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

LICENSE 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”

Last update: December 2023
More at https://informationlabs.org/copyright/
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