

# Predictions 2022

DLA PIPER IPT TEAM - ITALY



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## Stay Hungry. Stay Foolish (cit. Steve Jobs)

Our Italian DLA Piper 2021 Intellectual Property and Technology predictions was titled “Back to the Future.” Businesses were hoping to have overcome the pandemic and that we would have returned to how it was before COVID-19. They knew they needed to change their business model in a world whose digital transformation had been accelerated by the COVID-19 outbreak, but the actual path towards success was still a puzzle.

Unfortunately, the pandemic is still far from over, and the previous uncertainty has been maturing towards acknowledging the new normal. Customers, employees and businesses habits and operations have been evolving, and there is no way back to where we were in 2019/20.

Only 16% of the respondents to our survey kept their offering as it was before the pandemic. Businesses are investing in digital transformation, AI and machine learning that will allow them to better manage the remote relationship with customers, who have quickly become more digitally educated. The investment will also help drive efficiency of employees, who are now less likely to have to commute and want to achieve a better work/life balance.

Identifying the appropriate balance between a remote and a personal relationship will be a game-changer, as 36% of our respondents emphasized that the pace of technological development might be a threat to their business.

People are tired of long video calls, but at the same time no longer accept queuing for hours and giving up their personal interests. It seems to be the perfect time to stay hungry, as great opportunities are likely to be out there, but to also stay foolish, to quote Steve Jobs, since finding the right blend to drive success has never been so hard to spot. If we think, for instance, of the rise of cryptocurrency and NFT-related projects in the last few months, that would have sounded impossible only a few years ago.

The recovery fund will be of great support to lead the change. More than half of our respondents expect the investments behind the recovery fund to lead to an improvement of their business, even if the actual timing of these improvements is still blurred. But, according to almost three-quarters of our respondents, changes to the regulatory framework are needed to fully exploit these opportunities, which risk being tangled in pieces of legislation that are not up to speed with innovation.

Governments are trying to waive boundaries to the growth of businesses, but it is a process that might take time. Identifying the right balance between innovation and compliance will be crucial in 2022 in an environment where a business will have to deal with the new EU rules on consumer protection that will affect their operations, audiovisual media services, unfair practices in the agri-food sector and cookies, to name a few. Besides, the timing of the EU regulation of AI and its obligations will also be another open question that might make businesses take a long-term approach considering its provisions in developing new products.

Some 33% of the respondents consider potential cyber-attacks a major threat to their business. In the last year, large corporations and public entities have suffered ransomware attacks that paralyzed their businesses, leading to major effects on their operations that were frozen for weeks and challenges from regulators for breach of data protection laws and customers whose data had been harvested.

A famous quote from John Chambers, the former CEO of Cisco, is, “There are two types of companies: those that have been hacked, and those who don’t know they have been hacked.” Businesses still believe that the most efficient solution to protect from cyber-attacks is to invest in security measures, but most attacks are due to instances of human error, which have increased with the remote working due to the pandemic. On the contrary, businesses struggle to see the value of cybersecurity compliance, which is exponentially relevant in an environment when cybersecurity is more and more regulated.

It is an exciting and simultaneously concerning time for businesses. I hope you find the predictions from the Italian DLA Piper Intellectual Property and Technology Department interesting, and I leave you with a quote from Albert Einstein that reflects our team’s approach to business. “Everyone knew it was impossible until a fool who didn’t know came along and did it.”

**Giulio Coraggio**



# Technology

BY FILIPPO GRONDONA AND ARIANNA ANGILLETTA

Despite the challenges that 2020 and 2021 brought, now governments, organizations, businesses, and people are all looking forward to making 2022 the year of recovery. Such widespread confidence in the future has been propped up by the forward-looking agenda of many governments and institutions which saw the post-pandemic recovery as a once-in-a-lifetime opportunity to transform their economy and design a new environment that will enable businesses to boost recovery and flourish in the years to come. The EU has approved the most extensive stimulus package ever financed in Europe with a total of EUR2.018 trillion aimed at securing the resources for its political priorities, like digitalization and the green deal. As part of the EU program, the Italian government recently presented a bold recovery plan (National Recovery and Resilience Plan (PNRR)) allocating more than EUR40 billion for the country's digitization and innovation to be reached by massive investments in 4.0 transition, high-tech, very-high-capacity networks and satellite technologies. It comes as no surprise that everyone wants a piece of this cake, and technology companies are no exception.

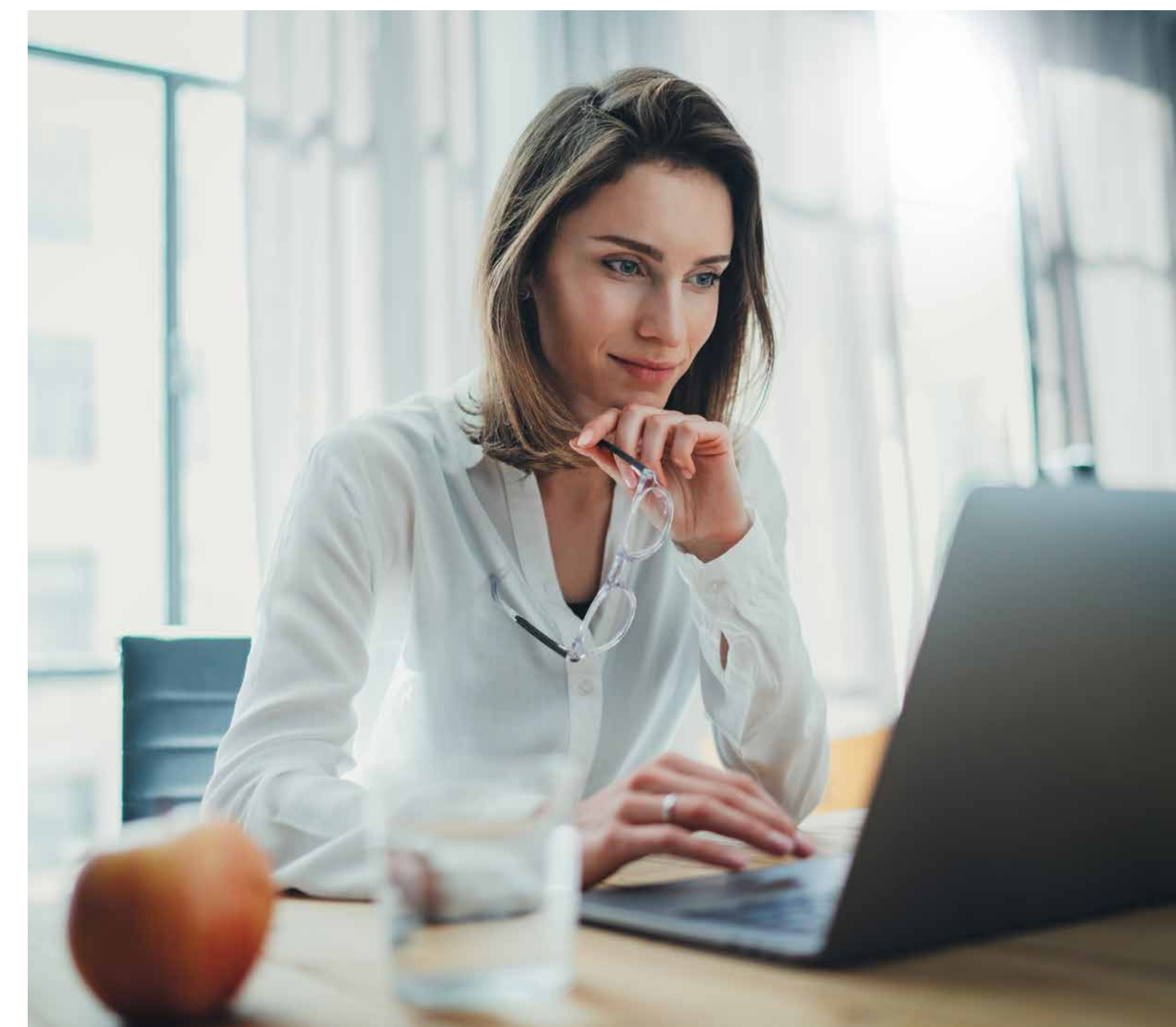
Although the technology sector has proven to be one of the most resilient to the pandemic, achieving more extensive revenue growth and small losses compared to others, our survey results showed that for tech companies 2021 will bring with it the imperative to generate more business value, with 66.67% of the participants expecting the PNRR to lead to a quick increase in their revenues. This expectation perfectly matches the shift in the tech companies' business strategy, which will no longer be focused on the development of digital products and services to manage remote relationships – a burning need in 2020 due to the pandemic – but will mostly pivot around

AI and Machine Learning (ML) technologies, given the huge spike in demand observed by almost half of the IT companies that took part in our survey (41.67%). It goes without saying that AI and ML will be, and likely remain for the years to come, the most significant tech trends in 2022, as confirmed by roughly 60% of the companies surveyed (58.33%).

In a recent report, Accenture revealed that security breaches have increased by a staggering 67% in the last five years. Cyberattacks have become increasingly complex and harder to resolve, increasing the costs of cybercrime for companies by an average of 72% in the same time span. Unsurprisingly, most of the IT companies surveyed identified cyberattacks as the major threat to their business in the next few years, as networks of connected devices become more and more complex and potential point-of-failure attackers might exploit inevitably increase. But every cloud has a silver lining, and IT companies also showed a rising interest in the information security market that Gartner forecasted to reach USD170.4 billion worldwide in 2022. In particular, tech companies will focus their efforts on boosting cybersecurity, developing new AI technologies that will help protect them and their customers from cyberattacks. Accordingly, most of the IT companies that responded to our survey stated that the areas of business that will be affected most by technology and digital transformation in 2022 will be product development and interactions with their customers, with 50% and 41.67% of the vote respectively.

Even though historically tech companies have always looked suspiciously at governments and regulators' interventions, advocating instead for a more deregulated environment, our survey showed a

change of direction. More than half of the IT companies surveyed believe that regulatory interventions will be necessary to benefit from the PNRR initiatives (58.33%). National and international authorities are seizing the opportunity by putting forward an increasing number of proposals aimed at regulating new IT technologies that will likely see the light in the incoming years; for example, the National Strategy for AI 2022-2024 adopted by the Italian government, which is a positive step toward the country's digital transformation.





The COVID-19 pandemic has brought forward unexpected economic and social changes. The media, sports and entertainment has been one of the most affected sectors. Due to the shut-down of in-person activities, consumers have swiftly migrated towards digital services and, to cope with such rapid changes, companies have decided to focus their long-term investments on digital transformation and new product developments. While a return to normal is called for, new digital consumer behaviors are expected to remain and become part of the new reality.

Two-thirds of the respondents do not expect the media, sports and entertainment sector to be affected by the recovery fund/National Recovery and Resilience Plan (PNRR). In any case, it can be predicted that the sector will bounce back and recover swiftly from the unprecedented events occurred during the COVID-19 pandemic. For example, while the publishing sector has seen a marginal rise in print sales, a striking increase in digital sales and audiobook listening has been registered over the past year.

However, it should be noted that while most of the media consumption has moved online and downloaded and streamed content has increased drastically, most internet service providers have registered a drastic increase in data usage. Such change will be further aided by the introduction of 5G technology, which in any case will require the deployment of updated infrastructure.

We are living in an interconnected world and the world around us is expected to become a part of our media experiences and content channels, enhancing entertainment in almost unimaginable ways and extending the boundaries of the physical world. And this is probably the reason why 50% of the respondents state that their companies are investing in digital transformation products and services to manage remote relationships with customers. It has become increasingly important to understand consumer behavior patterns, while implementing strategies to improve customer engagement.

Even though live sport has returned, sports broadcasters are expected to be more creative with their content. Over the past year, live streaming events have increased in popularity and content will become more interactive, with player interviews, more access for cameras in places like dressing rooms, and simulated crowds. Likewise, major players in the movie industry are rethinking their approach to content distribution: over the past year, brand new movies, including some blockbusters and household names, have been released exclusively on streaming platforms or simultaneously on streaming services and in cinemas.

Platforms make easier to create and distribute content without the need for intermediaries, and unfair compensation for content creators has increased. On this issue, a more than welcomed improvement could be brought forward by the implementation in Italy and throughout Europe of the new Copyright Directive.



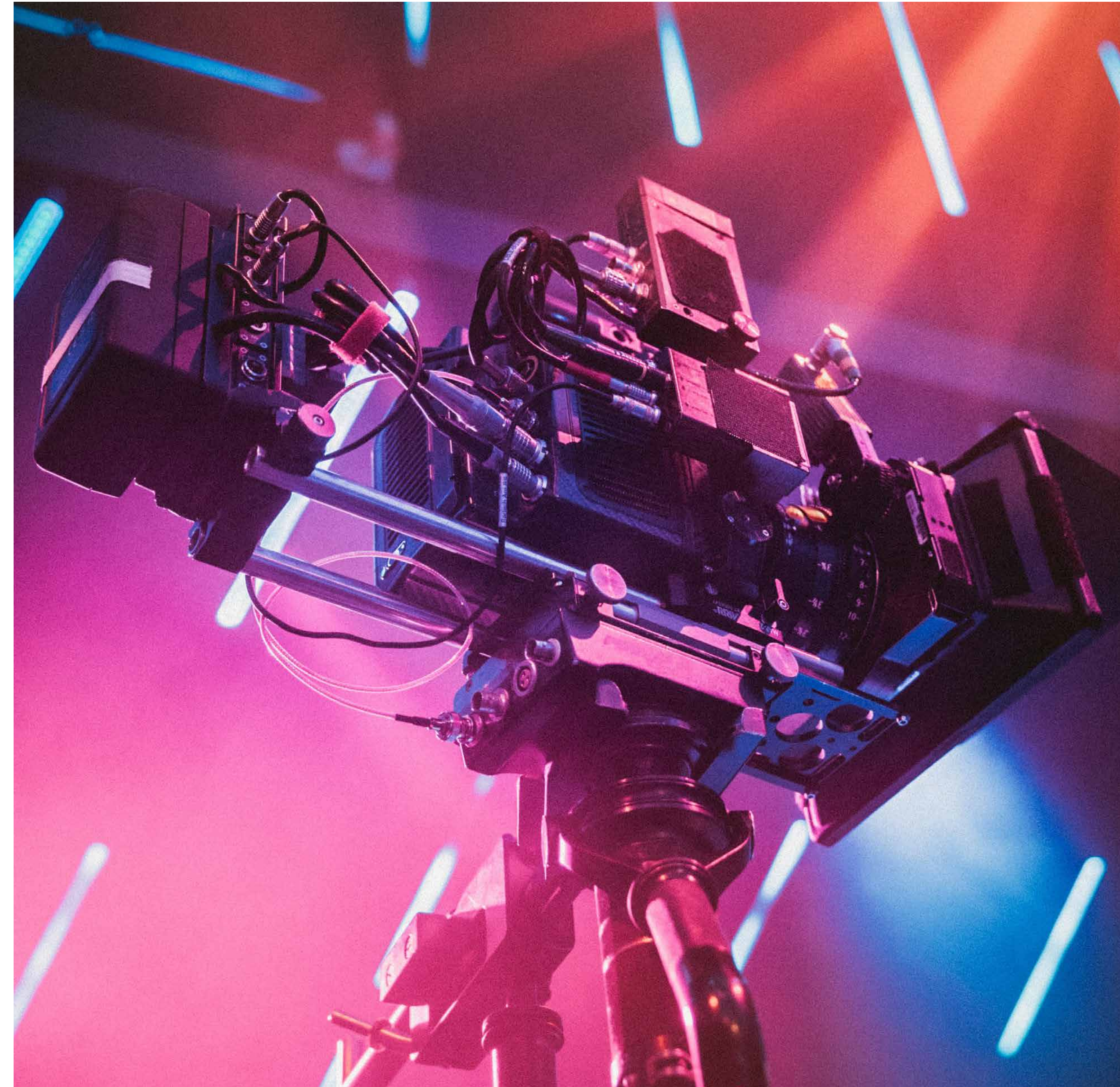


The areas that will be most affected by technology and digital transformation are new product development (75% of respondents) and interactions with customers (25% of respondents).

Blockchain technology is gaining a lot of attention and growing in popularity in various sectors. And the sports and entertainment industry is no different. Non-fungible tokens (NFTs), which are a new sort of blockchain-based digital asset, have boosted incomes in a wide range of sports. For rights-holders – including leagues and individual athletes, as well as clubs – incremental revenues can be generated through a cut of any future sales of the same digital asset, as well as the original sale. NFT formats allow athletes to come up with a wide range of NFT concepts, including player cards, avatars, video clips or photographs of key moments, game tickets, autographs, and even virtual land assets.

Besides that, the return of in-person events will mean customers once again being able to visit theaters and out-of-home entertainment in all its forms (movies, concerts, theater, sports, theme parks, location-based and experiential entertainment). In this regard, it is worth mentioning that the media industry has a long history of relying on mass channels of value creation for consumers since it used to be mainly focused on mass advertising instead of fundamentally connecting and targeting people. However, as the coevolution of entertainment and technology continues, it will likely demand new strategies and agile approaches for companies and creators: as the entertainment industry has become driven by technological possibilities, media has come into the hands of consumers. This landscape has redefined the media industry and this can be seen by the fact that content delivery is no longer linear but consists of simultaneously shared opinions and comments which are taken into consideration by both companies and creators.

As a final point, a trend to look at is definitely virtual reality, which is expected to be one of the fastest growing areas in the next few years.





# Gaming

BY VINCENZO GIUFFRÈ AND GIORGIA CARNERI

Like in other European countries, the COVID-19 pandemic has had a significant negative impact on the Italian economy. To tackle the economic downturn triggered by the ongoing pandemic crisis, the EU has laid down an investment program of unprecedented scope and ambition, which entails considerable funding and reforms aimed at achieving, overall, greater economic growth. However, despite the huge foreseen investments, according to 55.56% of respondents, the National Recovery and Resilience Plan (PNRR) is expected not to lead to a change to revenues in the gaming sector, similarly to the media, sports and entertainment sectors. Conversely, an opposite trend is expected to affect the technology sector: in fact, 66.67% of respondents said that Recovery Fund/PNRR will quickly lead to an increase in their revenues.

This should come as no surprise since the gaming, media, sports and entertainment sectors are unlikely to fall within the scope of the investments that come directly from the recovery fund/PNRR, while technology is one of the key points of the PNRR. As a matter of fact, the PNRR's pillars are represented by, among others, digitalization, innovation and competitiveness.

On another note, in line with the 2021 gaming sector predictions, the vast majority (66.67%) of respondents are still waiting for a legislator's input. It can be argued that, to support the gaming sector and allow it to at least benefit indirectly from the recovery

fund/PNRR, the legislator should intervene in regulatory aspects of the sector. However, the dilemma is whether such regulatory interventions will add further restrictions and requirements to an already cumbersome and complex legal framework or will remove some of the existing obstacles that limit the relevant operators.

Nevertheless, regardless of possible funding deriving, directly or indirectly, from recovery fund/PNRR initiatives, developments in the gaming sector cannot disregard a regulatory intervention of the Italian legislator, hoping that this will grant more confidence to investors.

It is well known that the swift development of new technologies has had and will continue to have a significant impact on society and a wide range of business sectors, including the gaming market. Indeed, according to 44.44% of respondents, new product development will be the business area most affected by technology and digital transformation. This is, as a matter of fact, a consolidated trend since the interplay and synergies between gaming and technology have become stronger in the past few years: higher resolutions, enhanced player interaction, better fields of view, and more realistic virtual characters are only a few of the impressive results of new technologies applied to gaming that represent a steady trend over recent years.





Anyhow, one of the hot topics and key innovations of the 2020s is undoubtedly AI and the extensive range of implications and applications it can have. According to 55.56% of respondents, AI and machine learning will be the main hype in the gaming sector in the next 12 months, followed by cybersecurity.

However, the other side of the coin is that technological development may also be a source of potential threats and adverse side effects, with respect to both individuals and business operators. Cyberattacks are becoming a growing source of concern for many: according to 33.33% of respondents, cyberattacks are seen as the major potential threat for 2022. And 11.11% of respondents see the pace of technological development as the major potential threat.

The most confident prediction that we can make for 2022 is that gaming as a whole will be indirectly affected by the push to digitalization and innovation set forth by recovery fund/PNRR initiatives: it is the operators, publishers, and event organizers' chance to take advantage of one of the greatest state-funded investments to maximize the technological developments in the sector, to become more competitive and more successful in the long term.





# Finance and Insurance

BY GIACOMO LUSARDI, TOMMASO RICCI AND ENILA ELEZI

Although 2021 has been a challenging year for financial institutions and insurance companies, they recovered faster than expected and eventually performed well, along with the global economy bounce back. At least for the time being, this recovery appears to be more due to the financial institutions' and insurance companies' resilience and ability to navigate new waters than the funding initiatives put in place so far at the European and national levels.

In this respect, most respondents to our survey believe that the recovery fund and the National Recovery and Resilience Plan (PNRR) will increase their firms' revenues in the near future (61.54%). Half of them said that such an increase will be quick and the other half that it will take several years to see any benefit. It is also worth noting that according to 38.46% of the respondents, the recovery fund and PNRR will not change their revenues.

In line with the past year's trends, we predict that in 2022 financial institutions and insurance companies will continue to invest in end-to-end technology to accelerate their digital transformation strategy and be prepared to face their clients' ever-evolving demands. Managing remote relationships with clients has become more than essential in the pandemic world, as confirmed by 61.54% of respondents.

This end-to-end digital acceleration strategy will be mainly pursued by enhancing digital tools and touchpoints with customers, such as electronic signatures, KYC checks, remote identification and contracting, and a wide range of apps and solutions to improve

customer experience. Companies in the financial services and insurance sector will need to carefully consider the legal implications of adopting such technologies, including the impact of the New Deal for Consumers legislative package that will update and modernize European consumer law.

None of the respondents said they would be keeping the same offering as before the COVID-19 outbreak, and a smaller percentage of respondents think that AI and machine learning products will be the focus of their digital transformation strategy, especially in terms of risk management and improvement of business processes (23.08%).

In line with our previous predictions, which identified AI as the main trend for 2021, in the past year, banks and insurance companies have multiplied their investments in AI solutions to match the increasing remote service demand, introducing payment matching, consumption predictions, credit scoring, and churn prevention systems.

Building on the solid pandemic-boosted momentum towards business processes digitization in the financial and insurance sectors, we expect that 2022 will see a consolidation of the fintech and insurtech markets. Consequently, 2022 will see an even greater proliferation of cyber-physical systems, and AI investments in fraud and cyber-threat detection solutions are expected to increase. Unsurprisingly more than 46% of respondents are concerned cybersecurity will be the major trend for the next 12 months, and 30.77% believe cyberattacks will be the major threat for the financial and insurance sectors.





According to the latest Threat Landscape Report published by ENISA, the finance sector is a frequent target of cyber-criminals and faces a consistent number of incidents throughout the year. With the upcoming rules on cybersecurity incidents reporting and wireless devices security requirements (including mobile payment equipment), we expect companies to strengthen their cyber-related risk exposure mapping and organizational measures: interestingly, last year saw a spike in non-malicious incidents, as the COVID-19 pandemic became a multiplier for human errors and system misconfigurations, with most of the 2020 breaches being caused by human error.

We expect 2022 to be a bumper year for technology investments in the finance and insurance sector. Several incumbents will continue leveraging long-term strategic partnerships with tech providers to expand their offerings and refresh their internal processes. It comes as no surprise that according to many respondents (46.15%), new product development will be the business area most affected by technology and digital transformation, which marks a telling 27.15% increase compared to last year.

Insurtech will be on the rise, with IoT being increasingly adopted as a new model in the assessment, management, and transfer of risk to benefit both insurance companies and customers. Open innovation and the ever-growing use of data will also likely be among the key drivers of the digital transformation plans of most financial institutions and insurance companies next year.

December 31, 2021, is the deadline for financial institutions to bring their legacy outsourcing arrangements in compliance with the EBA Guidelines on Outsourcing Arrangements. However, due to the significant number of contracts to be re-negotiated, suppliers' push back, and other reasons, certain institutions may not be able to meet the deadline. It will be critical to liaise with the supervisory authorities and implement a remediation plan to be tackled in the first months of 2022.

As for insurance companies, the deadline to bring their legacy outsourcing agreements in line with the EIOPA Guidelines on Outsourcing to Cloud Service Providers is December 31, 2022. Companies should adopt a structured process to manage all the contracts that must be made compliant and re-negotiated in 2022. Especially for larger groups, this activity will be time-consuming and involve a large number of business units.

It is interesting to note that 46.15% of respondents believe legislative intervention is necessary to support the financial and insurance sector to benefit from the recovery fund and PNRR initiatives. The fact that most respondents call for legislative action is not surprising: there are still many legislative gaps, and there is significant uncertainty about the legislative means to be used for the finance and insurance sector.

For instance, if we consider the phenomenon of cryptocurrencies, the regulatory gap leads to taxation issues since there are no regulatory instruments to tax profits obtained thanks to cryptocurrencies. To at least slightly cover this void, the Italian tax authorities assimilate cryptocurrencies to foreign currencies, with the consequent extension of the taxation regime of the revenues generated with the spot sale of the latter also to cryptocurrencies. However, recently, the European Commission published the proposed Regulation on crypto-assets markets (the MiCA Regulation – Markets in Crypto-Assets), which will hopefully bring more clarity. Moreover, due to the COVID-19 emergency, the real estate sales sector also faced the necessity of dealing with new situations, for which there are not always ready-made legislative measures, especially regarding the possibility of remote mortgage lending.

Therefore, the demand for support through the legislative instrument is understandable and legislative actions are necessary for the future of the finance and insurance sector, given the increasing importance of new financial instruments for which there is still too much uncertainty.





# Life Sciences

BY CRISTINA CRISCUOLI AND NICOLA LANDOLFI

Our survey confirmed that digital transformation is playing a significant role in the clinical development of new treatments. According to the majority of respondents, life sciences companies are facing a high demand for AI and machine learning to control risks and become more efficient.

We anticipate that this will primarily lead to a progressive growth in the use of AI and machine learning in the design, conduct and analysis of clinical trials in the EU, for which the new EU Clinical Trials Regulation (536/2014) will provide a fertile, more “digitalized” context. The Regulation introduced a dedicated EU portal that will serve as a single point of entry for submitting clinical trial application and related data in the EU. Due to go live on January 31, 2022, the EU portal will provide user-friendly support to all trial actors throughout the clinical trial lifecycle, facilitating both the clinical trial application and authorization procedure and the assessment by national authorities. All data and information submitted through the EU portal will be stored in a newly established EU database and made accessible to the public, subject to limited exceptions.

These novelties may raise considerable concerns from a data protection standpoint. Consequently, all concerned actors may need to invest further resources in data protection compliance programs and cybersecurity, to properly address the risks arising from such a regulatory change. We also expect that the forthcoming

guidelines of the European Data Protection Board on the processing of personal data for scientific research purposes (which were due in 2021) may provide valuable recommendations to stakeholders operating in the life sciences sector.

Furthermore, as we anticipated in our predictions for 2021, the COVID-19 pandemic accelerated existing digital transformation efforts and pushed an overall increase in IT investments. It is worth mentioning that some digital solutions introduced to cope with the COVID-19 emergency – which were originally meant to be temporary measures – will probably become part of the standard clinical trial practice. These include, for example, conversion of on-site visits into phone or video visits, as well as conversion of on-site monitoring to remote monitoring by means of digital instruments. In this sense, over the last year we have observed an increasing use of digital platforms to manage clinical trials and we believe this trend will continue to grow.

Our survey also revealed that approximately two-thirds of respondents considered that new product development is the business area that will benefit the most from technology and digital transformation. This is in line with a key trend currently influencing the life sciences industry, represented by wearable medical devices monitoring users’ personal health. This also entails significant risks for the privacy of users.





It is not a surprise that most respondents (approximately two-thirds) believe that potential cyberattacks represent the major threat for their businesses in the next year, which may cause considerable financial losses and other disruptive consequences, including jeopardizing the development of scientific research as well as the provision of healthcare services by means of virtual care programs. Cybersecurity and data protection will play a key role in the whole e-health industry and should represent a top priority for any stakeholder investing in digitalization and AI.

On the other hand, more than 60% of respondents think that legislative measures or regulatory interventions to support the life sciences sector will be necessary to benefit from the recovery fund or the National Recovery and Resilience Plan (PNRR) initiatives.

In particular, many companies stressed the need for new regulatory instruments for supporting R&D in the pharmaceutical sector. In this respect, the Pharmaceutical Strategy for Europe – launched by the European Commission in November 2020 – may provide valuable solutions for industry players and reshape the EU regulatory framework governing medicines. The measures to be adopted in the next decade will introduce relevant changes affecting the whole lifecycle of medicines, significantly affecting all the actors of the pharmaceutical industry. The pillars of the Strategy will be the revision of the basic pharmaceutical acts, namely Directive 2001/83/EC and Regulation (EC) No 726/2004, as well as the creation of more tailored incentives to stimulate the development and commercialization of medicines addressing the specific needs of children and patients with rare diseases.





# Fashion and Retail

BY ELENA VARESE, VALENTINA MAZZA AND GIULIA GIALLETTI

Although it seems to be a common belief – according to the companies interviewed – that the recovery fund will not lead to any major change in the fashion industry, some effects might still indirectly occur.

The Recovery Fund promotes and encourages companies that make it easier for everyone to access innovative and sustainable technologies. As a result, the fashion industry considers it essential to innovate production systems and to respond to these new needs, which also come from consumers themselves. The industry is raising awareness towards not only sustainability problems, but also the ecological and ethical qualities of products. Therefore, fashion houses are increasingly engaged in using materials and manufacturing processes that respect the environment and local communities, and animal welfare and working conditions.

By the same token, it is very important to stress that when making environmental and sustainability claims, fashion companies should ensure they comply with the relevant provisions aimed at avoiding green marketing turning into greenwashing, by misleading consumers in relation to the characteristics of the product. In fact, in addition to the general provisions on misleading advertising, more precise indications with respect to green claims in Italy come from the Code of Marketing Communication (CAP) and from the last version of the EU Commission UCPD Guidelines, updated to address the issue.

Sustainability is totally reshaping the fashion industry, and this is further confirmed by the huge passion that consumers – and especially those of Gen Z – are showing for vintage and second-hand clothes and accessories. This circumstance led several maisons to launch their own projects linked to so-called circular fashion, collaborating with vintage shops to collect their past creations (upon adequate evaluation) for their customers and then offering them a voucher to be spent in the boutique of the brand. Such phenomenon is interesting in light of the principle of trademark exhaustion provided by article 5 of the Italian Intellectual Property Code, establishing that the proprietor of a trademark, once it has placed its goods on the market, cannot oppose their remarketing by third parties, since this would excessively restrict free competition in the market. In fact, in this way fashion companies are basically repurchasing their old products and encouraging customers to make new purchases.

Another issue is how the current market conditions can affect fashion business strategy. The majority of respondents, precisely 81.82%, believe that the new strategy to be adopted is to invest in digital transformation to offer customers innovative products and services to manage a remote relationship with them.





In this regard, the new trend seems to be promoting the relationship between fashion companies and videogame platforms, also through the creation of non-fungible tokens (NFTs). Indeed, the possibility for users to not only buy digital items in the fashion space but to also have unique pieces to be worn by their avatar in games adds a level of exclusivity that has always been key in the fashion culture.

NFTs might also be a powerful tool against piracy by helping brand owners in their anti-counterfeiting activities. In fact, besides the traceability of the item over its lifecycle provided by the blockchain technology per se, NFTs take the fight against counterfeits a step further by offering the possibility to embed an NFT in physical products to be scanned to confirm they are authentic.

Further, the results of our survey on what will be the main hype in the fashion field for the upcoming year appear to confirm the trend that has just been described. Indeed, half of respondents, exactly 50%, consider electronic signature, documents and remote contracting as the main topics fashion brands must invest in and concentrate on. According to 30% of respondents, the main hype is AI and machine learning. In particular, the impact of AI on the fashion industry posed new questions regarding, for example, who is the owner of AI fashion creations or how an IP infringement of AI fashion creations can be found. The rest of the contributors are divided into those who believe that cybersecurity will be the main topic (10%) and those who are betting on data monetization (10%).

When it comes to what seems to be the major threat for the fashion business, about 45% of respondents believe that the change in the model of business of consumers is the issue that will most affect the industry. Fashion companies are reinventing their websites and e-store channels to offer a new shopping experience to their customers. New virtual assistants and e-concierge services are expected, and chatbots will support customers and allow them to try on clothes – also from home – thanks to interactive fitting rooms which give feedback or recommendations on customers' outfits.

Furthermore, to overcome the problem, 54.55% of respondents think interactions with customers will be one of the aspects most affected by technology and digital transformation. A fundamental role is played by customers' data collected from companies' websites and e-stores, which allow fashion companies to profile customers, their interests and tastes to propose a tailored service. Against this background, the applicable data protection legislative framework should thus be considered, which includes the EU Regulation on the protection of personal data (GDPR) and the deriving national adequacy laws, as well as the requirements on the installation and further use of cookies issued by EU and national relevant authorities.

Fashion companies have to consider carefully which kind of data to collect through their digital platforms to comply with the relevant data protection principles and requirements. For instance, they should collect and process – for the time strictly necessary – only personal data required for the purposes of the processing pursuant to the minimization principle provided for in article 5 of the GDPR.





# Food and Beverages

BY ELENA VARESE, GIULIA ZAPPATERRA AND FEDERICO MARIA DI VIZIO

Among the questions asked through our survey, one of the most important concerned whether legislative measures or interventions in the Food and Beverages sector would be necessary to benefit from the new economic initiatives implemented by the government. The respondents provided various answers and, reflecting how different views concerning legislative interventions in the Food and Beverages sector have always characterized the field, no consensus on the matter has resulted from our analysis. As a matter of fact, 50% of the survey respondents considered the present legislative framework appropriate or that the environment should be interested by a deregulation process, while the other half expressed the need for the implementation of regulatory and financial measures. With reference to this need for legislative interventions in the sector, we anticipate that one, long-awaited, piece of legislation has finally come into force.

The legislative decree of implementation of the EU Directive 2019/633 focusing on unfair trading practices in business-to-business relationships in the agricultural and food supply chain could be a game changer for the sector. One of the purposes of the decree is to identify specific unfair practices that occur in the business relationships in the food supply chain sector, distinguishing between practices that are always prohibited and those that are presumed to be prohibited unless they have been previously agreed

upon by the supplier and purchaser in clear and unambiguous terms. It also establishes effective, proportionate, and dissuasive penalties in case of performance of such practices by companies and further depicts some “good commercial practices,” identified as the concrete implementation of the principles of transparency, good faith and fairness in trade relations between market operators. Furthermore, the legislator has designated the “Central Inspectorate for the protection of quality and fraud repression of agri-food products” (ICQRF) as the authority responsible for the supervision on the application of the provisions governing the relations in the sale of agricultural and food products and for the enforcement of the relevant penalties. These penalties can reach 5% of the turnover of the last financial year of the breaching entity. The decree, according to the relevant industry associations, is going to rebalance the power relationships between the parties in trade, ensuring a fairer position for farmers and producers, which means that it will be disruptive.

We expect companies operating in the food sector to amend their business model to comply with the newly introduced principles and conduct a careful analysis of their contractual templates, to avoid incurring the sanctions provided for by the Decree, eventually adopting the good commercial practices encouraged by the legislator.





In addition to the above, the Food and Beverages sector seems to particularly attentive to AI and machine learning as well as cybersecurity. This is mainly due to the fact that changes in this field are expected in the coming months. In fact, the AI world is going to be regulated by the EU Artificial Intelligence Regulation, whose first draft has already been published and discussed among different stakeholders. Although the path to approval is still long, there is no doubt that developments in AI regulation might affect all businesses, including those in the Food and Beverages sector.

The same approach is also to be followed with regard to cybersecurity: at EU level the European Commission presented a proposal for the review of the NIS Directive. The NIS Directive was originally adopted in 2016 and required essential facilities operators (ie companies operating in the energy, transport, banking, financial markets, health,

supply and distribution of drinking water, digital infrastructure sectors) and digital services providers (ie search engines, cloud services, and e-commerce platforms) to adopt technical and organizational measures to prevent IT incidents and, more generally, manage the risks related to cybersecurity. The applicability of the NIS Directive is going to be broadened and the NIS 2 Directive will also apply to food production and distribution, affecting the Food and Beverages sector, which will have to implement cybersecurity provisions.

Half of respondents (50%) recognize that a major threat for businesses is potential cyberattacks. So adoption of adequate cybersecurity mechanisms will not only be required by applicable laws but also by the need in the market. A minority of respondents also identified the change in business models and in requests from customers to renegotiate pricing of products and services as other potential threats.

Finally, respondents provided various answers with regard to the impact of technology and digital transformation. According to certain respondents, tech changes will affect internal organization, while for others the major consequences will in supply chain management, or in new product development or interaction with customers. Although there is no clear position on this point, all respondents seems to agree on one fact: technology changes are coming and this will no doubt affect the Food and Beverages sector.





# Our survey: companies’ forecasts

**Q1. How is recovery fund/PNRR going to affect your sector?**

ANSWER CHOICES	RESPONSES
We expect it quickly lead to an increase in our revenues	31%
We expect it will not lead ta a change in our revenues	48%
It might cause a slight decrease in our revenues	6%
Several years will be necessary to see any benefit for our revenues	15%

**Q2. How are the current market conditions going to affect your business strategy?**

ANSWER CHOICES	RESPONSES
We are investing in digital transformation and remote working products due to the new remote working environment	21%
We are investing in digital transformation products and services to manage a remote relationship with customers	43%
We are facing a high demand on artificial intelligence and machine learning products to control risk and become more efficient	20%
We are keeping the same offering as before the occurrence of the pandemic	16%

**Q3. What do you think will be the main hype in your sector during the next 12 months, also due to the recovery fund/PNRR?**

ANSWER CHOICES	RESPONSES
Artificial intelligence and machine learning	41%
Cybersecurity	31%
Electronic signature, documents and remote contracting of customers	20%
Data monetization	7%

**Q4. Which will the major threat for your business be?**

ANSWER CHOICES	RESPONSES
Potential cyberattacks	33%
Pace of the technological development	18%
Change in the model of business of customers	36%
Requests from customers to renegotiate the pricing of our products/services or reduce investments due to COVID-19	13%



**Q5. What areas of your business are you seeing that will be most impacted by technology and digital transformation?**

ANSWER CHOICES	RESPONSES
Internal organization	14%
Supply chain management	7%
New product development	41%
Interactions with your customers	38%

**Q6. Do you think legislative measures or interventions to support your sector will be necessary to benefit from the recovery fund/PNRR initiatives?**

ANSWER CHOICES	RESPONSES
Yes, in particular financial measures	19%
Yes, in particular regulatory intervention	46%
No, the present legislative framework is appropriate	20%
No, we instead would need a more deregulated environment	15%



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