

# Film and TV

**T**he film and TV sector is famously nostalgic: Hollywood loves glorifying its own golden age, and in the past has been accused of struggling to embrace change. And yet, the technological framework surrounding the industry is advancing faster than ever before.

How, then, does the industry reconcile this apparent inflexibility with the advent of the metaverse? The short answer is: tentatively. We are still in the early stages of change creeping into the sector, but already some of the potential is clear to see.

## NFTs and financing

The three letters are unavoidable when discussing the metaverse, and the legal implications of non-fungible tokens (NFTs) generally are covered in ample detail elsewhere in this guide. There is no less potential in the film and TV space than other media industries – though perhaps some of that potential remains more untapped when compared to music and video games.

Financing is the most obvious area of production where we might see swift incoming changes. A handful of independent films have already been funded with NFTs, each representing a small ownership share in the project.

Film financier, The Forest Road Company, has also recently closed a \$20 million fund of pre-production investments, and will issue collectibles based on the IP of each of those productions, using NFTs. It remains to be seen how this will tally up with the big institutional financiers, particularly banks, which are notoriously conservative in their approach to media financing.

## NFTs and distribution

NFTs also present a new route for distribution – in other words, releasing content itself as NFTs. Conceptually (and legally), this works in the same way as it would for a piece of digital art, although it is perhaps more difficult to fathom its acceptance by the wider public for now.

Still, Mila Kunis’s production company recently produced a web series, “Stoner Cats” (yes, you read that correctly), then sold NFTs granting buyers the right to watch episodes, and made over \$8 million in 35 minutes in the process (yes, you also read that correctly). So the hype is definitely there, and it is valid.

But a far more feasible, widespread application would be to use NFTs as a way to exploit existing IP in novel ways. Creators can leverage the inherent scarcity of NFTs to generate exclusive products to bolt on to traditional productions – think bonus content, digital posters, commentaries, specialist cinema tickets, and so on. And because of this potential value, we have seen a spike in the number of negotiations centered on the grant of NFT rights (and the exploitation thereof) between the rights holder of an underlying property and the acquirer of those rights looking to develop and/or exploit the property through an audiovisual production. Historically, such rights would have been customarily (or at least arguably) included in the broad grant of rights provisions included in the chain of title documentation. And because of the

potential financial windfall of exploiting NFTs, we have also seen an increased demand to revisit the old chain of title documentation for a determination of who owns what rights (studios want to confirm that they have control over their exploitation, and rights holders want to confirm that they have been reserved from the relinquished rights.) A leading example of why this has become a hot topic is the recent lawsuit between Miramax and Quentin Tarantino regarding the NFT rights to Tarantino's screenplay for "Pulp Fiction."

However, the concept is still in its infancy, and the press is eager to spot early adopters' mishaps. Seth Green was planning to develop and produce a show based on a "Bored Ape Yacht Club" NFT that he had bought, in line with the usage rights he had acquired along with the NFT. Unfortunately, those plans have been shelved for now, as Green fell victim to a phishing scam in which a hacker gained access to the NFT and sold it to a third party.

### Metaverse early adoptees

It is clear that the utilization of the metaverse will continue to grow in the coming years, and as it does, studios and streaming platforms need to be prepared to compete for subscribers and for the attention of their target audiences, which is why we have seen some big players beginning to dedicate significant resources to the space and how to leverage it. In particular, ViacomCBS (now Paramount) has made a pointed move toward embracing all things metaverse, creating a "futurist-in-residence" role for executive Ted Schilowitz, and toying with the idea of using and reimagining their vast, valuable IP universes in the VR and AR spaces.



Elsewhere in the metaverse, feature-length content is starting to flirt with the new worlds we are seeing unfold. The Sundance Film Festival has been an early adopter of the metaverse, seeking to showcase films that push the limits of traditional cinema. For example, “We Met in Virtual Reality” was a documentary film shot entirely within the social platform VRChat – featuring real characters and real stories, being played out in an already-developed corner of the metaverse – and that received widespread critical acclaim during its premiere at Sundance 2022.

In the end, we think the metaverse will be embraced by the film and TV community (and not replaced by it), providing studios and production companies an opportunity to engage their audiences in an unprecedented manner (e.g., enhanced viewing experiences, interactive content, and virtual worlds built around a foundation piece of audiovisual content that fans can visit and engage with for marketing purposes).

## Legal implications

The film and TV industry is, for the most part, still in the idea stage of adopting web3. The potential is there, and one need only look at the other media sectors covered in this guide to see the sheer variety of opportunities that the metaverse presents to all creative work, including the audiovisual space.

Crucially for film and TV, new methods of exploiting existing IP presents an opportunity for additional revenue sources, and that optionality will continue to be a topic of negotiation in rights deals. The potential interactivity with viewers also creates an exciting – but legally complex – prospect.

As ever, new formats will create new tensions between rightsholders and licensees. The *Content exploitation* section of this guide unpacks the myriad legal issues facing exploitation of audiovisual content in the metaverse in more detail.

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