The New and Complete

BUSINESS OF LICENSING

THE ESSENTIAL GUIDE FOR
MONETIZING INTELLECTUAL PROPERTIES

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Endorsed by

INTERNATIONAL LICENSING INDUSTRY
LIMA
MERCHANDISERS' ASSOCIATION

Kent Press
▪ Westport, CT ▪

15.1.3 Germany[1] (Update by Michael A. Lou, April 2023)

Introduction to "GSA"

The "German speaking markets" are often referred to as "GSA" for Germany, Austria and Switzerland, because, in earlier times, owners of intellectual property rights (IPR's) usually granted licenses by language areas. As a result, they included the two significantly smaller countries of Austria and Switzerland, the latter because most Swiss speak German.

At one time, almost all packaging, instruction booklets and care labels in these markets were in German only, so the 1957 Treaty of Rome, which facilitated the "free flow of goods within the European Union," had almost no impact. The purpose of the treaty was that once you licensed a company in/for one EU-member country, you could freely sell to buyers from other EU countries, provided there is no "active soliciting", e.g., do not display/market the products outside the licensed territory). Nowadays, almost all packaging and instructions for products in Europe (or at least the 27-member countries of the EU) are in at least the ten most common EU-languages, because most of them aim for an EU-wide distribution.

Background

As of January 2023 Germany had some 84.3 million people in about 40,1 million households (of which about 40% are single households). Austria has roughly 8.9 million citizens in 3.65 million households and Switzerland counts for almost another 8 , 7 million of which some 5.67 million have German as their native tongue (though many more speak German in this tri-lingual country).

GSA is not only the largest single language market in the 446,8 million people European Union (after the United Kingdom left the EU), but it also houses the wealthiest citizens. Germany has an equivalent of US$ 59.403 GDP Austria is $ 60.668 and "banking" Switzerland is $77.137 as of 2021 (on Purchase Power Parity basis), according to the World Bank. (USA: $70480).

GSA has the largest single language market in the EU and houses the wealthiest citizens.

However, the other key markets in the EU are not far behind. In all 27-member countries of the EU, the average GDP per person is still well above $30.494.

This demonstrates the great potential the EU markets have and GSA in particular, having traditionally acted as the gateways for business with Eastern Europe. Many companies already have distribution subsidiaries or co-operations in the key markets in Eastern Europe (the Baltic states, Poland, Hungary a.o.) which are now upgraded by local production facilities.

While the average income in the ten German states that formed part of "Western Germany" is relatively equally spread, the approximately 12.5 million people living in the six former Eastern German states reach only about 80% of the income of their western neighbors, with wages are still somewhat behind.

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In Austria, of course, people in urban areas gain relatively more money than in rural areas, but the living standards and infrastructure allows countrywide distribution at even levels. And in Switzerland, wealth seems to part of the lifestyle.

A UNICEF study released in April 2013 (the latest available at the date of print) showed that the living environment German kids live in improved significantly. Among the 29 countries that were part of the study Germany ranks 6 among the industrialized nations. But of course, there are also bad facts reveals that one in seven German children between 11 and 14 years is "unhappy" with his or her situation. And only about 30% of the children who are born today into a certain social group have a chance to change into a higher one compared to 37% of those born in 1950 as reported by the Scientific Centre for Social Research in Berlin.

Despite the EU economic problems that are reported on almost daily, GSA is indeed a stronghold within the European markets. GSA can be a productive market for licensing if licensors use common sense and do not expect that every licensing program that succeeded overseas will automatically also do well (or even better) in GSA. In fact, the opposing situation is also true: a property that was not successful in other countries may have a chance to succeed in the German speaking markets. That is because, according to the market research organization Nielsen, 56% of Germans are open to trying new brands, when they asked over than 29,000 Internet users.

The History of Licensing in GSA

It is difficult to estimate licensing numbers before World War II, because there was no tracking of significant brand or entertainment licensing activities in the German speaking markets before then. In 1950, right after World War II ended, the German producer of the popular HUMMEL figurines, Franz Goebel, acquired from Walt Disney the rights to produce MICKEY MOUSE, BAMBI and other Disney characters.

Licensing, according to today's standards, began only with the TV market expanding. Leo Kirch, a young and emerging TV program and film dealer was one of the first people to realize the potential of the ancillary rights. (Berlusconi was not even in the business yet and Murdoch & Co. still thought print products were the media of the future.) Kirch's group initially bought the distribution rights from leading US studios like Warner, Paramount and MGM including the merchandising rights. Later Kirch started to produce its own programming like PIPPI LONGSTOCKING, HEIDI, BEE MAJA, etc., that was also suited for licensing.

Guenther Vetter, who was General Manager of Kirch's licensing arm Merchandising Muenchen GmbH from 1972 through 1981, was the real pioneer of licensing at that time and later said he needed "comprehensive negotiation and convincing skills" to sensitize companies in German-speaking markets for this new business opportunity called merchandising.

Some of these early pioneer licensing properties are still in the market today and are nowadays referred to as "classics." When I started in this business in 1980 (as a licensee for the DALLAS TV series) there was almost no one to get expert advice from other than Guenther Vetter and Brigitte Gosda, who marketed at that time MGM, United Artists and Warner Bros. properties before doing most of the business for

Sesame Street and later developed the properties of Bibi Blocksberg and Benjamin Bluemchen into the local kids' classics they are today.

Beyond Entertainment Licensing

Brand licensing started, like in most other places, as brand extension (after the owners of core brands had exploited line extensions). Manufacturers of brand name products tried to extend their product lines away from their core products and, if possible, into other distribution channels. The main reason for extending their products, apart from making money, was to reach the consumer in "competitive-free" environments, i.e., where there was no product of their competitors for the core products. These companies hoped to strengthen their brand awareness, and hence their brand value, by being known to a larger consumer group.

Naturally, some brand companies were not set-up for such "brand extension" and soon consultants (later called licensing agents) appeared that helped the brand companies find the right licensees. Early cases of successful brand licensing strategies were the Olympic Games and the FIFA Soccer Championships (through Adidas subsidiary ISL International Sports Licensing). It is somewhat odd that the professional soccer leagues, (Bundesliga), which are now so popular, did not begin to license in GSA until they saw what I was able to do with the NFL in the late 1980's, even though American Football was not very popular at all in the German speaking markets.

Quite certainly, Kirch´s TV and film licensing developed the entertainment licensing in German markets; ADIDAS, PUMA and fashion brands like BOSS, JIL SANDER and WOLFGANG JOOP, along with some local heroes (like HARIBO) and international corporations from abroad (PLAYSKOOL was one of the first) developed the brand side of it; and soccer teams (Bayern Muenchen and Co.), FIFA and the Olympic Games were the properties that developed sports licensing.

I still remember sitting together with Guenter Vetter in the late 80th over a beer or two forecasting that brand licensing would be the (then) future (because the sport brands were not really brand licensing in our understanding).

The TV Market

With respect to television entertainment licensing, one must know that the TV scene in GSA was far behind all other larger European countries. Until 1962 there was only one TV channel ("Deutsches Fernsehen", nationwide and operated by the government). Then a second governmental channel (ZDF Zweites Deutsches Fernsehen) commenced its nationwide broadcasting and each of the 10 Federal States started to launch its own regional channel (that at early times only broadcasted until the evening and was then joined with "Deutsches Fernsehen", today known as "Das Erste" = The First).

Consequently, the programming was limited in variety, and the bulk of foreign TV-series, which were better suited for licensing, started only when private TV stations commenced their business in 1984. So, television licensing, which historically has generated a clear majority of the licensing business in other markets, started late compared to GSA. I believe that this is why there are many more licensed products in the English, Italian, French or Spanish markets compared to GSA, though GSA represents a very strong licensing market and has probably the most merit with respect to its future development.

Recent Changes in Licensing

In recent years, the channels of distribution of licensed product have undergone significant changes, but so too have the ways licenses are marketed and sold, having refined and captured new ground. With respect to licensing itself, the target groups and/or potential licensees have widened. There are more direct-to-retail (including to online shops) licenses being granted, which leaves the retail chains more freedom with respect to sourcing. And cross-licensing with other properties (LEGO with STAR WARS or Adidas, HELLO KITTY and Nike) has become very popular. Nike

As far as distribution, changes and developments were more significant in the past two decades, but channels continue to grow and diversify. For example, Tilmann Schneider, who in the mid-1980's headed licensing for the private TV-Giant RTL, "discovered" gasoline stations as new POS for his plush replicas of KOMMISSAR REX, the shepherd detective in a popular TV series, and selling them in greater numbers than the other traditional channels combined. Another example of the expanding distribution channels is the sale of animal health insurance using the licensed image of a popular dog character and distributed through pharmacies/drugstores.

While entertainment and sports licensing were well-established, it was not until the late 80's that brand licensing really became serious business. The German Railway Company used it to support the launch of its new high-speed trains (ICE); Unilever, after they bought Fabergé in the US and went back to Europe to start an upscale brand licensing program, to re-launch its mass market body care line FABERGÉ (Brut de Fabergé); PEPSI to leverage its tiny market share of 8% (vs. COKE with over 50%); followed by numerous fashion brands.

Celebrity licensing was strong in the 80's and 90's with legends like HUMPHREY BOGART, JAMES DEAN, ELVIS PRESLEY, BRUCE LEE and MARILYN MONROE. Growth in the area continued into the late 90's with contemporary stars like MICHAEL JACKSON, TINA TURNER, THE BEATLES, ROLLING STONES and others that were popular through their respective music, just like in many other countries.

In the 21st century there were very few new property categories introduced apart from charity licensing. The shift went more toward alternative or additional distribution channels and mainly to direct-to-retail licensing (DTR).

Licensing Today

Major Properties. Most certainly, among the most successful properties licensed for kids in GSA are The Disney properties, also because of their acquisition of Marvel, Lucasfilm etc.) German classics like BENJAMIN BLUEMCHEN, a friendly elephant walking on two legs and primarily aimed at preschoolers, while the German classic BIBI BLOCKSBERG (also supported a film sequel) grew up with their fans and play also a strong part. There has been little change during recent years with respect to the popularity of these properties depending on seasonal promotions, a new film release or TV broadcast.

Top entertainment properties in Germany today are STAR WARS, FROZEN, PAW PATROL, BENJAMIN BLUEMCHEN and BIBI

A good source for tracking popularity and success of kid properties is www.iconkids.com. For companies who want to see whether their IP would also have market chances in GSA hey provide rather inexpensive market research and advice.

The spectacular, significant success of Lego's STAR WARS products showed that two properties that at first glance do not fit can be a surprising success. Same for ELVIS and HELLO KITTY, which became another surprise hit, even if not the size of LEGO. When I was the agent for Lucasfilm back in the 80's I could never have thought of offering LEGO a STAR WARS license, simply because LEGO's bricks where square and old-fashioned, and LUKE SKYWALKER & Co. were the state of the art in youth entertainment. So, you see how easily you can be wrong in judging the market potential of your license. Nevertheless, the message left behind this example is: You never have a chance of getting your property noticed if you do not examine EVERY option.

Sports. In sports licensing there is very little apart from soccer. Soccer is the major sport in Western Europe and is also popular with the Germans, Austrians and Swiss. Some fans will buy any merchandise featuring the logos of their favorite clubs, and the world's top leagues generate the bulk of the business, in addition to seasonal merchandise from the UEFA European championships or FIFA World Cup. But only the top clubs and players really sell, with the "local heroes" of the sport generating the most interest. Even though handball and basketball enjoy an increasing fanbase and greater TV coverage, there is hardly any significant licensing for these sports. Quite surprisingly, Formula 1 car racing has had some success even though it has limited media exposure, and cycling is popular as well. Of course, every four years the Olympic Games create some demand, the winter games because GSA countries tend to win more medals than in the summer games. And, quite a surprise to me, the NFL is back. After I introduced the NFL to the German speaking markets many years ago, they oversaturated the markets by permitting their US licensees to sell into Europe, well developed by my fellow agents and myself. But with the current help of the Television they came back strong and as a somewhat upscale alternative to German soccer.

Brands. The brand licensing sector is dominated by the fashion licensors. Local brands like S. OLIVER, TOM TAILOR, BRUNO BANANI, BUGATTI , FALKE but also the brand developed around (former fashion model) Heidi Klum´s TV show "Germany's Next Top Model" (GNTM) manage the brand quite. MONTBLANC, SCOUT (the brand of the leading school bag) and some others however show that your brand does not necessarily come from the fashion sector. A newcomer they was the brand CAMP DAVID of three brothers from Berlin, who use Dieter Bohlen, a former singer and now one of our top TV entertainers as a testimonial and have achieved some years of ongoing success. Of course, you can also see the international luxury brands on some licensed products, including eyewear, watches and fragrance, most notably.

Some other "on air" brands having their problems like DSDS Germany searching for the Super Star, "The Bachelor" a.o. These brands are usually well-equipped for successful licensing programs and appeal to the masses. On the other hand, there are no guarantees either. Some TV stations acquire licensing rights along with the show but do not really follow up on it (for instance because they simply have too many of them). A good recent example is the popular show *Dancing with the Stars*, where the licensing arm of the station (RTL) only signed two or three deals over three years. Even cooking shows with famous chefs became a good source for licensing, even in the food business, which seems still underdeveloped in GSA.

An emerging licensing segment is (still) the cause-related licensing for charities like WWF, UNICEF, GREENPEACE, RED CROSS, EIN HERZ FUER KINDER (A Heart for Children) by the Axel Springer publishing company or Deutscher Tierschutzbund (Europe's oldest charity for the protection on animals and nature).

Digital content licensing was –when I wrote my last update- everywhere rather new approach but has developed at fast pace, also over here. From PC/mobile games over social media hypes to NFT's, all is possible.

Local Heroes. Almost all local properties that command notable sales originate from media exposure, mainly TV. From the same source of the elephant Benjamin Bluemchen comes another local character from Kiddinx GmbH: BIBI BLOCKSBERG, a young witch that has been attracting a young audience for about 20 years now. Then there is "Die Sendung mit der Maus", Germany's answer to Sesame Street; WENDY, a young girl with her horse known from year-long comic books and now from its TV series. Of course, we also have numerous characters that come and go depending on their TV presence, just like in most other countries, but I cannot see anyone on the horizon with enough potential for a lasting licensing success. There is simply too much competition that looks confusingly similar.

On the brand side, we have the ADIDAS and PUMA brands as leading licensors, RED BULL and SWAROVSKI from Austria, HARIBO (known for its fruit gummy bears), THOMAS SABO (a brand that solely emerged from fashion jewelry for young girls) and the various fashion brands mentioned.

Key Players in the Market

GSA is dominated mainly by licensors and agencies located in Germany, which houses four times as many consumers than Austria and Switzerland together. Most of the leading property owners who license their properties use agents, but of course we also have several companies who have their in-house licensing teams like ADIDAS, PUMA, RED BULL, SWATCH, HUGO BOSS, to name but a few.

From the international side we also have the Walt Disney Company, now located in Munich; Fremantle-Media in Potsdam (near Berlin); Nickelodeon/Viacom right in Berlin; subsidiaries of The Licensing Company and CPLG Copyright Promotions Licensing Group, both in Munich but with headquarters in the U.K. and Bravado in Berlin (part of Universal Music).

Relatively new are the offices or joint ventures of the international talent and model agencies like IMG, CAA a.o.). As TV and movie stars tend to get older just like top models, their agents created a "second life" for them: Licensing their name and likeness.

Today, almost all the TV stations have created their own licensing arms, including:

- WDR MediaGroup (www.wdr-mediagroup.com)
- ZDF Enterprises (www.zdf-studios.com)
- ProSiebenSat1 (www.SevenOne Licensing.com)
- SuperRTL (www.Superrtl-licensing.de)
- Radio Berlin-Brandenburg (www.rbb-media.de)

Among the various (to my knowledge) independent agencies are Euro-Lizenzen headed by Guenter Vetter (www.eurolizenzen.net), Lizenzwerft of former Warner Bros. man Peter Bichler,(www. Lizenzwerft.de) g.l.a.m. in Munich (www.g-l-a-m.com, , K&P Brand Concept in Bergisch-Gladbach, The Brand Residence of Marlis Rasl, active merchandising of Anita von Esch (www.activemerchandising.de) and, of course, my own V.I.P. Entertainment & Merchandising AG (www.vip-ag.com). These are probably the most experienced ones, while there are several other agencies that were mostly founded by former employees of the other ones. A good source for information is the local licensing magazine at www.licensing-online.com.

Unique Challenges

Successful licensing in GSA begins with the understanding of what I stressed before: even if a licensing program is successful elsewhere, that does not mean that it can be carried over to the GSA markets in the same way. There are a few cases where this works, mostly thanks to heavy media exposure like TV, but in most cases, products that can be licensed in GSA need to make advertising and promotion adjustments to account for local preferences and trade exposure, which must meet the individual Point-of-Sale situations. Clearly, the property must be protected by trademark rights in all relevant classes, and you should have a lawyer on the spot that has ample experience with local copyright and trademark law to defend the rights you want to license.

Role of Agents and Consultants

There is always the question of the hen and the egg. Should you first get legal advice on how to best protect your property in GSA and how to make it fit for licensing or find an agent to evaluate the market potential to see if licensing in GSA could generate more money than needed to cover the legal and administration expenses? I recommend looking first for the right agent for your property. The biggest agent might not always be the best choice at a given moment and the TV station that airs your programming may have too many other properties to look after and may not give the property the desired attention. Of course, in most cases the TV station will try to insist on getting the licensing rights when buying the broadcasting rights, but you always must bear in mind the question what property TV station pushes most: Their own shows/properties or yours?

When George Lucas came to me with the STAR WARS II property back in 1981, I was still relatively new in the business with a short track record. He asked me how much I would generate for STAR WARS and how much of it would I possibly guarantee him in minimum royalties. Luckily, I had done my homework and could present him some evaluation on what I believed we could produce, but we signed no guarantee at all.

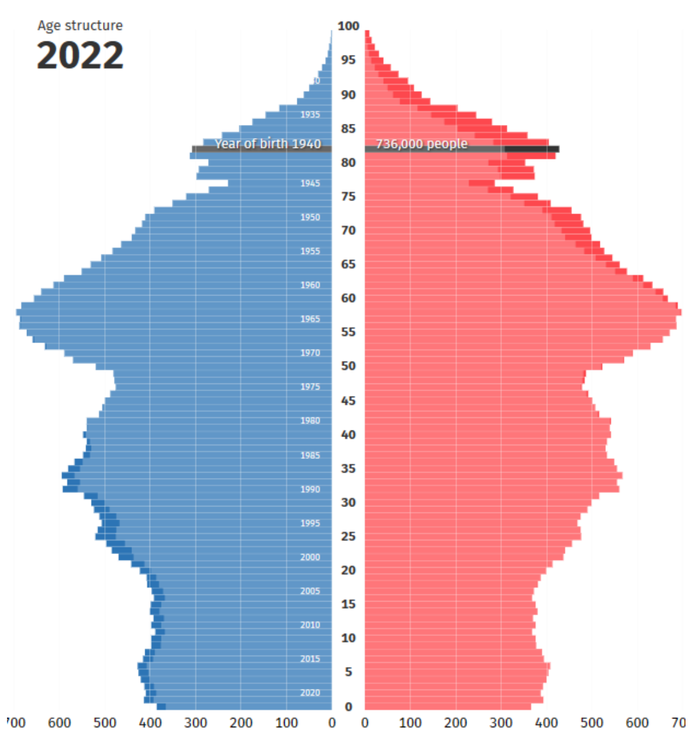
All licensors want to have such projections from their potential agents before granting the agency the rights, and all promise not to “bind” the agent to his projections. But if an agent has not lived up to projections, the licensor will remember. And if there is no viable reason as to why the agent could not meet expectations (change of exposure, economic crises, unexpected competition etc.), and this happens two or three times, good licensors will not want that agent to represent their properties. So, the most valuable asset that an agent has is its credibility, in addition to ample market experience, objective judgement and innovative creativity as to the market approach for your property.

Outlook, Projections and Conclusions

As I update my last report Germany´s political parties (SPD, FDP and Die Gruenen) have just managed their first year and we hope, despite of the serious political situation in the east, we hope for another few good years. But licensing in GSA has changed dramatically over the past few years. What was formerly the "bread and butter" business in the region (T-shirts, toys, stationery, bags, etc.) does not generate as many sales for many properties. The market has become more fragmented, both on the property side and on the consumer side.

A key reason is also the growing online business as more and more online shops take licenses directly, thus starting a harsh competition with the traditional retailers.

GSA has experienced an oversaturation of TV programming, all trying to make money at licensing; hence each of the properties has a smaller share of the market. Moreover, the children's market has changed, with kids maturing earlier and attracted to properties aimed at older audiences. This is heavily influenced by the various new social media tools readily available at all age groups. It is not uncommon to see babies in strollers with computer games in front of them while at the same time parents are talking on their cell phones. The near future of licensing in GSA is certainly influenced by age. The chart below is of interest because it demonstrates to an alarming extent the shift of age group in Germany. Very soon the largest portion of consumers will be over 50 years old.



As a conclusion I can say GSA is probably the most fertile ground for licensing in Europe because it is –at least with respect to many categories of licensed products- still far behind France, Italy, Spain and the U.K. if you are not of the mind to “take the money and run” but are seriously interested in building a successful licensing program with longevity and willing to invest adequate funds, you have all that is needed for an attractive ROI.

Brand licensing, in my opinion, has a very promising future. There is a much wider target group (adults vs. kids) and the core product is known because of years of advertising and promotion, hence these properties have an established pre-sold popularity and established positioning/image. Charity (cause-related) licensing is equally promising, yet with smaller target groups as the consumer must decide what charity they favor most.

Licensing virtual properties for PC game players and collectors has already reached a significant market size and seems to still grow, because of the increasing number of people who play on their smartphones or tablets. And a new playground came around: The licensing of content marketing where you can try to wrap the story of your property nicely (to avoid too much of a pack shot like “advertorial”) but can still promote your property on the back of an established brands marketing campaign.

A rather new phenomena is also here the various collaborations of leading brand owners with IP´s from the entertainment field (like PUMA with Sponge Bob) or brands that usually have a different target group (like ADIDAS and Gucci).

In conclusion, I can say that the German-speaking markets are similar in many ways to other key markets in industrialized countries but offer greater opportunity because of their leading positions within the EU and as gateways to the Eastern European markets. We do not try to reinvent the wheel over here but try constantly to smoothen the ball-bearings.

So, welcome to the “new old world”!