



Law Society
of Scotland

Consultation Response

Consultation on Orbital Liabilities, Insurance,
Charging and Space Sustainability

December 2023



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Obligations Law sub-committee welcomes the opportunity to consider and respond to the UK Space Agency consultation on Orbital Liabilities, Insurance, Charging and Space Sustainability¹.

The sub-committee has the following comments to put forward for consideration.

Consultation Questions

Question 1. Do you have any comments on the proposed two-stage approach?

Whilst the precise parameters of the assessment in criteria in stage 1 are best addressed by industry stakeholders, it is noted that these appear to be clearly defined and easily implemented markers of assessment. Both the activity undertaken and the orbit of the satellite can presumably be determined in a straightforward manner.

In respect of stage 1, where more than one activity is to be carried out in the course of the same mission, clarity may be beneficial as to whether the baseline liability is assessed by (i) a weighted approach, incorporating the proportion of the satellite's lifecycle/ importance/ number of cycles or repetitions of each activity, (ii) the riskiest of the activities from an insurance perspective, or (iii) some other measure, such as the mechanical elements required for each activity and the risks posed by these.

The Stage 2 assessment may however be more difficult to implement; please see our comments below.

¹ [Consultation on Orbital Liabilities, Insurance, Charging and Space Sustainability - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/orbital-liabilities-insurance-charging-and-space-sustainability)

Question 2. Do you have any comments on the four criteria proposed under stage 2?

Each of the stage 2 criteria refers, in broad terms, to minimising risk, and it is agreed that this is, in policy terms, a useful means of encouraging sustainability through insurance provisions.

In terms of further comment, greater clarity as to the degree of risk reduction required to impact the baseline liability is desirable, and a higher level of detail as to recognised methods of reducing risks may be beneficial. The proposed may produce inconsistent outcomes amongst those seeking mission insurance, as different assessors may place greater weight on different factors. Basing the amendment to baseline liability at stage 2 on either the incorporation of or failure to take into account recognised methods of risk reduction relating to the four criteria (such as prescribed methods for the storage of fuel or other environmentally damaging materials) may be more straightforward to implement than an assessment of all steps taken to mitigate risks.

It may also be helpful to provide clarity as to whether different weighting will be given to the adoption of measures which are mandatory from a legislative and/ or regulatory perspective, as opposed to those which are entirely voluntary.

The scope of the lifecycle of the satellite encompassed by the risk assessment should also be clear (for example, (from launch, when the satellite reaches space or intended orbit, separates from launcher stage, or some other time).

Question 3. Do you agree that a £20m middle threshold would be an appropriate insurance requirement to reflect a value at which a minimum premium could apply?

We have no comments.

Question 4. For the active de-orbit method question in criterion 3, minimising risk post operations, do you have views as to what an appropriate de-orbit timeline reduction could be compared to natural decay?

We have no comments.

Question 5. Do you have any alternative suggestions for applying a variable liability limit approach?

We have no comments.

Question 6. Do you believe that questions on Earth sustainability could be included in future within the scope of the proposed approach?

No particular adaptations are proposed, but it is emphasised that greater clarity on the scope and application of the stage 2 criteria may assist in the application of the approach in practice. The provision of a list of detailed criteria to meet in order to reduce baseline insurance liability may constitute a greater financial incentive to operators to encourage sustainable behaviour than the uncertainty of facing an assessment based on 'weighing up' the actions taken by the operator. This may also lead to more consistent results generated by the stage 2 assessment.

Question 7. Do you have any suggestions as to other topics that could be included within scope in future, for example an operator's use of life cycle assessments as part of their mission design process?

We have no comments.

Question 8. Do you have any comments on possible adaptations of the proposed variable liability limit approach?

No particular adaptations are proposed, but it is emphasised that greater clarity on the scope and application of the stage 2 criteria may assist in the application of the approach in practice. The provision of a list of detailed criteria to meet in order to reduce baseline insurance liability may constitute a greater financial incentive to operators to encourage sustainable behaviour than the uncertainty of facing an assessment based on 'weighing up' the actions taken by the operator. This may also lead to more consistent results generated by the stage 2 assessment.

Question 9. What would be the impact on premiums of adopting either of these approaches?

We have no comments.

Question 10. Do you have a preference for either approach and if so, why?

We have no comments.

Question 11. Do you consider that there is sufficient demand for both of these approaches to operate?

We have no comments.

Question 12. If you support a collective policy approach, do you think that a single policy could be put in place to cover all UK licensed operators or should multiple policies be put in place to cover specific mission types or orbits, for example?

We have no comments.

Question 13. For a collective policy approach, which industry body do you think could act as the policyholder?

We have no comments.

Question 14. If either or both of these approaches were to be implemented, what would be the impacts on premiums for UK operators not covered and market capacity for the residual TPL market?

We have no comments.

Question 15. Do you think that either of these approaches could offer greater benefits than those that could be achieved by reducing the liability limit only?

We have no comments.

Question 16. Do you have views on how the UK Government should consider the viability of these alternative insurance models and how they comply with legislative and license conditions?

We have no comments.

Question 17. Would the industry require any additional organisational support from UK Government to develop the alternative insurance model?

We have no comments.

Question 18. Do you agree with the recommendation that a government space bond is not a viable option for this purpose?

We have no comments.

Question 19. If you consider that it is a viable option, would you propose any changes to the approach set out?

We have no comments.

Question 20. Please provide any views on the extent of potential benefits that could arise from the adoption of these measures either individually or in combination. If you do not consider that there would be any benefits from adopting any or all of these measures, please state your reasons why.

We have no comments.

Question 21. Do you have any comments on the proposed approach to end-of-life insurance requirements?

We have no comments.

Question 22.: Do you have any comments on the proposed approach to re-entry insurance?

We have no comments.

Question 23. Do you have any comments on the proposed approach to existing waivers and circumstances where new waivers could be applied?

We have no comments.

Question 24. What opportunities are there to develop insurance products to cover other aspects of space activities (for example business interruption insurance)?

We have no comments.

Question 25. Which of these would you consider would fall to the insurance sector and which to government to progress, were they to be adopted?

We have no comments.

Question 26. How could uptake of TPL and other types of insurance be encouraged in other jurisdictions to provide opportunity for growth in the London insurance market (for example linking insurance provision to responsible behaviours or enabling access to markets if insurance is taken out)?

We have no comments.

Question 27. What issues are facing insurers in terms of risk arising from increasing orbital congestion now and in the next 5-10 years?

We have no comments.

Question 28. How do you think these issues could be mitigated?

We have no comments.

Question 29. How can insurer underwriting overheads be minimised to reduce insurance premiums and scrutiny by the CAA (for example standard policy wording to reduce administrative costs of developing policies, adoption of standard models to quantify risk)?

We have no comments.

Question 30. How can the limited space insurance capacity be better managed to meet the increasing demands for launch services and operations, for example an option for a single insurance requirement when multiple UK satellites are onboard the same launch vehicle?

We have no comments.

Question 31. With the advent of novel technology and activities, what do you see as the key challenges and how can these be overcome? For example, is there a need to move to a product liability basis as adoption of automated collision avoidance manoeuvre systems become more prevalent.

We have no comments.

Question 32. Are there any other issues that you think should be considered / addressed?

We have no comments.

Question 33. Do you have any comments on the proposed approach to fees set out above? In particular:

- i. The principle of aligning the fees structure with the approach to setting liability limits;**
- ii. The proposed changes to the constellation refunds policy to reflect the revised fee structure;**
- iii. The proposal on new fee waivers and whether there are any additional categories that could be included;**
- iv. The proposal on procurement of a launch only licences.**

We have no comments.

Question 34. What are the potential additional benefits in adopting this approach to charging in addition to those identified?

We have no comments.

Question 35. Are there any disadvantages in adopting this approach to charging?

We have no comments.

Question 36. Do you have any comments about how future policy changes to areas outlined in this section could be best reflected in future adaptations of the proposed variable liability limit approach, were it to be adopted?

We have no comments.

Question 37. Do you consider that evolving positions for any of the policy areas will be particularly important for future adaptations of the proposed variable liability limit approach?

We have no comments.

Question 38. The UK government would welcome views from respondents on their knowledge and use of LCAs. If you do not have such knowledge, what is your current level of environmental tracking (scope 1,2 and 3 or anything extra)?

We have no comments.

Question 39. What international partners do you recommend the UK should work with?

We have no comments.

Question 40. Do you find the UK's partnership arrangements effective?

We have no comments.

Question 41. Could the UK do more, or perhaps less, in this area?

We have no comments.

Question 42. Are there other examples of sustainability initiatives or other roadmaps which you feel could inform the development of the UK Space Sustainability Roadmap?

We have no comments.

Question 43. Do you think it is viable to include targets for the removal of debris relating to the UK's space activities as part of the roadmap? If so:

i. Please provide your suggestions for feasible targets for 2030, 2040, 2050 and beyond.

ii. Please provide your thoughts on what would be a realistic size and / or type of debris that should be considered within the scope of any targets.

iii. What are the potential benefits of including such targets with regards to:

iv. Impact on the space environment?

v. Benefits to the UK space sector, in particular relating to the commercialisation of the UK's ADR capability?

We have no comments.

Question 44. What should be the UK government's priorities to address space sustainability?

We have no comments.

Question 45. What other actions could be included in the roadmap to address space sustainability?

We have no comments.

Question 46. Do you have any views how these and other approaches and concepts could be used to inform the UK's developing policy on space debris?

We have no comments.

Question 47. Do you have any further suggestions as to how the long-term sustainability guidelines could be adapted for a UK space sustainability definition?

We have no comments.

Question 48. Do you think that sustainability of the Earth's environment should also be included in the definition, and if so, how?

In the context of an overall aim of enhancing the sustainability of the UK space industry, it would not seem desirable from a policy perspective for a mission with little impact on the space environment but a significant adverse impact on the Earth environment to be subject to a more advantageous insurance

policy than a mission with some impact on, for example, the lunar environment and generation of debris, but very little impact on Earth.

Inclusion of sustainability of the Earth's environment may also minimise the impact of any uncertainties pertaining to the precise boundary of the space and Earth environments and whether any particular mission is more likely to impact either or both environments.

Question 49. If you agree that aspects of Earth sustainability should be included in this definition, which aspects should be covered in the proposed roadmap?

We have no comments.

Question 50. Are there any additional actions with regards to space sustainability that could be taken forward through international fora such as UN COPUOS?

We have no comments.

Question 51. Are there any lessons or actions arising from other multilateral issues tackled through international fora that could be applied to space sustainability?

We have no comments.

Question 52. Are there any other activities which you feel could benefit from an approach agreed bilaterally as a template for wider use?

We have no comments.

Question 53. Do you have any views on adopting measures similar to climate finance and insurance initiatives to promote space sustainability? If yes, please provide suggestions on possible actions that could be taken.

We have no comments.

Question 54: Do you consider that applying targets for debris removal as part of the roadmap and taking action to remove debris created by future missions would create sufficient demand to ensure a sustainable ADR sector?

We have no comments.

Question 55. Is any other regulatory action needed to facilitate ADR and IOS services?

We have no comments.

Question 56. Do you have any suggestions or comments on how private finance could be secured to develop a UK ADR and IOS capability?

We have no comments.

Question 57. Do you have any views as to whether governments should have a role in debris removal?

We have no comments.

Question 58. Would you support the establishment of a global ADR fund, even if UK industry was not the primary beneficiary of such a fund?

We have no comments.

Question 59. What do you consider to be feasible timescales for the development of a circular economy in space?

We have no comments.

Question 60. What do you see as the key regulatory challenges and changes needed to establish a circular economy in space?

We have no comments.

Question 61. When do you think it will be feasible to stop satellites de-orbiting into the Earth's atmosphere?

We have no comments.

Question 62. Do you have any thoughts on specific actions that can be taken to protect the Lunar environment and that of other planets and solar system bodies?

We have no comments.

Question 63. Based on the issues set out in this section, what do you consider to be the priority areas for action to protect the Earth's and low Earth orbital environments?

We have no comments.

For further information, please contact:

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