

IMPLEMENTATION OF ARTICLES 15 & 17 OF THE DCDSM

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

MAIN A15 SPECIFICITIES

DEFINITION AND SCOPE

- **Geographical limitation of beneficiaries A15:** only if established in Ireland
- **Expansion to “reproduction” and “adaptation”** instead of just “making available” + making available defined overly broadly in Irish law (includes acts of distribution and broadcasting)
- **No protection for “mere facts”** as in Recital 57, potentially violating fundamental rights

MAIN A17 SPECIFICITIES

DEFINITION AND SCOPE

- **Lack of clarity regarding scope of beneficiaries of A17:** unclear whether performers are granted protection in relation to their performances
- **Extension of exclusive rights** covered to “reproduction” and “adaptation” through references to national law (“homing”), with additional lack of clarity regarding OCSSPs’ possible continued liability for reproduction even if they abide by the conditions of the special liability regime

RIGHTS, PROTECTION AND ENFORCEMENT

- **No distinction between “sufficiently substantiated notices” (take-down) and “relevant and necessary information” (stay-down):** requires stay down on the basis only of a “sufficiently substantiated notice”
- **Business secrets** limit information obligation of OCSSPs

EXCEPTIONS AND LIMITATIONS

- **Quotation exception and new parody exception** subject to the rules on fair dealing