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Author: Dr. Michael Chatzipanagiotis  
Greece

THE IMPACT OF LIABILITY RULES ON THE DEVELOPMENT OF PRIVATE COMMERCIAL  
HUMAN SPACEFLIGHT

**Abstract**

Private commercial human spaceflight, currently in the form of space tourism, is one of the newest and most promising forms of human spaceflight. It has the potential to revolutionize human spaceflight and human transportation in general. Regulation, i.e. the legal rules that govern such flights, plays a decisive role. Regulation can either promote or hamper the development of private human spaceflights. The purpose of the present paper is to analyze how regulation can contribute to the development of private human spaceflight, at the example of liability rules. Liability rules distribute the financial burden of restoring losses produced by an activity, based on certain policy choices. In other words, they form a part of the activity cost. Should a State desire to promote the development of a certain activity, it needs to create liability rules that keep cost under control. An infant industry, like private human spaceflight, is fragile, which means that high liability cost may undermine its viability. Therefore, the development of private human spaceflight requires liability rules that restrain cost to a reasonable level. To this end, the cost needs to be predictable. Predictability is achieved by precisely establishing the factors generating liability and by limiting the amount to be paid, through a liability cap and through exoneration possibilities. Additionally, international uniform rules reduce the cost of dispute resolution abroad. Besides, predictability and limitation of the liability render the cost easier insurable and thus easier recoverable. Nevertheless, an industry has to be developed in a socially responsible way. Reckless behaviors should be discouraged. Hence, it is also necessary to lay down safety rules according to the technological knowledge available. Their violation could trigger liability, yet their respect should be able to exclude it wholly or in part. Furthermore, uninvolved parties should be protected. Liability cost is also affected by the interpretation of the established rules. Courts have often recourse to the purpose of the applicable rules. Making clear in the legislation process that the protection of the young industry is of high importance can help judges adjudicate compensations that cover reasonably the losses of injured persons without endangering the survival of the industry. Consequently, promoting private human spaceflight requires a balance of interests, which will keep liability cost under control without encouraging reckless behavior. Appropriate interpretation of the existing rules is equally important.