

MUSIC & MUSIC VIDEO

STREAMING SUBSCRIPTION

(B2B)

GEMA Royalty Rates Schedule for the commercial use of works from GEMA's repertoire within the scope of streaming offers subject to a fee (so-called "unlimited subscriptions") for commercial users in the context of Business-to-Business(B2B) models.

Tariff VR-OD 13

Net amounts plus value added tax at the statutory rate 01.03.2020

I. SCOPE OF APPLICATION

The following royalty rates apply exclusively to the use of works and rights in and to the GEMA repertoire within the scope of music-on-demand offers, when and if the service to be licensed offers audio works of music and/or of music videos (especially music video clips, concert recordings) from GEMA's repertoire – hereinafter collectively referred to as "Musical Works" – during a specific recurring period of time to commercial users in return for a fee for retrieval and communication to the public by use of a playback medium, without the commercial user being able to make a permanent copy (downloading). This tariff also applies to such services where the commercial user can in addition to playing the Musical Works also make a copy limited within its scope of use, which enables the commercial user to play the Musical Works without an active internet connection ("Tethered Download"). The copy is limited in the period during which it can be played is tied to the subscription period and additionally to individual devices or device groups.

The commercial user is the person/entity who uses the music-on-demand offer for commercial purposes in return for a fee.

This tariff especially does not apply to uses within the scope of business-to-consumer (B2C) models (subscriptions aimed at end users), video-on-demand offers, transactional music-on-demand offers, free streaming offers for the end user and dial tone background melodies. The licensing of the right of communication to the public by the commercial user is not included.

II. ROYALTIES

1. Obligation to pay royalties

The obligation to pay royalties is incurred:

- a. by the reproduction of musical works in GEMA's repertoire in databases, documentation servers, or similar storage media (e.g., server computers),
- b. by making musical works in GEMA's repertoire available to the public,

- c. by transmitting musical works in GEMA's repertoire to a commercial user,
- d. by the actual retrieval of a musical work in GEMA's repertoire by the commercial user or
- e. by conclusion of a subscription under which musical works are provided for retrieval, even if there has been no corresponding retrieval of the musical works by the commercial user.

To the extent acts of use covered by this tariff are permissible in accordance with a copyright limitation provision (e.g. Section 53 German Copyright Act (UrhG)), it is clarified that these acts of use are deemed not remunerated in accordance with this tariff, insofar as the requirements of the copyright limitation provision are fulfilled.

2. Standard royalty fee

The standard royalty fee amounts to 15% of the assessment basis.

3. Minimum royalty fee

The minimum royalty fee amounts to 6.50 € per month and entity (e.g. website or commercial unit) of a commercial user.

4. Assessment basis

The assessment basis is all of the causally determined net revenue of the service to be licensed (gross revenue minus the value added tax at the applicable rate) accruing through the use of music and herefore in particular:

- the net revenue of the service to be licensed derived from the respective subscription concluded with the commercial user, i.e. the fee paid by the commercial user minus the value added tax, and
- separately financed or calculated cash value benefits and considerations, such as, for example, transmission fees, and fees from advertising, sponsoring, barter, compensation or gift transactions. This also applies to foreign revenue, insofar as this relates to the operation of the service to be licensed in Germany.

5. Pro rata calculation

- a. In the event that the service to be licensed does not solely contain offers falling within the scope of application of the present tariff, this shall be taken into consideration in determining the assessment basis as per Section 4, notwithstanding the fact that the revenue deducted in this way can be used within the scope of any licensing that may be necessary for other offers of the service to be licensed, which do not fall under this tariff.
- b. In the event that musical works, in which GEMA holds no or only pro rata rights, are used within the scope of the service to be licensed, this shall be taken into account on a pro rata basis in the calculation of the royalty in compliance with the above provisions.

6. Minimum Amount

Irrespective of the above royalty fees in accordance with Section II Subsections 2. to 5., the minimum amount for the use of works and rights of the GEMA repertoire under this tariff is 240.00 € (net) per year, i.e. 20.00 € (net) per month. This amount can be offset against usage-based billing, but is not refundable.

III. GENERAL PROVISIONS

1. Extent of the grant of rights

- a. The grant of rights for the business operation of the service to be licensed is restricted to the right according to Article 16 of the German Copyright Act (UrhG) to reproduce works in GEMA's repertoire, and the right according to Article 19a of the

German Copyright Act (UrhG) to make works in GEMA's repertoire available to the public. Hence, within the operation of the service to be licensed and subject to proper licensing:

- works from GEMA's repertoire may be incorporated into databases, documentation systems or similar storage media (e.g., server computers),
 - works from GEMA's repertoire may be made available to the public,
 - works from GEMA's repertoire may be transmitted to the commercial user,
 - works from GEMA's repertoire may be temporarily reproduced without the possibility of permanent storage to play the work once on the playing medium of the commercial user,
 - works in GEMA's repertoire may be stored as a Tethered Download and hence as limited copy on an end device for the commercial user's commercial use.
- b. The granted rights may not be transferred to a third party.
- c. The granted rights shall not include any other rights, especially the right to edit and the right to combine works in GEMA's repertoire with works from other types, nor shall it include graphic rights or rights to the sheet music or lyric images.
- d. The moral rights of authors may not be violated. Alterations to a work in order to use it in a music-on-demand offer, especially by abridging the work, must comply with any requirements of Articles 14 and 39 of the German Copyright Act (UrhG). Insofar as works in GEMA's repertoire are used directly or indirectly for advertising purposes, the relevant authorisations must be obtained separately by the provider of the service to be licensed, insofar as moral rights of authors are involved.

2. Timely acquisition of the right of use

The rights forming the subject of this tariff shall only be deemed to have been granted, if GEMA's authorisation was obtained prior to commencement of use, i.e., especially before the works from GEMA's repertoire were incorporated into databases, documentation systems or similar storage media.

3. Third-party rights

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

4. Territorial scope

This tariff shall apply to uses and for corresponding offers in Germany and/or for the German market.

5. Umbrella agreement

Members of organisations that have signed a general agreement with GEMA for the royalty fees set out in this tariff will be granted a general agreement discount for the respective royalty fees upon conclusion of the relevant individual agreement.

6. Period of validity

The royalty fees shall apply for the period as of 01.07.2019.

This Tariff has been issued in German and English language versions. In case of doubt, the German language version of the tariff shall be decisive.