

“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?