A recent Gartner report forecasts a growth of 18% in spending on public clouds across all businesses for 2017, similar to that in 2016. Other surveys show that the use of cloud computing is a key part of IT strategy in most enterprises, even to the point of the discussion of “cloud-first” IT strategies. Did the legal profession reflect those trends in 2017? You might be in for a surprise.

The terms “cloud” and “cloud computing” have become much more familiar to lawyers in the last few years, but there can still be some confusion on the standard definitions. In the enterprise IT world, you will find public, private, and hybrid clouds, and many flavors of “as a service”: software (SaaS), infrastructure (IaaS), and platform (PaaS), to name the three most common.

To keep it simple, the 2017 Legal Technology Survey Report has focused on the basic concept of “web-based software service or solution,” including Software as a Service (SaaS). In practical terms, you can understand cloud computing as software or services that can be accessed and used over the internet using a browser (or, more commonly now, a mobile app), where the software itself is not installed locally on the computer being used by the lawyer accessing the service. Another common way to describe cloud services is to refer to “web services” or “hosted services.” Your data are also processed and stored on remote servers rather than on local computers and hard drives.

Cloud services might be hosted by a third party (most commonly Amazon or Microsoft) or, more commonly in the legal profession, by a provider running its services on Amazon, Microsoft, or another cloud provider. It’s also possible, though unlikely, that a law firm could host and provide its own cloud services.

The cloud approach has become quite popular in the business world (e.g., Salesforce.com, BaseCamp, Google for Work, and Slack), and for individuals (e.g., Dropbox, Gmail, and Evernote). You can also easily find legal-specific cloud services such as Clio, Rocket Matter, NetDocuments, Bill4Time, MyCase, and many others.

The 2017 Survey results show lawyers still moving cautiously to the cloud as
compared to the rest of the business world. However, the big news (and the answer to the question posed in the opening paragraph) is that reported cloud usage jumped by 40% from the 2016 Survey. That’s a surprising number, especially since a closer look at the answers suggests an underreporting of actual use. That’s probably due to a continuing misunderstanding about what cloud services are—something we’ve seen in prior years. 2017 Survey responses showed confusing and contradictory statements about actual use of cloud computing, as well as “Don’t know” answers.

The key cloud computing benefits have remained constant over the years. Lawyers and law firms see the cloud as a fast and scalable way to use advanced legal technology tools without the need for a substantial upfront capital investment in hardware, software, and support services. Cloud services are generally made available in the form of a “subscription,” with a periodic fee (typically monthly) per user. A popular example of a cloud service is Dropbox, a cloud service for file storage and sharing, that many lawyers report that they are already using. The standard Dropbox business account currently costs $150/user/year. Many traditional software providers are beginning to move to cloud models and offer hosted versions of their products, joining a large number of companies that have focused solely on the cloud. The EXPO at ABA TECHSHOW 2017 had a very visible increase in the exhibitors with cloud products over prior years.

Despite a slow start and the early wariness of lawyers, cloud computing appears to be moving toward becoming a standard approach in legal technology. Even with the reservations lawyers have, it is important to note that cloud usage has moved over 50% for the first time—up from just 31% in 2015.

**Survey Highlights**

- Cloud usage grew more than 40% from 2016 to 2017, from 37% to just over 52%. Solos and small firms continue to lead the way.

- Despite some reservations, lawyers continued to use popular consumer cloud services like Dropbox, Google Apps, iCloud, and Evernote at higher rates than dedicated legal cloud services.

- Confidentiality, security, data control and ownership, ethics, vendor reputation and longevity, and other concerns weigh heavily on the minds of lawyers, yet the employment of precautionary measures is quite low, with no more than 41% of respondents actually taking any one of the specific standard precautionary measures listed in the 2017 Survey question on the topic. 9% reported taking no precautions of the types listed.
• Lawyers are becoming more familiar with cloud technologies and are attracted by anytime, anywhere access, low cost of entry, predictable monthly expenses, and robust data backup.

• Concerns about confidentiality/security and lack of control lead the worry list by a wide margin. Lawyers rate the reputation of the vendor as the most important factor in their decision-making process.

• The 2017 Survey results also suggest that client-focus is not top of mind for lawyers using and considering the use of cloud computing. Considering client needs, expectations, and desires could become a key target area for innovative lawyers and firms.

• Solos, small firms, and medium-sized firms have a higher cloud usage than large firms. These results might reflect a lack of familiarity with the tools used in large firms.

• Only 9% of respondents indicated that they expected to replace an existing software tool with a cloud tool in 2017.

• 36% of lawyers are at firms with extranets. Extranets are used primarily for firm lawyers and much less likely for clients.

1. Usage Numbers

The percentage of the 2017 Survey participants answering “Yes” to the basic question of whether they had used web-based software services or solutions grew by roughly 40%, from 37.5% to 52.1%. 37.8% said “No,” which is significantly down from 52.5% in 2016. “Don’t know” responses remained at roughly 10%. Solos (55.7%, up from 42% in 2016) and small firms of 2-9 lawyers (56.3%, up from 46% in 2016) continued to lead the way in usage. Larger firm “Yes” responses ranged from 39-53%, showing substantial increases from 2016. However, these overall results can be confusing given answers to other questions, suggesting the possibility that actual usage might be higher than the reported usage. For example, many mobile apps are also essentially front-ends for cloud services. Many lawyers who do not think that they are using the cloud may in fact be using it every day, especially through mobile apps.
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2. Consumer Cloud Services More Popular Than Dedicated Legal Services

The 2017 Survey asked respondents what cloud providers they had used. Dropbox, the well-known online file storage service, once again topped the list at 59%, essentially the same as in 2016. Other consumer cloud services also remained popular (Google Apps, 38%, down from 49%; iCloud, 32%, up from 28%; Evernote, 18%, down from 25%), despite a lot of discussion about encryption and other security concerns in the press and among lawyers.

Legal-specific cloud services have not reached the same levels of popularity as the consumer services. Clio continues to be the most popular legal cloud service named by respondents (12.4%, down from 16% in 2016), followed by NetDocuments (4.3%, up from 3.5% in 2016), MyCase (3.7%, down from 7% in 2016), and Bill4Time (1.5%, down from 2%). These results might reflect both the difficulties lawyers and others have with determining what exactly is a “cloud” service and the increased number of legal cloud service providers, especially in the case management category. Note that services that many would consider “cloud”—WestLaw, LexisNexis, FastCase, to name a few—do not show up in the results, except presumably as small components of the “Other” category (13.9%).
The high level of use of Dropbox in larger firms (47%) also indicates that lawyers in what are traditionally considered “locked down” IT environments are looking for other tools to accomplish tasks they have difficulty doing with traditional law firm tools—another area that deserves further exploration, especially by those firms.

In the last year or so, the collaboration tool Slack has become extremely popular in small businesses and technology companies. As of right now, there is still no indication of its uptake in the legal world.


Although lawyers have a lot of concerns and wariness about cloud services, especially security, confidentiality, and control issues, their reported behavior about precautionary measures simply does not reflect what they express their level of concern to be. In fact, the results are shocking and reflect little, if any, positive movement in the past year.

Of 13 precautionary measures listed in the 2017 Survey, the measure most commonly used was only used by 41% of the respondents, up slightly from 38% in 2016. The most widely-employed precautions were making local data backups (41%, up from 35% in 2016), reviewing privacy policies (38%), using only services with SSL/encryption (36%), reviewing Terms of Service (34%), and using cloud services only for non-confidential purposes (31%). Would lawyers recommend that their clients take these approaches?

The numbers only get worse from there.

Only 30% of respondents reviewed ethics rules and opinions, 27% evaluated vendor company history, and 29% sought advice from their peers. There were no
meaningful increases in these numbers as compared to 2016.

At the very bottom are things that lawyers should do well. A mere 7% negotiated confidentiality agreements in connection with cloud services, and, in next to last place, only 5% negotiated service legal agreements (SLAs). Using data escrow was in last place. Does anyone else hear a wake-up call? More importantly, if security and confidentiality are lawyers’ biggest concerns about cloud computing, does this behavior make any sense?

4. Where is the Client-focus?

Largely missing in action in the results were clients and client concerns. Here are a few numbers to consider. Extranets are probably the classic example of a secure cloud tool that can help clients and help collaborate on projects with external parties; the results show that 82% of firms allow access to their lawyers and 56% to their staff. Access to clients, who potentially benefit the most from extranets, was only provided by 36%. Collaboration for “friendly” outsiders was permitted by 24%. Only 9% expressly considered specific client concerns (other than confidentiality and security, of course) as part of their overall concerns about cloud computing.

5. Cloud Benefits

There was not a lot of change in the perceived benefits of cloud computing shown in the 2017 Survey. Anywhere, anytime access is the biggest perceived benefit of cloud computing for lawyers. Low cost of entry and predictable monthly expenses are also highly rated benefits. Other economic benefits, such as eliminating IT and software management requirements and quick start-up times are also seen as important benefits by almost half of the respondents. Only 25% of lawyers see “better security than I can provide in-office” as a benefit of cloud computing—a striking number, especially to anyone familiar with data center security procedures as compared to standard practices in law firms.

<table>
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<th>Top Five Benefits of Cloud Computing</th>
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<tr>
<td>Quick to get up and running</td>
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<td>Robust data back-up and recovery</td>
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<tr>
<td>Low cost of entry/predictable monthly expense</td>
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<td>24x7 availability</td>
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<td>Easy browser access from anywhere</td>
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6. Biggest Lawyer Concerns

While more lawyers reported using the cloud, they continued to express reservations and concerns about the cloud. When current cloud users were asked to identify their biggest concerns, they cited “confidentiality/security concerns” (69%, down from 72% in 2016) and concerns about losing control of data (49%, down from 57%). Concerns about losing control over updates (25%) and vendor longevity (21%) were other significant concerns. Only 9% listed client concerns about lawyers using the cloud.

There were similar concerns among those lawyers who have yet to try the cloud. When asked a question about the concerns that had prevented them from adopting the cloud, 62% cited confidentiality/security concerns, 49% cited the loss of control, and 19% cited a perceived lack of ethics guidance. “Unfamiliarity with the technology,” was listed by 37%, down from 50% in 2016.

7. Name and Reputation of Cloud Vendor

Ninety-one percent of respondents using cloud services considered the name and reputation of the cloud vendor as either very important (71%) or somewhat important (20%) to their decision, roughly the same as in 2016. However, only 27% of respondents (up from 25% in 2016) reported that they evaluated the vendor’s history and only 29% (up from 26% in 2016) sought out peer advice/experiences in connection with the vendor. This area is definitely one in which lawyers can improve their due diligence efforts.
8. Replacing Existing Tools with Cloud Services

Even though interest in cloud services is high, the interest does not seem to translate into substantial action at this point, at least in terms of replacing existing software tools. Only 9% of respondents indicated that they expected to replace an existing software tool with a cloud tool in 2017. Lawyers might be looking to the cloud only for new tools or to supplement existing tools.

8. Internally-focused Extranets

Extranets are a premier example of what can be a client-facing tool. Lawyers, perhaps ironically, have focused on extranets as internal tools. Extranets are private websites for which a user—internal or external—must have authorization to use. A law firm extranet could be used to allow a client to access files or gain other information on matters.

Thirty-six percent of lawyers are at firms with extranets. Extranets are used primarily for firm lawyers (82%) and staff (56%), but much less for clients (36%). These numbers suggest opportunities for lawyers to open up these tools for clients.

Conclusions

The 2017 Legal Technology Survey Report shows that, for a small majority of lawyers and firms, cloud services are now part of the IT equation. There was an impressive 40% surge in the growth of cloud usage. However, the continuing lack of actual attention to confidentiality, security, and due diligence issues remains a serious concern, especially with the growth in mobile apps running
on cloud services. The results on security procedures will continue to fuel client concerns about security efforts by their outside law firms. There is much that law firm IT departments and technology committees, legal technology vendors and consultants, corporate law departments, clients, and all legal professionals interested in the adoption of technology by lawyers can learn from these results. They give us much to think about and some indications where firms might want to move their technology strategies in the coming year and beyond. Applying basic common sense to security efforts might be the biggest lesson for the upcoming year.

About the Author

Dennis Kennedy is a well-known legal technology authority and senior counsel of Digital Payments & Labs at Mastercard. He has co-authored several books on social media and collaboration tools, writes a tech column for the ABA Journal, and is co-host of The Kennedy-Mighell Report podcast on the Legal Talk Network. He currently chairs the board of the ABA’s Legal Technology Resource Center.