

Belgian association of CIOs  
and digital technology leaders.

# **BEREC Workshop “Switching and interoperability of data processing services”**

Claude Rapoport 28 April 2023

**“Some 30 years ago, the EU broke up the telecom monopolies, because Europe saw that competition in the telecom market would create many opportunities. Now, companies face a lock-in at a much higher level in the cloud services market”**

# 11 fair principles

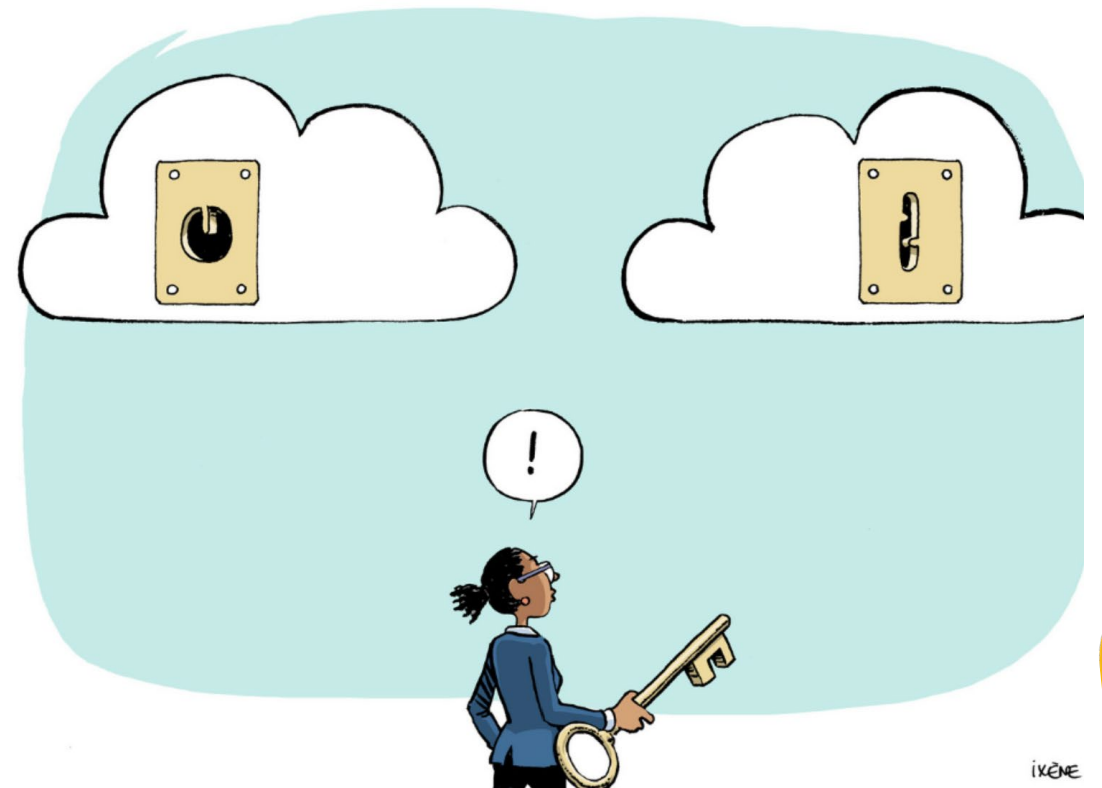
to unleash the digital potential of Europe

Business users associations call for a balanced cloud market



# Fair Principle 02: Vendors must not create a technical or commercial lock-in

- Each provider proposes his own specific technical environment.
- So changing means a lot of redevelopment.
- Moreover licence management and migration costs create additional lock-in



ixeme

# Switching between Data Processing Services

Today:

- Only 5% of Cloud Services agreements include a switching and exit clause
- The cost of switching is a big obstacle

So the customers are locked-in.

The Data Act has explicitly addressed these issues

- Article 23: *Removing obstacles to effective switching between providers of data processing services*
- Article 25: *Gradual withdrawal of switching charges*

From [date X+3yrs] onwards, providers of data processing services shall not impose any charges on the customer for the switching process.

# Switching between Data Processing Services

## What is already clear?

- Cloud Service Agreements shall include Switching and Exit clauses with specific terms

## What is still in discussion?

- The switching has a cost. How to evaluate the cost? Who will pay the cost?
- Answer from **the Commission and the Council**: the Provider should evaluate the cost of switching at an aggregate level.
- Answer from **the Parliament**:
  - Charges linked to mandatory operations that Providers must perform will be zero
  - Charges for services undertaken at the customer's request shall not be zero !!!???

# Switching between Data Processing Services

## What can we expect for implementation (best guess)?

- In all cases switching brings a lot of worries and will never be pleasant.
- The Commission wants to make a real change on the market to restore competition
- The expert group has written a Switching and Exit clause compliant with the Data Act
  - This clause will be presented as part of the SCCs (Standard Contractual Clauses)
- The SCCs will not be mandatory because there is 'Freedom of contracting'
  - The Commission intends to include the SCCs in a 'Cloud Rulebook'
- All public tenders will require the compliance with the 'Cloud Rulebook' so this might create a new reference on the market

# Switching between Data Processing Services

## What can we expect for implementation (best guess)?

- The expert group proposes that
  - each Cloud Service Agreement includes a Switching and Exit Plan from the beginning
  - **the Provider provides tools to export and transport the Customer Data**
- Today
  - The providers consider that switching is a responsibility of the Customer
  - Tools to export and transport the Customer data are not common practice
- **We hope the presence and the quality of a switching and exit plan might become an element of competition between the providers**



# The bigger picture for telecoms competition

- IoT Leads to data explosion – Telco's use "regional" cloud infrastructure to serve their customers
- **Competition/cooperation Telco's – Cloud Service Providers**
  - Still concentration in the telco business markets
  - Joint offerings large Telco's and Cloud Service Providers
- What to expect from the Gigabit Infrastructure Act (GIA) ?
  - Investments in fiber networks
  - 5G infrastructure

# Thank you!

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