

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
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"FLAGGING OUT" - THE RISE OF NON-NATIONAL SATELLITE SPECTRUM AUTHORIZATIONS

Abstract

Growing global commercial space operations are driving evolution in commercial space regulatory regimes. Specifically, the speed of commercial innovation creates a demand for regulatory processes that facilitate rapid deployment of technology. One major hurdle for commercial space companies to-date has been the time that it takes to gain a space station assignment – or spectrum authorization – from national administrations. Increasingly, there are accusations that private space companies are “flagging out” space station assignments to foreign jurisdictions with faster processing speeds or less arduous hurdles. This paper will examine recent rideshare missions and compare the nationality of a space object’s registration against the nationality of the corresponding space station assignment to determine if private space companies are increasingly “flagging out” spectrum authorizations. This paper will use launch manifests of recent rideshare missions (e.g. SpaceX’s 9 mission – 90 payloads to orbit) to identify spacecraft for study, and then attempt to determine their registration status through the United Nations Register of Objects Launched into Outer Space or any relevant national registries, and the nationality of a space station assignment within the International Telecommunications Union SpaceCap system or other databases. The study results will demonstrate that private commercial space companies are using foreign jurisdictions to circumvent spectrum authorization burdens in the State of registry, and thereby creating multiple States that may have “jurisdiction and control” over various parts the same space object. This paper will close with a discussion of whether permitting commercial space companies to seek space station assignments from non-Launching State nations is in compliance with the intent and structure of the Outer Space Treaty, Registration Convention, and Liability Convention.