**Public Consultation**

**Draft Code of Conduct for Data Portability**

**and Cloud Service Switching**

**for Infrastructure as a Service (IaaS) Cloud services**

**Topic of the Public Consultation**

The Art. 6 of the coming Free Flow of non-personal Data Regulation proposed by the European Commission ask the industry to develop Codes of Conduct to ensure effective portability of data between Cloud services (i.e. easy switch from one cloud provider to another or to on premise facilities of Cloud users).

In anticipation of this regulation, industry players[[1]](#footnote-1) developed a draft Code of Conduct for Infrastructure as a Service (IaaS), on which all stakeholders (CIOs, Business Users, Providers, Academics, etc.) are welcome to provide feedback to update this draft, and help the drafting team to finalize a document during the summer 2018.

Once finalized, the document will be subject to approval of the SWIPO IAAS Working Group by simple majority, with a double minority blocking system where one third of providers of the WG and one third of the users of the group should not vote against the proposition.

If your organization is not already an expert member of the SWIPO IAAS Working Group, feel free to apply using the answer to this consultation (see Identification section hereunder).

**How to participate?**

1. Complete the present document answering the question and/or
2. Comment the draft Code of Conduct (downloadable here:

<http://cloudswitching.eu/wp-content/uploads/2018/06/20180608-Cloud-Portability_CoC_Draft_V016-PublicConsultation.docx>

1. Send both or one of the 2 completed files through email:

[**consultation@cloudswitching.eu**](mailto:consultation@cloudswitching.eu)

**Deadline for feedbacks:**

**July 2nd 2018, 11:00 CET**

**Identification**

First Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Family Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Role: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Organization: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

You are:

\_\_ Providers of IAAS cloud services

\_\_ User of IAAS cloud services

\_\_ Other. Please specify \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Are you an SME: Yes / No

Would you like to join the SWIPO IAAS Experts Group: Yes / No

**Questions**

The SWIPO IAAS Core Drafting Group is expecting feedbacks on its draft Code. Feel free to comment the document itself. In complement, the Core Drafting Group is also expecting specific feedbacks on the following questions (thanks to answer directly in this document):

**Question 1 Points of controls**

Both a self-assessment and third-party certification may be possible under this Code of Conduct. For both, points of controls will be developed in order to ensure that cloud infrastructure services will be able to Adhere to the Code of Conduct.

***Which points of controls would you suggest?*** (multiple answers expected)

**Question 2 Testing points**

In order to ensure effective portability of IaaS services, tests should be performed before switching from a cloud infrastructure service to another, and once the transfer completed.

**In your opinion, which tests should be performed? For each of them who should perform it (Provider / Customer)? Who makes the final attestation? Should it be agreed by parties? Aligned with common standards?**

**Question 3 Benefits to SMEs**

The proposed “Free Flow of non-personal Data Regulation” aims to enable easy switching from one cloud service to another. Taking the SMEs’ perspective into account in any Code of Conduct is key.

**Do you think that the current draft will help SMEs (from both IAAS customer and IAAS provider sides) to benefit from the regulation?** Yes / No

If “no”, how could it be better achieved?

**Question 4 Contractual specifications**

**Do you think that the section “7. Contractual specifications” covers all necessary items?** Yes / No

If “no”, how would you improve it?

**Question 6 Guarantees in the case of bankruptcy**

The Art. 6 of Free Flow of non-personal Data The regulation asks for “guarantees for accessing data in the case of the bankruptcy of the provider” (see section 8.1.2 f of the draft Code).

**Which mechanisms would you suggest making this guarantee effective?**

**Question 5 Governance**

**Do you think that the section “9.1 Governance” of the draft Code of Conduct will help to meet the objectives of the Code to ensure effectiveness of transfers?** Yes / No

If “no”, how would you improve it?

**Question 7 Opportunity of the Code**

Do you think this draft Code answers the regulation in a way that is useful to implement for industry players? Yes / No

If yes, would you use it at a contractual level? Yes / No

Please, feel free to comment:

**Question 8 General comments**

**Feel free to share with us any general comments you would like share with us:**

**Timeline**

17th April 2018 – Start of the SWIPO IAAS Working Group

10th June 2018 – First draft Code of Conduct by the Core Drafting Group and Experts

11th June 2018 – Start of the Public Consultation on the draft IAAS Code of Conduct

28th June 2018 – End of Public Consultation

4th/5th July 2018 – Public Presentation of the results of the Public Consultation

& discussion by SWIPO IAAS Experts and Core Drafting Group

Sept/Oct – Approval of the IAAS Code of Conduct by SWIPO IAAS Experts

Annex

**Initial text proposed by the European Commission (extract)**

Please find hereunder the extract of the Article 6 of the “Free Flow of non-personal Data Regulation” as it was initially drafted in the proposed regulation by the European Commission.

In order to understand the whole objectives of the regulation, this article should not be read separately of the whole document. You will find the global the full text of the Proposition by the European Commission here: <http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=46830>

Article 6

Porting of data

1. The Commission shall encourage and facilitate the development of self-regulatory codes of conduct at Union level, in order to define guidelines on best practices in facilitating the switching of providers and to ensure that they provide professional users with sufficiently detailed, clear and transparent information before a contract for data storage and processing is concluded, as regards the following issues:

(a) the processes, technical requirements, timeframes and charges that apply in case a professional user wants to switch to another provider or port data back to its own IT systems, including the processes and location of any data back-up, the available data formats and supports, the required IT configuration and minimum network bandwidth; the time required prior to initiating the porting process and the time during which the data will remain available for porting; and the guarantees for accessing data in the case of the bankruptcy of the provider; and

(b) the operational requirements to switch or port data in a structured, commonly used and machine-readable format allowing sufficient time for the user to switch or port the data.

1. The Commission shall encourage providers to effectively implement the codes of conduct referred to in paragraph 1 within one year after the start of application of this Regulation.
2. The Commission shall review the development and effective implementation of such codes of conduct and the effective provision of information by providers no later than two years after the start of application of this Regulation.

1. The 17th April 2018, the SWIPO (Switching & Porting) IAAS Working Group has been started by the European Commission’s Digital Single Market Cloud Stakeholder group. Co-chairs are Alban Schmutz (CISPE / OVH) and Freddy Van den Wyngaert (EuroCIO). Current members include representatives of Alibaba, Aruba, AWS, CERN, CIO Platform, City Network, Credit Suisse, EGI, Enter, Gigas, Google, IBM, Ikoula, Linkbynet, Matilan, NTUA, Oracle, Outscale, Prologue, Santander, UkCloud and UpCloud. [↑](#footnote-ref-1)