

Response to the UK Ministry of Justice's Call for Evidence on the European Commission's Data Protection Proposals

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This response is made by Christopher Millard, Ian Walden, W Kuan Hon and Alan Cunningham of the Cloud Legal Project¹ (<http://cloudlegalproject.org>), Centre for Commercial Law Studies, Queen Mary, University of London.² We are working on a project relating to a technology and service industry - cloud computing - upon which data protection laws have a considerable impact and this response is based on that research. We do not address how the draft proposals might affect Queen Mary, University of London as an institution nor ourselves as individuals who make use of cloud computing in both a professional and personal capacity. In addition, we do not consider how the draft proposals affect any *specific* body of users or providers as such. Rather, in our response to the Call for Evidence we have chosen to make our comments specific to the effect of the Data Protection proposals as they relate to cloud computing from the perspectives of both cloud computing service providers and cloud computing users.

The European Commission has stated that the proposed Data Protection Regulation has been developed as a response to the 'new challenges for the protection of personal data' brought about by 'rapid technological developments.'³ As the explanatory memorandum of the Regulation makes clear, 'technology allows both private companies and public authorities to make use of personal data on an unprecedented scale in order to pursue their activities. Individuals increasingly make personal information available publicly and globally. Technology has transformed both the economy and social life.'⁴

Cloud computing is a key component of this transformation. It has been cited as a justification and catalyst for the updating of data protection laws.⁵ What is cloud computing, however? The definition generally used by the CLP is as follows:

- Cloud computing provides flexible, location-independent access to computing resources that are quickly and seamlessly allocated or released in relation to demand.

¹ The Cloud Legal Project (CLP) team is comprised of: Prof. Christopher Millard, Prof. Chris Reed, Prof. Ian Walden, Dr. Julia Hörnle, Dr. Alan Cunningham, W Kuan Hon and Simon Bradshaw. We are researchers investigating legal issues in cloud computing. We also use cloud computing (mainly SaaS e.g. webmail, Office 365, Google Apps, Facebook, LinkedIn etc.) in the course of our work and personal lives.

² We would like to acknowledge that the Cloud Legal Project was made possible as a result of generous funding from the Microsoft Corporation. These views, however, are the independent views of the research team.

³ Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Brussels, 25.1.2012 COM(2012) 11 final, page 1.

⁴ *Ibid.*

⁵ 'The challenge is to take our fundamental rights to privacy and the protection of personal data and make them work in the digital era. So that we remove obstacles – and indeed give a boost – to a competitive and effective cloud market', Neelie Kroes, EU Data protection reform and Cloud Computing, Microsoft Executive Briefing Centre Brussels, 30 January 2012.

- Services (especially infrastructure) are abstracted and typically virtualized, generally being allocated from a pool shared as a fungible resource with other customers.
- Charging, where present, is commonly on an access basis, often in proportion to the resources used.

Cloud computing services are often classified under three main service models⁶ – Infrastructure as a Service ('IaaS') (the provision of computing resources such as processing power and/or data storage), Platform as a Service ('PaaS') (the provision of tools for the development and deployment of custom applications, for example certain mobile applications), or Software as a Service ('SaaS') (the provision of an end user application, such as webmail or online word processing).

In our research to date, the CLP has explored:

- the terms of service under which Cloud services are offered in standard contracts.⁷
- determining data protection jurisdiction in the context of cloud computing.⁸
- the scope of 'personal data' in the context of cloud computing.⁹
- the nature of cloud service in the context of data protection laws.¹⁰
- the question of international data transfers in the cloud in the context of data protection laws.¹¹
- information ownership in the context of the cloud.¹²
- competition law issues in cloud computing.¹³
- law enforcement access to data in cloud environments.¹⁴

⁶ Peter Mell and Tim Grance, 'The NIST Definition of Cloud Computing version 15' (US National Institute of Standards and Technology 2009).

⁷ Bradshaw, Simon, Millard, Christopher and Walden, Ian, Contracts for Clouds: Comparison and Analysis of the Terms and Conditions of Cloud Computing Services. Queen Mary School of Law Legal Studies Research Paper No. 63/2010. Available at SSRN: <http://ssrn.com/abstract=1662374> or <http://dx.doi.org/10.2139/ssrn.1662374>. This particular research involved undertaking a survey of the standard contractual terms and conditions of 31 US and European cloud providers. We are currently undertaking research on negotiated cloud contracts via surveys and interviews with cloud providers and customers as well as via requests for information made under the Freedom of Information Act.)

⁸ Hon, W. Kuan, Hörnle, Julia and Millard, Christopher, Data Protection Jurisdiction and Cloud Computing – When are Cloud Users and Providers Subject to EU Data Protection Law? The Cloud of Unknowing, Part 3 (February 9, 2012). Queen Mary School of Law Legal Studies Research Paper No. 84/2011. Available at SSRN: <http://ssrn.com/abstract=1924240> or <http://dx.doi.org/10.2139/ssrn.1924240>

⁹ Hon, W. Kuan, Millard, Christopher and Walden, Ian, The Problem of 'Personal Data' in Cloud Computing - What Information is Regulated? The Cloud of Unknowing, Part 1 (March 10, 2011). Queen Mary School of Law Legal Studies Research Paper No. 75/2011. Available at SSRN: <http://ssrn.com/abstract=1783577> or <http://dx.doi.org/10.2139/ssrn.1783577>

¹⁰ Hon, W. Kuan, Millard, Christopher and Walden, Ian, Who is Responsible for 'Personal Data' in Cloud Computing? The Cloud of Unknowing, Part 2 (March 21, 2011). Queen Mary School of Law Legal Studies Research Paper No. 77/2011. Available at SSRN: <http://ssrn.com/abstract=1794130>

¹¹ Hon, W. Kuan and Millard, Christopher, Data Export in Cloud Computing – How Can Personal Data Be Transferred Outside the EEA? The Cloud of Unknowing, Part 4 (October 28, 2011). Queen Mary School of Law Legal Studies Research Paper No. 85/2011. Available at SSRN: <http://ssrn.com/abstract=1925066> or <http://dx.doi.org/10.2139/ssrn.1925066>

¹² Reed, Chris, Information 'Ownership' in the Cloud (March 2, 2010). Queen Mary School of Law Legal Studies Research Paper No. 45/2010. Available at SSRN: <http://ssrn.com/abstract=1562461>

¹³ Walden, Ian and Luciano, Laise Da Correggio, Ensuring Competition in the Clouds: The Role of Competition Law? (April 7, 2011). Available at SSRN: <http://ssrn.com/abstract=1840547>

Data protection laws have a considerable impact on cloud computing, both from the perspective of the provider of a cloud computing service (especially regarding liabilities, responsibilities and obligations) and from the perspective of the user of a cloud, whether a private individual, a large multinational corporation, a small to medium business or a public authority.

Our general conclusions regarding the impact of the *current* data protection regime on cloud computing have been the following:

1. The scope of ‘personal data’.

Regarding the scope of “personal data” in the cloud, the factors determining the applicability of data protection law should be; first, the realistic likelihood of identification of data utilized in cloud services and; secondly, the realistic risk of harm and the likely extent of harm in the case of identification. Under the existing Directive, data protection laws only apply to ‘personal data’. Information which is not, or which ceases to be, ‘personal data’, may be processed, in the cloud or otherwise, free of EU data protection law requirements. A difficulty is that the current definition of personal data¹⁵ ensures that much data used in the cloud will be considered ‘personal data’, irrespective of the availability of secure encryption methods, the practical likelihood of identification or the risk and likely extent of harm. This is an unnecessary regulatory burden and we believe the tests of likelihood of identification/risk and likely extent of harm better reflect the technological and logistical reality of cloud business/technology models and cloud use.

2. The nature of cloud services.

The allocation of data protection responsibilities and liabilities amongst cloud participants should take into account the fact that an either data ‘processor’/or data ‘controller’ model is not representative of the reality of cloud logistics. Many infrastructure cloud computing providers may not even be processors: rather they may merely provide the facilities and/or tools for use by the actual controller/cloud user. Cloud providers may have little or no knowledge of, or control over, such use. Under this perspective the cloud service provider is more in line with a passive intermediary, and their responsibilities and obligations under data protection law should reflect this.

3. The determination of jurisdictional matters.

In our view, the jurisdictional rules in the current Data Protection Directive are not compatible with the reality of how cloud services are often provided through ‘layers’, for example where a non-EEA cloud customer or service provider happens to use an EEA cloud provider or a data center situated in the EEA. Requiring cloud computing service providers and cloud users to become subject to the current Data Protection rules on the basis that the EEA cloud provider or EEA data center may be ‘an establishment’ of theirs

¹⁴ Walden, Ian, Accessing Data in the Cloud: The Long Arm of the Law Enforcement Agent (March 8, 2011). Queen Mary School of Law Legal Studies Research Paper No. 74/2011. Available at SSRN: <http://ssrn.com/abstract=1781067>

¹⁵ Under Article 2 (a) of the existing Data Protection Directive personal data ‘shall mean any information relating to an identified or identifiable natural person (‘data subject’); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.’

or involves their 'making use' of equipment in the EEA is unsatisfactory.¹⁶ Data protection jurisdiction should be applied based on country of origin, within the EEA, and directing or targeting, rather than 'equipment', for non-EEA actors.

4. International transfers of personal data outside the EU.

The focus in the current EU legislation on regulating data transfers based on data location may obscure the underlying purpose of the existence of transfer restrictions, i.e. data protection. Where data is securely protected, for example via encryption, focusing primarily on the issue of where the data is located geographically may be inappropriate. We argue that the focus should be on restricting unauthorised access to intelligible data, rather than restricting international data transfer. We suggest that the international data transfer restriction should be supplemented by requirements regarding accountability, transparency and security.

5. Law enforcement access to data in cloud environments.

Finally, we have argued that uncertainty regarding law enforcement access to data in cloud environments represents an obstacle to the adoption cloud computing. The current Directive permits processing when carried out for law enforcement purposes and also exempts certain processing activities from some data protection obligations where processing is necessary for reasons which include 'the prevention, investigation, detection and prosecution of criminal offences'. However, in the case of an EEA cloud provider responding to a request for personal data from a non-EEA law enforcement agency, the transfer of data outside the EEA must be legitimate under data protection rules.¹⁷ If the legitimacy offered by 'adequacy' is not present¹⁸ exemptions are available under Article 26 of the current Directive. Here, however, a degree of uncertainty also remains.¹⁹ The current Directive may, therefore, render disclosure to law enforcement agencies outside the EEA unlawful. This fact places cloud users and providers in an uncertain legal position, one that could deter the take up of cloud services.

¹⁶ See Article 4 of the existing Data Protection Directive.

¹⁷ Based currently on the provisions of Article 25 of the Data Protection Directive. This provides that a transfer of data to a third country may take place where there is an 'adequate level of protection'. Adequacy is assessed 'in the light of all the circumstances surrounding a data transfer operation' with particular consideration given to the 'nature of the data, the purpose and duration of the proposed processing operation or operations, the country of origin and country of final destination, the rules of law, both general and sectoral, in force in the third country in question and the professional rules and security measures which are complied with in that country'.

¹⁸ Whether a transfer is adequate or not could be decided in a variety of ways, such as: the data controller makes the decision, with, for example, domestic judicial approval of the subpoena under which the data is requested, or the Commission decides what is adequate (a precedent exists here in the EU agreement with the US concerning the safe harbour privacy principles). Currently the UK ICO allows controllers to decide on adequacy, but many EU national regulators do not.

¹⁹ The exemption that would have most relevance in the context of a request by a law enforcement agency would be where the transfer is 'necessarily or legally required on important public interest grounds'. The Article 29 Working Group, in its opinions on the operation of whistle blowing schemes under the US Sarbanes-Oxley Act and the disclosure of financial data by SWIFT, has taken the position that this justification must be related to the interests of an EU Member State. Accordingly, important public interests of a non-EU Member state may not suffice to justify transfer outside the EEA. What remains undecided is the extent to which such interests may also be considered to engage important public interests of Member States e.g. anti-terrorism.

We consider that in its present form the *proposed* Regulation would not resolve the issues presented above, is still not as ‘cloud friendly’ as it could be and that some of the problems arising from the current Directive are compounded. For example:

1. The scope of ‘personal data’.

The definitions of ‘personal data’ and the related definition of ‘data subject’ in the proposed Regulation do not reduce the likelihood that much data in the cloud will be considered personal data for the purposes of data protection laws.²⁰ If anything they increase such a likelihood because they would move conditions regarding identifiability from the definition of ‘personal data’ to the definition of ‘data subject’, thus regulating all ‘information relating to’ any individual (because everyone is identifiable by someone), without regard to whether they are identifiable *from the data*. This breadth of scope makes the definition somewhat meaningless as a trigger for the applicability of data protection rules and makes it much more likely that cloud service providers may become subject to unnecessary regulatory burdens. As we have argued previously, a test based on the likelihood of identification/risk and likely extent of harm would be better in assessing data protection responsibilities for cloud users and providers and it would be very helpful if the role of encryption and status of the encryption or anonymisation process were specifically addressed.

2. The nature of cloud services.

The proposed Regulation maintains the ‘either controller or processor’ distinction²¹, so that cloud service providers who may merely provide infrastructure facilities and/or tools to be used autonomously either by cloud end-users or by intermediate cloud platform or service providers, will have to comply with complex data protection rules. We would recommend a more nuanced definition of processor, or an exemption for those cloud service providers whose role is no more than that of a passive intermediary, and should therefore benefit from intermediary immunities (unless and until they acquire the requisite knowledge and control regarding data processed by customers using their resources). As currently proposed, the Regulation would, on the contrary, impose new obligations and liabilities on ‘processors’. In particular, the Regulation would prescribe additional detailed requirements regarding contractual provisions that must be included in controllers’ contracts with processors, many of which do not suit the cloud services model, such as a new requirement that ‘a processor shall... enlist another processor only with the prior permission of the

²⁰ Article 4(1) and (2) of the proposed Data Protection Regulation read:

‘(1) ‘data subject’ means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

(2) ‘personal data’ means any information relating to a data subject’

The effect is largely the same as that created by the definitions in the existing Directive.

²¹ Article 4(5) and (6) of the proposed Data Protection Regulation read:

‘(5) ‘controller’ means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes, conditions and means of the processing of personal data; where the purposes, conditions and means of processing are determined by Union law or Member State law, the controller or the specific criteria for his nomination may be designated by Union law or by Member State law;

(6) ‘processor’ means a natural or legal person, public authority, agency or any other body which processes personal data on behalf of the controller’

controller'. Rather than being 'cloud-active', this sort of provision could be cloud-negative. It may obstruct the development of multi-layered cloud services and be especially burdensome for new market entrants that wish to establish data protection-compliant cloud services using platforms and infrastructure provided by third parties.

3. The determination of jurisdictional matters.

We welcome the proposed abolition of the 'means' / 'equipment' tests and the move towards basing data protection jurisdiction on targeting. However, 'directing' (used in the inter-service draft) is a better understood concept than 'offering' (used in the published text), given existing case law guidance, and for legal certainty it is important to clarify the meaning and scope of 'offering', 'only occasionally', and 'monitoring'. Furthermore, Article 3 of the proposed Regulation would introduce a new concept of 'main establishment' the practical application of which is untested and uncertain. This means that cloud computing service providers and cloud users would continue to risk becoming subject to data protection rules if they use an EEA data center or provider without sufficient clarity as to which Member State's regulator has authority over them; a difficulty further exacerbated by the extension of data protection regulation to the processing of personal data in the context of the activities of an establishment of a *processor* in the EEA and the lack of any exemption for cloud intermediaries. Finally, the draft Regulation would not close a loophole, discussed in our paper, which may undermine protection for some EU residents when they use services provided by non-EU cloud provider.

4. International transfers of personal data outside the EU.

As previously argued, we consider security, accountability and transparency more important, in terms of effective privacy, than the location of data. Ease of data transfer to third countries can be a major factor in facilitating the development and efficient use of cloud services. Under the proposed Regulation, additional restrictions regarding the transfer of personal data to third countries would be created, including the requirement of regulatory approval. For example, Article 41 of the proposed Regulation would create a greater regulatory burden for EU businesses that use cloud services involving personal data transfers to third countries, thus compounding the difficulties that already exist with Article 25 of the current Directive. The proposed Regulation does provide a new derogation where transfers to a third country – in the absence of adequacy statements or appropriate safeguards – are necessary for 'the purposes of the legitimate interests pursued by the controller or the processor'. To qualify for this derogation, however, the transfers must not be 'frequent or massive' and the controller or processor must have 'assessed all the circumstances surrounding the data transfer operation or the set of data transfer operations and based on this assessment adduced appropriate safeguards with respect to the protection of personal data, where necessary.'²² While a 'legitimate interests' justification for transfers might be helpful, using the test of 'frequent or massive' as the arbiter for a derogation does not necessarily add any useful clarity to the issue; the focus should be on appropriate safeguards rather than the size or frequency of transfers.

5. Law enforcement access to data in cloud environments.

Under the proposed Regulation, the uncertainty surrounding the disclosure of personal data to third country law enforcement agencies would continue. In particular, the proposed

²² Article 44(1)(h) of the proposed Data Protection Regulation.

Article 44 would preserve the unclear concept of ‘public interest’ as a transfer derogation and may further limit the scope of this transfer option as the public interest in question ‘must be recognized in Union law or in the law of the Member State to which the controller is subject’. This leaves unclear the status of a foreign public interest requirement that has not been recognized explicitly under EU or a Member State’s law, though it appears that the derogation is intended to be very limited in scope. Further clarification regarding transfers to third countries for the purposes of law enforcement access would be helpful.

In addition to these concerns as to whether certain existing problems with the current EU framework would be resolved, the proposed Regulation contains some new elements that we view as having the potential to stunt the growth of cloud services and impinge on the use of the cloud.

New issues for the cloud: 1. Increased bureaucracy and compliance burdens.

The proposed Regulation would be likely to increase bureaucracy and compliance burdens for both data controllers and data processors. Given that infrastructure cloud service providers are likely to be characterized as processors - while being, in reality, merely passive intermediaries – we believe that these expanded responsibilities would be inappropriate. The proposed Article 33, for example, requires processors (as well as controllers) in certain circumstances to carry out assessments of the impact of ‘envisaged processing operations on the protection of personal data’. It appears that such assessments will often be necessary, though the precise criteria for triggering an assessment obligation may not become clear until the Commission at some future date adopts delegated acts. An assessment must contain ‘at least a general description of the envisaged processing operations, an assessment of the risks to the rights and freedoms of data subjects, the measures envisaged to address the risks, safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation, taking into account the rights and legitimate interests of data subjects and other persons concerned.’ In addition, the proposed Article 35 mandates the designation of data protection officers by controllers or processors where ‘processing is carried out by a public authority or body; or the processing is carried out by an enterprise employing 250 persons or more; or the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects.’ This final ground for requiring the appointment of a Data Protection Officer may have a broad impact but, again, this is likely to be unclear until the Commission adopts relevant delegated acts.

The proposed Regulation would also impose new record keeping responsibilities on controllers and processors. For example, Article 28 of the proposed Regulation requires that controllers and processors keep documentation relating to a number of matters including: descriptions of the categories of data subject and the categories of personal data relating to them; the purposes of processing; and the recipients or categories of recipients of the personal data, including the controllers to whom personal data are disclosed for the legitimate interest pursued by them. Currently, only a general notification to the supervisory authority relating to these points is required under Article 18 and 19 of the existing Data Protection Directive.

While there is a clear case for promoting an environment of accountability, security and transparency in the cloud, greater flexibility may be required to facilitate the development of cloud services and to accommodate industry standards relating to these matters, especially for those cloud service providers who we believe should be classed as neither controller nor processor.

New issue for the cloud: 2. Increased role of supervisory authorities.

The proposed Regulation would expand the role of data protection supervisory authorities. For example, under the proposed Article 51, the national supervisory authority of the country that is the 'main establishment' of the cloud service provider would be competent for the supervision of the processing activities of the controller or processor in all Member States. In addition, under the proposed Article 34, controllers and processors are obliged to consult and seek authorisations from national supervisory authorities prior to certain processing of personal data, for example in relation to many transfers of data to third countries. Again, we welcome initiatives to promote a cloud environment where transparency, security and accountability are the norm. We are concerned, however, that those infrastructure cloud providers who fall, in our view unjustifiably, under the legal definition of a processor for the purposes of data protection rules, will also be unnecessarily subject to this increased regulatory oversight from the relevant supervisory authority. Some clarification on this point would be welcome.

We believe that all the issues highlighted above are not only crucial for the development of the cloud computing sector, but are also of importance to users of the cloud. We understand that prospective customers of cloud services must comply with data protection laws but we believe that there are more effective (and less burdensome) ways of addressing the concerns of users (such as, for example, increased awareness of secure encryption options). Fostering and supporting the parallel development of industry standards and certification systems regarding privacy and security of data would also be a better way of encouraging the development of the industry while addressing the concerns of users and we therefore welcome the inclusion of Article 38 and 39 of the proposed Regulations, although expansions of these provisions would be helpful. The proposed Article 23 - relating to privacy by design and privacy by default - is also a positive attempt to encourage best industry practice and could have a role in promoting trust amongst users - and potential users - of cloud computing, but again, further guidance would be important.

Overall, we welcome the intention of the proposed Regulation to clarify and modernise data protection rules. The points raised above are done so with the objective of minimising unnecessary regulatory burdens, complexity and uncertainty for the developing cloud industry and, indeed, burdens for those - whether direct or passed on via cost or other means - who will use the cloud.

Annex: Current Data Protection Directive issues for Cloud v Proposed Data Protection Regulation issues for Cloud.

Existing Data Protection Directive: Issues for Cloud Computing	Proposed Data Protection Regulation: Issues for Cloud Computing.
1. The scope of ‘personal data’. Existing EU data protection laws only apply to ‘personal data’. Under the current definition much data used in the cloud is ‘personal data’, irrespective of the practical likelihood of identification or the risk and likely extent of harm. This creates unnecessary burdens for many cloud providers.	1. The scope of ‘personal data’. The definitions of ‘personal data’ and ‘data subject’ in the proposed Regulation do not reduce the likelihood that much data will be considered personal data for the purposes of data protection law; if anything they increase such a likelihood. Burdens on cloud providers are likely to be increased further.
2. The nature of cloud services. Under existing data protection laws, cloud service providers are treated as either a data processor or a data controller (or both). Infrastructure cloud providers often have little or no knowledge of, or control over, the use of personal data and may be essentially a passive intermediary.	2. The nature of cloud services. The either processor or controller (or both) model is maintained. A more nuanced definition of processor, or an exemption for those cloud service providers who are passive intermediaries, would be welcomed.
3. The determination of jurisdictional matters. The existing Directive does not adequately reflect the logistics of many cloud arrangements, with obligations being imposed on the basis of the establishment of the controller or the use of equipment in the EEA. The rules may discourage the establishment and use of EEA-based cloud infrastructure and services.	3. The determination of jurisdictional matters. Article 3 of the proposed Regulation would mean that cloud service providers and users may still become subject to data protection rules if they simply use an EEA data centre or provider, and, while the introduction of an ‘offering goods or services’ test is a welcome development, further clarification is required in order to establish when the derogations will apply.
4. International transfers of personal data outside the EU. The existing Directive places undue focus on the issue of data location, rather than focusing on restricting unauthorized access to intelligible data.	4. International transfers of personal data outside the EU. The proposed Regulation would create additional restrictions on the transfer of personal data to third countries. A new derogation - where transfers are necessary for the legitimate interests of the controller or processor and are not ‘frequent or massive’ - is welcome but the concept of frequent or massive is unclear.
5. Law enforcement access to data in cloud environments. The existing Directive may render disclosure to law enforcement agencies unlawful, creating a large degree of legal uncertainty for cloud users and providers.	5. Law enforcement access to data in cloud environments. Under the proposed Regulation, uncertainty regarding the disclosure of personal data to law enforcement agencies would still exist. Further clarity on this issue would be welcomed.
	New Issue for the cloud: Increased bureaucracy and compliance burdens. There are new requirements to carry out data protection impact assessments, to consult with regulators, to hire data protection officers and to keep detailed documentation relating to data protection.
	New Issue for the cloud: Increased role of supervisory authorities. The proposed Regulation would increase regulatory oversight, and, while there is a clear case for improving transparency, security and accountability, certain cloud providers who are mere intermediaries may be subject to inappropriate regulation.