

EU Initiative: Building Confidence in the Cloud with Standard Terms

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Experts tasked by the EU to help “unleash” the economic potential of cloud computing are now working on how to address common issues among cloud users and providers through model contract terms. In September 2012, the European Commission [identified cloud computing](#) as a way to create 2.5 million jobs and grow GDP by €160 billion (approximately \$217.4 billion). To reach that target, [the commission formed an expert group](#) in October 2013 to identify “safe and fair contract terms and conditions” in cloud computing agreements. The best practices aim to enhance trust and confidence in cloud computing as well as to help facilitate agreements.

Over the last year, [discussions have focused on several key topics](#), including precontractual information, data portability upon switching, liability for noncompliance with data protection obligations, data location and security, modifications of cloud contracts, availability of service, subcontracting, auditing and reporting, and data transfers.

For example, in an increasingly data-driven world, it is no surprise that service availability is a key issue in cloud agreements. Cloud service availability encompasses continuity, quality, and functionality of the service; incident management; monitoring; data access; and security, according to one expert. These availability components are difficult to properly address for a multitude of reasons, including public clouds’ dependence on third-party Internet service providers, the trouble of defining “availability,” the lack of consensus on remedies for nonavailability, and subcontracting. Experts have discussed several potential contractual answers to quell both cloud providers’ and users’ concerns related to cloud service availability.

With original estimates anticipating a spring 2014 announcement of the expert group’s recommendations, cloud users and providers alike eagerly anticipate the upcoming proposals.

Jessica Pelliciotta also contributed to this article.

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