

GEMA GENERAL ASSEMBLY

19 MAY 2022

REPORT OF THE CEO AND CHAIRMAN OF THE MANAGING COMMITTEE DR. HARALD HEKER

Dear members,

COVID-19 kept us very busy over the last two years. It is strange when I think back to the terms we used in this context: We talked about a battle, that we were “at war” with the virus. Today, the term “war” has taken on a completely different meaning for us in what we considered to be the “safe West”.

Yes, far too many people died of COVID-19 and fierce, sometimes hurtful words were exchanged between vaccination supporters and antivaxxers. But the level of contempt for humanity, destruction and suffering in the Ukraine shows us every day what it really means to be at war. There are many pictures that I cannot get out of my head, including the opera singers from Odessa. Russian tanks were at the gates of the city, and the threat was tangible despite the sunny weather. The city was preparing for the worst. In front of the opera house were people ... and they sang. Members of the association “Odessa Opera” sang against fear, sang in order to comfort their fellow residents.

Where freedom is under fire, free art also becomes a victim. Right after the war began, GEMA expressed its solidarity with the creators and all the people in the Ukraine, and together with many sister organisations we launched initiatives at international level in order to provide tangible support to the hard-pressed creators there. DJ Klimmen, member of the Ukrainian band Kalush, who won the European Song Contest last week with their song Stefania, put it in clear words: “If the culture is strong, we cannot be broken”.

COVID-19

Even though COVID-19 has somewhat faded into the background: Many our members still feel the pain of its consequences. GEMA has always been actively involved to cushion the financial impact of the pandemic for its members. I remind you of our “Schutzschirm Live” (protective shield) and the “Corona Hilfsfonds” (COVID-19 relief fund) from 2020. This was followed in 2021 by a new financial protective shield with the option to provide further advance payments.

GEMA also had taken over the distribution of aid funds from the federal government for music performance venues, clubs and festivals. And it lobbied politicians for the solo creators. The result: a bursary programme for GEMA members amounting to EUR 30m. Of that, we managed to approve nearly 4,500 grants to our members.

At the same time, we know that a lot of effort and support will be required to make the “Neustart Kultur” (New Start for Culture), the term that the federal government gave to its COVID-19 aid programme, a success. The economic situation of many creators will remain in danger in 2022, that is why GEMA is lobbying politicians for additional measures and programmes.

Let us look at the balance sheet for the last financial year:

Overall result

The overall amounts stood at EUR 1.039bn in 2021. With that, we are EUR 30m below the result of the last financial year without COVID-19, which was 2019. But we do, at least, see an increase of EUR 80m compared to the previous year, with that, we closed the financial year better than expected.

Distributable amount

The distributable amount in particular is significantly higher than expected: EUR 886.5m, a growth of EUR 80m compared to the previous year. As a consequence, the distributable amount nearly reached “pre-COVID” levels of 2019. The pay-outs have therefore increased more than the receipts in terms of percentage.

Cost

This is due to the fact that we were able to keep the costs at the same levels as in 2020. The costs for operating activities amounted to EUR 152.4 million, which corresponds to a cost rate of 14.7%. In 2020, the cost rate stood at 15.9%. Regarding our operational activities, the costs reached EUR 144.9m, a little more than in the previous year. This is due to higher pension expenditure in particular: Strategic investments amounting to EUR 7.5m have mainly gone into digitisation projects and the modernisation of our IT infrastructure.

The revenue sectors in detail:

Field service (formerly regional offices)

I begin with the sector where the pandemic had its most negative impact: our field service. The long lockdown phase at the beginning of 2021 and the hesitant opening of the event sector had a devastating effect on the revenues. EUR 248.8m indicate a slight plus of EUR 18.7m compared to 2020. Field service revenues therefore still remained seriously below the levels of 2019.

Sound recordings, audiovisual recordings and data storage media

In the sound and audiovisual recording (carrier) and data storage media sector, we witnessed a surprising revival and growth after decades of decline, by nearly EUR 12m to EUR 60.3m. We nearly reached the 2019 levels as a consequence. CD and DVD sales are dropping further, even if the decline is slower than in the previous years. At the same time, the vinyl sector continues to grow strongly.

Broadcasting

A very pleasing development occurred in the broadcasting sector, i.e. radio and TV in terms of revenues: EUR 338.3m, that is EUR 53m more than in the previous year, as high as never before in the broadcasting sector. Loss of revenues brought on by COVID-19 in 2020 were not only overcome but it was even possible that earnings were increased in a stagnating market. Collections from the public service broadcasters were at the level of the previous year, but the income from private TV and radio channels slightly recovered with a plus of EUR 21.7m. The fears that the pandemic would have a negative effect on the advertising revenues in the long term therefore did not materialise. A vital factor contributing to the good result was also a one-off result: a major contract in the cable retransmission sector was signed; it also covered legacy periods.

A short note on the current tariff negotiations with the broadcasters: The negotiations have been ongoing for more than two years now, and they are long-winded, as always. It is our goal to ensure the complete use of our repertoire both in the online and the linear arena; to increase the revenues, to bring in more money for the rightsholders. Both seem to be succeeding: We already concluded new and longer-term agreements with our negotiation partners of the private channels or at least reach basic understandings.

We succeeded in improve the conditions for the online offers of the broadcasters in particular. We were also able to agree how the channels can capture the usage of GEMA repertoire more comprehensively. Keyword: Monitoring, more on that later.

Back to the balance sheet, now on to the sector

Online

Again, this sector provided the largest revenue growth: With a plus of EUR 58.7m compared to the previous year, the overall amount was just above EUR 238m. The European copyright reform gave us a strong boost. In the negotiations with YouTube, for example, the new legislation really paid off. It was just before Christmas last year: YouTube initially showed no willingness to substantially improve the contractual terms; then GEMA directly lobbied those responsible at Google in the United States. For the first time, we were able to say, to put it casually: “Dear negotiating partners, the Directive spells it out clearly, you must pay us adequately! And if you do not want to, we just meet you in court again.” The improved legal situation in Germany increased litigation risks for YouTube once again. Final result: a much better contract, the remuneration will rise by nearly 50% from 2022. A huge success for GEMA and the rightsholders!

I will stay a while on this topic when it comes to online and contract negotiations, since we also have been having them and continue to have them with Spotify. We would like to adapt the licensing conditions of Spotify, to an extent where they are adequate, or at least more adequate. Spotify is the largest music streaming platform in the world, but it refuses to pay subject to conditions which other, smaller market players have long accepted. We can no longer take this! Together with our British and Swedish partners in the joint enterprise ICE, we have therefore taken Spotify to court. We expect a decision soon. What is good is the fact that we were able to reach an agreement with Spotify which ensures a payment and thus a distribution for the time of the legal proceedings. For now, we have to wait for the outcome of the legal dispute. Regardless of this, we expect a further increase in revenues for the online sector in the current year, driven by streaming.

So much for the most important figures of the 2021 financial year. I cannot give you a realistic outlook on the revenue situation in the current year because this will depend on factors which we at GEMA cannot influence ourselves. Last but not least, this includes the further development of COVID-19.

Dear members, these are rather good overall figures, which I just reported to you for 2021, don't you think? However, we would not have achieved them without the tireless efforts of our staff. Each GEMA department literally felt the concerns and worries of many members. Staff worked with their heads and hearts to achieve the best possible results for composers, lyricists and music publishers, whether in the home office, at the negotiation table with broadcasters or online platforms, in the IT sector or in many other conversations with politicians in Berlin or Brussels. I would like to thank our staff very much, and with great pleasure, for their commitment and their many successful activities. Dear colleagues on the Managing Committee, Georg Oeller and Lorenzo Colombini, I can only say thank you to you, too, for the good cooperation once again, and of course I am happy to do that, too! Dear Ralf Weigand, I thank you very much as Chairman of the Board for the constructive and critical cooperation in a difficult year. This thanks also goes out to your two deputies Stefan Waggerhausen and Götz von Einem as well as all of your colleagues in the Supervisory Board. They found each other well in a changed set-up last year and proved to be happy to take decisions, even though personal meetings were hardly possible to hold. Virtual meetings also left a mark on the voluntary work in other committees. Nevertheless you, dear members with honorary activities, were able to move a lot. I would also like to thank you for that.

Strategic items

Dear members, in the last few years, I regularly reported to you on the long-term strategy. In 2018, it was adopted by the Supervisory Board, as a framework for our strategic further development. We were able to continue with this strategy in the past financial year. An example for how we are implementing our long-term strategy: MusicHub. MusicHub was founded in 2020 by GEMA in cooperation with the digital distributor Zebralution where GEMA holds a majority stake. MusicHub is a DIY platform via which music creators can organise, manage and distribute their music independently and easily. For this, MusicHub is providing a broad range of digital tools. In the past year, MusicHub

then succeeded in taking the step from the beta test stage to regular operations, initially exclusively for GEMA members. More recently, the platform opened up to non-members, and its expansion is continuing.

Another example for our strategic activities is the digital music detection, or what we refer to as monitoring. This technology also includes and identifies online music usages comprehensively and correctly. Data which is vital for the quality of our licensing and distribution. GEMA already uses monitoring results, e.g. when it comes to the recognition of TV and radio programmes or, via ICE, also in the online sector. So far, GEMA is receiving said data from external providers but because the results of monitoring are a central element of our core business, we are currently finding out whether we can take such a key technology into our own hands.

Cultural activities

From technology to culture: The Deutsche Musikautorenpreis no longer exists, but the Deutsche Musikautor*innenpreis does (a more gender-neutral and inclusive wording in German for the German Music Authors' Award). After the Award had been completely suspended in 2020 and was "handed over virtually" in 2021, it was a real joy to have the 13th award ceremony as a hybrid event this year. A face-to-face event, even though there were only 150 people attending. However, simulcast via live stream for the first time. 18 composers and lyricists were honoured on 24 March in Berlin. The Lifetime Achievement Award went to Vinko Globokar, a formative representative of the Avantgarde.

It was also a pleasure to welcome the new patron Claudia Roth, State Minister for Culture and Media at the event. She stayed until the end of the event, something that speaks both for the award ceremony and the patron. She impressed how the award provided composers and lyricists with the very stage they deserved for their compositions and lyrics.

So there was joy all around, joy about the awards, about the personal reunion. All too understandable! At the same time, there were also quiet tones, humility in the face of the war in the Ukraine. It was important for us to show: Even in times of crisis, culture must raise its voice.

And the day before yesterday, the Fred Jay Award was handed out, again in a face-to-face ceremony. Michael Jacobson, son of the award donor, had flown in from New York and experienced, with many of you, and with the award winner Aki Bosse the "Schönste Zeit" ("the best of times" – the title of a song by Bosse).

Politics

Let's look at the politics: In the last few years, I reported regularly on the copyright reform and the EU Directive. What did the reform bring us? As creators, you now have legal certainty that large platform providers must enter into licensing agreements. You now also receive remuneration from those platforms that had been refusing to conclude licensing agreements up to now.

And three weeks ago, the European Court of Justice ruled at the highest instance that the EU Directive is compatible with fundamental rights. A corresponding lawsuit by the Republic of Poland was dismissed. This means: The reform stands and the fairy tales of the allegedly threatening "censorship machines" and the supposedly imminent "end of the free internet" are a thing of the past, at the latest with this ECJ ruling. The judges clarify explicitly: Article 17 of the Copyright Directive ensures an "adequate balance" between various fundamental rights.

I have already reported how much the copyright reform has benefited GEMA in the negotiations with YouTube. We will, however, not rest on this success and our laurels because the provisions which are based on the reform, only apply to upload platforms ad YouTube but not for streaming services such as Spotify, Amazon Music or Apple Music. We are of the opinion: All relevant streaming providers must live up to their responsibility! Overall, there is a long way to go towards more fairness and transparency.

That is precisely our current endeavour: To make it even clearer to politicians, both in Germany and at a European level, that streaming must be better tailored to the needs of the creators. Streaming must enable them to make a

living economically. We have formulated a number of demands for this. I already mentioned one point: All relevant streaming providers must live up to their responsibility.

Other points are:

- We demand a fair share! Music streaming will only remain a success model in the long term if not only the labels but also the creators receive an adequate share in the remuneration.
- We want cultural diversity. Not only popular offers, but particularly cultural niches should be promoted.
- Usage reports must improve,
- playlists and matching algorithms must become more transparent,
- creators behind the music more visible,
- total buyout contracts must be stopped,
- and the remuneration of private copying must be extended to cloud services.

To substantiate the urgency of the situation with facts, GEMA commissioned a study together with its European sister organisations for the music streaming market in Europe which will be published shortly. Above and beyond that, GEMA will present its own streaming study in September in Berlin and at the Reeperbahn Festival in Hamburg. In it, we will be highlighting the situation of the music creators in the German streaming market. For these studies, a member survey is planned. You will receive an email from us in the coming days which leads to a questionnaire. We value your experience and each reply will be taken into account for the study. Both studies provide the content and foundation for all further measures.

Dear members, the copyright reform has been a success overall, it improves the standing of the music creators. It is, however, only a first step on a long path to make music streaming much fairer and more transparent. The political discussion about the situation of the creators has only started now. GEMA is in a regular exchange with the governing parties in Berlin and we feel that there is a readiness to actively tackle this matter. Our issues are heard there!

I am convinced: With your support and in close exchange with our sister organisations, with other allies and with the political players, we can reach our objectives. We want to put on the pressure on the YouTubes, the Facebooks, the Spotifys and the Amazons of this world so that they finally live up to their responsibility! We want their might, you could nearly say their almightiness, to be gradually limited just like it can already be felt in other areas. So that the focus is not on the interest of the corporations but of the creators and the consumers, because that does not need to be a contradiction!

GEMA will continue on this path. We can only go this way! Firmly resolved, with you at our side. As preservers and promoters of the diversity of music in our country. For the visibility of all the creative people, and for ensuring that you can actually enjoy an economic existence as a result of your creations!