Governance in the Metaverse

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An organization, one of the first to announce investments to build its own Metaverse platform, recently launched its responsible innovation principles to guide the development of virtual reality products based on transparency, inclusion, ethics, privacy and security. The statement comes at a critical time, considering that the population is now on the edge of a completely virtual environment. Users of social media are internet "products" and in the Metaverse literally everyone and everything can be a product in certain circumstances. The question is therefore inevitable: how can governance be effective in these virtual environments? The answer to this question will depend on the enforceability of the rules created in virtual communities.

Virtual communities in the Metaverse will be an extension of the real world, not simply a space dedicated to consumption of goods and services. Users will be able to interact in a synchronous and asynchronous way. In complex cases, punishments are unlikely to be limited to a mere "banishment" of the offending user from the platform. As a result, private rules developed unilaterally by platforms present in the Metaverse must connect with legal frameworks, and consequently, the need for a model of governance to regulate such interactions, is imperative. While it is important to uphold the autonomy of private entities to establish rules in Metaverse platforms, such rules must respect the limits of the law-, avoiding arbitrary and subjective punishments and providing the possibility of appeal. Although the rules developed by virtual communities have evolved substantially, they are still subject to frequent changes, and, in many cases, there is a lack of transparency and consistency in their application. Another point to consider is how courts will weigh the application of those rules, especially in extraordinary situations, not related to the publication of content in the Metaverse. Inevitably, in some cases the liability of internet applications providers will have to be reassessed.

The rules of virtual communities are central not just to guaranteeing the rights of users, businesses, and other entities on the platform, but also to the valuation of the platforms themselves. These rules, while they should not contractually waive legal requirements, can be drafted to complement the applicable laws on the interaction between members of the Metaverse. The courts' ability to arrive at appropriate conclusions will depend on their capacity to take such rules into account in when applying private law doctrines to regulate and impose sanctions on virtual communities. Given the platforms interoperability and even "multiverses", will it be necessary to regulate each of the applications developed, depending on its functionalities? Will preventive assessment and monitoring of the applications' functionalities become usual, following, for example, what England's Competition and Markets Authority has done, by conducting a detailed investigation into a Privacy Sandbox proposal made by an organization?

The only certainty at the present is that the diversity of the Metaverse's applications will require more than a single Terms of Service or Policy.

Depending on the functionality of each application, specific regulatory rules, based on its functionalities and applicable legislation will be required. Moreover, any Metaverse governance model will have to consider not only local legislation, but also international law, which might be applicable, depending on the facts of each case. After all, although the Metaverse is a reality beyond the physical universe, platforms will be located in a territory and, consequently, subject to local laws.

>>> This article is part of the e-book "Metalaw: Reflections on Law in the Metaverse".
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