

ROYALTY RATES SCHEDULE

for the use of works from GEMA's repertoire by RADIO broadcasters
(all broadcasting modes except premium radio)

Net amounts plus value added tax (currently 7 %)

I. ROYALTIES

1. Standard royalty

The standard royalty consists of a percentage share of the broadcasting-specific revenue of the radio broadcaster as a function of the respective music content of the whole programme. It is calculated on the following formula:

Maximum rate 7.5 % for 100 % music content, divided by 100, multiplied by the music content of the programme = royalty rate

Example for a music content of 78 %: $7.5 / 100 \times 78 =$ royalty rate 5.85 %.

The royalty rates are rounded to 2 decimal places.

2. Minimum royalty

a. The monthly minimum royalty is calculated according to the widest number of listeners.
For programmes that are broadcast

- without broadcasting-related online services it is: EUR 0.0102 per listener
- with broadcasting-related online services it is: EUR 0.01224 per listener

b. Broadcasting time

If the broadcasting time is less than 24 hours a day and/or 7 days a week, the royalty is reduced proportionately, but a minimum of 42 hours a week is assumed.

The broadcasting times are in each case rounded up to full hours.

c. Music content

The music content will be calculated in accordance with para. II. 7. and considered in steps of 1 %. If the programme contains a music content of less than 100 %, the royalty is reduced accordingly.

d. The minimum amount payable per month is EUR 32.50 or EUR 40.00 including broadcasting-related online services. No deductions are made from this amount (e.g. general agreement rebate).

3. Royalty rate discounts

Subject to paragraph I.2.d, members of user associations with which GEMA has concluded a general agreement as defined in Art. 35 of the German Collecting Societies Act (VVG) are granted a general agreement rebate of 20 % under the terms of the general agreement provided that they comply with all contractual obligations.

II. GENERAL PROVISIONS

1. Scope of application

Radio within the meaning of this schedule is broadcasting in the form of a linear programme, i.e. a sequence of content relative to the total broadcasting time (e.g. the 24-hour programme) that is timetabled according to a broadcasting schedule ¹ and intended for simultaneous reception by the public and which does not provide any interactive facilities for the listener (e.g. “pause”, “skip title”).

The royalty rates cover all technical broadcasting modes, such as for example terrestrial, cable and satellite broadcasts, broadcasting on the internet or via mobile telephone data networks.

They do not cover radio services that fall within the scope of application of the Premium Radio Royalty Rates Schedule.

2. Granting of rights

- a. The royalty rate schedule is applied on condition that the rights are obtained from GEMA prior to commencement of use by the conclusion of an appropriate single user agreement.
- b. The authorisation covers use of the following rights:
 - aa. Linear broadcast
 - The right to broadcast works from GEMA’s repertoire within the scope of its own broadcasting operations in the technical broadcasting modes respectively used by the licensee itself. The broadcasting right is granted irrespective of the transmission technology used and irrespective of the end device used.
 - The right to reproduce works from GEMA’s repertoire for own broadcasting purposes.
 - bb. Broadcasting-related online services
 - The right to import works from GEMA’s repertoire in databases, documentation systems, similar storage media and reproduction devices (reproduction right).
 - The right to make available to the end users works from GEMA’s repertoire that have been imported into databases, documentation systems or similar storage media (e.g. server computers) by electronic or similar means (right to make available to the public as defined in section 19a of the German copyright act (UrhG)).
 - The right to enable end users to download the works from GEMA’s repertoire on an end device of the end user (reproduction right) in the case of an offer to download or to make them accessible on a playback medium in the case of streaming offers.
- c. The authorisation to use dramatico-musical Grand Rights works as well as to use a work for advertising purposes must in every case be obtained separately from the rightholder.

3. Licensing of pay radio

- a. In respect of the repertoire it manages, GEMA grants simple rights of use to the users of the work.
- b. If a radio programme is distributed as pay radio across one or more so-called marketing platforms and if the revenue from pay radio is divided between the operator of a marketing platform (the marketer of pay radio programmes as opposed to the end customer, referred to hereinafter as “marketer” ²) and the content supplier, both the respective marketer and the content supplier are liable for payments to GEMA in respect of their own share of the revenue. Each participant must render account to GEMA for its own revenue. Rights are granted for each programme only when both the content supplier and all marketers who market the programme have concluded an appropriate licensing agreement with GEMA or have paid the full royalty according to the Radio Royalty Rates Schedule. Once granted, rights lapse automatically as soon as the programme is distributed across a marketing platform whose operator has not concluded an appropriate licensing agreement with GEMA or has not paid the full royalty according to the Radio Royalty Rates Schedule or as soon as a concluded licensing agreement expires or payment of the full royalty is rejected. For the case that one or more of the participants refuses to conclude the necessary agreement or to pay the full royalty according to the Radio Royalty Rates Schedule, but at least one of the participants does conclude the agreement and complies with the agreement, GEMA will tolerate the transmission of the corresponding programme or programmes.

¹ Transmission sequences generated by software are included insofar as the parameters are determined by natural persons.

² The simultaneous retransmission of free radio programmes is governed in respect of the rights managed by GEMA by the Common Royalty Rates Schedule for Cable Retransmission and the provisions of the general cable retransmission agreements.

4. Territorial scope

Use of the rights referred to under no. 2 and no. 3 is restricted to the territory of the Federal Republic of Germany. Satellite broadcasting covers the entire area of direct reception, provided that the satellite uplink as defined in section 20a (3) of the German copyright act (UrhG) takes place in Germany.

In respect of broadcasting-related online services, the above applies if the online offer is operated from Germany by a national provider. This is the case if the following criteria are met:

- Either the main office of the provider is situated in Germany, alternatively the majority of employees are employed in Germany or the annual accounts are audited in Germany (“economic residence”)
- or the user data are collected and the account records are kept in Germany and the company is registered for tax purposes in Germany. In case of doubt the registered office of the company under tax law prevails (“principal place of operation”).
- The service is offered in German.

5. Determination of the standard royalty

a. Broadcast-specific revenues (excluding VAT) pursuant to para. 1. 1. are

- aa. subscription revenue;
- bb. advertising revenue (advertising including pre, mid- and post-roll advertisements, banner advertising sponsorship and bartering, including revenue from simulcasts);
- cc. revenue from Media for Equity;
- dd. proceeds from product placement/product marketing;
- ee. revenue from pay radio;
- ff. revenue from chargeable telecommunication processes;
- gg. radio shopping;
- hh. donations.

Similar broadcast-specific commercial advantages are taken into account in the amount of their corresponding value. The revenue must be determined separately for each programme.

b. Royalty on advertising revenue (advertising including pre, mid- and post-roll advertisements, banner advertising sponsorship and bartering, including revenue from simulcasts)

Before the royalty is determined, the advertising revenue can be reduced by agency fees (up to a maximum of 15 %), volume rebates and discounts to the extent actually incurred (net advertising revenue).

In the case of revenue from bartering, the gross list price of the advertising period (excluding VAT) must be applied. The revenue from bartering transactions can be reduced by agency fees (up to a maximum of 15 %), volume rebates and discounts to the extent actually incurred.

If the revenue for bartering after these deductions have been made is less than 10 % or over 25 % of the gross list price, it is increased to 10 % or reduced to 25 % for the purposes of GEMA accounting.

A further deduction for acquisition expenses as set out below may be made from the net revenue per programme from advertising, sponsorship and bartering:

- (1) Marketing performed by major commercial agent / marketing organisation (total turnover EUR 50 million or more excluding VAT per annum): 7 %
- (2) Marketing performed by small commercial agent / marketing organisation (total turnover up to EUR 50 million excluding VAT per annum): 11 %
- (3) Marketing performed by the licensee itself:
 - (a) for the first EUR 2 million per annum: 15 %
 - (b) for the amount exceeding EUR 2 million per annum: 11 %

- c. Revenue from Media for Equity:
From 2018 revenue from Media for Equity will count as billable revenue. This is where companies (especially start-ups) are offered advertising time (media services) by radio broadcasters so that they can publicise themselves. Instead of receiving a monetary benefit, those who provide the advertising time are given an equity stake in the company (Media for Equity agreement). No further deduction may be made from this revenue.
- d. Royalty on proceeds from product placement / product marketing:
Before the royalty is determined, the revenue from direct non-gratuitous product placement can be reduced by agency fees (up to a maximum of 15 %), volume rebates and discounts to the extent actually incurred (net revenue).
A further flat-rate deduction of 20 % for acquisition expenses can be made from the net revenue.
- e. Royalty on revenue from pay radio:
Revenue from the organisation of pay radio comprises all proceeds (excluding VAT) achieved by the licensee from subscribers of the programme. If proceeds from pay radio are divided between the operator of a marketing platform (the marketer of pay radio programmes as opposed to the end customer, referred to below as “marketer”³ and the content supplier, each participant must render account to GEMA for its own share of the proceeds.
The marketer is entitled to deduct from the pay radio proceeds to be settled by it (1.) acquisition costs at a flat rate of 22.5 % of its actual share of the proceeds plus (2.) 12.5 % of the actual shares of the proceeds of all content suppliers. The content suppliers are entitled to deduct from the pay radio proceeds to be settled by them their respective acquisition costs at a flat rate of 10 % of their actual share of the proceeds.
- f. Royalty on income from chargeable telecommunication processes:
Telecommunication proceeds are the revenue from chargeable telecommunication processes by listeners that are related directly to the broadcast and actually accrue to the licensee (e.g. telephone, SMS, fax).
It is assumed that 53 % of the telecommunication revenue is related directly to the use of the rights pursuant to para. II. 2 and is therefore deemed to be revenue as defined in para. II. 5. a. et seqq.
No further deduction may be made from the relevant telecommunication revenue.
- g. Royalty on radio shopping revenue:
Revenue from radio shopping is the proceeds from the sale of merchandise (net merchandise sales). The proceeds are calculated from the actual total merchandise sales less cost of merchandise.
In the case of the sale of travel, commission received for brokering services from the travel promoters themselves or from other third parties must be considered as revenue to the extent that the commission is attributable to travel agency advertised in the television shopping programme (royalty-relevant commission revenue).
In the case of the sale of musical works and ringtone melodies as downloads, the sale proceeds excluding VAT generated by advertising in the radio shopping programme less the author’s royalty according to the online royalty rates schedules of GEMA are considered as revenue.
- h. Donations:
Donations are the revenues that accrue directly to the licensee for the financing of the programme. They do not include donations received for third parties (e.g. Christmas charity campaigns).
- i. Royalty on revenue from broadcasting-related online services:
Revenue from broadcasting-related online services is taken into account in the determination of the assessment basis under para. 5. b. to h.

6. Determination of the minimum royalty

The widest number of listeners pursuant to para. I. 2. a. is the number of persons according to the usual figures in the market who indicate that they have listened to the programme in the last 14 days (Mon. to Sun.), each person being counted only once.

Notwithstanding the above, the following applies:

- a. In the case of subscription radio the number of subscribers is taken into account.

³ The simultaneous retransmission of free radio programmes is governed in respect of the rights managed by GEMA by the Common Royalty Rates Schedule for Cable Retransmission and the provisions of the general cable retransmission agreements.

- b. In the case of internet broadcasting that is not subscription radio, the widest number of listeners is calculated by multiplying by 4 the number of actual individual listeners (“unique users”) per day.

The listeners are normally identified by their IP address, via cookies or by a password specified on registration.

7. Music content

The music content is the proportion of music in the total programme and comprises the proportion of “music played or introduced” and the proportion of “music in advertising spots, jingles, broadcaster identifications, music beds for spoken contributions, etc.”

The music content is considered to be the proportion that the music from GEMA’s repertoire bears to the total broadcasting time of the programme.

The music content is rounded to whole numbers and considered in steps of one % when determining the standard royalty and minimum royalty. Where a programme is organised jointly by several licensees, the music content of the total programme prevails for each.

8. Miscellaneous

- a. Reproduction media of third parties (e.g. audio carriers) may only be used in the course of broadcasting operations if the rights to manufacture these reproduction media have been duly obtained from the rightholders by the third parties.
- b. The authorisation granted by GEMA covers only the rights vested in GEMA. Subject to broadcasting-related online services, it does not authorise any other use of the works broadcast by radio.
Rights of third parties remain unaffected.
- c. This schedule does not apply for retransmissions, e.g. cable retransmission, and for use falling within the scope of the VoD and MoD royalty rates schedules.