



**SWISS
PERFORM** 

Annual Report 2022

SWISSPERFORM – 2022 in brief

Gross tariff revenue 2022

CHF 61'245'968.43

(-1.7%)

<u>Members and principals</u>	<u>Promotion of cultural and social projects</u>	<u>Administrative expenses</u>
23'304 (+7.51%)	CHF 6'230'877.10	9.29% (2021: 8.43%*) Gross expens ratio: 13.00% (2021: 12.19%*)
<u>Employees: on average</u>	<u>Evaluated broadcast events audio sector</u>	<u>Evaluated broadcast events audiovisual sector</u>
32.36 (2021: 30.00) 26.9 Full-time positions (2021: 25.62)	3'819'082 (2021: 3'669'319) with 230'571 recordings in the audio sector (2021: 228'965)	73'165 (2021: 59'829) with 17'012 works in the audiovisual sector (2021: 13'785)

* See the explanations on administrative expenses under tariff revenues (p. 10).

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and tariffs*

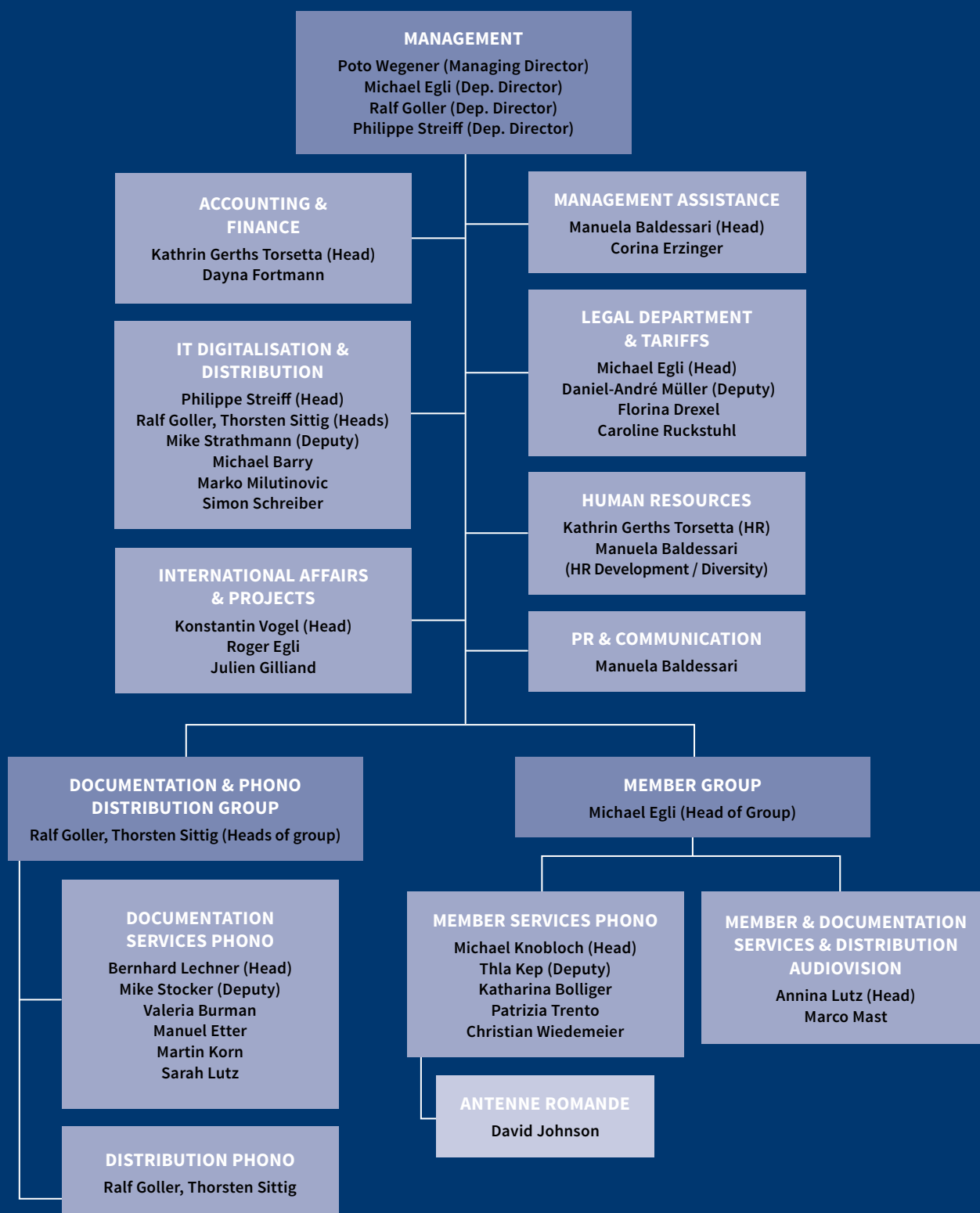
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*Organisation
and members*

The following persons worked for SWISSPERFORM at the end of 2022:



Offices



F.l.t.r.: **Michael Egli** (Deputy Director) Head of legal department, **Ralf Goller** (Deputy Director) Head of distribution, **Poto Wegener** (Managing Director), **Philippe Streiff** (Deputy Director) Head of IT & digitalisation

SWISSPERFORM – because culture is precious.

Guiding principle SWISSPERFORM

SWISSPERFORM ensures that creative artists are adequately remunerated for their works and thus contributes to strengthening culture in Switzerland and the Principality of Liechtenstein.

Mission

We act in the **interest** of our **members**. We **support** and **strengthen** them in exercising their neighbouring rights and ensure an appropriate remuneration. Our key tasks are the conclusion of tariffs and the collection and distribution of the resulting proceeds.

For our **members**, **partners** and **users** we provide attractive **services**. We recognise the developments in the cultural sector and search for suitable solutions for all parties involved.

We **strengthen culture** and through our work we contribute to making cultural creativity worthwhile. We provide **10%** of our **revenues** for **cultural** and **social purposes**.

We are **service providers in the digital environment**. We seize the opportunities of digitalisation and continuously adapt our services and way of working.

We provide our users with easy **access** to the **repertoire of our members**.

Values

We are loyal: Our members take centre stage; we know the different needs and support them equally.

We are transparent: Our members know and understand what we are doing, and they can review our work. We provide them with all necessary information in this regard.

We are efficient: We act in a targeted, cost-conscious, and performance-oriented manner. We do not aim for profit.

We are curious: We closely follow economic, technological, and legal developments and adapt continuously.

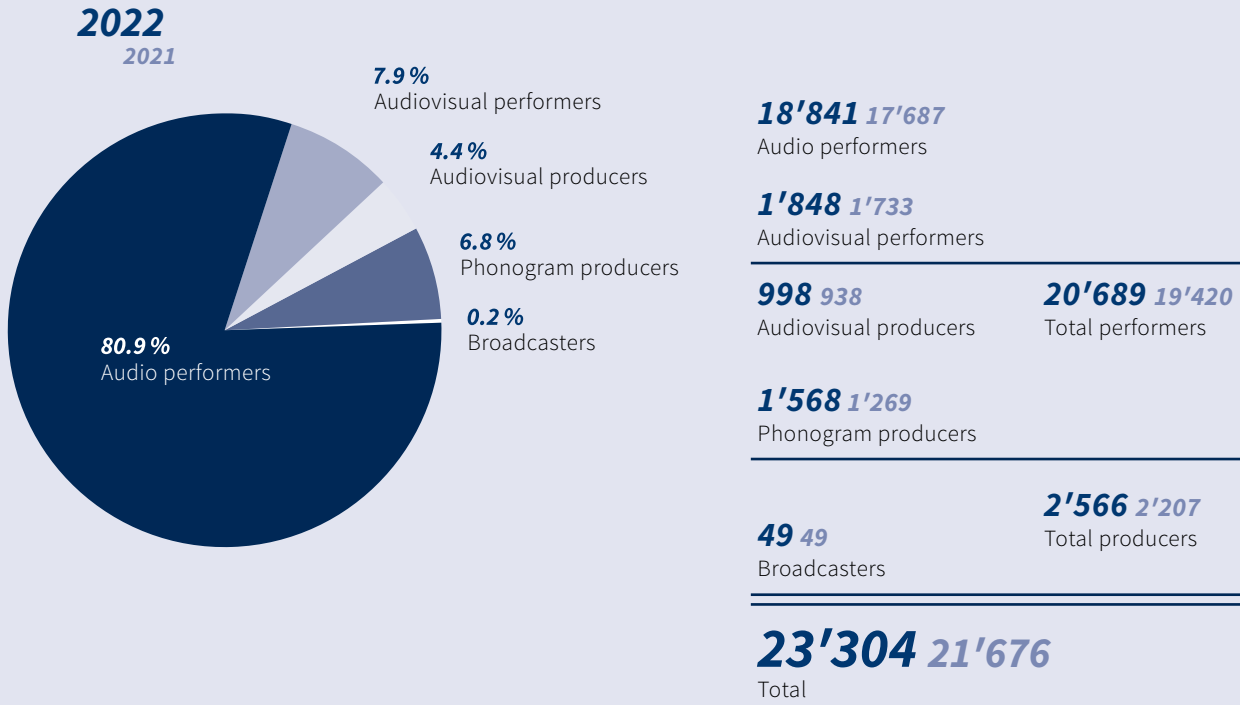
We are attractive: We offer committed employees an interesting working environment at the interface of culture, business and technology and support their development. We show trust and respect to our employees.

We are networked: We maintain a constant exchange with our partners in Switzerland and abroad and use synergies wherever possible.

Members

Member statistics

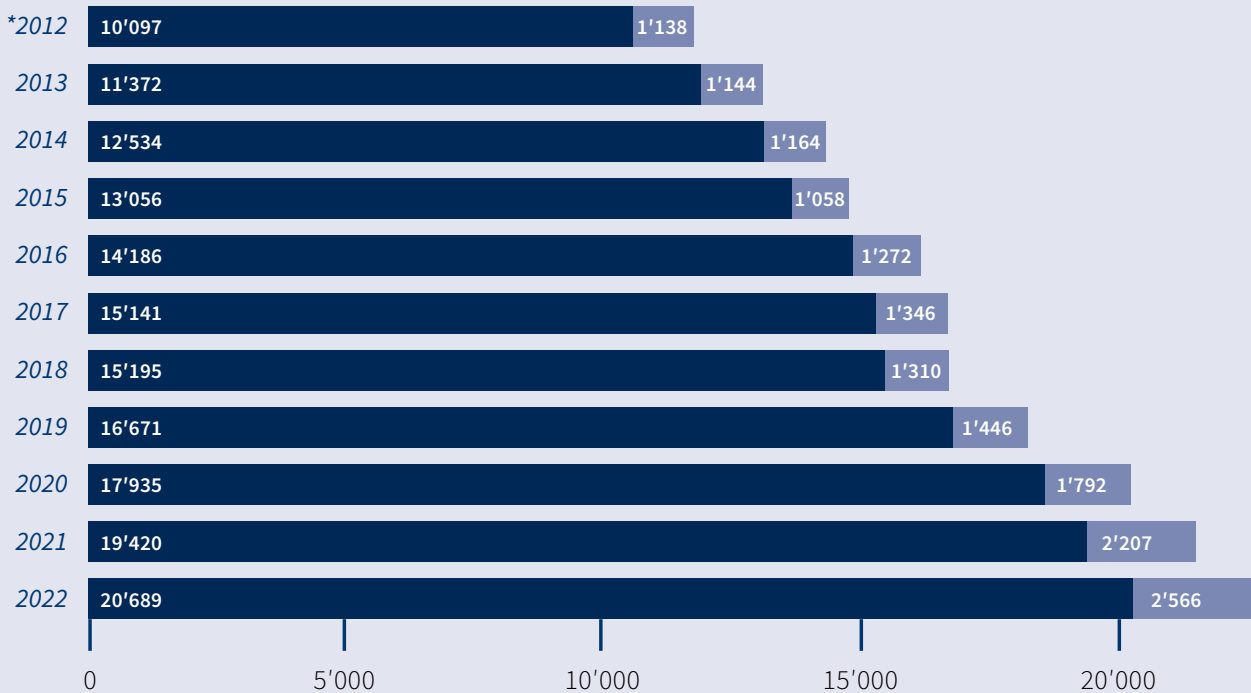
Number of members/principals per group



Members' development

- Performers
- Producers

*since 2012 principals incl.





*Collection
and tariffs*

Collection and tariffs

Tariff negotiations

In 2022, all tariff negotiations between the collecting societies and the users' associations were – like in the previous year – concluded by mutual agreement. This gratifying situation is marred only by the fact that the tariff approval authority, the Federal Arbitration Commission (FAC), has increased the procedural costs. The collecting societies disapprove of these cost increases and have filed complaints. They hope that the appeal courts will agree with them and that they can thus – in the interest of their rights holders – prevent reductions in tariff revenues.

CT 4i

Remuneration on digital storage media integrated in devices

As set forth in the Annual Report 2021, the collecting societies submitted a new CT 4i as Settlement Tariff to the Federal Arbitration Commission (FAC) for approval on September 27, 2021. This tariff provides, among others, a uniform remuneration for smartphones and tablets. Moreover, laptops hard disks and external hard drives were to become subject to a remuneration obligation for the first time. By order of May 21, 2022, the FAC approved of the CT 4i; the term of validity is from July 1, 2022 until December 31, 2023 with the possibility of an automatic renewal for another year.

At the same time, however, the FAC decided that from now on it would charge the collecting societies higher procedural costs. Thereby, the legal basis the FAC relies on is not the same as before. This could result in the FAC charging more than ten times higher costs in the future for decisions regarding the approval of tariffs – even if they are settlement tariffs. Therefore, on July 1, 2022 the collecting societies filed an appeal with the Federal Administrative Court against the FAC's decision regarding procedural costs. The appellate proceedings do not affect the actual approval of tariffs. At the time of the editorial deadline, these proceedings were still pending.

CT 4cs

Remuneration for the use of storage capacity in cloud storage

The collecting societies intend to make cloud services subject to a blank media levy in the future, as these storage facilities are also used for private copying of protected works. The negotiations in this regard with the users' associations representing the cloud service providers were already initiated in early 2021. However, before the Court of Justice of the European Union (ECJ) a case was pending (*Austro-Mechana v. Strato AG*), in which the question at issue was whether compensation for copies in the cloud is owed. However, given that a decision by the ECJ on such a fundamental issue could also have an impact on the Swiss legal situation, the negotiating partners agreed in October 2021

to suspend negotiations until the outcome of the proceedings before the ECJ will be available.

The expected decision of the ECJ was issued in March 2022. Fortunately, the court did not oppose the introduction of cloud remuneration. Therefore, the collecting societies resumed negotiations in May 2022. In the following months, tough discussions were held with the users' associations. At the time of the editorial deadline, the negotiations were still ongoing.

CT 8 / Reprography – CT 9

Use of protected works and protected performance in electronic form for personal business use in public administrations, libraries, in the industry, in the manufacturing sector and in the service sector

The CT 8 and 9 negotiations, which had already started at the beginning of 2021, finally resulted in an agreement among the negotiating partners. On May 31, 2022, the collecting societies submitted a new CT 8 to the Federal Arbitration Commission (FAC) entitled «Uses in Organisations», which also integrated the uses previously covered by CT 9. The texts of the previous two tariffs were massively shortened and simplified. In addition, the remuneration system was made more transparent. As far as tariff revenues are concerned, the collecting societies do not expect any significant changes compared to previous years. On December 2, 2022, the FAC approved of this new CT 8 with a term of validity from January 1, 2023 until December 31, 2027.

CT K

Concerts, concert-like performances, shows, ballets, theatre

In March 2022, the collecting societies and the users' associations from the concert, show and theatre industry started negotiations of a new CT K. By the end of the year, no agreement could be reached among the parties; for this reason, some associations gave notice of termination of the tariff as per the end of 2023. The negotiations were continued in 2023. At the time of the editorial deadline, the negotiations were still ongoing.

Tariff revenues

High income despite additional Corona impact

The record result of the previous year could not quite be matched. Nevertheless, SWISSPERFORM also recorded high revenues in 2022 and was able to record income of more than CHF 60 million.

SWISSPERFORM's 2022 tariff revenue amounted to CHF 61.2 million, i.e. CHF 1.1 million or 1.7% lower than the record of 2021, but slightly above the forecast revenue of CHF 60.9 million. The slight decrease is due to the fact that no special payments were recorded in 2022, while in 2021 subsequent payments in broadcasting rights of CHF 1.7 million were recorded.

While the Corona pandemic continued to have a negative impact on tariff revenues in performance rights, said impact is lower than originally expected and lower than for some of our domestic and foreign sister companies. A further normalization is expected in this respect in 2023. In particular, the positive development in the sector of blank media levy contributed to the good overall result. For example, the popularity of replay TV, which is covered by CT 12, continues to grow strongly, and the revenues from mobile telephony also increased significantly.

In 2022, SWISSPERFORM's costs also increased. The administration cost ratio – i.e. the percentage of costs to revenues – amounted to 9.29% net (previous year: 8.43%), and 13.00% gross (i.e. including the collection costs of our sister companies) (previous year: 12.19%). The main reason for this development is SWISSPERFORM's increased costs due to the ongoing restructuring work. For example, in the year under review full-time positions were increased by 1.28, and external consulting services also led to additional expenses.

The information on the administration cost rate requires the following addition: Until now, the financial result was taken into account when calculating the cost rate. However, depending on how high the gains or losses on investments or the negative interest rates were, this resulted in a lower or higher rate and thus in a distortion. The financial result is now no longer included in the calculation, so that the cost rate provides a better indication of the actual costs of administration.

As mentioned in last year's annual report, the Board of Directors decided in 2021 to entrust an external asset manager with the administration of our investments. Despite high initial transaction costs, a positive financial result of CHF 2.6 million was thus recorded in the very good stock market year 2021. The situation was quite different in 2022: Although the negative interest rate situation eased from October 2022, the very poor performance of the investment markets associated with the war in Ukraine and the massive increase in interest rates by central banks led to a negative financial result of CHF 4'542'075.39 million at SWISSPERFORM. In order to compensate for these losses, SWISSPERFORM's Expert Committees have decided to set aside parts of the 2021 financial income for their beneficiaries and

to include them as subsidy in the next distribution. This measure can at least partially prevent the negative market development of investments from having an impact on the distribution results of individual beneficiaries.

On April 6, 2022, the Zurich Tax Office conducted a tax audit at SWISSPERFORM. The audit affected the state tax and the direct federal tax for the years 2019 and 2020. At the time of the editorial deadline, the report from the tax office was not yet received.

While drafting the 2022 rough allocation, we found that the revenue split between the two sectors of CT 12 was not correct in the 2021 rough allocation. This erroneous allocation caused the broadcasting companies to receive CHF 614'190.50 too much from the 2021 distribution; hence, the share the other four right holders' groups received was too low. The erroneous 2021 allocations have now been offset in the scope of the 2022 rough distribution and debited or credited to the right holders' groups in the 2022 distribution sum.

The development of the individual rights sectors shows the following picture:

Re-transmission rights: In 2022, the revenues from re-transmission rights remained at a stable and high level. In SWISSPERFORM's most important tariff – CT 1 (re-transmission of programs via cable) – the revenues of CHF 23.3 million were around CHF 0.1 million (-0.6%) below the previous year's result.

Performance rights: In the sector of performance rights, the after-effects of the pandemic are still noticeable; they have caused concert cancellations and the closure of discotheques. The total income of CHF 7.7 million is approximately CHF 0.1 million (-1.2%) below the revenues recorded in the previous year. The most important tariff of performance rights, CT 3a (background entertainment), continued to show an upward trend, with additional revenues of 4.2% (radio) and 2.1% (TV).

Blank media levy: Once again, there was a strong increase in revenues in the blank media sector. Revenues of CHF 17.6 million represent an increase of CHF 1.5 million or 9%. Strong growth was recorded in mobile phones (CHF 2.7 million / +18%) and CT 12 (set-top boxes, incl. Replay TV); thanks to revenues of CHF 12.5 million, the increase here was 8%.

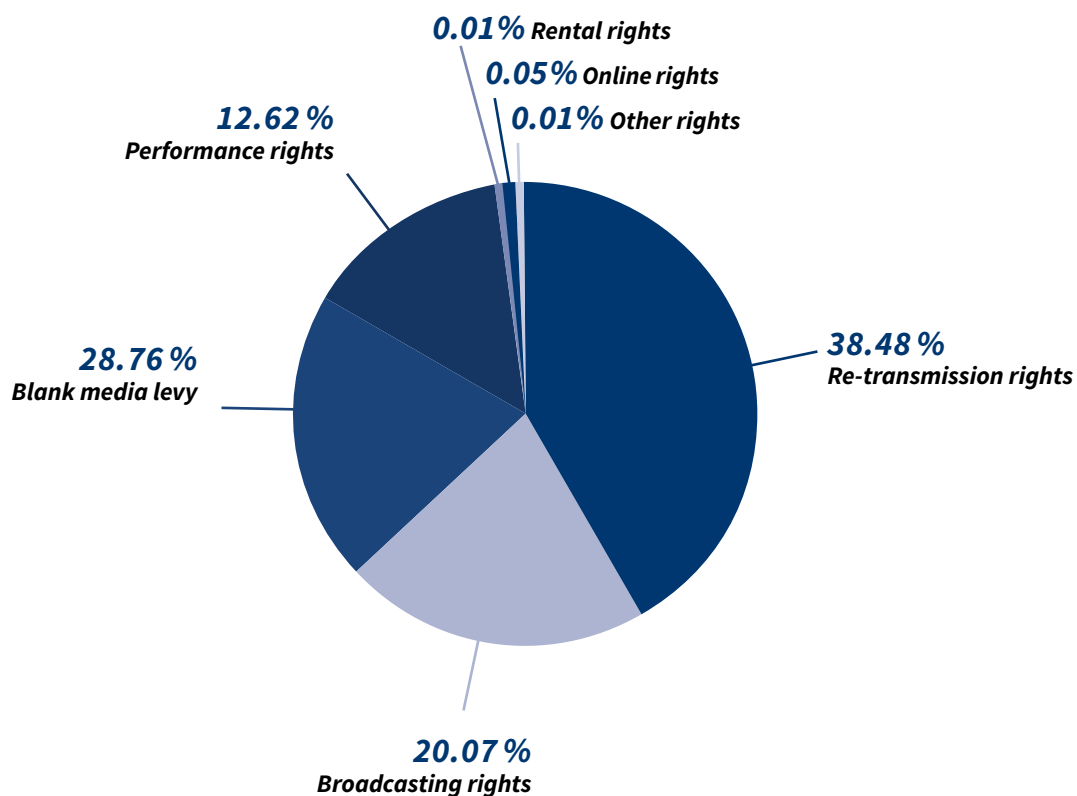
Broadcasting rights: With revenues of CHF 12.7 million, there was a decrease of CHF 0.6 million or 4.2% in broadcasting rights. This decrease is due to the fact that in the previous year special payments of CHF 0.5 million from CT S (private radio/TV stations) were recorded.

Other sectors: Revenues from the other sectors (rental rights, online rights, other individual rates) remain at a very low level, as in previous years.

Tariff revenues from the various rights

Tariff	2017	2018	2019	2020	2021	2022
Re-transmission rights	26'443'057.01	24'410'362.90	23'659'772.53	23'536'085.02	23'759'330.59	23'576'256.18
Performance rights	8'092'602.42	8'227'534.11	8'283'076.86	8'541'213.18	7'819'255.81	7'726'691.82
Blank media levy	12'497'592.44	13'239'365.10	13'654'712.21	14'264'702.66	16'161'582.25	17'611'943.35
Rental rights	33'885.55	18'409.20	9'319.90	38'144.90	28'930.00	29'978.53
Broadcasting rights*	13'179'934.75	12'137'634.98	12'686'195.31	12'785'003.36	14'543'394.94*	12'291'057.40
Online rights	2'000.00	450.00	22'360.00	8'360.00	1'297.15	8'720.00
Other rights	8'753.30	8'621.25	8'543.60	1'349.80	8'000.00	1'321.15
Total	60'257'825.47	58'042'377.54	58'323'980.41	59'174'858.92	62'321'790.74	61'245'968.43
Administrative costs	7.07 %	9.41 %	8.33 %	8.68 %	8.43 %	9.29 %

* Broadcasting rights incl. extraordinary income/debit for a total of CHF 1'747'463.-



Gross Tariff Revenue 2022 compared to the previous year

Tariff abbreviation	Collection by	Tariff designation	2022	2021
Re-transmission rights			CHF	CHF
CT 1	SUISSIMAGE	Re-broadcasting of programmes via cable	23'316'784.18	23'453'915.39
CT 1	SUISSIMAGE	Additional collections	26'129.69	24'431.02
CT 1	SUISSIMAGE	Mixed packages share re-broadcasting (10%)	6'453.96	6'350.74
CT 2a	SUISSIMAGE	Re-broadcasting via converters	0.00	0.00
CT 2b	SUISSIMAGE	Re-broadcasting via IP-based networks	226'888.35	274'633.44
Performance rights			CHF	CHF
CT 3a	SUISA	Public performance radio/background music/TT	5'216'885.34	5'007'752.97
		Public performance TV basic and additional collections	1'492'170.70	1'460'925.99
CT 3b	SUISA	Background entertainment in vessels, trains, advertising, etc. TT	8'461.74	4'984.60
		Background entertainment in coaches TT/TBT	20'750.83	16'976.27
		Background entertainment in airplanes TT/TBT	10'895.67	28'305.71
CT 3c	SUISA	Public Viewing	12'977.86	5'457.34
CT C	SUISA	Use of sound and audiovisual recordings in churches	25'070.43	25'151.18
CT E	SUISA	Use of sound and audiovisual recordings in cinemas	98'901.18	95'057.60
CT H	SUISA	Use of sound and audiovisual recordings in restaurants	296'735.28	345'827.54
CT Hb	SUISA	Use of sound and audiovisual recordings for dance and entertainment	182'329.74	315'912.83
CT HV	SUISA	Hotel-Videos	4'637.74	5'432.93
CT K	SUISA	Concerts and concert-like performances	215'912.25	348'877.80
CT L	SUISA	Dance and ballet schools	130'632.58	138'556.55
CT Ma	SUISA	Jukeboxes	7'109.93	10'573.19
CT T	SUISA	Performance of audiovisual recordings/«telekiosk»/«audiotex»	2'469.26	7'024.43
CT Z	SUISA	Performance of sound and audiovisual recordings in the circus	751.29	2'438.88
Blank media levies			CHF	CHF
CT 4	SUISA	Private copying, blank media/audio	1'170.92	1'209.01
		Private copying, blank medica/video	19.49	7.50
CT 4	SUISA	Private copying, CD-R	15'854.08	1'747.54
CT 4	SUISA	Private copying, DVD	40'921.70	4'673.40
CT 4i	SUISA	Private copying, digital audio recorders	35'791.98	41'992.45
		Private copying, digital video recorders	17'296.77	17'000.98
CT 4i	SUISA	Remuneration for digital memories in mobile phones	2'725'003.50	2'309'261.51
CT 4i	SUISA	Remuneration for memories in tablets	1'217'305.36	1'172'673.50
CT 7	PROLITTERIS	Use in schools / audio	28'314.60	27'132.25
		Use in schools / video	566'291.64	542'645.25
		Network technology	128'566.79	120'930.05
CT 9	PROLITTERIS	Use in businesses	277'132.59	279'064.00
CT 12	SUISSIMAGE	Set-Top boxes (incl. share additional fee 1 50%)	9'519'171.63	9'469'800.30
CT 12	SUISSIMAGE	Share additional fee 1 (50%)	3'039'102.30	2'173'444.51
Subtotal			48'914'891.35	47'740'168.65

Tariff abbreviation	Collection by	Tariff designation	2022	2021
Rental rights			CHF	CHF
CT 5	SUISA	Rental of sound recordings	13'766.39	14'039.70
		Rental of audiovisual recordings	16'212.14	14'890.30
CT 6	PROLITTERIS	Rental of sound recordings in public libraries	0.00	0.00
		Rental of audiovisual recordings in public libraries	0.00	0.00
Broadcasting rights			CHF	CHF
CT 1	SUISSIMAGE	Mixed packages share initial dissemination (90%)	58'085.65	57'156.71
CT 1	SUISSIMAGE	Initial dissemination of programmes via cable	66'047.55	66'436.00
A Radio US-Repertoire	SWISSPERFORM	Broadcast remuneration of SRG, sound recordings (US repertoire)	210'000.00	210'000.00
A Radio	SWISSPERFORM	Broadcast remuneration of SRG, audio recordings	6'050'000.00	6'575'000.00
A TV	SWISSPERFORM	Adopted radio programmes	70'000.00	127'234.44
	SWISSPERFORM	Commercially published sound recordings in own productions	577'000.00	1'325'008.00
	SWISSPERFORM	Commercially published audiovisual recordings	1'673'000.00	1'673'000.00
	SWISSPERFORM	Music films	30'000.00	-59'779.44
CT S Radio	SUISA	Use of sound recordings by private radio stations	2'790'672.39	3'553'104.18
CT S TV	SUISA	Use of sound/audiovisual recordings by private TV stations	10'021.22	13'643.85
	SUISA	Commercially published sound recordings	225'346.62	308'469.64
	SUISA	Commercially published audiovisual recordings	51'138.42	105'058.97
	SUISA	Music films	30'173.30	79'785.85
		Foreign private TV stations for Swiss advertising slots	237'316.25	225'215.74
CT S	SIG	Simulcasting abroad	40'000.00	40'000.00
CT Y Radio	SUISA	Use of sound recordings by subscription radio	7'944.14	8'920.57
CT Y TV	SUISA	Commercially published sound recordings	143'420.00	189'041.52
	SUISA	Commercially published audiovisual recordings	20'891.86	46'098.91
	SUISA	Music films	0.00	0.00
Other rights			CHF	CHF
CT 10	PROLITTERIS	Use of works by persons with disabilities	1'247.10	1'297.15
CT 13	PROLITTERIS	Use of rights in orphan works	74.05	0.00
Online rights	SWISSPERFORM		8'720.00	8'000.00
Total			61'245'968.43	62'321'790.74

Incl. extraordinary income/debit 2022/2021

			CHF/2022	CHF/2021
¹⁾	A Radio	SRG, audio recordings		525'000.00
²⁾	A TV	Adopted radio programmes		57'234.44
²⁾	A TV	Commercially published sound recordings in own production		748'008.00
²⁾	A TV	Music films		-89'779.44
³⁾	CT S Radio	Private radio stations		476'000.00
⁴⁾	CT S TV	Commercially published sound recordings		31'000.00
Total extraordinary effects			0.00	1'747'463.00

*Financial
statements*

Financial statements

<i>Balance of Accounts</i>	<i>Item in Annex</i>	<i>2022 CHF</i>	<i>2021 CHF</i>
Liquid assets	1	29'960'010.35	38'997'337.21
Securities	2	43'645'752.41	40'752'838.81
Accounts receivable rights users	3	7'662'276.07	3'686'030.40
Other short-term receivables	4	262'050.89	106'801.84
Prepaid expenses	5	7'577'180.24	378'565.05
Current assets		89'107'269.96	83'921'573.31
Property	6	250'799.20	258'703.40
Financial assets	7	20'281'734.32	24'083'733.52
Fixed assets		20'532'533.52	24'342'436.92
Assets		109'639'803.48	108'264'010.23
Liabilities neighbouring rights	8	1'103'336.34	2'051'699.34
Advance payments received rights users	9	0.00	0.00
Other short-term liabilities	10	1'151'474.30	1'120'882.20
Short-term provisions	11	58'503'045.24	59'993'467.84
Deferred income	12	317'748.24	192'150.50
Short-term liabilities		61'075'604.12	63'358'199.88
Long-term provisions	13	48'564'199.36	44'905'810.35
Long-term borrowed capital		48'564'199.36	44'905'810.35
Borrowed capital		109'639'803.48	108'264'010.23
Basic capital and reserves	14	0.00	0.00
Equity capital		0.00	0.00
Liabilities		109'639'803.48	108'264'010.23

<i>Income statement</i>	<i>Item in Annex</i>	2022 CHF	2021 CHF
Revenue from the administration of neighbouring rights in Switzerland	15	63'941'048.81	65'087'757.21
Revenue from the administration of neighbouring rights abroad	16	630'441.20	755'237.33
Other operating income	17	7'497'089.21	302'414.35
Collection compensation	18	-2'695'080.38	-2'765'966.47
Deduction for cultural and social purposes	19	-6'124'067.27	-6'230'877.10
Net proceeds		63'249'431.57	57'148'565.32
Distribution neighbouring rights	20	-53'009'419.17	-54'517'828.07
Bodies and commissions	21	-304'073.98	-282'209.64
External assignments	22	-540'592.63	-572'052.01
Personnel expenses	23	-3'956'495.98	-3'722'036.98
Other general expenses	24	-792'207.04	-592'498.73
Depreciation of property	6	-102'847.38	-89'773.75
Operating expenses		-58'705'636.18	-59'776'399.18
Operating result		4'543'795.39	-2'627'833.86
Financial income	25	1'527'607.73	3'788'463.95
Financial expenses	26	-6'069'683.12	-1'158'912.09
Financial result		-4'542'075.39	2'629'551.86
Ordinary result/earnings before taxes		1'720.00	1'718.00
Taxes		-1'720.00	-1'718.00
Annual earnings		0.00	0.00

<i>Cash flow analysis</i>		2022	2021
		CHF	CHF
Annual earnings		0.00	0.00
Depreciation of property	+	102'847.38	89'773.75
Value adjustments of financial assets	+/-	-0.80	-0.80
Change in provisions	+/-	2'167'966.41	-6'601'153.17
Value adjustments on securities	+/-	5'512'589.18	-506'688.65
Decrease/increase account receivables rights users	+/-	-3'976'245.67	-2'003'496.80
Decrease/increase other short-term receivables	+/-	-155'249.05	72'902.18
Decrease/increase prepaid expenses	+/-	-7'198'615.19	1'971'500.21
Decrease/increase liabilities neighbouring rights	+/-	-948'363.00	219'530.86
Decrease/increase advance payments received rights users	+/-	0.00	-7'808.20
Decrease/increase other short-term liabilities and deferred income	+/-	156'189.84	-3'251'669.46
Operating cash flow	=	-4'338'880.90	-10'017'110.08
Investments in property	-	-94'943.18	-71'582.60
Investments in securities	-	-13'359'278.64	-38'484'512.46
Divestments of securities	+	4'953'775.86	19'514'851.62
Divestments of financial assets	+	4'000'000.00	1'000'000.00
Granting of advances to associations	-	-198'000.00	0.00
Cash flow from investment activities	=	-4'698'445.96	-18'041'243.44
Cash flow from financing activities	=	0.00	0.00
Change in liquid assets		-9'037'326.86	-28'058'353.52
Verification fund:			
Liquid assets as per 1.1.		38'997'337.21	67'055'690.73
Liquid assets as per 31.12.		29'960'010.35	38'997'337.21
Change in liquid assets		-9'037'326.86	-28'058'353.52

Legal Notice

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