

Regulatory Briefing – August 2020

Europe

United Kingdom

DfT and UKSA publish consultation on draft regulations to implement the SIA

On 29 July 2020, the Department for Transport (**DfT**) and the UK Space Agency (**UKSA**) published the public [consultation](#) on the draft secondary legislation and accompanying documents (**Consultation**) for implementation of the Space Industry Act 2018 (**SIA**).

The Consultation seeks views on the operability and effectiveness of the following documents.

- Three draft secondary legislative regulations (**Draft Regulations**):
 - o The Space Industry Regulations 2020;
 - o The Spaceflight Activities (Investigation of Spaceflight Accidents) Regulations 2020; and
 - o The Space Industry (Appeals) Regulations 2020.
- The Impact Assessment of the Space Industry Regulations 2020.
- The Regulator’s Licensing Rules.
- A series of accompanying guidance documents as follows.
 - o Principles and guidelines for the spaceflight regulator in assessing ALARP and acceptable risk.
 - o Guidance on applying for a licence.
 - o Guidance for launch operator and return operator applicants and licensees.
 - o Guidance for spaceport licence applicants and spaceport licensees.
 - o Guidance for range control licence applicants and licensees.
 - o Guidance for orbital operator licence applicants and licensees.
 - o Guidance for the assessment of environmental effects.

- o Guidance on security matters for applicants and licensees.
- o Guidance on the investigation of spaceflight accidents.
- o Guidance on appealing decisions made under the SIA.
- o Guidance on liabilities under the SIA.
- o Guidance on duties for all licensees under the SIA including monitoring and enforcement by the regulator.

The Consultation confirms that the Outer Space Act 1986 (**OSA**) will continue to regulate:

- the procurement of the overseas launch of a space object by a UK entity; and
- the operation of a satellite in orbit from an overseas facility by a UK entity.

The SIA will regulate the following activities carried out from the UK:

- launch (space or sub-orbital) and return;
- the procurement of a UK launch (space or sub-orbital);
- the operation of a satellite in orbit;
- the operation of a spaceport; and
- the provision of range control services.

The Draft Regulations regulate, for the first time, aspects such as cybersecurity, monitoring and the enforcement powers of the regulator (such as the power to appoint an inspector and to issue stop notices) and requirements for training, qualifications and medical fitness of all relevant personnel carrying out licensed spaceflight activities.

It is important to note that the Government intends to extend the appeals process under the Space Industry (Appeals) Regulations 2020 to the OSA regulatory regime.

Under the Draft Regulations, the default regulator for licensing and ensuring the compliance of

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spaceflight and associated activities with the SIA will be transferred from the UKSA to the Civil Aviation Authority (CAA). It is the Government’s intention to also delegate the regulation of in-orbit activities under the OSA to the CAA.

Further consultations will be published to seek views on the proposed approach relating to:

- insurance requirements under section 38 of the SIA;
- the Government’s ability to limit a licensee’s liability under section 35 of the SIA; and
- the charging scheme for the regulator’s performance of functions under section 62 and Schedule 11 of the SIA.

The deadline for submitting a response is 23:59 (BST) on 21 October 2020.

Alden Legal plans to publish a series of briefings every two weeks in relation to the Consultation, covering different aspects of it. We will critically review the commercial and practical application of the detail of the provisions in the draft secondary legislation and consultation guidance proposed by the Government and provide our informed view to assess the impact for the UK space industry.

The first of the series of our briefings on the Consultation can be accessed [here](#).

Please contact Joanne Wheeler (joanne.wheeler@wearealden.com) if you would like our assistance with your response to the Consultation.

Ofcom calls for inputs on emerging technologies and their potential impact on the communications industry

On 23 July 2020, Ofcom published its [“Call for inputs: Emerging technologies and their potential impact on the communications industry”](#).

Through its call for inputs, Ofcom seeks to identify the state of development and feasibility of emerging technologies that could affect the

communications industry (including broadcast, fixed, mobile and satellite communication networks and online communications sectors), and which could:

- enable the delivery of new services which are valued highly;
- broaden and deepen access to services;
- increase the performance of networks, improving user experience;
- lower barriers to entry into markets;
- reduce the cost of delivering services;
- change the way Ofcom authorises and regulates networks and/or services;
- assure the security and resilience of service delivery; and
- reduce the total environmental impact of delivering communications services and associated activities.

The deadline for submitting a response is 17:00 (BST) on 3 September 2020.

Ofcom publishes a further consultation on the implementation of the new European Electronic Communications Code

On 24 July 2020, Ofcom published a [further consultation](#) containing revised proposals to modify and set new general conditions under the Communications Act 2003 in relation to annual best tariff information and business customer definitions to implement the new European Electronic Communications Code.

The deadline for submitting a response is 11 September 2020.

Defence and Security Accelerator launches a competition to provide solutions to identified defence problems

On 22 July 2020, the UK Government Defence and Security Accelerator, on behalf of the Defence Science and Technology Laboratory, launched a [competition](#) to seek proposals for potential defence solutions that meet a selection of the space

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capability challenges faced by the US Department of Defense and the UK Ministry of Defence.

The competition is focussed on technologies that have proven commercial value, with potential to be applied to military space capability issues. The proposed solution may therefore be an adaptation of an existing non-defence solution.

£800,000 is available to fund up to 15 proposals, with a maximum value of £53,000 each. The duration of each of the funded projects is to be no longer than three months.

To be eligible to submit a proposal, applicants must first complete a [registration questionnaire](#), the deadline for which is mid-day (BST) on 19 August 2020.

The deadline for submitting a proposal is mid-day (BST) on 2 September 2020.

The entities which are successful during the submission stage will be invited to present their ideas at an International Space Pitch Day to be held on 16 and 17 November 2020 in London (or virtually).

Latvia

Latvia becomes an ESA Associate Member State

Following the signature of the Association Agreement between the European Space Agency (ESA) and Latvia on 30 June 2020, the Latvian Parliament ratified the Association Agreement on 27 July 2020 making Latvia an Associate Member of ESA.

The Association Agreement will be in force for seven years allowing direct Latvian participation in ESA operational programmes, subject to the unanimous approval of respective participating ESA Member States.

Luxembourg

Luxembourg to create a European Space Resources Innovation Centre by the end of 2020

The Luxembourg Space Agency and the Luxembourg Institute of Science and Technology signed a cooperation agreement to create a

European Space Resources Innovation Centre (ESRIC) by the end of 2020.

ESA will also join the ESRIC as a strategic partner pursuant to the Memorandum of Cooperation signed between the ESA and the Luxembourg Space Agency in November 2019.

European Union

European Commission reduces its space budget for the next seven years

On 21 July 2020, the European Commission agreed to reduce its [budget](#) for the European Union's space programmes for the next seven years (2021 – 2027), to a maximum of €13.2 billion.

The approved space budget allocates:

- €8 billion to the Galileo navigation satellite system; and
- €4.81 billion to the Copernicus Earth observation programme.

The remaining €392 million is likely to be split between the Governmental Satellite Communications initiative and the Space Situational Awareness programmes.

United States

Department of Commerce publishes a notice of findings amending the resolution limit of satellite imagery with respect to Israel

On 21 July 2020, the Department of Commerce published a [notice in the Federal Register](#), announcing its findings that satellite imagery of Israel is readily and consistently available from non-US commercial sources at a resolution of 0.4 meters Ground Sample Distance (**m GSD**).

This public notice is in the context of section 1064 of Public Law 104-201 (also known as the **Kyl-Bingaman Amendment**). The Kyl-Bingaman Amendment limits commercial satellite imaging systems licensed by the US government to collect or disseminate satellite imagery with respect to Israel which is “no more detailed or precise than satellite imagery of Israel that is available from commercial sources”. All licences issued by the US Commercial Remote Sensing Regulatory Affairs Office include a standard condition implementing the requirements of the Kyl-Bingaman Amendment.

The published notice therefore changes the existing resolution limit of satellite imagery with respect to Israel from 2.0 m GSD to 0.4 m GSD.

The National Space Council releases a report on the exploration and development of space

On 23 July 2020, the National Space Council released a report “[A New Era for Deep Space Exploration and Development](#)” (**Report**) to outline the US’ existing policies for the exploration and development of space.

The Report outlines the following five major areas of effort in the overall space exploration strategy:

- commercialisation of low Earth orbit activities;

- returning humans to the Moon to stay;
- extending a human presence to Mars;
- the potential for deep space science; and
- education and the US workforce.

The Report also identifies the following five major roles for the US government to carry out its space exploration strategy:

- promoting a secure and predictable space environment for the long-term sustainability of space activities;
- supporting the development of commercial activities and industry in space;
- supporting research and development of new space technologies;
- creating infrastructure needed for space exploration and development with commercial and international partners; and
- supporting advanced space research by public and private sector US research communities.

WTB releases final cost category schedule for the C-band relocation expenses and process and deadline for lump sum elections

On 30 July 2020, the Wireless Telecommunications Bureau (**WTB**) of the Federal Communications Commission (**FCC**) released a [public notice](#) in relation to the FCC’s adoption of new rules on 29 February 2020 to auction 280 MHz of the 3.7 – 4.2 GHz band (**C-band**) detailing:

- the final cost category schedule of potential expenses and estimated costs for reimbursement;
- the optional lump sum payment amounts for which incumbent fixed satellite service Earth station operators are eligible; and
- the process and deadline for electing to receive lump sum payments.

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WTB seeks comment on the selection of the Relocation Payment Clearinghouse and the Relocation Coordinator for the C-band auction

On 3 August 2020, the WTB released two public notices to seek comment on:

- [the selection of CohnReznick and subcontractors Squire Patton Boggs \(US\) LLP and Intellicom Technologies, Inc as the Relocation Payment Clearinghouse;](#) and
- [the selection of RSM US LLP to serve as the Relocation Coordinator](#)

for the FCC’s public auction to clear 280 MHz of the 3.7-4.2 GHz band (**C-band Auction**).

The deadlines for filing comments and reply comments on both public notices are 18 August 2020 and 28 August 2020 respectively.

FCC establishes bidding procedures for December C-band Auction

On 7 August 2020, the FCC released a [public notice](#) establishing the final application and bidding procedures for the C-band Auction.

The C-band Auction is to begin on 8 December 2020.

Senate passes the PROSWIFT Bill

On 27 July 2020, the Senate passed the Promoting Research and Observations of Space Weather to Improve the Forecasting of Tomorrow (**PROSWIFT**) Bill.

The PROSWIFT Bill calls for the establishment of:

- an interagency working group to ensure coordination within the US government; and
- a space weather advisory group composed of members appointed by the interagency working group representing academia,

the commercial space weather sector and space weather end user community,

to better predict severe space weather events and mitigate their impact.

The Space Force publishes its first doctrine, “Spacepower”

On 10 August 2020, the Space Force published a Space Capstone Publication entitled “[Spacepower](#)” (**SCP**). The SCP sets out “Spacepower” as a doctrine for the Space Force and distinguishes it as a separate and distinct form of military power on par with landpower, seapower, airpower and cyberpower.

Middle East

Egypt

Egyptian Space Agency to launch an online space training platform in October 2020

The Egyptian Space Agency is to launch an online platform to provide space-related training courses to support the Egyptian Space Agency’s capacity development ambitions in October 2020.

Africa

South Africa

South Africa ratifies the SKA Observatory Convention

On 2 June 2020, South Africa ratified the Convention (**Convention**) establishing the Square Kilometre Array Observatory (**SKAO**), following its signature of the Convention on 12 March 2019.

The Convention is aimed at establishing SKAO, an intergovernmental organisation, to oversee the delivery of the world’s largest radio telescope, the Square Kilometre Array (**SKA**).

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Australia and South Africa are to host the initial phase of the SKA project. The global headquarters of the SKAO is to be located at Jodrell Bank, UK.

The Convention will enter into force once ratified by the three host countries: Australia; South Africa; and the UK; and two other countries.



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