Agenda

1. SURVEY BACKGROUND
2. KEY TRENDS
3. DATA
4. CLOUD CONTRACTING TERMS
5. HORIZON SCANNING
SURVEY
BACKGROUND
Respondents by Geography

- Global (i.e., no primary market)
- North America
- EMEA
- APAC
- LatAM

Primary Geographic Market where Respondent Company Operates

Global coverage except underrepresented in Latin America
Respondents are from our clients and partner organizations such as the International Association for Contract & Commercial Management. Just over half of our respondents are legal professionals. About 20% of our respondents are procurement professionals.
Respondents by Size

Slightly more representation of smaller organizations than past surveys – could be as a result of a trend of greater cloud pervasiveness.
Key Trends
Continued Convergence

The trend of our respondents being both customers and provider of cloud services increased

Data Security Focus

Our respondents indicated a renewed focus on data security (data security has always been a top concern, but had dipped as the top concern in our last survey)

Contracting Terms Steady

Compared to the notable year over year variations in contracting terms responses, our respondents provided responses consistent with our last survey on issues such as form of agreement and limitation on liability
Residency: Increased focus on data residency

Personal Data: Constantly evolving data privacy landscape

Categories of Data: Increased focus on data categories and impact on storage in the cloud

Allocation of Data Rights: Contract terms addressing allocation of data rights between the parties
Restricted Data

“We follow processing instructions, which may include restriction on certain types of data”

Examples of other include intellectual property and certain client data
Rights in Company Data

Express acknowledgement that customer maintains rights in customer data?

- Generally yes
- Generally no
- Case-by-case
Rights in Company Data

Permit service provider to use data for its own purposes?

- Yes, but only anonymized
- Yes, but limited to service provider internal purposes
- No, may only use data to perform
Data Residency

Restrictions on transfer of your company data out of specific jurisdictions or regions?

- Yes
- No
Data residency laws required a change to cloud usage/operations?

- Yes
- No
- Under Consideration
Just over half of our respondents indicated customer is primarily responsible for the cost of assisting with data subject rights requests.
Amended cloud agreements as a result of GDPR?

- Yes: 80%
- No: 20%
- Not yet: 20%

Updated agreements for CCPA?

- Yes: 44%
- No: 30%
- Not yet: 26%
Cloud Contracting Terms
A third of respondents reported being both customers and providers of cloud services – companies more and more are both sourcing and selling the cloud.

Across both customers and providers tax planning was only taken into account for about half of cloud transactions.
Which response best describes the form of agreement used for your cloud agreements?

2/3 of respondents indicated that where customer terms included they pertained in part to data protection.
What restrictions does your company manage?

Other responses included professional responsibility restrictions and limited license rights to data being stored in the cloud.
Most Negotiated

Cloud Negotiations

Please rank the issues most likely to be negotiated from most to least.

Fees being ranked lower likely result of number of legal respondents.
Service Provider Indemnification

We asked respondents to check all of the issues where the service provider indemnifies customers.
IACCM Survey indicated liability caps tend to be preceding 12 months fees with higher caps for data security incidents, agree?

Those that disagreed indicated other multiple of fees (e.g., 24 months) or fixed amounts (e.g., USD$2M)
Limitation on Liability Detail

Data security incident caps range 2-5X or fixed amounts USD$1-10M

Also higher/uncapped: gross negligence/willful misconduct; IP; confidentiality; indemnity
85% of respondents indicated that consequential damages are generally excluded.

The chart indicates a ranking of typical exclusions from the disclaimer (in some instances subject to a higher cap).
2/3 of respondents carry cyber insurance
1/3 of respondents require service providers carry cyber insurance
Horizon Scanning
20% of respondents have explicit data monetization business; 20% considering

Data was discussed in more than half of M&A and a top 10 issue in 20% of M&A

2/3 respondents have data/data ethics governance