

## VG MUSIKEDITION

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# Information pursuant to Art. 51a Para 1, No. 4, Para 2 of the German Collecting Societies Act (VGG)

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*This document is available in German and in English. In case of inconsistencies between the German and the English version, the German version shall prevail.*

VG Musikedition is authorized to grant collective licences with an extended effect to users in certain sectors since 1 December 2022. Outside parties may object to the granting of rights. However, they may also enter into a rights agreement and, therefore, become beneficial owners themselves.

What this means in detail is explained below:

## 1. Collective licences with an extended effect

- **What is a licence?**

A (“normal”) licence is the contractual permission to use an authorised party’s rights, in a work protected by copyright, in a specific way. As a rule, song lyrics and musical compositions embodied in sheet music are protected by copyright. A licence is required because, according to the German Copyright Act (“UrhG”), use of works protected by copyright is usually only lawful with the consent of the rightsholder.

- **What does a rightsholder mean?**

A rightsholder is any person who is the owner of a copyright or a right derived from such a copyright. A rightsholder can, for instance, be the author and a music publisher.

- **What does user mean?**

A user is any person who performs an act of use pursuant to copyright law that requires the permission of the rightsholder. Users therefore require licences.

- **What is a collective licence?**

Unlike a “normal” licence, a collective licence not only permits use of a single work by a rightsholder, but the use of a variety of works by different rightsholders in a particular category of works (e.g. works of music).

Collective licences are granted by collecting societies such as VG Musikedition.

- **What are beneficial owners?**

Beneficial owners are parties that maintain a direct management relationship with a collecting society, i.e. that usually enter into a contract with the collecting society in respect of the fiduciary management of the rights. In the case of VG Musikedition, such a contract is called the "Rights Agreement" (see 5.)

- In addition, VG Musikedition administers the rights of rightsholders who are not beneficial owners but who are associated with VG Musikedition by way of an indirect administration relationship. The indirect management relationship arises from so-called representation agreements of VG Musikedition with foreign collecting societies. These are agreements by which a foreign collecting society commissions VG Musikedition to administer the rights granted to it within Germany. In return, VG Musikedition commissions the foreign collecting society with the task of administering the rights granted to it abroad.

- **What is an outside party?**

An outside party is a rightsholder that does not maintain a contractual relationship - direct or indirect - with VG Musikedition regarding the respective use. Therefore, the rightsholder has neither entered into an authorisation agreement with VG Musikedition nor does VG Musikedition exercise the authorised party's rights by way of a representation agreement.

- **What are collective licences with an extended effect?**

Conventional collective licences only apply to the works of rightsholders that are in a management relationship with the collecting society. However, under certain conditions, which are provided for by Art. 51 et seq. VGG, collecting societies may also grant licences for works of outside parties. The consent of the outside parties is not required for this. However, the outside parties may object to the granting of licences to their works by the collecting society (see Section 4.).

- **Why do collective licences with an extended effect exist?**

Collective licences with an extended effect enable users of works to access as complete a repertoire as possible. If users were required to obtain the rights from outside parties separately, this would involve disproportionate effort and high costs for the users.

- **VG Musikedition is authorized to grant collective licences with an extended effect since 1 December 2022**

Since 1 December 2022, VG Musikedition has fulfilled the legal requirements for granting collective licences with an extended effect, as specified in Art. 51a Para 1 VGG:

- VG Musikedition is representative (Art. 51a Para 1 (1), Art. 51b, VGG). It administers rights on behalf of a sufficiently large number of rightsholders which are to be the subject of the collective licence (see 3.) on a contractual basis.
- It is unreasonable to expect a respective user or VG Musikedition to obtain permission to use from all the outside parties concerned (Art. 51a Para 1

(2), VGG). This is because obtaining permission from the rightsholders in each individual case would be burdensome and impractical to such an extent that the required granting of a licence would be unlikely.

- The granting of rights is limited to use in Germany (Art. 51a Para 1 (3), VGG; see 3.).
- VG Musikedition hereby complies with its duty to provide information pursuant to Art. 51a, Para 1 (4), VGG. The period referred to therein (the so-called transparency period) expired on 30 November 2022 so that licences can be granted since 1 December 2022.

The third parties affected by the intended granting of rights (see 3.) may object to the granting of rights (see 4.). The granting of rights would, insofar, be ineffective.

Since 1 December 2022, VG Musikedition is authorized to grant collective licences with an extended effect (see 3. for greater details).

## **2. Effects of collective licences with an extended effect for outside parties**

- **Is an outside party required to consent to the use of their rights in the case of a collective licence with an extended effect?**

No, consent of an outside party is not required (see also 1.). The “extended effect” lies precisely in the fact that the collecting society can permit use of the rights in the outside party’s work without the outside party being required to agree to it.

However, the outside party may object to the granting of rights (see 4.).

- **What is the position of outside parties in relation to beneficial owners?**

With regard to the granting of rights, outside parties have the same rights and obligations by law in relation to the collecting society as in the case of administration on a contractual basis (Art. 51 Para 3, VGG). Outside parties must, insofar, be placed in the same position as if they had entered into a rights agreement with the collecting society. This means first and foremost that the same licensing conditions apply to the licensing of the rights of outside parties in relation to users as apply to the works of beneficial owners. In addition, outside parties participate in the revenue from utilisation in the same way as beneficial owners, based on the distribution plans of VG Musikedition. This also includes deductions for social and cultural purposes (Art. 32, 26, (4), VGG). Conversely, outside parties may also make use of such subsidies and support.

- **Are the licensing conditions for outside parties the same as for beneficial owners?**

Yes, the licences granted by the collecting society to users must have the same conditions for outside parties as for beneficial owners. There must, in particular, be no preferential rate in the licensing of outside parties’ rights.

- **What does equal treatment mean in the internal relationship with the collecting society?**

Equal treatment of outside parties and beneficial owners in the internal relationship relates, in particular, to the distribution of revenues. Therefore, the distribution

plans that provide for the distribution of revenues must provide for the same provisions for beneficial owners and outside parties. The link to the current distribution plans can be found here: <https://www.vg-musikedition.de/service/statuten/statuten>.

VG Musikedition advises outside parties to contact it in this respect. Then contact information can, in particular, be collected. In addition, VG Musikedition draws the attention of outside parties to the possibility of becoming beneficial owners (see 5.).

### 3. Granting of rights

- **For which types of use/sectors is VG Musikedition authorized to grant collective licences with an extended effect?**

VG Musikedition is authorized to grant collective licences with an extended effect for the following types of use/sectors (in each case to the extent set out in Art. 2 as for Art. 3.II., Para 2 and 3 of the Rights Agreement):

- Reproductions (Art. 16 Para 1 UrhG (German Copyright Act) in school lessons, (including preparation and follow-up of lessons as well as for use in compulsory elective subjects or other events organised by the school),
- Reproductions (Art. 16 Para 1 UrhG) in childcare facilities,
- Reproductions (Art. 16 Para 1 UrhG) in adult education centres,
- Reproductions (Art. 16 Para 1 UrhG) in non-commercial institutions of education and further education,
- Reproductions (Art. 16 Para 1 UrhG) in vocational training institutions in the number required for a school class (class size),
- Reproductions (Art. 16 Para 1 UrhG) for state examinations in schools, universities or in non-commercial institutions of further and higher education in the number required for this purpose (examination group size),
- Reproductions (Art. 16 Para 1 UrhG) for congregational singing (collective singing) in religious services, events similar to religious services and other church events, with the extension of incorporeal reproduction (visualisation on screens or by means of beamers) and making religious services available to the public (Art. 19a UrhG),
- Reproductions (Art. 16 Para 1 UrhG) in family education centres, old people's and welfare care facilities, hospitals and other care and nursing institutions,
- Reproductions (Art. 16 Para 1 UrhG) in prisons and correctional facilities,
- Reproductions (Art. 16 Para 1 UrhG) in music schools and for music teachers,
- Reproductions (Art. 16 Para 1 UrhG) and making available to the public (Art. 19a UrhG) and broadcasting (Art. 20 UrhG) by way of song text

insertions during the transmission of religious services, events similar to religious services and other church events.

- Making available to the public (Art. 19a UrhG) or public reproduction (Art. 1 Para 1 UrhDaG) on platforms (services within the meaning of Art. 2 Para 1 UrhDaG).

- **What types of works are to be included in the licences?**

Musical works (sheet music and lyrics) included editions and works protected according to Art. 70/71 UrhG.

- **Which groups of rightsholders are covered?**

The collective licences with an extended effect will include the groups of music publishers, authors and editors according to Art. 70/71 UrhG.

- **Are licences also granted for the repertoire of foreign outside parties?**

Yes, there is no restriction with regard to the nationality of the right holders. The licences will therefore also cover the rights of foreign right holders that have no direct or indirect contractual relationship with VG Musikedition.

- **Does it only apply to use in Germany or also abroad?**

The intended granting of rights is limited to uses within the Federal Republic of Germany.

#### 4. Right to object

Outside parties have the statutory right to object to the granting of rights that affects them (Art. 51 Para 2 VGG).

- **Who can object?**

The outside party is entitled to object. This can be both the (original) author and the holder of derived rights of use (e.g. a music publisher).

- **What applies if one work or several works by different rightsholders are affected?**

Different rules apply here:

- If at least two works are combined in a joint utilisation, each outside party alone is entitled to object. This applies in any case if the outside party is also the sole rightsholder of the work.

**Example:** If the sole rightsholder of the lyrics of a certain song object, the musical composition may no longer be licensed in conjunction with the lyrics. Without a licence, the lyrics would then have to be omitted when used.

- If several persons have created a work together, there a so-called case co-authorship may apply. In such a case, the co-authors may only file an objection jointly.

- **To whom must the objection be directed?**

The addressee of the objection is VG Musikedition.

- **Does the objection need to be made in a certain form?**

No. The objection is not subject to any specific form. A justification is not required either. The objection should however clearly indicate which extended collective license it is directed against. If this information is missing or if the explanations are unclear or open to interpretation, VG Musikedition assumes that the objection is directed against all extended collective licenses that are planned or already in force.

The objection can be sent by post or by e-mail, for instance:

- By post to: VG Musikedition, Friedrich-Ebert-Str. 104, D – 34119 Kassel
- By e-mail only to: [mitglieder@vg-musikedition.de](mailto:mitglieder@vg-musikedition.de) (with qualified digital signature or signed PDF letter)

- **Does a deadline apply?**

No, the objection can be made at any time, including as a precaution.

- **What are the consequences of an objection?**

The consequences depend on when the objection was made.

- If an objection is made by the end of 30 November 2022:
- If an objection is made by the end of 30 November 2022, rights may not be granted (in the future) insofar as it applies to the outside party.
- Potential users are not entitled to use the works of the outside party due to a (future) collective licence with an extended effect to the extent of the objection.
- Objection from 1 December 2022:
- In the event of an objection as of 1 December 2022, the effective grant of rights shall end with effect for the future. Potential users are therefore no longer entitled to use the works of the outside party to the extent of the objection due to a collective licence with an extended effect.
- Use that has already occurred of the works up to the objection remains lawful.
- VG Musikedition informs users of the cessation of the granted right of use.
- The licensees must terminate their use within a reasonable period of time.
- No additional licences shall be granted with regard to the respective work of the outside party. The outside party shall also no longer share the revenue. However, an objection does not lead to the loss of a claim to remuneration for use that has already occurred.
- By declaring the objection, the objector automatically consents to VG Musikedition storing his/her data, publishing it on your website and passing it on to third parties (e.g. licensees concluding an extended collective license; supervisory authority) who have a legitimate interest in gaining knowledge of the objector. If the objector requests deletion of his/her data, this is automatically considered as withdrawal of the objection.

## **5. From outside party to beneficial owner**

Outside parties are equal to beneficial owners with regard to the granting of rights (see 2.).

To facilitate communication and the distribution of income, VG Musikedition points out the possibility for outside parties to enter into an authorisation agreement and, therefore, become beneficial owners. This is free of charge and of particular interest to outside parties that can assume that their works shall be used and generate income.

The link to the rights agreement and further information can be found at <https://www.vg-musikedition.de/service/statuten/statuten>.

If you have any questions about this please do not hesitate to contact us, e.g. on the following telephone number: +49 561 109656-0

If you would also like to become a member of VG Musikedition, you can find the appropriate forms at <https://www.vg-musikedition.de/jetzt-mitglied-werden>.