

TARIFF FOR THE USE OF WORKS, AUDIOVISUAL RECORDINGS AND PERFORMANCES CONTAINED
THEREIN FROM THE EKKI REPERTOIRE BY PROVIDERS OF VOD AND STREAMING SERVICES ON
THE INTERNET

I. RIGHTS INVOLVED

The rights recognised by Royal Legislative Decree 1/1996, of 12 April, approving the revised text of the Intellectual Property Law, regularising, clarifying and harmonising the legal provisions in force on the subject (hereinafter, "IPL") and which are authorised and settled by applying this tariff are:

- a. The exclusive rights of reproduction and public communication, including making available, which correspond to the authors of audiovisual works and other works, whether musical, literary or graphic, incorporated therein, corresponding to articles 18 and 20.2.i) IPL.
- b. The right of remuneration for the same authors indicated in the previous paragraph, corresponding to art. 90.4 IPL.
- c. The right of remuneration for performers provided for in art. 108.3 IPL.

II. EKKI'S REPERTOIRE

EKKI's repertoire with regard to this tariff is limited to the following services, if their owners or their principals have entrusted their management to EKKI, for all the modalities indicated in the previous point:

- a. Audiovisual works, including directing/production, scriptwriting, and musical contributions.
- b. Musical works incorporated into any audiovisual work.
- c. Performers' performances incorporated in any of the works referred to in points a and b above.
- d. Phonograms and audio recordings.
- e. Audiovisual recordings.

III. USER IDENTIFICATION

The target users of this tariff are the providers of VOD and online *streaming* services; those who carry out the exploitation of the repertoire indicated in section II above, whether the viewing by the end user is paid or free of charge.

Television operators engaged in similar operations are expressly excluded from this tariff and shall be subject to their specific tariff.

IV. TAXABLE BASE

The following shall be considered chargeable, by way of example and not restrictively:

1. Those from subscribers' fees
2. Capital injections made to cover the operating deficit
3. Subsidies received for the development of business activity
4. Revenues from advertising, whether:
 - a. Monetary compensations
 - i. Including amounts paid by sponsors for the production or co-production of own programmes.
 - b. If they have not received monetary consideration, they shall be calculated in a similar manner, applying the standard rate established by the broadcaster for a space equivalent to the advertising space not received as revenue.
5. Expenses borne by third parties, in accordance with accounting standards

Non-chargeable income shall be considered as non-chargeable income:

1. Subsidies to cover costs which users do not have to incur in the normal course of their business, including:
 - a. costs that are of a one-off or unforeseen nature;
 - b. costs which are not strictly necessary for the development of the activity and which do not have an impact on income;
 - c. the costs incurred by public operators simply because they are public operators.
2. Subsidies to cover the payment of royalties to collecting societies.
3. Any other income unrelated to the usual activity of the users and not linked to the exploitation of repertoire.

V. TARIFF RATE

The following tariff rates shall apply to the base identified in section IV above:

VOD - STREAMING WORKS + AUDIOVISUAL RECORDINGS AND PERFORMANCES						
AUTHORS			Musical performances on embedded phonograms	Own musical interpretations of audiovisual recordings	Audiovisual performances (acting, voice, etc.)	TOTAL
Reproduction	Com. Public	Total				
1,60%	2,50%	4,10%	4%	0,60%	1,30%	10,00%

An effective usage modifier will be applied to all rates expressed. Actual usage will be determined by the submission of periodic usage reports by the user, which EKKI will check against its repertoire for the determination of the final applicable rate. The final applicable rate will be determined with respect to the proportion of EKKI's repertoire usage to the total repertoire usage:

$$\text{Applicable rate} \times \% \text{ effective use} = \text{Final applicable rate}$$

VI. MINIMUM RATES

If the application of the above tariff rates results in a lower figure than those indicated below, users will be charged the following minimum tariffs:

- If the user's business model is subscription-based: €0.02 per month per subscriber
- If the user's business model is a unitary payment per access to the audiovisual work: €0.005 per access.
- If the user's business model is free access, with or without advertising: €0.001 per view

In case the user's business model is mixed, uses shall be separated according to business model and each tariff shall apply only to the corresponding uses.