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Digital Regulations in the Metaverse Era

CABO VERDE

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Data

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

Although Cabo Verde currently lacks specific data policies, strategies or regulations explicitly addressing the metaverse, the existing legal framework for data protection applies.

The Data Protection Law (Law 133/V/2001) is the general legal framework for the protection of personal data of individuals in Cabo Verde. The Data Protection Law closely mirrors the European General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679).

This law boasts a wide-ranging scope of application, extending protection to all personal data of individuals. It applies to data processing carried out within Cabo Verde's territory and to processing by entities not established in Cabo Verde but using the personal data of individuals located in Cabo Verde.

The law includes provisions on data subjects' rights, the responsibilities of data controllers and processors, the conditions for data processing, the handling of special categories of personal data, transferring personal data abroad, implementing security measures and data protection impact assessments.

The law establishes the National Data Protection Commission (Comissão Nacional de Protecção de Dados or CNPD) as an independent authority responsible for monitoring and enforcing data protection in Cabo Verde. In this regard, the law stipulates penalties for the non-disclosure of mandatory information and unauthorised copying, distribution or processing of personal data, including imprisonment and fines.

In relation to non-personal data, without prejudice to the specific information provided in response to the questions below, the protection of non-personal data is not specifically addressed in the Cabo Verde legal framework. Moreover, there are no policies or strategies addressing non-personal data in the metaverse.

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

Although not specifically referring to data in the metaverse or to novel data categories, the Data Protection Law is applicable to personal data processing activities related to the metaverse, involving data such as user or third-party data collected through devices and peripherals, inferred data or avatars. Consequently, the relevant provisions concerning the principles of data processing, data subject rights, and the responsibilities and obligations of data controllers and processors are fully applicable in this context.

However, it should be noted that novel types of data, such as synthetic data, raise new regulatory challenges, as the current framework does not address them adequately.

Moreover, intellectual property (IP) rights may apply to certain non-personal data, subjecting it to the protection of the applicable legal regime. For a more complete analysis of IP law in the metaverse, please refer to the Intellectual Property chapter.

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

Due to the diverse technologies and activities associated with the metaverse, the data value chain can be complex, involving various stakeholders who support and engage with the metaverse. These stakeholders can include content creators, platform and service providers, data intermediaries, analysts, regulators, researchers and users.

Accordingly, depending on the nature of their activities, they may be subject to different rules and obligations. Considering that the same stakeholder may assume multiple data-related roles, a case-by-case analysis and a clear mapping of the data flows are necessary.

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

The Cabo Verde Constitution enshrines the principle of the protection of private life, under which all citizens are entitled to the protection of their personal identity, and private and family life.

The Data Protection Law serves as the primary legal instrument embodying the principles of data protection. These principles include lawfulness, fairness and transparency, purpose limitation, data minimisation, accuracy, storage limitation, integrity and confidentiality, and accountability.

The law establishes a range of fines and criminal and accessory sanctions for various breaches, including violations of the data protection principles, obligations and rights, as well as unauthorised data communication or transfer.

The CNPD is tasked with imposing fines, as well as ancillary measures, such as data cessation, blocking, deletion or destruction, in relation to data protection violations.

The fines vary according to whether the offender is an individual or legal entity, and whether the data involved is subject to prior control by the CNPD. Fines range from between CVE 50,000 and CVE 3m. Negligence and attempted violations are also punishable in the case of administrative offences.

Criminal penalties include imprisonment and fines for various offences related to unauthorised access, copying, transfer, use, and interconnection or insertion of personal data, as well as providing false information in notifications and/or not complying with the CNPD's instructions after being notified. The penalties vary according to the nature of the offence and the type of data involved. The penalties range from imprisonment up to two years or a fine up to 240 days. Attempted crimes are also punishable.

The reference to days is a way of calculating a criminal fine under Cabo Verde law. Each day of a fine may be calculated between CVE 100 and CVE 20,000, depending on the economic situation of the defendant.

There is no case law or any decisions by a regulator regarding infringements of these rules in the context of the metaverse, as this is a new and evolving phenomenon.

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?

The sharing and licensing of non-personal data is not specifically regulated in Cabo Verde.

Moreover, data ownership is not explicitly recognised in Cabo Verde, as information is not protected by property rights. However, data may be subject to other types of rights or interests, such as IP rights and contractual rights.

There is no information on any infringements of these rules in the metaverse in Cabo Verde.

There is no case law or any decisions by a regulator regarding infringements of these rules in the metaverse, as this is a new and evolving phenomenon.

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

There are no specific policies, strategies or regulations applicable specifically to digital marketing in the metaverse in Cabo Verde.

Digital marketing in Cabo Verde falls under the purview of the general legal framework, including the Data Protection Law, the Advertising Code (Decree Law 46/2007) and the Consumer Protection Law. In relation to the latter two, please refer to the chapter on digital marketing and consumer protection.

The Data Protection Law requires that data subjects are informed and that consent is obtained for the processing of data for digital marketing purposes.

Digital marketing in Cabo Verde is subject to the general legal framework for the protection of personal data, which includes provisions relevant to the collection, processing and transfer of personal data for marketing purposes.

Infringements of the Data Protection Law and Advertising Code may result in civil or criminal sanctions, or administrative fines, depending on the nature and severity of the violation. In relation to the sanctions applicable under the Advertising Code, please refer to the chapter on digital marketing and consumer protection. Civil liability may also arise from any damage caused by unlawful data processing or unlawful advertising.

There is no case law or any decisions by a regulator regarding infringements of these rules in the metaverse, as this is a new and evolving phenomenon.

Q 7. Are there any policies, strategies or regulations in your jurisdiction focused on ensuring the protection 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 Cabo Verde, the Data Protection Law places significant emphasis on safeguarding the personal data of minors.

The Data Protection Law establishes 16 years as the minimum age for consent regarding data protection. For the processing of personal data belonging to minors below the age of 16, consent must be obtained or authorised by their legal representatives, typically their parents or guardians.

Furthermore, the law outlines specific rights for minors in exceptional circumstances, where these rights are exercised through their legal representatives.

Additionally, legislation mandates that data controllers must implement appropriate technical and organisational measures to ensure that only necessary personal data for each specific processing purpose is processed by default. These measures are stressed particularly in relation to the personal data of minors, requiring that their data is processed lawfully, fairly and transparently, in line with the other general principles outlined in legislation.

Q 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 by Cabo Verde's Data Protection Law.

The law distinguishes between transfers to countries that provide an adequate level of protection and those that do not. The CNPD is tasked with deciding on the adequacy of the protection in regard to data transfers and to authorise transfers to third countries that do not offer adequate protection under certain circumstances.

There is no case law or any decisions by a regulator regarding infringements of these rules.

Q 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 in Cabo Verde's Data Protection Law by granting individuals the right not to be subject to decisions that produce legal effects concerning them or that significantly affect them, and which are based solely on the automated processing of personal data, including profiling.

The law also establishes exceptions, safeguards and authorisation mechanisms for automated decision-making processes that involve significant risks to the rights and freedoms of individuals.

There is no case law or any decisions by a regulator regarding infringements of these rules.

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

Although not explicitly referring to the metaverse, the GDPR sets out the following rights for data subjects:

- right to access: individuals have the right to obtain confirmation as to whether or not personal data concerning them is being processed and, if so, have access to that data and certain information about how it is processed;
- right to rectification: individuals have the right to request the correction of inaccurate personal data concerning them;
- right to erasure (right to be forgotten): individuals have the right to request the deletion of their personal data under certain circumstances, such as when the data is no longer necessary for the purposes for which it was collected or processed;
- right to the restriction of processing: individuals have the right to restrict the processing of their personal data under certain circumstances, such as when they contest the accuracy of the data or the lawfulness of the processing;

- right to data portability: individuals have the right to receive their personal data in a structured, commonly used and machine-readable format, and have the right to transmit that data to another controller;
- right to object: individuals have the right to object to the processing of their personal data in certain situations, such as for direct marketing purposes; and
- rights in relation to automated decision-making and profiling: individuals have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning them or that similarly significantly affects them.

To exercise these rights in the context of the metaverse, individuals are likely to need to engage with the platforms or service providers operating within the metaverse environment.

It should be noted that the personal data of deceased persons is also still protected. Their heirs can exercise their rights of access, erasure and rectification.

The level of enforcement of these rights in Cabo Verde is not clear.

In relation to non-personal data, without prejudice to specific rules, especially in relation to trade secrets, rights are usually regulated contractually.



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

There are no upcoming or announced policies or regulations that may have an impact on the use of personal data in the metaverse in Cabo Verde.

Cybersecurity

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

There are no specific policies, strategies or regulations addressing cybersecurity within the metaverse in Cabo Verde.

However, there are various strategies and regulations addressing cybersecurity in Cabo Verde.

Cabo Verde's National Strategy for Cybersecurity (Resolution 21/2016) created the National Nucleus for Cybersecurity, an advisory body to the Prime Minister, while the Criminal Code was updated in 2017 to include provisions on cybercrime.

Cabo Verde is a signatory to the African Union Convention on Cyber Security and Personal Data Protection, having ratified it in 2020. This convention covers a wide range of topics, including the regulation of e-commerce, responsibilities and rights regarding data protection, as well as measures aimed at enhancing cybersecurity and combatting cybercrime. As part of this commitment, Cabo Verde has undertaken various obligations, necessitating the enactment of laws and the bolstering of public authorities.

The Cybersecurity Law (Decree Law 9/2021) establishes a comprehensive legal framework for cybersecurity within Cabo Verde. Its primary objective is to ensure a high level of security for both public and private entities' networks and information systems, particularly those involved in providing essential services or operating critical infrastructure. Moreover, this framework aligns with the directives of the Economic Community of West African States (ECOWAS) and aims to implement the National Cybersecurity Strategy, outlining strategic objectives and action plans for the country in this domain.

The legal framework creates a structure of cybersecurity governance, composed of the National Cybersecurity Nucleus mentioned above and the National Cybersecurity Centre, serving as the national authority for cybersecurity and the primary point of contact for international cooperation. Additionally, it institutes the Computer Security Incident Response Team (CSIRT.CV), tasked with coordinating and responding to cybersecurity incidents, while promoting common or standardised practices. The regulatory framework was further reinforced by Regulatory Decree 1/2021, which allocates resources to support the operations of the CSIRT.CV.

Furthermore, the cybersecurity legislation outlines the security and notification requirements applicable to various entities utilising networks and information systems. This includes entities within the public administration, operators of critical infrastructure, operators of essential services and providers of digital services.

2. What are the security by design principles applicable to the metaverse in your jurisdiction?

The Cybersecurity Law in Cabo Verde, while not explicitly mentioning the principle of security-by-design, mandates that entities utilising networks and information systems must adopt adequate and proportionate technical and organisational measures aligned with their risk levels. These measures should also consider the latest technological advancements and comply with international standards and norms related to network and information system security.

In addition to the Cybersecurity Law, Cabo Verde's Data Protection Law includes several provisions addressing security measures for data protection. This legislation imposes various obligations on data controllers and processors, while granting authority to the CNPD to supervise and enforce compliance.

Under this law, data controllers and processors are required to implement suitable technical and organisational measures to safeguard personal data against accidental or unlawful destruction, loss, alteration, disclosure or unauthorised access, especially when data transmission occurs over a network. These security measures should be commensurate with the risks associated with the data processing and the nature of the data being protected, considering the latest technological advancements and implementation costs.

Pseudonymisation is recommended as a security measure. Furthermore, special security measures are mandated for the processing of sensitive data, such as health, sexual life or genetic information. These measures may include logical separation from other personal data and encrypted transmission methods to ensure heightened protection.

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

There have been no reported cyber incidents concerning the metaverse in Cabo Verde.

The Law on the Legal Provisions on Cybercrime (Law 8/IX/2017) establishes a comprehensive framework to address cybercrime. This law introduces various material and procedural norms into the existing criminal law framework concerning cyber related offences, accompanied by corresponding criminal sanctions.

Cabo Verde's cybersecurity provisions cover various cybercrimes, including:

- fraud through digital means;
- damages to systems and electronic data;
- sabotaging computer systems and data;
- illicit access;
- unlawful use of devices;
- child pornography; and
- revenge pornography.

Each of these offences carries penalties, such as imprisonment and/or fines, as stipulated by the Criminal Code.

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

There are no existing standards for cybersecurity specifically applicable to the metaverse in Cabo Verde.

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

There are no announced or expected policies, regulations or standards with an impact on cybersecurity in the metaverse in Cabo Verde.

Digital identity and authentication

6. Are there any digital identity and authentication policies, strategies or regulations applicable to the metaverse in your jurisdiction?

There are no specific policies, strategies or regulations addressing matters related to digital identity specifically within the metaverse in Cabo Verde.

Cabo Verde has a legal framework for civil registration and civil digital identity.

Law 75/VIII/2014 regulates the civil registry of all individuals currently residing in Cabo Verde.

Moreover, Cabo Verde has a National System of Civil Identification and Authentication (Sistema Nacional de Identificação e Autenticação Civil or SNIAC), established by Law 43/VIII/2013.

SNIAC is a centralised system managed by the government in Cabo Verde. It serves as a repository for civil identity data and features interfaces for accessing and managing this information. Additionally, SNIAC incorporates a public key system that facilitates the issuance of certified documents by verifying the identity of involved parties. Through SNIAC, residents of Cabo Verde have access to a platform enabling them to retrieve their civil identification data, including civil identifiers (IDs), passports, and civil and criminal registry records. This system allows for identifying and authenticating individuals and their documents, thereby enhancing administrative efficiency and service delivery.

In line with efforts to modernise public administration, the government introduced the public digital mobile key (*Chave móvel digital*) through Decree Law 5/2020. This mobile key serves civil identity and authentication purposes, contributing to the overall modernisation and efficiency of public services in Cabo Verde.

7. What are the different types of digital identity in the metaverse: the different tiers and types of ID and what are the different levels of protection in your jurisdiction?

In Cabo Verde, there are currently no distinct types of digital identity that are specifically applicable to the metaverse.

Nonetheless, it should be noted that the Legal Framework for Electronic Transactions (Law Decree 27/2023) includes several norms on procedures and standards for the certification of entities capable of offering trust and identity services, including the authentication of identities online, the attribution of credentials and the creation of digital signatures on documents and email.

8. How is self-determination exercised and protected in the metaverse in your jurisdiction?

There are no specific policies or regulations directly addressing self-determination within the metaverse in Cabo Verde.

However, it is important to note that the Constitution of the Republic of Cabo Verde safeguards the self-determination of its people and residents, guaranteeing their fundamental rights, including the freedom of speech and expression. These constitutional protections extend to an individual's online presence, which encompasses digital platforms, such as the metaverse.



9. How is the role of intermediary ID providers regulated in your jurisdiction? What are some of their main obligations?

SNIAC manages Cabo Verde's main public intermediary ID provider.

Alongside the implementation of the digital mobile key (*Chave móvel digital*) for the public sector, as part of the measures to modernise the country's administration, there is also Autentika Gestão de Identidade e Acessos, an online platform that allows the use of this key for civil identity and authentication purposes. SNIAC must ensure the security of the platform, the integrity of the database and the personal data contained within it. In addition to these public mechanisms, the Legal Framework for Electronic Transactions regulates the procedures and standards for intermediary ID providers, including their certification, audits and obligations.



10. Are there any upcoming policies, strategies or regulations that will impact the digital identity and authentication process concerning the metaverse?

There are no announced or upcoming policies, strategies or regulations impacting digital identity and authentication processes in relation to the metaverse.

Intellectual property

1. What are the legal public policies, strategies and regulations related to intellectual property applicable to the metaverse in your jurisdiction?

There are no policies, strategies and regulations specifically aimed at tackling intellectual property (IP) in the metaverse in Cabo Verde.

Cabo Verde acknowledges the protection of IP as a right in its constitution. Additionally, Cabo Verde has been a member of the World Intellectual Property Organization (WIPO) since 1997, and has signed up to several of its treaties and conventions on IP, such as the WIPO Convention (1997), the Berne Convention (1997), the Rome Convention (1997), the Paris Convention (2022), the Patent Cooperation Treaty (2022), the WIPO Copyright Treaty (2019), and the WIPO Performances and Phonograms Treaty (2019).

Cabo Verde's Copyright Law (Decree Law 1/2009) regulates copyright and related rights, while the Industrial Property Code (Decree 4/2007), which covers patents, trademarks, design, geographical indications, trade names, layout designs for integrated circuits, trade secrets and unfair competition, has a broad scope of application and could encompass works created in the metaverse.

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

'Virtual objects', 'buildings' and 'avatars' may be eligible for protection, depending on their specific characteristics. The most significant forms of protection that may apply include:

- copyright and related rights: copyright protection does not require the fulfilment of administrative requirements or formalities and is automatically granted upon the creation of the work; and
- Designs ('*desenho industrial*'): protection of which is subject to registration requirements.

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

Cabo Verde does not have a specific legal framework protecting digital replicas of physical objects. Notwithstanding, depending on the specific characteristics of the replica, it may be subject to protection under Cabo Verde's IP framework.

Moreover, it should be noted that Cabo Verde's Cultural Heritage Law (Law 85/IX/2020) does not appear to cover digital replicas.

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

The Copyright Law aligns with the principles and standards outlined in the WIPO treaties and the Berne Convention, protecting various forms of literary and artistic works in all mediums. Therefore, in the metaverse and for other online platforms, copyright protection can be extended to most user-generated content if it meets both subjective and objective criteria. The presence of an author is required and the content must also qualify as an original work, representing the intellectual expression of the author.



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

There are several collective rights management organisations currently active in Cabo Verde, operating under the legal framework implemented by Law 45/IX/2019. For example, among such organisations are:

- the Sociedade Cabo-verdiana de Autores (SOCA); and
- the Sociedade Cabo-verdiana de Música (SCM).

It is not known whether these organisations are currently managing IP in the metaverse.

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

Cabo Verde's Copyright Law establishes both civil and criminal liability for infringements of copyright and related rights. Concerning criminal sanctions, the law addresses offences such as the usurpation of another's works and counterfeiting, categorising them as public crimes that all individuals can report. Perpetrators of these offences face fines of up to the value of 200 days and/or imprisonment for up to three years. In cases of simple negligence, fines may reach upwards of 100 days.

The reference to days is a way of calculating a criminal fine under Cabo Verde law. Each day of a fine may be calculated between CVE 100 and CVE 20,000, depending on the economic situation of the defendant.

Furthermore, the infringement of moral rights associated with exploited or counterfeit works carries similar penalties. However, criminal proceedings for these offences typically require a criminal complaint or report.

Civil liability remains applicable independently of criminal liability or ongoing criminal proceedings. Illicit copies or counterfeits can be seized in either civil or criminal proceedings, regardless of the format or medium, including in relation to content on online platforms and in the metaverse.

Additionally, the Industrial Property Code imposes criminal sanctions for various violations of industrial property rights, such as patents, designs and trademarks. Offenders may face fines of up to 360 days and/or imprisonment for up to three years.

Acts of unlawful or disloyal competition, as well as the misuse of privileged information and trade secrets, are treated as misdemeanours. Individuals face fines ranging from CVE 50,000 to CVE 500,000, and CVE 250,000 to CVE 3m for legal persons. Moreover, objects linked to these crimes are subject to forfeiture in favour of the Republic of Cabo Verde.

There is no case law and there are no decisions by regulators related to these matters.

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

There are no IP policies, strategies and regulations in Cabo Verde with the aim of promoting interoperability in the metaverse.

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

While there may not be specific strategies, policies and regulations aimed at promoting competition and standardisation, there are provisions within the Cabo Verde's Industrial Property Code that address access to licences for critical patents through a mandatory licensing scheme.

This mechanism allows for the imposition of licence provisions if the patent holder is deemed to be insufficiently exploiting a patent or if there are valid reasons based on the public interest to ensure access to the licence. In other words, if a patent holder is not utilising its patent effectively or if granting licences would serve the broader public interest, such as promoting innovation or ensuring access to essential technologies, then mandatory licensing may be imposed.

9. What are the roles of metaverse providers?

Cabo Verde does not have a legal framework that clearly defines the roles that are applicable to metaverse providers.

The Legal Framework for Networks, Electronic Communications and Related Services (Decree Law 7/2005) defines how intermediate service providers that do not exercise any control over the content made available through their services can operate. The National Regulatory Authority (Autoridade Reguladora Nacional or ARN) is the authority tasked with monitoring the compliance of intermediary service providers with the applicable framework.

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

There is currently no specific legal framework addressing the liability of intermediary service providers, such as hosting services and online platforms, for content provided by their users. Consequently, there are no rules regarding content moderation and potential conflicts with the freedom of expression and other fundamental rights.

Notwithstanding, the Legal Framework for Networks, Electronic Communications and Related Services stipulates that providers of networks and electronic communication services must restrict the transmission of illegal and harmful content through their services in accordance with the law.

11. Are there any by-design notice mechanisms?

There are no by design notice mechanisms stipulated in the current legal framework.

12. Are there any upcoming policies, strategies or regulations impacting on intellectual property in your jurisdiction?

There are no upcoming policies, strategies or regulations impacting IP in Cabo Verde.



Digital marketing and consumer protection



1. Are there any relevant policies, strategies and regulations applicable to digital marketing in the metaverse in your jurisdiction?

There are no specific policies, strategies or regulations addressing matters related to digital marketing specifically related to the metaverse. Nevertheless, the current legal framework is applicable.

The Advertising Code prohibits advertising that contravenes constitutional values, principles or institutions, regardless of the medium used for its dissemination. It also prohibits misleading, discriminatory, obscene, environmentally harmful or violence-inducing advertising. Additionally, advertising targeting minors or involving certain categories of products or services, such as alcohol, tobacco, medicines, treatments, fortunes or gambling, is subject to stringent regulations. The code applies to all publicity agents and entities, national or foreign, engaged in advertising within the national territory, irrespective of their location. However, it does not apply to political propaganda, journalistic information, entertainment programmes, or copyrighted literary or artistic works.

In addition, the Consumer Protection Law (Law 88/V/98) does not have many provisions on marketing and publicity. It includes a general rule mandating all publicity to be lawful and easily identifiable, respecting the rights and expectations of consumers. In addition, all commercial statements regarding the characteristics of goods and services in publicity and marketing material are considered to be part of the contract with the consumer, even if not specifically written. The law also allows consumer rights associations to issue corrections, responses or requests for the removal of misleading or abusive advertising, to the competent authorities.



2. Are there any relevant policies, strategies and regulations regarding misleading advertising or other unfair commercial practices in the metaverse in your jurisdiction?

Infringements of the Advertising Code may result in civil, criminal sanctions or administrative fines, depending on the nature and severity of the violation. Civil liability may also arise from any damage caused by unlawful advertising.

Administrative fines range from between CVE 75,000 and CVE 750,000 for individuals and from CVE 300,000 to CVE 2m for legal persons.

Additionally, please refer to the intellectual property chapter, regarding sanctions applicable to unfair competition practices related to IP.

Please refer to the chapter on data for the data protection-related implications of digital marketing.

There is no case law and there are no decisions by a regulator regarding infringements of these rules in regard to the metaverse, as this is a new and evolving phenomenon.



3. Are there any relevant policies, strategies or regulations aimed at promoting consumer protection in the metaverse in your jurisdiction?

The main consumer law instrument in Cabo Verde is Law 88/V/98. The Consumer Protection Law has a very broad scope of application, aiming to promote consumer education, information, participation and representation, as well as to prevent and repair damage caused by defective or misleading products or services.

Although some provisions of the law may need to be adapted when it comes to digital services and platforms, its measures are applicable to the metaverse, such as the requirement for goods and services to be fit for their intended purpose and to meet certain legal standards or legitimate consumer expectations, and the right to information and the duty of suppliers to inform consumers about the product characteristics, pricing, contract terms and after-sales assistance related to the products or services provided.

4. What is the minimum information that should be provided to consumers? Who are the stakeholders responsible for providing this information?

The Consumer Protection Law in Cabo Verde mandates both general and specific information disclosure requirements for goods, services and consumer rights in the market. Providers are obligated to furnish clear, objective and adequate information to consumers. This information must encompass details regarding the characteristics, composition, pricing, contract duration, guarantees, delivery timelines and after-sales assistance related to the goods or services provided. Additionally, if any products or services entail potential health or safety risks, consumers must be accurately informed about them.

The responsibility to provide information extends to producers, manufacturers, importers, distributors, packagers and storers. If a supplier or service provider fails to furnish the necessary information, such as providing illegible or insufficient instructions jeopardising the safe use of the product or service, consumers reserve the right to retract the purchase agreement. Moreover, the supplier or service provider bears the responsibility for any harm inflicted on consumers, and all parties involved in the production and distribution chain who failed to provide essential information will be held accountable.

Consumers and consumer associations have the right to seek compensation for damages arising from defective goods or services, as well as from unfair or misleading advertising practices. Additionally, the Public Prosecution Service (Ministério Público) is empowered to initiate and intervene in legal actions safeguarding consumer interests, either individually or collectively.

5. Are there any relevant policies, strategies and regulations applicable to platform-to-consumer relationships in your jurisdiction? What are the main obligations of platform providers?

The Consumer Protection Law was enacted in 1998 and has not been updated in regard to the provision of digital services. Therefore, it also lacks specific rules and norms regarding online platforms.

Notwithstanding, it should be noted that the General Contractual Clauses Law (Law 33/IX/2018) forbids the inclusion of abusive contract terms that contravene good faith and cause an unjust and unjustifiable imbalance between the parties. This legislation incorporates both grey and blacklists of contractual terms, categorising certain terms as potentially abusive or inherently abusive, respectively.

The Public Prosecution Service and consumer rights associations are empowered to initiate proceedings that declare the abusive nature of specific clauses within contracts. If deemed abusive, providers may face liability and fines as a consequence of such actions.

6. Are there alternative dispute resolution mechanisms for consumers available in your jurisdiction? How are they implemented on the metaverse?

Cabo Verde has established alternative dispute resolution mechanisms to facilitate the resolution of disputes outside of traditional court proceedings.

Law 76/VI/2005 on arbitration provides a framework for voluntary arbitration in Cabo Verde. However, while it covers the fundamental aspects of arbitration, it lacks specific provisions for consumer litigation.



Decree Law 31/2005 on mediation serves as the primary legal framework for mediation in Cabo Verde. This legislation outlines the general aspects of mediation but does not address the mediation of consumer disputes.

In light of the existing framework, the National Centre for Mediation and Arbitration (Centro Nacional de Mediação e Arbitragem or CNMA) was established by Decree Law 51/2015.

The CNMA possesses general material competence, meaning that it can handle disputes across various legal domains, offering both mediation and arbitration services.



7. Are there any upcoming policies, strategies or regulations that will impact digital marketing in the metaverse in your region/country?

There are no announced or expected policies, strategies or regulations with an impact on digital marketing in the metaverse in Cabo Verde.



8. Are there any upcoming policies, strategies or regulations impacting consumer protection in the metaverse in your jurisdiction?

There are no announced or expected policies, strategies or regulations with an impact on consumer protection in the metaverse.

Jurisdiction and governance

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

Even though Cabo Verde has not yet established new policies, strategies or regulations specifically addressing the governing law applicable to the metaverse, there are existing international private law rules that could potentially be applied, albeit to a limited extent.

The Civil Code contains a series of rules on conflict of laws. More specifically, the Civil Code affords contracting parties the option to select the applicable law, albeit subject to certain limitations. The chosen law cannot be fraudulent or intended to circumvent obligations, nor can it permit the application of rules conflicting with the fundamental principles and rights pertaining to Cabo Verde's legal system. Additionally, the choice of law must be based on a reasonable interest, demonstrating some correlation with either the parties or the object of the contract.

In the event that the parties do not select a law or if the choice is deemed invalid for the aforementioned reasons, Cabo Verde's Civil Code offers two supplementary criteria: first, the habitual residence of both parties and, second, the place where the contract was concluded. However, in some circumstances the establishment of the aforementioned criteria may be difficult in the context of metaverse-related disputes.

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

Under Cabo Verde's Civil Procedure Code, courts in Cabo Verde have jurisdiction over matters if one of the following conditions is met:

- the action must be brought in Cabo Verde according to the rules of territorial jurisdiction established by Cabo Verdean law, and the facts that give rise to the legal claim must have taken place within Cabo Verdean territory;
- if the defendant is a foreigner and the plaintiff is Cabo Verdean, the case can be tried in a Cabo Verdean court, provided the reverse situation allows a Cabo Verdean party to be sued in the courts of the foreign state; and
- if the right being claimed can only be realised by bringing an action in a Cabo Verdean court, then there must be some significant personal or real connection between the action to be brought and the Cabo Verdean territory.

Cabo Verde's Civil Procedure Code adheres to the principle of the plaintiff's forum, but also allows the parties to choose the competent court in the contract for any potential disputes arising from it, with some limitations.

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

In Cabo Verde, there are no regulatory bodies and government entities with enforcement powers dedicated specifically to enforcing compliance with the laws that govern the metaverse. However, as previously mentioned in other sections,



such as in the chapter on data, there are regulators responsible for specific affairs and sectoral activities that may have the authority to ensure compliance within the metaverse.

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

Please refer to our response on this matter in the chapter on digital marketing and consumer protection.

Q 5. How is arbitration implemented in regard to the metaverse in your jurisdiction?

Please refer to our response on this matter in the chapter on digital marketing and consumer protection.

Q 6. Are there any upcoming policies, strategies or regulations regarding the determination of the governing law and jurisdiction applicable to the metaverse in your jurisdiction?

There are no upcoming policies, strategies or regulations impacting the governing law and jurisdiction applicable to the metaverse in Cabo Verde.