



Andy Green President UKspace

Jo Johnson MP
Minister of State for Universities, Science, Research and Innovation
Department for Education and Department for Business, Energy & Industrial Strategy
1 Victoria Street
London
SW1 0ET

11 July 2017

Dear Minister,

UKspace appreciates the effort and collaboration of the UK Space Agency (UKSA) to engage with industry and for its efforts in the drafting of the Space Industry Bill (Bill). To achieve the UK's ambition to grow the UK's share of the global space market to 10% by 2030, the UK Government needs to put in place an enabling regulatory framework for existing and new companies in the market and attract and encourage investment into the UK.

In this framework it is important to have a limit on the liability of satellite launch and operations licence holders, to offer the clarity and transparency that an investor would seek.

The Deregulation Act 2015 (Act) introduced a cap to the concept of unlimited liability in space launch and operations licences. This projected a clear message to the industry that the UK was "open for space business". This Act was a result of a recognition by the Government that the concept of unlimited indemnity, whereby a licensed operator bears all the risks, was damaging to raising investment in the UK.

The concept also had potentially put UK companies at a competitive disadvantage compared with companies in countries such as the US, France, Sweden and Australia, where there are risk sharing arrangements. For example, the licensing government may accept liability for damage above the level covered by insurance (the liability of an operator is therefore capped by the level of insurance cover).

In the majority of cases, the liability cap for a satellite operator was set at Eur 60 million per satellite and it was made mandatory for the Government to set a cap. This offers clarity to companies and investors, even though the Government has the needed discretion to raise or lower this amount.

The unlimited indemnification concept has however been reintroduced by the Bill, stating that, "*An operator licence **may** specify a limit on the amount of the licensee's liability.*"

This has caused serious concern within the industry, particularly to satellite operators and potential launch providers. The wording in the Bill offers no certainty as to: the general level of liability cap; whether this will be similar to the current cap of Eur 60m; or whether and the concept of unlimited liability will be implemented and if so in what circumstances.

While the Government has stated that it may consult further on this issue and will draft implementing legislation, the concept of unlimited liability is an encumbrance to raising investment, growth and recruitment in the UK. This was acknowledged by the House of Commons Science and Technology Committee in its report dated 27 April 2017 on the Bill, which also proposed a mandatory cap on an operator's liability. To encourage commercial development and investment it is vital to the space industry that the concept of a mandatory cap be grandfathered into the new Bill. This still permits the Government to have reasonable and proportionate discretion as to the liability cap, depending on the technology to be licensed.

In relation to innovative, disruptive industries such as the space industry which involve the raising of significant capital, the clarity of regulatory requirements and a mandatory cap is essential:

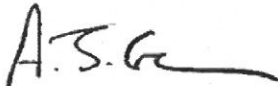
- it is important for a company, as well as the Government, to be able to scope liability, quantify risk and insure against it – rather than have an unlimited risk;
- it is impossible for an operator to purchase insurance cover for an unlimited indemnity;
- it offers clarity to draft a business plan;
- without a cap (even one over Eur 60m) investment is much harder to raise; and
- it puts UK companies on a level-playing field with international competitors.

The cap can be linked to the maximum insurance available in the industry for example, which should also be changed to be on a "per occurrence" basis (which is what the global insurance industry operate on) rather than a "per satellite" basis in the current legislation.

UKspace suggests that the Government implements a general cap of Eur 60m per occurrence, which keeps UK companies on a reasonable level playing field internationally, offers a level of certainty to attract investors, and that the Government then implements discretion to raise or lower this cap as it deems appropriate based on reasonable, proportionate and transparent criteria in secondary legislation.

UKspace requests, on behalf of industry, that the Government provides a statement, as soon as possible, as to the UKSA's general intention in relation to the implementation of a cap on a licensee's liability under the Space Industry Act, to enable continued investment and ensure that the UK industry can meet its ambitious growth targets.

Yours sincerely,



Copy to:

Rt Hon John Hayes CBE MP DfT

Graham Turnock CE UKSA

The undersigned support the letter from UKspace attached. The UK space industry call for a statement from the UK Space Agency that they will implement a policy of reasonable caps on the liability of UK operators, with some reasonable flexibility for cubesats and constellations, under the proposed Space Industry Act.

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