

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

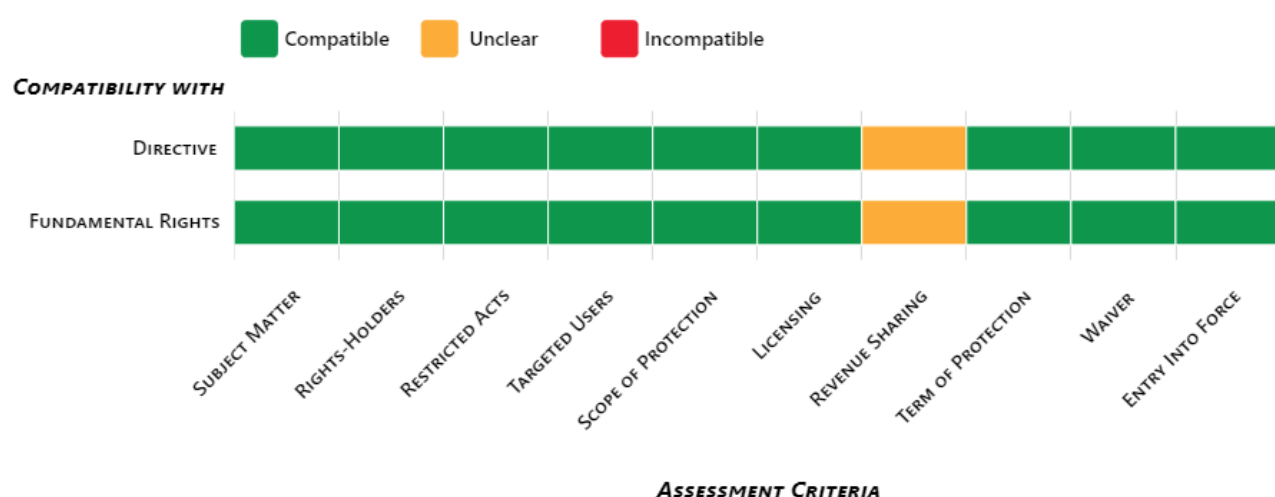


GERMANY



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

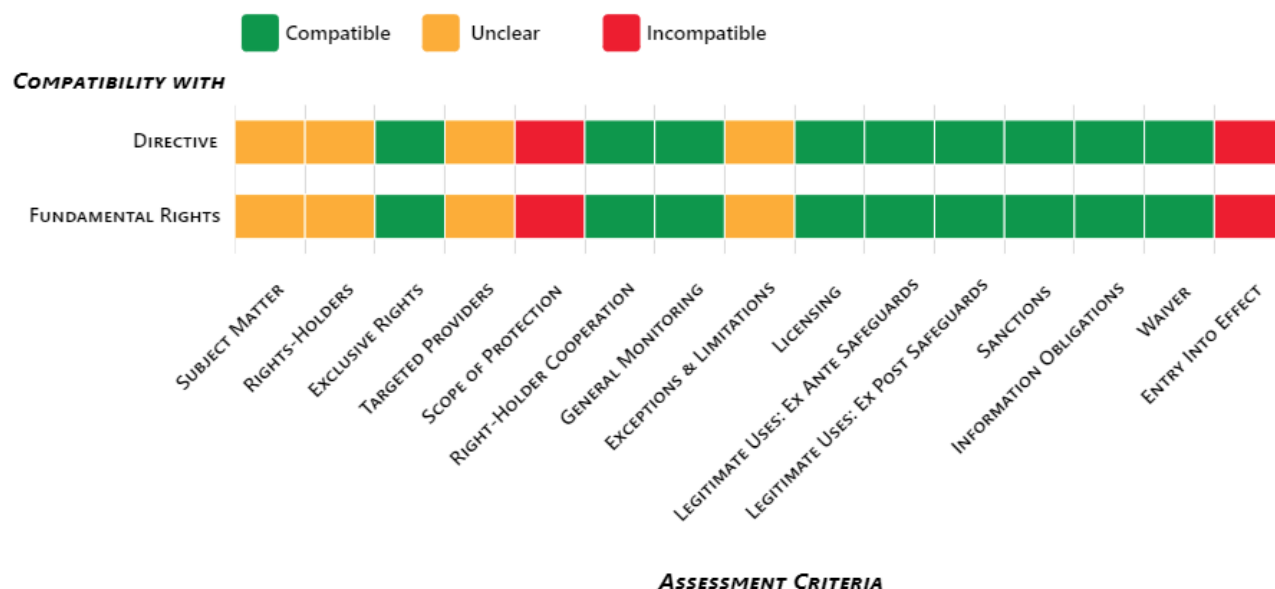
COMPATIBILITY OF A15 TRANSPOSITION



MAIN A15 SPECIFICITIES

- **Qualitative approach to "very short extracts"**: may include various types of content (e.g. text, photographs, graphics, audio and video). This specificity is compatible
- **Extension of beneficiaries revenue-sharing**: beyond authors to other holders of related rights in content included in a press publication
- **Explicit mention of "mere facts" exclusion from scope A15**: inclusion of Recital 57 which is coherent with the operative part of the Directive
- **Quantitative definition of "fair compensation" to authors** in revenue sharing: at least 30% of "fair compensation" generated by A15 with specific derogations

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
- **Addition of element of competition to OCSSP definition**: provider must "compete with online content services in the same target groups" (based on a Recital which is coherent with the operative part of the Directive)
- **Definition of licensing best efforts**: OCSSP must only take licences where these are offered and are available through representative rightholders known to them or can be acquired through collecting societies or dependent rights management entities established in Germany + licence must cover a considerable repertoire of works + rightholders must offer reasonable T&Cs + content must have been manifestly communicated to the public in more than minor quantities
- **Ex ante safeguards with pre-flagging and minor extracts concepts**: "uses presumably authorised by law" not subject to take-down until a complaint procedure is completed, if automated procedures used + similar procedure for 48 hours for content that was not identified for blocking upon upload. Rightholders informed and retain the right to request take-down and stay-down if they provide a duly substantiated notice. Exception for time-sensitive content where immediate blocking is permitted ("balanced" implementation)
- **Start-ups**: no stay down obligation if turnover of no more than 1 million euro
- **Earmarking** by trusted rightholders: limited to complaint mechanism
- **Parody exception** subject to the payment of "appropriate remuneration"
- **Complaint mechanism**: procedure must be completed within 1 week
- **Sanctions** for OCSSPs, users and rightholders
- **Information obligation of OCSSPs**: also to users and access to authorised persons to data on the detection and blocking of content for the purposes of scientific research
- **Piracy providers** excluded from scope