IMPLEMENTATION OF ARTICLE 15 & 17 OF THE DIRECTIVE ON COPYRIGHT IN THE DIGITAL SINGLE MARKET

FRANCE

OVERVIEW OF COMPATIBILITY ISSUES & SPECIFICITIES BASED ON THE REPORT OF DR CHRISTINA ANGELOPOULOS

### Compatibility of A15 Transposition

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**Main A15 Specificities**

- Inaccurate transposition of "online uses": replaced with uses "in digital format"
- Problematic qualitative approach to "very short extracts": extract must not be capable of replacing the press publication itself or exempting the reader from referring to it
- Public domain: content exclusion not transposed
- Extension of beneficiaries of A15: covers also news agencies
- Broad definition of reproduction right in French law: also covers distribution and adaptation, which is broader than EU copyright law concept
- Replaces "information society service providers" with "online public communications services" + omits the reference to services normally provided for remuneration but adds a requirement of reciprocal information exchange
- No exclusion for private or non-commercial uses: excessively minimalistic transposition based on inaccurate assumption that this is covered by private copy levy, even though the later only applies to reproduction rights and requires fair compensation
- Dedicated provisions on licensing: specific criteria to fix remuneration of press publishers
- Detailed provisions on revenue sharing: process to determine appropriate share via negotiations or, failing that, a designated committee

### Compatibility of A17 Transposition

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**Main A17 Specificities**

- Extension of the subject matter and beneficiaries of A17: not limited to owners of copyright and related rights listed in A3(2) of the InfoSoc Directive
- Extension of exclusive rights: protected to "representation" and "reproduction" with regard to copyright and the rights of communication and broadcasting with regard to related rights
- Inclusion of carve-outs from OCSSP scope, but unclear if open or closed list + profit making purposes may be direct or indirect
- "Large amounts" concept replaced with "significant quantities": defined in decree of the Council of State as exceeding certain thresholds, defined by order of the Ministry of Culture
- No licensing reciprocity principle: authorisations granted to users don’t eliminate the obligation of the OCSSP to obtain an authorisation
- Business secrets: limit information obligation of OCSSPs + possible intervention of Minister of Culture in certain specific cases
- Piracy providers excluded from scope
- Narrow quotation exception

For the full report and country annexes, go to https://informationlabs.org/copyright/

Last update: 19 September 2022