compliance with which is to be verified by our auditor in accordance with section 57 (2) VGG in the context of his audit of the annual financial statement, which will take place for the first time at balance sheet date 31 December 2017. We judge any risk in this area to be very low.

III. Outlook report

As consumer behaviour continues to change significantly and the distribution of this form of entertainment through the Internet has progressed very strongly, sales revenues from public screening rights are noticeably decreasing. This trend, which has continued now over several

years, increased and will no doubt continue over the coming years. Efforts to secure more representation of rights outside Germany will continue. It is hoped that an all-over system of revenue collection for new forms of distribution can be secured. Payments for uses taking place through the Internet and from duplications for private and other use (devices and blank media charges) deserve special mention here. The recent successes by ZPÜ in concluding agreements for the relevant charges provide grounds for anticipating reliable revenues in this area for the coming years.

It remains to be seen how the strong spread of both legal and illegal streaming services and cloud computing affects copy behaviour (i.e. whether it could lead to a reduction in the number of permanent private copies) and to what extent the intermediate storage system taking place during streaming can in future be cited when fees for blank media are being assessed. ZPÜ has commissioned legal expert opinions to answer these questions and it will continue to work intensively in notifying lawmakers in good time regarding possible legal adjustments and the necessary modernisation of the legal framework.

Following the arrears payments from ZPÜ, we anticipate for 2018 a return to revenues at the level recorded for the previous years. The distribution amount will therefore be significantly lower.

We are cautiously positive in our assessment of the company's development in the medium term. We shall in future continue to be able to fulfil our payment obligations on time.

D. Research and development report

The company does not perform any research or development work.

E. Branches

The activities of our branch in Middelburg/Netherlands was reduced for cost reasons. The share of the distribution amount is 1.2 % of the distributable result (previous year 3.4 %).

Düsseldorf, 23 February 2018

G Ü F A Gesellschaft zur Übernahme und Wahrnehmung von Filmaufführungsrechten mbH
The Management
Klaus Macke