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Legal Challenges Represented by Large Satellite Infrastructures and Constellations (4)

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ENSURING SUSTAINABILITY OF TECHNOLOGY AND THE LAW

Abstract

The advent of large satellite infrastructures and constellations is a challenge for the structure of modern space law. Not only does it heighten the interdependency between frequency regulation under ITU law and authorisation of outer space activities at national level; it is also a timely reminder that the law requires to keep up with technological change, especially in times of an increasingly digital, cyber society. As the volume of commercial upstream activities that rely on large constellations increases, so does the need to ensure level-pegging of the law, public and private, with the changes in concepts and philosophies underlying communication, as one of the formal bases of the law. With societies demonstrating subscription levels to LBS devices and reliance on smartphones at above one per person – the corresponding rules relating to operational licensing, the duties arising from the provision of services, the terms of contract governing levels of service, including its loss, the sustainability of the outer space environment becomes a race between stakeholders and users.

This paper attempts to map out how connectivity, traditionally a subject belonging to telecommunications law, now by nature forms part of the foundations to ensure sustainability across the outer space environment and upstream, mid- and downstream level. Cubesat licensing now encompasses rules relating to information availability, transmission, networking goods and services.

With this, the question arises whether the primary focus of space and telecommunications law will in future embrace the development of in-house privacy policies and private regulation through contract, or whether telecommunication and broadcasting law can, by virtue of standards, including data protection policies, retain stringency while maintaining the balance required to meet the vying goals of availability. It also raises the question whether and which supervisory bodies might be needed to monitor this transition at international and national level; universal services have a strong (end) user-based philosophy, to which only lip service has been paid, at least till now.