

GDPR in a  
Metaversal post-  
digital World:  
The Law of  
Everything or the  
Law of Nothing?

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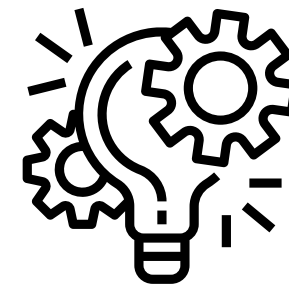


# The Metaversal post-digital world



## Economic relevance

Virtual worlds economy : 12 trillion by 2030 (EU Commission, 2023)



## Definition & technology

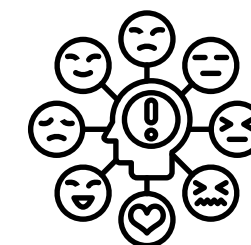
*“The expected fourth generation of the World Wide Web. Using advanced artificial and ambient intelligence, the internet of things, trusted blockchain transactions, virtual worlds and XR capabilities, digital and real objects and environments are fully integrated and communicate with each other, enabling truly intuitive, immersive experiences, seamlessly blending the physical and digital worlds” (EU Commission, 2023)*



“Always-on recording system” (Calo, 2016)

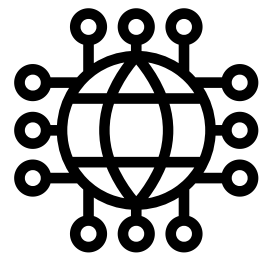


Quantity of data

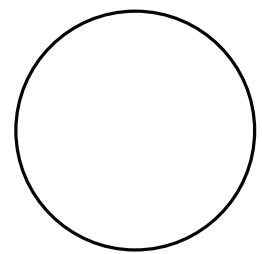


Type of data  
(commodification of emotions)

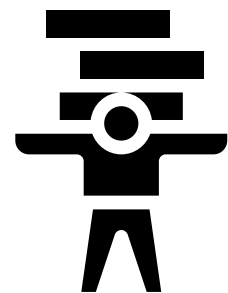
# GDPR as the “Law of Everything”?



Everything is digital, everything is data



Application of the GDPR

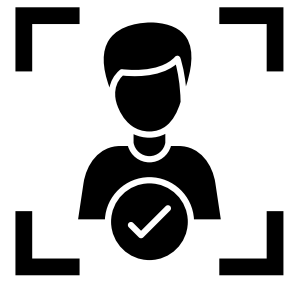


System overload for controllers (and processors) (**Purtova, 2018**)



Control by data subjects, a “fantasy” (**Renieris, 2023**), an “illusion” (**Hartzog, 2018**)

# GDPR as the “Law of Nothing”?



“an identified or identifiable natural person”



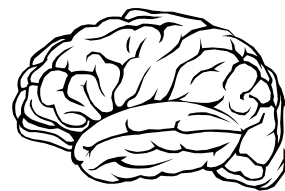
Unclear (**Purtova, 2022**)

Identification by name ? (**C-582/14 - Breyer**)

Knowing the identity (**T-557/20 - SRB v EDPS**)



**Schreurs & al, 2008**

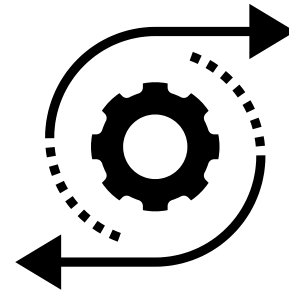


Emotion & mental data

Non-personal data if no identification (**Häuselmann, 2021**)

Not as such sensitive (**Häuselmann, 2021; Ienca & Malgieri, 2022**)

# Potential solutions



Change locus of regulation



Uses, harms and risks (**Solove, forthcoming**)



Information-induced harms (**Purtova, 2018**)



High risk inferences (**Wachter & Mittelstadt, 2019**)



More, enhanced, rights

Right to cognitive liberty (**Farahany, 2023**)

Broad human rights (**Renieris, 2023**)

Right to reasonable inferences (**Wachter Mittelstadt, 2019**)

**ATTENTION**

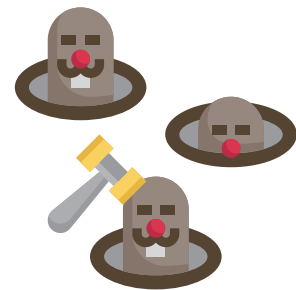
Flaws in the individual control model (**Solow-Niederman, 2022**)

Individualistic approach to a collective/relational issue (**Solow-Niederman, 2022**)

# Concluding thoughts



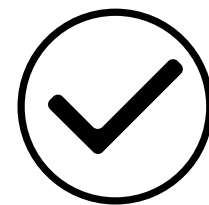
Prohibitions (commodify feelings & emotions for commercial and non-medical purposes)



Whack-a-mole (**Solow-Niederman, 2022**)



Clarification of “identification” criterion by ECJ



Rethinking consent

