

## Tariff for the exploitation of commercially published sound recordings and videoclips in private TV programmes

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Pursuant to section 13 of the German Copyright Administration Act by way of deviation of the tariff dated 21<sup>st</sup> April 2005, published in the German Federal Gazette no. 87 dated 11<sup>th</sup> May 2005, page 7227, GVL, Podbielskiallee 64, D-14195 Berlin, herewith publishes the following Tariff for the exploitation of commercially published sound recordings and videoclips in private TV programmes

1. The licence fee for the exploitation of commercially published sound recordings in private TV programmes shall be calculated at 0.25% of the income. This shall apply to programmes with normal exploitation levels for sound recordings. In the case of a medium level exploitation, the share shall be reduced by 50%, for a lower level exploitation, the share shall be reduced by a further 50%. Payments on account shall be made in equal quarterly instalments in line with the above based on the income of the previous year, and if such figures are not available, based on income estimates. In the event that the certified annual accounts establish a higher or a lower income, then an adjustment debit or credit shall be made.
2. Income shall be defined as proceeds from advertising and commercials in the programme or from programme sponsorships, plus income from bartering, telecommunications services, subscription fees and donations. Similar economic profits shall be considered at their respective values. Before the licence fee is established, advertising revenue may be reduced by agency fees (up to a maximum of 15%), bulk discounts or other rebates or cash discounts. The following general acquisition costs may be deducted:

In the event that the contractual party does its own marketing, a blanket deduction of 5% shall be granted. In the event that the contractual party claims more than 5% general costs, these are deductible as follows once evidence has been supplied: in the case of net income of up to EUR 100m per annum up to 10%, in the case of net income of more than EUR 100m up to EUR 500m per annum 6.5%. In the event that the marketing is done externally via a marketing representative or via a marketing agency, a flat-rate deduction of 5% or a deduction of the proven costs will be granted, but no higher than 10%.

3. For videoclips licence fees, the following shall apply:

a) In addition to the licence fee pursuant to item 1, a fee of EUR 1,400 per videoclip broadcast shall apply, in relation to the number of TV sets licensed nationwide on average per calendar year (per 1st July of each calendar year). In the event of a lower average coverage of a private TV programme in a calendar year, the amount shall be reduced proportionally at the ratio of the licensed TV sets reachable by this private TV programme (per 1st July of each calendar year) and the total number of licensed TV sets nationwide; the minimum fee shall be EUR 25. The fee shall include one repeat broadcast of the programme unit containing the videoclip within 168 hours after the first broadcast.

b) In the event that more than 1,000 videoclips are broadcast per calendar year, the licence fee shall be calculated in line with a) above and shall be reduced from the 1,001st videoclip as follows:

For the next 1,000 videoclips (1,001 to 2,000) to 80% of the full licence fee,

For the next 1,000 videoclips (2,001 to 3,000) to 60% of the full licence fee,

For the next 1,000 videoclips (3,001 to 4,000) to 40% of the full licence fee,

For the next 1,000 videoclips (4,001 to 5,000) to 20% of the full licence fee

For the next 1,000 videoclips (5,001 to 6,000) to 10% of the full licence fee,

From the 6,001st videoclip onwards to 5% of the full licence fee.

c) The licence fee for videoclips excerpts (including one repeat broadcast pursuant to a) above) with a duration of up to 45 seconds shall be EUR 140; the proportional discount pursuant to a) 2nd sentence above and the bulk discount pursuant to b) shall not apply for such excerpts, the price per excerpt must, however, not be higher than the price calculated pursuant to a), 2nd sentence, per videoclip broadcast at full length.

d) The total from the licence fee pursuant to item 1 and the individual calculation of the videoclips pursuant to item 3 a) shall be limited to 1.875% of the income, as long as the share of the total broadcast time is under 20%. In the event the broadcast time is between 20% and 30%, the limitation shall be at 3.125%; for 30% to 40% at 4.375%, from 40% to 50% at 5.625% of the income pursuant to item 2.

e) In the event that the majority of a TV programme, but at least half of the total broadcast time is made up of videoclips, the licence fee shall not be calculated pursuant to item 1 and 3a). Instead, the licence fee shall be

if over 50% of the broadcast time is made up of videoclips, 6.875%;

if over 60% of the broadcast time is made up of videoclips, 8.125%;

if over 70% of the broadcast time is made up of videoclips, 9.375% of income.

4. The licence fee covers the terrestrial broadcast in Germany and the satellite broadcast from Germany into the EU. It also covers making copies for broadcast purposes. Making copies for any other purposes requires a special licence of the record companies. The licence fees do not cover the exploitation of

sound recordings and videoclips in commercials; the licence for this exploitation must be obtained from the producer companies.

5. Members of a professional association of music users with whom GVL has entered into a general agreement, the licence fees shall be reduced by 20%.
6. The licence fees shall be increased by the respective VAT rate in force

Berlin, 29<sup>th</sup> September 2005

The Managing Directors  
Dr. Gerlach      Zombik

This document is a free translation into English of the Tariff originally issued in the official language, German. The translation is provided solely for the convenience of English speakers. In the event of a discrepancy between the English translation and the German version, the version in the official language shall prevail.