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IBA Intellectual Property, Communications
and Technology Law Committee

Digital Regulations in the Metaverse Era

GHANA

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Data

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1. Are there any data (personal and non-personal) policies, strategies or regulations applicable to the metaverse in your jurisdiction?

Ghana does not have any specific policies or regulations tailored to the metaverse. However, there are some regulations, such as the Data Protection Act 2012 (Act 843) (DPA), which aim to protect the privacy of the individual and their personal data by regulating the processing of personal information. The law also provides details on the process to obtain, hold, use or disclose personal information and for related matters.¹

The DPA established the Data Protection Commission (DPC)² in order to provide details on the processes to obtain, hold, use and dispose of personal information.³ The DPC also implements and monitors compliance with the regulations provided under the DPA.⁴ The right to privacy is also provided as a constitutional right under the 1992 Constitution of Ghana.⁵

As a member of the African Union, Ghana also signed the African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention) on 4 July 2017,⁶ which was ratified on 13 May 2019.⁷ In collaboration with the relevant partners, Ghana is developing a national data strategy in line with the country's priorities in terms of sustainable development, the promotion of innovation, the creation of value and, above all, digital sovereignty.⁸



2. How are the various personal and non-personal data associated with the metaverse protected in your jurisdiction?

In Ghana, personal data in whatever form is protected under the Data Protection Act 2012 and compliance with the data protection principles is crucial. These principles include accountability,⁹ lawfulness of the processing,¹⁰ specification of the purpose,¹¹ compatibility of further processing with the purpose of collection,¹² the quality of the information must be assured,¹³ there has to be openness in dealing with individuals whose data is processed,¹⁴ ensuring data security safeguards¹⁵ and data subject participation.¹⁶

More specifically on the security safeguards, the regulation requires that during the processing of personal data, necessary steps must be taken to ensure the integrity of personal data in the possession of the entity processing the data.¹⁷ There

1 Preamble, Data Protection Act 2012, (Act 843).

2 S 1(1), Act 843.

3 S 2(a), Act 843.

4 S 3(a), Act 843.

5 Art 18(2), 1992 Constitution of Ghana.

6 List of countries that have signed, ratified or acceded to African Union Convention on Cyber Security and Personal Data Protection https://au.int/sites/default/files/treaties/29560-sl-AFRICAN_UNION_CONVENTION_ON_CYBER_SECURITY_AND_PERSONAL_DATA_PROTECTION.pdf accessed on 18 July 2024.

7 *Ibid.*

8 Data Pop Alliance, 'Development of Ghana's National Data Strategy' December 2023 <https://datapopalliance.org/projects/development-of-ghanas-national-data-strategy> accessed on 18 July 2024.

9 S 17(a), Act 843.

10 *Ibid.*, (b).

11 *Ibid.*, (c).

12 *Ibid.*, (d).

13 *Ibid.*, (e).

14 *Ibid.*, (f).

15 *Ibid.*, (g).

16 *Ibid.*, (h).

17 S 28(1), Act 843.

is the need to ensure the adoption of appropriate, reasonable, technical and organisational measures¹⁸ to prevent loss or harm,¹⁹ by observing generally accepted information security practices and procedures,²⁰ and specific industry or professional guidelines.²¹

Ghana has regulations and guidelines in place related to cybersecurity, which affect the protection of non-personal data in cyberspace, including but not limited to, virtual environments. The regulations are designed to regulate cybersecurity activities in the country, to promote the development of cybersecurity in the country and to provide for related matters focused on ensuring the security and integrity of data transmitted or stored within the metaverse.



3. Who are the different stakeholders involved in data value chains in the metaverse and, in the case of personal data, what are their data protection roles? How are their activities regulated under regional/national policies, strategies or regulations?

The stakeholders within a data value chain include regulators and policymakers, producers, processors, aggregators, storage providers, analysts, scientists, users, security experts, consumers, governance and compliance officers.

By law, Act 843 applies to the stakeholders that are involved in personal data processing, which includes the data controller, data processor, data subject, regulator and minister in charge.



4. In relation to personal data, what are the data protection principles (eg, transparency) applicable on the metaverse? What are the most common types of infringement of data protection principles in the metaverse (eg, data minimisation) in your jurisdiction?

Ghana's data protection principles emphasise accountability,²² lawfulness²³ and transparency²⁴ in regard to data processing.

In the metaverse, adherence to these principles ensures that user data is handled responsibly, with clear purposes specified²⁵ and maintained throughout the data lifecycle. By prioritising data security safeguards²⁶ and encouraging user participation,²⁷ platforms can foster trust and confidence among users. Upholding these principles promotes ethical data practices, safeguarding individuals' privacy rights and enhancing the overall integrity of the metaverse ecosystem.

The regulator has not reported any specific infringements concerning data use on the metaverse use. While not specific to the metaverse, the regulator recently had cause to be concerned with the processing of data and its consistency in terms of the purpose of collection.²⁸

The DPA provides penalties in the form of fines and imprisonment for various violations, such as the failure to adhere to an enforcement notice²⁹ and the sale of data,³⁰ etc. The general penalty for all other infringements, including the violation

18 *Ibid.*

19 *Ibid.*, s 28(1)(a).

20 *Ibid.*, (3)(a).

21 *Ibid.*, (b).

22 S 17(a), Act 843.

23 *Ibid.*, (b).

24 *Ibid.*, (d)(f).

25 *Ibid.*, (c).

26 *Ibid.*, (g).

27 *Ibid.*, (h).

28 Ghana DPC press statement, 27 June 2023 www.dataprotection.org.gh/media/attachments/2023/06/27/press-statement-by-the-dpc1.pdf accessed 18 July 2024.

29 *Ibid.*, s 80.

30 Ss 88 and 89, Act 843.

of the data protection principles, is stated as 5,000 penalty units or a term of imprisonment of not more than ten years or both.³¹

There are not many data protection-specific cases that have been reported. However, a case before a district court in Ghana, imposed a total fine of GHS 5,200 (approx US\$335) on a company for unlawful access to the data subject's personal data.³² The superior courts, including the apex court, in the country have ruled on several broader cases involving privacy, a fundamental human right under the 1992 Constitution of Ghana, and made determinations to uphold it.³³

Q 5. In relation to non-personal data, how is data sharing/licensing regulated in your jurisdiction? Is data ownership recognised? How is proprietary information, including any rights to datasets regulated in your jurisdiction? What are the most common types of infringement of these rules in the metaverse (eg, unlawful use of proprietary information) in your jurisdiction?

In Ghana, regulations specifically addressing non-personal data sharing and licensing are not as onerous or as comprehensive as those governing personal data. However, the legal framework under the DPA provides some guidance.

Data ownership is generally recognised, with entities or individuals often considered owners of the data they generate or collect, especially if they invested resources in its creation.

Proprietary information, including rights to datasets, is protected under intellectual property (IP) laws, such as copyright³⁴ or trade secret laws.³⁵ Some regulated organisations like financial institutions are subject to data ownership and retention laws. Data handling contracts are also usually used for service management, when service level agreements are involved. However, specific regulations or statutes directly addressing non-personal data rights and licensing are currently not in place, potentially leading to legal gaps or uncertainties in certain scenarios.

Sanctions may vary based on the infraction, but there is no case law currently supporting non-personal data infringement.

Q 6. Are there any policies, strategies or regulations applicable to digital marketing in the metaverse in your jurisdiction?

Ghana does not have any specific policies, strategies or regulations directly addressing digital marketing. However, there are broader regulations and guidelines that could indirectly impact digital marketing practices in the context of the metaverse, including:

The Electronic Transactions Act (2008)³⁶ governs electronic transactions in Ghana and provides a legal framework for electronic commerce, including consumer protection concerning unsolicited services and communications,³⁷ which encompasses aspects of digital marketing.

The Consumer Protection Regulations³⁸ in Ghana include various consumer protection regulations that aim to protect consumers from unfair marketing practices. While these regulations primarily focus on consumer rights and protections, they may indirectly influence digital marketing activities.

31 *Ibid*, s 95.

32 *Abdul-Baki Abdulai v Bayport Financial Services Ltd* (2018). District Court cases do not make it into law reports as they are not courts of record under the laws of Ghana.

33 *Mrs Abena Pokua Ackah v Agricultural Development Bank; Raphael Cubagee v Michael Yeboah Asare & 2 Ors.*

34 The Copyright Act 2005 (Act 690).

35 The Protection Against Unfair Competition Act 2000 (Act 589).

36 Act 772.

37 *Ibid*, s 50.

38 This can be found under various legislation, eg, the Payment Systems and Services Act 2019 (Act 987), Act 772, the Electronic Communications Act 2008 (Act 775).

The National Communications Authority (NCA) regulates the communications sector in Ghana and may have guidelines or regulations related to digital advertising, particularly concerning telecommunications services and online platforms.³⁹

Although primarily focused on protecting personal data, the DPA influences digital marketing practices by imposing requirements on the collection, processing and storage of personal data for marketing purposes.

While Ghana may not have specific regulations exclusively targeting non-personal data in regard to digital marketing, businesses operating in the country are still expected to adhere to relevant laws and regulations governing electronic transactions, consumer protection and data protection. It is essential for businesses to stay informed about any developments or updates to the regulatory landscape that may impact their digital marketing activities.

A service provider that contravenes the provisions of Act 772 cited earlier may be subject to a fine of not more than 5,000 penalty units or a term of imprisonment of not more than ten years or both.⁴⁰ There is no case law currently supporting infringements of the digital marketing rules.



7. Are there any policies, strategies or regulations in your jurisdiction focused on ensuring protection of minors' data? What is the age of consent for data protection purposes? Is it necessary to verify the consent provided by a responsible adult?

In Ghana, there are several policies and regulations aimed at protecting minors' data, including the Children's Act and the DPA. The Children's Act, for instance, sets out provisions to safeguard the welfare and rights of children, which includes data privacy considerations.

Regarding the age of consent for data protection purposes, the DPA does not specify a specific age of consent. However, it emphasises the importance of obtaining consent⁴¹ for the processing of personal data without infringing the data subject's rights,⁴² including data related to minors. Generally, consent from a responsible adult, such as a parent or legal guardian, is required when processing minors' personal data.

Verifying the consent provided by a responsible adult is essential to ensuring compliance with the data protection regulations. It helps to confirm that the individual providing consent has the authority to do so on behalf of the minor and minimises the risk of processing data without proper authorisation.⁴³ The failure to verify consent could lead to legal and regulatory consequences, including penalties for non-compliance with the data protection laws. It is, therefore, necessary to take appropriate measures to verify consent, such as requiring explicit confirmation or documentation from the responsible adult.



8. How are international data transfers regulated in your jurisdiction? Is there any case law or are there any decisions by a regulator regarding infringements of these rules in your jurisdiction?

International data transfers are regulated primarily by the DPA, specifically Section 18(2). This section imposes an obligation on data controllers and processors to ensure that personal data originating from a foreign country and sent to Ghana for processing comply with the data protection legislation of that foreign jurisdiction.

Essentially, this means that when personal data of foreign individuals are transferred to Ghana for processing, such transfers must adhere to the data protection laws of the country from which the data originates. Data processing conducted by a data processor domiciled outside Ghana must be done so in compliance with the DPA.⁴⁴

39 National Communications Authority Act 2008 (Act 769).

40 Act 772, s 50(3) and (4).

41 Act 843, s 20.

42 *Ibid*, s 18(1).

43 *Ibid*, s 43.

44 *Ibid*, s 30(4).

Furthermore, Ghana's DPC oversees compliance with the DPA and can take enforcement action in cases of non-compliance. While there may not be specific case law or any decisions directly related to infringements of the international data transfer rules, the DPC has the authority to investigate complaints and impose penalties for breaches of data protection legislation, including those involving cross-border data transfers.

Therefore, it is essential for data controllers and processors in Ghana to ensure that they have mechanisms in place to comply with the data protection laws of foreign jurisdictions when processing personal data originating from those jurisdictions. This includes implementing appropriate safeguards, such as data transfer agreements or standard contractual clauses, to ensure the lawful and secure transfer of personal data across borders, while upholding the rights and protections afforded to data subjects under both Ghanaian law and the laws of the relevant foreign jurisdictions.

There is no case law on international data transfer violations.

9. How is automated decision-making regulated in your jurisdiction? Is there any case law or are there any decisions by a regulator regarding infringements of the rules applicable to automated decision-making in your jurisdiction?

Automated decision-making is regulated primarily by the DPA, with a particular focus on protecting individuals' rights and ensuring transparency during decision-making processes.⁴⁵

Individuals have the right to request that any decision significantly affecting them not be based solely on the automated processing of their personal data. This provision underlines the importance of human involvement and oversight in decision-making processes, particularly when personal data is involved. Additionally, individuals have the right to be notified when a decision is made based solely on automated processing and to request reconsideration of the decision.

The provisions do not apply in certain circumstances, such as decisions made while considering, entering into, or performing a contract, or decisions made for purposes authorised by law. This ensures that legitimate uses of automated decision-making, such as credit assessments or fraud detection, are not unduly restricted.⁴⁶

The DPC has the authority to investigate complaints regarding non-compliance and can issue orders for compliance, if necessary.⁴⁷ This enforcement mechanism helps to uphold individuals' rights and ensure that organisations adhere to the principles of transparency and fairness in terms of automated decision-making processes.

10. What rights are granted to individuals for protecting their rights on the metaverse and how can they exercise them? What is the level of enforcement based on private claims in your jurisdiction?

Individuals have rights under various laws that apply to data protection (the Data Protection Act 2012 (Act 843)) and electronic transactions (the Electronic Transactions Act 2008 (Act 772)).

Right to privacy

Individuals have the right to privacy, which includes the protection of their personal data. They can exercise this right by ensuring that platforms operating within the metaverse comply with data protection laws, such as obtaining their consent before collecting and processing personal data.

45 Act 843, s 41.

46 *Ibid*, s 41(4).

47 *Ibid*, (5).

Right to access and rectification

Individuals have the right to access their personal data held by organisations in the metaverse and request corrections if the information is inaccurate or incomplete. They can exercise this right by submitting a request to the relevant data controller or processor.

Right to withdraw consent

Individuals have the right to withdraw their consent for the processing of their personal data at any time. Platforms in the metaverse must respect this right and cease processing the individual's data upon receiving such a request.

Right to object to processing

Individuals have the right to object to the processing of their personal data in certain circumstances, such as for direct marketing purposes. They can exercise this right by notifying the data controller or processor of their objection.

Right to compensation

Individuals have the right to seek compensation for damages caused by the unlawful processing of their personal data. If their rights are violated on the metaverse, they can take legal action to seek redress.

To exercise these rights on the metaverse, individuals can typically reach out to the data controller or processor responsible for the platform where their data is being processed. Platforms are obligated to provide mechanisms for individuals to submit requests and ensure that they are processed in accordance with applicable laws and regulations. Additionally, individuals can seek guidance from relevant authorities, such as the Data Protection Commission of Ghana, if they encounter challenges in exercising their rights.



11. Are there any upcoming policies, strategies or regulations that will impact the use of data on the metaverse?

There is no specific information about any upcoming policies, strategies or regulations affecting the use of data on the metaverse in Ghana.

Cybersecurity

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1. Are there any cybersecurity policies, strategies or regulations applicable to the metaverse in your jurisdiction?

Ghana has a Cybersecurity Act (Act 1038 of 2020), Electronic Transactions Act (Act 772 of 2008), Electronic Communications Act (Act 775 of 2008) and Data Protection Act (Act 843 of 2012), which provide clear provisions for protecting cyberspace, transactions within cyberspace and personal data collection through interactions within cyberspace.⁴⁸

2. What are the secure-by-design (physical and digital interfaces) principles applicable to the metaverse in your jurisdiction?

There are no specific security-by-design principles or policies in place. The DPA for instance encourages the use of generally accepted security safeguards and best practices for specific industries.⁴⁹

The principles of security-by-design, both in regard to physical and digital interfaces, are vital for ensuring the integrity and safety of electronic transactions, including those conducted within the metaverse.

Platforms operating within the metaverse should employ robust encryption techniques to secure the transmission of data between users and the platform. This ensures that sensitive information, such as payment details and personal data, remain protected from unauthorised access or interception.⁵⁰

Implementing strong access control measures, such as multifactor authentication and role-based access controls, helps prevent unauthorised access to the platform and the data. This principle ensures that only authorised users can interact with sensitive information within the metaverse.

Platforms should adopt a data minimisation approach, collecting only the minimum amount of data necessary for conducting transactions or providing services within the metaverse.⁵¹ Additionally, adhering to data retention policies ensures that data is not stored longer than necessary, reducing the risk of unauthorised access or misuse.⁵²

Conducting regular security audits and updates to identify and address potential vulnerabilities in the platform's infrastructure and software is essential. This principle ensures that security measures remain effective and up-to-date, mitigating the risk of security breaches or cyber attacks.⁵³

In accordance with the Electronic Transactions Act, suppliers offering goods or services within the metaverse must make the following available to consumers:

48 Data Protection Act 2012, s 97. 'Cyberspace' means the connected network of information technology infrastructure comprising telecom networks, the internet, computer networks, information systems, information processing and control systems and databases where people perform social acts without being limited by space and time.

49 *Ibid*, s 28(3)(a)(b).

50 *Ibid*, s 28 and 30.

51 *Ibid*, s 19.

52 *Ibid*, s 24.

53 *Ibid*, s 28(2)(c)(d).

- their security procedures and privacy policies related to the payment process;
- payment information; and
- personal information.⁵⁴ This provision ensures transparency and accountability regarding how user data is handled and protected within the platform.



3. Have there been any cyber incidents in the metaverse in your jurisdiction? How do the applicable policies, strategies or regulations react to cyber incidents?

There are currently no specific records concerning cyber incidents involving the metaverse.

The sanctions applicable to a metaverse-related cyber incident will be covered under any contract conditions and various applicable laws, such as Act 772 for e-transactions, Act 1038 on cybersecurity generally and Act 843 covering the personal data of citizens and users.

There is no current case law on metaverse breach incidents.



4. Are there any cybersecurity standards in your jurisdiction specifically applicable to the metaverse? What are the main obligations they set out?

The regulatory standards on cybersecurity are found in Act 1038 and Act 843. In addition to this, any cyber infrastructure designated as critical information infrastructure must comply with the Directive for the Protection of Critical Information Infrastructure.

The standards pursuant to the Directive for the Protection of Critical Information Infrastructure⁵⁵ require the following:

- development of a cybersecurity policy;
- implementation of organisational and technical measures; and
- incident reporting.

The DPA similarly provides general standards for the implementation and adoption of reasonable and appropriate technical and organisational measures⁵⁶, which include:

- identifying internal and external risks to personal data;⁵⁷
- establishing and maintaining safeguards against the identified risks;⁵⁸
- verifying the effectiveness of the safeguards regularly⁵⁹;
- updating the safeguards for new risks⁶⁰; and
- observing generally accepted best practices applicable to specific industries.⁶¹

54 Electronic Transactions Act 2008, s 47(1)(o) and 5.

55 Republic of Ghana, 'Directive for the Protection of Critical Information infrastructure (CII)' www.csa.gov.gh/resources/Directive_CII.pdf accessed 4 November 2024.

56 Data Protection Act 2012, s 28(1).

57 *Ibid*, s 28(2)(a).

58 *Ibid*, (b).

59 *Ibid*, (c).

60 *Ibid*, (d).

61 *Ibid*, s 28(3).



5. Are there any upcoming policies, strategies or regulations that will impact cybersecurity in the metaverse?

There is no specific information about upcoming policies, strategies or regulations impacting the use of data on the metaverse in Ghana.

AI on the metaverse

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1. Are there any policies, strategies or regulations applicable to AI or the use of AI on the metaverse in your jurisdiction?

There are no current regulations or policies applicable to artificial intelligence (AI) specifically in Ghana. However, where AI affects e-transactions, cybersecurity, IP, data privacy and other social acts, such as a contract or crime, then the related laws on these subjects will be applied by the courts through varied enforcement regimes.



2. How is transparency and accountability of AI ensured in your jurisdiction?

There will be no specifics on this subject until the Republic of Ghana National Artificial Intelligence Strategy 2023–2033 comes into effect. Based on this, new strategy, policymakers can push forward the appropriate legislation.



3. How is algorithmic bias mitigated in your jurisdiction? Are there any policies, strategies or regulations aimed at promoting fairness and non-discrimination?

There will be no specifics on this subject until the Republic of Ghana National Artificial Intelligence Strategy 2023–2033 comes into effect. Based on this, policymakers can push forward the appropriate legislation.



4. What is the intellectual property law treatment of AI-generated content used in the metaverse in your jurisdiction? Who are the rightsholders of that content?

The use of trademarks,⁶² industrial designs⁶³ and trade secrets⁶⁴ is also protected under the IP laws of Ghana. Any unfair competition⁶⁵ emanating from commercial interactions is also covered under law.

62 Trademarks Act 2004 (Act 664).

63 The Industrial Designs Act 2003 (Act 660).

64 The Protection Against Unfair Competition Act 2000 (Act 589).

65 *Ibid.*



5. Which stakeholders are liable for any damages caused to third parties due to the use of AI in the metaverse? What sanctions (civil, criminal and administrative) may apply in case of infringement?

There will be no specifics on this subject until the Republic of Ghana National Artificial Intelligence Strategy 2023–2033 comes into effect. Based on this, policymakers can push forward the appropriate legislation.



6. Are there any upcoming policies, strategies or regulations that will impact AI in your jurisdiction?

Ghana's Ministry of Communications and Digitalisation and the DPC, in collaboration with GIZ FAIR Forward, Smart Africa and The Future Society (TFS), have developed the Republic of Ghana National Artificial Intelligence Strategy 2023–2033.

The strategy is based on over 40 local stakeholder consultations, indepth AI policy landscape mapping and a SWOT analysis of Ghana's AI ecosystem, and four high-level public sector consultation workshops to iterate the mission and vision, recommendations and an action plan, and a detailed booklet of AI use cases across key sectors. The resulting cross-ministerial and cross-sectoral policies aim to promote responsible AI adoption in Ghana for sustainable and inclusive growth.⁶⁶

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The Future Society, 'National AI Strategies for Inclusive & Sustainable Development', 28 October 2022 <https://thefuturesociety.org/policies-ai-sustainable-development> accessed 18 July 2024.

Intellectual property

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1. Are there any intellectual property-related policies, strategies or regulations applicable to the metaverse in your jurisdiction?

The IP regime in Ghana is principally governed by five pieces of legislation: the Copyright Act;⁶⁷ Patent Act;⁶⁸ Trademarks Act;⁶⁹ Protection Against Unfair Competition Act;⁷⁰ and the Industrial Designs Act.⁷¹

The National Intellectual Property Policy and Strategy was also launched in 2016 to straighten the legal framework provided in this legislation. These laws predate the metaverse and no specific policies have been passed in Ghana aimed at protecting intellectual property (IP) in the metaverse. However, certain provisions in these pieces of legislation may be transferable to the metaverse.



2. How are intellectual property rights to 'virtual objects', 'buildings' and 'avatars', etc, protected in your jurisdiction?

While virtual objects are not specifically provided for under copyright law, the subject matter⁷² of copyright in Ghana covers literary works, artistic works, sound recordings, audio-visual works, derivative works and computer software.

Any of these works produced within the metaverse will, therefore, be protectable under Ghana's IP laws. For instance, an avatar in the metaverse can be considered an artistic work. Subject to the requirements of originality, fixation and publication,⁷³ a person may successfully claim copyright for an avatar within the metaverse in Ghana.



3. How are digital replicas of physical objects protected in your jurisdiction?

The right to reproduce or authorise the reproduction, in any manner or form, of a copyright-protected work is exclusively vested in the owner of the work.⁷⁴ Digital replicas of physical objects will, therefore, require the consent of the authors of those physical objects, a failure of which may imply that a breach of copyright has occurred. In the case of architectural works, however, reproduction is only prohibited where it is a building or a model.⁷⁵ The creation of digital replicas of physical buildings would, therefore, have no protection in Ghana. In all other cases, the authors must authorise the reproduction in any form.

67 2005, Act 690.

68 2003 (Act 657).

69 2004 (Act 664).

70 2000 (Act 859).

71 2003 (Act 660).

72 S 1 (1), Act 690.

73 S 1(2)(a)(b) and (c), Act 690.

74 S 5, Act 690.

75 S 76, Act 690.



4. How is user-generated content and other derivative works protected in your jurisdiction?

User-generated content is protected under the umbrella of copyright law. As such users, subject to the applicable test, gain protection for the content that they put up, whether musical, literary or any other the subject matter. Derivative works, however, are protected as an independent creation, which means that such work results from the adaptation, translation or other transformation of an original work in so far as it constitutes an independent creation.



5. Are there any collective rights management organisations active in your jurisdiction that also manage intellectual property rights in the metaverse?

There are currently no active collective rights management organisations that deal with IP rights in the metaverse. The existing collective rights management schemes are: the Ghana Music Rights Organization (GHAMRO), which manages the rights of music rights' holders; the Audiovisual Rights Society of Ghana (ARSOG), which manages the rights of audio-visual rights holders; and CopyGhana (Reprographic Rights Organization), which manages the rights of literary rights' holders. The use of work belonging to members of these schemes in the metaverse will entitle these organisations to manage the rights of their members in the context of the metaverse.



6. How are intellectual property rights protected and enforced on the metaverse in your jurisdiction?

Enforcement action occurs through the court system, and criminal and civil sanctions are provided. Criminal sanctions include prison sentences or fines.⁷⁶ Civil remedies include injunctions, which will be applicable in the metaverse.⁷⁷ Other civil remedies involving the delivery up or destruction of the infringing copyright may be inapplicable to the metaverse as this remedy affects physical objects.



7. Are there any intellectual property strategies, policies or regulations in your jurisdiction applicable to the metaverse that aim to promote interoperability in the metaverse?

Not applicable.



8. Are there any competition strategies, policies or regulations in your jurisdiction applicable to the metaverse that aim to promote standardisation and access to fair and non-discriminatory licences?

Not applicable.

⁷⁶ S 42, Act 690; S 37, Act 650.

⁷⁷ S 47, Act 690.



9. Are there any other intellectual property issues related to the metaverse that have been addressed in your jurisdiction?

Not applicable.

10. What are the roles of metaverse providers?

Not applicable.



11. How does your jurisdiction moderate content and how does it balance this with freedom of expression?

Intermediaries and service providers are not required to moderate the content on their platforms and users are at liberty to express their thoughts. No liability is attached to an intermediary or service provider where they host,⁷⁸ transmit⁷⁹ or serve as a mere conduit.⁸⁰ There is an express prohibition against intermediaries or service providers monitoring an electronic record processed by means of a personal system in order to ascertain whether its processing would constitute an offence or civil liability.⁸¹ However, content moderation must happen where the intermediary receives a take-down notification from an aggrieved party.⁸² Failing that, the intermediary may become jointly liable with the creator of the content.



12. Are there any by-design notice mechanisms?

There are no by-design notice mechanisms contained in the various legislations regulating IP rights.



13. Are there any upcoming policies, strategies or regulations relating to intellectual property in your jurisdiction?

Ghana's National Artificial Intelligence Strategy of 2023, which seeks to regulate and develop ethical guidelines for the development and use of AI, is likely to impact IP rights. Aside from this, there are no upcoming policies that will impact IP rights.

78 S 92, Act 772.

79 S 91, Act 772.

80 S 90, Act 772.

81 S 95, Act 772.

82 S 94, Act 772.



Jurisdiction and governance

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1. Are there any upcoming policies, strategies or regulations setting out rules on how to identify the governing law on the metaverse?

Not applicable.



2. Are there any upcoming policies, strategies or regulations setting out rules on how to identify the jurisdiction on the metaverse? Is there any case law or are there any decisions by a regulator regarding determining jurisdiction on the metaverse in your jurisdiction?

Not applicable.



3. What are the regulators and government bodies responsible for ensuring compliance with the applicable laws on the metaverse in your jurisdiction?

All communication standards and compliance come under the regulatory mandate of the National Communication Authority.⁸³

The implementation, performance and enforcement of the functions under the Electronic Transactions Act concerns the National Information Technology Agency, which carries out investigations on the conduct of persons contrary to its provisions and further establishes quality of service indicators and reporting requirements.⁸⁴

The law established the Information Communication Technology Tribunal for the purposes of appeals related to the actions of the regulator.⁸⁵ All cybersecurity concerns, including standards, cybercrime risks, child online protection and critical information infrastructure come under the purview of the Cybersecurity Authority.⁸⁶

Data privacy and protection enforcement, including complaints from data subjects, is undertaken by the Data Protection Commission.⁸⁷ Finally, copyright concerns fall under the purview of the Copyright Office, while other intellectual property (IP) rights enforcement concerns the Registrar General of Ghana.

83 National Communications Authority Act 2008 (Act 769).

84 National Information Technology Agency Act 2008 (Act 771).

85 Act 772, s 82.

86 Cybersecurity Act 2020 (Act 1038).

87 Data Protection Act 2012 (Act 843).



4. Are there any available dispute resolution mechanisms in your jurisdiction?

The law provides for the settlement of disputes through arbitration, mediation and customary arbitration, and the establishment of an Alternative Dispute Resolution Centre to provide for related matters.⁸⁸



5. How is arbitration implemented on the metaverse in your jurisdiction?

Regarding administrative hearings and commercial arbitration, matters concerning communication infrastructure and internet access will be deferred to the National Communication Authority⁸⁹ and the Electronic Communication Tribunal.⁹⁰ Data privacy and protection disputes may be resolved before the Data Protection Commission.

The final arbiter of matters that cannot be resolved by the parties or through arbitration in Ghana are courts with competent jurisdiction.



6. Are there any upcoming policies, strategies or regulations regarding determining the governing law and jurisdiction on the metaverse in your jurisdiction?

Not applicable.

⁸⁸ Alternative Dispute Resolution Act 2010 (Act 798), preamble.

⁸⁹ Electronic Communications Act 2008 (Act 775), s 84.

⁹⁰ *Ibid*, s 88.