



SUISA

Cooperative Society of Music Authors and Publishers

SWISSPERFORM

Swiss Neighbouring Rights Administration Society

COMMON TARIFF S 2015 – 2019

Broadcasters

Approved by the Federal Arbitration Commission for the Administration of Copyrights and Neighbouring Rights on 10 November 2014 and published in Official Journal (FOSC) No. 228 dated 25 November 2014.

Society responsible for collection (collection centre)

SUISA

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A. Customers

- 1 This tariff is aimed at organisations which broadcast radio and/or TV programmes or directly feed those programmes into cable networks.
- They are hereinafter referred to as "broadcasters".

B. Scope of the Tariff

- 2 This tariff shall apply to the use of
- non-theatrical musical works - with or without lyrics - of the world repertoire administered by SUIZA protected by copyright (hereinafter referred to as "music")
 - commercially released audio or audio-visual recordings protected by neighbouring rights.
- 3 This tariff shall apply to the following usages:
- broadcasts (terrestrial, via direct feeds and diffusion into/via cable networks or via satellite)
 - simultaneous and unchanged feeds and broadcasts of works and performances into/via the internet and other IP based networks by a broadcaster, parallel to the actual broadcast (simulcasts)
 - direct feeds and broadcasts of works and performances via the internet and other IP based networks without parallel broadcast (webcasting)
 - making available of works and performances contained in broadcasts via the internet and other IP based networks for on demand usage pursuant to Art. 22c Swiss Copyright Act (CopA).
 - with regards to copyright: recording or re-recording onto audio or audio-visual media by the broadcaster; these media may only be used for broadcasting, diffusing and making available pursuant to this tariff and for the respective usage by other broadcasters with whom SUIZA or one of its foreign sister societies has entered into an agreement; for all other usages a special licence by SUIZA is required.
 - with regards to neighbouring rights: reproduction of performances of non-theatrical musical works available on commercially released audio and audio-visual recordings pursuant to Art. 24b paragraphs 1 and 2 CopA for broadcasting purposes as well as for making available pursuant to Art. 22c para. 2 CopA, as long as the legal requirements of these provisions prevail.
 - with regards to the broadcast and reproduction for the purpose of broadcasting as well as for making available pursuant to Art. 22c CopA only those usages of performances shall be governed by this tariff, as far as they are subject to the laws of Switzerland. SUIZA and SWISSPERFORM do not grant any rights for broadcasting, diffusion and making available of works, performances and recordings outside the territory of Switzerland.
- 4 SUIZA and SWISSPERFORM do not exercise the moral rights of the rights owners: The broadcaster shall respect those moral rights, in particular when dubbing audio-visual products.

SWISSEPRFORM does not exercise the exclusive rights of the performing artists and the record companies.

Dubbing of feature films, TV series, commercial broadcasts and similar productions with promotional character shall always require a special licence from the rights administration societies or rights owners.

- 5 This tariff shall not include broadcasts and diffusions governed by other tariffs, in particular:
- broadcasts by the SBC (Swiss Broadcasting Corporation, SRG)
 - broadcasts and diffusions of so-called pay radio and pay TV programmes
 - re-transmission of broadcasts in cable networks or via re-transmitters.

C. Collecting Societies, Remuneration Collecting Centres

- 6 SUISA is the representative and collection centre for SWISSPERFORM in respect of this Tariff.

D. Remuneration

a) Basis for calculation

- 7 As a rule, remuneration shall be calculated as a percentage of the broadcaster's income (subject to the provisions in item 10).

Supplements shall apply for:

- 7.1 Reproductions of performances and recordings of non-theatrical music works for broadcast purposes pursuant to Art. 24b CopA:

For broadcasters in terms of Art. 2 d Federal Act on Radio and Television (RTVA), the remuneration calculated pursuant to items 13.2, 16.1 and 16.2 for the usage of neighbouring rights shall increase by 20 %.

- 7.2 Use of copyright and neighbouring rights in the context of making available and performances contained in programmes already broadcast via internet and other IP based networks for on demand usage pursuant to Art. 22c CopA:

For broadcasters which make available works and performances contained in already broadcast programmes pursuant to Art. 22c CopA, the remuneration calculated pursuant to item 13.1 and item 15 for the usage of copyright and the remuneration calculated pursuant to item 13.2 and item 16 in connection with item 7.1 for the usage of neighbouring rights shall increase by 0.5 %, respectively.

8 Income

8.1 Income in terms of the tariff shall be all performances with a cash value earned based on the broadcast activities and/or based on the diffusion via networks. Said kind of income shall include in particular:

- Advertising revenue
- Income from broadcasting announcements and advertisements
- Income from the sale of broadcasting slots
- Sponsors' contributions
- Benefits obtained as a consequence of bartering (this shall be deemed to be the net value of the benefit provided by the broadcaster)
- Income from field work (e.g. broadcasts of fairs, exhibitions, village fêtes etc.)
- Income from radio/TV audience contributions and phone-ins (interactive kiosks/toll number call-ins e.g. televotes or SMS surveys). Income shall be deemed to be the amounts accrued by the broadcaster.
- Income from TV licence fees paid by the public (fee splitting, Art. 40 RTVA) and other contributions or financial support in line with the RTVA.
- Subsidies, claimed shortfall warranties and other grants which serve the financing of the broadcasting activity

8.2 Income in terms of item 8.1 of this Tariff shall also include income from third parties, particularly from production companies or advertising sponsors, as long as the income collected is based on the broadcast/diffusion activities of the broadcaster. In this case, the third party's gross income shall be authoritative. Gross income shall be considered to be the amounts that were invoiced to the advertisers or customers of such companies.

9 In order to determine the amount for remuneration calculation purposes, the following deductions may be made from the advertising revenue pursuant to item 8.1 and 8.2:

2015	25 % of the advertising revenue calculated per items 8.1 and 8.2
2016	20 % of the advertising revenue calculated per items 8.1 and 8.2
from 2017	15 % of the advertising revenue calculated per items 8.1 and 8.2

10 The remuneration shall be calculated as a percentage of the operating costs (costs of all activities related to broadcasting) of the broadcaster,

- if the income cannot be established or no income has been earned
- if the broadcaster assumes from the start that he will cover his costs entirely or partially from their own resources.

11 If the broadcaster organises several free-standing programmes, the income or costs shall be allocated, if possible, to those programmes for which they arose. The following provisions relating to percentages and/or the minimum payment shall be applicable to each programme individually. "Broadcaster" shall hereinafter apply also to those organisational divisions of a broadcaster which broadcast a free-standing billable programme pursuant to these provisions.

- 12 In cases where broadcasters receive a lump-sum payment, this income shall be distributed across the individual programmes in the ratio of the costs confirmed by the auditor of the broadcaster.

b) Radio Programmes

- 13 The percentage applicable for

13.1. Copyright in musical works

- 13.1.a Broadcasters with a gross advertising revenue of more than CHF 4m per annum.

For programmes with a share of protected music of the broadcast time of

less than 20 %	1 %
20 % up to less than 30 %	2 %
30 % up to less than 40 %	3 %
40 % up to less than 50 %	4 %
50 % up to less than 60 %	5 %
60 % up to less than 70 %	6 %
70 % up to less than 80 %	7 %
80 % up to less than 90 %	8 %
90 % and more	9 %

- 13.1.b Broadcasters with a gross advertising revenue of less than CHF 4m per annum.

For programmes with a share of protected music of the broadcast time of

less than 10 %	1 %
10 % up to less than 30 %	2 %
30 % up to less than 50 %	3 %
50 % up to less than 70 %	5 %
70 % up to less than 90 %	7 %
90 % and more	9 %

- 13.1.c Gross advertising revenue shall be considered to be advertising revenue, sponsors' contributions as well as income from announcements and advertisements in the sense of items 8.1 and 8.2.

- 13.1.d The share of protected music shall mean the share of music of the SUISA repertoire of the total broadcast duration transmitted by the broadcaster including music contained in broadcasts and programmes taken over from internal or external sources.

13.2 Neighbouring Rights

The percentage applicable for neighbouring rights shall be 30% of the percentages applicable to copyright pursuant to items 13.1 a and 13.1 b. The share of protected music shall correspond to the broadcast music share of SWISSPERFORM repertoire

of the total broadcast time including the music included in broadcasts and programmes taken over internally or externally.

13.3 Discount for financially weak broadcasters

Broadcasters that only have local reach shall benefit from a 10% discount on the licence fees as per item 13.1.b and the calculations as per item 13.2, if their income does not exceed CHF 700,000 per annum.

14 Amateur web radios

In the case of web radios

- run by individuals in their spare time, not for business purposes,
- which can be accessed simultaneously by a maximum of 6,000 users,

remuneration shall be calculated as a blanket amount based on the percentage of the income pursuant to item 8.

The percentage for the use of copyright shall be 6 %, the use of neighbouring rights 2 %, but the minimum remuneration per programme and per month shall be:

- for copyright: CHF 60.00
- for neighbouring rights CHF 60.00

The minimum remuneration pursuant to item 18 shall not apply to those web radios.

Web radios which can be accessed by more than 6,000 users simultaneously shall be subject to the ordinary fees pursuant to item 7 et seq. (in addition to the relevant increases to be applied pursuant to items 7.1 and 7.2) and item 18.

c) TV Programmes

15 The percentage for music copyright shall be

- | | |
|---|--------|
| - Programmes with more than 2/3 of the broadcast time consisting of music films, filmed concerts or video clips | 6.6 % |
| - Programmes with more than 1/3 of the broadcast time consisting of music films, filmed concerts or video clips | 3.3 % |
| - Programmes whose contents are nearly exclusively featured films and TV films only | 1.32 % |
| - Programmes where the duration of music contained is no higher than 10 % of the total broadcast duration, irrespective of whether it is foreground or background music | 0.4 % |
| - Programmes with a music duration of more than 10 % but less than 20 % irrespective of whether it is foreground or background music | 1 % |
| - other programmes | 2 % |

- 16 The percentage for neighbouring rights shall be
- 16.1 for the use of commercially released sound recordings:
- Programmes whose contents are nearly exclusively featured films and TV films only 0.06 %
 - Programmes where the duration of music contained is no higher than 10 % of the total broadcast duration, irrespective of whether it is foreground or background music 0.12 %
 - Programmes with a music duration of more than 10 % but less than 20 % irrespective of whether it is foreground or background music 0.18 %
 - other programmes 0.36 %
- 16.2 for the use of music films, filmed concerts and video clips
- Programmes with more than 2/3 of the broadcast time consisting of music films, filmed concerts or video clips 3 %
 - Programmes with more than 1/3 of the broadcast time consisting of music films, filmed concerts or video clips 1.5 %
- 16.3 For broadcasters that do not fall under the provisions contained in item 16.2, the percentage for neighbouring rights and the use of commercially released audio-visual recordings shall be:
- For broadcasters transmitting feature films or other commercially released audio-visual recordings on more than 300 days per annum 0.100 %
 - For broadcasters transmitting feature films or other commercially released audio-visual recordings on more than 150 but less than 300 days per annum 0.050 %
 - For broadcasters transmitting feature films or other commercially released audio-visual recordings on more than 75 but less than 150 days per annum 0.025 %
 - For broadcasters transmitting feature films or other commercially released audio-visual recordings on more than 30 but less than 75 days per annum 0.010 %
 - For broadcasters transmitting feature films or other commercially released audio-visual recordings on no more than 30 days per annum 0.005 %
- 17 A TV "programme" shall be the usual programme time transmitted, not including test pictures, screen text or still images.

In cases where the broadcaster receives income from the broadcast of the screen text or still pictures (e.g. from advertising, sponsoring etc.) and if there is music protected by copyright and/or from commercially released sound recordings in the back-

ground of those broadcasts, they shall be considered as a part of the programme and included in the calculation of the percentages pursuant to items 15 and 16.

d) Minimum compensation

18 The minimum monthly licence fee shall be

- for radio broadcasters
CHF 100.00 for copyright CHF 100.00 for neighbouring rights
- for TV broadcasters a minimum of
CHF 100.00 for copyright CHF 30.00 for neighbouring rights

If the broadcasting/transmission activity is restricted to individual days or hours only, 1/30 of the minimum licence fee per 24 hours shall be applicable. Each time a 24-hour-block is entered, it shall be counted as a complete 24-hour block.

19 Supplementary webcasting programmes

In the case of supplementary programmes that a broadcaster offers in addition to its main programme via webcasting (in the sense of item 3, 3rd indent) on the website allocated to its main programme, and if it is not possible for the broadcaster to show the income or costs pursuant to items 11 and 12, the following blanket fees shall apply on a per month/per supplementary programme basis:

- for copyright: CHF 30.00
- for neighbouring rights CHF 30.00

For supplementary programmes that are broadcast via other means than via internet, the provisions pursuant to items 11 and 12 shall apply.

e) Supplement for cases of law infringement

20 All fees subject to this Tariff shall be doubled if

- music is used without a licence issued by SUISA
- by wilfulness or gross negligence, a broadcaster either omits to provide any information or accounts, or provides incorrect or incomplete information or accounts.

21 The right to make claims for damages beyond the above shall be reserved.

f) Rebates for complete broadcast logs

22 Broadcasters that adjust their system to comply with the new reporting obligations pursuant to letter G and provide correct and timely reports in line with such reporting obligations shall receive a 5% rebate.

g) Taxes

- 23 The fees in this tariff shall be exclusive of value-added tax. If, due to an obligatory objective tax liability or due to the exertion of opting in or out of tax, value-added tax is due after all, it shall be paid by the broadcaster at the applicable rate (from 2015: regular rate 8 % / reduced rate 2.5 %) in addition to the amount already invoiced.

E. Accounting

- 24 The broadcasters shall, as a rule, provide SUISA with the following information on an annual basis:
- as soon as possible but before end of May at the latest: all details necessary for the calculation of the remuneration for the previous year
 - in the first two years of operation, after that upon request, by the end of January: the budgeted income and the projected music percentage for the current year as well as the projected share of commercially released sound and audio-visual recordings or the projected number of days per annum where feature films and other commercially released audio-visual recordings are broadcast.

- 25 In order to check the information provided, SUISA may demand documents, in particular the profit and loss accounts and a confirmation of the auditors of the broadcaster as well as of the production and acquisition companies as far as those companies are involved in the financing of the broadcasting activity pursuant to item 0.2 of this tariff.

SUISA may also - during working hours and after announcing the visit in advance - inspect the broadcaster's accounts. The audit of the relevant information for accounting purposes provided by production and acquisition companies may be exercised by an independent expert.

F. Payment

- 26 Remuneration shall be payable within 30 days from the invoice or within the deadline mentioned in the licence.
- 27 SUISA may ask for payments on account and/or other forms of payment guarantees.

In the first two years of operation, payments on account shall depend on the anticipated level of remuneration, after that on the statements relating to the previous year.

G. Broadcast logs

28 Broadcasters shall provide SUISA with the information listed in section G of this Tariff. Said information is, however, only necessary if SUISA and/or SWISSEPRFORM require them for the distribution of the remuneration collected subject to this Tariff to the rights holders in line with the societies' respective distribution regulations. At the end of each year, SUISA shall inform those broadcasters that are released from their obligation to provide reports in the following year.

29 Broadcasters shall report all programme details pursuant to letter G electronically in a standardised, importable format.

a) Radio

30 Broadcasters shall inform SUISA of the music/sound and audio-visual recordings broadcast in their programmes. Reports must be provided in line with Annex I to this Tariff.

31 The information shall include details such as

- Title of the musical work
- Name of the composer
- Name of the main artist(s)
- Label
- ISRC of the recording used (as long as the broadcaster receives this information from the supplier or producer of the recording in a standardised, importable format at the time of delivery of the recording)
- Time of broadcast
- Duration.

32 On a quarterly basis, radio broadcasters shall report to SUISA the title of the advertising spots with music, how often and in which programmes they were broadcast. In cases where a SUISA number exists for an advertisement, this shall be used for the report.

33 If broadcasters are not in a position to list any cross-fades between two simultaneously played musical works or between music and spoken text (while the music is being played but it isn't audible to the listeners) in their logs, SUISA and SWISSPERFORM shall tolerate a deviation of 5% between the total duration of the protected music and/or the protected commercially released sound recordings reported by the broadcaster pursuant to item 31 and the broadcasters' reported music share and/or share of broadcast commercially released sound recordings in their programmes' broadcast time.

Said 5% margin shall only be allowable if the data provided by the broadcaster include complete information on the music and sound recording as well as on the relevant broadcast duration and only as long as no better method is available to determine the cross-fades.

b) Television

- 34 TV broadcasters shall report all broadcast featured, TV and documentary films produced by third parties and not commissioned by the broadcaster itself, together with the following details:
- Original title of the film
 - Name of the producer and the main director
 - Country of origin of the film
 - Used language version(s)
 - ISAN (as long as the supplier or producer of the recording provides the broadcaster with this information in a standardised, importable format)
 - Duration
 - Time of broadcast
 - Media (carriers) used for the broadcast
- 35 TV broadcasters shall ensure that SUIISA is informed in advance of any advertising films which are planned for broadcast but do not have the respective permission (so-called SUIISA number) from SUIISA yet.
- 36 SUIISA shall give the TV broadcasters the "good to go for a broadcast" (so-called SUIISA number) and thus indemnifies the broadcaster against third party claims with respect to the music broadcast rights.
- 37 SUIISA's permission shall be deemed as given unless notice is served within 10 days of receipt of the broadcaster's information. TV broadcasters shall not broadcast any advertising films for which no SUIISA permission has been granted.
- 38 TV broadcasters shall inform SUIISA monthly which advertising films were broadcast, how often and in which TV programmes.
- 39 TV broadcasters shall also report music to SUIISA which they or their clients used as a score for their broadcasts, as well as music in concert transmissions by providing the ISRC as long as it is known to them. Otherwise, the broadcaster shall provide enough data so that it is possible to identify the music.
- 40 Broadcasters active in regional languages or internationally active broadcasters shall provide SUIISA with complete information on all broadcast music indicating the ISRC as long as it is known to them. Otherwise, the broadcaster shall provide enough data so that it is possible to identify the music.

c) Joint provisions

- 41 Programmes that are taken over from other broadcasters on a regular basis shall be reported to SUIISA with the following details:
- Name of the broadcaster:
 - Amount of hours of the "imported" programmes

d) Deadlines

- 42 All information shall be sent to SUISA on a monthly basis, before the end of the following month.
- 43 In cases where the broadcaster does not provide logs and reports within a given deadline despite a written reminder, SUISA and/or SWISSPERFORM may estimate the vital details missing for the calculation of the remuneration. Invoices based on estimates shall be deemed to be accepted by the broadcasters unless - within 30 days of receipt of the invoice - complete and correct details are subsequently delivered by them to SUISA. SUISA and/or SWISSPERFORM may request an additional remuneration of CHF 100.00 per month. This remuneration shall be doubled in cases of recurrence. Procedures pursuant to provisions in item 20 shall remain reserved.
- 44 In cases where the broadcaster provides no logs at all or incomplete reports for two consecutive quarters pursuant to letter G, SUISA and/or SWISSPERFORM may instruct an independent expert to collect the data the broadcaster is obliged to report (e.g. via monitoring). The cost for such data collection shall be borne by the broadcasters they have culpably omitted to provide the required data.

H. Term

- 45 This Tariff shall be valid from 1st January 2015 until 31st December 2017.
- In the case of substantial changes it can be reviewed before the end of the term.
- 46 The term of this Tariff shall be automatically extended by one year unless one of the negotiating parties gives the other party notice in writing one year before the expiry of this Tariff. Such a termination shall not exclude an application for renewal of the Tariff to the Federal Arbitration Commission for the Exploitation of Copyright and Related Rights.
- 47 If, after this Tariff has lapsed and despite an application for approval, no subsequent tariff has been put in place, the period of validity of this Tariff shall be extended until the subsequent tariff enters into force. Retroactive implementation shall remain unaffected thereof.

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

Name of the file: BROADCASTER_YEAR_MONTH.csv, e.g. energy_2012_01.csv

Title Titles must be indicated in their original language in line with the information on the sound recording, if possible incl. their version ("live in London" "dirty remix" etc.)	Composer Name of the composer	Artist Name of the (main) artist, or band	Artist info Special information such as conductor, soloist names	Broadcaster Name of the broadcaster	Broadcast date Date of exploitation in standard format, e.g. YYYYMMDD - 20110101	Duration Duration of the exploitation in standard format, e.g. hh:mm:ss - 00:03:54	Time of broadcast Start of the exploitation in standard format, e.g. hh:mm:ss - 06:09:13
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Number, time and date formats, order of columns, separators and formatting should follow a uniform format for all months within a calendar year.

Template for radio broadcast logs format

2 / 3

Works index information If applicable/known: Opus, KV or any other works details	ISRC ISRC of the source recording	Label Name of the label	CD ID / Catalogue number Order / catalogue number of the sound recording with the label	Date of recording Date or year of the recording	Country of recording Name or ISO code of the country of recording, e.g. CHE	Date of first publication Date or year of the first publication

Template for radio broadcast logs format

Sound recording title (album title) Title of the CD / the album	Author text	Track number	Genre	Programme	Order number	Label	Label code	EAN/GTIN EAN code or any further identifiers

Annex II: Application of CT S 2015-2017 for radios in peripheral regions

1. Purpose of the regulation

The following provisions shall prevent a mercurial increase of the licence fee for copyright and neighbouring rights following the coming into force of the CT S 2015-2017 which radios in peripheral regions are due to pay.

Costs for the acquisition of advertising in economically weak regions are higher than in economically strong regions. Pursuant to item 9 of CT S 2011-2014, it had been possible for radio stations in peripheral regions to benefit from higher deductions than radios in other regions. For said radios, the new wording of the rebate allowances in CT S 2015-2017 represents an increase of the amounts due for payment, which is disproportionately higher when compared to the other radio stations.

2. Definition of the term “radios in peripheral regions”

Radios in peripheral regions shall mean such radio stations that have been awarded a fee-splitting licence pursuant to Art. 38 para. 1 a of the Federal Act on Radio and Television (RTVA).

3. Calculation of the gross advertising revenue for radios in peripheral regions

Radios in peripheral regions in terms of item 2 above may file an application with SUISA to the extent that the latter calculates the gross revenue from third parties for the acquisition of advertising, sponsoring etc. (item 8.2 CT S 2015-2017) by increasing the net revenue which the broadcasters receive from such third party companies by 30% (so that the gross revenue equals 130% of the net revenue).

SUISA will accept such applications subject to the following conditions:

- The broadcaster informs SUISA of the amounts which it receives from the acquisition firms (net revenue) in the course of the necessary reporting pursuant to item 24 CT S 2015-2017; these amounts must be corroborated by the auditor of the radio.
- In the course of the reporting mentioned above, the radio broadcaster shall also submit information on the gross revenue from all acquisition firms instructed for radio advertising which belong to the same group of companies as the radio itself. Said gross revenue must be confirmed by the auditors of the various acquisition companies.
- The average commission retained by such an advertising acquisition firm may not exceed 32%.

4. Validity

These provisions shall enter into force retroactively from 01 January 2015 and shall have the same term of validity as CT S 2015-2017.