

CLOUD COMPUTING AND LAW FIRMS

Discover how law firms are using cloud computing to analyze data, increase efficiencies and save money, while protecting client information.

Executive Summary

Law firm adoption of cloud computing is growing. In fact, a third of lawyers surveyed this year by the American Bar Association (ABA) reported using cloud-based hosted solutions at their practices.

Research shows that when it comes to cloud computing, law firms are not that far behind other industries. And by all indications, this penetration of the cloud into the legal market will accelerate over the next few years.

So what applications are firms moving to the cloud? Options range from storage/backup and disaster recovery to email, document management and case management. As for reasons for cloud migration, these include cost pressures, evolving client expectations, risk resolution and more.

This white paper explores the factors driving this growth and identifies some of the practical and ethical considerations that lawyers and legal IT staff should consider when transitioning to the cloud.

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The Adoption of Cloud Technologies

Traditionally, the legal profession has been slow to embrace new technology. However, that is changing. According to the *2013 ABA Legal Technology Survey Report*, 31 percent of lawyers surveyed are using cloud-based services – up 10 percent from 2012.

Meanwhile, 74 percent of respondents identified convenient, web-based access as the most valuable feature of cloud computing, followed by 24/7 access (63 percent), affordability (56 percent), data backup (49 percent), ease of use and reduced learning time (44 percent, respectively) and less reliance on IT staff (41 percent).

The *2013 ILTA/InsideLegal Technology Purchasing Survey* – based on responses from 1,200 International Legal Technology Association members (predominantly from firms with 50 employees or more) – yielded similar findings. Here 34 percent of respondents indicated that they had used cloud solutions in the past year. By comparison, 38 percent of corporate users surveyed by the tech research and analysis firm Gartner, in August 2013, reported that they have used cloud services.

Interestingly, large numbers of attorneys are already using cloud computing. For example, if an attorney uses a smartphone, or web-based email like Gmail, Yahoo! Mail or Hotmail, or products like Google Docs, Microsoft Office 365 or Dropbox, the attorney is using cloud computing.

Types of Cloud Services

Lawyers can choose from the following basic types of cloud services:

- **Software as a Service** – SaaS is best understood as on-demand software, in which software and associated data are hosted in the cloud and accessible to users via the Internet. Popular consumer products such as Google Docs and Dropbox are two examples of SaaS solutions, as are cloud-based legal practice management and accounting systems.
- **Platform as a Service and Infrastructure as a Service** – PaaS and IaaS are used primarily by developers and, therefore, are more relevant to legal IT teams than to the lawyers themselves. PaaS offers cloud-based platforms to create software products, while IaaS provides developers with access to cloud-based hardware.

How Lawyers Use the Cloud

Lawyers leverage the cloud in a variety of ways, depending upon the size of their firms and nature of their practices. The 2013 ILTA study listed the top five uses of the cloud among law firms as storage/backup (55 percent), disaster recovery (50 percent), email (35 percent), document management (29 percent) and case management (18 percent).

Along with these back-end office functions, solo and small firms are apt to employ forward-facing cloud tools to directly interact with clients. These include client portals and virtual law offices, online billing and scheduling systems.

Firms both large and small rely on the cloud to support the practice of law through such cloud-based tools as e-discovery platforms during litigation and virtual data rooms for transactions and deal-making. Other cloud solutions becoming more popular include hosted spam filtering, mobile device management (MDM) and hosted data centers.

Five Key Trends Driving Legal Cloud Adoption

A full understanding of the cloud's growing traction in the legal profession requires an appreciation of surrounding trends. These include the structural transformation of the legal profession, along with the rise of outsourcing, evolving client expectations, adoption of mobile and Big Data technologies, and efforts by the organized bar to reduce regulatory uncertainty surrounding ethics issues.

- **Disaggregation of mega-firms:** Large firms are undergoing disruption as never before, with corporate clients hesitant to pay substantial legal fees and overhead. In response, these firms have restructured, replacing fleets of full-time associates with flexible outsourced and contract labor offsite, or even overseas.

Big firms increasingly rely on cloud-based infrastructure to ensure that all team members can function seamlessly, wherever they are. Pressure on lawyers to drive down costs also has led to the rise of virtual law firms – those that comprise networks of experienced lawyers who work largely from client sites or from their own space and interact with other virtual firm members online.

- **Evolving client expectations:** Clients are now accustomed to doing business online, from scheduling appointments with healthcare providers, filing tax returns, and managing bank accounts and financial transactions. They rely on online services for convenience and expect lawyers to provide client-portals for accessing documents, paying bills and viewing calendars.

The rise of do-it-yourself legal companies – which deploy cloud-based forms that capture customer information to generate wills, contracts and other legal documents – is further evidence of consumer desire for user-friendly, cloud-based legal solutions.

- **Lean business model:** Characterized by the iterative development of products and services, the lean business model has taken hold in the legal profession. These days, law firms are inclined to add staff or services on a pay-as-you-go basis using operating funds rather than by making massive, upfront capital investments. The scalability of cloud solutions neatly aligns with the lean business philosophy.

▪ **Risk resolution:** In the past, unanswered ethical questions about new technologies (for example, the application of legal advertising rules to blogs and social media) slowed widespread acceptance in the legal community. Today, however, oversight committees have stepped up, with 17 states now cautiously blessing lawyers' use of the cloud (subject to various caveats), according to the ABA, and eliminating any ethical concerns about security and confidentiality.

▪ **Mobile and Big Data:** Two other significant technology trends – the rise of mobile devices and influx of Big Data – also have encouraged law firms to turn to the cloud. While many lawyers have yet to shelve their desktop computers, the *2013 ABA Legal Technology Survey Report* notes that 91 percent of lawyers use smartphones, and 48 percent own tablets (up from 33 percent last year). One of the key benefits lawyers get by using mobile devices is increased efficiency.

As the integration of mobile devices into law practices accelerates, the cloud serves a critical role in enabling lawyers to access files and sync documents between multiple computing platforms. Likewise, cloud technologies are key to storing the Big Data collected by large firms. For solo and small firms, third-party cloud packages provide a cost-effective way to gather and analyze marketing and revenue data – capabilities that would be too expensive to develop in-house.

Legal IT, Security and the Cloud

Although a growing number of lawyers are eager to embrace cloud solutions, many have been somewhat reluctant to jump on the cloud bandwagon. In a 2012 survey by Legal IT Professionals, 47 percent of lawyer respondents favored the cloud, while only 39 percent of CIOs and chief technology officers and 32 percent of others with IT roles at law firms shared that view. The survey also indicated that many legal IT decision-makers harbor concerns about cloud security.

Interestingly, some experts claim that the service provider environment can actually provide better security because their scale enables them to have the best experts and employ the latest technology.

What Is Cloud Computing?

Cloud computing is that data (once stored onsite) and software (typically operated on local machines) now located on someone else's servers and accessed by users via the Internet.

Though most lawyers speak of the cloud as a uniform system, the National Institute of Standards and Technology (NIST) identifies three basic variants of cloud computing:

▪ **Public cloud:** The "public" cloud refers to infrastructure owned and operated by a company that sells cloud services to the general public or an organization. The vast majority of cloud computing products available to lawyers falls within this category.

▪ **Private cloud:** Cloud infrastructure that's deployed and controlled internally by an organization, rather than a third party, is referred to as "private." Although a private cloud assures more control and can provide more customized services, it's often too expensive for small firms to set up and support.

▪ **Hybrid cloud:** A "hybrid" cloud combines both private-cloud and public-cloud features – for example, a private-cloud solution that runs on a public-cloud infrastructure supplied by a cloud service provider.

While a private cloud offers some security benefits over the public cloud (in that it provides full control over infrastructure and data), deployment of a private-cloud solution may be cost-prohibitive for a small practice. But these added security features are particularly important when it comes to e-discovery, where confidentiality and reliability are paramount.

However, small firms that can't afford to implement their own private cloud can benefit from a public-cloud provider's security systems. These services are enterprise-grade and far more robust than what a small firm would likely be able to maintain in-house.

In addition, firms that operate a private cloud remain responsible for ongoing monitoring and security to ensure the protection of sensitive client data. By contrast, as long as lawyers exercise care in selecting a public-cloud provider, they need not engage in day-to-day oversight under applicable ethics requirements.

Cloud Ethics for Lawyers

When cloud computing services first emerged, legal ethicists speculated that the transfer of client files to cloud platforms outside of the lawyer's control could compromise his or her ethical obligation to preserve confidentiality of files and safeguard client property.

But ethical concerns about unauthorized disclosure of client files through hacking or data breaches fail to consider that no security is 100 percent foolproof. And even legal files housed onsite in a law firm's physical office are vulnerable to theft, natural disaster and nosy staff.

Fortunately, legal oversight committees in several states have adopted a more sensible approach to lawyers' use of the cloud. As noted earlier, 17 states so far have generally approved legal firms' use of cloud services – as long as lawyers exercise reasonable care in selecting and overseeing a cloud service provider. Some states have imposed more specific obligations on lawyers using the cloud:

▪ **Massachusetts and North Carolina** require a review of a cloud provider's terms of service and data privacy policies to ensure that they are compatible with legal obligations.

- **New Jersey and Pennsylvania** require the selection of cloud providers with an "enforceable obligation" to preserve confidentiality and security.
- **California and Arizona** require consultation with a technology expert prior to choosing a cloud provider if a lawyer lacks adequate technology skills.
- **New Hampshire and Massachusetts** require that lawyers discuss with clients the risks of using the cloud to store confidential data.

What Terms Should an SLA Include?

In selecting a cloud service provider, lawyers should closely review the provider's service-level agreement (SLA) and answer the key questions listed here. Although solo and small practices have limited bargaining power when it comes to SLAs, fortunately, many cloud services are designed specifically for lawyers.

- **Who owns the servers that will house firm data?** Lawyers should determine what types of security measures are used to protect the physical servers that house client data. And where a cloud provider leases physical servers from another provider, examine that provider's security measures as well.
- **Where will firm data be located?** Physical location of data storage is important for several reasons. The European Union's data protection laws are stringent and, in some instances, could prevent the transfer of information back to the United States. Other jurisdictions may not respect the constitutional prohibition on unlawful search and seizure and could seize a client's data.

- **What level of encryption applies?** Determine what type of data encryption the cloud provider offers. Most services encrypt data in transmission – that is, as users upload or download documents – but not necessarily data at rest or in storage. Encryption varies substantially over different types of user plans (it is generally unavailable for many free services, but available with paid subscriptions).
- **Who owns the data?** An SLA should clearly state that data stored in the cloud belongs to the law firm. Firms also should ensure that the SLA provides unfettered access to data, along with procedures for retrieval of data if the firm decides to switch services.

Issues to Consider Before Moving to the Cloud

When deciding what functions to move to the cloud, law firms need to assess the following factors:

- What are the costs and savings associated with licensing and acquisition of public-cloud products versus an on-premises solution?
- If a newly developed cloud product is being considered, does its early version lack any key features?
- How compatible is the cloud infrastructure with legacy systems and technology developed in-house?
- Will legacy systems be transferred to the cloud? If so, what costs are involved?
- What type of training will be required of staff to transition to a cloud-based system?

CDW: A Cloud Partner That Gets IT

While the benefits of cloud computing can be substantial, there are real considerations that must be made regarding security, reliability and accessibility. Trust is important in a cloud solution. For that reason, CDW offers and sources the most proven, reliable and secure cloud services available.

CDW's dedicated cloud specialists guide you through a host of cloud computing issues including:

- Its impact on a converged infrastructure
- Licensing and acquisition costs for cloud vs. on-premises solutions

- Interoperability/compatibility issues between in-house developed and legacy systems
- Office productivity tools (application software)

The CDW approach includes the following:

- Discovery session
- Assessment review
- Vendor evaluations
- Procurement, configuration and deployment
- Ongoing project measurements
- Product lifecycle support and management

To learn more about how CDW can help with cloud solutions, contact your CDW legal sales account manager, call 888.631.4239 or visit CDW.com/legal-solutions

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