“New Space” and (new) challenges of space law

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Commercialisation of space activities: four typologies

• Classic model: procurement from the commercial sector, enabling the latter to meet demands of other countries/entities
• Supporting model: transfer of space agency’s technology to develop a marketable product
• Spin-off model: new businesses initiated by former space agency staffs
• Parallel model: space business developed independently from space agency’s projects
First impact on space law: from rules for states to rules for entities

• Domestic space legislation
• Generation 1: implementing international space law
• Generation 2: promoting commercial sector’s activities (by providing state compensation etc)
• Generation 2.5: facilitate innovation in space businesses
  • Accommodating new technology / infrastructure for new entrants / new types of space business
Second impact: from public law to private law

• Contract law (incl. consumer law?) applicable
  • E.g. application of consumer contracts regulation to space tourism agreements

• Tort law incorporating / referring to technical rules and norms (e.g. debris mitigation practice)

• Financing schemes
  • Space protocol to the Cape Town Convention
  • Project finance, PPP/PFI schemes

• Private international law (much underdeveloped)
Third impact: from peaceful use to efficient use?

• Use of limited resources by commercial entities
  • Frequencies
  • “Space” itself

• Possible dilemma: need for incentives to innovation versus resource management
  • The reliance on, and discipline of, market mechanism

• Agenda common in many other sectors in the modern society
  • Deregulation and competition law; regulatory competition and global harmonisation; etc
Who should bear the responsibility to respond?

- Wisdom of the “Civil Society” needed
- United Nation’s role as key coordinator
  - Government & stakeholder representatives
  - Network with experts
- Collaboration with technical organisations
  - ITU
  - ICAO
  - PCA
  - Unidroit
  - HccH?