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POINT-TO-POINT TRANSPORT AND HIGH-ALTITUDE PLATFORM SYSTEMS: JURISDICTION, REGULATION AND LIABILITY FOR HIGH-ALTITUDE TRANSPORTATION.

Abstract

The development of advanced transportation technologies utilising high altitude activities has the potential to revolutionise the way in which people and goods are moved across the Earth. As this technology develops there will be challenges to the law and governance of High-Altitude Platforms (HAPS) and Point-to-Point transportation (P2P). This original research paper will look at the problems posed by the three specific legal questions in this area; those of jurisdiction, licensing and safety standards, and liability. The paper will look to propose practical solutions to ensure the responsible deployment and operation of these evolving transport techniques.

The paper will begin by revisiting the lack of certainty regarding the air-space boundary and how this is now causing regulatory difficulties for those charged with developing regulation of operating both in outer space and air space. The deployment of P2P transportation and HAPS has the potential to extend beyond national borders and operate in the airspace of multiple countries. The paper will consider how harmonisation with existing frameworks will be essential to manage broader security concerns.

Second, the lack of current international initiatives in respect of the regulation of high-altitude activities of this nature means that individual countries will need to address these gaps with national legislative solutions. The embryonic nature of these industries means there is an absence of standardised regulations across jurisdictions hindering multinational operations and developments in this area. This paper will go on to explore the development of safety standards both to protect the environment as well as in respect of the safety of all users of this new technology.

Finally, the paper will examine how development of new high-altitude vehicles will pose a challenge for existing liability frameworks. Determining liability for these experimental vehicles will be complicated by factors such as the use of autonomous systems, possible overlap of multiple legal regimes and the absence of any precedent in this area. Regulating high altitude activities will need to consider questions of the allocation of liability, insurance requirements and the capping of liability, all while trying to promote growth in this specific sector.

This paper will conclude by highlighting original and optimal solutions in respect of these areas. It will try and address the twin concerns of both empowering the development of these novel technologies whilst ensuring that safety, both in-flight and on the ground and liability for damage is clearly established within any new regulatory framework that emerges.