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SHAPING LEGAL FRAMEWORK FOR COMPASS—REGULATING GNSS IN CHINESE CONTEXT

Abstract

As an emerging space-faring country, China initiated the plan of establishing an independent global navigation system—Compass\Beidou in 2006. Compass takes the similar approach of public funding and operation with U.S GPS. It has successfully launched 7 satellites up to now and began to provide service to national users, the Asia-Pacific coverage is expected to be finished by 2012, and the global coverage endeavor realized by 2020.

COMPASS is under military operational control. Nonetheless, the opinions on promoting the development of satellites industry issued in 2007 embodied the inclination of China to develop a civil-use based navigation system centered on Compass. So Compass presents a promising prospect in future civil GNSS service market, to compete with GPS, Galileo and GLONASS.

However, compared to U.S and E.U, Chinese policy on Compass is yet in place. It is the right time to consider legal aspects of Compass because on one hand, the civilian use market deserves clear guidance and regulation, and commercial interests are proved to be at no odds with national security on most occasions; and on the other, the international instrument on third party liability for GNSS service was put on the working agenda of UNIDROIT, and national laws and policies would help China to voice its concern as a perspective stakeholder either in multilateral negotiations or bilateral talks with service user country.

The article will address the regulatory aspects of Compass from two angles. The first originates from national space policy and law. The identified legal vacuums include charge of civilian service, license procedure for augmentation providers, security concern and an appropriate State Authority is needed to be in charge of civilian use of GNSS service, and reference would be taken from U.S, EU, Russia, India and Japan. The second angle is specifically about the liability issue of GNSS service provider, namely the State, the paper would evaluate the feasibility to adopt the Legal\Functional Model proposed by “Recommendations and Conclusions” of Galileo study, and outline the disparities thereof. In this section, general rules on tort law and the national regime in China governing air navigation signals service provider would be referred. Prior to the drafting of an international convention on this issue, national laws would play a substantial role in solving the possible claims brought by ender users for the malfunction of GNSS.