

# PODCAST

*GEMA Tariff for the use of works in the GEMA repertoire as part of podcast services*

*Tariff VR-OD 14*

Net amounts with the addition of statutory value-added tax

12.05.2020

## I. SCOPE

The following royalty fees apply exclusively to the use of works in the GEMA repertoire as part of podcast services.

### 1. Licensing object

- a. The licensing object is the respective podcast.
- b. A “podcast” within the meaning of this tariff is an audio file. It appears on a regular basis in episodes of a series and is made publicly accessible
  - aa) either via a web feed (e.g. RSS Feed), usually via a podcast host and/or a podcatcher, or
  - bb) exclusively via a specific individual servicesboth irrespective of whether or not download is allowed.  
A podcast is distinguished by the fact that its emphasis is on verbal contributions.
- c. The license shall be granted for the podcast in its entirety, i.e. for all comprised episodes and not for individual episodes.

### 2. Licensee

The Licensee is the natural person or legal entity, who causes a podcast to be made available to the public.

- a. This is generally the person, who makes the podcast available to the public itself or uses a third party services to do so via a web feed (e.g. RSS feed), generally via a podcast host and/or a podcatcher (“podcaster”).
- b. If the podcast however is a service that is made available to the public not in a decentralised manner via a web feed, but rather, exclusively via a specific individual service, the respective service provider is the licensee .

### 3. Limitation of the scope

Uses that do not fall under the scope of this tariff especially include uses that fall under the tariffs VR-OD 4, VR-OD 7, VR-OD 8, VR-OD 9 and VR-OD 10; business-to-business (B2B) business models and audiobook and radio play utilisations.

## II. ROYALTY FEES

### 1. Podcasts with up to 50,000 retrievals per month across all episodes

For podcasts with up to 50,000 retrievals per month across all episodes, the monthly royalty fee is based on the number of retrievals and the playing time musical works in the GEMA repertoire contained in the podcast (“music minutes”) in accordance with the following table:

Music minutes (up to)	Number of retrievals of the podcast per month (up to)				
	10,000	20,000	30,000	40,000	50,000
1	€ 5	€ 10	€ 15	€ 20	€ 25
2	€ 10	€ 20	€ 30	€ 40	€ 50
3	€ 15	€ 30	€ 45	€ 60	€ 75
4	€ 20	€ 40	€ 60	€ 80	€ 100
5	€ 25	€ 50	€ 75	€ 100	€ 125
6	€ 30	€ 60	€ 90	€ 120	€ 150
7	€ 35	€ 70	€ 105	€ 140	€ 175
8	€ 40	€ 80	€ 120	€ 160	€ 200
9	€ 45	€ 90	€ 135	€ 180	€ 225
10	€ 50	€ 100	€ 150	€ 200	€ 250
Per additional music minute	+ € 5	+ € 10	+ € 15	+ € 20	+ € 25

The number of music minutes to be used as a basis is calculated as the average number of music minutes of all retrievable episodes of the podcast, including those newly added for the respective month.

Whereby the following shall apply:

- a. Musical works without simultaneously spoken text: The playing times of the respective musical works are cumulated, calculated in minutes and seconds.
- b. Musical works with simultaneously spoken text: The playing times of the respective musical works are cumulated, calculated in minutes and seconds, and halved.

The number of music minutes shall be the result of the sum of the values calculated according to a. and b.

## 2. Podcasts with more than 50,000 retrievals per month across all episodes

For podcasts with more than 50,000 retrievals per month across all episodes, the monthly royalty fee is calculated as a percentage share of the podcast-related revenues according to letter a. of this Section 2, unless the flat fee as set out in letter b. of this Section 2 results in a higher royalty fee, in which case the royalty fee shall be the applicable flat fee amount.

### a. Share of the podcast-related revenues

The royalty fee is 15 % of the monthly podcast-related revenues taking into account the pro rated share of the works from the GEMA repertoire in relation to the total playing time of the podcast.

The royalty fee is calculated according to the following formula:

$$\text{Music share multiplied by 15 \% = royalty fee}$$

The music share is calculated as the average music playing duration of all retrievable episodes of the underlying podcast in proportion to the average total playing time of all retrievable episodes of the podcast, including those newly added for the respective month.

The calculation of the average music playing duration takes place precisely to the second in accordance with Section II. 1.

Example for the calculation of the royalty fee with an average of two-and-a-half music minutes with an average podcast length of 50 minutes:

$$\text{Music share:} \quad 2.5 \text{ minutes} / 50 \text{ minutes} = 0.05$$

$$\text{Royalty fee:} \quad 0.05 * 15 \% = 0.75 \%$$

The podcast-related revenues are all of the net revenues generated with the podcast (gross revenues less the applicable value-added tax). Inter alia, this includes revenues from advertising, sponsoring, donations and trading, compensation or gift transactions, end-user fees and separately financed or charged non-cash benefits and consideration, e.g. transmission and availability fees.

b. Flat fee

Number of retrievals of the podcast per month across all episodes (up to)	Price per initiated music minute	Number of retrievals of the podcast per month across all episodes (up to)	Price per initiated music minute
Up to 60,000	€ 30	Up to 110,000	€ 55
Up to 70,000	€ 35	Up to 120,000	€ 60
Up to 80,000	€ 40	Up to 130,000	€ 65
Up to 90,000	€ 45	Up to 140,000	€ 70
Up to 100,000	€ 50	Up to 150,000	€ 75
<b>For each additional 10,000 retrievals (up to) the price per initiated music minute increases by € 5</b>			

The calculation of the number of music minutes to be used as a basis shall be determined in accordance with Section II. 1.

Examples: With 58,000 retrievals and 11 music minutes the flat fee is € 330.00 (€ 30 \* 11)

With 155,000 retrievals and 5 music minutes the flat fee is € 400.00 (€ 80 \* 5).

### III. GENERAL PROVISIONS

#### 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. with a podcast host),
- b. by making musical works in GEMA's repertoire available to the public,
- c. by transmitting musical works,
- d. by the actual retrieval of a music work by the end 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. Extent of the grant of rights

- a. The grant of rights to the use of works and rights of the GEMA repertoire within the scope of podcast services is limited to the right according to Article 16 of the German Copyright Act (UrhG) to reproduce works of the GEMA repertoire as part of the podcast, and the right according to Article 19a of the German Copyright Act (UrhG) to make works of the GEMA repertoire available to the public as part of the podcast. For the purpose making the podcast available to the public, subject to proper licensing,
  - works of the GEMA repertoire may be incorporated into databases, documentation systems or in similar storage media (e.g. with a podcast host),
  - works of the GEMA repertoire may be made publicly accessible,
  - works of the GEMA repertoire may be transmitted to the end user,
  - works of the GEMA repertoire may be duplicated on the end user's playing medium with or without the possibility of permanent storage.
- b. The granted rights of use are not transferable to third parties. They are geographically limited to uses that occur in Germany and/or for the German market.
- c. The granted rights do not include other rights, in particular the right to edit and the right to combine works in GEMA's repertoire with works from other genres, as well as the graphic rights, the musical notation rights, and the lyric rights. Ancillary copyrights as set out in Part 2 of the German Copyright Act (UrhG) are also not included.
- d. The moral rights of the author may not be violated. Alterations to a music work in order to use it in a podcast, in particular 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 with regard to the moral rights of the author must be obtained separately by the podcaster.

## 3. Timely acquisition of the utilisation right

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.

## 4. Third-party rights

The rights of third parties shall remain unaffected.

## 5. Territorial scope

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

## 6. Period of validity

The royalty fees shall apply to uses from 12 May 2020 and are initially limited until 11 May 2022.

**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.**

