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31 August 2011

Dear Sir/Madam

FSB response to:

Public Consultation on Cloud Computing.

The Federation of Small Businesses (FSB) would like to take the opportunity to respond to the above-named consultation.

The FSB is the UK's leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. The FSB is non-party-political and, with 200,000 members, it is also the largest organisation representing small and medium-sized businesses in the UK.

Small businesses make up 99.3 per cent of all businesses in the UK, and make a huge contribution to the UK economy. They contribute up to 50 per cent of GDP and employ over 59 per cent of the private-sector workforce.

Web-based services are of increasing importance to the growth and development of the small business sector. Therefore, the FSB is very happy to give its advice on the needs, barriers and opportunities of the use and provision of cloud computing, and to feed into the Commission's work on a European Cloud Computing Strategy. We have interviewed ten small businesses who are using or providing cloud services. The main issues we found all relate to security, broadband speed and accessibility.

Please find below our response.

We trust that you will find our comments helpful and that they will be taken into consideration.

Yours sincerely

Tina Sommer

Chairman for EU and International Affairs

Federation of Small Businesses



FSB response to the Commission consultation on Cloud Computing

August 2011



Consultation response: Public Consultation on Cloud Computing

Introduction

What small businesses are good at is providing their product or their service. If they are not an IT company, they are often not into IT and would be reluctant to invest in costly hardware, software and maintenance if not absolutely necessary. Therefore, cloud computing is a very attractive option for small businesses.

The existing packages for small businesses and the infinite possibilities of cloud computing allow them to outsource their IT in a cost-effective way, making small businesses more efficient and making starters competitive from scratch. Cloud computing enables them to access all of their essential services wherever they have access to a browser or smartphone. The quick development of cloud computing also offers opportunities for new and existing small high-tech companies. The future is clearly in web-based services or cloud computing¹, and small businesses play a big part in its development.

What are FSB members doing in the cloud?

1. Functions of cloud computing

Our Members use web-based computing for a range of functions:

- Document synchronising between devices;
- Distance cooperation with others;
- Document processing;
- Home working of staff;
- Storage of shared and personal files;
- Email, Calendar & Contacts;
- Back up;
- Accounting.

2. Cloud computing providers

Members who are providers of cloud computing offer services that vary from pdf-ing documents to hosting the whole IT infrastructure of a company:

“We do not provide our own services, but we do recommend solutions for email, email security and data backups from third party suppliers that we ourselves use.”

“We pdf and scan documents and load them onto a server from which clients have access through the Internet.”

¹ Experts expect cloud computing to be one of the top game changing internet related technologies on the horizon (Foreign Policy Survey, September – October 2011).



"I take my clients onto the internet into the cloud – it allows me to work from their terminal"

"I use the cloud to run the local FSB branch and it works well – the result is that the work is spread over more people instead of one person doing all the work."

"We are the biggest supplier of cloud accounting systems for small businesses in the UK."

3. Functionalities

Members are using a wide range of the available functionalities of the cloud:

- Software as service: Microsoft, Sage, In Design, Google Apps, Outlook Exchange, One Note Shared notebooks, Windows Live, various private software applications such as accountancy software;
- Infrastructure as service: Dropbox, Mobile Me, Microsoft Skydrive, various private storage services;
- IT as a service: Microsoft Business Productivity Suite, Office 365, various private comprehensive cloud services.

Many members use a mix of several of these functionalities and are mostly very happy about them. However, FSB members, both providers and users of cloud services, have mentioned the obstacles outlined below.

Cloud computing: obstacles

4. Connectivity and broadband speed

A fast and reliable Internet connection is vital for the development of web-based services:

"One of the main drawbacks with most cloud applications has been the connectivity to the cloud. It's only with the onset of fibre to the cabinet/home services that we can start to see what the cloud is really all about. If you move a critical application to an ISP data-centre or virtual server, what happens when your internet connection is cut?"

"The main problem is that of broadband speed - cloud services already need both high speed download and upload and we will need fibre type speeds of 100MB or more very soon!"

Despite the potential of online services, the reality is thus very different for small businesses. They are struggling to access the broadband speeds they require, reducing their productivity. An FSB study found that a lack of broadband speed reduces productivity for 33 per cent of small businesses.² Therefore, the FSB has been calling on policy makers to deploy a broadband strategy whereby fibre to the premises is the most future-proof solution.

² *Broadband. Steps for an incoming Government* FSB July 2010.



When asked on their use of cloud computing³, six percent of businesses indicated they are unable to use cloud computing via their 'current generation broadband' connection. 27 per cent would use cloud computing if they had 'Super-fast broadband' and 41 per cent of businesses currently use cloud computing via their 'Super-fast broadband'. There is clearly a link between broadband speed and the use of cloud computing.

5. Accessibility

One of the core attractions of cloud computing is the ability to access your files wherever you are. However, there are several factors that compromise this accessibility:

- The limited number of 'hotspots' throughout Europe

Big cities are normally well covered but 'notspots' abound elsewhere (except in Estonia).

- The costs of accessing the internet in another country

Data roaming still entails prohibitively high costs (3G). National mobile data plans (3G and Wifi) have recently become more expensive and do not often stretch abroad. This means subscription / registration / pay-as-you-go with a local mobile internet provider (e.g. Orange in France) is often the best option. This is not always practical and the FSB supports the Commission's efforts to lower the price of data roaming and encourages telcos to offer competitive mobile data plans that can be used abroad.

- Security issues with logging in in a public space

Logging in via a public computer or using public wifi is always a risk as these are unprotected connections and other people may see passwords and data. This could partly be countered by encryption of data. However, this is only possible when you access the cloud with your own computer that has the right data encryption software on it.

- Downtime. Whether caused by a failing connection or a failing server or another reason, accessibility should be 100 per cent – always.
- Continuity of service in case of bankruptcy of a cloud or server provider – this can happen in a matter of days without pre-warning.

6. Security of cloud computing

The fear of a lack of security in web-based services is widespread and is hampering small businesses to use and provide cloud computing. Experts say that cloud-computing is safer than 'legacy computing'. We believe that this could well be the case and we think the perception of insecurity is a marketing issue in this case. However, the fears of members are real and the issues behind them need to be addressed. We came across the following issues:

³ CMA-FSB Internet Opportunity Survey May 2011. To be published September 2011.



- Uncertainty about who has access to the data, including technicians;
- Different local rules that govern data storage;
- Safety of data from cyber-criminals;
- Uncertainty as to where the servers are located;
- Concerns about the safety and security of the hardware (premises well locked, environmental conditions optimal, resilient to attacks?);
- Logging on in public places (see above);
- Continuity of service (see above).

“I looked seriously at this method as it does mean that work can be done anywhere in the world as all the data and software is kept on the suppliers server. The big drawback is security [or possibly a lack of] and for that reason I haven't gone down that route until I'm absolutely sure that nobody can get into my client's data.”

“It is unclear to what extent the data stored is accessible to Microsoft. Furthermore, backup is provided for 30 days, but even that can cause problems. Because of this I certainly will not recommend using cloud computing as the only solution for crucial company documents, especially with regard to accounts and R&D. In house backup of essential documents must in my view be installed in addition to cloud computing”.

“Controls over access to data vary from country by country, for example if you use a cloud service provider with a global server farm, you wouldn't want the FBI or CIA accessing your data just because some of it happens to be on a server based in the USA.”

Providers indicated that lack of knowledge and understanding of cloud computing causes hesitation on the side of their customers and clearly act as a barrier to provide their services. As said, this is partly a marketing issue. However, there is also a skills element in it that can be attributed to a general lack of IT skills that is sometimes hampering small businesses.

Legal issues

7. Rights and responsibilities

Rights and responsibilities of users and providers in contracts for web-based services are not always clear.

One reason is that the lengthy document that needs to be accepted is not well read, *if it is read and understood at all*. Small businesses often don't spend much time on the terms and conditions.

“Even as a consultant I am not entirely clear who can do what and when. However, the support services of Microsoft are very good and answers are forthcoming reasonably quickly.”

Often, it is not clear who owns the data and who is responsible for making backups. If data is lost for whatever reason, there won't be any compensation. Given that company data is the lifeblood of any firm, data loss can put a company in danger.



8. Jurisdiction of web-based services

The issue of jurisdiction is extremely unclear. This also affects liability in cross-border situations.

Some members say they are aware of the applicable jurisdiction: *“the jurisdiction is covered in Ts&Cs”*. Some say they are not entirely sure: *“the data of my clients are in Ireland and I do not know what the dispute resolution process would be should problems arise”*. Others rely on the fact that European legislation will cover the determination of the jurisdiction: *“Our servers are based in Germany and they fall under European legislation. If we were to expand outside the EU, we would have to look into it”*.

There are different opinions on how to determine jurisdiction. Some members suggest that the jurisdiction should be established at the beginning, when you enter into a service contract with a cloud provider or when you pick up a domain name. However, the jurisdiction of domain names with extensions that don't refer to a country, such as .com .eu, and newer extensions such as .ski or .brand, remains unresolved and will require an international treaty.

Other members suggest the law of the country where the user is located should count as the jurisdiction: *“Small firms are in no position to finance lengthy and costly court cases at home or abroad.”* However, taking the user's location as a basis for jurisdiction could be a problem for small cloud computing firms who cannot afford to cater for country protection of each customer, and they would be obliged to limit their service to the country they are in.

As a rule of thumb, the jurisdiction of a web-based services contract is where operations are based. However, this is not rocket science and countries will need to agree on what fall under international, US or a country's jurisdiction. This is even more pressing as the recently approved domain extension *‘.brand’* may soon be widely used in the ever expanding ecommerce market.

9. Data protection

Data protection rules in non- EU countries could differ considerably with the UK Data Protection Act. This is a real problem as businesses are not always aware that they could be in breach of a country's data protection legislation. This is for example the case when the servers of a UK-based cloud provider are in a country outside the EU and contain data that are in breach of the country's data protection legislation.

Another example of a potential breach is when a person has travelled to a non-EU country and downloads data from a cloud to a phone or a (public) computer. These data are actually in that country and could be in breach of local rules.

10. Model Service Level Agreements or End User Agreements for web-based services

All members that were interviewed would find model agreements extremely useful. As said above, small businesses don't have time for 'legalese' and welcome something they can their contractual agreements on.



Technical issues

11. Interoperability

Issues with interoperability or data portability were not mentioned very much. However, there are always problems when systems talk to other systems. Some members observed that Microsoft solutions tend to be geared around their own products and are not as open as other major providers such as Google or Amazon. Others pointed out that data can be stored in many different formats and that companies don't necessarily want standardisation because they want to lock you in. Rtf, text files and pdf are considered to be today's standards. Windows, Linux and Unix are seen as the standard operating systems.

One member said that there are no defined standards for accountancy data. This makes it difficult for the customer to move data around.

Finally, web-based services should feel like your computer at home, and when things go wrong the system or programme should clearly explain what to do next.

Conclusion

Small businesses are increasingly discovering the possibilities of cloud computing. 'Broadband speed', 'security' and 'accessibility' are the most important issues for small business engaging in cloud computing. Data centres must be physically and technologically secure and must offer 100% accessibility if users are to trust them. The biggest thing by far is broadband infrastructure and will be the key to cloud computing taking off.

On a global level the issues of jurisdiction and differing data protection rules need urgent solutions to keep up with the pace with which cloud computing is expanding.

Company data are crucial, and sound solutions for problems with security, connectivity, accessibility, data protection and legal issues are vital. In its forthcoming strategy on cloud computing, the FSB calls on the Commission to address those five issues with the growth potential of small businesses, as providers and users of the cloud, in mind.

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