Cloud & AI Development Act

Open Markets Institute consultation contribution

OPEN MARKETS

Introduction

The Cloud & AI Development Act comes at a decisive time for Europe.[1] Streamlining permitting processes and regulation while ensuring data centre construction and operation remains environmentally sustainable will help Europe build out its own cloud infrastructure. **Alone, however, such proposals fail to address the biggest challenge to EU cloud development and sovereignty: market concentration and the dominance of three U.S.-based players – Amazon, Microsoft, and Google – over the global cloud computing industry. The Cloud and AI Development Act will be a failure if it does not reckon with this issue.**

Extreme cloud concentration poses significant risks to our economies and our societies and represents a serious barrier to European innovation and tech sovereignty, as a recent report by the Open Markets Institute (OMI) has demonstrated.[2]

- It makes compute a critical choke point in the digital value chain, meaning outages, vulnerabilities, or policy shifts by dominant providers can trigger widespread and potentially catastrophic disruptions across industries and services.
- These systemic risks extend to national security, as public institutions, intelligence and defence, and critical infrastructure increasingly depend on the same concentrated providers, exposing essential services and state infrastructure to single points of failure and interference.
- Cloud concentration undermines state sovereignty by enabling foreign governments (especially the U.S., with its political, regulatory and legal authority over leading providers) to exert control over digital infrastructure that other sovereign states rely on.
- Market concentration and vertical integration weakens innovation in cloud computing itself (including in relation to performance, cybersecurity, and environmental sustainability) but also stifles innovation in downstream markets, including AI, where non-discriminatory access to compute is vital.
- The anticompetitive Big Tech paradigm invests and results in innovation that builds technology that is closed, centralised, monopolistic and extractive rather than open, decentralised, diverse, sustainable, and supportive of the public interest. The EU must recognise and address this if it wants to get serious about making technology work for citizens.
- Industry domination by three non-European corporations making consistent 20-40% profit margins syphons money out of Europe, increases European businesses' costs as they seek to digitise (reducing European competitiveness), and prevents innovative European champions from emerging in the cloud and downstream markets.[3]

Simply trusting cloud oligopolists not to act in ways detrimental to Europe's economies and societies, rather than building a system which prevents such outcomes in the first place, would be a mistake. **A bold Cloud & AI Development Act can help make that system a reality. Strengthening cloud governance and competition must form a key pillar of this.**

The following contribution calls not for extra red tape but for pro-innovation regulation which will empower Europe's digital and AI industries while generating savings for traditional European firms that adopt AI and cloud-based processes and AI. Addressing market concentration in the cloud industry in Europe will help make Europe competitive internationally and will increase the continent's economic and technological sovereignty and resilience at the same time.

OMI therefore calls for the Cloud & AI Development Act to:

1. **Ban anticompetitive practices** such as egress fees, anticompetitive tying and bundling of cloud products, unfair contracts and licencing terms, and artificial technical barriers that inhibit cloud switching and competition.
2. **Mandate standardised data formats and interfaces** to enable maximal data portability and seamless migration between cloud providers, reducing lock-in and facilitating market entry.
3. **Impose enforceable horizontal and vertical interoperability mandates**, anchored in open standards, to strengthen customer choice, promote fair competition and unlock innovation.
4. **Enforce non-discrimination in cloud access and pricing**, requiring consistent and transparent pricing to prevent the use of opaque pricing practices to lock in individual customers and undermine competitors.
5. **Establish a single marketplace for computing resources (IaaS)** that enables price discovery, transparency, and fair competition between providers of cloud infrastructure.
6. **Introduce capacity reporting obligations** for cloud providers, including on compute capacity and emissions, to support sustainable planning and give policymakers a transparent view of the state of European compute infrastructure capacity.
7. **Leverage public procurement** by prioritising open standards, open source, and interoperability in public cloud contracts. Furthermore, a proportion of public procurement budgets should be earmarked for non-dominant and particularly European providers satisfying these requirements.

1. We need to determine Europe's cloud problems before we can solve them. One problem *is* clear: market concentration.

- **Nobody knows how much compute capacity the EU has, what proportion of that is used, and thus the extent to which there are or are likely to be shortages.** Beliefs about the need for massive cloud infrastructure build-out in Europe are largely based on uncertain assumptions about the significance and ubiquity of generative AI. **Though Europe arguably needs more high-performance data centres, the nature, extent, and urgency of the problem is not clear.** This does not require a 'wait and see' approach: the solution is transparency from cloud providers to make informed policy possible.
- **Data centre growth is demand-responsive, and European demand for cloud services has historically been low compared to the United States[4] – AI may be changing that.** Data centre growth in Europe is currently strong, and specialised AI training clusters have already been announced, further pointing towards the role of demand rather than regulatory hurdles in determining Europe's cloud capacity.
- **The biggest challenge facing the EU when it comes to cloud is the market dominance of a few U.S. providers.** Thanks to their expansive ecosystems and anticompetitive design choices and practices, Amazon, Google and Microsoft are able to steer and lock customers into their own cloud services, at the expense of (often) better-priced European alternatives.[5] This not only entrenches their dominance in cloud computing, AI and other digital markets, but also prevents European alternatives from scaling and competing.

European cloud policy has a transparency problem

A striking fact about cloud infrastructure in Europe emerged at the *Interim Workshop for the Cloud & AI Study* hosted by the Commission in June 2025: **nobody knows what Europe's existing cloud capacity is, and therefore the extent to which further capacity is actually needed to develop, adapt, and run European AI solutions.** A better understanding of current capacity will ensure that Europe does not sink public money into costly but ultimately redundant infrastructure, and instead only develops the capacity it needs.

OMI, in line with its view that cloud infrastructure should be understood as a form of public utility, **urges the Commission to include in the Cloud & AI Development Act provisions requiring** cloud providers to publish data on available capacity **(including GW, number + type of GPUs/TPUs/CPUs, monthly averages of utilised vs reserved space).**

Building cloud infrastructure to serve real needs, not vice versa.

Current U.S. dominance in cloud infrastructure is in part a reflection of the overall size and strength of the U.S. tech sector and the demand this generates for computing infrastructure, including demand from Big Tech corporations themselves.

The fact that both demand for and supply of data centres in Europe is growing suggests that regulatory barriers may not be as much of a factor as has sometimes been claimed. Microsoft for instance has pledged a massive data centre expansion in Europe, announcing plans to increase its European capacity by 40% between 2025 and 2027.[6] This follows Amazon's decision to invest tens of billions of euros in European data centre infrastructure in 2024.[7] These investments strongly suggest that it is the concentration of market power and financial resources among a handful of Big Tech corporations, rather than red tape, that is the major obstacle to a healthy European cloud sector.

Significantly, while the development and rollout of generative AI is boosting demand for cloud infrastructure, it is not a given that this will continue indefinitely, particularly as massive LLM training runs continue to show evidence of diminishing returns and profitable use-cases for these models remain elusive.[8] Europe needs to build high-quality, performant and energy-efficient data centres without further inflating an unreasonably hype-driven and ultimately unsustainable investment bubble.

Anticompetitive practices fuel cloud concentration and stymie growth in Europe

Cloud computing as an industry has very high entry costs that few organisations can afford. Amazon, Google and Microsoft were able to absorb losses as they gained market share in cloud computing by cross-subsiding from their other business lines. These corporations were and continue to be able to nudge, steer and lock customers into their own cloud services due to their sweeping business empires and a platform approach to cloud services which bundles computing power and data storage facilities with PaaS (platform as a service) and SaaS (software as a service) offerings.

These dynamics have created a highly concentrated industry with weak competition and limited choice for buyers of cloud services. **The structure of today's cloud market is therefore not the inevitable outcome of innovation, but one shaped by anticompetitive practices and concentrated market power.** These issues market have been examined and highlighted in depth in reports by the OMI, the UK's Ofcom and CMA, and France's Autorité de la concurrence, among others.[9]

While a completely frictionless cloud market is unrealistic, today's industry is characterised by a range of anticompetitive practices that make it hard for organisations to switch once they have selected a provider. These include bundling, discriminatory pricing, restrictive licensing, and technical limitations. These practices stifle competition and leave little room for smaller, including European, providers to scale.

As a result, **Europe's lack of major cloud providers is a reflection not primarily of underinvestment or overregulation, but the systemic exclusion of alternatives in a market tilted heavily in favour of incumbents.[10] Any effort to close Europe's cloud capacity gap must address this challenge head on.**

2. The risks and harms of a concentrated cloud market

While Europe needs cutting-edge, sustainable and resilient cloud infrastructure to support European researchers and innovators and to underpin essential services, the Cloud and AI Development Act must achieve this in ways that avoid further entrenching the dominance of the existing oligopoly. To do otherwise would undermine Europe's competitiveness, innovation, national security, sovereignty, and sustainability.

Concentration harms European competitiveness and innovation

Today's concentrated cloud industry gives a handful of dominant firms the power to shape competitive conditions in both the cloud market and downstream markets. This is harmful for any economy, including the U.S. economy, but is especially so for one which lacks competitive cloud providers and which is trying to develop industries in downstream markets (notably AI, but many others too) that rely on cloud infrastructure.

Not only does this prevent European and other cloud competitors from competing on a level playing field (including by offering lower prices and better services), but the high prices charged by cloud oligopolists means European businesses across all sectors of the economy are spending more than they should be on cloud services.[11] This reduces their competitiveness and ultimately leads to higher prices for European consumers. Research has shown that the dominant cloud providers generate consistent profit margins of around 20-40%, demonstrating a clear and sustained lack of competition and extraction of monopoly rents from customers and ultimately end consumers.[12]

By preventing them from fairly competing or even entering the market, today's oligopolistic cloud market hampers European cloud providers from offering innovative alternatives to the incumbents. Furthermore, without competitive pressure, the cloud oligopolists themselves lack incentives to continuously improve their technologies and services, including in ways that might mitigate or reduce the environmental impacts of AI training and data centre usage.[13]

Dominant cloud providers also exploit their market power to capture, weaken or distort downstream innovation taking place on their infrastructure. For example, they have been accused of developing copycat proprietary versions of popular – and often open-source – software applications on their cloud platforms, and subsequently these giving greater visibility and functionality.[14] More generally, Amazon, Google and Microsoft receive unparalleled insights from their cloud infrastructure which they can subsequently exploit to compete unfairly against downstream rivals, either by benefiting their own services or disadvantaging third-party offerings. They have not only the ability but also strong incentives to do so, given they compete in many of these downstream markets themselves.

When it comes to AI, the Big Tech cloud providers prioritise their own models' access to training and inference compute as well as those of companies they have partnerships with. At the same time, innovative AI challengers have little choice but to enter into partnerships with dominant tech giants, given their concentrated control over computing power.[15] As Microsoft's relationship

with OpenAI and Mistral and Amazon's partnership with Anthropic demonstrate, this enables cloud oligopolists to create new revenue streams for their cloud businesses, gain privileged access to innovative new third-party technologies, and neutralise the competitive threat from market entrants.

As tech monopolies leverage their control over compute to steer AI development in ways that entrench their dominance, this severely restricts the overall diversity of innovation in the market.[16] Even as they invest massive amounts into R&D, they do so to build technology that is closed, centralised, monopolistic and extractive rather than open, decentralised, diverse, sustainable, and in the public interest.

The tech giants that dominate today's cloud market have strong incentives to favour AI innovation based on extreme scale and computational intensiveness, given their concentrated control over compute capacity, data, talent and other AI resources. AI innovation based on smaller models that require less computational resources or data on the other hand directly challenges their interests, even if such models produce better results (in terms of accuracy, productivity gains, sustainability). Furthermore, an alternative vision for AI that prioritises the public interest, uses high-quality (public and industrial) data responsibly, embraces open-source where appropriate, and puts sustainability first, is also one that plays to Europe's strengths.

Concentration is a threat to essential societal services and stability

Around 90% of organisations are set to adopt a hybrid cloud approach by 2027 and therefore rely to a significant degree on cloud computing.[17] This reliance extends to critical sectors including healthcare, transportation and logistics, energy, financial services, and defence. Recent events (including pandemics, wars, and geopolitical tensions with traditional allies) have demonstrated the dangers of relying on concentrated supply chains for critical goods, services and infrastructure. Failure or disruption of a major cloud provider, whether through natural disaster, cybersecurity breaches, or human/technical error, would likely have catastrophic consequences.[18] A Google Cloud outage in June 2025, for instance, brought down Cloudflare and Spotify, among other services, affecting service delivery to billions.[19]

For example, cybersecurity vulnerabilities in a major cloud provider's service could – and already have – give attackers access to the data and systems of thousands or even millions of users, with the risks being magnified by market concentration among a small number of providers. As the CrowdStrike outage demonstrated, reliance on centralised technological solutions creates inherent and unavoidable vulnerabilities. When our governments, hospitals, airports and banks predominantly depend on one or two gigantic cloud service providers, we expose ourselves to catastrophically harmful outcomes in the event of failure.

Reliance on a limited set of providers also creates levers through which pressure can be exerted to anti-democratically deny or modify services to media institutions. Beyond censorship, the Center for Journalism & Liberty has shown that monopoly pricing in cloud has serious societal implications by limiting the extent to which investigative journalism can mobilise cloud resources to conduct data-intensive research.[20]

Concentration is a threat to sovereignty and national security

In today's fraught geopolitical environment, the importance of genuine technological sovereignty – including in cloud infrastructure – is clearer than ever. Yet the dominance of Amazon, Google and Microsoft in providing Europe's cloud infrastructure is fundamentally incompatible with true cloud sovereignty. Firstly, the economic and political scale and influence of these corporations, including the support of the U.S. government, makes it difficult for Europe to hold them accountable, including in relation to the risks outlined above. Secondly, these corporations could be pressured by the U.S. government to act in ways that undermine fundamental European interests, including by restricting, degrading or even shutting off cloud access to European customers. The reality of this threat was demonstrated in May 2025 when Microsoft cancelled ICC chief prosecutor Karim Khan's access to Office services, including email, following the Trump administration's decision to sanction the Court.[21]

Microsoft has stated it would push back against any moves by the United States to restrict U.S. corporations' European cloud operations, including by making concrete changes to its technical operations and legal status in Europe.[22] Amazon and Google have made similar if less ambitious commitments (including partnering with European businesses), a practice that has been labelled as "sovereignty washing".[23] While such commitments may be better than nothing, they ultimately rely on goodwill from corporations that is unlikely to withstand concerted and aggressive pressure from their home government.

3. Solutions to build open, sovereign and resilient cloud infrastructure in Europe

OMI urges the Commission to ensure its policies for the cloud sector promote market diversity, openness, resilience, and sovereignty. As the digital backbone of the modern economy, cloud computing can plausibly be compared to the many other essential public utilities that citizens and businesses depend on in their daily lives. **To achieve a healthily competitive cloudscape, the Cloud and AI Development Act should move towards governing cloud as a public utility by imposing binding obligations on dominant cloud providers that comprehensively address the risks posed by their essential and centralized nature.**

This does not mean public ownership, but a radical transformation of how the industry is structured and governed. It entails viewing cloud infrastructure as a single integrated system, like energy and finance, and imposing binding obligations on cloud providers to comprehensively address the risks posed by their essential and currently highly centralized nature. OMI calls for simple bright-line rules designed to ensure that everyone who needs this essential infrastructure can access it, combined with outright bans on certain behaviours, especially pricing and terms of service that unfairly favour or disfavour individual customers. While the Data Act seeks to address some competitive issues in the cloud industry, notably by banning some forms of egress fee, it falls short in many respects, notably because that prescription only applies to full exits.[24]

Promoting openness, competition and innovation

- **Building on the Data Act, ban anticompetitive practices** including egress fees, proprietary data formats, anti-portability APIs which bind applications and their users to one cloud provider, and artificial barriers to interoperability through:
    - **Standardisation:** requiring cloud providers to agree on a standardized approach to collecting, formatting and organizing customer data to reduce lock in and switching costs. This includes enforcing compliance with open standards (e.g., GAIA-X, Kubernetes, OpenStack) while leaving space for new standards to be developed over time if innovation requires it.
    - **Interoperability mandates**
        - In the first case at the horizontal level (between different IaaS providers).
        - Over the long-term at the vertical level (enabling cloud-based software developers to offer services on multiple cloud platforms at once).
- **Introduce FRAND access mandates** that ban cloud providers from arbitrarily restricting, degrading, or shutting off access to customers, or from giving privileged access to specific customers or their own proprietary services.
- **Clear rules preventing cloud providers from discriminating between customers** based on price or T&Cs, including through spend discounts and credits tailored to individual customers.
- Require cloud providers to:
    a) publicly post the cost and terms of accessing different services;
    b) demonstrate that these prices are proportionate to actual costs; and
    c) offer these rates and terms to all comers.

Industrial policy

- **Use government cloud contracts as a lever** to promote open standards, open source, high cybersecurity standards, and data portability/reversibility and interoperability clauses, while reserving a sizeable proportion of contracts for non-dominant and particularly European providers satisfying these requirements
- **Establish a public marketplace for IaaS**, creating a centralised platform where cloud consumers can compare offers (pricing, terms), thus driving competition and helping tackle customer lock-in and discriminatory practices.[25]
- **Impose reporting requirements on IaaS providers:**
    a) On capacity (GW, number + type of GPUs/TPUs/CPUs, monthly averages of utilised vs reserved space); and
    b) On emissions and resource usage based on objective metrics.

Competition policy in support of the Cloud & AI Development Act

- **Designate dominant cloud providers as gatekeepers under the Digital Markets Act** and use the legislation to prevent and stop anti-competitive practices including tying, bundling, and self-preferencing. This will likely require modifying and even expanding the DMA's existing obligations to ensure they adequately address specific practices in the cloud market. Whether through the DMA or sector-specific regulation, it is essential that clear ex-ante rules be established to prevent anticompetitive conduct in the cloud industry.
- **Impose structural separation on Amazon, Google and Microsoft**, forcing the three corporations to divest the bulk of their cloud operations, which would subsequently be owned and operated as standalone entities. This would reduce market concentration, eliminate cross-subsidisation, address conflicts of interest, and resolve geopolitical concerns.[26]

Traps to avoid

While ambitious industrial policies are needed to address the EU's lack of homegrown cloud capacity, **if poorly designed such policies risk further consolidating the oligopolistic status quo**.

One central reason Europe has struggled to compete in digital markets is the presence and dominance of Big Tech **Actions that further concentrate this market power will further reduce European competitiveness and prevent European firms from competing in cloud, AI, and other downstream markets**.

The Cloud & AI Development Act must therefore avoid:

- Conflating streamlining with deregulation, for example by removing permitting and environmental assessment requirements that are inconvenient to hyperscalers;
- Assuming that the scale-focused paradigm of AI development – focused on multi-billion and -trillion parameter general-purpose models – is the future and directing its investments purely on that basis. This will reinforce market incumbents at the expense of smaller, agile and more efficient alternatives.
- Relying on voluntary self-regulation or non-binding codes of conduct, which have repeatedly proven to be ineffective in addressing the harmful effects of Big Tech's dominance.
- Relying exclusively or even mostly on ex-post competition law to address anti-competitive practices in cloud and AI markets, given the failure of these laws to prevent extreme market concentration in the digital economy.
- Pursuing procurement strategies that reinforce dominant providers, for instance by using government spending to guarantee demand for new hyperscaler-run computing infrastructure.

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