



## **INFORMATION**

# **IMPORTANT CHANGES TO THE GERMAN COPYRIGHT ACT**

### **STANDARDISATION OF THE TERM OF PROTECTION FOR MUSICAL COMPOSITIONS WITH LYRICS SINCE 01 NOV 2013**

On 25 April 2013, the German Bundestag enacted important amendments to the German Copyright Act (UrhG), by means of which the so-called "Copyright Protection Term Directive" (Directive 2011/77/EC on the term of protection of copyright and certain related rights) was implemented into German copyright. A particularly positive outcome from GEMA's and its members' perspective was the standardisation of the term of protection of so-called "musical compositions with lyrics/words" (songs, operas, operettas, musicals etc.) that came into force on 1 November 2013.

### **BACKGROUND AND CONTENT OF THE LEGISLATIVE AMENDMENT**

In some EU member states, a uniform term of protection for musical compositions with lyrics had already existed prior to 01/11/2013 i.e. where the copyright in the music and the words expired uniformly 70 years after the death of the last surviving author. In Germany and other member states, however, the term of protection had so far been subject to an independent and separate calculation for music and lyrics: Based on the previous legal situation in Germany, the protection under copyright for the music of a song ended 70 years after the death of the composer, and the protection under copyright for the words ended 70 years after the death of the lyricist, provided that the music and the text were not created under the terms of a co-authorship.

The Copyright Protection Term Directive thus causes a Europe-wide standardisation in terms of the protection term of a musical composition with lyrics now being 70 years after the death of the last surviving author. A prerequisite is that music and lyrics were specifically created for the respective musical composition with lyrics - i.e. for the joint/combined use. This is usually not the case if an author combines a pre-existing work with his/her own work by retroactively setting it to music, for example.

## GEMA INFORMATION ON ARRANGEMENTS ELIGIBLE FOR PROTECTION

The German Bundestag has resolved the following in order to implement the Copyright Protection Term Directive:

**In Art. 65 UrhG (German Copyright Act), the following paragraph (3) shall be added:**

*"The term of protection of a musical composition with text expires 70 years after the death of the last surviving of the following persons: the author of the lyrics, the composer of the musical composition, provided that both contributions were specifically created for the respective musical composition with words. This shall apply regardless of whether these persons are designated as joint authors."*

**In addition to the above, a new Art. 137m UrhG will be added which contains the following provision in paragraph 2:**

*"Article 65 (3) shall apply to musical compositions with words whose musical composition or lyrics were protected in at least one Member State of the European Union on 1 November 2013 and for musical compositions with words created after that date. Where the protection of the musical composition or of the lyrics is revived in accordance with the first sentence, the revived rights are accorded the author. However, any act of exploitation commencing before 1 November 2013 may be continued in the context provided for. Equitable remuneration shall be paid for any exploitation after 1 November 2013."*

## CONSEQUENCES OF THE LEGISLATIVE AMENDMENT

As the term of protection for musical compositions with lyrics is now also a uniform 70 years after the death of the last surviving author pursuant to German Copyright, the term of protection of the works part pertaining to the author who died first is extended compared to the old legal situation. Based on the transitory regulation in Art. 137m (2) UrhG (new version), the protection of work parts of a musical work that had become public domain in the past, can be reactivated with effect from 01 November 2013. For works administered by GEMA this implies that the relevant work parts shall be considered for licensing and distribution purposes from 01 November 2013 onwards. A prerequisite for the above is, however, that the respective rights holder has (re)signed a Deed of Assignment with GEMA and provides GEMA with the necessary details required for the realisation of the legislative amendment by means of the form "Additional work information on the combined term of protection".

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