
Video-on-demand remuneration distributions

The "Common Tariff 14", which came into force on 1 January 2022, sets out the new remuneration rights introduced for the benefit of authors and performers of audiovisual works used in the form of video-on-demand. This new remuneration right falls within the "mandatory collective management". Therefore, the collection and distribution of these revenues are subject to legal provisions. The main points of the distribution are explained below.

All forms of VoD are covered

The tariff regulates numerous aspects in connection with this remuneration. It covers all forms of video-on-demand:

- "Subscription Video-on-Demand" (SVOD), i.e., access to a catalogue of works against payment of a subscription;
- "Advertising-based Video-on-Demand (AVOD), i.e., a commercial offer that is free to the public and financed by advertising;
- "Transactional Video-on-Demand" (TVOD) and "Electronic Sell Through" (EST), i.e., access to a specific work in return for a one-off payment for a limited or unlimited viewing period;
- "Free Video-on-Demand" (FVOD), i.e., ad-free commercial offers that the public can access free of charge.

The remuneration is generally calculated based on the revenue resulting from the respective commercial offer. In certain cases, it is linked to a minimum remuneration. Per-minute tariffs or annual flat rates were agreed upon for FVOD.

We would like to point out that the new provision does not apply to all audiovisual works. The application of mandatory remuneration presupposes the existence of a corresponding system of collective management in the country in which the work was produced. The new law also provides for numerous exceptions depending on the genre of work: Authors of commercials or commercial films and company portraits, for example, do not benefit from the new regulation. This results in a very complex tariff, which was negotiated with the user associations in accordance with the legal requirements.

Specifications for distribution

The distribution regulations of the collective management organisations must be approved by the supervisory authority, the Swiss Federal Institute of Intellectual Property (IPI). The law stipulates criteria that must be met.

This includes, among other things, economic and orderly exploitation. The VoD market is particularly complex and dynamic. It comprises very different models and commercial offers that are also evolving rapidly. If the remuneration collected were to be distributed differently depending on the model and commercial offer, the costs would be disproportionately high regarding the amounts to which the authors are entitled, particularly in the case of the large number of small commercial offers.

It was therefore necessary to find the optimum compromise between streamlined, economical management and consideration of all other criteria, including, for example, equal treatment of authors. In addition, the procedures must comply with certain rules.



Finally, the distribution of the remuneration must reflect the revenue generated by a work, including its success.

Five steps

First, we assign the commercial offers to the five different distribution classes, whereby their market significance is the main determining factor. This way, the most important platforms are assigned to a specific class. The importance of television channels that are available to the public free of charge is taken into account by providing a separate distribution class for them.

Thanks to these different distribution classes, it is possible to avoid a situation in which all revenue is allocated to a small number of entitled parties. The diversity of the commercial offers should also be reflected in the distribution. At the same time, this also incorporates the generated revenue of the works.

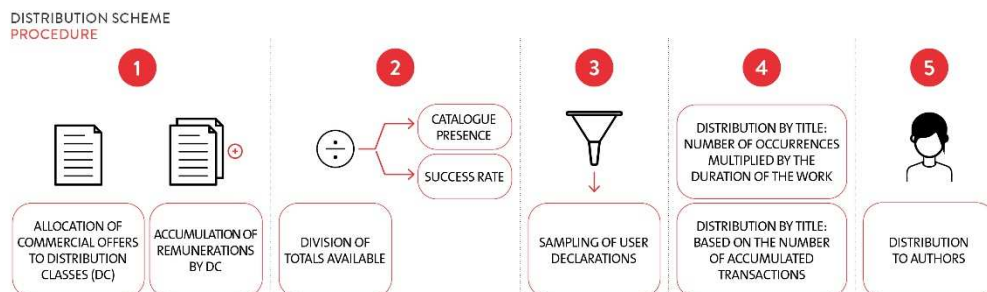
Once the remuneration to be distributed has been accumulated in a distribution class, we divide the totals available in each class by two. One half is distributed according to the success rate, i.e., based on the number of transactions or "views". The other half is distributed according to the duration of the work and its catalogue presence. The more comprehensive a catalogue is, the greater the commercial success of a commercial offer. Even if a work is only rarely used, its presence contributes to the market success of the entire commercial offer.

In the third step, we select the catalogues that will be considered for distribution. In this context, we set fixed rules for the selection. These should take into account the diversity of the catalogues on the one hand and the users on the other, as we aim to give appropriate consideration to the different language regions.

This way, we determine the works for the benefit of which the available sums per distribution class are distributed and can then - in a fourth step - determine the amount per work.

In the fifth and final step, we divide the amount collected per work among the various authors according to the distribution keys and rules that already apply for mandatory collective management.

In addition to the procedures described above, the regulations also set out the necessary time restrictions and deadlines for work registration.





Regulations approved, first distribution in 2024

The distribution regulations were examined in advance by the IPI and subsequently approved. After the responsible body of Suissimage, with whom SSA cooperates for the purpose of this distribution process, gave its final approval to the regulations, they were also formally reviewed and approved by the IPI.

Commercial offers taken into account for exploitations 2023

In application of the distribution rules, the following offers have been taken into account :

- Distribution class A : Netflix (SVOD)
- Distribution class B : Sky (TVOD), Blue Cinéplay F (SVOD), Blue TV F (SVOD)
- Distribution class C : PlaySuisse, PlayRTS, PlaySRF, PlayRSI, PlayRTR (FVOD)
- Distribution class D : Artfilm (SVOD), Rakuten (AVOD), Rushlake (SVOD), Tënk (SVOD)