



Digital Law Alert

Your regular tech law update from DLA Piper UK

DIGITAL LAW ALERT

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Welcome to the first edition of our new regular tech law newsletter, DLA Piper's Digital Law Alert. Our inaugural edition features:

- Our top tech predictions for 2022
- Key tech and sourcing alerts at the start of 2022

What has 2022 got in store for tech?

1. In 2022 the world will start to sit up and take more notice of **quantum computing** and its huge commercial potential, which is already being harnessed in various industries such as biotech. Watch this space for our thoughts on quantum computing, where it's going this year and what this might mean from a legal perspective.
2. The potential for **blockchain** to be applied to almost every industry should start to be realised more broadly in 2022. All business revolves around transactions, and the technical, financial, and legal elements of transactions each have the potential to be supported by blockchain. We will continue to focus on the development of the law applying to blockchain and digital ledger technology generally as the year unfolds.
3. **Connected devices** are everywhere, and numbers are set only to increase in 2022. As the roll out of 5G gathers pace and IOT and other technology relevant to products and interconnectivity such as AI evolves, it follows that there will be an increased need for regulation of devices to ensure user safety. We recently reported as to how the European Commission has resumed work started in 2018 to evaluate the Product Liability Directive (Directive) (85/374/EEC) and in this alert we will keep you updated as this progresses.
4. **Haptic technology** will continue to be a fast developer, particularly as the land grab for metaverse user numbers places itself more firmly in the sights of major social players such as Meta. 2021 saw a big hike in the number of patent applications relating to haptic tech filed by both tech incumbents and challengers alike and we predict that this trend will continue into 2022.
5. Prices for sought after non-fungible tokens/**NFTs** will continue to rise. The breadth of choice of NFTs to invest in means that there will be fluctuations in prices as investors lean towards and away from e.g. gaming assets, fashion collectables or art. As a general trend there is only one way that the value of NFTs is headed in 2022, and that is up.

6. Technology enabling **hybrid working** will be a key focus, as Big Tech in particular leads the way in unlocking the potential to ensure that all types of workers and their contrasting needs are met. For lawyers, the potential offered by tools that enable hybrid working and combine the specific kind of technology that our industry increasingly relies on, such as document automation tools with a remote collaboration element, will come more into play in 2022.
7. The debate around **optimising how technology operates** in the face of the **climate crisis** will continue to increase in volume. Curbing your gaming habit, reducing how much on demand TV you watch or even sending fewer emails will help save the planet, but the potential to make the most significant reductions in carbon use lies in the hands of the tech giants and we shall wait to see how they respond to that challenge.

And here are our top tech and sourcing alerts as we kick off 2022:

The UK government's DCMS and the Office for AI have issued a press release describing a new UK initiative to shape global standards for artificial intelligence as part of the UK's ten-year National AI Strategy. A new AI Standards Hub will seek to bring the UK's AI community together online, provide practical tools for businesses and provide educational materials around global standards for organisations to use as they develop. The initiative will be led by the Alan Turing Institute supported by the British Standards Institution and the National Physical Laboratory.

As part of the National Cyber Strategy 2022 the UK government launched two new consultations on significant cyber security issues impacting the UK economy on 19 January 2022. The first consultation seeks input on a proposal to introduce new laws to improve the cyber resilience of organisations of importance to the UK economy such as IT managed service providers/MSPs. High profile cyber attacks, such as the July 2021 attack on MSP Kaseya, show how the UK's national security can be compromised on a large and disruptive scale. The second consultation seeks views on how to ensure that the UK Cyber Security Council formed in March 2021 can be supported to tackle the cyber security skills shortage in terms of both numbers and diversity that the government is seeking to address.

The Network and Information Systems (EU Exit) (Amendment Regulations 2021 (SI 2021/1461) (the "NIS Regulations") came into force on 12 January 2022. Under the NIS Regulations relevant digital service providers/RDSPs have a duty to notify the ICO in the event of a substantial incident affecting the security of their network and/or IT system. The applicable test for establishing if an incident is substantial is currently laid out in the European Commission Implementing Regulation 151/2018. Following a consultation that ended on 14 October 2021, the ICO is in the process of producing guidance as to which of two possible replacement tests should be applied, namely either a revised version of the current test that would apply to the UK or a new test applying risk-based parameters rather than numerical thresholds. The UK government has stated that even without such guidance being issued by the ICO the NIS Regulations will still be capable of application due to certain metrics for consideration being set out in the new legislation, such as how long an incident lasts and the number of affected users.

On 13 January 2022 the European Union Agency for Cybersecurity/ENISA released a report on existing cybersecurity risk management frameworks and methodologies across the EU after comparing these and identifying those with the highest potential for interoperability across different EU nations. The report refers to an accompanying new inventory of the identified frameworks, the Compendium of Risk management Frameworks with Potential Interoperability, which provides notes on key features of each framework mentioned, such as risk identification, assessment, treatment and monitoring and also explains the relevance of each framework to certain sectors. Although EU specific, the report and compendium offer useful insight into risk managements frameworks in place around the EU.

DLA Piper has recently launched its AI Scorebox, a free assessment tool for the rapidly growing number of organisations utilising the power of AI in their businesses. With the publication of the final draft of the European Commission's Regulation on Artificial Intelligence (the "AI Regulation") anticipated as soon as the second half of 2022 and a possible compliance deadline as early as mid-2024, the pressure is on organisations to undertake what can be complex assessments of their current situation and make any necessary adjustment to comply. The AI Scorebox works by filling out an online assessment that enables organisations to assess their use of AI technology and how this measures up to evolving regulatory landscapes across the world. The tool also provides a summary report showing an organisation's score in key areas and allows aggregated data benchmarking against other responses. Last year DLA Piper also provided an analysis of the future regulation of AI in its EU AI Regulation Handbook that considers the draft AI Regulation

in detail.

For more information about any of these alerts please contact DigitalLawAlert@dlapiper.com or your usual Technology & Sourcing advisor at DLA Piper.

Find out more

- [Artificial intelligence in the workplace - how can you prepare?](#)
- [UK: Government publishes its first Government Cyber Security Strategy](#)
- [Embracing Digital Evolution: Our new business report](#)
- [Understanding the UK National Security & Investment Regime Podcast](#)