



Electronic Evidence and the Cloud

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We live in exciting times!

Our world



Mobile-first

Cloud-first

Regulatory Developments

- Creation of the Department of ICT
- E-Commerce Act
- Cybercrime Prevention Act
- Data Privacy Act
- A.M. NO. 01-7-01-SC.- Re: Rules on Electronic Evidence



Counseling

A.M. NO. 01-7-01-SC.- RE: RULES ON ELECTRONIC EVIDENCE

Application

Shall apply whenever an electronic data message is offered or used in evidence.

Shall apply to all civil actions and proceedings, as well as quasi-judicial and administrative cases.



Litigation

Republic of the Philippines
Supreme Court
Manila
EN BANC
A.M. No. 01-7-01-SC

RE: EXPANSION OF THE COVERAGE OF THE RULES ON ELECTRONIC EVIDENCE RESOLUTION

Acting on the letter of the Chairman of the Committee on Revision of the Rules of Court, the Court Resolved to AMEND Section 2, Rule 1 of the Rules on Electronic Evidence to read as follows:

"SEC. 2 Cases covered. - These Rules shall apply to the criminal and civil actions and proceeding, as well as quasi-judicial and administrative cases."

The amendment shall take effect on October 14, 2002 following the publication of this Resolution in a newspaper of general circulation.

September 24, 2002.

HILARIO G. DAVIDE, JR.

Chief Justice

JOSUE N. BELLOSILLO

Associate Justice

RENATO S. PUNO

Associate Justice

Common Questions



Who owns the data in the Cloud?

- The customer remains the owner of the data

What are the types of data that are stored in the Cloud?

- *Subscriber Information*
 - *Email Address*
 - *Name*
 - *Credit Card Info*
 - *IP Address at Time of Information*
- *Content Data*
 - *What customers create, communicate and store*

How can government gain access to data?

- *Subscriber Information*
 - *Subpoena or Court Order*

- *Content Data*
 - *Court Order or Warrant*

Sample of Subscriber Info provided to law enforcement:

Field	Value
Login	First.Last@xxxxxxx.com
PUID	0006BFFDA0FF8810
First Name	First
Last Name	Last
State	Washington
Zip	98052
Country	US
Timezone	America/Los_Angeles
Registered from IP	65.55.161.10
Date Registered {Pacific}	10/24/2007 1:05:18 PM
Gender	M
Last Login IP	64.4.1.11

The PUID in the above table stands for “Personal User ID,” which is a unique alphanumeric code generated for each registered Microsoft account.

How can government gain access to data?

- *Subscriber Information*
 - *Subpoena or Court Order*

- *Content Data*
 - *Court Order or Warrant*

What laws apply to Microsoft customer records and content?

- *Law of the country where the data is stored*
- *For data hosted in the U.S., Microsoft follows the Electronic Communications Privacy Act. We require at least a subpoena before turning over non-content records, such as basic subscriber information or IP connection history, and we require a court order or warrant before producing content. Irish law and European Union directives apply to the Hotmail and Outlook.com accounts hosted in Ireland. Skype is a wholly-owned but independent division of Microsoft, headquartered in and operating pursuant to Luxembourg law.*

What laws apply to Microsoft customer records and content?

- *Per policy, however, Microsoft will voluntarily make disclosures of certain information to law enforcement in countries that do not have jurisdiction if a request, directed to Microsoft Corporation (rather than the local subsidiary) is made pursuant to the local process for doing so.*

Exceptional Circumstances

- French Government sought the content of emails from two customer accounts held by Microsoft when it was in the midst of pursuing the Charlie Hebdo suspects. Rather than come to Microsoft directly in the United States, the French authorities contacted the FBI in the United States and the FBI served upon us an emergency request under a provision of the Electronic Communications Privacy Act. Despite the fact that this letter arrived electronically at 5:47 in the morning on the west coast of the United States, we were able to assess its validity under U.S. law, conclude that it was proper, pull the email content in question, and deliver it to the FBI in New York, all in exactly 45 minutes.

Thank you for your time today!

