

EU Data Act

Cloud and Edge Computing Services: Key Customer Contract Requirements for Cloud Switching

The EU Data Act requires service providers to provide for minimum contractual requirements to allow for a switching of cloud and edge services to another provider or to on premise infrastructure, or to erase its exportable data. Key steps for compliance include the following:

Identify and categorise exportable data



Categorise and list exportable data and non-exportable data eligible to switching, while protecting IP rights, trade secrets and innovation derived from data produced by the use of a cloud service that might be ported to a competing provider:

- **Exportable Data:** Data **provided by the customer** including any personal data, and data, metadata and digital assets, **directly or indirectly generated or cogenerated** by service use, excluding non-exportable data.
- **Non-exportable data:** Data specific to the contractual relationship, and data, metadata and digital assets protected by **IP rights**, or **business secrets** of the provider or third parties.

Meet switching deadlines



Mandatory Maximum Transitional Period: Ensure that switching process is initiated without undue delay and within **30 calendar days** after a maximum of 2 months from the customer's written request. **This deadline can be extended:**

- **By the provider:** If meeting the deadline is **technically not feasible**, the provider notifies the customer within 14 days and may extend the deadline **up to 7 months**, ensuring service continuity during this period.
- **By the customer:** **Once** and for a period deemed **appropriate**.

Keep in mind other provider requirements throughout switching



- **Offer reasonable assistance** to customer and authorised third parties.
- **Maintain business continuity** and service performance as contractually agreed.
- **Provide clear information about known risks** affecting service continuity.
- **Maintain high level of data security**, particularly during transfer and retrieval period.
- **Support the customer's exit strategy**, including by providing relevant information.
- **Define reduced switching charges** in line with gradual steps during transitory period from 11 January 2024 to 12 January 2027.
- **Notify customer of contract termination** upon successful completion of the switching processor at the end of notice period where customer wants to erase data instead of switching.
- **Ensure full erasure of all exportable data.**
- **Optionally, specify proportionate penalty fees** for early termination.