

GEMA Members' Assembly

Berlin

17 May 2018

Report of the CEO

Dr. Harald Heker

Ladies and Gentlemen,
dear members,

At the beginning of each year, GEMA invites representatives from political, cultural and media backgrounds in Germany and Europe to a political New Year's reception. We take this opportunity to campaign for authors' matters with the decision makers. Even if this year's reception has been quite a few months ago, I would like to come back to it.

In front of 150 guests, the constitutional rights expert and former Federal Constitutional Court judge Udo Di Fabio held a blazing speech for authors' rights. It was based on his study "*Urheberrecht und Kunstfreiheit unter digitalen Verwertungsbedingungen*" (Copyright and artistic freedom under digital management conditions), a study which GEMA had commissioned him with. In it, he investigated the extent to which German and European legislators are obliged from a constitutional rights perspective to protect the existence of authors. Di Fabio clearly set the record straight regarding romantic notions of creators who merely live for their art and are not interested in money at all. He relegated the "claim of innocence" of the big internet platforms "*We are only a platform*" while they're earning billions with the works of creators to the rubbish heap of history once and for all.

It is a trivial economic insight according to Di Fabio that an appropriate share of the values which platforms capitalise for themselves must flow back to the authors. One would assume that such positions are self-evident, that it's a question of "common sense", of fairness and of justice. I therefore find it rather more remarkable and shocking that - and that is why I mention this political New Year's reception - that these statements have attracted attention. Unbelievable, therefore, that we still have to fight so hard for authors' rights in such an environment, in fact, that we even still have to talk about it at all!

It's a very unfair, an extremely unjust transfer of value. And the market doesn't fix it, no, it's quite the opposite. This is something we have been experiencing in the music business for quite some years. The government finally has to actively get involved here. Di Fabio appeals, together with us, to the German and European legislators, to finally create the legal basis for a remuneration of the creative

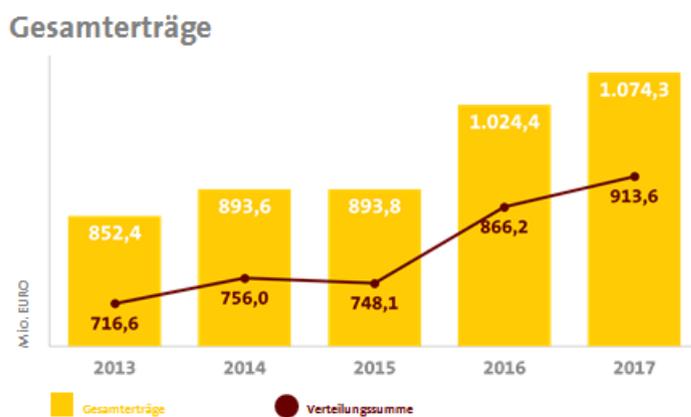
services on the internet. Both from a financial and a legal perspective - providers must be liable!

This appeal by the constitutional rights expert has been launched just right on time. After years of discussion – and lobbying work by the collective management organisations – the European Commission has picked up the issue of the transfer of value in their current draft Directive on the Copyright in the Digital Single Market on which I had already reported in the last years. The European Parliament and the Member States are expected to decide on this matter during this year. Di Fabio’s study enables us to represent our position with even more vehemence.

Summary of the past financial year

Time for some numbers and a summary of financial year 2017:

Total revenues

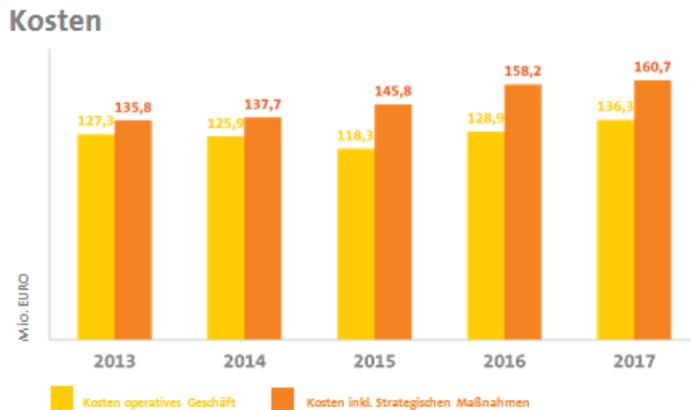


2017 has been the most successful year in the history of GEMA in terms of income. With collections of €1,074.3bn, the billion Euro mark could once more be exceeded, an increase of nearly €50m. Another new record high are pay-outs to rights owners of €913.6m. (*yellow: total revenues; brown: distributable amount*)

The outstanding work of all collection areas contributed to this extraordinarily positive result. Another one-off financial item has positively influenced the income trend: a ZPÜ pay-out. The ZPÜ, Central Collection Agency for Private Copying Rights, is a conglomerate of GEMA and eight other collective management organisations in Germany. It collects statutory remuneration entitlements for private copying.

ZPÜ had agreed with the associations of the hardware industry in 2016 how products such as smart phones, tablets and PCs should be paid for the period 2012-2016. The first partial payment was made in 2016, in 2017 GEMA received further income at a level of several million Euros.

Cost



The total expenditure in 2017 amounted to €160.7m. The cost rate was 14.96%. Expenses were therefore slightly higher than in the previous year but the cost rate actually lies below the previous year. In this context, the cost for operational activities made up €136.3m, the cost rate equalled 12.68%. We spent €29.3m for strategic measures. That is an investment into the future:

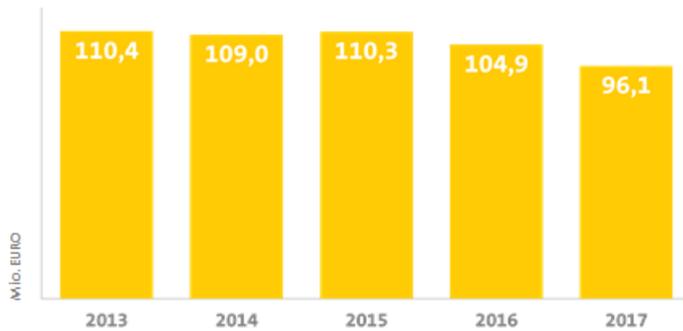
- into a further modernisation of our IT landscape
- and the cooperation with ICE, International Copyright Enterprise, our joint enterprise with PRS and STIM. Via this enterprise, the GEMA repertoire will be licensed for all notable online platforms: not only for Germany but also for Europe and even beyond. *(yellow: operational business costs; orange: costs including strategic measures)*

I have been updating you regularly on ICE and the continuation of our collaboration. ICE is running according to schedule and it has been emerging more and more that GEMA has made the right strategic decision with this international cooperation initiative.

Next, I shall elaborate on the **income generated from the individual collection areas**.

First, on the revenues from **sound recordings, audiovisual recordings, data media**:

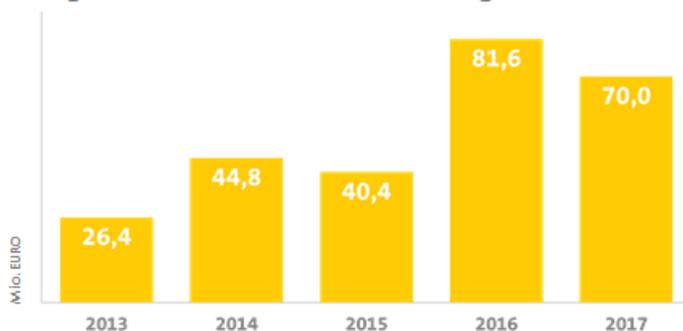
Erträge Tonträger, Bildtonträger, Datenträger



The income from the sound recording business amounted to €96.1m, a decrease compared to the previous year by about €9m. Even if the decline has been lower than expected, the income in this sector have nevertheless now fallen under the 100-million-Euro threshold for the first time.

Positive news from the **online sector (download and streaming):**

Erträge Online: Download, Streaming



In the online sector, we had collections of €70m. Compared to the €81.6m in 2016 this appears to be a decrease, however, in real numbers, it is not. The high collections in 2016 were due to the agreement we concluded with YouTube in that year: Back payments for the years 2009-2016 created this type of one-off financial item. In 2017, we did not have this effect. That means that we need to compare this year's €70m with the €50m from 2015 in order to provide a fair picture. That's when we see a considerable increase of the online remuneration.

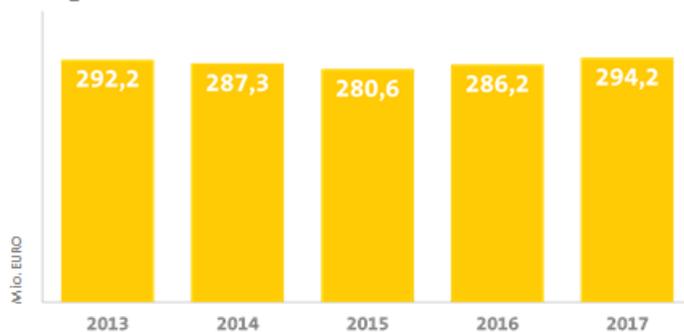
Yesterday, you followed our proposal regarding the distribution rules for the amounts received from YouTube, so GEMA is likely to be able to pay these monies

out to you in the course of the year. These rules will then also apply to other similar online platforms. One important step.

For the current year, we are expecting another increase in online income. The income in the audio sector are growing and GEMA has managed, after tough negotiations, to also reach an agreement with the big national and international providers – with Netflix, Amazon and Maxdome. A very positive result for our members, since they will in future, but also in retrospect, receive remuneration for the usage of their works via these platforms.

Revenues from Radio and TV

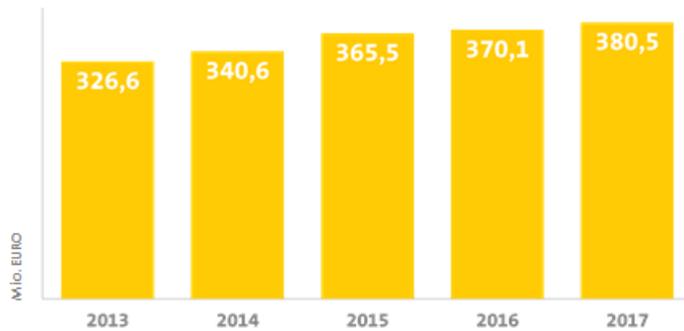
Erträge Rundfunk und Fernsehen



The broadcast collections reflect stable income at a relatively high level: €294.2m, an income level never reached before. The increase compared to the previous year is mainly due to the agreement we reached with the private and public service broadcasters for the years from 2016 onwards. These agreements with the broadcasters now run until the end of 2020. Our revenues continued to rise during the contractual period even more. In a time, where radio and TV are used less and less, this is an even more positive achievement that deserves recognition, especially as we know that the broadcasting income of some of our sister societies have already started to decrease significantly.

Our regional offices have been constantly developing further.

Erträge Außendienst



The revenue growth of the regional offices compared to 2016 amounts to €10.4m, and we have raised the earnings targets for 2018 even higher.

To sum up, I can state that 2017 has been another good year for GEMA and its rights owners, a really good year, in as much as the economic results are concerned!

Publishers' participation in payouts

2017 was, however, also a year which was mainly characterised by the matter of publishers' participation. This subject is something that kept GEMA and its members in all categories rather busy.

To recap: Based on the judgement of the Berlin Higher Regional Court dated November 2016, GEMA was not entitled to pay out a share in favour of the publishers from its collections like it had been doing before. GEMA was instrumental in having a legislative change successfully implemented, one month later, in December 2016, which allowed a publisher participation in future. Since this law does, however, not apply retroactively, authors and publishers had to mutually clarify the publisher participation in each individual case for the years 2012-2016. In order to support its members in doing so, GEMA launched an online process at the beginning of 2017 – the so-called Electronic Confirmation Process (EBV/ECP). Until January 2018, music publishers were given the opportunity to upload information on their legal relationships with their authors and the relevant and required documentation. Via this channel, they provided GEMA with publisher participation details for millions of works for the past and the future, for exploitation rights and statutory remuneration entitlements. We have processed

this information and returned millions of registration confirmations for your information and to provide you with an opportunity to check them.

There are now still two major tasks ahead of us: We are going to migrate the EBV/ECP into a continuous control process for the notification of new works and agreements and on the basis of the results of the EBV/ECP, we are going to correct the pay-outs between July 2012 and December 2016.

So far, there has not been a reversal of payments to this extent ever. The mastery of the volumes to be processed has been and is a real challenge, since all pay-outs for four and a half years must be newly calculated, irrespective of how many works really have to be rebooked effectively. And you know, any change at one point triggers changes at many other points. Nothing that we could just push in between two regular payment dates. After all what I am hearing from the project, I am rather convinced that we will be able to manage the reversal this year – in line with our resolution of last year.

Even with all the confidence regarding an implementation according to schedule – one “but” remains: The experts that we will require for this project – and we should consider ourselves lucky that we have experts for all of those tasks in-house and can include them for the project – will be missed in other places and this has been the case since the date of the legal decision in November 2016. As a consequence, the conclusion of many other important projects has been delayed and the publisher participation has had an effect on our daily business. In some areas, we could not and still cannot always sustain the response and processing times which you are used to. We would like to take the opportunity to ask for your understanding.

Even though this process has been and continues to be a feat of strength for all parties involved, even though it has been emotionally challenging at times for authors and publishers, I can still say: We were able to managed the consequences of the judgement thanks to joint efforts by authors, publishers and GEMA. Efforts which ultimately serve one joint goal – to secure the tried and tested system of the joint participation of authors and publishers! We managed this, without creating any schisms within our membership, as witnessed by some other collective management organisations affected by this issue. GEMA has therefore shown real solidarity and community!

An appropriate moment to issue my thanks. Thanks to the many GEMA staff members who have been and still are getting involved in the topic of publisher participation! Also, naturally, the extremely positive business results that I presented earlier, would not have been able without the outstanding work of all our staff members. I would also like to thank my fellow Management colleagues, Lorenzo Colombini and Georg Oeller. The collaboration was pleasant, constructive and successful for GEMA.

Another thanks to our committees! Their work cannot be praised highly enough, both in terms of quality and quantity. It is admirable to which extent and at which level of engagement many of you have been involved voluntarily for the benefit of their colleagues in the profession. I'd like to specifically highlight the representatives of the Supervisory Board: Dear Ralf Weigand, for the first time in a General Assembly on the podium. You have, off the cuff, fully filled the position of the Chairman of the Supervisory Board. I would like to extend my respect and a cordial thank you for the good collaboration! At this point, I would have liked to also thank your predecessor Enjott Schneider, but he sends his apologies, since the performance of a new opera is keeping him him thrilled in China. We would like to wish him an inspirational time out there! Dear Stefan Waggerhausen, it has only been one year that you have been holding the position of the Deputy Chairman of the Supervisory Board. Since you have been a member of the Supervisory Board for many years already, you quickly found your feet from a difficult situation into this position. Many thanks for the cooperation! Dear Karl-Heinz Klemnow, you have been representing your publisher colleagues for much longer than anyone else in the Supervisory Board. Today, you have taken your place on this podium for the last time. For decades, you have been involved at an extraordinary level at GEMA. You have let your diverse knowledge and experience flow into countless meetings, gatherings and discussions in a reliable and successful manner. The achievements that you have gained throughout are enormous. All of us at GEMA – I am sure I may say so – really value your work very much! Many, many thanks, dear Karl-Heinz Klemnow!

Outlook

Let us now take a look on the current business year. We continue to strive for growth in 2018 for all our collection categories – except for the sound recording business, where another decline is inescapable. Special financial items of a similar scope such as we have seen over the last two years are unlikely to occur again in this financial year, just as the level of expenditure is not expected to be subject to any noteworthy changes.

GEMA's income over the last years has had a steady growth. We have successfully adapted to the changes in the market. We managed to more than compensate for the income we lost from sound recording business by increasing the revenue in other sectors, but also by way of the income from digital music use. We have also reinforced our internal structure, e.g. in terms of our IT and regional offices. All of the above resulted in growing income over the years which we can pay out.

Increasing income, however, is not a sure-fire success. In future, parts of our income from the traditional business will fall away one after the other: Income from the sound recording business and radio, and payments from private copying are expected to decrease. We also need to reflect how GEMA can make new sources of income.

There are also other developments in our environment which may have a radical impact. Data volumes are set to grow further, and we need to master those. Digitisation becomes more and more important, and we need to realign our internal processes and the communication with our members and customers. Competition among collective management organisations is also growing stronger, new rights administrators are currently pushing into the market. GEMA must adjust to this changing environment in time in order to be able to hold its ground and to defend its rights. Supervisory Board and Managing Committee are aware of this. We have therefore been intensively involved in planning the future beyond the tried and tested medium-term planning in three-year-terms. I will hopefully be able to report more on that next year!

Politico-cultural activities

While I just mentioned a glimpse into the future, let's for now take a look back at the last 10 years:

Deutscher Musikautorenpreis [German Music Authors' Award]

10 years ago, GEMA launched the Deutsche Musikautorenpreis. We wanted to show the “other” side of GEMA by way of this award. GEMA not only as a collection agency, but also as a cultural institution. Today we can say that the Deutsche Musikautorenpreis has established itself, it has turned out to be a great success. Authors honour authors based on the criteria: Quality and creativity. Each year, changing categories are chosen. The Deutsche Musikautorenpreis is therefore a mirror of the musical diversity and places the cultural bandwidth of our composers and lyricists in the spotlight.

On 15 March, the award ceremony took place for the 10th time in Berlin. Klaus Doldinger received the lifetime achievement award and enthused the audience by performing a small concert. Other highlights of the evening: There were many young people among the audience at the award ceremony and at the GEMA party. This shows the level of acceptance of the award among the next generation authors – something that is incredibly important for the future of GEMA!

While the age mix was a success, there were discussions in the run-up to the award ceremony regarding the less successful mixture: between women and men. When we presented the first nominees this year, there was criticism in the social media. A nearly pure male jury, and the nominees were also nearly all men. What was GEMA thinking? Well, this was partially due to facts and partially due to unfortunate events. The facts: GEMA has 87% male and 13% female members. The share of women among full members is even lower, at only 7%. Nevertheless, GEMA has been repeatedly trying to keep a gender balance. What's unfortunate is that all female candidates had rejected the invitation to be members of the jury.

Fact: At GEMA, we firmly believe that in the world of music, men and women should participate equally! In the Members' Assembly 2017, you have thus resolved a new clause for our Statutes with the aim to strengthen the share of women in all committees.

Fred-Jay-Preis [Fred Jay Award]

The day before yesterday, during our membership party, the Fred Jay Award was handed over – to a woman. Another impressive anniversary: The Award has had its 30th Birthday! It was given to Inga Humpe this year. The jury awarded it to her because she “*contributed to influencing Zeitgeist, language and sound of the German pop music over a long period of time*“. Inga Humpe was pleased that a jury which is made up of renowned German lyricists had chosen her. Also because the Award, in her own words, was not handed out based on commercial success but content-related reasons. It was a nice evening!

Radiokulturpreis [Radio Culture Award]

Our most recent award recognises culture on the radio: GEMA has been awarding it since 2015 to express its appreciation vis-à-vis radio channels which are supporting music culture in a particular way. And since the General Assembly has set the criteria for it, we award the prize at the end of it.

Dear members,

Music can comfort, relax, motivate, move, enthuse, touch you and make you happy. Music can do so much. In our world, this is happening in more places and more moments than ever before – based on a seemingly endless selection. We owe this to the internet and to the providers. Platforms have made your creations available to many people. This is, in principle, positive, but dissonance has arisen due to the fact that platforms earn billions with these works of which you authors must be paid a fair share. This should be a matter of course, a constitutional right! Such fair compensation or appropriate remuneration is also in the interest of society as a whole. The cultural and creative industries in Europe are, after all, top employers. They contribute to diversity, innovation, strength and prosperity on our continent.

Earlier, I mentioned the draft Copyright Directive of the European Commission. The draft constitutes an important first step. But it does by far not guarantee fair participation of creators. The text is now subject to discussion at European Parliament level and by the 28 Member States. In a few months, the Directive will be decided upon, and it will form the basis for future jurisdiction in all European countries. It is vital that we don't leave the field open to the opponents of copyright in the discussions on the Directive, but that the voice of creators gets heard! As a consequence, a petition was launched: “*Make the internet fair*”

Said petition is addressed to the European Parliament and the Member States with the appeal: Stop the transfer of value! Make the internet fairer! Show respect for authors' rights in the digital world!

Artists, authors, creators – you are all asked to sign this petition and to defend your rights. Please take part! There are still hardliners in the Parliament and in the Member States for whom our arguments do not count. And the lobby of the major platforms must not be underestimated. We still haven't prevailed.

Across Europe, more than 27,000 creators have already signed the petition, nearly 4,000 of which were from Germany. There is still space for improvement, after all GEMA has far more than 70,000 members! Please bolster up the politicians who are clearly supporting the Directive and your rights. I therefore call on you again: please sign. At the moment, the most urgent point on the political agenda is to stop this transfer of value.

Udo Di Fabio expressed it as follows: *“Those who take the opportunity to manage their rights from artists, is also taking away part of their artistic freedom.”* And that's why GEMA is going to fight. With you. For your rights. For your existence! This shall remain **the** duty of GEMA!