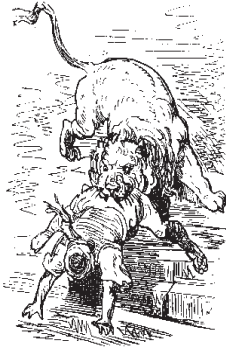


# Soft•letter

BUSINESS INSIGHTS FOR SOFTWARE DEVELOPERS & PUBLISHERS



*The recession is biting into sales and marketing expenditures. See pages 4 & 5.*

## Summary Results from the Softletter SaaS Escrow Surveys, Part III of IV

The Softletter SaaS Escrow Surveys for Providers and Subscribers were launched in March, 2010 and closed at the end of May, 2010. The Allegiance online system ([www.allegiance.com](http://www.allegiance.com)) was used to generate and manage these surveys. The purpose of these surveys was to develop a comprehensive analysis of current use and practices among SaaS application providers and subscribers. This survey had respondents answer between 15 to 30 detailed questions to give us an accurate snapshot of their SaaS application usage and SaaS escrow practices, results and measurements.

The results from both these surveys are contained in these summaries. The surveys recorded 170 valid responses, 112 from companies subscribing to SaaS applications (customers) and 58 from companies that provide SaaS applications (providers).

Throughout this report numbers of particular interest have been **bolded**.

### SaaS Provider Escrow Responses (cont)

<b>Current gross revenues</b>	<b>%</b>
Under \$1 million	24%
\$1 to \$5 million	15%
\$6 to \$10 million	11%
\$11 to \$50 million	11%
\$51 to \$100 million	5%
\$100 million +	29%

<b>For how many years has your company been selling SaaS systems?</b>	<b>%</b>
0 to 1 year	28%
1 to 2 years	7%
2 to 4 years	17%
4 to 6 years	13%
6 to 7 years	4%
8+ years	30%

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*continued on page two*

<b>What is your primary market for your SaaS product?</b>	<b>%</b>
Business	89%
Consumers (includes social sites, games, education, virtual worlds, etc.)	0%
Both	11%

<b>How are your SaaS applications hosted?</b>	<b>%</b>
We own and operate our own data center	20%
<b>We are hosted with a third-party supplier, but we maintain the application</b>	<b>76%</b>
We use a managed service provider for everything	5%
I don't know	0%

<b>How concerned are your customers with you (the SaaS Provider) going out of business?</b>	<b>%</b>
Not a concern	24%
<b>Mild concern - not a significant issue</b>	<b>51%</b>
Concerned - a significant issue that must be addressed in sale process	19%
Highly concerned - must be addressed or no sale	5%

Mirroring the responses from SaaS customers, SaaS providers seem to enjoy the confidence of their customers in terms of worries about financial stability. Most shutdowns have taken place in a fairly controlled fashion. There have been no, to date, overnight business failures that would shake market confidence.

<b>How concerned are your customers about short-term outages?</b>	<b>%</b>
Not a concern	0%
Mild concern - not a significant issue	43%
Concerned - a significant issue that must be addressed in sale process	41%
Highly concerned - must be addressed or no sale	16%

<b>How concerned are your customers about extended outages?</b>	<b>%</b>
Not a concern	0%
Mild concern - not a significant issue	43%
Concerned - a significant issue that must be addressed in sale process	41%
Highly concerned - must be addressed or no sale	16%

<b>How concerned are your customers about lack of support or deteriorating service levels?</b>	<b>%</b>
Not a concern	14%
Mild concern - not a significant issue	35%
Concerned - a significant issue that must be addressed in sale process	38%
Highly concerned - must be addressed or no sale	14%

<b>How concerned are your customers about security or protection of their data from misuse or unauthorized access?</b>	<b>%</b>
Not a concern	2%
Mild concern - not a significant issue	11%
<b>Concerned - a significant issue that must be addressed in sale process</b>	<b>38%</b>
<b>Highly concerned - must be addressed or no sale</b>	<b>46%</b>

<b>How concerned are your customers about the availability of a back-up hosting center for disaster recovery?</b>	<b>%</b>
Not a concern	3%
Mild concern - not a significant issue	30%
<b>Concerned - a significant issue that must be addressed in sale process</b>	<b>54%</b>
<b>Highly concerned - must be addressed or no sale</b>	<b>14%</b>

The numbers for availability of a back-up center are very high and SaaS providers should take note.

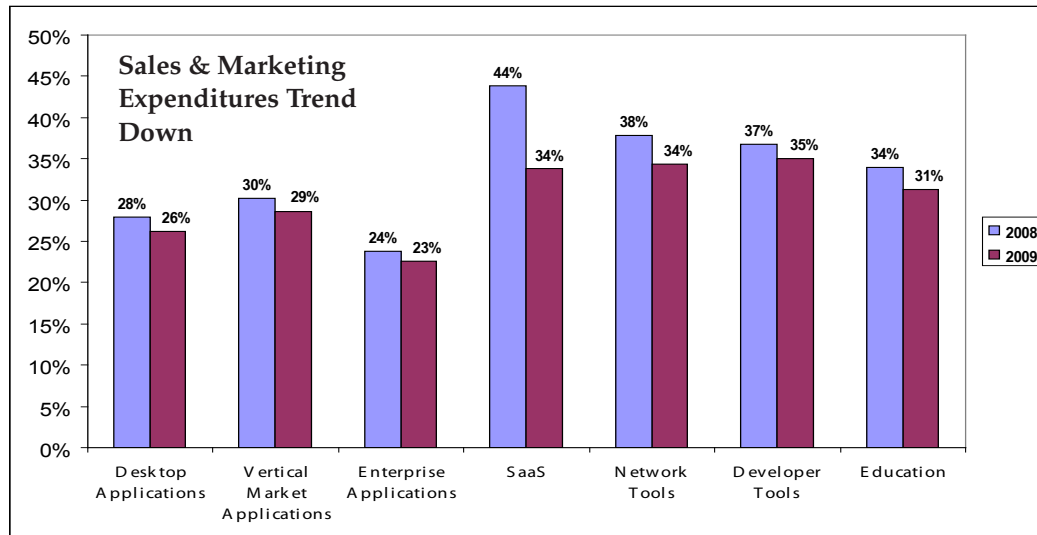
<b>How effective is using substantiated documentation (SAS70, SysTrust certification, DR/BC plans, etc) to counter customer concerns?</b>	<b>%</b>
Highly effective	18%
Moderately effective	35%
Not Effective	3%
Don't know - we do not use	44%

<b>How effective is using Service Level Agreements (SLAs) to counter customer objections?</b>	<b>%</b>
<b>Highly effective</b>	<b>38%</b>
<b>Moderately effective</b>	<b>35%</b>
Not effective	3%
Don't know - we do not use	24%

The numbers for SLAs are striking. *Softletter* will be conducting a comprehensive survey on current best practices and trends on SLAs later this year.

<b>How effective is using escrow agreements to counter customer objections?</b>	<b>%</b>
Highly effective	35%
Moderately effective	12%
Not effective	12%
<b>Don't know - we do not use</b>	<b>41%</b>

*continued on page four*



## Benchmarks: Sales and Marketing, 2009

Google envy continues with its now four year run of a sales and marketing expenditure to revenues average of 9%. And while the company has had a rough patch over the last few months with the collapse of its Wave product, China, and its bad habit of not realizing that running around and recording everything on the planet (including public Internet traffic) is a bit creepy, it's still **good** to have a monopoly on search. And while the company still remains very much a one trick revenue pony, the success of Android may lead to future revenues from mobile application store sales, possible OEM deals, and increased revenue from smartphone-based advertising. Microsoft still sports a very desirable 22% benchmark, but please note the \$2b decrease in revenues from 2008. We'll give you one guess what the culprit was. Here's a hint—it begins with a big capital "V."

The first question this survey normally elicits is: How much of the percentages shown represent sales and how much marketing? While most of the companies in our Benchmark 50 do not break out sales from marketing expenses, other studies and surveys we've run over the years tell us that "pure" marketing expenditures typically account for 25% of the total S&M amount. (If your company tucks product management under marketing, add 2% to 3% to this number. ) Publicly held firms, laboring under the whip of stock prices and market capitalization benchmarks, typically spend at least twice as much as privately held firms on S&M.

An analysis of the numbers immediately reveals an interesting statistic—sales and marketing expenditures in 2009 dropped in every benchmark category, a clear artifact of the longest lasting recession since WWII. Conventional "counter wisdom" proclaims that it's a mistake to throttle back on sales and marketing during an economic downturn, but clearly the software industry feels that the old ways are the best ways.

Otherwise, this year's numbers provide no great surprises. Desktop/Retail's low number reflects not so much efficiency but the increasing moribundity of this segment. Softletter is considering in the future replacing or augmenting this category with firms from the mobile software industry.

# The Benchmark 50: Sales and Marketing, 2009

Revenues (000)	2007	2008	2009	Sales and Marketing			Avg. '07-'09
				2007	2008	2009	
Microsoft	\$51,122,000	\$60,420,000	\$58,437,000	22%	22%	22%	22%
Google	\$16,593,986	\$21,795,550	\$23,650,563	9%	9%	8%	9%
<b>Desktop Applications</b>				<b>29%</b>	<b>28%</b>	<b>26%</b>	<b>28%</b>
Adobe	\$3,157,881	\$3,579,889	\$2,945,853	31%	30%	33%	32%
Corel	\$250,480	\$268,230	*	29%	29%		29%
Intuit	\$2,672,947	\$3,070,974	\$3,182,537	28%	28%	29%	28%
Smith Micro	\$73,377	\$98,424	\$107,279	25%	25%	23%	25%
Symantec	\$5,199,366	\$5,874,419	\$6,150,000	39%	41%	39%	40%
Bitstream	\$23,610	\$24,008	\$21,489	17%	18%	17%	17%
Nuance (Scansoft)	\$602,000	\$868,500	\$950,400	31%	27%	23%	27%
<b>Vertical Market Applications</b>				<b>31%</b>	<b>30%</b>	<b>29%</b>	<b>30%</b>
Ansys	\$385,340	\$478,339	\$516,885	30%	28%	27%	28%
Autodesk	\$1,839,800	\$2,171,900	\$2,315,200	38%	39%	39%	39%
Unica	\$102,243	\$121,131	\$100,618	40%	41%	42%	41%
Allscripts	\$281,908	\$383,771	\$548,439	25%	17%	18%	20%
Advent	\$215,303	\$264,832	\$259,508	26%	24%	24%	25%
Micros	\$785,727	\$954,184	\$911,847	32%	32%	31%	32%
<b>Enterprise Applications</b>				<b>25%</b>	<b>24%</b>	<b>23%</b>	<b>24%</b>
Sapient	\$565,989	\$687,488	\$666,678	6%	5%	5%	5%
SPSS	\$291,000	\$302,913	*	48%	50%		49%
Manhattan Associates	\$337,401	\$337,201	\$246,667	16%	15%	15%	15%
Concur Technologies	\$115,996	\$215,491	\$247,596	29%	28%	30%	29%
Pegasystems	\$161,949	\$211,647	\$264,013	32%	30%	28%	30%
Lawson	\$750,388	\$851,926	\$757,328	21%	22%	22%	22%
Open Text	\$595,664	\$725,532	\$785,665	25%	24%	24%	24%
<b>SaaS</b>				<b>43%</b>	<b>44%</b>	<b>34%</b>	<b>40%</b>
Blackbaud	\$257,038	\$302,495	\$309,338	22%	22%	20%	21%
Callidus	\$101,657	\$107,181	\$81,058	30%	27%	25%	28%
Omniure	\$143,127	\$295,613	*	43%	44%		43%
salesforce.com	\$497,098	\$748,700	\$1,076,769	51%	50%	50%	50%
RightNow Technologies	\$112,077	\$140,435	\$152,687	58%	48%	42%	50%
Savvis	\$793,833	\$857,041	\$874,414	27%	23%	23%	24%
Vocus	\$58,076	\$79,383	\$84,579	46%	44%	49%	46%
<b>Network Tools</b>				<b>37%</b>	<b>38%</b>	<b>34%</b>	<b>36%</b>
Novell	\$932,499	\$956,513	\$862,185	37%	38%	34%	36%
Citrix Systems	\$1,391,942	\$1,583,354	\$1,614,088	42%	42%	42%	42%
McAfee (Network Associates)	\$1,308,220	\$1,600,065	\$1,927,332	30%	33%	33%	32%
iPass	\$191,732	\$191,368	\$171,377	28%	21%	17%	22%
VMWare	\$1,325,811	\$1,881,027	\$2,023,937	34%	23%	25%	27%
NetScout	\$102,472	\$168,956	\$267,604	41%	41%	37%	40%
Quest Software	\$630,981	\$735,377	\$695,236	44%	42%	39%	42%
<b>Developer Tools</b>							
Magic Software	\$580,400	\$620,000	\$550,400	38%	37%	35%	36%
Red Hat	\$400,624	\$523,016	\$652,572	36%	37%	37%	37%
Sybase	\$1,025,530	\$1,131,930	\$1,170,569	26%	25%	22%	24%
Progress Software	\$493,500	\$515,560	\$494,137	39%	38%	37%	38%
Pervasive Software	\$40,783	\$42,467	\$47,218	38%	42%	40%	40%
TigerLogic Corp.	\$18,744	\$19,772	\$16,252	29%	29%	33%	31%
MicroFocus	\$268,781	\$172,027	*	56%	63%		60%
<b>Education</b>				<b>38%</b>	<b>34%</b>	<b>31%</b>	<b>35%</b>
Apollo Group	\$2,723,793	\$3,140,931	\$3,974,202	24%	26%	24%	25%
Renaissance Learning	\$107,932	\$115,223	\$121,513	33%	31%	30%	31%
Scientific Learning	\$46,053	\$47,754	\$55,288	54%	49%	43%	49%
Skillssoft	\$225,172	\$281,228	\$328,494	40%	35%	33%	36%
Saba Software	\$99,867	\$107,777	\$102,821	38%	34%	26%	33%
SumTotalSystems	\$121,924	\$126,646	*	29%	26%		27%
Plato Learning	\$69,632	\$68,401	\$65,183	43%	40%	36%	40%
<b>All companies (median)</b>	<b>\$291,000</b>	<b>\$337,201</b>	<b>\$532,662</b>	<b>32%</b>	<b>30%</b>	<b>29%</b>	<b>31%</b>

Note: "Years" may not correspond to company fiscal years. Individual firms are averages; segments are medians. \* 2009 filings not yet available.

<b>How effective is using novation arrangements to counter customer objections?</b>	<b>%</b>
Highly effective	3%
Moderately effective	9%
Not effective	3%
<b>Don't know - we do not use</b>	<b>85%</b>

<b>How effective is using performance bonds to counter customer objections?</b>	<b>%</b>
Highly effective	3%
Moderately effective	3%
Not effective	12%
<b>Don't know - we do not use</b>	<b>82%</b>

<b>Does your company provide an escrow option (agreement) for your customers in the event of a major service interruption or your company going out of business?</b>	<b>%</b>
Yes	50%
No	29%
Not, but we are considering it	21%

<b>Does your company provide a complete failover ("failover") guarantee in the event your company goes out of business? (A failover guarantee means a third party will take over maintenance and provisioning of your system for X period of time until you can migrate your data and business processes out of the current SaaS application or until another entity can be found to maintain operation of the system)</b>	<b>%</b>
Yes	12%
No	88%

<b>Does your company offer unencumbered access to the client's data archive or back-up?</b>	<b>%</b>
Yes	35%
Yes, but only in the event of a disaster	18%
No	26%
No, but we are considering it	21%

<b>Does your company provide novation arrangements for your customers in the event of your company going out of business?</b>	<b>%</b>
Yes	3%
No	82%
No, but we are considering it	15%

## The Moving Target of Software Sales Taxes, Part II of II

By Michael Whitener, VistaLaw International, LLC

- **Maintenance contracts.** The tax treatment here is interesting. If purchase of the maintenance contract is not optional with the purchaser—i.e., the customer must purchase the maintenance contract in order to purchase or lease software—then the charges for maintenance are taxable. If the maintenance contract is optional, and the maintenance charge is in a single lump sum, 50% of the charge is regarded as the sale of tangible personal property and therefore taxable. However, “if no tangible personal property whatsoever is transferred to the customer during the period of the maintenance contract, tax does not apply to any portion of the charge.”

Each state will have its own approach to taxing software-related services, but California’s approach is pretty typical.

You may be wondering: Where does software as a service (SaaS) stand in this convoluted sales tax universe? The short answer—in limbo. One major accounting firm, after surveying the various state tax regs, concluded that “most states still are analyzing SaaS and do not treat its taxability in a uniform manner.” However, more than a dozen states, including Massachusetts and Texas, have determined via private letter rulings or administrative guidance that SaaS is taxable as software, rather than nontaxable as a service.

Most recently, Colorado passed a new tax bill (HB 1192) that appeared to make software in the cloud taxable. Specifically, online vendors that do not currently collect online sales taxes must notify their customers in Colorado, via a notice on the customer invoice, that they are responsible for paying taxes directly to the state. If a vendor does more than \$100k annually in business in Colorado, the vendor must provide the state’s Department of Revenue with a list of all of their in-state customers and the total value of their purchases. After an uproar, the Colorado legislature issued a declaration that the new law would not affect the tax treatment of SaaS.

If the SaaS provider is out of state, the taxing state still has to prove a “nexus” between the SaaS provider and the in-state customers. But states are increasingly willing to stretch the definition of nexus—witness the recent “Amazon laws” in New York and elsewhere that tax Amazon.com transactions based upon in-state affiliates. In New York, Amazon brought a lawsuit challenging the sales tax law but lost. In Colorado, Amazon took a different tack, simply firing all of its in-state affiliates to eliminate the nexus with Colorado (which resulted in harsh words from Colorado’s governor condemning Amazon’s action).

Typically, a SaaS contract will provide that the customer is responsible for all state sales taxes. That’s fine, but from the perspective of a state tax auditor, the burden of collecting and remitting sales taxes falls on the SaaS provider. Pointing to the contract does no good when the tax auditor comes calling. The SaaS provider could find itself facing substantial back taxes, penalties and interest if it hasn’t been paying attention to its state tax obligations.

Now for the near-certain prediction—states will continue to stretch for ways to

*continued on page eight*

reach into the pockets of software vendors by applying sales taxes to a wider array of software product and services. Already there is a trend away from the California model of treating electronic delivery of software as non-taxable and toward the Illinois model of disregarding the method of software delivery. The trend is likely to continue with SaaS.

Michael Whitener, Principal & Co-Founder, VistaLaw International LLC, 1875 I Street, N.W., 5th Floor, Washington, D.C. 20006; 202-429-5526. Email: mwhitener@vistalaw.com.

## Facebook Resources

- **All Facebook** ([www.allfacebook.com](http://www.allfacebook.com)): Very useful resource site.
- **Berrynetwork** ([www.berrynetwork.com/Blogs/Marketing\\_Insights/](http://www.berrynetwork.com/Blogs/Marketing_Insights/)): Site has a useful, up-to-date article on Facebook statistics, analytics, and management.
- **elearnspace** ([www.elearnspace.org](http://www.elearnspace.org)): George Siemen's site and blog; provides deep insights into why/how social marketing operates.
- **Facebook.com/pr** ([www.facebook.com/pr](http://www.facebook.com/pr)): PR section on Facebook; good place to learn about the new "Like" link.
- **Neofacebook** (<http://neofacebook.com>): Site offers several a wide variety of free resources to help you manage your facebook site.
- **Programmableweb** ([www.programmableweb.com/facebook-resources/ads-and-market](http://www.programmableweb.com/facebook-resources/ads-and-market)): Extensive info on Facebook technical issues.
- **Smashing Magazine** ([www.smashingmagazine.com](http://www.smashingmagazine.com)): Nice information on designing Facebook pages.
- **The 2010 Facebook Page Marketing Guide** ([www.hubspot.com/whos-blogging-what-facebook-ebook](http://www.hubspot.com/whos-blogging-what-facebook-ebook)): Site offers a useful free downloadable guide to Facebook; requires registration.

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**ZDNET COLUMNIST DAVID GERWITZ ON WHY STEVE JOBS SHOULD RETIRE:** "Friday's event was deeply disturbing. There you were, up there on stage, mocking genuinely valid concerns over the fundamental performance of your flagship product, arrogantly denying credible analysis by some of the most reputable product testers on the planet, telling members of the press that you love your users so much that you've built 300 Apple retail stores just for them.

The whole thing was embarrassing. It was beneath you." (Quoted on <http://www.zdnet.com/blog/government/open-letter-to-steve-jobs-retire-now/9201?tag=nl.e550,07/19/2010>)

**COMPUTERWORLD BLOGGER JONNY EVANS ON THE IPAD:** "iPad is huge, big, massive hit, an echo of the iPod effect on the MP3 player market and the iPhone effect on the mobile world. Apple has stolen the tablet/netbook industry to the extent competitors face a pretty tough time in even manufacturing their 'iPad killers.'

Apple has already won - and that's even before the product hits the Asia Pacific countries, in many of which it has only today been made available for sale." (Quoted on [http://blogs.computerworld.com/16587/rip\\_why\\_the\\_ipad\\_killers\\_are\\_dead\\_already?source=CTWNLE\\_nlt\\_pm\\_2010-07-23,07/23/2010](http://blogs.computerworld.com/16587/rip_why_the_ipad_killers_are_dead_already?source=CTWNLE_nlt_pm_2010-07-23,07/23/2010))