

Royalty Rates Schedule VR-AV DT-H 3

**for the reproduction of works from GEMA's repertoire
on audiovisual data carriers (e.g. CD-ROMs, DVDs, chips, memory cards)
in games and their distribution for personal use**

Net amounts plus value added tax at the current rate of 7 %

I. Scope of Application

1. Restriction to library music repertoire and musical works composed for games

The royalty rates apply to games on audiovisual data carriers exclusively containing works from GEMA's repertoire of library music and/or works from GEMA's repertoire, which were composed for games.

2. Categories of carrier

The royalty rates apply to audiovisual data carriers such as, for example, CD-ROMs, DVDs, chips, memory cards.

3. Restriction to games and delimitation with respect to music games

The royalty rates apply exclusively to games on audiovisual data carriers.

The royalty rates do not apply to music games, i.e. for example not to games, where the musical works determine the object of the game and other customary features of games play a disproportionately minor role.

Royalty Rates Schedule VR-AV DT-H 3

II. Royalty

1. Initial sales

1.1 Definition

Initial sales shall be understood to mean the sale of the audiovisual data carrier to dealers for the first time at the published price for dealers (PPD) referred to in Section II. No. 1.2.

1.2 Basis for the royalty

The highest price for dealers published by the producer (PPD) excluding VAT for the audiovisual data carrier in question shall be taken as a basis for calculating the royalty level. No bonuses, discounts, rebates in kind and similar discounts, commissions or agency fees, etc. shall be deducted from the PPD.

The highest published prices for dealers are based on the relevant price lists published on the data of delivery of the audiovisual data carrier.

If the producer is not in a position to provide the above-mentioned price lists, or there is any doubt as to which price is to be taken as a basis, the producer shall in good time reach an agreement with GEMA about the price basis for calculating the royalties, the outcome of which shall be consistent with the preceding paragraph. If the price basis is not agreed with GEMA in due time, GEMA shall be entitled to calculate the royalties on the basis of the customary published prices for dealers.

1.3 Royalty for initial sales

The percentage royalty is based on the total playing time of the works from GEMA's repertoire on the audiovisual data carrier and is calculated according to the following graduated scale.

Total playing time of GEMA's repertoire	Pro Percentage royalty
up to 6 mins.	1.25 %
from 6 – 12 mins.	1.875 %
from 12 – 21 mins.	2.5 %
from 21 – 36 mins.	3.125 %
from 36 – 54 mins.	3.75 %
from 54 – 72 mins.	5.0 %
over 72 mins.	7.5 %

Royalty Rates Schedule VR-AV DT-H 3

1.4 Optional royalties for initial sales

The producer can, if this should in any particular case be more favourable for him, demand application of the following royalties per audiovisual data carrier, which are independent of the PPD.

Total playing time of GEMA repertoire	Royalties in €
up to 6 min.	0.156
from 6 – 12 mins.	0.234
from 12 – 21 mins.	0.31
from 21 – 36 mins.	0.3875
from 36 – 54 mins.	0.469
from 54 – 72 mins.	0.625
over 72 mins.	0.78

1.5 Minimum royalty

The minimum royalty shall apply in those cases where the percentage royalty as per Section II. No. 1.3 is lower than the minimum royalty and in case of free issues.

The following minimum royalties shall apply per audiovisual data carrier:

Total playing time of GEMA's repertoire	Minimum royalties in €
up to 3 mins.	0.032
from 3 – 6 mins.	0.064
from 6 – 2 mins.	0.096
from 12 – 21 mins.	0.21
from 21 – 36 mins.	0.25
from 36 – 54 mins.	0.30
from 54 – 72 mins.	0.40
over 72 mins.	0.50

Royalty Rates Schedule VR-AV DT-H 3

2. Follow-on sales

2.1 Definition

Follow-on sales shall be understood to mean sales of audiovisual data carriers, which are made at lower published prices for dealers than for initial sales, but at higher than 30 % of the published prices to dealers for initial sales referred to in Section II. No. 1.2.

2.2 Basis for the royalty

The basis described in Section II. No. 1.2. shall apply accordingly.

2.3 Royalty for follow-on sales

The percentage royalty is based on the total playing time of the works from GEMA's repertoire on the audiovisual data carrier and is calculated according to the following graduated scale.

Total playing time of GEMA's repertoire	Pro Percentage royalty
up to 6 mins.	1.25 %
from 6 – 12 mins.	1.875 %
from 12 – 21 mins.	2.5 %
from 21 – 36 mins.	3.125 %
from 36 – 54 mins.	3.75 %
from 54 – 72 mins.	5.0 %
over 72 mins.	7.5 %

Where the minimum royalty was applied in the case of the initial sales as per No. 1. above, the minimum royalty shall also apply in the case of follow-on sales, but adjusted according to the ratio that the price of the initial sale bears to the price of the follow-on sale.

2.4 Optional royalties for follow-on sales

The producer can, if this should in any particular case be more favourable for him, demand application of the following royalties per audiovisual data carrier.

Total playing time of GEMA repertoire	Royalties in €
up to 6 min.	0.1125
from 6 – 12 mins.	0.147
from 12 – 21 mins.	0.1875
from 21 – 36 mins.	0.2325
from 36 – 54 mins.	0.28
from 54 – 72 mins.	0.375
over 72 mins.	0.469

The optional royalty for follow-on sales will apply only if initial sales were already remunerated at the present royalty rates.

Royalty Rates Schedule VR-AV DT-H 3

3. Other sales

3.1 Definition

Other sales shall be understood to mean sales of audiovisual data carriers at prices, which are lower than 30 % of the published prices for dealers of the initial sales.

3.2 Basis for the royalty

The royalty basis described under No. 1.2. above shall apply. Where there are no published prices to dealers for the other sales, the gross invoiced price of the producer shall apply as the basis for the royalty (excluding VAT).

3.3 Royalty for other sales

The percentage royalty is based on the total playing time of the works from GEMA's repertoire on the audiovisual data carrier and is calculated according to the following graduated scale.

Total playing time of GEMA's repertoire	Percentage royalty
up to 6 mins.	1.875 %
from 6 – 12 mins.	2.81 %
from 12 – 21 mins.	3.75 %
from 21 – 36 mins.	4.69 %
from 36 – 54 mins.	5.625 %
from 54 – 72 mins.	7.5 %
over 72 mins.	9.375 %

Royalty Rates Schedule VR-AV DT-H 3

3.4 Optional royalties for other sales

As an alternative option to the percentage royalties on the price taken as a basis, the producer can demand, if this should in any particular case be more favourable for him, application of the following royalties per audiovisual data carrier.

Total playing time of GEMA repertoire	Royalties in €
up to 6 min.	0.056
from 6 – 12 mins.	0.07
from 12 – 21 mins.	0.093
from 21 – 36 mins.	0.116
from 36 – 54 mins.	0.14
from 54 – 72 mins.	0.1875
over 72 mins.	0.24

The optional royalty for other sales will apply only if initial sales were already remunerated at the present royalty rates.

4. Exports

4.1 General royalty for exports

Exports are subject to the same conditions as domestic sales in accordance with the sales categories specified in Section II. No. 1., 2. and 3, the royalty being based on the published prices for dealers practised in the country of export.

If the producer is not in a position to provide the relevant price lists with the PPD published prices to dealers for the audiovisual data carrier in question or there is any doubt as to which price is to be taken as a basis, the producer shall in good time reach an agreement with GEMA about the price basis for calculating the royalties, the outcome of which shall be consistent with the preceding paragraph. If the price basis is not agreed with GEMA in due time, GEMA shall be entitled to calculate the royalty on the basis of the customary published prices for dealers.

Alternatively, to simplify matters the producer can opt to pay a fixed royalty as provided in the graduated scales below.

Royalty Rates Schedule VR-AV DT-H 3

4.2 Alternative royalty for exports to countries in Western Europe

The royalty per audiovisual data carrier is based on the total playing time of the works from GEMA's repertoire on the audiovisual data carrier and is calculated according to the following graduated scale.

Total playing time of GEMA's repertoire	Royalties in €
up to 6 minutes	0.125
from 6 – 12 mins.	0.1875
from 12 – 21 mins.	0.2625
from 21 – 36 mins.	0.3125
from 36 – 54 mins.	0.375
from 54 – 72 mins.	0.50
Over 72 mins.	0.625

4.3 Alternative royalty for exports to other countries

The royalty per audiovisual data carrier is based on the total playing time of the works from GEMA's repertoire on the audiovisual data carrier and is calculated according to the following graduated scale.

Total playing time of GEMA's repertoire	Royalties in €
up to 6 minutes	0.10
from 6 – 12 mins.	0.125
from 12 – 21 mins.	0.21
from 21 – 36 mins.	0.25
from 36 – 54 mins.	0.30
from 54 – 72 mins.	0.40
over 72 mins.	0.50

4.4 Exports to countries outside Europe at fixed prices

In the case of exports to countries outside Europe at a fixed price for a certain quantity, the royalty for other sales as per Section II No. 3. shall apply, subject to a certain quantity being specified in the export agreement of the producer. If no such quantities are stipulated, the royalties for exports specified above in Section II No. 4.2 and 4.3. shall apply.

5. Promotion

Promotional copies (full versions), preview copies (not full versions), teasers (short excerpts), demos/cross-promotions (not full versions) shall be subject to special conditions laid down in the agreement concluded with GEMA. If no agreement has been concluded with GEMA, Section II. No. 1. shall apply to promotional copies.

III. General Provisions

1. Scope of authorisation

The authorisation covers only the rights vested in GEMA with respect to reproduction and distribution for personal use without advertising.

Royalty Rates Schedule VR-AV DT-H 3

The royalties do not, for example, take account of any compensation for the use of copies by rental to the public in the licensee's own name and for its own account or by (re-)letting third parties or for communication to the public.

The authorisation is granted on condition that the right to use works from GEMA's repertoire for the purpose of synchronising an audiovisual data carrier is or has been duly obtained from the rights owners in question themselves or from GEMA as provided in the relevant royalty rates schedules.

The moral rights of authors shall not be violated.

2. Acquisition of authorisation in due time

The royalties shall only apply if GEMA's authorisation has been obtained in good time prior to reproduction.

3. Rights of third parties

Rights of third parties, for example in the case of using scores of works for which royalties have been paid, shall remain unaffected.

4. Scope of validity

The royalty rates shall not apply to audiovisual data carriers with contents other than games or to audio data carriers or phonograms or videograms (e.g. video tapes, VD).

In the case of use of works other than works of library music or than works composed for games in an audiovisual data carrier, the general Royalty Rates Schedule VR-AV-DT-H 1 for audiovisual data carriers shall apply, unless tariffs agreed under a general contract have to be considered. In those cases, where works of library music and/or works composed for games as well as other works are used in one and the same audiovisual data carrier, the relevant rates shall apply as appropriate on a pro rata basis.

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