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**THE METAVERSE –  
WILL IT CHANGE THE  
WORLD AND WHY  
SHOULD I CARE?**



**– THOUGHT LEADERSHIP**

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## THE METAVERSE – WILL IT CHANGE THE WORLD AND WHY SHOULD I CARE?

The metaverse has been described as the future of the internet – a digital world where we will live, work and play and which has attracted enormous investment from tech companies. In this extract from a recent webinar, Clifford Chance experts discuss what the metaverse may look like and some of the legal challenges that lie ahead.



**Games have been creating immersive experiences for decades... The metaverse is about taking that gaming DNA and injecting it into broader online experiences, beyond playing games.**



– **BRIAN HARLEY**  
Consultant

The metaverse is the convergence of two ideas that have been around for a number of years – virtual reality and a digital "second life". "It's about moving people to a place where our virtual lives play as important a role as our physical reality, where you spend time interacting with family, friends and colleagues in a virtual space with personalised avatars," explains Megan Gordon, a Partner in Clifford Chance's tech group, based in Washington, D.C. Importantly, the metaverse is not just one platform – it's many, including Roblox, Fortnite, Sandbox, Decentraland and Horizon World, amongst others. Interoperability between these platforms will be crucial. The technologies on which NFTs, blockchain and DLT tokenisation are based will enable people to own things in the metaverse and create that interoperability between different platforms, enabling users to transport their avatars and other data, including digital assets, between applications. "If I take a magic sword and my virtual Nikes from one metaverse to another, I will want them to display on my avatar in both worlds. Blockchain-type technology will enable that and will be a really important piece of what's driving the metaverse and how it's built," says Brian Harley, a tech and M&A lawyer based in Hong Kong.

He adds: "There is a great deal of scepticism about the metaverse – is it just an attempt by Facebook to rebrand because it is losing users? Is it just about people trying to sell non-fungible tokens (NFTs)? But despite the scepticism, there is a lot of smart money being invested in it."

As well as Facebook, now renamed as Meta, which has made a series of acquisitions in this space, other tech

companies including Microsoft and Korean internet giant Kakao are buying metaverse technologies. Non-tech companies have also recognised the opportunities presented by the metaverse. Nike, for example, has acquired RTFKT, an NFT company that makes virtual sneakers for metaverse users to wear in their virtual worlds. Games companies are also heavily involved in the metaverse as Harley explains: "Games have been creating immersive experiences for decades. Some of the more successful games platforms have huge communities – Roblox, for example, has about 200 million users. They don't just play games; they also socialise and buy virtual goods. The metaverse is about taking that gaming DNA and injecting it into broader online experiences, beyond playing games."

He adds that there will be many business models in the metaverse, aside from the tech companies creating digital worlds. "There will be a lot of hardware sales of the tech that supports metaverse experiences, like virtual reality headsets and haptic feedback gloves, NFT companies selling digital shoes or cool avatars, and telecoms companies building the infrastructure to run the metaverse. There will be a lot of opportunities out there."

### **The role of decentralised autonomous organisations**

Decentralised autonomous organisations (DAOs) – groups of people that connect from around the world to collaborate on projects and vote on what the DAO can and will do – will likely have a major role to play in the growth of the metaverse. Clifford Chance Litigation & Dispute

Resolution Counsel, Angelina Gomez, who is based in Perth, Australia says: "DAOs are a very strong and powerful vehicle that can be used to bring projects to fruition in the metaverse. The possibilities are endless." However, there are a number of legal issues associated with DAOs, not least because their operations are run by smart contracts, automatically and without human discretion. "When you are setting up a DAO, you have to be very sure what the protocols are, what the source code is, what the voting rights are and what dispute resolution mechanisms you have in place, because in a lot of jurisdictions DAOs don't have yet legal personality and they tend to be treated as associations, so there are liability issues for members," says Gomez. For example, "If something goes wrong, who do you sue, how do you deal with misrepresentation or breach of contracts?"

## Law and the metaverse

The metaverse is trying to create the sense of a world beyond our own, but like the internet, if you interact with somebody in another jurisdiction, then there are several legal systems at play. "If I'm in a casino on Mars or wherever in the metaverse and interacting with someone based in Australia and another in the UK or Hong Kong then we are not governed by the law of Mars, but of Australia, the UK and Hong Kong, and maybe the law of where the servers are located or the governing law of the operator's terms. It's an incredibly complicated space and we will see different legal systems wanting to regulate it. We have some really big regulatory challenges ahead," says Harley. He adds that a question that is often asked about the metaverse is whether it could assert sovereignty and introduce its own governing law as if it were a country. "The answer is an emphatic 'no'. The metaverse is going to be subject to all of the laws of the people accessing it," he says.

## Defamation and privacy

There are some interesting challenges regarding defamation in the metaverse. If avatar A says something about avatar B, can avatar B sue avatar A? And must

avatar B sue the metaverse platform? "The basic questions around defamation are what constitutes a publication and can what is being said be linked to an individual in the real world?", says Gomez. Added complications include when there are multiple publications, who is the administrator, what protocols are in place, whether there are different rules governing different platforms and whether there are user agreements in place that might be affected by the jurisdiction you are in. "However, the essential principles remain the same – can you identify the person, is there a publisher and is there a defence of truth to what you are being defamed about," she says.

As well as defamation, privacy – and the right to remove our information – will be an enormous issue in the metaverse. Privacy laws exist, or are coming into force, across Asia, the Americas and the EU, and consumers are increasingly aware of the value of their data. If the metaverse is to have interoperable platforms, where people can work, play and move from one world to another, then information will need to be shared.

"We have this conflict and how those defamation and privacy laws will come together to define the future of the metaverse," says Megan Gordon. There is also the question of whether you can kill your digital twin. "If you have an avatar that is identifiable as you, can you say that after your death you want your avatar to die? And what happens to everything that you own in the metaverse? Your digital land and NFTs? How does that look in terms of succession planning?" asks Gomez.

## The environmental impact of the metaverse

The foundation of the metaverse is blockchain and everything that is done in the metaverse – the use of cryptocurrencies and NFTs, for example – are based on this. However, blockchains use enormous amounts of energy, especially if they rely on proof-of-work as their consensus mechanism. "How to deal with this effectively and move away from fossil fuels will be a significant issue in the future," says Gomez.



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**—ANGELINA GOMEZ  
Counsel**





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**— MEGAN GORDON**  
Partner

### **What's next – a dystopian future, or a better world?**

The metaverse is in its infancy and what lies ahead is uncertain. For Angelina Gomez it potentially offers "a duplicate, but better version of the world that we live in, where we are all connected and there is a level of idealism, where you can build businesses and imagination is the limit. I think the metaverse is going to bring people together in ways we can't do now." She says that there are opportunities for everyone to be involved in the metaverse and, by way of example, how First Nations people in Australia are proposing to set up cultural embassies on various metaverse platforms to promote First Nations' values, cultural and spiritual beliefs.

Megan Gordon says that, as with any technology, there will be winners and losers, benefits and drawbacks. She does not think that the metaverse will be

dominated by one or two tech titans. "I think different companies will come to the fore. We are going to have a much more decentralised, much more diverse population in the metaverse. I think governments are more attuned to the anti-trust issues that came up during Web 2.0 and they have already started to go after some of the tech companies. A lot of the groundwork being laid right now will shape the future of the internet."

And Brian Harley adds that a lot of challenges lie ahead: "The metaverse is an environment where the parameters are virtually unknown because you can build whatever you want. Meanwhile, there are a number of regulators trying to regulate the same thing from different angles. I think we are going to see a very complex landscape and the compliance issues that we are going to have to face are going to be fairly tricky. The metaverse will be awesome, but there is a lot of work for us lawyers to do."



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