

## 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

- **Qualitative approach to “very short extracts”:** may include various types of content (e.g. text, photographs, graphics, audio and video). This specificity is compatible
- **Explicit mention of “mere facts” exclusion from scope A15:** in line with Recital 57 but not 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

#### LICENSING AND REMUNERATION

- **Extension of beneficiaries revenue-sharing:** beyond authors to other holders of related rights in content included in a press publication

### MAIN **A17** SPECIFICITIES

#### DEFINITION AND SCOPE

- **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
- **Start-ups:** no stay down obligation if turnover of no more than 1 million euro
- **Piracy providers** excluded from scope

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## MAIN **A17** SPECIFICITIES (cont'd)

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

- **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)
- **Information obligation of OCSSPs:** users must be informed if their content is removed or access to it disabled. Authorised persons also granted access to data on the detection and blocking of content for the purposes of scientific research
- **Earmarking** by trusted rightholders: limited to complaint mechanism
- **Complaint mechanism:** procedure must be completed within 1 week
- **Sanctions** for OCSSPs, users and rightholders

### **EXCEPTIONS AND LIMITATIONS**

- **Parody exception** subject to the payment of “appropriate remuneration”