

Regulatory Briefing – February 2021

Europe

United Kingdom

DCMS publishes draft Electronic Communications (Security Measures) Regulations 2021

On 13 January 2021, The Department for Culture, Media and Sport (DCMS) published the [draft Electronic Communications \(Security Measures\) Regulations 2021 \(Regulations\)](#), setting out security measures to be taken by electronic communications providers under the draft Telecommunications (Security) Bill introduced to Parliament in November 2020. The Regulations have been made available for the purpose of early engagement with electronic communications providers.

The Regulations set out security requirements for electronic communications providers in the following areas:

- network infrastructure;
- protection of data and network functions;
- monitoring and audit;
- security of the supply chain;
- prevention of security compromise and management of security permissions;
- remediation and recovery;
- governance and accountability;
- competency of personnel;
- testing of the network's resilience; and
- assistance of network providers.

The KTN and UKSA launch UK Space Sector Landscape Map, mapping the capabilities of the UK space industry

On 21 January 2021, the Knowledge Transfer Network (KTN) and UK Space Agency (UKSA) released the [UK Space Sector Landscape Map](#), an interactive, web-based tool for use as a point of reference for the UK space sector.

The map charts the capabilities of over 900 organisations in the UK space sector, and can be used to identify clusters, strengths, gaps and opportunities for the UK space sector and to inform the market intelligence strategies of stakeholders.

The UK and UNOOSA enter partnership to promote space sustainability

On 26 January 2021, the UKSA entered into an [agreement](#) with the United Nations Office for Outer Space Affairs (UNOOSA) to promote the sustainable use of space. Under the agreement, the UKSA, as part of the National Space Innovation Programme, will provide £85,000 in funding to identify examples of space sustainability through events and outreach efforts.

The agreement will inform UNOOSA capacity-building efforts to promote the sustainable use of space and is also intended to encourage international implementation of UNOOSA's Long-Term Sustainability of Outer Space Activities guidelines.

DCMS launches consultation on changes to the Electronic Communications Code

On 27 January 2021, DCMS launched a public [consultation on changes to the Electronic Communications Code \(Consultation\)](#). The Consultation seeks views on whether changes to the Electronic Communications Code (Code) are needed to help ensure that the UK has sufficiently robust electronic communications networks to deliver the necessary connectivity for consumers and businesses.

The Code is the legal framework underpinning rights to install and maintain electronic communications apparatus on public and private land.

“unparalleled expertise in all aspects of space and satellite regulation and financing” Legal500 2021

The Consultation sets out three main areas of concern impacting the effectiveness of the Code for landowners and operators:

- issues relating to obtaining and using Code agreements;
- rights to upgrade and share; and
- difficulties specifically relating to the renewal of expired agreements.

The Consultation sets out a range of proposed changes to address these concerns and seeks views on the necessity and effectiveness of these changes.

The deadline for submitting responses to the consultation is 23:45 (GMT) on 24 March 2021.

UK announces Commander of upcoming UK Space Command

On 1 February 2021, the UK [announced](#) that Air Commodore Paul Godfrey will be taking on the role of Commander of the UK Space Command, which was announced in November 2020.

The Space Command, based at RAF High Wycombe, will be a Joint Command comprising all three Services of the Armed Forces, focused on developing joint capabilities across land, sea, air, cyber and space domains.

DfT publishes consultation on draft environment objectives and guidance for the spaceflight regulator (the Civil Aviation Authority (CAA)) under the Space Industry Act 2018

On 10 February 2021, the Department for Transport (DfT) published a public [consultation](#) on “commercial spaceflight: environmental objectives of the spaceflight regulator” (**Consultation**).

The Consultation seeks views on the proposed draft environmental objectives for the UK spaceflight regulator, which are intended to ensure consistency with the UK Government’s domestic and international climate change obligations, and the associated guidance on how the regulator should implement these objectives in the exercise

of its duties under the Space Industry Act 2018 (**SIA**).

The consultation supplements the prior consultations on [draft regulations to implement the SIA](#) that closed on 21 October 2020 and on [draft insurance, liability and charging requirements to implement the SIA](#) that closed on 10 November 2020.

The draft environmental objectives for the regulator are:

- to minimise emissions contributing to climate change resulting from spaceflight activities;
- to protect human health and the environment from the impacts of emissions on local air quality arising from spaceflight activities;
- to protect people and wildlife from the impacts of noise from spaceflight activities; and
- to protect the marine environment from the impacts of spaceflight activities.

The proposed guidance for the regulator to implement these objectives includes:

- ensuring emissions from spaceflight activities remain within legally binding UK carbon budgets;
- taking into account mitigation activities by spaceflight licence applicants;
- encouraging the adoption of cleaner fuels and technologies by the UK spaceflight sector;
- taking all reasonable steps to ensure the efficient use of airspace to minimise emissions; and
- ensuring that ancillary services are considered in the Assessment of Environmental Effects submitted as part of spaceport and launch operator licence applications.

The Consultation closes at 23:45 (GMT) on 24 March 2021.

“unparalleled expertise in all aspects of space and satellite regulation and financing” Legal500 2021

European Union

European Commission opens infringement procedures against 24 Member States for failing to transpose new EU telecom rules

On 4 February 2021, the European Commission (**Commission**) opened [infringement procedures](#) against 24 EU Member States for failing to transpose the European Electronic Communications Code (**EECC**), which came into force in December 2018, into their national law.

The EECC modernises the European regulatory framework for electronic communications in order to promote investment in high-capacity networks and encourage competition and development of a digital internal market, whilst protecting consumers.

Only three EU Member States (Greece, Hungary and Finland) notified the Commission of their transposition of the EECC before the deadline on 21 December 2020. The other 24 Member States have two months to respond to the formal notice given by the Commission.

United States

The White House issues executive order promoting the development of small nuclear reactors for space and defense applications

On 12 January 2021, the White House issued an executive order “[Promoting Small Modular Reactors for National Defense and Space Exploration](#)” (**Order**) intended to revitalise the US nuclear energy sector, reinvigorate the US space exploration programme and develop ‘diverse energy options for national defence needs’.

The Order follows [Space Policy Directive 6](#), which set out a national strategy for space nuclear power and propulsion, and provides a more detailed roadmap for the utilisation of nuclear energy systems. The Order provides directions for NASA, the Defense Department and the Energy Department to develop these capabilities

independently, with cooperation on common technologies.

The Order directs the NASA administrator to prepare a report within 180 days on the requirements of such utilisation by NASA, and directs the Department of Energy to complete a three-year effort to develop technology for the production of high-assay low enriched uranium, and transition this technology to the commercial sector.

The US Intelligence Community establishes Commercial Space Council

On 12 January 2021, details of the Commercial Space Council (**Council**) established by the US Intelligence Community were announced by the chairman of the Council, David Gauthier.

The Council will rethink how data from commercial space systems can be integrated with classified intel and utilised by defence and intelligence operations.

The five ‘standing members’ of the Council were announced as follows:

- the National Reconnaissance Office;
- the National Security Agency;
- the National Geospatial-Intelligence Agency;
- the Defense Intelligence Agency; and
- the Central Intelligence Agency.

The White House releases National Orbital Debris Research and Development Plan

On 15 January 2021, the White House released the [National Orbital Debris Research and Development Plan](#), an interagency report led by the National Science and Technology Council. The report presents a national research and development plan to support orbital debris risk management through three core elements:

- limiting debris generation by design, to reduce the future need for debris mitigation;

“unparalleled expertise in all aspects of space and satellite regulation and financing” Legal500 2021

- accurate tracking and characterising of debris to avoid collisions; and
- remediation and repurposing of debris to remove it from key orbital slots.

Biden Administration endorses the Artemis Program

On 4 February 2021, the Biden Administration announced its support of NASA’s Artemis program, initiated under the Trump Administration, which aims to return humans to the Moon by 2024 and facilitate human exploration of Mars.

The White House releases Memorandum on Renewing the National Security Council System

On 4 February 2021, the White House issued a [Memorandum](#) giving the National Security Council responsibility for the oversight and coordination of space policy.

The National Security Council will issue “national security memorandums”, in place of the “space policy directives” issued by the National Space Council under the Trump administration.

Middle East

United Arab Emirates

The UAE launches Court of Space to preside over global space disputes

On 1 February 2021, the Dubai International Financial Centre Courts and Dubai Future Foundation set up the Court of Space, the world’s first ‘space court’ to settle commercial disputes related to space activities.

The Court of Space will be overseen by judges trained in space disputes and will produce a Space Dispute Guide setting out proposals for resolving space-related disputes globally. It will be supported by an international team of public and private-sector organisations exploring space-related legal innovations.

Asia

India

India announces launch of first commercial private satellite and the first Earth observation satellite entirely developed by Brazil

On 5 February 2021, the Indian Space Research Organisation (**ISRO**) announced the upcoming launch of the country’s first private, commercial satellite, PSLV-C51. The launch will also carry Brazil’s first home-grown Earth observation satellite, Amazonia-1. The launch is planned for 28 February 2021.

“unparalleled expertise in all aspects of space and satellite regulation and financing” Legal500 2021

International

NASA and Japan formalise their partnership for the lunar Gateway as part of NASA’s Artemis program

On 12 January 2021, NASA and the Government of Japan finalised an [agreement](#) governing Japan’s involvement in the lunar Gateway, as part of NASA’s Artemis program, which will support long-term human exploration of the Moon.

Under the agreement, Japan will contribute components for the European-led International Habitation module, and the Japanese space agency (**JAXA**) will contribute batteries for the Habitation and Logistics Outpost. JAXA will also look into modifications to its cargo spacecraft to support the Gateway.



Joanne Wheeler MBE
Managing Partner
joanne.wheeler@wearealden.com



Toby Ward
Partner
toby.ward@wearealden.com



Alex Monk
Partner and COO
alex.monk@wearealden.com



Vicky Jeong
Associate (admitted in New York)
vicky.jeong@wearealden.com



Joe Butler
Paralegal
joe.butler@wearealden.com



Eleanor Winn
Paralegal
eleanor.winn@wearealden.com



Patrick Selley
Solicitor
patrick.selley@wearealden.com



Jason Betteley
Barrister
jason.betteley@wearealden.com



Elizabeth Holden
Solicitor
elizabeth.holden@wearealden.com