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SPACE ENTREPRENEURSHIP AND SPACE LAW – FUTURE CHALLENGES AND POTENTIAL SOLUTIONS

**Abstract**

The space industry is undergoing an interesting process, opening the market to private entrepreneurs and investors. Space activities that were traditionally carried out by state-agencies are now carried out and funded by non-governmental entities. These space activities include: launch activities, space tourism, asteroid mining, space exploration, and satellites' applications. The innovative character of the above space activities derives additionally from their novel manner of legal organization and funding. The shift from governmental-agencies to private entities is a dramatic one, introducing not only the "simple" form of private companies, but also non-profit organizations. There are space projects which are "crowd-funded" via web platforms like "Kickstarter"; others are funded by intergovernmental organizations, based on consortium-agreements between private entities, like the "QB50" project; finally, some are funded by donations, like in the case of participating teams in the "Google Lunar X-Prize" competition. The complexity of the legal structure of such projects while noting their collaborative nature raises legal questions pertaining to state responsibility and liability under international and national space laws. Pondering the above-examples, it gets increasingly difficult to define the project's "nationality" pursuant to Article VI of the Outer Space Treaty, 1967 ("Treaty") and therefore, finding the "appropriate state" to "authorize" and "supervise" the space activity. Further, these activities may be subject to more than a single national regime of space laws, which may not offer conflict of law provisions. The innovative funding schemes may also create a difficulty defining the "launching States" pursuant to Article VII of the Treaty and the Liability Convention, 1972, especially with respect to states which "procure the launch". These difficulties reflect on the willingness of some launching states to register the space object, pursuant to Article VIII of the Treaty and the Registration Convention, 1975. Such legal challenges are at the core of development for private space entrepreneurship. The aim of the paper is to raise awareness to the legal challenges above and to offer potential solutions: While the international space treaty regime remains traditional and does not focus on private space entrepreneurship, new-emerging national space laws can help to bridge the gap between traditional space law and the new reality of space entrepreneurship. Financial tools like insurance may solve some state-liability aspects in this context. These exciting developments will lead humanity to new frontiers in outer space, and lead us, space lawyers, to new territories of legal thought.