

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

- **Qualitative approach to “very short extracts”:** may include various types of content (e.g. text, photographs, graphics, audio and video). This specificity is compatible
- **No protection for the holders of rights in content** incorporated in a press publication
- **No protection for “mere facts”** as in Recital 57, potentially violating fundamental rights

LICENSING AND REMUNERATION

- **Collective licensing** allowed

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 non-original photographs
- **Addition of element of competition to OCSSP definition:** provider must play “an important role on the content market by competing with other types of existing or potential online content services” (based on a Recital which is coherent with the operative part of the Directive)
- **No carve-outs** from OCSSP scope
- **Inaccurate rendition of best efforts:** replaced by requirement for OCSSPs to take “such measures they can reasonably be required to take”

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

RIGHTS, PROTECTION AND ENFORCEMENT

- **No prohibition on general monitoring:** excessively minimalist transposition
- **Information obligation of OCSSPs:** users must be informed if their content is removed or access to it disabled
- **Obligation for rightholder to justify removal request:** if not justified, access to the content must be restored
- **Use of automated filtering:** only for content which “may be assumed, with a high degree of certainty, to infringe copyright”
- **Introduction of a third party right to initiate proceedings** against OCSSPs for failure to meet their obligations