

SYMPOSIUM ON COMMERCIAL SPACEFLIGHT SAFETY ISSUES (D6)
Commercial Point-to-Point Safety & Insurance Issues (2-D2.9)

Author: Dr. Michail Chatzipanagiotis
Greece, m.chatzipanagiotis@hotmail.com

INFORMED CONSENT: USING BEHAVIORAL SCIENCE TO MAKE IT EASIER TO ACCEPT...
AND EASIER TO NULLIFY IT AT THE COURT?

Abstract

This paper is about perceived safety and its impact on liability and insurance. In the framework of private commercial human spaceflights, spaceflight participants (SFPs) are required to sign an informed consent to fly. Operators have to inform SFPs both orally and in writing comprehensively on the risks of spaceflight, so that the latter assume the risk of flying and the former are exonerated from potential liability. Behavioral science has proven that people's risk perception depends on various factors. Taking into account these factors when providing information to SFPs can facilitate their acceptance of the risk. The paper consists of two parts. First, it explains the factors that influence risk perception and suggests methods to reduce the perceived risk of SFPs. Potential SFPs will find spaceflight less risky, if they: associate flying with vivid positive images and feelings; consider spaceflight as a pioneering activity with significant benefits for society and themselves; are convinced that they participate voluntarily in the activity and can change their mind anytime before the flight at a reasonable cost; are given the chance to familiarize themselves with the flight through training and simulation; do not doubt on the trustworthiness and sincerity of the operator and its employees; know that if death occurs, it will be immediate and sudden, and they will not suffer; private spaceflights are exposed to positive media coverage. Second, this paper explores the impact of using such methods on the validity of the informed consent, i.e. whether such methods could be deemed a form of fraud, misrepresentation or misleading advertisement. This affects both the operator's liability, because only a valid informed consent can exclude liability, and its insurance coverage, since insurers do not cover liability for fraudulent acts. Although the exact answer depends on the facts of the particular case, it is suggested that most of the times such methods will be part of a legal marketing, upon condition that the operator provides all relevant information to SFPs in a written and legible form, gives them adequate time to think and elaborate on the risks, and enables them to withdraw from the contract at any time before the flight with a partial ticket refund, so that they do not fly unwillingly only to save money.