

VIRTUAL WORLDS AND THE 3D WEB: AUSTRALIAN POLICY DEBATES IN SECOND LIFE

MANDY SALOMON

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Senior Researcher
Smart Services CRC/Swinburne University

Abstract

Research indicators point to a 3D Web encompassing online virtual worlds in which users form communities, do business and create and sell virtual products. The current number of participants in such environments is estimated in the tens of millions. This new web environment brings with it an array of complex policy issues in the area of digital rights management, taxation, civil codes and real world jurisdiction.

This paper addresses such issues in respect to Second Life, an open social on-line world with a user base consistently growing at one million per month.

In Second Life, users access in-world tools which they use to create virtual goods, construct environments, stream multi-media events and innovate new services. Content creation extends to the adaptation and improvement of the platform itself. Underscoring these features is an IP arrangement where Second Life residents own their work and have the right to exploit and monetise them in both the real and virtual world. As a result, a thriving market economy has emerged, sparking new social and business contracts.

Along with its positive attributes, Second Life has hosted an array of uncivil practices, including unauthorised use of content, hacking, cyber-stalking and harassment and 'age-play' involving virtual paedophilia. The anonymity afforded by avatars raises concerns about a range of illicit practices including money laundering, theft and black market enterprises.

Real world institutions in industry, media, education and government show great interest in Second Life and increasingly are establishing a presence there. Big name corporations include IBM, ING, Sony and AOL. In 2007, Australia's ABC and Telstra joined them. All are keen to explore and experiment with the new platform, but the grey areas surrounding regularity frameworks, accountability and misappropriation may well stymie progress.

The paper offers a preliminary investigation into the extent to which uncivil and unregulated practices threaten the sustainability and growth and of what is widely described as the next generation of the Web.

1. Where Second Life sits in the spectrum of virtual worlds.

Speak to computer boffins of the early 80's and they will tell you about the early generation MUD's, MUCK's and MOO's, text based role playing games such as Dungeons and Dragons in which multiple users were able to connect via the Internet to a shared database and interact with each other in synchronous time. The technology evolved to MMOGS, massively multiplayer online games; these included first person shooters and car rallying and since the

late 90's, MMORPG's, Massively Multiplayer Online Role-Playing Games such as Ultima Online, and World of Warcraft.

The latest incarnation are known as MUVE's - multi-user virtual environments, so named because they are not games, but worlds which users inhabit. Thanks to greater computer processing power, sophisticated graphics cards and broadband, virtual worlds have immersive 3D properties, with avatars - on line personas - interacting with other users in a shared space and in real time. MUVE's are open ended social worlds and are not informed by an overarching gaming narrative. Nor are experiences prescriptive. Within the parameters of each world, users decide on the nature of their engagement.

A quick survey of the virtual world landscape indicates that MUVE's are a significant development in the way people wish to use the Internet. Whilst the graphics capability, functionality and in-world activities vary, all virtual worlds share two key features: community participation and the acquisition of virtual items which help define users' online identity. The Metaverse Roadmap, a blueprint for how virtual worlds might evolve, estimates the global market for asset trading, object creation, and services rendered in virtual worlds is estimated to range from \$700 million to \$2 billion per year. Much of these earnings are undocumented and untaxed and may be bought and sold in a secondary, unregulated market¹.

But while the goods are virtual, the communities are real. Users invariably remark on the deep engagement they experience with one another in such shared spaces. Not surprisingly, Irving Wladawsky-Berger, IBM's recently retired Chief Strategist of Innovation, believes that "meeting and learning and training may very well be the killer apps of the virtual world".²

Virtual world platforms are mushrooming and enormous growth is underway with hundreds of millions now inhabiting such spaces. Many developers are targeting users aged in their mid teens or younger, banking on an early engagement in digital role playing and virtual social networks continuing on into adulthood. *Club Penguin*, aimed at the under 14 age group was acquired in August, 2007 by Disney for \$700,000US. Launched less than 2 years ago in October of 2005, *Club Penguin* has not only become profitable but expects to make \$35 million in profit off revenues of \$65 million in 2007³. Hitwise reports that usage grew by an astounding 329%, from June '06 to June '07.⁴

Gaia Online, designed for the teens market started as a bulletin board system in 2003. Overtime, 2D anima-style graphical layering was introduced, with Gaia evolving into a virtual hangout where users can participate in blogs and forums, play games, watch industry or user-generated videos and spend recreational time with their friends. July '07 figures indicate 6.6 million users, 2.5 million unique users per month and 1 billion (and counting) total posts. Users average one hour on line per day. Virtual goods are given away as a reward for the amount of hours spent in Gaia.⁵ Users can then go to its e-Bay style auction site to trade. CEO Chris Sherman reports that 50,000 such auctions for virtual items take place per day.⁶

¹ <http://metaverseroadmap.org/>

² Wladawsky-Berger, I. (2007) 'How Real is the Virtual Web?' Berger Always -On Stanford Innovation Summit, (Webcast) 1st August <http://alwayson.goingon.com/page/display/15568>

³ <http://www.crunchbase.com/company/clubpenguin>

⁴ The Alpha Marketeer (blog) 6 August 2007

http://www.thealphamarketer.com/2007/08/club_penguin_has_grown_329_fro.html

⁵ Always On Magazine, Summer 2007, Always on Network, CA 35

⁶ Sherman C, (2007) 'Why Virtual Goods Matter: What's Driving User Adoption?' Virtual Goods Summit Webcast , Stanford University June 22, 2007 <http://www.vgsummit.com/videos.php#matter>

Habbo, emanating from Finland, has almost 80 million registered users and 7 million unique users per month across 18 countries. Aimed at 13 to 18 year olds, *Habbo Hotel* offers monitored rooms and filtered chat. Although registration is free, users can make purchases by sending an SMS message to their phone carrier. The cost is added to their phone bill.⁷ The Coles Myer retail chain Target, now sells the gold coins required for in-world purchases. *Habbo* recently acquired the most popular social networking site in Northern Europe, IRC-Galleria, and plans to incorporate it into *Habbo Home*, a complete miniverse, accessible on mobile phones⁸.

But whilst the number of *Habbo* and others constituents soar, it is Second Life which has captured the imagination of technology and media commentators. Sceptics put this down to an aggressive public relations campaign which translated into explosive growth throughout 2006. In the year August 2006 – 2007, Second Life's registered users grew from 300,000 to almost 9 million⁹. But the hundreds of blogs, forums and digital and print media column inches devoted to Second Life went beyond mere hype. Analysts were responding - and continue to respond - to Second Life's unique attributes which make it not just a 3D environment for users, but a complex social system embracing property, finance, trade, education, governance and civil codes. Moreover, more than any other virtual world currently on offer, Second Life best reflects the liberal democratic values prized by the developed real world; values which informed the development of the Web itself and which have been built into Second Life by the company which created it, Linden Lab. Self-regulation, an open system, giving users the tools to create, ownership of creations, and the means with which to conduct trade and make a profit are hallmarks of this virtual society.

When Philip Rosedale and his team started up Linden Lab in San Francisco 1999, his vision was to create a metaverse, in the spirit of the world described by Neal Stevenson, in his 1992 novel 'Snow Crash'. Stephenson's 'Metaverse' is interpreted by Rosedale as an "immersive world which simulates an alternate universe, which thousands of people inhabit simultaneously for communication, play, and work, at various levels and variations of role-playing with their avatars"¹⁰. By the time the platform went beta in 2003, Linden had determined that the only way such a world could grow was if it was an open environment in which users were given both the tools to create and owned the rights to anything they created. Instead of taking the IP, Linden's revenue would be raised through virtual land sales (land equates servers) and users' monthly maintenance fees. It was then a matter of structuring an economic system by which such users could buy and sell each other's goods and services. This is done through a floating in-world currency known as the Linden. (\$275L equates \$1US). Residents trade in and out of the world using PayPal or credit card, with moves afoot to have in-world ATM's linked to real world bank accounts¹¹. Linden sees its role as being that of a service provider, not a publisher as the owners of massively multiplayer online role playing games (MMORPGS) such as *Entropia Universe* tag themselves.

⁷ <http://www.crunchbase.com/company/habbohotel>

⁸ http://www.sulake.com/habbo/brand_vision

⁹ http://s3.amazonaws.com/static-secondlife-com/economy/stats_200707.xls

¹⁰ Van Winkle, William (2006) 'Q & A with Philip Rosedale' Computer Power User magazine. February Vol.6 Issue 2

¹¹ Mind Ark's 'Entropia Universe' introduced such a system in May 2006. <http://www.marketwire.com/mw/release.do?id=686615&sourceType=1> Mind ark claims 'The Entropia Universe is a direct continuation of Project Entropia, which had a 2005 turnover of 1.6 Billion PED (160M\$).' http://www.project-entropia.com/index_var

According to Linden, Second Life now represents 712.60 square kilometres of land, about five times the size of San Francisco. About 10 percent of its registered users are considered to be active participants.¹² In a rundown of SL's key statistics in March 2007, Linden's Vice President, Platform & Technology Development Joe Miller estimated there were over 35 terabytes of user-created content, many more events than can be tracked in a day, 520,000 unique items sold or traded per month and 15 million concurrent scripts running at any given time.¹³ Around 1.3 million US dollars are spent over a 24 hour period.

The average age of users is also distinctive. At 33, they are somewhat older than participants of other 3D platforms. The male to female split is 57:43 with male to female use roughly even in terms of hours of use.¹⁴ In the early days of Second Life, nearly all users came from the US. Today 60% of Second Life's active user base comes from outside North America with the EU alone exceeding the US in numbers. The number of Australians actively involved in Second Life as of June 2007 are around 13,000, meaning that Australia has moved from 11th to 10th place in the world with 2.61% of the active SL population¹⁵.

2. Governance, self-regulation and community in Second Life

In its early iterations, Linden attempted to police the world, acting on resident-filed abuse reports. Linden's Director of Community Affairs, Daniel Huebner, has admitted that the original four page book of community standards was 'unenforceable'.¹⁶ None-the-less, miscreants could have their subscription suspended or annulled. Troublesome residents could be detained in 'The Cornfield', a dark, surreal paddock of high planted maize, where the excommunicated avatar would be consigned to riding a tractor around and around. But post 2004, when Linden got serious about the business side of the platform, such unconventional tactics were supplanted by a more rigorous attempt to construct public policy. Second Life's 'Terms of Service', sought users' agreement to licensing and indemnification regulations along with six 'Rules Of Conduct' pertaining to intolerance, assault, harassment, disclosure, indecency and disturbing the peace.

In the period July 06 – 07, when Second Life was much hyped and growing at 20% per month, Linden Lab stipulated its wish to absolve itself of the role of policeman and overseer of civil codes in favour of resident self regulation. Linden recognised that with Second Life's growing internationalism it did not wish to impose a "California-centric set of rules on the virtual world". CEO Rosedale anticipated the rise of mini-nations and saw the need to implement policies that would "facilitate residents banding together and creating their own civic centres around their unique ideals and ambitions".¹⁷

¹² Economic Statistics as of July 30, 2007 http://secondlife.com/whatis/economy_stats.php

¹³ <http://www.3pointd.com/20070328/platforms-and-technologies-panel-at-vw07/#more-1414>
According to Virtual Worlds marketing strategists Kzero, There.com has 46 Percent female users.
<http://www.kzero.co.uk/blog/?p=961#more-961>

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<http://www.kzero.co.uk/blog/?p=961#more-961>

¹⁵ <http://blog.secondlife.com/2007/07/10/june-2007-metrics-published/>

¹⁶ <http://slcreativity.org/blog/?p=32> (video)

¹⁷ Town Hall Meeting, Nov 16, 2006
<http://blog.secondlife.com/2006/11/16/todays-town-hall-with-philip-now-available/#more-519>
Civic Centre, see http://secondlife.com/newsletter/2006_12/html/civiccenter.html
Terms of Service, see <http://secondlife.com/corporate/tos.php>;
<http://blog.secondlife.com/2006/11/16/todays-town-hall-with-philip-now-available/#more-519>

Emphasizing the shift, he spoke of “low-level rules to make Second Life stable, not high-level governance”. The best way to foster communication and expression, he asserted, was “to put power into the hands of the people by giving (them) better tools for local control”.¹⁸ This, he argued, would be feature driven, with groups given the ability to fine tune the rights and responsibilities of their members. Users could establish ban lists, make their land parcels invisible, estate owners could assign a covenant to their land that explains the rules they wished visitors and residents to abide by.

In short, Linden wanted its users to set their own values, rules and goals, and indeed, many Lifers are deeply engaged in the wider debate as to how their virtual world runs. For example, Second Life identity Prokofy Neva campaigned against what she termed the ‘feted inner core’, a favoured group who because of their scripting expertise or financial investment were, she claimed, given special privileges¹⁹. Another voice of dissent, The Second Life Liberation Army (SLLA), is dedicated to the self determination of avatars in Second Life (‘one resident, one vote’). It has staged a number of high profile attacks to draw attention to its cause, including infiltrating the Second Life coverage of the 2006 Davos World Economic Forum.²⁰ Numerous public posts and forums are held for residents with real time feedback from ‘Lindens’, (as Linden Labs 200 employees are known in-world).

But as Second Life has gained gravitas, particularly in light of attracting real world business and institutional interest, Linden is responding to calls for greater responsibility in regard to its laws and codes of conduct. New iterations of the Terms of Service included the 2007 decree that “the basic tenet of Second Life (is) that all Residents are legally responsible for their own activities and for complying with the laws of the local jurisdiction in which they reside”.²¹

Copyright was sorely challenged by the October 2006 ‘copybot’ saga in which a group of programmers reverse engineered avatars’ code, allowing them to be endlessly replicated. Protection is covered by the real world Digital Millennium Copyright Act (DMCA).²² But whilst this may serve as a deterrent, it is unlikely that small-scale operators dealing in micro-payments for their virtual creations, would gain much traction by invoking the Act. Linden Lab’s promise for higher levels of protection by building in ‘first use metadata’ is a more compelling solution.²³

Further top-down regulation came in May 2007, when sexual activity that plays with age and identity, so-called ‘age play’ was banned. This followed action taken by German authorities to use real world laws against virtual paedophilia.²⁴ In Second Life’s Community Affairs blog, Daniel Huebner stated,

¹⁸ <http://blog.secondlife.com/2006/11/16/todays-town-hall-with-philip-now-available/#more-519>

for more Second Life Governance directives, see:

http://secondlife.com/newsletter/2006_12/html/civiccenter.html and Terms of Service Terms of Service

<http://secondlife.com/corporate/tos.php>; From Town Hall meeting Nov 16th 2006-11-18

¹⁹ [http://en.wikipedia.org/wiki/Resident_\(Second_Life\)](http://en.wikipedia.org/wiki/Resident_(Second_Life))

²⁰ Au W J ‘You and What Army?’ (2007) New World Notes. 28 February (blog)

http://nwn.blogs.com/nwn/2007/02/you_and_what_ar.html

²¹ <http://blog.secondlife.com/2007/07/25/wagering-in-second-life-new-policy/>

²² <http://secondlife.com/corporate/dmca.php>

²³ <http://blog.secondlife.com/2006/11/13/copyrights-and-content-creation-in-second-life/>

²⁴ Johnson C ‘Brave New World or virtual paedophile paradise?’ The Age, May 10 2007

<http://www.theage.com.au/news/technology/can-an-avatar-commit-a-crime/2007/05/09/1178390390098.html>

*Real-life images, avatar portrayals, and other depiction of sexual or lewd acts involving or appearing to involve children or minors; real-life images, avatar portrayals, and other depictions of sexual violence including rape; real-life images, avatar portrayals, and other depictions of extreme or graphic violence, and other broadly offensive content are never allowed or tolerated within Second Life.*²⁵

Residents reacted to the term ‘broadly offensive’, re-badging Linden’s initiatives as ‘policies of intolerance’. ‘We don’t need to bring "Salem Witch Trials" to the internet’ wrote Alexandra Rucker of the SL action group United Protest ‘What is the age consent of a weasel?’ asked another.²⁶

In July 2007, Linden Lab intervened in residential activities yet again. This time unregulated gambling activity was the target. Some observers claim that along with sex, this is the most prolific activity in Second Life. Reuters’ Second Life bureau reported that the U.S. Federal Bureau of Investigation had visited in-world casinos at the request of Linden Lab to assess the legality of Second Life gambling.²⁷ Subsequently, a blanket ban was put into place, aligning Second Life with US regulators.

Dozens of Second Life casinos which had been operating in legally ambiguous circumstances were estimated to be pulling in millions of Linden dollars per month or more, although the extent of the profits are not verifiable. Lucrative secondary businesses servicing the needs of the gambling industry in the form of slot machines, roulette wheels and poker tables were also affected. As news of the prohibition reverberated around the Grid, residents worried about cash withdrawals, falling real estate prices and business closures.

*‘The gambling ban may signal the start of some economic effects’, wrote Jessica Holyoke of the Second Life Herald. Gamblers won’t be spending on machines and bringing money in through the Lindex (SL’s currency exchange). Their winnings won’t be redistributed through out the economy. Casino owners won’t be paying tier (land management fees) and bringing money out. The land the casinos are on will go up for sale, possibly depressing land prices - which may touch the community at large.*²⁸

Residents speculated about “what’s next”. Some users argued that tying up real world money in a virtual platform is a gamble in itself, when would Linden address that? Underlining the importance of user confidence, particularly in terms of the virtual world’s economy, one blogger wrote *‘If there’s any question in your mind about the business you’re in, and whether LL will even “think” about re-writing the terms of service to get rid of any aspect of it, right now might be the time to start thinking about it, yourself. They may announce, tomorrow, that you must comply, or you’re gone’.*²⁹

Ten days later, on August 9th, Second Life’s biggest private bank Ginko closed down. Some analysts doubted Ginko’s fluidity regardless, suggesting it was a Ponzi scheme. Ginko, however, blamed the crisis squarely on a surge of withdrawals linked to the ban on gambling

²⁵ <http://blog.secondlife.com/2007/05/31/keeping-second-life-safe-together/>

²⁶ Massiel M 2007 ‘Robin Linden’s Broadly Offensive Behavior Office Hour’ (blog) 6 June. Second Life Herald http://www.secondlifeherald.com/slh/2007/06/robin_lindens_b.html

²⁷ <http://secondlife.reuters.com/stories/2007/07/26/linden-lab-outlaws-second-life-gambling/>

²⁸ Holyoke J (2007) ‘If it’s Gambling - It’s Gone Resident Reaction to LL Gambling Ban’

<http://www.secondlifeherald.com/slh/2007/07/if-its-gambling.html>

²⁹ <http://webfeedcentral.com/2007/07/28/im-quitting-second-life-heres-why/> (Blog)

“which evolved into a full blown panic.”³⁰ On August 14th, the Linden Dollar was running at \$L269/US Dollar, a drop of 6 cents from its usually stable rate and overnight trading was down some \$US400,000 from the previous week.³¹

Policy-on-the-run may be an inevitable outcome of a rapidly developing metaverse – in Linden’s favour, users’ predilections are hard to predict and response *should* be agile. But policies which significantly change users’ expectations are bound to impact on their confidence in the platform. Official metrics released by Linden Lab in August support this, with premium accounts having dropped 6 %. Population density also fell, resulting in a reduction in September’s new land releases. With 22% of Second Life sessions ending “abnormally” in July, reliability is as much a hindrance to SL’s stickiness as policy shifts³². The sum of these elements support Clay Shirky and Gartner’s Steve Prentice observation, that SL’s growth cannot be sustained, and that we are seeing the inevitable end of the hype cycle.



³⁰ Reuters Second Life 2007 ‘Unable to pay depositors, Ginko ceases banking operations’ . (Blog) 9th Aug. <http://secondlife.reuters.com/stories/2007/08/09/unable-to-pay-depositors-ginko-ceases-banking-operations/>

³¹ ‘Premium Accounts decline in July’ 31 August 2007 <http://secondlife.reuters.com>

³² <http://secondlife.reuters.com/stories/2007/08/31/premium-accounts-decline-in-july/>

3. Issues for Australian organisations and individuals wishing to explore Second Life

Australia's entry into virtual worlds relies on high broadband speed and access. The Second Life platform will simply not work with dial-up. Users also need powerful computers with state-of-the-art graphics capabilities, but these requirements are not unique.

Although a number of SL's early adopters came from Australia, notably in the tertiary education sector, engagement was initially slow. Interest accelerated in late 2006 with the launch of the Australian Film Radio and Television's (AFTRS) 'Esperance Island'. Then in the first quarter of 2007, two of Australia's biggest corporations, the ABC and Telstra launched their Second Life presences, cementing local participation with the platform.

There was a synergistic element at play. Gary Hayes a British digital media producer spear headed AFTRS' efforts through their Laboratory of Advanced Media Production (LAMP). Not only was Hayes driving AFTRS students into the space, encouraging them to see Second Life as a new place to experiment with narrative, role playing and animation of their film ideas, but he was increasing their skills base - as well as his own.

Hayes' skill-set established him as Australia's pre-eminent builder and he was pivotal in the realisation of Telstra Big Pond's 'The Pond' and 'ABC Island'. His other major commission, still in development, is the construction of Tourism Victoria and Multimedia Victoria's shared Second Life space 'The Laneway', so named because of Melbourne's affection for its lively inner city lanes.

Telstra's commitment to exploring the virtual space, spear headed by BigPond's General Manager of Innovation Jason Romney, has paid handsome dividends in terms of its innovation strategy. In August 2007, CEO Sol Tujillo described Telstra's foray into Second Life as not only enhancing 'BigPond's formidable customer value proposition', but also representing 'further steps in our integration strategy and our evolution into a media- comms company'.³³

In the rush to be grab part of the virtual action, many big name brands such as Dell, Cisco, Nissan, Sony and Toyota constructed impressive headquarters only to find their centres empty. Yet Telstra's eleven islands are amongst the most visited in Second Life and the ABC's numbers are not far behind.³⁴ Both sites feature sandboxes, public spaces where users can construct and build without the cost of having their own land. Lisa Romano from the ABC project has observed that users come to the sight because it is free of the commercial objectives of many other locations, and that users from all over the real world seem to appreciate this³⁵.

Telstra Big Pond have staff working 24 hours a day to assist and welcome visitors. It has welcome areas, boutiques and seasonal activities for avatars such as scuba diving and ski-ing. Users can congregate around a cracking bonfire, the Billabong Bar plays which features music from a juke box or attend dance parties. As an added incentive, BigPond subscribers are not metered for time spent in Second Life.

The ABC stages events allied to its networked programs such as the public construction of the 'Eco House', an idea which was linked to Radio National's 'By Design'. In August it hosted

³³ www.sloz.info/2007/08/11/the-pond-gets-brief-mention-in-telstra-financial-results/ (Blog)

³⁴ http://nwn.blogs.com/nwn/mixed_reality_headcount/index.html

³⁵ Interview with author, 25 July 2007

an in-world panel discussion for the dance film 'Thursday's Stories' which screened in its Sunday Arts TV slot. Along with Telstra, it has conducted public 'how to' sessions. Refreshingly, these take place in the early evening, where as many events emanating from the US happen very late at night or early hours of the morning. (Second Life time is modelled on Pacific Standard Time, local California Time).

Both corporations are committed to continuing their exploration of Second Life even though at any time, the platform can become unstable and disrupt planned events.³⁶ Griefing, the vandalising of Second Life property or events, is not uncommon, and when the ABC Island was suddenly reduced to unformed terrain in May 2007, the SL ABC community feared the worst. In fact the problem was not errant residents but a glitch with Linden's servers. The Island and all its infrastructure was reconfigured within 24 hours. Similarly, in July 07, the Australian Information Industry Association (AIIA) scheduled an in-world conference on business practice in virtual worlds. It never got off the ground when the Second Life client failed to open. The presumption was that this was a Second Life Issue, but it was later established that a power surge at San Francisco's PG&E power station caused a widespread blackout.

Whilst not strictly governance issue, these two examples demonstrate the instability of the virtual environment – and Linden assumes no responsibility for any loss of productivity in such circumstances. Clause 1.6 in Second Life's Terms of Service stipulates:

'Linden Lab reserves the right to interrupt the Service with or without prior notice for any reason or no reason. You agree that Linden Lab will not be liable for any interruption of the Service, delay or failure to perform'

Clause 5.4 stipulates

*'Linden Lab does not ensure continuous, error-free, secure or virus-free operation of the Service, the Linden Software or your Account, and you understand that you shall not be entitled to refunds for fees based on Linden Lab's failure to provide any of the foregoing'*³⁷

Therefore any individual or organisation venturing into Second Life bears the risk of loss of goods or services. This is particularly significant for Telstra, which recently subdivided some of its virtual holdings and parcels. The offer was snapped up by consumers who entered into rental agreements at a monthly cost of \$A10 to \$A80 depending on the size. In what is regarded as a first, virtual land sales were advertised in a real world publication, Sensis' *Trading Post*, a Telstra subsidiary. Users have the opportunity to develop businesses on their properties and can erect houses or offices, stream video and audio, in effect create media channels within their own land. A full list of conditions can be accessed in-world in the form of note cards, which can then be stored in the Avatar's inventory. Whilst these conditions are in line with Second Life's Term of Service, no loss or indemnity claim has yet arisen that challenges Telstra's role as a provider or intermediary. However as recreational use is replaced by hard core business interests, this may change. In the meantime, Telstra runs the following caveat on its Big Pond website:

³⁶ <http://my.bigpond.com/pond/secondlife/> ; <http://www.abc.net.au/services/secondlife/>

³⁷ <http://secondlife.com/corporate/tos.php>

*BigPond is hosting Second Life on an experimental basis. There'll be problems that we never even anticipated, and we may not be able to fix them straight away. It's a brave new world for us too. So please be patient, positive and optimistic - and enjoy yourself no matter what.*³⁸

Similarly, the ABC must be careful not to transgress its considerable charter. In its 2007 updated editorial policy, section 9.2 deals with 'Interactivity involving audience contributions'. Section 9.2.1 states '*While audience members are responsible for the contribution they submit to ABC Online, the ABC is responsible for what is published online.*'³⁹

On the virtual frontier, where civil codes are not prescribed, jurisdiction is not yet understood nor clearly enacted when anti-social or uncivil activities occur, the ABC must exercise extreme caution. According to Lisa Romano, project manager at ABC Innovation, this has curtailed the ABC's activities in Second Life.⁴⁰

4. Challenges in Virtual World Governance ahead: who will rule the metaverse?

Second Life's motto 'is your world, your imagination'.⁴¹ As noted scholar on social production, Yochai Benkler describes it, Linden Labs is the 'commercial provider' with the users "writing the story lines, rendering the set, and performing the entire play"⁴². The dilemma for Linden Lab, is how to allow its users to build and define the metaverse whilst complying with real world regulations.

The recent community standards issues highlight the question: who controls the metaverse, Linden or the inhabitants? As users become more acquainted with the idea of leaving the surface world in order to establish themselves in a virtual community, and as they assume greater ownership of their virtual domain, measured in property and identity, they may be less comfortable with idea of a God like presence pulling the strings, even if it is a relatively benign one; how would the billion internet users feel if Google dictated what we can and can't search?

CEO Rosedale denies he is the capital 'C' creator. He says the code is the god – yet asserts Linden's right to play with that, adding that there is 'a biblical or mythical analogy' in it all.⁴³ New York Law School's technology law specialist James Grimmelman prefers a more temporal interpretation. "Every decision made by designers of a virtual world is a political decision. Every debate over the rules and every change to the software is political. When players talk about the rules, they are practising politics."⁴⁴

As the platform evolves, so too does discontent over the inequity of control. In the battle 'users versus service provider', the End User License Agreement (EULA) is pivotal. Second

³⁸ <http://my.bigpond.com/pond/secondlife/moreabouts/default.jsp>

³⁹ <http://www.abc.net.au/corp/pubs/documents/edpol07.pdf>

⁴⁰ Salomon, M (2007) 'Interview with Lisa Romano' 12 August

⁴¹ <http://secondlife.com>

⁴² Benkler, Yochai (2006) *The Wealth of networks: how social production transforms markets and freedom* Yale Univ Press also under CC License at www.benkler.org/Benkler_Wealth_Of_Networks.pdf

⁴³ 'Second Life 3D Digital World Grows' 9th Oct 2006 USA Today

⁴⁴ http://www.usatoday.com/tech/gaming/2006-10-08-second-life_x.htm

⁴⁴ Grimmelman J (2006) in 'Virtual Power Politics' in *State of Play : Law Games and Virtual Worlds*, Balkin J M and Noveck B S (ed) New York Univ Press , 146

Life's EULA, which Virtual World's commentator Julian Dibbell terms "that egregious tool of corporate tyranny over the defenseless voiceless customer"⁴⁵ gives Linden Lab the power to repossess virtual goods if it contends that a user has not abided by its terms. This is being contested in the infamous Bragg Case (2006-7), in which Marc Bragg, a Pennsylvania attorney, is suing Linden. Bragg argues that the \$13,900 of real money he invested in virtual land, (from which he profited thus exposing a loophole in Lindens' real estate system), should have been returned to him⁴⁶. He also seeks reimbursal of legal fees in excess of \$100,000. The case, without doubt the first of many, tests not only the binding nature of the Agreement but also whether Linden's self-proclaimed Jeffersonian ideals are more than rhetoric.

Then there is the question of Linden selling up. Would residents feel more - or less - comfortable if Google or Microsoft bought out Linden; there has been much twittering that a sale is on the cards. Were it to happen, the religiosity in Google's 'do no evil' motto, would be put to the test. Microsoft's monopolistic practices would likely generate discontent from Second Life's considerable developer community – but would they have a say on such matters?

As other social worlds emerge, users will have the chance to jump ship, and go to a provider with whom they feel more aligned. Market forces would come into play, with Second Life needing to be responsive to its resident's wishes in order to keep them. Not to do so could mean mass migration and withdrawal of user's funds. This would diminish the confidence of existing users and the Second Life bubble could burst. Corey Ondrejka, Linden's Chief Technical Officer puts it, "A free market requires creators to have ownership and rights, thereby generating both wealth and capital in order to fuel growth"⁴⁷.

The really big question is to what degree real world jurisdiction can lay claim to a synthetic environment? Governments around the world are now scrutinizing the four-year-old site as a possible haven for tax-free commerce. The US Government is of the view that only monies traded out of the virtual environment can be taxed, however the Australian Tax office are of the view that in-world trading might constitute a taxable event.⁴⁸

There is concern that Second Life could easily enable the distribution of child-pornography and other illegal and uncivil activity. Searches of the SL website show there are three Jihadi terrorists registered and two elite Jihadist terrorist groups. Rohan Gunaratna, author of *Inside al-Qa'ida*, believes Second Life is an environment for rehearsing operations and spreading Jihadist philosophies⁴⁹.

In an effort to address hidden identities and activities, Linden is looking to increase the transparency of an avatar's real world identity and nationality. It will then be up to the user/avatar's country of origin to determine the rules and regulations pertaining to its metaverse citizens. Increasingly regulatory and legal matters will also be tied to specific

⁴⁵ Ibid, 4

⁴⁶ 'Bragg Vs Linden: discovery heats up'. August 31st 2007.

<http://virtuallyblind.com/2007/08/31/bragg-update-discovery/>

⁴⁷ Ondrejka C (2004) '*Escaping the Gilded cage: User created content and building the metaverse*'. available on line <http://www.nyls.edu/pdfs/v49n1p81-101.pdf>

⁴⁸ Joint Economic Committee. Press Release Oct 17th 2006 Congress of the United States.

Also, Miller, Nick 'Virtual World: Taxman Cometh' Sydney Morning Herald 30th Oct 2006

<http://www.smh.com.au/news/biztech/virtual-world-tax-man-cometh/2006/10/30/1162056925483.html>

⁴⁹ O'Brien, N 2007 'Virtual Terrorists' 31 July, The Australian

<http://www.theaustralian.news.com.au/story/0,25197,22161037-28737,00.html>

locations rather than to the entire grid. This way, Linden argues, cultural diversity and a range of moral and legal standards can be maintained⁵⁰.

In conclusion...

The enormity of these challenges put pay to the idea the idea that a private company can dictate terms of use. It may have worked up until now but looking ahead, Linden's approach is unsustainable. As the virtual world becomes more sophisticated, one virtual platform will mesh with another with avatars moving from one to another. Innovators in the 3D-web space talk about 'mixed' worlds and realities, where digitalised earth such as Google Earth and Microsoft's Virtual Earth will integrate with synthetic worlds. We may use our chosen virtual platform to control many aspect of our real world. IBM's *Deep Computing Visualization* initiative making head way here.⁵¹

Another complicating factor is Second life's path towards becoming a fully open platform. As that occurs, it will become nigh on impossible to keep people out of the system. Linden's mantra of 'local control' - a strategy where residents will isolate the people or events with which they are uncomfortable and in which Linden Lab will try not to regulate unless legally obliged to – may not work in the OS environment.

Significant infrastructure, in-world programs and strategies are being built by NGO's, educational institutions, businesses and services providers around the globe. An increasing number of residents run small businesses in Second Life and are making not insignificant profits. Too much now depends on Second Life's stability and structures for it to cave in due to uncivil or disruptive user behaviours. The reality is that the Second Life Grid is fast reaching a point at which, like the Internet itself, it must keep operating and Linden's 'all care no responsibility' caveat will ultimately not be good enough.

Working out who is accountable for what, is the challenge ahead. Legislators, educators, policy makers, technologists and the business sector need to collaborate now to address this.

⁵⁰ Second Life Community Conference (2007(Reuters Aug 25
<http://secondlife.reuters.com/stories/2007/08/25/exclusive-philip-rosedale-interview-from-slcc/>

⁵¹ <http://www-03.ibm.com/servers/deepcomputing/visualization/downloads/dcvflyer.pdf>