

International Telecommunication Union Digital Transformation Dialogues

Shaping Africa's Digital Future Webinar

# **Governance in the Metaverse: Data Protection and Economic Concerns**

*Based on an ITU FGMV Technical Report presented by the Egyptian  
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*Authors:*

*Mr. Ahmed Said*

*Dr. Hedaia Nabil*

**Presented by**

**Hedaia-t-Allah Nabil Abd Al Ghaffar, PhD**

**Director of Economic Affairs and International Indicators Department**

**Ministry of Communications and Information Technology**

**Egypt**

# Introduction:

- The Metaverse has seized the attention of global brands and big technology companies.
- Some brand owners have applied to register trademarks over downloadable virtual goods, for example, Nike and Abercrombie & Fitch. Some corporates have filed patent applications, for example, Disney has obtained a patent in the US for a virtual world simulator.
- From an M&A and funding perspective, the Metaverse has attracted much attention too. For instance, in January 2022, Microsoft announced its planned multi-billion dollar acquisition of video game giant Activision Blizzard.

# Data Protection in METaverse



# **Data Protection and Privacy Concerns in the Metaverse:**

## ***Complicated Roles***

- **Metaverse will bring new dimensions to the data protection and privacy scene; where regulations of data protection have been so far tackling physical data about users/ people, and its movement between countries.**
- **The metaverse world will create totally new actors (avatars) in addition to the original users with massive amounts of data generated from new sources such as the data collected from facial and eye expressions, moving between different metaverses.**
- **This general idea carries many complications, concerns and policy issues to consider in terms of privacy and data protection.**

# **Data Protection and Privacy Concerns in the Metaverse:**

## ***Complicated Roles***

- **The metaverse world blur the roles and responsibilities that have been established by data protection regulations throughout the past years. It is difficult to determine responsibilities and liabilities in the metaverse. This is even more dangerous in light of the massive amounts of data generated in the metaverse.**
- **It is unclear now who is responsible for storing, processing and safeguarding data.**
- **Also, it is unclear who is responsible for compliance with laws and regulations where it was normally the controller's responsibility to ensure individuals can exercise their rights and parties comply with laws and regulations.**
- **Data agreements may also be very challenging in a decentralized world.**

# **Data Protection and Privacy Concerns in the Metaverse:**

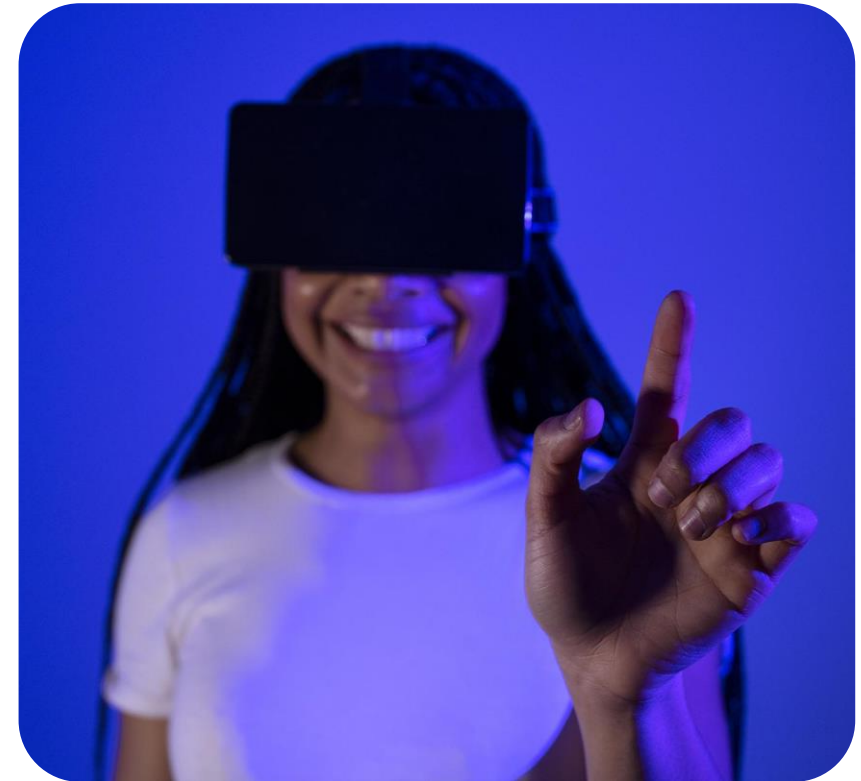
## ***Data Sharing and Portability***

- The metaverse will connect the person to their “avatar” or other digital representations. Therefore, countries would likely consider information collected about a metaverse user’s activities to be personal data, subject to existing privacy and data protection laws. This raises complicated issues such as jurisdictional responsibilities as well as portability and interoperability considerations.
- Metaverse presents problems of interoperability and movement of users inside and between different metaverses, together with their data and assets. This creates duplication with the real-world movement of data. Determining jurisdictions in the metaverse is very challenging, as a result of adding a new important player “the avatar”.
- Will jurisdiction apply according to the location of the real-world user or the avatar? Some additional contractual requirements apply in many countries in addition to some localization requirements, it is unclear how will this be handled in the metaverse. It is also unclear how concepts of ‘extra-territorial reach’ present in the GDPR and other regulations will be applied in the metaverse. The duplication created in data production as a result of the new actor’s presence shall be regulated.

# **Data Protection and Privacy Concerns in the Metaverse:**

## ***Proliferation of illegal and harmful content***

- **The metaverse is described as one of the Decentralized Autonomous Organizations (DAOs), where avatars are the main content creators. It is unclear how the metaverse can regulate illegal and harmful content such as sexual harassment, disinformation, extremist ideas and pornographic content.**



# **Data Protection and Privacy Concerns in the Metaverse:**

## ***Increase in the sources of data collection***

- **Users are likely to be providing more information about themselves than they are doing today, as a result of the diversity of sources of data collection. Instead of dealing with clear sources of data collection in the current situation, the metaverse will introduce new sources of data collection that may be very challenging to get users' consent on, such as eye-trackers that could give data and insights about emotions through the interpretation of facial expressions and brain wave patterns.**
- **Some legal experts recommend that metaverse regulations should be designed to limit the scope of emotion-responsive advertising.**
- **Additionally, the modes used in the metaverse can pose high risks, that can be used to infringe privacy. In the metaverse environment, the players move their avatars around and the scene is observed by the player who can take either a first-person perspective and look through the eyes of their avatars, or a third-person perspective where the camera is not attached to the avatar allowing the player to watch both their own avatar as well as the environment around. In third-person perspective, which is sometimes the default, the camera can move independently of the avatar and can be taken to locations different from the avatars'. This practically allows the player to use the camera as a spying device. Even more, the camera can be attached to another avatar without this avatar's awareness.**



# **Data Protection and Privacy Concerns in the Metaverse:**

## ***Mass Profiling***

- **With reference to the above concerns, metaverse poses risks of mass profiling that can be used for advertising, controlling people's decisions socially, politically and economically, as well as posing risks about more state surveillance, through access to sensitive data such as emotional reactions and biometric data.**
- **Metaverse is expected to exacerbate the current situation of data collection about citizens and mass profiling, due to the wider sources of data collection which helps governments collect data not only about people's personal information and behaviour, but also about the internal reactions of people towards different things seen or experienced and relate accordingly to how they react. This would allow a highly accurate prediction of behaviour and consequently allow for clearer mass profiling and easier manipulation of peoples. This may directly risks national security of countries.**

# **Data Protection and Privacy Concerns in the Metaverse:**

## ***Sharing data for investigative purposes***

- It is still vague how will the data on metaverse be shared for investigative purposes. Cross-border investigations involving metaverse must be safeguarded by international treaties balancing considerations of security and data protection and privacy.



# **Data Protection and Privacy Concerns in the Metaverse:**

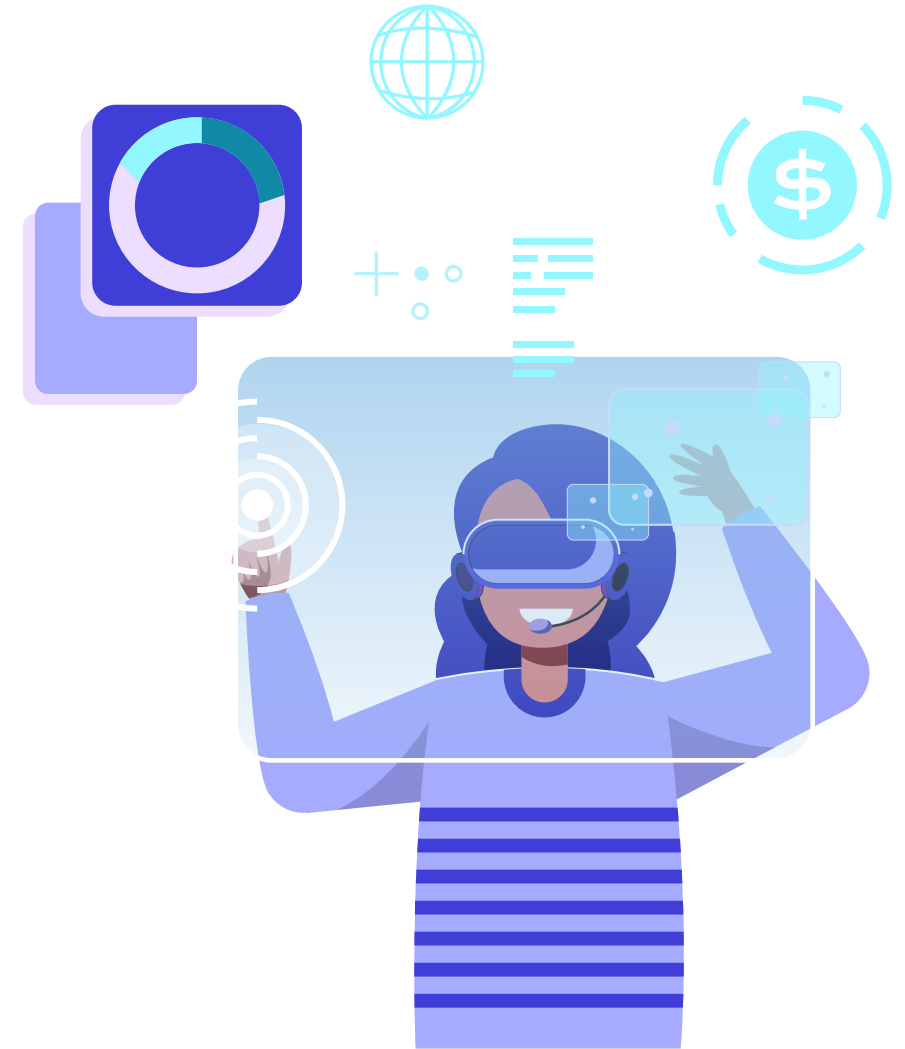
## ***The legal identity of avatars***

- **It is still unclear whether it is necessary to grant legal personality to avatars to hold them responsible for their actions.**
- **Will this be separate from the legal identity of the original users or are they linked?**
- **Does this pose risks to data protection and the risks of user identification? Since there are no specific laws regulating avatars, the content that users reveal via avatars may breach the personal protection of users and make them identifiable.**

# Data Protection and Privacy Concerns in the Metaverse:

## *Intellectual Property Rights Protection*

- It is challenging to guarantee intellectual property rights in the metaverse, where content is distributed and replicated through Web 3.0 and blockchain-based platforms. NFTs were presented as some technical solution, however, there may raise issues around the applicable law and jurisdictions.



# **Data Protection and Privacy Concerns in the Metaverse:**

## ***Digital Sovereignty Implications***

- The metaverse poses extensive risks regarding digital sovereignty of countries; how countries will be exercising sovereignty of their lands and citizens in all meanings, will the avatars be citizens, how would the sovereignty over lands be exercised in the metaverse.
- The scene has also witnessed many governments introducing digital banks in the metaverse, how will they exercise sovereignty versus the real world, how will they exercise sovereignty over their economies and currencies in the metaverse?
- Some national values may be at risk as well, such as how freedom of expression and the protection of human rights and dignity may be guaranteed? Shall the metaverse get the world history back to some practices that the world bypassed throughout the years by regulations? The answers are still unclear, however, some strong endeavours have been made regarding how the principles of the Human Declaration of Human Rights can be applied to the metaverse.



# Governing Economic Activities in **METaverse**

# **Economic-related Concerns in the Metaverse:**

## ***Trademarks and Trade Secrets:***

- **Doing businesses in the metaverse raises concerns related to trademark assessment and ways for classification of trademarks for metaverse activity and digital assets, as well as ways of avoiding trademark infringement and business identity theft, in addition to the threats related to disinformation about transactions and financial matters.**
- **This is especially important in light of the absence of legal concepts of habitual residence, domicile place of business, which are traditionally at the core of national and international laws and rules that protect data rights and regulate identity thefts, and in light of the clear increase in the number of trademark applications for virtual goods and services.**

# **Economic-related Concerns in the Metaverse:**

## ***Trademarks and Trade Secrets:***

- Well-known brands are increasingly getting alive to the consequences of failing to protect their intellectual property in the virtual world. A large number of trademark infringements and counterfeiting in the Metaverse is expected to increase.
- For example, two trademark applications were filed in the United States in 2022 by third parties to use the Gucci and Prada logos in relation to various Metaverse-related goods and services, including “downloadable virtual goods”, virtual worlds and virtual clothing used in virtual spaces. In 2021, luxury brand Hermès, the creator of the Birkin line of handbags, instituted proceedings against NFT artist Mason Rothschild. Rothschild created the MetaBirkin NFT artwork and profited from the sale of these NFTs without permission from Hermès.



# **Economic-related Concerns in the Metaverse:**

## ***The overlap and ambiguity in relation to virtual goods and their real counterparts***

- The complicated relationship between virtual and real goods is an issue of concern that would drive a regulatory action to settle. This vague relationship complicates data and identity protection in the metaverse.
- For example, one of the main questions raised is whether the pre-existing registrations for physical goods are sufficient, or if it is necessary to apply separately for trademark rights for virtual counterparts.
- In some cases, virtual goods or services are not simply counterparts to physical world goods or services but do relate to them. For example, based on recent trademark applications, McDonald's is planning to operate virtual cafes that offer the ability to order physical-world food to be delivered to the person physically. In other cases, virtual and physical services may be the same. For example, training services can be provided in both the physical and virtual world. However, even in this case, concerns about trademarks arise; whether there is a need for two trademarks or not and where to file them.

# **Economic-related Concerns in the Metaverse:**

## ***Competition Laws: and Taxation:***

- **Concerns about the possible abuse of dominance in the Metaverse may arise as a consequence of the absence of competition laws.**
- **Knowing which regulatory regime applies to you in the Metaverse is expected to be a heated topic. Conduct which takes place in the Metaverse may be regulated by one or more local antitrust regimes.**
- **Metaverse brings ambiguity to the tax assignment and payment process. Commercial transactions and dealings in the Metaverse, even though conducted on a virtual platform, are supposed to still result in taxable events. Trading with digital assets, such as NFTs or tokens, shall be taxable regardless of the platform on which that trading takes place. This idea per se is met with unprepared legal texts and reality.**

# Policy Implications



# **Insights about Possible Policy Implications:**

- **The Metaverse offers a myriad of opportunities, however coming hand-in-hand with complicated challenges.**
- **Countries should be fully aware of both opportunities and challenges before taking decisions of investing in the Metaverse.**
- **In the meantime, countries shall work hard on assessing their data protection and legal frameworks in relation to the expected harms, and work on fortifying them.**
- **Simultaneously, countries shall assess their technological environments and prepare them for a highly-demanding era of the Metaverse.**

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***Thank You!***

[LinkedIn: Hedaia-t-Allah Nabil, PhD](#)

Email: [hedaia@mcit.gov.eg](mailto:hedaia@mcit.gov.eg)