



Six Secrets to Offering Commercial Hosting Services using Microsoft SPLA

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Agenda

The six most common questions our clients ask us about SPLA:

1. “Do I need commercial hosting rights?”
2. “Should I Pick SPLA or Self Hosting?”
3. “How can my customers BYOL?”
4. “What SPLA policies do I implement?”
5. “What about my customer contract?”
6. “What reporting tools should I use?”

“Do I need commercial hosting rights?”

Contractual Restrictions

Microsoft’s Product Use Rights (PUR) – along with other retail and OEM license agreements – include the following:

“You may not host the products for commercial hosting services.”

However, none of those agreements defines what constitutes “commercial hosting services.”

“Do I need commercial hosting rights?”

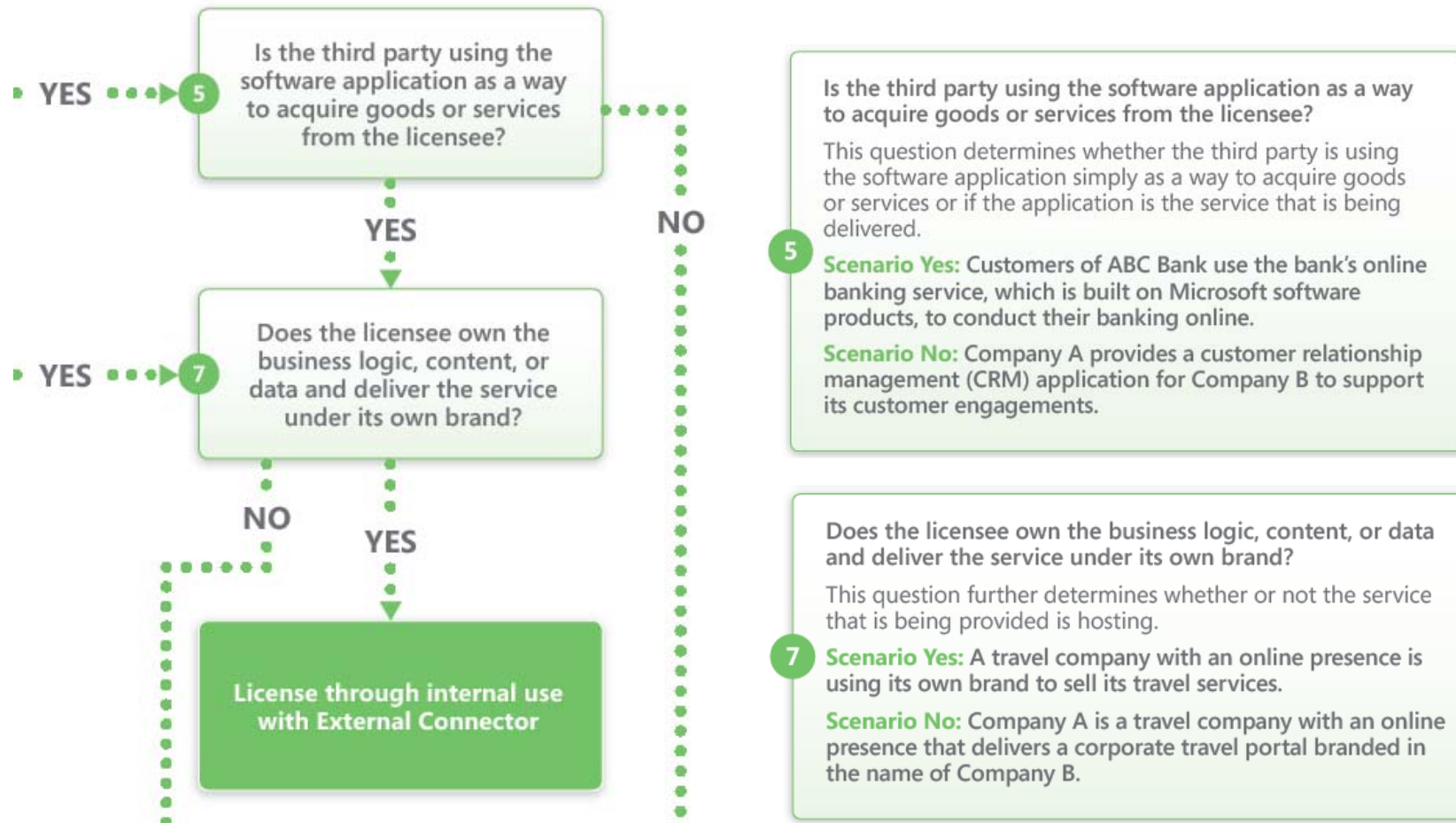
Extra-Contractual Guidance

Microsoft has published two resources that can help companies to evaluate server use cases in order to determine whether commercial hosting rights are required:

- Services Provider License Agreement (SPLA)
Qualification Road Map
Last published in 2011 – no longer on MS website.
- SPLA Program Reference Card
Last revised November 2013 – still on MS website.

“Do I need commercial hosting rights?”

SPLA Road Map – Pivotal Questions



“Do I need commercial hosting rights?”

Two Options if the Answer is Yes

1. Services Provider License Agreement (SPLA)

- Separate agreement signed under a company’s Microsoft Business and Services Agreement (MBSA)
- Covers all hosted use cases
- Available for a wider variety of Microsoft server and desktop products

2. Self-Hosted Applications

- Benefit included with Software Assurance acquired under an Enterprise Agreement or other Microsoft volume-licensing agreement
- Covers a more limited set of use cases
- Available only for a more limited set of Microsoft server products
(**NOTE:** no mixing of license models is allowed)

“Should I Pick SPLA or Self Hosting?”

SPLA Model

Under SPLA, companies measure their Microsoft product usage from month to month and then report and pay for the kind and quantity of Microsoft product licenses used.

SPLA licensing must be used in connection with “Software Services” offered to customers. Internal use of SPLA-licensed Microsoft products is allowed, but only up to 50% of the total usage for a given product.

“Should I Pick SPLA or Self Hosting?”

SPLA Pricing

SPLA license pricing is significantly lower than perpetual license pricing, since the license fee is paid on a monthly basis. That fee usually is characterized as an operating expense, rather than a capital expenditure.

Example: 23 virtual servers, each running Windows Server Standard on 1 vCPU, are deployed on 4 high-availability physical hosts, each with 4 processors, to deliver Software Services to customers. 3 of the virtual servers are running SQL Server Enterprise (which imposes a minimum requirement of 4 core licenses per VM). 52 end users also have access to Remote Desktop Services. End users have no access to any other Microsoft products.

Windows Server Datacenter: 16 procs x \$102.00/proc = \$1,632.00

Windows Server RDS: 52 users x \$4.19/user = \$217.88

SQL Server Enterprise: 12 cores x \$460.15/2 cores = \$2,760.90

Total monthly amount due: \$4,610.78 = \$55,329.36 per year (assuming no growth)

“Should I Pick SPLA or Self Hosting?”

Volume Pricing

Volume license costs typically represent capital expenditures, though renewals of Software Assurance following the initial license acquisition may be characterized as operating expenses. If an Enterprise Agreement is used, then the expense may be spread over the three-year term of an EA enrollment. Otherwise, the full license fee is due when the licenses are ordered.

Same example:

Initial License Purchase:

Windows Server Datacenter : 16 procs x \$9,234.00/2 procs = \$73,872.00

Windows Server External Connector: 4 hosts x \$3,029.00 = \$12,116.00

Windows Server RDS External Connector: 4 hosts x \$15,270.00/host = \$61,080.00

SQL Server Enterprise: 12 cores x \$20,621.00/2 cores = \$123,726.00

Total initial purchase amount: \$270,794.00 = \$90,264.67 per year for 3-year term

Software Assurance Renewal Purchase (no additional licenses):

Windows Server Datacenter : 16 procs x \$3,078.00/2 procs = \$49,248.00

Windows Server External Connector: 4 hosts x \$1,010.00 = \$4,040.00

Windows Server RDS External Connector: 4 hosts x \$5,090.00/host = \$20,360.00

SQL Server Enterprise: 12 cores x \$6,874.00/2 cores = \$82,488.00

Total SA renewal purchase amount: \$156,136.00 = \$52,045.33 per year for 3-year term

(**NOTE:** Windows Server and RDS CALs also would be required to support internal use of those products.)

“Should I Pick SPLA or Self Hosting?”

Why Pick Self-Hosting If It Costs More?

The Self-Hosted Applications option often represents a more significant financial commitment. However, there are important advantages to keep in mind:

- One agreement to cover all use cases with no limit for internal use.
- No month-to-month auditing required in order to confirm usage (though annual true-ups would be required under an EA).
- Audit exposure typically is lower and, if an EA is selected, shortfalls could be remedied at the next annual true-up with no penalties.

“Should I Pick SPLA or Self Hosting?”

Self-Hosting Requirements

Excerpt from current PUR:

Servers -- Self-Hosted Applications

The following additional licensing requirements and/or use rights apply to Self-Hosted Applications.

Self-Hosted Applications means those products for which the Product-Specific License Terms that indicate “Self-Hosted Applications: Yes”.

Despite any terms to the contrary in your volume licensing agreement including these Product Use Rights, you may run licensed copies of Self-Hosted Applications that interact directly or indirectly with your own software to create a unified solution (“Unified Solution”) and permit third parties to use it, subject to the terms below.

REQUIREMENTS

You must have the required Microsoft licenses and maintain Software Assurance coverage for:

- the Self-Hosted Applications run as part of the Unified Solution; and
- all access licenses used to make the Unified Solution available to external users (See [Universal License Terms, Definitions](#)).

All Microsoft software used to create and deliver the Unified Solution must:

- be licensed through a Volume Licensing program that is subject to these license terms (e.g., Enterprise Agreement, Select Plus Agreement, Open License Agreement) and not any other (e.g., Services Provider License Agreement, Independent Software Vendor Royalty License and Distribution Agreement); and
- be marked as “Yes” for “Self Hosting of Applications Allowed” in these license terms.

Your software must:

1. add significant and primary functionality to the Self-Hosted Applications that are part of the Unified Solution (dashboards, HTML editors, utilities, and similar technologies alone are not a primary service and/or application of a Unified Solution);
2. be the principal service and/or application of the Unified Solution, and must not allow direct access to the Self-Hosted Applications by any end user of the Unified Solution;
3. be delivered to end users over the Internet, a telephone network, or a private network from servers physically dedicated to you and under the day to day control of you or a third party other than the end user of the Unified Solution (the Unified Solution may not be loaded onto the end user’s device); and
4. be owned, not licensed, by you, except that your software may include non-substantive third party software that is embedded in, or operates in support of, your software.

All use of the Self-Hosted Applications remains governed by the license terms for those products. You may not transfer licenses acquired under your volume licensing agreement except as permitted in that agreement.

CHANGES TO USE RIGHTS

Despite the terms of your volume licensing agreement, we may modify or discontinue the above use rights at any time. However, if we do so, these use rights and the terms and conditions of your license agreement continue to apply to your use of the Self-Hosted Applications under licenses acquired before the effective date of that change until the end of your current term of Software Assurance coverage.

“How can my customers BYOL?”

Option 1 - Dedicated Physical Environment

- Service provider assigns the BYOL customer’s deployments to a dedicated physical infrastructure that no other customers are able to access.
- Service provider is not required to have SPLA or SA or any other licenses for BYOL products, provided that the customer agrees to be solely responsible for all BYOL product licensing.

SUMMARY: The best option to reduce legal exposure and administrative burdens, but potentially unrealistic in the marketplace.

“How can my customers BYOL?”

Option 2 – License Mobility under Software Assurance

- Service provider must have a SPLA and must sign the License Mobility addendum to the SPLA in order to become a “qualified License Mobility through Software Assurance Partner.”
- Customer acquires and maintains Software Assurance for all licenses (including CALs) needed to support the deployments on the service provider’s servers.
- Customer signs a License Mobility Validation form identifying the BYOL licenses to be used.
- Service provider also signs the License Mobility Validation form, which then is sent to Microsoft.
- Microsoft approves the License Mobility Validation form.
- Service provider keeps a copy of the License Mobility Validation form and makes it available in the event of an audit.

SUMMARY: An administrative headache that opens the door to additional legal exposure. However, may be the only option to provide a competitive, multi-tenant hosting environment.

“What SPLA policies do I implement?”

Standard Topics

During an audit, Microsoft and/or its auditors may want insight into how usage of products licensed under SPLA is managed on a day-to-day basis. A readily available, printed policy document can be a valuable tool to give the auditors confidence that the audited company knows how to handle SPLA licensing.

The standard set of topics covered include:

- Order receiving
- Order processing & product deployment
- Change orders
- Usage monitoring (including monthly reporting procedures and periodic internal audits)

“What SPLA policies do I implement?”

Optional Emphases and Topics

However, depending on the kinds of products and solutions offered by a service provider, the level of detail required for a policy document may vary significantly. Relevant factors include the following:

- Number and type of Microsoft products in use
- License metrics and licensing modes intended for Microsoft products in use
- For any Subscriber Access License (SAL)-licensed products, additional steps to validate the number of users **“authorized to access your instances of the server software directly or indirectly, regardless of actual access of the server software”**
- Any policies needed to accommodate BYOL customers under the License Mobility model (“Option 2”)

“What SPLA policies do I implement?”

Active Directory Hygiene

During an audit, for SAL-licensed products, all enabled user accounts in hosted Organizational Units will be counted (unless some other solution is used to limit access to the Microsoft products, in which case the service provider will need to be prepared to demonstrate how that solution works).

Therefore, it is critical to ensure that the SPLA policies:

- Align user counts to be used for reporting purposes with actual usage, and
- Include technical policies to disable inactive AD user accounts after a defined period of inactivity.

“What SPLA policies do I implement?”

Historical Usage Data

The MBSA states:

Customer must keep records relating to the Products it and its Affiliates use or distribute.

Absent reliable data regarding historical usage, Microsoft’s auditors typically will extrapolate findings based on the usage reported for the month of an audit, which often results in wildly inaccurate licensing calculations.

The best defense against that outcome is to implement policies that require all monthly SPLA to be saved to an archive that can be accessed easily in the event of an audit.

“What about my customer contract?”

Minimum Required Terms

The SPLA contains a number of requirements that a licensee’s customer agreements must satisfy:

8. *End User Agreement requirements.*

- a. **Minimum required terms.** Customer must maintain End User Agreements with all End Users. Customer must ensure that the End User Agreements are effective and binding in all applicable jurisdictions. End User Agreements must, at a minimum:
- (i) prohibit the End User from removing, modifying or obscuring any copyright, trademark or other proprietary rights notices that are contained in or on the Products;
 - (ii) prohibit the End User from reverse engineering, decompiling, or disassembling the Products, except to the extent that such activity is expressly permitted by applicable law;
 - (iii) disclaim, to the extent permitted by applicable law, all warranties by Microsoft and any liability by Microsoft or its suppliers for any damages, whether direct, indirect, or consequential, arising from the Software Services;
 - (iv) state that Customer or a third party on Customer’s behalf (and not Microsoft or its suppliers) will provide technical support for the Software Services;
 - (v) include terms at least as protective of Microsoft’s intellectual property rights as contained in this Agreement;
 - (vi) permit the disclosures of End User information required by this Agreement;
 - (vii) include limitations at least as protective as those stipulated in the subsection entitled “No High Risk Use”; and
 - (viii) state that Microsoft will be an intended third party beneficiary of the End User Agreement, with the right to enforce provisions of the End User Agreement and to verify the compliance of the End User.

(excerpt from 2013 form SPLA)

“What about my customer contract?”

End User License Terms

If a service provider also will be distributing client software in connection with hosted solutions (*e.g.*, Outlook with Exchange Plus SALs), then the service provider also must include End User License Terms (EULTs) with its customer agreements.

The EULTs are included as an attachment to the SPLA and may be attached to and incorporated by reference into customer agreements.

“What reporting tools should I use?”

Data Required for Accurate Reporting

In most cases, there are four sets of data that need to be collected in order to validate usage of Microsoft products under SPLA:

1. Complete inventory of servers used to deliver Software Services
2. Complete inventory of Microsoft software deployed on those servers (including any optional or additive products, such as Enterprise-level Exchange functionality)
3. Virtualization data mapping VMs to their clusters and hosts and also identifying the physical processor and core counts for those hosts
4. Active Directory reporting identifying all users and computers in the hosting domain, which is used:
 - a. To validate the completeness of the hardware inventory, and
 - b. To identify the users with access to the hosted solutions

“What reporting tools should I use?”

MAP Toolkit

The Microsoft Assessment and Planning (MAP) Toolkit is a free tool owned and made available by Microsoft that is our standard recommendation for hardware and software reporting.

MAP’s principal weaknesses include:

- No way to track user access upon deployment of the tool (though it can be configured to measure access prospectively)
- Poor native reporting for desktop applications like Office installed on servers
- No useful information regarding virtualization

“What reporting tools should I use?”

RVTools

For virtualization environments running on VMware, the best tool for obtaining information regarding clusters, hosts and associated processors and cores is RVTools, a free application that uses the VMware Infrastructure SDK to display information about virtualization environments. RVTools and its documentation are available here:

<http://www.robware.net/>

“What reporting tools should I use?”

Active Directory

User and computer lists can be extracted from Active Directory using a query entered in CSVDE, a command-line tool that is built into Windows Server. Here is a query we often use:

```
csvde -f fileusers.csv -r objectClass=user -l  
cn,sAMAccountName, DN, lastLogoff, lastLogon, lastLogonTimestamp,  
memberOf, name, objectClass, operatingSystem, operatingSystemServicePack,  
operatingSystemVersion, pwdLastSet, userAccountControl, whenChanged,  
whenCreated, mail, homeMDB, terminalServer, licenseServers
```


Questions?

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