Cloud Law or Legal Cloud?

Friday 30 September 2011 @ BRUSSELS – Fondation Universitaire

Nowadays, an isolated machine is generally pointless. With the development of bandwidth, storage and data transfer capacities, computing is now based upon communication and mutualisation of resources. In a "cloud computing" scheme, computing becomes a mere commodity, which is delivered on demand and from a remote, sometimes unknown or variable location.
The commercial representative of your IT provider has probably already informed you about the advantages of such services, but one question remains: ...are we "legally ready" for cloud computing?

Data protection and transfers, new contractual practices and painful international private law issues are the common issues to be addressed when analysing the phenomenon from a legal point of view. Furthermore, each entity bound by regulatory compliance constraints has to assess whether "going into the cloud" is wise, or even allowed, taking into account its activities and the data or processes that it would like to outsource this way. The aim of the conference is to explore the legal contexts of cloud computing globally, but also from a sector-oriented perspective.

Programme

9h00	**Welcoming of the participants**
9h30	**Technical introduction to Cloud computing** Michael VAN DE BORNE (CETIC)
10h00	**Cloud governance is more than security** Patrick SOENEN (QAP)
10h30	**Introduction to private international law issues raised by the Cloud** Jean-Philippe MOINY (CRIDS – Research Fellow FRS-FNRS)
11h00	Coffee Break
11h15	**Privacy in the Cloud** Jean-Marc VAN GYSEGHEM (CRIDS – Lawyer at the Brussels Bar)
11h45	**Luxembourg, Clouds on the financial sector** Cyril PIERRE-BEAUSSE (Allen & Overy)
12h15	Lunch
14h00	**Contracts for clouds: a survey of terms and conditions** Ian WALDEN (Queen Mary University of London)
14h30	**Restrictions on Online Gambling across EU** Manuel ESPARRAGO (Policy Action)
15h00	**E-Health in the Cloud?** Jean HERVEG (CRIDS – Lawyer at the Brussels Bar)
15h30	Q/A & Coffee Break
16h00	**Cloud & tax law** Mikael GOSSIAUX (Cabinet H&V)
16h30	**Intellectual property rights *to* and *in* the Cloud** **& conclusion of the day** Philippe LAURENT (CRIDS – Lawyer at the Brussels Bar)
17h00	THE END

Detailed programme: see overleaf   Additional information and registration: www.juritic.be

Technical introduction to Cloud computing
Damien HUBAUX
CETIC

Prior to address legal issues raised by cloud computing, this session will provide a general insight into its technical aspects. Cloud computing can be considered as mature and its boundaries are better identified. A structured approach is therefore possible in order to address this paradigm: what is it and what it is not, what are the implications, how do main actors position themselves regarding to cloud technologies...

Cloud governance is more than security
Patrick SOENEN
QAP

Switching data to the cloud offers numerous benefits. But is information confidentiality guaranteed? Can you access data when needed? Do you comply with regulations? The presentation gives an overview of the cloud risks and provides a governance checklist.

Introduction to international private law issues raised by the Cloud
Jean-Philippe MOINY
CRIDS – Research Fellow FRS-FNRS

The aim of the presentation is to emphasize the intrinsic international nature of the cloud, and to sketch some of the consequences this has on the legal relations between the cloud provider and the user, in terms of private international law. In the context of the speech, the user will be a natural person relying on the cloud for personal use. In this respect, as an individual and a consumer, he deserves protection according to European and national laws; e.g., privacy and related rights (i.e., data protection, confidentiality of electronic communications, etc.), consumer protection (e.g., prohibition of unfair terms). Due to time constraints and given the complexity of the covered topics, the purpose will only be introductive. Additional reflections have been - and still are - conducted elsewhere by the speaker.

Privacy in the Cloud
Jean-Marc VAN GYSEGHEM
CRIDS – Lawyer at the Brussels Bar

Cloud computing creates a lot of data protection-related challenges. Though the issues raised are not band new, Cloud Computing exacerbates a multitude of already existing concerns, all together and at the same moment. The presentation will describe the situation and the problems which can be identified when using cloud computing. One of the topics will be the differentiation to be made between data controllers and data processors and their respective role. Whereas all the issues cannot be easily solved, we will try to develop an approach to solve them.

Luxembourg, Clouds on the financial sector
Cyril PIERRE-BEAUSSE
Allen & Overy

Luxembourg has developed strict and complex rules on the outsourcing of IT functions by financial sector professionals. Although cloud computing is appealing to the latter, it raises a number of issues and uncertainties. Will cloud operators need to obtain a specific licence and become regulated entities? Will it be necessary to legislate on this matter?

Contractual aspects of the Cloud
Ian WALDEN
Queen Mary University of London

The presentation will examine the standard terms and conditions for cloud service contracts and consider the implications for customers.

Restrictions on Online Gambling across EU
Manuel ESPARRAGO
Policy Action

While online gambling is not banned in the vast majority of the EU countries, there are a number of restrictions and technological barriers to the cross-border provision of this service.

E-Health in the Cloud?
Jean HERVEG
CRIDS – Laywer at the Brussels Bar

The contribution aims at highlighting and analyzing the main legal issues related to cloud services that could be of use in healthcare (Platforms for Health Records, Planning, eMailing, Back-up System, Support Diagnostic Tool, etc).

Cloud & tax law
Mikael GOSSIAUX
Philippe & Partners

The purpose of the presentation is to analyse the tax consequences (including VAT) of cloud computing in Belgium. It will show how tax rules could be difficult to apply to such cloud-related activities.
Note: this speech will be given in French but slides will be available in English.

Intellectual property *of* and *in* the Cloud & conclusion of the Study Day
Philippe LAURENT
CRIDS – Lawyer at the Brussels Bar

The last speech will give an insight into the possible implications of IP rights on cloud computing technologies and their use.

The study day will end with a summary of the presentations and the picturing of a "cloud law" cartography.

Scientific coordination: Philippe LAURENT