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Competition in the Provision of Cloud Computing Services – Note by the European Union

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1. Introduction

1. Cloud computing is a strategic digital technology with the potential to transform the European economy.
2. Cloud computing enables customers (e.g., businesses and public administrations) to access IT resources hosted by third parties on the internet (the ‘cloud’), thus outsourcing their IT needs to third party service providers.¹ Depending on the level of control the customer maintains over the IT resources, cloud services may be thought of as comprising three layers of solutions offered “as a service”, with the customer typically paying according to their actual consumption. A cloud provider may thus offer customers solutions that provide access to (i) raw computing resources e.g., for data processing and storage (referred to as Infrastructure-as-a-Service or *IaaS*); (ii) an environment for customers to develop applications directly in the cloud (Platform-as-a-Service or *PaaS*); or (iii) ready-to-use software accessible through the internet (Software-as-a-Service or *SaaS*).
3. Cloud providers offer different cloud models depending on whether the IT resources are shared among customers (*public cloud*) or dedicated to a specific customer (*private cloud*). In the case of customers with heightened data security requirements such as governments cloud providers may offer so-called *sovereign cloud* solutions that meet certain standards in terms of data security and residency.
4. Cloud computing serves as a key input across many industry sectors, from manufacturing and retail to healthcare and financial services, but also data-intensive activities such as data analytics, automation, as well as developing and operating powerful Artificial Intelligence (*AI*) models like those powering Chat-GPT, Gemini or Stable Diffusion.
5. It is thus of little surprise that the cloud industry is experiencing significant growth. The European cloud computing market was worth around EUR 87 billion in 2022 and is estimated to reach EUR 200 billion by 2028.² In 2023, approximately 45.2% of EU businesses bought cloud computing services, primarily for e-mail, file storage and office (productivity) software.³ The EU has set the target that 75% of European businesses should use cloud-edge technologies for their activities by 2030.⁴ According to the latest State of

¹ Cloud computing – statistics on the use by enterprises, Eurostat, available at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Cloud_computing_-_statistics_on_the_use_by_enterprises.

² The future of European competitiveness, Part B, In-depth analysis and recommendations, September 2024 (*Draghi Report, Part B*), p. 77.

³ Cloud computing – statistics on the use by enterprises, Eurostat, available at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Cloud_computing_-_statistics_on_the_use_by_enterprises.

⁴ Shaping Europe’s digital future, Cloud computing, available at <https://digital-strategy.ec.europa.eu/en/policies/cloud-computing>. Edge computing refers to the processing of data in smart devices closer to the user (the ‘edge’). The EU has set this target in the context of the Digital Decade policy programme, a strategic initiative outlining the vision for Europe’s digital transformation until 2030. For more details, see <https://digital-strategy.ec.europa.eu/en/policies/europes-digital-decade>.

the Digital Decade report, the take up of cloud services among EU businesses remains below targets, and under current trends it is expected to increase to approximately 64% by 2030.⁵ This suggests there are many businesses that still only use on-premise solutions, or are somewhere in between in their journey to the cloud, using on-premise solutions for some of their needs and cloud solutions for other needs. Some customers may also prefer to not migrate some (or even all) their activities to the cloud, for instance because they are concerned about control over sensitive data, or because some of their on-premise applications are mission-critical.⁶

6. Against this background, ensuring that cloud markets are competitive and innovative is of paramount importance. Businesses migrating to the cloud should be able to choose the solution that best meets their needs, including the option to rely on multiple cloud providers or not migrate some or all of their activities to the cloud.

7. However, there have been growing concerns that cloud markets are concentrated in the hands of a few large operators and may not be functioning as well as they could thus preventing businesses and individuals in the EU from fully reaping the benefits of this transformative technology.

8. The EU,⁷ as well as many competition authorities in Europe and around the world having analysed the sector⁸ and have identified several issues that may be limiting effective competition in cloud markets. These include: (i) factors increasing customers' costs of switching cloud providers, such as egress fees (which customers may be charged for moving data to another cloud provider) and technical barriers (e.g., lack of interoperability and data portability); (ii) factors discouraging customers from multi-homing ('multi-clouding'), such as incentives cloud providers may offer to boost the consumption of their services,⁹ and a lack of interoperability facilitating the parallel use of the services of different providers; and (iii) practices where integrated market players leverage their strong position in adjacent software markets to favour their cloud offerings.

9. Further, the Draghi report prepared at the request of Commission President von der Leyen (the *Draghi Report*) notes that the EU cloud services market is dominated by three so-called 'hyperscalers', namely Amazon Web Services, Microsoft Azure, Google Cloud,

⁵ Report on the State of the Digital of the Digital Decade 2024, Annex 1, Competitiveness and sovereignty, people, smart greening, policy coherence and synergies, pp. 26 et seq.

⁶ Commission decision of 12 July 2023 in case M.10806 – *Broadcom / VMware*, paras. 167-168.

⁷ See Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) (Text with EEA relevance), OJ L, 2023/2854, 22.12.2023; Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA relevance), OJ L 265, 12.10.2022, p. 1–66.

⁸ The Dutch and French NCA have conducted market investigations into cloud computing, publishing their findings in 2022 and 2023 respectively; the Spanish and the Danish NCA have also launched market investigations into the sector (currently ongoing). Cloud computing has also attracted the interest of regulators beyond the EU, with competition authorities in among others the US, Japan, South Korea, Australia, and the UK studying the functioning of cloud markets or inviting stakeholder feedback on the functioning of cloud markets.

⁹ Examples include discounts conditional on the customer committing to a minimum amount of spend (referred to as committed spend discounts); and cloud credits, i.e., trial offers allowing customers to use the services of a cloud provider free of charge for a certain period of time.

which combined account for roughly 65% of the market.¹⁰ The Draghi Report flags the risk that the EU's competitive disadvantage may widen in the future, creating the additional risk that the EU will fall behind in developing AI and become dependent on AI models developed abroad.¹¹

10. The Draghi Report recommends that the EU opt for a 'middle way' approach between, on the one hand, ensuring access to the hyperscalers' latest cloud technologies and, on the other hand, ensuring, [for reasons of sovereignty,] that its domestic industry can meet the need for sovereign cloud solutions (including on the basis of partnerships with hyperscalers) through a series of targeted measures.¹²

11. In response the Commission announced earlier this year a 'Competitiveness Compass' that will guide its work in the coming five years to reignite economic dynamism in Europe.¹³ The Commission is committed to ensuring the EU thrives in advanced technologies, of which cloud computing is a key component.¹⁴ Effective enforcement of EU competition rules and *ex ante* regulation are an integral part of the efforts to strengthen Europe's competitiveness.¹⁵ The next section explains how the EU is leveraging all available tools at its disposal to protect and enhance competition in cloud markets and ensure customers are free to choose the solution that best meets their needs.

2. Protecting and unlocking competition in cloud services: using the EU toolbox

12. The EU has at its disposal a range of complementary tools it can employ in view of cloud markets being and remaining open and fair and capable of meeting EU customers' needs. While each tool has its own ambit and operational logic, the complementary application of the available tools enables a comprehensive approach to regulating cloud markets.

¹⁰ Draghi Report, Part B, p. 77.

¹¹ See Draghi Report, Part B, p. 79, attributing the US's strong position in AI to the scale of US cloud hyperscalers (including through their partnerships with model developers such as the partnership of Microsoft with Open AI) and the availability of venture capital. Factors identified as contributing to the EU falling behind the US and China in cloud and AI include: less advantageous access to capital and financing for businesses; more limited skills and human capital; and regulatory fragmentation across Member States. See Draghi Report, Part B, p. 81.

¹² The future of European competitiveness, Part A, A competitiveness, strategy for Europe, September 2024 (*Draghi Report, Part A*), p. 34; Draghi Report, Part B, p. 77 and 84. The proposed measures include: (i) enhancing the EU's computing infrastructure and AI capabilities; (ii) defining EU-wide sensitive data security policies for collaborations between EU cloud providers and US hyperscalers; (iii) defining an EU-wide policy for public administrations' procurement of cloud services; (iv) creating a 'passporting' regime for EU-provided cloud services to facilitate their provision across Member States; and (v) strengthening EU-US cooperation to ensure supply chain security, including for US equipment and software required by the EU's cloud industry.

¹³ Communication from the European Commission, A Competitiveness Compass for the EU, 29 January 2025, COM(2025) 30 final.

¹⁴ Communication from the European Commission, A Competitiveness Compass for the EU, 29 January 2025, COM(2025) 30 final, pages 5-6.

¹⁵ Communication from the European Commission, A Competitiveness Compass for the EU, 29 January 2025, COM(2025) 30 final, pages 6-7.

2.1. Controlling the conduct of cloud providers

13. The EU seeks to protect and unlock competition in cloud markets through a combination of *ex post* enforcement of general-purpose antitrust rules and *ex ante* regulation controlling the conduct of cloud providers.

2.1.1. *Ex post enforcement of antitrust rules*

14. The Commission is closely monitoring cloud markets and stands ready to intervene in appropriate cases with a view to detecting and remedying anti-competitive practices. For instance, the Commission has been looking into whether vertically integrated operators use their strong position in adjacent software markets to distort competition on the merits in cloud services. Such leveraging practices may take various forms, and below we provide some non-exhaustive examples of potentially problematic practices.

2.1.2. *Leveraging position in software into cloud infrastructure*

15. The Commission has investigated complaints alleging that Microsoft is taking advantage of its dominant position in software markets, including operating systems (Windows Client and Server) and productivity software (Office), to foreclose competition in cloud infrastructure services. A first complaint was lodged in June 2021 by the European cloud infrastructure service providers OVHcloud, Aruba and the Danish Cloud Community. In November 2022 a second complaint was lodged by CISPE, a non-profit association representing at the time mainly smaller cloud infrastructure service providers, but also AWS.¹⁶ In October 2022 Microsoft changed its licensing conditions with the stated aim of facilitating access to a number of its products by smaller cloud providers or their customers. The Commission continues to monitor the sector as well as to investigate related matters brought to its attention.¹⁷

2.1.3. *Leveraging position in software into adjacent cloud software markets*

16. In July 2023 the Commission opened proceedings against Microsoft to investigate whether it anti-competitively tied its cloud-based communication and collaboration product *Teams* with its well-entrenched productivity software.¹⁸ In June 2024 the Commission sent Microsoft a Statement of Objections, informing it of its preliminary view that Microsoft's conduct breaches EU antitrust rules.¹⁹ The Commission preliminarily found that Microsoft is dominant worldwide in the market for SaaS productivity applications for professional use. The Commission is concerned that, by tying *Teams* with its core SaaS productivity applications, Microsoft may have granted *Teams* a distribution advantage which may have been further exacerbated by interoperability limitations between *Teams*' competitors and Microsoft's offerings. Such conduct may restrict competition in the market for cloud-based communication and collaboration products and defend the position of Microsoft's cloud

¹⁶ For completeness, in January 2025 it was announced that Microsoft would join CISPE as a non-voting member.

¹⁷ The aforementioned complaints have been withdrawn. In September 2024 Google lodged a complaint alleging that Microsoft restricts or makes it cost-prohibitive for European customers to move their current Microsoft workloads to competitors' clouds, notably through the licensing of Windows Server. The Commission is assessing the complaint in line with its standard procedures.

¹⁸ Cases [AT.40721](#) and [AT.40873](#).

¹⁹ Commission sends Statement of Objections to Microsoft over possibly abusive tying practices regarding *Teams*, 25 June 2024, [IP/24/3446](#).

offerings of productivity software and suites-centric model from rival suppliers of individual software. Microsoft has proposed commitments to resolve the Commission's concerns, which the Commission put to a public market test on 15 May 2025. Microsoft's proposed commitments include making available versions of its offerings that include the tying products without Teams at a reduced price, providing interoperability with Microsoft's popular products to Teams' competitors and allowing Teams' users to extract Teams messaging data for use in competing solutions.²⁰

2.1.4. Looking into the future: leveraging from cloud into AI?

17. As previously noted, cloud computing is a key enabling technology for developing AI and particularly generative AI. The Commission is committed to ensuring competition thrives in generative AI markets. The size of the global AI market was estimated at more than EUR 130 billion in 2023, with projection of significant growth in the next 5 years.²¹ Sources indicate that private investment in AI was around EUR 17,3 billion and that the venture capital investments in the EU27 were about EUR 8,1 billion.²² Given the size of the market and its likely development, it is crucial to ensure that AI markets stay competitive and that barriers to entry remain low.

18. With this goal in mind the Commission launched a call for contributions on competition in generative AI in early 2024 alongside a call for contributions on virtual worlds;²³ organised a stakeholder workshop in June 2024;²⁴ and published a policy brief in September 2024.²⁵

19. One of the noticeable tendencies in this sector is linked to the presence of established vertically integrated players, typically offering, in addition to proprietary AI foundation models, also cloud or data centre services at the upstream level. Moreover, as cloud capacity remains a very significant cost for AI providers, several partnerships have been concluded in this industry precisely with the objective of providing promising startups with cloud and computing capacity at cost in exchange for access to the startups' AI technology and intellectual property (such as the partnerships between Microsoft and OpenAI, Microsoft and Mistral AI, Amazon and Anthropic).

²⁰ Communication from the Commission published pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Cases AT.40721 – Microsoft Teams and AT.40873 – Microsoft Teams II, OJ C, C/2025/2790, 16.5.2025.

²¹ European Parliament, AI Investment: EU and Global Indicators, March 2024, [https://www.europarl.europa.eu/RegData/etudes/ATAG/2024/760392/EPRS_ATA\(2024\)760392_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2024/760392/EPRS_ATA(2024)760392_EN.pdf).

²² See, respectively, Stanford University, The 2025 AI Index Report, <https://hai.stanford.edu/ai-index/2025-ai-index-report/economy>; and OECD.AI Policy Observatory, <https://oecd.ai/en/data?selectedArea=investments-in-ai-and-data&selectedVisualization=vc-investments-in-ai-by-country>. An exchange rate of 0.89 EUR/USD was applied.

²³ The submissions received in response to the call for contributions are available at https://competition-policy.ec.europa.eu/about/europes-digital-future_en

²⁴ More information on European Commission's Workshop on Competition in Virtual Worlds and Generative AI available at: https://competition-policy.ec.europa.eu/about/reaching-out/virtual-worlds-and-generative-ai_en

²⁵ Competition in Generative AI and Virtual Worlds, Competition Policy Brief No 3/2024, available at https://competition-policy.ec.europa.eu/document/download/c86d461f-062e-4dde-a662-15228d6ca385_en.

20. The Commission is alert to, among others, the risk that incumbent digital players enjoying preferential access to key generative AI inputs such as cloud computing infrastructure reserve such inputs to themselves, grant such inputs to third parties (e.g., AI model developers) on an exclusive basis or prevent rivals from accessing such inputs in the first place. The Commission is also alert to the risk that customers' choice of AI technology or AI solutions may be restricted to offerings of their cloud provider or its partners and result in lock-in, given that switching cloud service providers seems to remain challenging as noted above (e.g., because of limitations in interoperability and data portability and various software licensing practices).²⁶

2.1.5. *Ex ante regulation*

21. The EU has adopted targeted legislation to promote competition in cloud services. Such legislation goes beyond prohibiting (proscribing) cloud providers from engaging in certain practices to also mandating (prescribing) specific conduct with a view to unlocking competition in the market.

22. Adopted in December 2023, the **Data Act**²⁷ lays down horizontally applicable rules (i.e., for all cloud providers) aimed at reducing commercial, contractual and technical vendor lock-in and empowering customers to switch from one provider to another or combine services from different providers and use them in parallel.

23. As part of the broader category of switching charges, the Data Act addresses concerns over egress charges, which may be charged to customers for moving data outside the cloud. The Data Act will abolish switching charges, including egress charges, from 12 January 2027, while in the transitional period between 11 January 2024 and 12 January 2027, cloud providers may only charge customers reduced switching charges, including egress charges, not exceeding the costs incurred in relation to the switching process.²⁸ Further, the Data Act prepares the ground for improving interoperability between different providers by preparing the ground for a repository laying down harmonised standards and open interoperability specifications.

24. The Data Act entered into force on 11 January 2024 and will become applicable in September 2025.²⁹ The Commission will closely monitor the implementation and impact of the Data Act on the cloud sector and has already launched a study monitoring, among other factors, the evolution of cloud service prices.

25. Adopted in September 2022 to promote fairness and contestability in digital markets, the Digital Markets Act (**DMA**) lays down a series of obligations for undertakings that have been designated as 'gatekeepers' in relation to 'core platform services' that function as an important gateway for business users to reach end users in the EU.³⁰

²⁶ Id., p. 7 and 5.

²⁷ Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) (Text with EEA relevance), OJ L, 2023/2854, 22.12.2023.

²⁸ The Data Act also lays down rules to ensure data portability (e.g., by specifying minimum requirements for the exportable data) and remove contractual obstacles to switching.

²⁹ With the exception of egress fees, which as noted above have been reduced at cost already during the three-year transitional period starting 11 January 2024.

³⁰ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and

26. While cloud services are among the core platform services covered by the DMA, no cloud service was notified under the DMA, as no provider considered the relevant quantitative thresholds for being designated as a gatekeeper for cloud services to be met. Absent a notification and subsequent designation decision, the DMA obligations therefore currently do not apply directly to cloud service providers.

27. However, the DMA provides the option to designate an undertaking as a gatekeeper even though the quantitative thresholds are not met, if following a market investigation the Commission concludes that the undertaking meets the overarching qualitative criteria to be designated as a gatekeeper.³¹ In that case the designated cloud provider would have to comply with a series of obligations, including for example those addressing data-related advantages and prohibiting disproportionate general conditions for terminating the provision of a core platform service.

28. Further, the designation of certain other core platform services (e.g., operating systems) under the DMA is likely to have an indirect impact on cloud services, as it affects how such services interrelate with the designated services; an example would be e.g., the obligation to allow and technically enable end users to easily change default settings on the operating system of the gatekeeper that steer end users to the gatekeeper's cloud services.³²

2.2. Controlling structural changes in cloud markets

29. EU merger control allows for *ex ante* review of concentrations that meet the EU notification thresholds. Merger enforcement prevents structural changes in the market that would significantly impede effective competition, while allowing transactions that benefit consumers, e.g., by increasing customers' choices.

30. For example, in 2023 the Commission conditionally approved Microsoft's acquisition of video game developer and publisher Activision Blizzard. Following an in-depth investigation, the Commission concluded the acquisition would harm competition in the distribution of PC and console games via cloud game streaming services, an innovative segment that could transform how gamers play video games, and could strengthen Microsoft Windows' position in PC operating systems.³³ The investigation had shown that post-transaction Microsoft might refuse to make Activision Blizzard's games available on cloud game streaming services other than its own. To address these concerns, Microsoft proposed a remedy with a 10 year duration in the form of a free licence to all rival cloud gaming providers in the EEA. This means in practice that consumers who have purchased an Activision game for a console or a PC can also stream the game on the platform of their choice. The Commission found that the licensing commitments offered by Microsoft fully addressed its competition concerns and represented a significant improvement for cloud game streaming, by bringing Activision's games to new platforms, including of smaller cloud gaming providers, and to more devices than before.

(EU) 2020/1828 (Digital Markets Act) (Text with EEA relevance), OJ L 265, 12.10.2022, p. 1–66 (*DMA*). The DMA came into force in November 2022 and began to apply in May 2023. For an overview of the Commission's work, see the annual report on DMA implementation for 2024, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2025:166:FIN>.

³¹ DMA, Article 3(1) and 3(8).

³² DMA, Article 6(3).

31. The Commission remains fully committed to carefully reviewing concentrations to ensure they will not hamper competition in cloud or related markets.

2.3. Promoting competitiveness and protecting customer choice in the EU

32. The EU is keen to ensure that European customers are free to choose the cloud solutions that best meet their needs. This includes making sure that European customers have the option to use cloud solutions powered by domestic providers (e.g., for use cases with heightened security or data residency requirements), or to continue using their own on premise datacentres. The EU's related policy and enforcement work to advance this objective includes promoting investments in research, development and innovation going beyond the state of the art in the cloud sector to ensure resilience and help develop EU-based technological solutions in compliance with State aid rules and sector-specific legislation; reviewing partnerships with the potential to benefit customers with secure cloud needs; and having due regard in the context of merger and antitrust enforcement to the different dynamics in cloud and on premise markets.

2.3.1. Promoting investments: Important Projects of Common European Interest and the upcoming Cloud and AI Development Act

33. On 5 December 2023, the Commission approved the Important Project of Common European Interest (*IPCEI*) Next Generation Cloud Infrastructure and Services (*CIS*). A total of 19 companies from 7 Member States (France, Germany, Hungary, Italy, the Netherlands, Poland, and Spain) are participating in this IPCEI – the first in cloud and edge computing. The project concerns the development of the first interoperable and openly accessible European data processing ecosystem, the multi-provider cloud to edge continuum. It is working to develop data processing capabilities and software and data sharing tools that enable federated, energy-efficient and trustworthy cloud and edge distributed data processing technologies and related services. The project will enable a new spectrum of possibilities for European businesses and citizens, advancing the Digital and Green transition in Europe. The participating Member States will provide up to EUR 1.2 billion in public funding in the coming years, which is expected to unlock an additional EUR 1.4 billion in private investments.

34. Apart from IPCEI CIS, two more IPCEI candidates are currently being explored by interested Member States, with the support of the Commission: one focusses on the deployment of computing infrastructure, suitable also for cloud and edge computing applications, while the other focuses on research and development of innovative artificial intelligence services.

35. As part of its AI Continent Action Plan, which aims to make the EU a global leader in AI, the Commission announced that it will propose a Cloud and AI Development Act to address the EU's gap in cloud and AI infrastructure capacity.³⁴ The Cloud and AI Development Act aims to at least triple the EU's data centre capacity within the next 5 to 7 years to bring it to a level which fully meets the needs of EU businesses and public administrations by 2035. The Cloud and AI Development Act will pursue these goals, including by incentivising investments in sustainable data centres across the EU, for

³⁴ Commission sets course for Europe's AI leadership with an ambitious AI Continent Action Plan, 9 April 2025, IP/25/1013.

example by granting accelerated permitting procedures and other incentives, in line with applicable State aid rules, to operators of highly sustainable data centres.³⁵

36. For highly critical use cases, including AI applications, sovereignty and operational autonomy require highly secure EU-based cloud capacity. The Cloud and AI Development Act will ensure that the public and private sector in the EU can rely on such capacity for these use cases, thus laying the basis for the public sector to adopt AI in an environment of trust. More generally, leveraging the existing Data Act provisions on cloud switching, the Cloud and AI Development Act will look into establishing a common EU marketplace for cloud capacity and services to enable the entry into the market of a more diverse set of cloud service providers.³⁶

2.3.2. Reviewing partnerships with the potential to benefit customers with secure cloud needs

37. As noted in section 2.B above, the Commission is reviewing concentrations with a view to preventing only those that would significantly impede competition. Transactions that are neutral or even beneficial for competition – for example by making it possible to address secure cloud needs of European customers – are allowed. In June 2023 the Commission thus approved the creation of the ‘Bleu’ joint venture set up by French operators Capgemini S.E. and Orange S.A. to provide, in partnership with Microsoft, cloud services for customers with specific security requirements. The JV’s cloud services are compliant with the French criteria for sovereign cloud services meeting specific security requirements of among others the French State, public agencies, hospitals and regional authorities (referred to as the “*Cloud de Confiance*”).³⁷ The parties to the transaction announced the launch of Bleu’s commercial activities in January 2024, with Bleu engaging with select French public and private organisations.³⁸

2.3.3. Taking into account the distinct dynamics of cloud and on-premise solutions

38. Competitive dynamics in related markets may be different depending on the deployment environment, namely whether enterprise customers use on-premise servers or have moved certain workloads to the private or public cloud. The Commission takes into account the different dynamics in cloud and on-premise environments, most notably in the context of market definition for the purposes of merger control or antitrust enforcement – which in turn facilitates the investigation of competition concerns specific to each deployment environment. In *Broadcom/VMware* the Commission found that market dynamics for server virtualisation software are different for the deployment on the public

³⁵ For more details, see the Call for evidence for an impact assessment, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14628-AI-Continent-new-cloud-and-ai-development-act_en.

³⁶ <https://digital-strategy.ec.europa.eu/en/library/ai-continent-action-plan>.

³⁷ Commission decision of 12 June 2023 in Case M.10855 – *Capgemini / Orange / JV*.

³⁸ Capgemini and Orange are pleased to announce the launch of commercial activities of Bleu, their future “cloud de confiance” platform, 15 January 2024, available at <https://www.capgemini.com/news/press-releases/capgemini-and-orange-are-pleased-to-announce-the-launch-of-commercial-activities-of-bleu-their-future-cloud-de-confiance-platform/>.

cloud, on the one hand, and on the private cloud and on-premise, on the other hand.³⁹ Following an in-depth investigation, the Commission found foreclosure concerns (restriction or degradation of interoperability between the virtualisation software and Broadcom competitors' hardware) and could approve the case only subject to comprehensive access and interoperability commitments. Further, in its *Teams* investigation mentioned in Section 2.A above, the Commission took the preliminary view that Microsoft is dominant worldwide in the market for *SaaS* productivity applications for professional use [(excluding on-premise software)], and may have used such dominance to grant its cloud-based communication and collaboration tool Teams a distribution advantage by tying Teams with its core *SaaS* productivity applications.

3. Conclusion

39. Cloud computing is a transformative technology at the heart of Europe's twin digital and green transition. The EU is aware of the importance of competitive and innovative cloud markets for businesses, public administrations and ultimately citizens. Against that background, the EU already uses and will continue to do so also in the future all available tools seeking to protect and unlock competition in the cloud while ensuring choice for European customers.

³⁹ Commission decision of 12 July 2023 in case M.10806 – *Broadcom / VMware*. [The Commission concluded that VMware has a significant degree of market power in the market for server virtualisation software in on-premise and private cloud environments, and the merged entity could use such market power to foreclose its only rival in the market for Fibre Channel Host-Bus Adapters. To address the Commission's competition concerns, Broadcom offered comprehensive access and interoperability commitments. The Commission concluded that the transaction, as modified by the commitments, would no longer raise competition concerns and cleared the concentration on this basis.]