

## 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**

- **Problematic qualitative approach to “very short extracts”:** extract must not exempt the reader from the need to consult the entire article
- **Expansion to “communication to the public”** instead of “making available”
- **Quantitative definition of “fair compensation” to authors** in revenue sharing: between 2% and 5% of “fair compensation” generated by A15
- **No protection for “mere facts”** as in Recital 57, potentially violating fundamental rights

#### **LICENSING AND REMUNERATION**

- **Licensing rules:** dedicated provisions on licensing that transform an exclusive right into a remuneration right, potentially in violation of EU law. AGCOM intervention in case of unsuccessful negotiations on fair compensation; court as last resort

### 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
- **Inclusion of carve-outs** from OCSSP scope, but unclear if open or closed list
- **No carve-out** for cloud service providers and online marketplaces OCSSPs that allow the sharing of protected works between multiple users (compatibility with the Directive unclear)
- **Inaccurate rendition of best efforts:** wrongful translation of the autonomous notion of EU law as “greatest or maximum efforts”