May 3, 2023

Consumer Technology Association
Comments on

European Commission Call for Evidence Regarding EU Virtual Worlds Initiative; A Head Start Towards the Next Technological Transition

The Consumer Technology Association® ("CTA") respectfully submits this response to the European Commission's ("Commission") Call for Evidence regarding the European Union's initiative on virtual worlds ("Call for Evidence").[1] CTA is North America's largest technology trade association. Our members are the world's leading innovators—from startups to global brands—helping support millions of jobs and an array of services that benefit citizens living in the countries within the EU. CTA owns and produces CES®—the most influential tech event in the world, where global companies, including many from Europe, present innovations and discuss policies.[2] CTA has longstanding relationships across Europe, and has been hosting CES events there for over 10 years in five European cities.[3]

CTA is invested in European regulatory approaches and their impact on innovation. For this reason, it welcomes the opportunity to comment on the Commission's Call for Evidence and applauds the Commission's efforts to seek a wide range of stakeholder input on the development of immersive networked environments known as "virtual words" or, collectively, the "metaverse."[4] CTA generally refers to this collection of environments as "the metaverse" in this submission, but emphasizes that the metaverse is comprised of multiple layers of technology and does not involve a singular digital space, but rather many different digital spaces. For example, an immersive video game would take place in a different digital space than an immersive professional medical training program.

CTA encourages the Commission to pursue a careful, collaborative, and risk-based approach to the metaverse, which is a still-nascent ecosystem. The metaverse shows great promise and consumers are interested in and already beginning to use many metaverse applications. The metaverse marketplace is already highly competitive and responding to

[1] Virtual worlds (metaverses) – a vision for openness, safety and respect: Call for evidence, European Commission (2023), available at https://ec.europa.eu/info/law/better-regulation/ ("Call for Evidence").

[2] European governments and companies, represented by the European Innovation Council of the European Commission, are active at CES. *See European Night at CES 2023: innovation made in Europe for the world*, European Innovation Council (Dec. 20, 2022), https://eic.ec.europa.eu/news/european-night-ces-2023-innovation-made-europe-world-2022-12-20_en.

[3] CES held an event and Amsterdam last year, and has an upcoming event in Paris later this year. *See CES Unveiled Amsterdam*, CTA (Oct. 13, 2022), https://www.ces.tech/events-programs/ces-unveiled/ces-unveiled-amsterdam.aspx.

[4] CTA generally refers here to a "metaverse" as a massively scaled and interoperable network of real-time rendered 3D virtual worlds and environments which can be experienced synchronously and persistently by an effectively unlimited number of users with an individual sense of presence, and with continuity of data, such as identity, history, entitlements, objects, communications, and payments, that safely bridges the physical and digital world and that engages users with immersive experiences via enabling technologies.

consumer demands. In this context, the Commission should move carefully and let competition flourish rather than make preemptive moves that limit innovation, particularly by smaller enterprises. CTA encourages the Commission to work collaboratively with a wide range of global stakeholders, including innovators and industry, and to develop a risk-based approach that acknowledges the significant regulatory framework that already exists and that is mindful of promoting competition and innovation. It should also work closely with the United States to facilitate global adoption and avoid fragmentation based on inconsistent approaches across regions.

The Metaverse Offers Far-Reaching Opportunities Even as The Technologies That Compose it are at a Nascent Stage. Metaverse technology and applications are at a relatively early stage of development, yet they already show immense promise and interest by consumers. In fact, consumers are *already* actively participating in metaverse experiences – one report found that "62 percent of consumers . . . surveyed have engaged with one or more branded virtual experiences," and that excitement for future opportunities remains high.[5] Another recent study found that over 70 percent of consumers intend to use the metaverse in non-gaming environments in the next two to five years.[6]

Metaverse applications are already available to consumers in a number of sectors, including gaming, travel and tourism, education, work, real estate, healthcare, banking and finance, energy, social media, and manufacturing.[7] Businesses are also actively using metaverse applications today, such as 3D product design software that "can shave weeks or months off the development of products," and marketing and e-commerce 3D software that is "cheaper, quicker, more sustainable, and more creative than shooting images in a photo studio."[8] As an example in the healthcare field, artificial reality ("AR") has enabled spine surgery navigation systems that allow surgeons "to visualize their patients' spine through skin and tissue, accurately and efficiently perform surgeries."[9] Another AR-enabled healthcare technology "improves the success of [intravenous] access for health care professionals" by using lasers to provide "a visual projection of a needed vein with accuracy within the width of a human hair."[10]

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[5] *See* Value creation in the metaverse: The real business of the virtual world, McKinsey & Company at 13 (June 2022), https://www.mckinsey.com/~/media/mckinsey/business%20functions/marketing%20and%20sales/our%20insights/value%20creation%20in%20the%20metaverse/Value-creation-in-the-metaverse.pdf ("36 percent are excited about technology brands entering the metaverse, and 30 percent are excited about apparel, fashion, and luxury brands doing so.").

[6] *See Consumer behavior in the metaverse*, Accenture (Jan. 6, 2023), https://www.accenture.com/us-en/insights/software-platforms/metaverse-that-matters (according to Accenture's study, consumer demand is highest for media, fitness, retail, medical, and travel metaverse applications).

[7] Wolfgang Möller, *Exciting Metaverse Business Use Cases for 2023 and Beyond*, NTT Data (Feb. 6, 2023), https://nttdata-solutions.com/us/blog/metaverse-business-use-cases/.

[8] Metaverses and other shared immersive experiences, Adobe at 16-17 (2022), https://www.adobe.com/content/dam/cc/us/en/metaverse/metaverse-whitepaper-and-immersive-experiences.pdf.

[9] *Three Ways AR/VR Enhances Health Care*, CTA (Dec. 15, 2020), https://www.ces.tech/articles/2020/december/three-ways-ar-vr-enhances-health-care.aspx.

[10] *Id.*

More metaverse applications and use cases are coming soon. After the metaverse was a major topic of discussion at CES 2022,[11] CES 2023 "had a dedicated Metaverse area on the show floor, highlighting groundbreaking sensory technology building immersive, interactive digital worlds."[12] As CTA explained following CES 2023, "[n]ascent metaverse technologies on display at CES 2023 offer a window to the future of digital collaboration and the massive transformations now underway, which will enable persistent, decentralized, interoperable digital content."[13] Experts and industry expect the metaverse to have a significant impact on the economy as a result, with one report estimating that the metaverse's global revenues will reach $800 billion by 2024, and that those revenues will be worth between $6 and $13 trillion by 2030.[14]

The Metaverse Marketplace is Highly Competitive. The promise of the metaverse and its applications has resulted in substantial interest and robust competition in developing metaverse applications. Recent research shows that "the metaverse market is highly competitive" with many hundreds of competitors that consist of globally diversified companies, regional companies, and niche developers focused on particular industries and use cases.[15] This intense competition can only benefit consumers, as it drives further innovation and increases the products and services that consumers have available to them.

The Commission Should Prioritize a Careful, Collaborative, and Risk-Based Approach That Permits Competition and Innovation to Flourish. This promising and highly competitive landscape resembles the early Internet (Web 1.0) in many ways, and following that example, the Commission should give the developments in the metaverse breathing room to encourage innovation. A premature approach to standard-setting or specific regulation will unnecessarily stifle innovation at an early stage. Commission proposals that suggest an early regulatory approach could constrain the market and hinder investment in this space, which is critical given the need for early capital while commercial use cases develop. Overly prescriptive requirements also would threaten to hobble small and medium sized enterprises ("SMEs"), which face cost and resource constraints. Such requirements would also run contrary to the Commission's goal of promoting robust competition in the space. And a prescriptive regulatory approach would risk creating a walled garden within Europe that cuts off metaverse applications from the rest of the world, which would hinder the Commission's goal of encouraging interoperability and openness.

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[11] Brian Comiskey, *Metaverse, Mobility and Sustainability*, CTA (Jan. 18, 2023), https://www.cta.tech/Resources/i3-Magazine/i3-Issues/2023/January-February/Metaverse-Mobility-and-Sustainability.

[12] Grace Venes-Escaffi, *CES is Back and Thriving!*, CTA (Jan. 8, 2023), https://www.cta.tech/Resources/Newsroom/Media-Releases/2023/January/CES-is-Back-and-Thriving.

[13] Brian Comiskey, *Metaverse, Mobility and Sustainability*, CTA (Jan. 18, 2023), https://www.cta.tech/Resources/i3-Magazine/i3-Issues/2023/January-February/Metaverse-Mobility-and-Sustainability.

[14] Cathy Li & Kevin Collins, Demystifying the Consumer Metaverse, World Economic Forum at 9 (Jan. 2023), https://www3.weforum.org/docs/WEF_Demystifying_the_Consumer_Metaverse.pdf.

[15] *Global Metaverse Market Size, Segments, Outlook and Revenue Forecast Report 2022-2030: Global Players Control Approx 10% of the Market, while Regional Players Hold the Second Largest Share*, GlobeNewswire (Jan. 17, 2023), https://www.globenewswire.com/en/news-release/2023/01/17/2589731/28124/en/Global-Metaverse-Market-Size-Segments-Outlook-and-Revenue-Forecast-Report-2022-2030-Global-Players-Control-Approx-10-of-the-Market-while-Regional-Players-Hold-the-Second-Largest-Sh.html.

The Commission should instead follow a collaborative and risk-based approach to this emerging sector. The Commission should continue with its efforts to convene a wide range of stakeholders, including industry, experts, and Member States that can provide input on how best to encourage and support innovation that benefits consumers, and how to understand and employ voluntary industry standards and consensus best practices. As in the case of artificial intelligence ("AI"), an area in which CTA has also been significantly engaged with EU proposals, policymaking should begin by making risk-based assessments and identifying key guiding principles with substantial input from experts, including industry experts, rather than moving quickly on direct technology regulation.

One successful example of this approach is the collaborative and consensus-driven development of the AI Risk Management Framework by the U.S. National Institute of Standards and Technology ("NIST"), which collected input from a wide range of industry stakeholders, including CTA and many of its members, and which will greatly assist businesses and other organizations in adopting risk-based approaches to manage AI.[16] Similarly, in the area of Internet of Things ("IoT") cybersecurity, CTA has long been engaged with industry and government stakeholders to address evolving challenges, encouraging a light-touch regulatory approach that fosters industry-driven best practices for consumer device cybersecurity, rather than mandates. CTA also creatively partners with the private sector to improve consumer IoT security. With the metaverse, a collaborative strategy can help identify any emergent risks, in addition to the great benefits of metaverse applications; support industry best practices; and promote competition without inadvertently impeding innovation through an overly restrictive approach to standards or regulation.

Existing Laws and Regulations Are Already Potentially Applicable to the Metaverse. The Call for Evidence acknowledges that the EU already has regulations that potentially apply to metaverse applications that may fall within their scope, noting that Europe "already has a strong regulatory framework to address potential impacts that virtual worlds may have on aspects such as competition, cybersecurity, artistic creation and privacy."[17] Regulations such as the European General Data Protection Regulation, or the GDPR,[18] the Unfair Commercial Practices Directive,[19] and the Directive on Security of Network and Information Systems,[20] as well as laws that help protect consumers from being misled about the originators or sponsors of an online product, provide a number of protections for individuals (including children) under existing law. This existing regulatory framework provides further support for a cautious and collaborative approach.

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[16] *See* NIST AI 100-1, Artificial Intelligence Risk Management Framework (AI RMF 1.0), NIST, at App'x D (Jan. 2023), https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf.

[17] Call for Evidence at 2.

[18] Council Regulation 2016/679, General Data Protection Regulation, 2016 O.J. (L 119) 1 (EU).

[19] Council Directive 2005/29, Unfair Commercial Practices Directive, 2005 O.J. (L 149) 22 (EC).

[20] Council Directive 2022/2555, NIS 2 Directive, 2022 (L. 333) 80 (EU).

The Commission Should Work Closely with the United States on Its Approach to the Metaverse. To realize the full economic and social promise of the metaverse, the Commission must work closely with its counterparts in the United States on its approach, including any preliminary work on standards. Reaching a successful multi-trillion-dollar metaverse economy in the next decade will be heavily dependent on free data and information flows between Europe and the United States, as well as cross-border regulatory predictability for companies that will need to operate on both sides of the Atlantic Ocean. One of the critical building blocks of the metaverse is interoperability, meaning that Europe cannot be walled off from metaverse product deployments due to standards or rules that are inconsistent with the United States regulatory environment. CTA therefore urges the Commission to collaborate closely with United States government actors, in addition to industry, before moving forward with any proceeding that could impact metaverse innovation and deployment in Europe and have collateral effects on its advancement across the globe.

CTA thanks the Commission again for its outreach and consideration and stands ready to collaborate on this initiative.

Respectfully submitted,

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