



# Problemas legales de la "cloud computing" (Spanish Edition)

*Horacio R. Granero*

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"Son indudables las numerosas ventajas de los servicios ofrecidos "en la nube" (velocidad, economía de almacenamiento, acceso desde cualquier equipo en cualquier lugar) pero también da lugar a muchas dudas legales como ser el tema de la privacidad, de la protección de los datos, el derecho de propiedad intelectual de los contenidos, los conflictos de leyes y de la jurisdicción aplicable, etc."

"Partamos de la base que no es menor la preocupación que genera la duda sobre el control de la información que el usuario almacenará en línea -llámese fotos, películas o documentos que necesite almacenar-, y esa preocupación radica en el hecho que sus datos puedan ser manipulados, utilizados en las campañas de marketing, no suprimidos según los pedidos, o utilizados en campañas de marketing según el caso."

"Legalmente también se generan dudas sobre la efectividad de la aplicación de normas nacionales que impiden la transferencia internacional de datos, como la Ley de Protección de Datos Personales, y especialmente cuando se trata de los denominados "datos sensibles o personalísimos", o lo que es peor, en aquellos casos en que por normativas administrativas hacen falta asegurar a los órganos de control -como la Superintendencia de Seguros, por ejemplo- la facilidad de accesos a los datos para realizar las auditorías periódicas del servicio prestado."

"Otra duda se genera sobre la determinación del tribunal que podría llegar a ser legalmente competente para entender sobre un conflicto planteado con el proveedor de los servicios, y también cual sería la ley aplicable en cada caso."

"Es evidente que el servicio de "cloud computing" merece la atención de todos los sectores -privados y de los gobiernos nacionales- pues como toda tecnología de punta es siempre bienvenida, pero lo cierto es que también genera un verdadero desafío al campo legal, y por lo tanto, serán necesarias políticas eficaces para proporcionar certeza legal a los "servicios computacionales en la nube" y a sus usuarios." (Artículo publicado en elDial.com Biblioteca Jurídica Online el 12/11/2010)

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