



European Cloud Competition Observatory

First Report on Microsoft

February 2025



The European Cloud Competition Observatory (ECCO) was created as part of CISPE's agreement with Microsoft to resolve CISPE's competition complaints. ECCO is an independent monitoring body comprising CISPE members plus the support, as observers, of European customer organizations, such as Cigref in France and Beltug in Belgium. It operates as an independent body under the auspices of CISPE.

ECCO's initial function is to assess and report on Microsoft's progress on commitments outlined in the Memorandum of Understanding signed between CISPE and Microsoft in July 2024 (the MOU). However, guided by CISPE and European customer organizations, ECCO will also monitor other software giants, including Broadcom/VMware, whose practices restrict cloud choices for European customers.

This first report provides a holistic view on Microsoft's progress complying with the MOU. For simplicity, ECCO has added a **Red/Amber/Green** (RAG) rating for each of the issues it considers. **Green** = On-Track, significant and sufficient progress towards ending unfair software licensing practices is being made. **Amber** = Off-Track, there are concerns either that progress has stalled, or that barriers to resolution are proving hard to overcome. **Red** = Critical, insufficient progress has been made at the time of the report.

Status of Microsoft MOU Progress

Overall Status = AMBER

In the MOU, CISPE and Microsoft agreed to work together to develop and promote a product that would allow CISPE members to offer hybrid cloud-enabled applications that realize many benefits of Azure on their own owned infrastructure. Irrespective of the product or technical platform chosen the expected features and benefits should include multi-tenancy, free ESU, unlimited virtualization and multi-session VDI solutions based on Windows 10, 11 and future versions, and PAYG licensing for SQL Server.

Should these benefits not be available through a product, or if the product is not viable within a nine-month period, then alternative commercially equivalent solutions, available through existing programmes should be considered. Both sides agree that the delivery of this product would advance many business opportunities that serve CISPE members and the technology ecosystem more broadly.

Progress has been made on many of the issues we agreed to pursue with Microsoft. This includes the critical outcome of ensuring CISPE members continue to retain programmatic access to Microsoft software licenses by keeping SPLA program in place for 5 years and maintaining its competitiveness in comparison to other channels and programmes. Progress has also been achieved with the introduction of the Flexible Virtualization Benefit /BYOL which, although offered before the MOU, was a direct response to CISPE's concerns. The high-level engagement topics and status are provided below:

Topic	Status
CISPE Member Eligibility in Microsoft Direct Partner Programs	Amber
Hoster Product Development	Red
SPLA Program Support and Sustained Competitiveness	Red
Guarantee of Flexible Virtualization Benefit Availability	Green
Migration License Support For CISPE Members	Green

The items marked green have been delivered by Microsoft already as part of its MOU undertakings. ECCO recognizes this important progress. The balance of the report provides additional details on areas where more progress is required, specifically: CISPE Member Eligibility in Microsoft Direct Partner Programmes; Hoster Product Development; SPLA Program Support.

CISPE Member Eligibility in Microsoft Direct Partner Programmes

1. Microsoft is helping CISPE members pilot Azure Local (formerly branded Azure Stack HCI) as the potential foundation for a product for hosters consistent with the requirements of the MOU.

- a. Microsoft established a comprehensive testing and assessment programme to allow CISPE members to evaluate the product for their scenarios.
- b. CISPE member engagement in the pilot has not been uniform and many CISPE members have found it problematic to access the pilot for a variety of reasons. To date, three members have fully tested the software, two additional members have entered active pilot engagement, 10 members have so far not successfully completed applications to access the trial.
- c. Microsoft has made significant concessions to its standard programme requirements to accommodate CISPE members. However, some CISPE members remain unclear on what they need to do, and/or are concerned regarding the commitments they are making to be accepted onto the pilot. Microsoft continues to provide additional resources to support their engagement.

Hoster Product Development

2. Microsoft invited and hosted a CISPE delegation to meet with engineering teams in Redmond in early December 2024. An intensive and robust workshop provided the opportunity for CISPE to share its minimum product requirements. For its part, Microsoft was able to provide more detail on the current capabilities of Azure Local.

- a. The workshop was a productive and collaborative engagement that left both sides feeling positive about commitment to finding a mutually acceptable resolution and meeting the terms of the MOU.
- b. During the workshop CISPE members detailed the core functions required from any proposed Microsoft multi-tenant hybrid cloud product development. Specifically, it was made clear that to meet CISPE's understanding of the commitments made in the MOU the Microsoft product needed to deliver full multi-tenancy, including but not limited to oversubscription/overcommitment of CPU and RAM, storage, and network overlapping.

Microsoft Comment: CISPE members presented a set of features to Microsoft positioned as “requirements” associated with a business opportunity described in the MOU. These do not reflect an agreed-to set of commitments because they go beyond the product requirements and characteristics defined in the MOU. The core technical functions of the offering are oversubscription/overcommitment of CPU and RAM, storage, and network overlapping. We can work together to develop additional capacities like those provided by the CISPE members, but this must work as a partnership that involves co-investment and reasonable expectations.

3. ECCO remains concerned that not enough work has been done to ensure that the proposed product solution is on track to meet commitments made in the MOU.

- a. At the Redmond workshop (4th December), Microsoft engineering teams agreed that ‘the ball was in their court’ to respond to CISPE’s list of features with detailed information on if, how, and when these features could be delivered using Azure Local. To date, CISPE has not had any further feedback on these elements which CISPE members regard as essential.
- b. Subsequent communications (in early 2025) have suggested that Microsoft is still “processing and evaluating” and “digesting” these requirements.
- c. CISPE has been told that Microsoft’s engineering teams have a “very long list of things they are working on.” This fuels concern that CISPE’s requirements, necessary under the MOU, are being considered equally alongside other product development demands.
- d. Furthermore, CISPE members report that during monthly calls with Microsoft any further discussion of these key requirements is rejected with Microsoft seemingly focused on ‘pushing’ the existing product as the solution.

Microsoft’s perspective is the pilot is designed to get Azure Local into the hands of CISPE members so they can try it, and Microsoft can better understand CISPE member feedback on their scenarios to develop a path forward with better information.

- e. CISPE members are also concerned that the proposed product, Azure Local, may require an Azure presence and licence for each of the cloud provider’s customers. This is unacceptable to CISPE members.

Microsoft’s perspective is Azure Local works best as a connected product. The Azure Local operator has control over how connected resources requiring an Azure subscription are associated with the subscription.

- f. Data privacy and data sovereignty remain key elements of any European-hosted multi-tenancy platform, and the current proposed solution requiring Azure Portal as the only interface raise serious concerns for ECCO.

4. ECCO reiterates that the ultimate goal of the MOU is not the development of any specific product but to ensure a fair and competitive market for European cloud infrastructure providers to sell Microsoft software to their customers.

5. Consequently, ECCO calls on Microsoft to rapidly confirm whether Azure Local can, or cannot, meet the requirements of the MOU. If it cannot, then alternative approaches should be co-developed in partnership as soon as possible in order to meet the initial deadlines outlined in the MOU.

SPLA Program Support and Sustained Competitiveness

6. The MOU is also designed to give CISPE members confidence that Microsoft's SPLA licensing programme will continue for 5 years at least and offer a competitive means for them to combine Microsoft software with their own cloud infrastructures in ways that are free of additional price discrimination.

7. Recent price changes by Microsoft appear to undermine this commitment.

a. For example, price rises for Microsoft Windows Server in the SPLA programme have not been reflected in commensurate increases in the price of hourly PAYGO prices for Windows Server licenses on Azure.

b. ECCO considers this to be contrary to the intent of the MOU to maintain SPLA as a viable alternative to Microsoft Azure for licensing Microsoft productivity software and recalls that price discrimination in SPLA was a key driver of CISPE anti-trust challenge in Europe.

Microsoft's perspective is that disconnected software and connected cloud services are not comparable because they offer customers different value propositions. The price of hourly Windows Server on Azure is far higher than disconnected Windows Server available on SPLA and this allows CISPE members to profitably compete with Azure and other cloud providers.

c. ECCO believes that Microsoft should act in good faith and maintain both the spirit and the letter of the MOU to ensure that no new price discrimination is added between SPLA licensing of its software independent of absolute pricing and that which is available on Azure.

Microsoft's perspective is it offers software that helps its partners build their businesses and has expanded the offerings available in the SPLA price list. It also believes disconnected software and connected cloud services are different because of how they deliver customer value.

ECCO summary of progress on the Microsoft MOU with CISPE

Microsoft and CISPE have clearly established a positive and collaborative working relationship and this is highlighted in the successful outcomes that have already been delivered for CISPE's members and the larger technology community based upon the MOU. Both sides appear committed to finding solutions to open issues. Microsoft has dedicated significant resources, including engineering, development, legal and senior leadership time, to advancing the partnership.

However, there was not sufficient progress on the hoster product between September 2024 and January 2025. There is a CISPE member concern that too much focus has been applied to the development of Azure Local as the route to delivering MOU requirements. Teams dedicated to the development of that product may not be working in full understanding of the legal requirements of the MOU and thus may not be prioritising the right work.

Microsoft is concerned that CISPE members are anchored on a product definition that goes beyond the scope of the pilot and that narrow focus will block successful co-development opportunities.

CISPE members are concerned that the absence of progress on the hoster product exposes them to continuing harm. Microsoft will need to engage quickly to keep earning CISPE members' trust and co-develop a path forward.

The situation is not yet critical, and ECCO remains positive that the project can be put back on track to deliver the terms of the MOU within the nine-month deadline. However, it urges Microsoft to rapidly assess the potential of Azure Local to meet these needs, and to suggest alternatives sooner rather than later if it finds this not to be the right solution.

As such, ECCO classifies the status of the Microsoft MOU with CISPE as **Amber/Off-track**.

About ECCO

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