The EU Directive on Copyright in the Digital Single Market

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Abstract

This chapter provides an introduction or refresher to the key provisions and objectives of the Directive on Copyright in the Digital Single Market (DCDSM) that should be accessible to readers with no prior legal knowledge. The Directive aims to harmonise copyright laws across European Union (EU) Member States to prevent legal fragmentation in the Digital Single Market. This chapter discusses the most debated articles of the DCDSM: Articles 3 and 4, the text and data mining provisions; Article 15, the press publisher's right; and Article 17, the liability of intermediaries. Each article's scope and stakeholders – such as creators, publishers, and platforms – are discussed, followed by the objectives and an up-to-date reception of the provision. This chapter explores the DCDSM's aims of creating legal certainty, enhancing innovation, and protecting a free and pluralistic press, as well as addressing the implications for copyright protection and risks of overblocking.

1. Introduction

1.1 Objective

The Directive, commonly referred to as the DCDSM (e.g. Angelopoulos, 2023, p. 4), CDSM Directive (e.g. Geiger and Jütte, 2021, p. 517), or DSM Directive (Vesala, 2023, p. 355), aims to foster the Digital Single Market and harmonise national copyright laws within the EU (Directive 2019/790, recital 1, 2).

The DCDSM does not overhaul the copyright system and should be understood as an adjustment of existing copyright laws to the digital market. Copyright is fundamentally ruled by national laws, with thirteen EU Directives and two EU Regulations harmonising the legal landscape among Member States. The EU operates on the principle of conferral, meaning ev-

ery law the EU enacts needs to be based on a competence conferred to the EU by the Member States (TEU, 2012, Arts. 4, 5). The legislative basis for the DCDSM is Article 114 in the Treaty of the Functioning of the European Union (TFEU),[1] which gives the EU the competence to create legislation that fosters the single market (DCDSM, 2019, preamble; Proposal for an Directive on Copyright in the Digital Single Market, 2016, p. 4). Article 114 of the TFEU is the legal basis for most EU digital laws, such as the GDPR or Data Act.[2]

Building a European single market, also called an internal or common market, is one of the core objectives of the EU. The single market seeks to guarantee the free movement of goods, capital, services, and people. In 2015, the EU announced the Digital Single Market Strategy, recognising that a single market requires lifting not only physical but also digital borders. The DCDSM aims to remove barriers to the free movement of goods and services by regulating copyright works (Rosati, 2021, pp. 6, 14). To summarise, the Directive's goal is to encourage innovation, creativity, investment, and the production of new content to prevent the fragmentation of the internal market (DCDSM, Art. 1(1), recital 2).

1.2 Legal Nature

As a Directive, the DCDSM is a type of European legislation that needs to be transposed into national law by EU Member States. Consequently, it is addressed to the Member States, while Regulations are directly addressed to citizens, companies, and all other entities in the EU. With the DCDSM, creators, platforms, and users are subject to the national law that is issued on the basis of the Directive by the Member States. In contrast, an EU Regulation would subject them to the European legal act itself. Examples of

1 The DCDSM preamble also cites Art. 53(1) and 62 TFEU as the legal basis, although these are of secondary importance compared to Art. 114 TFEU (cf Rosati, 2021, p. 14). Arts. 53(1) and 62 TFEU provide the legal basis for the recognition of qualifications between Member States and "for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking up and pursuit of activities as self-employed persons" (*TFEU*, 2012, Art. 53(1)).

2 For more information on the GDPR, see Chapter 14 'EU data protection law in action: introducing the GDPR' by Julia Krämer and Chapter 13 'IoT Data within the Context of the Data Act: Between Opportunities and Obstacles' by Prisca von Hagen.

digital Regulations that apply directly to natural and legal persons in the EU are the Digital Services Act (2022) and Digital Markets Act (2022).[3]

The DCDSM was adopted in April 2019, and the deadline for transposition for the Member States passed on 7 July 2021. However, the last Member State, Poland, implemented the Directive in September 2024. Germany implemented the EU Copyright Directive with the *Gesetz zur Anpassung des Urheberrechts an die Erfordernisse des digitalen Binnenmarktes*, which includes the introduction of the new *Urheberrechts-Diensteanbieter-Gesetz* and amendments to the *Urheberrechtsgesetz*. The latter includes the implementation of Articles 3 and 4 DCDSM (cf *Urheberrechtsgesetz*, 2021, §§ 44b, 60d), which are discussed in the next section.

2. Articles 3 and 4 DCDSM: Text and Data Mining Exceptions

2.1 Scope

Articles 3 and 4 DCDSM include exceptions to copyright and related rights for text and data mining,[4] which is defined in Article 2(2) DCDSM as "any automated analytical technique aimed at analysing text and data in digital form in order to generate information". Article 3 DCDSM provides an exception allowing the reproduction and extraction of information for text and data mining for scientific research purposes.[5] This exception allows research organisations and cultural heritage institutions to perform text and data mining on works to which they have lawful access, meaning the

3 For more information on the Digital Services Act, see Chapter 4 '' by Marie-Therese Sekwenz and Rita Gsenger or Chapter 5 '' by Pascal Schneiders and Lena Auler. Further information on the Digital Markets Act, see Chapter 6 'The brave little tailor v. digital giants: A fairy-tale analysis of the social character of the DMA' by Liza Herrmann.

4 Art. 3(1) DCDSM refers to the right to reproduction under the InfoSoc Directive and the Database Directive, the press publishers' right in Art. 15 DCDSM, and the database right under the Database Directive. Art. 4(1) DCDSM includes rights in computer programs under the Software Directive, alongside the previously mentioned (for further information see Margoni/Kretschmer, 2022, p. 686).

5 Relevant for Article 3 and 4 DCDSM are recitals 5–18. Recitals are part of the preamble of the DCDSM as a European legal text: they are not the binding law itself but give contextual background and interpretative guidance (Klimas and Vaiciukaite, 2008; *TFEU*, 2012, Art. 296). Working with the recitals is valuable for social scientists as they offer a framework that connects the legal text to the socio-political context in which it operates.

content is either freely accessible or access has been granted through a contractual agreement, such as a subscription (DCDSM, 2019, recital 14; Rosati, 2021, pp. 34-35) . An example of a case where a research organisation could use copyrighted material is a team of university researchers that uses a subscription-based database to text and data mine academic journal articles using Python to write a paper on research trends.

Article 4 DCDSM extends text and data mining permissions to other users for any purpose, including commercial use, if the user has lawful access to the data and, additionally, the rightholders have not explicitly reserved their rights. A reservation to make reproductions or extract from a database must be clear and explicit (e.g., machine-readable, DCDSM, 2019, recital 18) to be enforceable, leading to a prohibition of text and data mining for other users.

2.2 Stakeholders

2.2.1 Research Organisations, Cultural Heritage Institutions, and Other Users

A research organisation is an entity that conducts scientific research and operates on a not-for-profit basis or within a public interest mission recognised by an EU Member State (see the exact definition in Art. 2(1) DCDSM). A cultural heritage institution is defined as "a publicly accessible library or museum, an archive or a film or audio heritage institution" (DCDSM, 2019, Art. 2(3)). Article 3 DCDSM limits the beneficiaries of the research exception to those working in the public sector (Manteghi, 2023, p. 448). As a result, individuals and organisations in the private sector, such as journalists, independent researchers, small and medium-sized enterprises (SMEs), and other commercial entities, are not able to conduct text and data mining research under Article 3 DCDSM (Manteghi, 2023, p. 448). However, these other users fall under Article 4 DCDSM.

2.2.2 Rightholders

The term rightholder, which is frequently used in the DCDSM, is not explicitly defined. However, a systematic interpretation suggests that it means natural and legal persons holding copyright or related rights, including directly named authors (e.g. recitals 3, 6, 7 DCDSM). These copyrights are

governed by the national laws of the Member States within the framework established by EU Directives and Regulations. Generally, a copyright is an exclusive right to use and distribute an original work (for more details, see e.g., Ginsburg, 2018). The standard duration of copyright protection in the EU is the author's life plus 70 years after their death (Copyright Term Directive, 2006, Art. 1(1)) .

If the content subject to text and data mining is part of a database, the database right can apply alongside the copyright. The database right is a separate intellectual property right under the EU Database Directive (Database Directive, 1996), which grants a right to the creators of databases who have made "a substantial investment" in "the obtaining, verification, or presentation of the contents" of the database (Database Directive, 1996, Art. 7(1)). This right protects against the unauthorised extraction or re-utilisation of the whole or a substantial part of the contents of a protected database (Database Directive, 1996, Art. 7(1); for more details, see Rosati, 2021, pp. 35-37, 83-85).

2.3 Objectives and Perspectives

2.3.1 Creating Legal Certainty

Articles 3 and 4 DCDSM offer more legal certainty compared to the legal framework before the adoption of the Directive (Manteghi, 2023, p. 446) by clarifying the lawfulness of text and data mining (Geiger and Jütte, 2022, p. 55). The objective of these articles is to ensure greater legal clarity in the execution of text and data mining and thereby create more certainty to encourage innovation in the research community and private sector (DCDSM, recital 8, 18) . Furthermore, Articles 3 and 4 DCDSM aim to prevent fragmentation in the single market because some Member States have already introduced national text and data mining exceptions (European Commission, 2016, § 4.3.1.; Rosati, 2021, p. 39).

2.3.2 Enhancing Innovation

This harmonisation enables cross-border research cooperation and, therefore, fosters the objective of Article 3 DCDSM to facilitate scientific progress and enhance the EU's competitive position as a research area (DCDSM, 2019, recital 10). Article 4 DCDSM is designed to support inno-

vation and artificial intelligence (AI) development across various sectors, as text and data mining is seen as essential for the development and operation of AI (Manteghi, 2023, p. 444). However, one criticism suggests that too few beneficiaries are listed under Article 3 DCDSM. For example, Manteghi (2023, p. 449) proposes expanding the scope of Article 3 DCDSM to allow any person or entity to conduct text and data mining for scientific research, provided they have lawful access to the content.

3. Article 15 DCDSM: Press Publishers' Right

3.1 Scope

One of the most contentious articles of the DCDSM is Article 15 (draft Article 11; Angelopoulos, 2023, p. 4; Dusollier, 2020, p. 1004),[6] which establishes the press publishers' right for the duration of two years from the date of publication (DCDSM, 2019, Art. 15(4)). Article 15 DCDSM gives (1) press publishers, like the French *Le Monde*, an intellectual property right to license the online use of their press publications by so-called (2) information society service providers, like the news aggregator Google News.[7] This means Google News has to obtain a licence from press publisher *Le Monde* before displaying excerpts from press articles on their website. The (3) authors of these press articles can claim an appropriate share of the revenue from press publishers like *Le Monde*.

3.2 Stakeholders

3.2.1 Press Publishers

The Directive does not explicitly define who qualifies as a press publisher. However, recital 55 DCDSM states that the "publisher of press publications should be understood as covering service providers, such as news publishers or news agencies, when they publish press publications within the meaning of this Directive". A press publication within the meaning of the Directive is "a collection composed mainly of literary works of a jour-

6 Relevant recitals for Article 15 DCDSM are 54-49.

7 Cf the decision No. 20-MC-01 of the French competition authority (Autorité de la concurrence, 2024).

nalistic nature" that constitute "an individual item within a periodical or regularly updated publication" with "the purpose of providing the general public with information related to news or other topics" and "is published in any media under the initiative, editorial responsibility and control of a service provider" (DCDSM, 2019, Art. 2(4)). Examples of press publications are daily newspapers, magazines, and news websites (DCDSM, 2019, recital 56), like the above-mentioned *Le Monde* or Spiegel Online. Excluded from the scope are "periodical publications published for scientific or academic purposes, such as scientific journals" (DCDSM, 2019, Art. 2(4), recital 56).

Key exceptions to the scope of Article 15 DCDSM are that the right does not extend to the "private or non-commercial use of press publications by individual users" (DCDSM, 2019, recital 55) and does not apply to the use of hyperlinks to the press publications (DCDSM, 2019, Art. 15(1), recital 57). Additionally, the right does not cover the use of "mere facts reported in press publications" (DCDSM, 2019, recital 57) or individual words or very short extracts of press publications (DCDSM, 2019, recital 58). The use of press publications for the purposes of scientific research is generally exempted, provided that the non-commercial nature of the research activity justifies such use.

3.2.2 Information Society Service Providers

An information society service provider must offer a service that is "normally provided for remuneration, at a distance, by electronic means, and at the individual request of a recipient of services" (DCDSM, Art. 2(5); Directive (EU) 2015/1535, 2015, Art. 1(1)(b); for more details, see Rosati, 2021, pp. 83-85). This broad definition includes a variety of online services, like news aggregators such as Google News, social media networks such as Facebook or X, video-sharing platforms like YouTube, and search engines like Google (*VG Media v Google,* 2017; Furgal, 2023, p. 661). These information society service providers take the content created by authors and other rightholders that is published by press publishers and display it on their websites. The press publisher right aims to enhance the market power of press publishers, allowing them to negotiate more effectively with these large digital platforms.

3.2.3 Authors and Other Rightholders

The fact that press publishers receive a copyright does not affect the authors' copyright. Article 15(5) DCDSM states that authors of works in press publications are entitled to an "appropriate share" of the revenue that press publishers receive for the use of their publications. The implementation of this revenue-sharing mechanism is left to the discretion of EU Member States. For example, Italy determines that authors are entitled to between 2% and 5% of the "fair compensation" they receive (cf Angelopoulos, 2023, p. 33), while Germany mandates that authors should receive a minimum share of one-third of the income the press publisher generated from the use of their copyright rights (*Urheberrechtsgesetz*, 2021, § 87k).

3.3 Objectives and Perspectives

3.3.1 Protecting a Free and Pluralist Press

On a broader level, the press publisher's right is intended to help press publishers continue to provide reliable information and support the "sustainability of the publishing industry" in the digital age (DCDSM, 2019, recital 55), as well as ensuring quality journalism and a "free and pluralist press" (DCDSM, 2019, recital 54). However, Article 15 DCDSM also has received criticism for inhibiting the free flow of information on the internet. Notwithstanding the exceptions mentioned, every use of a press publication would require permission, which raises transaction costs and, ultimately, the display of content (European Copyright Society, 2018, p. 3). This stipulation could negatively impact the freedom of information for the general public.

3.3.2 Shifting Power Dynamics

However, an objective of Article 15 DCDSM is to improve legal certainty (Proposal for an Directive on Copyright in the Digital Single Market, 2016, p. 5) by strengthening the legal rights of press publishers and ensuring that they receive fair remuneration for the use of their publications. Recital 54 DCDSM points out the challenges press publishers face in licensing their publications due to the increase in news aggregators and media monitoring services. While online services, like Google News, rely on reusing

press publications as a key aspect of their business model, press publishers face declining revenues (Rosati, 2021, p. 253). Article 15 DCDSM aims to counter this imbalance by improving the bargaining position of press publishers (Proposal for an Directive on Copyright in the Digital Single Market, 2016, p.5).

However, some argue that Article 15 DCDSM fails to achieve the objective of shifting the power and negotiation imbalance between press publishers and big tech companies, such as Google (Dusollier, 2020, p. 1006; Furgal, 2023, p. 650). This conflict is demonstrated by Google's reaction after France transposed the rights of press publishers into national law. The search engine left press publishers with the choice of either not being featured on the news aggregator and, therefore, losing visibility or granting a free licence (Dusollier, 2020, p. 1006). However, the French competition authority, Autorité de la concurrence, brought four cases, deciding that Google is abusing its dominant position by failing to conduct balanced negotiations. Press publishers' rights become even more critical in the face of the growing use of press publications in AI services like Gemini, formerly Bard (Autorité de la concurrence, 2024).

Additionally, it is argued that the rights of press publishers cause "disproportionate harm to media creators, to smaller publishers, to SMEs" (European Copyright Society, 2018, p. 4). While the bargaining power may improve for big press publishers like *Le Monde* or Spiegel Online, smaller independent publishers are potentially less relevant for information society service providers like Google News or Facebook, leading to fewer negotiations and only a limited shift in power dynamics.

4. Article 17 DCDSM: Intermediary Liability

4.1 Scope

Article 17 DCDSM, known as Article 13 during the drafting stages, is possibly the most controversial provision of the DCDSM (Angelopoulos, 2023, p. 4; Dusollier, 2020, p. 1008; Geiger and Jütte, 2021, p. 517; Metzger et al, 2017, p. 1).[8] Article 17 DCDSM establishes that online content-sharing service providers are directly liable for copyright-infringing content uploaded by their users. Therefore, YouTube (the online content-sharing

8 Relevant for Article 17 DCDSM are recitals 61–84.

service provider) can be held liable if a content creator (the user) uploads the copyright-protected music of a musician (the rightholder) without their permission. Under Article 17 DCDSM, YouTube (the online content-sharing service provider) must obtain authorisation from the musician (the rightholder) for the use of copyright-protected works.

Consequently, online content-sharing service providers need a copyright licence for all the content uploaded through their service (Dusollier, 2020, p. 1010). If they fail to obtain such authorisation, online content-sharing service providers must demonstrate that they have made best efforts to obtain the authorisation and ensure that unauthorised content is unavailable on their services (DCDSM, 2019, Art. 17(4)). If the online content-sharing provider fails to fulfil its obligations, it can be held liable, leading to the obligation to pay damages.

4.2 Stakeholders

4.2.1 Users

The term user is not defined in the DCDSM, but Article 17(1) DCDSM implies that a user is someone who shares copyrighted content through an online content-sharing services provider. A user can also be a copyright holder if they upload original content. However, Article 17 DCDSM regulates copyright infringements, so relevant for the application of the law are cases where, for example, a content creator uses copyrighted music in their videos uploaded to TikTok.

An exception to the intermediary liability is that users can upload and make available copyrighted works as part of their content for the purpose of "quotation, criticism, review" (DCDSM, 2019, Art. 17(7)(a), recital 70) or "caricature, parody or pastiche" (DCDSM, 2019, Art. 17(7)(a), recital 70). Pastiche imitates the style of another work, but other than parody, it pays homage to the original (Diepeveen, 2020). These exceptions protect forms of expression such as memes and parodic videos. The ratio for that is to strike a balance between fundamental rights outlined in the Charter of Fundamental Rights of the European Union: the freedom of expression and the arts of the user and the right to property, including intellectual property, of the rightholders (DCDSM, 2019, recital 70). Further protection of user interests is the complaint and redress mechanism that online content-sharing providers need to put in place to ensure their users can appeal

and seek redress if access to their content is deactivated or the content is removed (DCDSM, 2019, Art. 17(9), recital 70).[9]

4.2.2 Rightholders

Article 17 DCDSM aims to ensure that more of the revenue from user-generated content goes to the rightholder. This chapter explained the term righholder under 2.2.2.

4.2.3 Online Content-Sharing Service Providers

Online content-sharing services providers (OCSSP; e.g. Angelopoulos, 2023, p. 4) are defined by the DCDSM as "a provider of an information society service of which the main or one of the main purposes is to store and give the public access to a large amount of copyright-protected works or other protected subject matter uploaded by its users, which it organises and promotes for profit-making purposes" (DCDSM, 2019, Art. 2(6)). Examples include YouTube, Instagram, Facebook, TikTok, Vimeo, and SoundCloud.[10] Excluded from the OCSSP definition are not-for-profit online encyclopaedias (recital 62 DCDSM), like Wikipedia, and not-for-profit educational and scientific repositories (recital 62 DCDSM), like ArXiv.

Article 17 DCDSM establishes that these OCSSPs are liable for copyright-infringing content uploaded by their users. This is called direct intermediary liability because the intermediary, e.g. YouTube, between the content creator (user) and the musician (rightholder) is liable for the copyright infringement of the user. Under the previous legal framework of Article 14 of the E-Commerce Directive (2000/31/EC), intermediaries were not held responsible for content uploaded by users as long as they had no knowledge of illegal information, which includes copyright infringement but also, for example, hate speech. Intermediaries were only required to promptly remove unlawful content when notified (notice-and-takedown principle), giving them so-called safe harbour status (Dusollier, 2020, p.

9 Platforms with less than three years of operation, an annual turnover below 10 million euros, and less than 5 million unique monthly visitors have fewer obligations (DCDSM, 2019, recital 66, art. 17(6)).

10 However, Spotify does not classify as an OCSSP because it does not store or allow access to content uploaded by users. A digital music distributor must upload the music directly to Spotify (Spotify, 2024).

1010; Geiger and Jütte, 2021, p. 519). The direct intermediary liability of Article 17 DCDSM is seen as a paradigm shift (Geiger and Jütte, 2021, p. 517).

Many voices in the literature argue that online content-sharing providers would need to implement automated filtering, also known as upload filters, to fulfil the obligation to obtain a licence for all copyrighted material uploaded by users and, therefore, prevent them from uploading copyright-infringing content (Geiger and Jütte, 2021, pp. 517, 532). This debate is discussed in the next section.

4.3 Objectives and Perspectives

4.3.1 Risking Overblocking

The most discussed issue relating to Article 17 DCDSM is overblocking, a concern that platforms may over-cautiously and excessively filter user-generated content to avoid liability (Geiger and Jütte, 2021, p. 533), which could stifle free speech and creativity online.

Article 17(8) of the DCDSM states that online content-sharing providers, like TikTok, must not engage in the general monitoring of all user content on their platforms (DCDSM, Art. 17(8). recital 66). This principle was already incorporated in the E-Commerce Directive and cases before the Court of Justice of the European Union (CJEU), such as *Scarlet Extended SA v SABAM* (Case C-70/10) and *SABAM v Netlog NV* (Case C-360/10) reaffirm that general monitoring obligations are not permissible under EU law as they would infringe fundamental rights like the freedom of expression and information of users by restricting lawful sharing and accessing information (Geiger and Jütte, 2021, p. 531).

Poland has contested the DCDSM in the CJEU, claiming that the mandatory use of upload filters to prevent copyright infringement would result in preventive monitoring measures or, colloquially speaking, overblocking (Poland v European Parliament and Council of the European Union, 2022, no. 24) . The judgment of the CJEU in the case of *Poland v European Parliament and Council of the European Union* has established that to comply with EU law, Article 17 DCDSM must be implemented and applied in a balanced manner to prevent the immediate, prior blocking of content that does not clearly infringe copyright (Leistner, 2022). The Court recognised that Member States have some flexibility in how they implement

Article 17 DCDSM but ruled that there must be sufficient protections to safeguard users' rights. For example, the Court supported the ideas behind Germany's regulatory approach (Husovec, 2023, p. 194). The German Urheberrechts-Diensteanbieter-Gesetz (2021, §§ 9, 10) includes procedures for delayed takedowns. To avoid disproportionate blocking, when using automated procedures, certain presumed authorised uses must be made public until the conclusion of a complaints procedure (*Urheberrechts-Diensteanbieter-Gesetz*, 2021, § 9 I, II 1 Nr. 3). Such presumed authorised uses include minor uses of third-party works, such as uses of up to 15 seconds per film work or moving image, or uses of up to 15 seconds per audio track (Urheberrechts-Diensteanbieter-Gesetz, 2021, § 9 II 1 Nr. 3 and § 10 Nr. 1, 2). With such a so-called *de minimis* provision (Forte, 2022, p. 416), mandatory filtering does not equate to a violation of freedom of expression (Poland v European Parliament and Council of the European Union, 2022, Husovec, 2023).

In 2024, five years after the end of the implementation deadline of the DCDSM, Keller (2024) argues, based on the YouTube transparency reports, that overblocking is a marginal problem. He states that the false positive rate for blocking on YouTube amounts to only 0.005%. However, in their study on the impact of Article 17 DCDSM on YouTube copyright content moderation in Germany and France, Dergacheva and Katzenbach (2023, p. 17) find that content diversity is decreasing and copyright takedowns have increased since 2019, with a significantly stronger effect in France, which implemented the DCDSM earlier.

4.3.2 Strengthening Copyright Protection

The objective of Article 17 DCDSM is to contain the exploitation of copyrighted works online (Dusollier, 2020, p. 1008), which is known in policy jargon as "closing the value gap" (Rosati, 2021, p. 308). Article 17 DCDSM aims to encourage "the development of the licensing market", where rightholders can license their content to online content-sharing service providers (DCDSM, 2019, recital 61; European Commission, 2021, p. 6). Whether the copyright protection was strengthened and the value gap was closed remains an unanswered question (Keller, 2024), and we can expect the review of the Directive through the Commission no earlier than 7 June 2026 (DCDSM, 2019, Art. 30(1)).

5. Conclusion

This chapter illustrated that the DCDSM marks a significant shift in regulating digital copyright, striving to balance the interests of users, platforms, press publishers, and rightholders within the Digital Single Market. It emphasised four critical articles in the DCDSM.

Firstly, the chapter explained the text and data mining exceptions in Articles 3 and 4 of the DCDSM. These exceptions allow research organisations and cultural heritage institutions to perform text and data mining for works to which they have lawful access. Additionally, other users can conduct text and data mining if they have lawful access to the data and rightholders have not explicitly reserved their rights. The aim of Articles 3 and 4 DCDSM is to bring legal certainty to text and data mining practices and thereby enhance innovation in the EU internal market.

Secondly, the press publishers right was explained. Article 15 DCDSM gives press publishers, like *Le Monde*, an intellectual property right to license the online use of their press publications by so-called information society service providers, like the news aggregator Google News. The objective of Article 15 DCDSM is to protect a free and pluralistic press and shift power dynamics. However, its effectiveness is unclear.

Thirdly, the chapter outlined Article 17 DCDSM, which establishes the direct liability of online content-sharing service providers, such as YouTube, which must obtain licences for copyrighted content uploaded through their services by users. The implementation of Article 17 DCDSM has sparked significant debate, particularly regarding the potential for overblocking and its impact on freedom of expression. Whether Article 17 DCDSM, in fact, strengthens copyright protection remains to be seen.

The importance of the DCDSM is only amplified by the developments in AI technologies. With the increase of web scraping methods to collect big data from the internet to train large language models (LLMs), attention has shifted from Article 17 DCDSM to Articles 3 and 4 DCDSM (Keller, 2024). In addition, the use of press publications by LLMs has led to recent cases from the French competition authority regarding the rights of press publishers. This development indicates that the DCDSM remains a significant Directive in the EU's digital governance.

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