



Information on using music in commissioned productions for film and video

If you want to know more

Rights of use for commissioned productions for film and video

- Each film and video production is subject to a multitude of rights, some of which can be assigned or licensed to third parties, whereas others belong to the respective author and are thus inalienable. In general, the rights that can be assigned or licensed, are grouped under the umbrella term "rights of use" or "exploitation rights". These are the rights that are relevant for the advertising client.

Special statutory regulations for the rights of use of music

- While the rights of use pertaining to the *image track* can be settled exhaustively by a contract with the respective film producer, a part of the rights of use pertaining to the *sound track* (namely the rights of use of the music used) is subject to mandatory provisions whereupon authors (composers/lyricists) assign their administration to a collecting society like SUISA.

Practically all known and leading composers have their works administered by a society and are either associated with SUISA or one of its sister societies abroad. The collecting society system guarantees legal certainty, protects the artistic independence of the artist and provides for a diverse music scene at a global level.

Which productions do you need to declare?

- All commissioned productions for film and video made in Switzerland and/or made for the Swiss market must be declared to SUISA. Even films that do not contain any music at all or music not administered by SUISA usually have to be declared, particularly in the case of commercials, as the SUISA number serves as the declaration number for broadcasters.

The duty of providing the declarations to SUISA lies with the commissioning parties as they are, in terms of copyright, the users of the musical works. The actual act of completing the SUISA forms can, however, be delegated to an advertising agency or the film producer.

Acquisition of music rights, processing and handling

- The procedure for using music in commissioned productions for film and video is described in detail on the reverse side of this information leaflet. SUISA also provides information upon request (see contact details below).

SUISA contact

T: +41 21 614 32 37

filmproduction@suisa.ch

Musical works for films

Commissioning parties (clients) cannot regulate musical works for films exclusively by means of bilateral contracts with the authors, but must transact them via SUISA.

The role of SUISA

SUISA is a non-profit-organisation. It collects the due remuneration via the channel prescribed by law for rights administration and passes it on to the authors and music publishers - by means of a pre-defined key. It keeps a small part of the remuneration to cover its administration cost.

Processing and handling

Due to the shift of media usage towards the internet, SUISA has simplified the process and the forms that need to be completed. For new commissioned productions for film and video, the required rights for music can be obtained via an online form in most cases. In the case of pre-existing films, online usages free of charge can also be simplified and compensated via the video on demand licensing terms and conditions.

Acquisition of music rights for film productions

Composer belongs to a collecting society (e.g. SUISA)

In order to use music in films or videos, the rights from three different parties are required:

- Author (composer and, where applicable, lyricists)
- Performers (singers and instrumentalists)
- Producer of the sound recording

The rights of the performers, and, where applicable, the producers can be acquired directly from the contributors if the music has been performed and recorded specifically for the film. In the case where pre-existing recordings are used (e.g. commercially available sound recordings), a so-called "Master Use Licence" is acquired from the label of the sound recording for these rights.

In copyright, the following distinction needs to be made: The right to combine music and film (so-called 'synchronisation right') remains usually with the author and/or his publisher. The rights of use or exploitation rights for any further uses of the film with the music (e.g. reproduction, broadcast, online rights, public performance) are all administered by SUISA.

This results in the following typical cases for the acquisition and settlement of the required rights:

- **A.1. Music has been specifically composed and recorded for the film**
 - a) *Contract with the composer; the contract governs the work input for the composition, where applicable, the performance and recording of the music; where applicable, the producers' and artists' rights; as well as the synchronisation rights ("synch licence").*
 - Professional fee
 - fees for usages with high recurrence (e.g. annual, depending on the scope of usage etc.)
 - b) *SUISA declaration*
 - SUISA production remuneration (Tariff VN; limited uses for online, DVD, exhibitions can be included)
 - SUISA remuneration for any further uses (broadcast; DVD, online; performance) subject to the relevant tariff or licensing terms and conditions VOD
 - c) *Contracts with performers, possibly producers of sound recordings, unless covered by the composer*
- **A.2. Pre-existing music is licensed, but re-recorded**
 - a) *Synch Licence from the publisher (sometimes: from the composer)*
 - Basic licence fee
 - where applicable, additional licence payments (annual, depending on the scope of usage etc.)
 - b) *SUISA declaration*
 - SUISA production remuneration (Tariff VN; see item A.1. above)
 - SUISA remuneration for any further uses (see item A.1.).
 - c) *Contracts with performers, where applicable, with producers of sound recordings (see item A.1.)*
- **A.3. A pre-existing sound recording with pre-existing music is used**
 - a) *Licence from the publisher; it covers the synch rights ("Synch Licence"; see item A.2.)*
 - b) *SUISA declaration*
 - SUISA production remuneration (Tariff VN; see items A.1./2.)
 - SUISA remuneration for any further uses (see items A.1./2.).
 - c) *Master Use Licence from the label of the sound recording*
 - Basic licence fee
 - where applicable, additional licence payments (annual, depending on the scope of usage etc.)
- **A.4. Mood music from the SUISA catalogue is used (= SUISA also issues the Synch Licence)**
 - a) *-not applicable -*
 - b) *SUISA declaration*
 - SUISA production remuneration (Tariff VN; see items A.1./2.) and Synch Licence (supplement)
 - SUISA remuneration for any further uses (see items A.1./2.)
 - c) *Master Use Licence: via SUISA (supplement)*

Acquisition of music rights for film productions

Composer is *not* a member of any collecting society

Important:

Any additional uses/exploitations above and beyond the scope of the aforementioned must be compensated for separately (usually via the respective supplier, broadcaster, platform operator etc).

- **B.1. Music has been specifically composed and recorded for the film**
 - a) *Contract with the composer (see item A.1)*
 - b) *SUISA notification for declaration purposes only, but no invoice/remuneration*
 - c) *Contracts with performers, possibly producers of sound recordings, unless covered by the composer)*

- **B.2. Pre-existing music (including the recording) is licensed from catalogue level**
 - a) *Synch Licence inclusive of Master Use Licence from the supplier*
 - usually a lump sum, buy-out licensing fee
 - b) *SUISA notification for declaration purposes only, but no invoice/remuneration*
 - c) *- not applicable -*

SUISA forms to be completed:

If you make a TV commercial, a cinema advertisement, an internet commercial or a billboard, please use

"Application form VN-A: Recording music on commercial audiovisual carriers (tariff VN)".

If you make a corporate film or an image film and want to declare it for online use, for public performances free of charge and/or for the reproduction in a small batch (up to 200 DVDs), you need our

"Application form VN-B: Recording music on other types of audiovisual carriers (e.g. company films, [...]) (tariff VN)".

You will even need this form in cases where you make a commissioned film and plan to use it at a **later date**.

Should you make a feature film or documentary as a commissioned production intended for broadcasts on TV, or performances in cinemas or at festivals, you need our

"Application form VN-C: Recording music on non-commercial audiovisual carriers [...] (tariff VN)".

If you wish to declare a **pre-existing** commissioned film for online use, you need our *"Application form making available of audiovisual productions (free services)".*

SUISA contact

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