

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

- **Inaccurate transposition of exclusion for private or non-commercial uses:** uses the word “and” instead of “or”
- **Problematic qualitative approach to “very short extracts”:** extract must not exempt the reader from the need to consult the entire article
- **No protection for “mere facts”** as in Recital 57, potentially violating fundamental rights
- **Extension of revenue-sharing beneficiaries** 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. Explicit extension to press publications and databases
- **Carve-out from OCSSP definition:** closed list
- **Exclusion of the application of the hosting safe harbour** to OCSSPs in general or to OCSSPs when communicating to the public
- **Piracy providers** excluded from scope

RIGHTS, PROTECTION AND ENFORCEMENT

- **No prohibition on general monitoring:** excessively minimalist transposition
- **Decreased protection of users** where OCSSPs have authorisation by rendering conditions of not acting on a commercial basis or not generating significant revenues cumulative rather than alternative

EXCEPTIONS AND LIMITATIONS

- **Limitation of exception for parodies, caricatures and pastiches** to those that do not give rise to a likelihood of confusion with the original work
- **No reference to OCSSP obligation to inform** users of their right to use works under exceptions and limitations