

## IMPLEMENTATION OF **ARTICLES 15 & 17** OF THE DCDSM

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

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### MAIN **A15** SPECIFICITIES

#### **DEFINITION AND SCOPE**

- **Incomplete transposition of “press publications” definition:** no mention of need to be published in any media under the initiative, editorial responsibility and control of a service provider

### MAIN **A17** SPECIFICITIES

#### **DEFINITION AND SCOPE**

- **Extension of the subject matter and beneficiaries of A17:** does not appear to be 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 play “an important role in the market for online content by competing with online content services” (based on a Recital which is coherent with the operative part of the Directive)
- **Inaccurate rendition of best efforts:** wrongful translation of the autonomous notion of EU law as “every effort”
- **Piracy providers** excluded from scope

#### **RIGHTS, PROTECTION AND ENFORCEMENT**

- **Earmark:** rightholder can request the use of automated means for the detection of uses which the law views as minor and thus by default permissible
- **Complaint mechanism:** procedure must be completed within 2 weeks
- **Sanctions** for OCSSPs (fine of up to 1 million euro)
- **Ex ante safeguards in cases of pre-flagging and minor extracts:** OCSSPs must keep content accessible and inform the rightholder. Automated filtering may not be used to remove or block minor uses of works unless rightholder demonstrates irreparable harm (“balanced” implementation with ex ante user safeguards)