

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



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

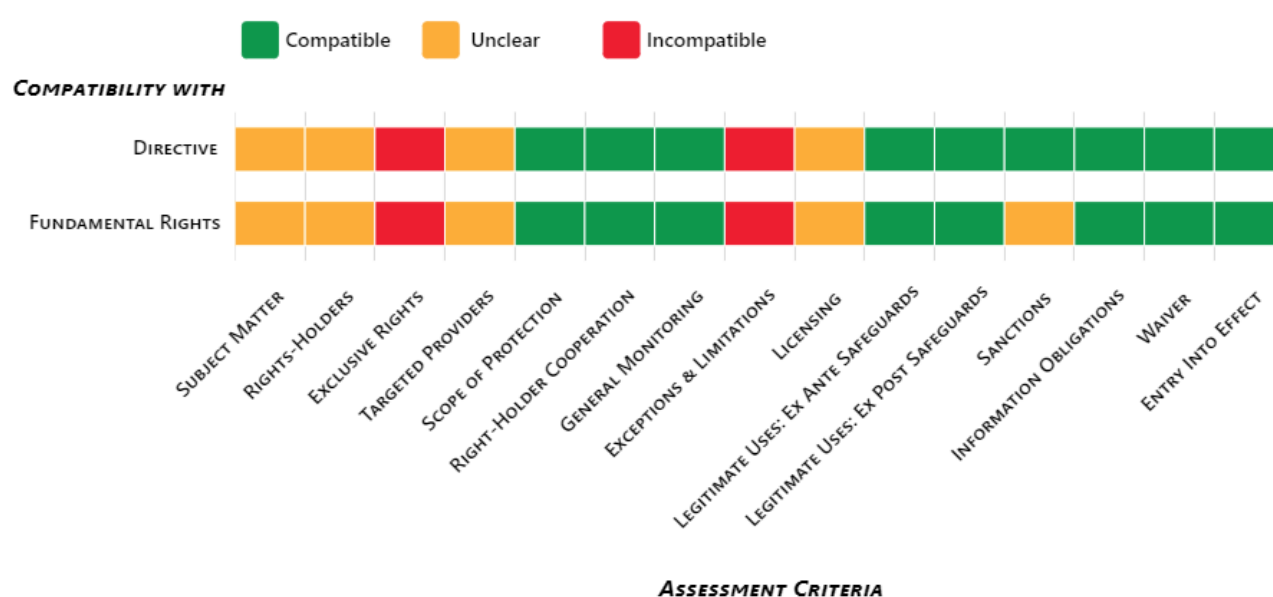
COMPATIBILITY OF A15 TRANSPOSITION



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 minimalist 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



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