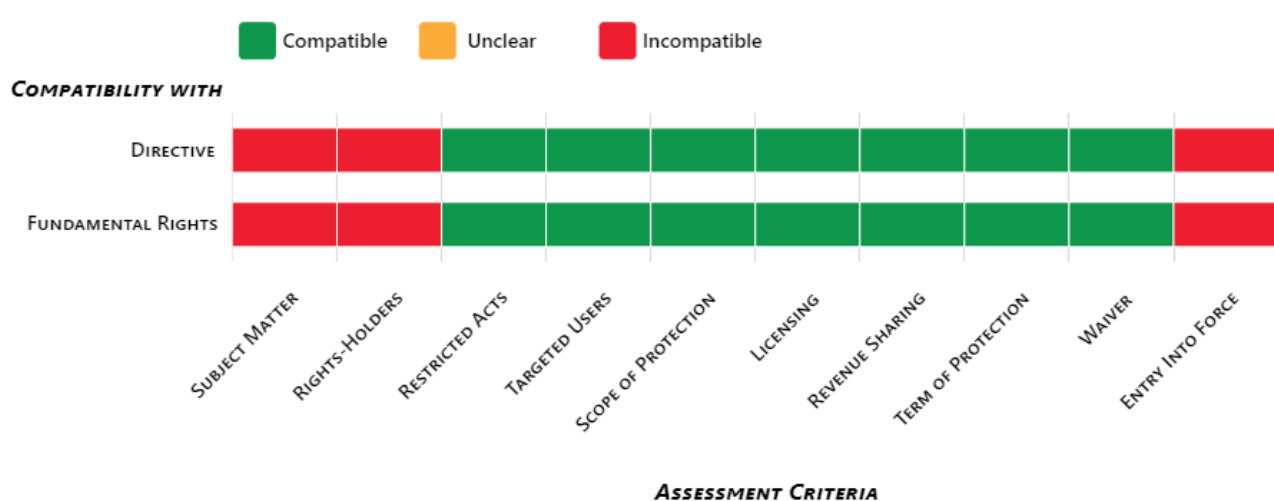


# IMPLEMENTATION OF ARTICLE 15 & 17 OF THE DIRECTIVE ON COPYRIGHT IN THE DIGITAL SINGLE MARKET



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

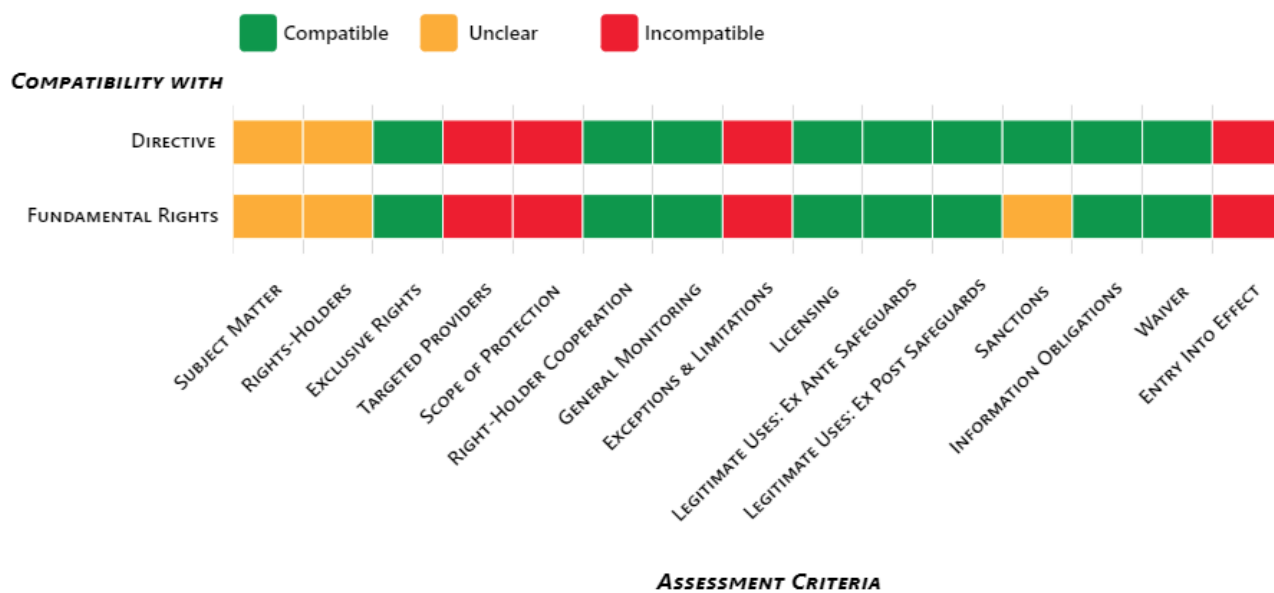
## COMPATIBILITY OF A15 TRANSPOSITION



## MAIN A15 SPECIFICITIES

- **Unclear drafting of "press publication" definition:** language seems to imply that text-only publications are excluded, as other subject matter in addition to literary works of a journalistic nature is required
- **Qualitative approach to "very short extracts":** must be either very short or of little significance qualitatively *and* quantitatively
- **Extension of beneficiaries of A15:** covers also news agencies
- **Geographical limitation of beneficiaries A15:** only if established in Spain
- **Collective licensing** allowed
- **Dedicated provisions on licensing:** editorial independence, provision of detailed information by ISSPs on the classification of content, and no link with other contracts or obligations
- **Revenue sharing:** authors may resort to collective management organisations

## 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
- **Carve-out from OCSSP definition** for online encyclopaedias and educational and scientific repositories only if they have neither direct nor indirect intent to profit
- **Broadening of scope of OCSSP definition:** excessively maximalist transposition as provider is OCSSP if stores and gives access to protected content *either* in large amounts *or* if it has a large audience in Spain
- **Obligation to remove or disable access** to transmissions of live events in real time
- **Inaccurate rendition of best efforts:** wrongful translation of the autonomous notion of EU law as "biggest efforts"
- **Undermining of special limited liability regime:** even if "biggest efforts" made, OCSSP can be sued by rightholders if unauthorized content that harms them remains available, e.g. for unjust enrichment
- **Basic principles to be respected in negotiations:** contractual bona fide, due diligence, transparency and respect for free competition
- **Complaint mechanism:** procedure must be completed within 10 business days
- **Information obligation** of OCSSPs: info to be provided to rightholders every 6 months, at their request
- **Narrow quotation** exception