

OpenForum Europe Response to the Public Consultation on Cloud Computing

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1. Introduction

OFE has been pleased to respond to the online questionnaire initiated by the Commission but feels that as an independent not-for-profit organisation the questions neither allow OFE and its members and partners to fully substantiate their views, nor give the opportunity to offer its consolidated advice. OFE has been able to join the various industry Working Groups established by the Commission and has been pleased to both contribute to and support the Consolidated Recommendations finalised by those Groups. OFE was also pleased to make a substantive response to the previous Consultation in February 2009 and this document remains active and can be reviewed [here](#).

However, OFE would like to make some additional specific input appropriate to its specialised focus and in doing so is able to provide more detail than would be possible in larger groupings where consensus has to be achieved over a very short time frame. We therefore hope that the short summary below will be considered by the Commission alongside both our online input and previous response.

2. Summary

While Cloud Computing has clearly gained greater attention over even the last 12 months even its critics who dismissed it as yet another marketing hype have been forced to change their position, and adopt a more inclusive strategy. Yet because of the huge market interest there are many dangers, both in its understanding, in planning for its implementation, and in potential response by legislators and market influencers. We believe the following key criteria should be considered by the Commission in determination of its initiatives.

- *Not a Single Entity* Cloud encompasses different services (software as a service, platform as a service, infrastructure as a service) and deployment models (public, private, hybrid, community). Furthermore the business models built on cloud technology offerings demonstrate ever-growing variety and nuances of application. Whilst there are common factors, there equally will be many different drivers and needs between, for example in the establishment of private facilities and those where public services are offered. *One size is unlikely to fit all.*
- *Evolution not Revolution* Cloud represents an evolution rather than a revolution in technology. We already have operational and regulatory experience with most cloud technologies, and the technology and the architecture in which it operates has been part of the computing landscape for decades. Driven by economics and availability, Cloud Computing is increasingly within the reach of businesses and individual customers, and the move to Cloud based systems will be happen in the same way as we saw central mainframes move to distributed systems, and as we now see personal computers move to mobile devices. *The needs for a transition strategy are very different from establishing a new market.*
- *Market Discontinuity* Cloud Computing while evolutionary in terms of technology is providing opportunities to change the way we do business in the digital economy. Possible market discontinuity may occur as new practices may pose challenges to current business practice. Some players will see it as an opportunity, others as a threat. There will also be an opportunity to reinsert bad commercial and technical practice, e.g. lock-in. *Any such attempts, potentially under the veil of protection, must be viewed with caution.*
- *A Global Market* It would be unrealistic to believe that Europe alone can drive this market opportunity – it is global by definition. What Europe can do is maximise the opportunity for its companies, particularly SMEs, and governments by both maximising the regulatory and business environment for its exploitation and supporting its growth for the benefit of the European economy.

- It can encourage new local SMEs and still both be a global influencer and active user.*
- *Cloud as a further step on the transition to services* The single market in digital services becomes an increasing issue for attracting investment in early stage offerings based in the EU. *A proactive agenda to build a true single market in digital services as well as a complementary research, innovation and availability of investment/financing is needed to foster the proper environment and capacity for global competition.*
 - *Services Driven from the User Perspective* As a services based set of models, the needs and expectations of the end user, especially individual end users, become priority, and the criteria and any government initiatives will need to credibly consider the user perspective. Browser based mobile access becomes the norm, and all the issues recognised in respect of the openness of the Internet are reinforced. *User confidence and trust, security and privacy are fundamental.*
 - *Interoperability and portability* In the same way as the Internet itself itself has been built from day 1 on the basis of 'openness' so must Cloud Computing. Interoperability is a fundamental challenge that can only be realised by full adoption of 'open standards' AND implementation of reasonable commercial practices including the ability of users to move freely between suppliers without undue restriction, either because of technical or commercial limitations.

3. Openness as a Basis

In line with OFE's special skills and focus we would like to endorse and add to some points made within the Working Group on Interoperability.

As declared above Openness is a result of both use of technical open standards for interoperability at all levels including data portability and between applications, AND commercial SLAs that do not unduly limit transfer of contract or impose any other unacceptable restrictions on user choice. But with a significant focus being on the continued openness and availability of service across chosen communications mediums (inc the Internet), then such solutions will inevitably be multi-supplier. They will also be cross border if not global. Such interoperability will only be achieved without significant user incremental investment and resource if Cloud solutions are built from day 1 with Openness as a primary driver. The market will be a decider in these areas but Government can be a forceful and positive influencer, both by its endorsement of best practice in public procurement, and by active encouragement and involvement in industry discussions and agreements.

We believe that openness can create the level playing fields that enable strong user participation without limiting innovation and product differentiation that help serve both niche markets and specific user needs.

The recommendations made in the ICT Standardisation Review give a positive lead and exemplar whereby not only support for fora and consortia is given, but active assessment of standards criteria will be undertaken. It is our view that within Cloud the market will deliver necessary standards through such fora/consortia rather than by SDOs and the Commission can take an active role in their determination and acceptance.

Full data portability will be an early test case of openness in action and whilst adoption of open document exchange formats will continue to be a critical aspect on its own it will not be enough. Lock-in through imposition of applications that limit transfer of or via unduly restrictive SLA conditions is a major threat. Loss of user confidence and trust because of the difficulty of transferring data between applications or suppliers is a major threat. We support the action recommended by the WG on Interoperability that the industry develops a roadmap on necessary steps and guidelines for ease of migration.

Currently there is an over abundance of organisations seeking to confirm Open Standards in the area of Cloud Computing. OFE believes this will rationalise over time but the Commission can and should take a role in encouraging such an evolutionary rationalisation as well as support to standards development. Europe should not seek to develop its own standards or impose the role of SDO's in their development.

Such standards do need to be genuinely Open and non competitive. We agree with the WG on

Interoperability's recommendation that they should 'endorse technology neutrality and promote competition'. We agree the need to avoid standards that 'could frustrate, rather than promote, on-going and emerging interoperability efforts of the industry at large and among the vendors providing cloud services'. We believe that the government does have a role to play in promoting interoperable standards. The industry has a chequered record of mutually agreeing open standards when it might disrupt current business – the document format standards is one such example. The net result has been lock-in to proprietary solutions from a single vendor, to the detriment of the end user. This situation typically results from the dominance of one supplier, able to dictate market practice. In Cloud such standards will include new and old, so rules do need to be set, both in the definition of an acceptable open standard but also in their implementation. The public sector has a prominent role to promote the desired effect through its procurement strategy and practice, and we believe that within public procurement the mandating of required standards can be highly effective.

4. Impact on Public Procurement

European Public Sector is currently perceived as trailing in the use of Cloud Computing despite the potential benefits associated with freedom of choice, improved mobility, and rapid development of solutions. Equally there appears to be no central initiative to encourage best practice working across Member States.

Public procurement has the potential to play an important, if not leading, role in fostering enhanced trust and broader adoption of cloud services.

The EU Institutions should constructively support the international standards community to create interoperable solutions and shared best practices, in order to assure EU requirements are met whilst limiting fragmentation.

There are a number of steps that we would suggest the Commission considers;

- That the EU Institutions consider a 'cloud first' procurement model, akin to that adopted in the US Government's Office of Management and Budget's plan. Not only will this appear to have operational efficiency benefits but it would give the opportunity to develop a best practice procurement framework that could lead to practical advice and guidance given across Member States. It would also provide the basis for resolution of known issues relating to establishing standards, supporting relevant applications, and validating user confidence.
- That the EC further develops the Framework model, established by the EIF, to further define and advise on best practice procurement models. This would be a services led model, covering specific issues such as data and application portability, applicable open standards for interoperability, privacy and security, as well as contract negotiation.
- Using such a cloud first' initiative to review current procurement practice in order to open up the process to smaller entrants, making it faster and cheaper.

5. Recommendations for the Commission

- The Commission should adopt the US Agency NIST definition of Cloud Computing, which is now in widespread use globally.
- The Commission should seek to maximise the economic benefit to Europe from Cloud Computing by:
 - Recognising that the market will primarily be driven by the market, user and supplier, rather than by external (i.e. government intervention).
 - Take primary role in ensuring that use of existing legislation is maximised, rather than assume new legislation is required. We would identify the following areas are included in those that need to be 'cloud ready'
 - Consumer related issues (customer lock-in both technical and legal, data access and ownership, identity, data protection and privacy, transfer of supplier)

- Mechanisms need to be developed to evaluate how existing sectoral regulatory requirements can be met by cloud solutions
- Cloud represents multifaceted services and delivery mechanisms that encompass a variety of types and sensitivity of data as well as a variety of technical sophistication and capacity among both users and providers. This complex environment does not lend itself to any one regulatory, evaluation or certification scheme.
- Competition law
- Public procurement law/practice
- Adoption of current ICT Standardisation review actions
- Establish a proactive agenda to enforce a single market for digital services, particularly in the following areas
 - Data protection
 - Data retention
 - Consumer law harmonisation/country of origin
 - Communications law (clarifying scope, country of origin issues and use of existing interoperability)
 - Open access for the Internet
 - Pan European interoperability through adoption of open standards
- Establish a proactive education programme for SMEs and early stage investors
- Maximise use of public sector procurement funding to kick start cloud based offerings, both at member state and at European level
- That the EU Institutions consider a 'cloud first' procurement model
- Focus relevant research funding in support of early stage investment and in early stage adoption and market testing, rather than core technology.

Notes:

OpenForum Europe (OFE) is a not-for-profit member organisation based in both Brussels and the UK, established to support an 'open' and competitive IT market in Europe. OFE is supported by some of the most influential ICT companies including Deloitte, Google, IBM, Oracle, and Red Hat, but also particularly works in strong partnership with a long list of both national and European partners.

OpenForum Europe acknowledges all the input received from its members and partners in the compilation of this document. However, OpenForum Europe does not seek to represent any specific community nor present their opinions as being unanimously supported by their full membership. References given are fully attributed and every effort made to ensure they have been taken in true context.

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