

# Tariff for the exploitation of commercially published sound recordings for the so-called internet radio/webcasting

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Pursuant to section 13 of the German Copyright Administration Act by way of deviation of the tariff dated 24th March 2005, published in the German Federal Gazette no. 70 dated 14th April 2005, page 6051, GVL, Podbielskiallee 64, D-14195 Berlin, herewith publishes the following Tariff for the exploitation of commercially published sound recordings for the so-called internet radio/webcasting

## A. Tariff for non-interactive webcasting services

The subsequent tariff shall apply for the transmission of programmes on the internet or via comparable electronic networks, where the programme contents are non-interactive, linear and do not let the user exert any direct influence onto the programme.

### I. Non-commercial webcaster

1. The standard licence fee for non-commercial webcasters and public service broadcasters shall be EUR 0.000333 per title and member of audience or alternatively, EUR 0.0001 per minute and member of audience.

In the event that a higher amount is thus reached, the licence fee shall be 7.5% of the cost. The minimum licence fee shall be EUR 500 per annum.

2. In the event that more than one webcasting channel is offered, except in cases where the licence fee calculation is made on the basis of titles or minutes, the blanket fee for each further channel shall be
  - EUR 500 each for the 2nd to the 5th webcast channel
  - EUR 250 each for the 6th to the 20th webcast channel
  - EUR 125 each for the 21st to the 35th webcast channel
  - EUR 50 each for the 36th to the 50th webcast channel
  - EUR 25 each for the 51st and any additional webcast channels

3. The blanket minimum licence fee and the licence fee based on costs shall apply to services where sound recordings make up a portion of more than 80%. The licence fees shall be reduced by 25% in the event that the sound recordings constitute up to 80%, and by 50% if the sound recordings constitute up to 60%. The minimum licence fee shall also be reduced in cases where a lower usage level results from the programme being offered only temporarily. All in all, the minimum licence fee or the cost-related licence fee must not fall below EUR 250 per annum. The tariff related to individual service requests shall in any case remain unaffected.
4. The licence fee for reproduction for the purpose of webcast transmissions shall be EUR 0.125 per title and per annum

## II. Commercial Webcasters

1. The annual licence fee for commercial users shall be EUR 1,500 on income of up to EUR 50,000 and EUR 4,000 on income of up to EUR 100,000. In the event of income over EUR 100,000 the licence fee shall be an additional 10% for amounts up to EUR 300,000. For any income above EUR 300,000, the licence fee shall be an additional 12.5%. Income shall be proceeds generated from advertising and commercials or from sponsoring, bartering, subscription fees or from any other services subject to a charge.
2. For the purposes of calculating the licence fees, costs instead of income shall be used as a basis, if a higher amount is thus reached. In the event of costs up to EUR 50,000 the minimum licence fee shall be EUR 1,000, for costs above EUR 50,000 the licence fee shall be another EUR 1,000, for costs above EUR 100,000 up to EUR 200,000 the licence fee shall be 8%, and for costs above EUR 200,000 the licence fee shall be 10%.
3. The licence fee as per items 1 and 2 above shall cover the services of one webcast channel. In the event that more than one webcast channel is supplied, the licence fee shall be calculated for each additional channel, unless the licence fee calculation is made on the basis of titles and/or minutes in line with item 4 below, as follows
  - EUR 1,000 each for the 2nd to the 5th webcast channel
  - EUR 500 each for the 6th to the 20th webcast channel
  - EUR 250 each for the 21st to the 35th webcast channel
  - EUR 100 each for the 36th to the 50th webcast channel
  - EUR 50 each for the 51st and any additional webcast channels
4. In the event that income of over EUR 500,000 is generated, the tariff shall be EUR 0.001 per title and member of audience or alternatively EUR 0.0003 per minute and member of audience. The webcaster can choose at the beginning of the contractual period whether the fixed amount shall be calculated based on titles or minutes.
5. The licence fee based on income or costs shall apply for services where sound recordings make up more than 80%. It shall be reduced by 25% where sound recordings constitute up to 80%, and by 50% where sound recordings constitute up to 60%.

6. Reproduction for webcast transmission purposes shall be subject to a licence fee of an additional EUR 0.25 per title and per year, if the licence fee on a "per request" basis pursuant to item 4 is applicable.

### **B. Tariff for personalised webcasting services and/or webcast services with interactive elements and/or such services which are configured for mobile use**

The subsequent tariff shall apply for the transmission of programmes on the internet or via comparable electronic networks, where personalised programme contents are available and/or the programme sequence can be influenced interactively, and/or where programmes are configured for mobile use.

1. In the event that the programme has been configured via technical means for additional or sole use via mobile devices, the licence fee to be calculated in line with letter A above shall be increased by 10%.
2. In the event that the programme is personalised or can be influenced interactively, the licence fee to be calculated in line with letter A above shall be increased by 10%. Should the programme, in addition to the aforementioned, also be configured via technical means for additional or sole use via mobile devices, the licence fee to be calculated in line with letter A above shall be increased by 21%.
3. In the event that the programme is personalised and can be influenced interactively, the licence fee to be calculated in line with letter A above shall be increased by 30%. Should the programme, in addition to the aforementioned, also be configured via technical means for additional or sole use via mobile devices, the licence fee to be calculated in line with letter A above shall be increased by 43%.
4. In the event that the rights for these exploitations in particular cases have not been assigned to GVL, the supplement shall be reduced proportionately

### **C. General Provisions**

1. The aforementioned tariffs shall apply to services directed at German users, and where no more than 2% of all service requests are made from abroad. There is an additional option to obtain a licence for multi-territorial rights. In the event of obtaining a multi-territorial licence, the local tariffs of the rights administration societies responsible in countries with whom GVL has entered into reciprocal agreements, shall apply for service requests from those countries.
2. In the event of obtaining a licence for multi-territorial rights, the licence fee shall be increased by a flat-rate fee for administrative purposes. For commercial webcasters, this flat-rate fee shall be a one-off payment of EUR 750 upon completion of the contract. An annual flat-rate fee for administrative purposes shall be payable for covering the costs of a multi-territorial distribution; it shall be EUR 1,500 for distributions for up to ten countries, EUR 3,000 for distributions for up to fifty countries, EUR 5,000 for distributions for up to one hundred countries and EUR 6,500 for distributions for more than one hundred countries. The administration cost shall be limited to 15% of the licence fee set by the tariff. They shall be reduced by 50% for non-commercial webcasters and for services offered by public service broadcasters. The costs for those users shall also be limited to 15% of the licence fee.
3. In the event that the webcasting service offered constitutes only a part of the overall services on offer, the relevant costs and/or income shall be taken into consideration accordingly.

4. Income – and costs – must be substantiated by auditors' certificates in an appropriate manner. In the case of non-commercial services a confirmation from a tax advisor shall suffice. The webcasters shall declare the following to GVL: the number of the titles stored for transmission, the total duration of their programmes as well as the sound recordings used by label code and company, title, performing artist, duration of the transmission, number of simultaneous users and date. In addition, information has to be provided in which countries - identifiable via the IP address – the programme was used. Reports must be supplied within a three month deadline, but always by the end of each quarter. The reports shall, as a matter of principle, be supplied electronically via the interface provided for this very purpose. GVL may exempt the webcaster from the obligation to report. This obligation to report shall, however, remain for those parameters that are essential for the calculation of the licence fee.
5. The webcaster shall be obliged to observe GVL's terms of use. Exploitation rights above and beyond those must be obtained directly from the rightsholders.
6. The respective licence fee shall only cover those rights of performing artists and sound recording producers within GVL's administrative scope. The exploitation of sound recordings in commercials shall not be covered; the relevant licence must be obtained from the sound recording producer companies.
7. The licence fees shall be increased by the respective VAT rate in force. For members of a professional association of music users with whom GVL has entered into a general agreement, the licence fees for domestic exploitation shall be reduced by 20%.

Berlin, 8<sup>th</sup> August 2008

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