Regulating the Metaverse:

A Review of Potential EU Policy Issues in Immersive Environments

The EU's approach to tech regulation has and continues to set global norms. In the letter of intent accompanying her annual State of the European Union address, European Commission President, Ursula von der Leyen, announced that the EU will continue to influence the regulation of global tech markets by evaluating "new digital opportunities and trends, such as the metaverse."

An "initiative on virtual worlds, such as the metaverse" is also included in the Commission's Work Programme for 2023. The EU will therefore likely be among the first regions to regulate the emerging sector known as the Metaverse, and its laws may have repercussions across the virtual and physical worlds.

As the technology enabling the Metaverse is still nascent, and corporations are only just beginning to discuss the standards that may underlie it, it is not yet certain how the Metaverse may eventually develop.
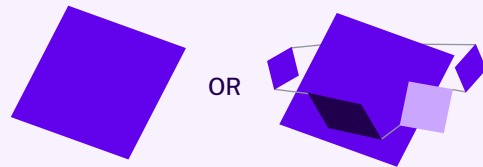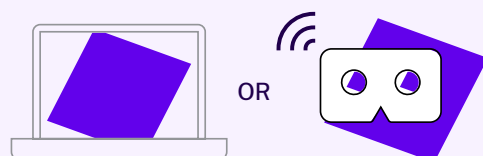
One Metaverse OR many "metaverses"?

OR
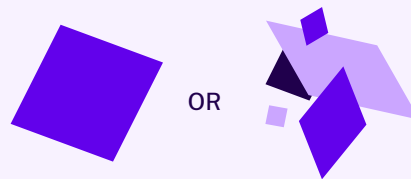
Governance by a central entity OR through decentralised blockchain?

OR

Accessible through conventional monitors OR connected devices exclusively?

OR

However it is built and whatever its final form, there is general agreement that the Metaverse will eventually give users a new sense of being physically present in virtual worlds by enabling new forms of interaction built on 3 Key Features:

1
An immersive, three-dimensional user experience.

2
Real-time, persistent network access.

3
Cross-platform interoperability.

Although the EU's existing regulatory framework will apply to the Metaverse as it exists now, regulators around the world are starting to question whether new laws may be needed to govern it as it matures.

Here we assess the potential policy impact of the Metaverse in 6 key areas:
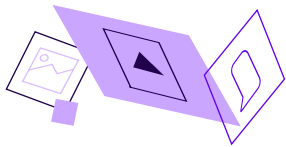
1. Content Moderation

The Metaverse will multiply the frequency of real-time content generation and shift communication that is currently text-based into behavioural interactions (with both verbal and non-verbal elements). Protecting users without infringing on their fundamental rights will be a significant technical challenge. In addition, new forms of interaction in the Metaverse may require online platforms to develop new standards for what is and is not socially acceptable behaviour in virtual environments.
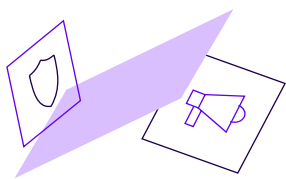
2. Fundamental rights

The tension between protecting consumers while preserving their fundamental right to express themselves freely is a key theme that has characterised the regulation of Web2 in the EU. Maintaining users' freedoms to represent themselves and interact with who or what they choose without fear of constant surveillance in the Metaverse will likely be increasingly difficult to balance against the desire to keep them safe from harm.
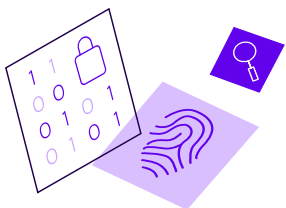
3. Cybersecurity

Web3 technologies may create new avenues for cybersecurity threats. For example, VR and AR headsets (that are often linked to the Metaverse, though not necessary for such experiences) could be targeted by malicious actors. Moreover, identity theft in the Metaverse may lead to avatar impersonations that not only have the potential to usher in a new era of fake news but to ruin a user's offline relationships or reputation. New cybersecurity tools will need to address the specific challenges of the Metaverse, such as protecting avatar integrity, managing the relationship between the Metaverse and the dark web and evaluating the real-world impact of crimes committed in the Metaverse.
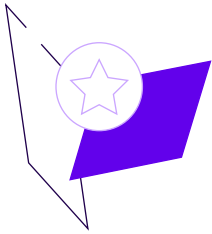
4. Platform liability

Although blockchain creates new ownership possibilities over digital assets, data and self-sovereign identities, it also weakens some of the traditional protections that centralised platforms may offer to users.

Jurisdiction is an additional challenge when it comes to ascribing liability in the Metaverse. Determining jurisdiction in a decentralised Metaverse may be especially challenging as it could apply, for example, to the location of a user, avatar, or relevant servers.
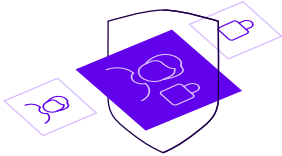
5. User Privacy

To deliver immersive experiences, Metaverse-enabling devices require a large amount of information about individuals and their surroundings. The sheer quantity of personal information involved in delivering, moderating and engaging in immersive experiences not only creates new cybersecurity risks but may involve sharing and exposing more data with commercial entities.
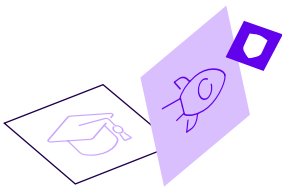
6. Child safety

The Metaverse creates exciting new opportunities for children, not only for gaming and entertainment, but for immersive education. Through the Metaverse, children may take a virtual field trip to walk through ancient cities as though they were newly built or fly around planets in a virtual spaceship. Research has already indicated that such experiences may improve a student's level of attention, retention of information and enjoyment of course material. However, the Metaverse may also pose more risks for children, especially if Metaverse platforms fail to create safeguards to ensure that children are protected from immersive, sensory and age-inappropriate harmful or illegal content.

The Metaverse marks a milestone in the way innovators are developing and deploying new technologies. Such a milestone will soon need to be reflected by a corresponding regulatory approach.

While expanding the scope of EU laws tailored for a Web2 environment may help to address some of these concerns, it is likely that the new structure and technologies of the Metaverse will require new rules tailored to immersive and potentially decentralised virtual spaces. Other challenges falling under the competency of EU Member States may also demand new forms of coordination, cooperation and/or enforcement between national and international institutions and amongst industry stakeholders.

No matter the challenges, it is important to recall that the Metaverse also has the potential for substantial good, creating an entirely new economic space and introducing new forms of digital ownership and content creation, as well as considerable advancements in health, education, sustainability, productivity and entertainment. Policymakers have an opportunity to utilise the full strength of the EU regulatory toolkit to facilitate the growth of the Metaverse in a way that encourages these multiple benefits while mitigating its potential risks. Through a combination of co-regulation, self-regulation, performance-based regulation and regulatory sandboxes, the EU may help to establish the standards that will govern the Metaverse around the world.