

58th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Legal Issues of Space Traffic Management (4)

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THE IMPACT ON GROWTH MARKETS IN THE DOWNSTREAM SECTOR: THE PARAMETERS
FOR CONNECTIVITY AND SERVICES IN OUTER SPACE LAW

Abstract

The downstream sector is a growth market with a variety of users that is throwing up recurring legal questions, of which loss of services is but one. Such losses may have various causes, they may lead to errors in data gathering, whether through natural causes or debris-induced interference. Frequency interference, jamming, hacking and black-outs are all potential occurrences. Critical services can also fail where satellites malfunction, giving rise to security concerns. The loss of signal in space is not an issue governed by classic space law under the international treaties; the treaties have an impact and victim-orientated character. Their provisions are therefore less suited for non-core space activities such as downstream activities; often there is no physical damage to or from a space object. Contracts may therefore offer solutions to regulate connectivity and the loss of services, using tools already known to the community. This paper looks at the increasingly important service level agreement regulating the delivery of downstream services. It proposes the use of greater demarcation in the generic term data ‘user’; it aims to deliver a road map of the interaction between space service contracts and other general rules of space law and established contracts. With the growth market in downstream sector, with free, sat-based navigation/communication apps appearing on the market, boasting liability disclaimers and other waivers, the question of who remains responsible if not liable as a result of interference can be critical. Among the solutions proposed, this paper includes other possible solutions, including end-user based insurance regimes for governments and operators that cannot and will not take over contractual risks.