

Navigating the metaverse: A global legal and regulatory guide

Part 1: What is the metaverse?

The background of the page is a dark blue field filled with numerous glowing, curved lines in shades of blue and purple, creating a sense of motion and digital connectivity. Small white and blue dots are scattered throughout, resembling data points or stars in a digital space.

Introduction

In the space of a very short time, businesses are focusing on what the metaverse means for them. In addition to commercialising the opportunities available to them, such as new channels to market and enhanced customer engagement, businesses will need to understand and address the associated risks.

Such matters are extremely important for businesses, consumers, law-makers and lawyers alike. In this seven-part guide we consider the following key legal and regulatory issues in relation to the metaverse:

Part 1

What is the metaverse?

Who are the current big players building it?

What will the metaverse mean for business?

What are key technical, operational and governance considerations?

Part 2

Intellectual property and the metaverse

What are virtual reality worlds and virtual items?

Non-fungible tokens

How do traditional IP concepts sit with non-fungible tokens and other works in the metaverse?

Part 3

Anti-trust/competition law issues

Developer and participant conduct

Will the EU Digital Markets Act apply to the metaverse?

Competitors communicating and co-operating with each other in relation to metaverse offerings



Part 4

Decentralised models and data issues

Data in the metaverse

Decentralised networks

Who is responsible for data protection law compliance?

Data subject consents

Special categories of data

Children and the metaverse

Data sharing

Data export and localisation

Responsibility for data breaches and cyber attacks

Part 5

Transacting in the metaverse

Buying “land” in the metaverse

What are the key issues when contracting in the metaverse ecosystem?

Non-fungible tokens, smart contracts and blockchain

Financial crime

Will metaverse risk and control considerations be similar to those relevant to the Internet?

Part 6

Digital marketing, advertising and social media in the metaverse

How will businesses be able to advertise in the metaverse?

Social media regulation

Regulating advertising content in the metaverse

Will AI have implications for marketing and the use of avatars in the metaverse?

Part 7

AI and the metaverse

Why is AI relevant to the metaverse?

How might AI regulation impact upon the metaverse?

How to operationalise AI risk mitigation in the metaverse

Data protection and AI

Overview of the legal and regulatory issues

The diagram shows the key legal issues and subject areas this guide covers. The breadth of issues means that mitigating risk associated with the metaverse is going to be a significant challenge for any business, but particularly so for a regulated business.



What is the metaverse?

The metaverse is a vision for shared, 3D virtual spaces that jointly comprise an online universe. Eventually, these online spaces will be parallel to physical spaces (marketplaces, social networks, workplaces, etc). The technology behind the metaverse is a confluence of the technology behind video games, social networks, e-commerce, and computer simulation that has developed over the last twenty years.

Who are the current big players building it?

The major technology players see commercial opportunities in the metaverse. The major tech players currently active in developing the necessary infrastructure are mostly American and Chinese.

Secure storage and transfer of digital identity and digital assets are expected to require blockchain-type solutions and the use of digital currencies: for example, having access to a cryptocurrency that can be used to purchase objects in more than one metaverse.

What will the metaverse mean for business?

Currently, the main metaverse applications show their origins in gaming and in simulation: games, training, virtual tours of spaces such as museums or factories, and spaces for shared working and collaboration.

Companies, especially luxury consumer goods companies and financial services companies, are buying "land" and starting to establish a brand presence in the metaverse. These virtual establishments are expected to support commercial activities (such as selling services and providing after-sales support), but that may depend on the regulatory environment of these virtual spaces.

For consumer goods companies, the opportunity exists to sell clothes or cars, for example, to be purchased by participants for use by their metaverse avatars.

What are the key technical, operational and governance considerations?

Massively large databases

What kind of data capacity will be needed to support the metaverse?

The metaverse will require massively large databases with real-time (or near real-time) updating, along with simultaneous access by millions or even billions of users. As with national telecommunications and electricity networks, or the very large databases of social media companies, the technical expertise needed to operate these very large IT systems will be concentrated in just a handful of commercial organisations.

Because of its size and great commercial potential, the metaverse has attracted attention from large technology companies. However, even these companies, despite their ambitions, are unlikely to be able to provide the entire metaverse platform on their own, or even jointly. It is much more likely that different parts of the metaverse will be provided by different companies, perhaps divided by geographic regions, or by vertical industry sectors, or by the types of applications and users.

Multiple stakeholders

If there are going to be multiple stakeholders, what are the technology implications of that?

There may be significant scope for shared data platforms in the metaverse as a result – for example, distributed ledger technology is expected to play a big role. Such platforms might provide a means to transfer information and assets between metaverse subspaces based on different application domains or different sectors or different geographies (such as transfer of wealth obtained in online games across to bank deposits or across to purchase vouchers usable in e-commerce sites).

Technical/interoperability standards

What are the implications for data exchange between all the stakeholders?

There could be quite a few implications, but for effective collaboration between multiple metaverse stakeholders, there will need to be standards for real-time exchange of data and user interactions.

Standards may emerge as the metaverse comes into being and grows, or standards may be agreed in advance. Already there are efforts to develop open source standards, such as standards for rendering of graphical instructions. Whether they will be adopted commercially or not will depend on the attitudes of the major technology companies.

Often, standards in computing only emerge after much tactical jockeying and positioning by competing technology companies, each eager to impose their own views and practices onto final standards, though perhaps unwilling to be seen to be doing so.

Role of AI, the internet of things, distributed ledger technology, smart contracts and non-fungible tokens

What role will blockchain/distributed ledger technology, smart contracts, non-fungible tokens, the internet of things and AI have in the metaverse?

All of these technologies will play a role, as they increasingly do in commercial and social interactions in the offline world:

- Sensor devices in the internet of things, for instance, collect real-world information which is fed into automated computer programs implemented as smart contracts sitting on a distributed ledger;
- The huge amounts of data generated by metaverse activities will find their way into AI programs engaged in predictive analytics – attempting to predict consumer behaviour, for example, or to diagnose the causes of faults in systems; and
- Non-fungible tokens, which are a means to bring scarcity from the physical world into the online world, will play a part as people engage in commercial transactions in the metaverse.

Governance

What might governance look like inside a business in relation to the metaverse?

It depends on what the business wants to use the metaverse for. If it is just for branding and marketing communications purposes, the governance might look very like that which applies in relation to a corporate website.

On the other hand, things will be very different if it is also a channel for distribution of new products and services, and in that case the particular risks associated with the metaverse would need to be factored in.

For a regulated business like a bank, a key governance issue will be how will regulators view product sale and distribution in the metaverse.

One metaverse or multiple metaverses?

Will there be just one metaverse that eventually arises out of the Worldwide Web, or are likely to be multiple metaverses?

It is a matter of opinion, but one view is that, as things stand, we are most likely looking at the evolution of multiple metaverses. Stakeholders are still working out how to monetise the customer journey in the metaverse, and that may mean (for some at least) a desire for customer relationship ownership.



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