



**The Consumer Voice in Europe**

## **Consumers Cloud Computing Hearing**

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## BEUC: the consumer voice

- No matter how you pronounce it, BEUC is the European Consumer Organisation
- Representing consumer interests towards the EU institutions **since 1962**
- **44 members** from 31 countries
- Long been involved in promoting **consumers' digital rights**

## Some of our members



## Cloud computing: a consumer issue?

- Consumers already using cloud computing services
  - webmail
  - photo sharing websites
  - social networking sites
  - online office suites
- Governments and companies make use of cloud services that store and process personal data of consumers
- E-Health

## Benefits

- Large storage capacity
- Convenient, ubiquitous access
- Reduction of expenditures - beneficial to tax payers
- Innovation - Minimum entry costs and infrastructure requirements
- Potential for an increase in reliability and security

## And Concerns

1. Protection of personal data
2. Consumer Protection
3. Interoperability
4. Net Neutrality
5. Copyright

# 1. Protection of personal data

## Key challenges

- How to exercise control?
- Which law applies? Does EU law apply?
- Lack of transparency vis-à-vis data subject
- Who does what? Who is liable?
- Purpose limitation
- Transfer to third countries
- Lack of global standards
- Data retention
- Enforcement



## Draft Data Protection Regulation (1)

- Legal fragmentation addressed
- Applicable law and jurisdictional scope
  - “use of equipment” criterion abandoned
  - Offering of goods and services to EU consumers
  - Monitoring of behavior
  - Single point of contact- country of establishment
- Transparency (Article 11)
  - Current terms of reference
  - Standardized privacy notices

## Draft Data Protection Regulation (2)

- Clear rules on roles and responsibilities
  - Data controller – Accountability
  - Joint data controllers
  - Data Processors-More extensive responsibilities
- International data transfers-adapted to CC?
  - Adequacy
  - Standard contractual clauses – unworkable
  - Binding Corporate Rules –must apply to both controller and processor
- Enforcement and redress
  - Harmonisation of powers of DPAs
  - Administrative sanctions
  - Consistency mechanism
  - Redress

## 2. Consumer Protection

## What is the problem?

- Fairness of terms of service
  - Liability disclaimers
  - Unilateral change of terms
  - Binding complaint handling systems
- Services are excluded from the scope of Sales Directive
  - Rules on non-conformity do not apply
  - Rules on legal guarantee do not apply
  - Rules on remedies do not apply

## 3. Interoperability

## Data portability is essential

- Consumers need ownership of their own data
  - Right to obtain a copy of their own data at any time
  - Providers should have the obligation to allow for an automatized, easy transfer of data to another cloud service
- Switching is key for consumers
  - Avoids vendor lock-ins
  - Implies no technical or contractual restrictions
  - Requires limiting potential switching costs

## Data portability requires interoperability

- Proprietary structures curtail interoperability
- Interoperability is necessary between services and applications of all sorts
- Open standards need to be encouraged

## 4. Net Neutrality



## The cloud cannot hinder neutrality

- Telecom operators are a key actor
  - commercial agreements with cloud providers must remain in accordance with competition law
  - The right to access a neutral network must be ensured
- The bigger the cloud, the more important it is that the Internet remains neutral
- A neutral network allows for innovation and facilitates market entry
  - The mobile Internet is especially vulnerable
  - If new services are not promoted, consumer choice is reduced

## 5. Copyright

## Innovation V Legal uncertainty

- Where is the cloud and which laws apply?
- Copyright law remains highly fragmented
- Has there been an infringing act?
  - When and where did it occur?
  - Who did it?
  - Are there any exceptions?
- Liability for hosted content



Thank you !



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