

Fake streams, GenAI & more – GEMA is on the case

Streaming fraud and GenAI – a growing challenge

The introduction and rapid development of Generative Artificial Intelligence (GenAI) create challenges for our industry whose scale we can only imagine. Music can now be ‘produced’ in seconds and widely distributed with a single click. This presents new opportunities for the creative sector – but also raise considerable uncertainties and risks. To clarify legal issues and enforce remuneration rights, GEMA has on occasion taken legal action against providers of AI models and systems. But GenAI also opens up new avenues for the fraudulent abuse of the music industry’s established usage structures. Alongside artificially generated streams on digital music platforms, a phenomenon we observe increasingly, GenAI can create a harmful cocktail that endangers the music industry’s entire ecosystem.

Core elements of GEMA’s anti-fraud measures:

- Comprehensive identity checks when admitting new members
- Registration of works with an obligation to confirm personal authorship
- Examination of the copyright protectability of works
- Comprehensive mechanisms for detecting, monitoring and controlling all areas of music usage
- Multi-stage verification with an obligation on involved parties to cooperate in suspicious cases
- Regulations that are regularly reviewed and developed with an eye to fraud prevention and other criteria
- Fraud controls in specifically established units within the GEMA organization
- Collaboration with national and international partners in the fight against fraud
- Extensive sanctions, member account blocking, termination of the full membership, civil and criminal prosecution and enforcement

As the guardian of music creators’ rights, GEMA is active on behalf of its members, preventing and pursuing attempts at fraud and designing frameworks to protect intellectual property at all levels.

Effective anti-fraud measures for all usage – GEMA’s anti-fraud policy

Fraudsters don’t just try to enrich themselves from the royalties that flow from using music on-line, but also in more traditional areas, such as live music. This is why GEMA’s effective anti-fraud policy spans a comprehensive range of prevention and detection mechanisms, and protects against attempted fraud.

Mandatory, comprehensive authentication when members are admitted (Know Your Customer or KYC) is part of GEMA’s preventive measures. This procedure is widely used in financial services and is effective at protecting against fake identities and other fraudulent activities.

Protecting against fraud is one of GEMA’s core objectives, and the design of our rules reflects this. As soon as they register a work, members must affirm that they did not create it by the exclusive use of artificial intelligence and that the information they have provided, in particular with regard to ownership of rights, is accurate.

If there are doubts about the legitimacy of a work that is being registered, GEMA can demand relevant evidence from the registrant, for example sheet music or audio files, and block distributions until that evidence has been provided and doubts dispelled. GEMA’s distribution plan regulates this process and is approved and continuously updated at general meetings of members. The plan ensures fair distribution of royalties to legitimate authors, thereby also helping to prevent abuse. It regulates how remunerated usage is assessed, as well as the questions of how to collect for and verify such usage and who should do this. We regularly draw on this legal framework to, for example, use advanced fingerprinting monitoring technologies as the basis for GEMA’s royalties distributions.

Despite these extensive preventive measures, attempts at fraud persist, and GEMA uses advanced technologies to counter these effectively. Data analysis, pattern recognition and machine learning reliably identify anomalies that can reveal suspicious cases and lead to sanctions.

Facts and figures

Since the AI boom caused by ChatGPT and other GenAI technologies in 2022, the number of music productions uploaded to streaming platforms has increased from 93,000 then to 120,000 per day in the first quarter of 2023. This certainly isn’t entirely due to the possibilities of AI, but the technology presumably accounts for an increasing portion. About a third of the respondents to a major GEMA and SACEM’s AI survey stated that they use AI to create new music. At the same time, industry insiders estimate that the proportion of ‘fake streams’, that is artificially generated streams, is between 1% and 10%.

[Quellen: <https://www.gema.de/documents/d/guest/gema-sacem-goldmedia-ai-and-music-pdf>]



To bolster our collective system's resilience, GEMA is developing technical and organisational measures to prevent and detect fraudulent activities on an ongoing basis. Where unlawful distributions occur despite these efforts, GEMA pursues them rigorously and, if necessary, enforces existing claims in court. Thanks to its decades of experience with business models for music use, its strong national and international network, and its collective body of professional and legitimate music creators, GEMA is a reliable partner for rights holders all over the world, even as the music-use landscape undergoes dramatic change.



What does fraud in musical value creation mean for GEMA?

Copyright law ensures that creators of musical works are remunerated for their work. When copyrighted musical works are used publicly, GEMA administers the usage rights and statutory remuneration claims for its members and rights holders all over the world and passes the royalties on to them.

This legally takes place with a royalty claim arising when two conditions are met: (1) someone personally created the musical works, so they are protected by copyright; and (2) the musical works are used in public.

Both conditions are relevant in the context of GenAI and streaming fraud:

If works are mass-produced, perhaps using fully automated processes supported by AI, their eligibility for copyright protection is questionable. This is because they may lack the necessary originality. Under GEMA's regulations, only copyright protected works may be registered with us. If unprotected content is registered with GEMA, allocating distributions for this content results in unjustified asset transfers, which must be corrected. Furthermore, registration may even be classified as attempted fraud under criminal law, if subsequent actions divert revenues to which authors are entitled for the use of protected works to unprotected content. If, like the musical work itself, the uses, such as streams on music streaming services, are artificially generated or manipulated by technical means without the participation of a human consumer, the second condition also no longer applies – the works have not actually been used.

So, if a work has been created without any creative input and/or if streams have been generated artificially, GEMA cannot distribute any royalties. If fraudsters nevertheless try to enrich themselves unlawfully for such content, they harm the entire musical and cultural ecosystem. They seek to divert money from legitimate rights holders into their own pockets. In so doing, they violate streaming services' terms and conditions and GEMA's regulations. They are liable to civil and criminal prosecution for their actions. As a trustee for rights holders, GEMA therefore acts decisively against fraud and takes proactive measures to prevent and detect fraud and maintain our industry's integrity.