

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)  
Legal Issues Relating to Emerging Space Activities on Celestial Bodies (3)

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SHOULD THE ITU HAVE A ROLE IN GOVERNING TELECOMMUNICATIONS RELATING TO  
ACTIVITIES ON CELESTIAL BODIES WHEN THE TRANSMISSIONS LACK A TERRESTRIAL  
NEXUS?

**Abstract**

The electromagnetic spectrum ("EMS") is a natural continuum of all frequencies of electric and magnetic radiation that propagate energy and travel through space in the form of waves. Terrestrially, the portions of the EMS used for communication and the transmission of data and information are treated as a global commons regulated and allocated by the International Telecommunications Union ("ITU") with its essential purpose being to minimize or preclude harmful interference in connection with communication frequencies. However, the EMS is also recognized as a natural space resource. This suggests that for purposes of ventures and activities on celestial bodies, the use and exploitation of the EMS frequencies may be subject to a State's domestic law governing space resources rather than being treated and governed as a shared domain or global commons. This is particularly so if the perspective takes root that space resources are not a global commons and are subject to the acquisition of ownership or property rights.

This paper will discuss whether the portion of the EMS used for telecommunication purposes in connection with activities on celestial bodies should be subject to ITU allocation and regulation when the transmissions lack a terrestrial nexus. It will entail examining whether State law should be the sole source for governing the use and exploitation of space resources on celestial bodies when communications do not involve transmissions from or to an object in Earth orbit or a terrestrial station. The analysis will also focus on the necessity of ITU allocation and regulation of such communications given Outer Space Treaty Article IX which specifically governs space conduct that can potentially cause harmful interference.