The leader of a business considering a journey into the unsettled world of cloud computing could take a lesson from a pilot. Those who rely on flight dispatchers may help them avoid turbulence. That’s because the dispatcher’s vantage point, equipment and training provide a vision the pilot lacks.

Silky comparisons

Only if the CEO has already had a conversation about employees using Dropbox on mobile devices. And only if top business leaders know what a “deemed export” is and realize that employees using Dropbox on mobile devices. And only if top training provide a vision the pilot lacks. That’s because the dispatcher’s vantage point, equipment and software, where the servers may be in Dallas, while I am in Waco.” Henry, himself a pilot, is a patent attorney who lives in Waco. “You can’t know what you don’t know.”

In simplest terms, cloud computing involves the storage of data and/or operation of software on servers that are not at your physical location and can be accessed over the Internet. For example, said Baylor law and business professor David Henry, “This can involve all my files and software, where the servers may be in Dallas, while I am in Waco.” Henry, himself a pilot, is a patent attorney who lives in Waco, but works worldwide. His arrangement is a simple one, and this kind of computing is not a problem for most businesses.

Bigger issues arise when the servers are in another country, or workers use a service like Google Drive to share company documents — and no one knows that they are doing it or what the risks are. This is something the IT department should be managing, said John Tripp, an assistant professor who teaches business majors must take.

In many corporations, the use of the cloud is not visible to the people tasked with ensuring content security,” Tripp said. “When anyone in your network can install Dropbox or Google Drive and start sharing files with anyone in the world, the enterprise can be caught out of compliance pretty quickly.”

Almost anyone who uses a computer has used “the cloud” and most users would agree that cloud computing is not only efficient and necessary, it also can be simple and safe. Just like a pilot, however, businesses sometimes require guidance. Those laws govern the exporting of certain items and technology — including through so-called “deemed exports” — that involve merely sharing controlled technology with a U.S.-based employee who happens to be of foreign citizenship.

There’s also a body of law about what technologies can be shared legally in the cloud. Henry, who teaches patent and trademark law and integrates intellectual property subjects into courses at Baylor’s Hankamer School of Business, said he deals with many companies whose executives are stung when they discover how easily they could violate U.S. export control laws. These laws govern the exporting of certain items and technology — including through so-called “deemed exports” — that involve merely sharing controlled technology with a U.S.-based employee who happens to be of foreign citizenship.

Business executives might discount the risks because they do not export any goods and have no intent to commit a crime. They think that as long as they are not sending things out for sale, they are not exporting,” said Henry. They would be wrong. Henry offered, in addition to the example of deemed exports, that of the business that stores information and data considered export-controlled technology in a cloud computing system with servers outside the United States. “Even sophisticated companies are often completely unaware of U.S. export control laws in many contexts,” Henry said. “In my experience, a minority of companies are fully aware of the laws, the scope of controlled technologies, and the applicability of export control laws to things like mere data.”

The result of running afoul of the laws, even unintentionally, could be fined $1 million for sending it somewhere it should not have gone. In fact, the most important things to know about cloud computing are things that most users do NOT know.

In fact, the most important things to know about cloud computing are things that most users do NOT know. Businesses can and do use cloud computing legally and ethically, however. Lawyers, for example, now file court documents electronically that used to be hand-delivered. Tripp uses cloud-based reference management for his writing, and cloud-based telecommunication to make conference calls with his research co-authors. Businesses and organizations use cloud-based computing to back up computers and store large documents for easy employee sharing.

But with intellectual property providing most of a business’s value, thinking through certain issues regarding how computers and other devices are used can help protect business practitioners and their employees.

Here are ideas for SAFEGUARDING information and avoiding legal pitfalls:

1. Store sensitive data onsite. This data can be anything from controlled technology to confidential client information to intellectual property.

2. Ensure that someone who understands the technology and terminology thoroughly reviews the provider’s terms of use to make sure the service conforms to a business’s ethical standards. Remember that some cloud services host data farms outside the United States, meaning that merely storing information on such systems may amount to a prohibited export, and that some terms of service allow the provider to divulge anything stored on the provider’s server if the server is served with a subpoena.

3. Train employees about the services they can use on mobile devices and home computers. “In many corporations, the use of the cloud is not visible to the people tasked with ensuring content security,” Tripp said. “When anyone in your network can install Dropbox or Google Drive and start sharing files with anyone in the world, the enterprise can be caught out of compliance pretty quickly.”

4. Use the skills of your IT department. While cloud services are easy to use, usually without IT assistance, these departments are often full of visionary people who can advance business operations if given a chance, said Tripp.

5. Understand that intellectual property often represents the majority of the value of the business and don’t put at risk. ”Unlike Baylor, most business schools barely touch on the topic,” Henry said. “Lawyers and business people are often agast at how IP laws work when compared with widespread and stocky differing beliefs.” Tripp noted that future cloud computing will enable companies to purchase IT infrastructure the same way they now pay for electricity. “In other words, metered for, and charged by use.” While this will decrease the need for internal IT staff to keep day-to-day operations running, it will increase the need for IT departments to function as advisers and coordinators that utilize a collage of cloud services to build and enable new business value. “The Cloud is here to stay. Training users as to the proper use of these tools will go further than trying to put a finger in every hole in the enterprise data dam. At some point, you run out of fingers.”

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