

The Saga Continues: Elastic Releases New License

- In its latest license change, Elastic launched [Elastic License 2.0](#) for new releases of Elasticsearch and Kibana.
- Cloud providers should carefully review the new license, which restricts providing the software “*as a hosted or managed service*”.
- Meanwhile, AWS is nearing release of its Elasticsearch fork under Apache 2.0.

1. Introducing Elastic License 2.0. Elastic will provide new source and object code releases of its Elasticsearch and Kibana products¹ under [Elastic License 2.0](#). The change comes on the heels of Elastic’s source code switch from Apache 2.0 to the Server-Side Public License (SSPL) in January. While SSPL is still an option for source code, its unusual viral reach presents challenges for cloud services as reviewed in our [last briefer](#).

2. New Restrictions for Hosted or Managed Services. Like SSPL, the new Elastic License 2.0 also raises thorny questions for cloud providers. One of its key restrictions reads:

“You may not provide the software to third parties as a hosted or managed service, where the service provides users with access to any substantial set of the features or functionality of the software.”²

What does this mean?

- *Easy Cases:* The license would seem to prohibit offering Elasticsearch itself “as a service”. In other words, hosting a full instance of Elasticsearch for others to use with their own services would appear to constitute a “managed service” that “provides users with access” to a “substantial set” of its features or functionality.
- *Harder Cases:* But what if you use Elasticsearch to power customer search in your separate cloud (“hosted”) product? What exactly counts as “substantial”, and does “access” require direct customer use of the software or could more abstracted *features or functionality* count? For cloud providers relying on Elasticsearch, the license could leave high-stakes questions open to [debate](#).

3. FAQ to the Rescue? Elastic seeks to fill in the gaps in its [FAQ on Elastic License 2.0](#). Its responses are helpful but do not always draw clear distinctions or establish practical rules. To take a few examples:

- *Example #1 (Search Box):* Elastic states that using Elasticsearch to “put a search box on my cat-picture SaaS product” is permitted. While this seems like a major clarification, Elastic does not provide its reasoning.
- *Example #2 (Kibana Dashboards):* Elastic also says that allowing users of the cat-picture SaaS product to have “view-only” access to Kibana analytics dashboards is permitted. Here Elastic explains that “use of Kibana in this case is *limited* and this does not represent access to a *substantial portion* of the functionality of Kibana” (emphasis added).

In Example #1, Elastic’s implication could be that *product-specific search* for customers is permitted, but not *generic search as a service*. But note the FAQ does not explain whose pictures are being searched – does the answer change if the provider lets customers upload and search their own image databases (cat search as a service)?

¹ For brevity we refer largely to Elasticsearch, but the new license also applies to Kibana.

² Elastic License 2.0, “Limitations”.

Meanwhile, Example #2 focuses on *exactly how much* functionality the provider exposes to its customer, making it hard to apply to different scenarios. While Elastic considers view-only dashboard access “limited”, what if the provider granted customers read-write access – would their use count as “substantial”?

Read the whole FAQ [here](#).

4. **Wanted: Clear Answers.** Taken together, the FAQ and license could leave cloud providers wondering just what use is permitted – and require a fact-specific analysis to avoid breach, or worse, IP infringement claims. Even where Elastic’s examples light a clear path, providers must still consider how to weigh a posted FAQ (not formally part of the license) when making critical product decisions.
5. **What’s Happening with the AWS Fork?** After Elastic’s turn to SSPL, as [previously discussed](#), AWS announced plans to offer a forked “Open Distro” of Elasticsearch under Apache 2.0. In its latest [update](#), AWS says release is “really close!”
6. **More to Come.** We will provide updates as new developments occur. If you have questions about Elasticsearch or the AWS fork, please contact your Smithline team.

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