



May 13, 2019

Attn: Office of Space Commerce, U.S. Department of Commerce
Re: Request for Information on Commercial Capabilities in Space Situational Awareness Data and Space Traffic Management Services
Docket No.: DOC-2019-0001

The Institute for Policy Integrity (“Policy Integrity”) at New York University School of Law¹ recently submitted comments to the Federal Communications Commission (“FCC”) on Mitigation of Orbital Debris in the New Space Age.² Those comments are highly relevant to several questions that the Department of Commerce now raises in its Request for Information (“RFI”) on space traffic management and other issues.³ In particular, our comments to FCC addressed market-based regulatory alternatives that may efficiently control orbital debris, the data requirements and other pre-requisites to implement such market-based regulatory alternatives, and the benefits to the United States from leading the international community in ways that will encourage foreign reciprocity.

Policy Integrity submits this cover letter to identify portions of our FCC comments that are relevant to this RFI; we also attach our initial and reply comments to the FCC.⁴ Policy Integrity is a non-partisan think tank dedicated to improving the quality of government decisionmaking through advocacy and scholarship in the fields of administrative law, economics, and public policy.

The RFI asks: *“What attributes of an open architecture STM/SSA data repository are essential to providing accurate data to mitigate risk of collision and enable SSA and STM services?”*⁵ Policy Integrity’s reply comments to the FCC explain how flexible market-based regulatory alternatives might be deployed to more efficiently control orbital space debris, but also highlight the special information that will be required to effectively implement such market-based regulatory approaches. These data needs should be considered when the Department of Commerce facilitates building a data repository on space traffic management.

The RFI asks: *“In the context of enhanced SSA/STM data, what best practices, technical guidelines, minimum safety standards, behavioral norms, and orbital deconfliction protocols should be adopted by the United States? Of these, are there any that should only be adopted in*

¹ This document does not purport to present New York University School of Law’s view, if any.

² FCC Proceeding No. IB 18-313.

³ 84 Fed. Reg. 14,645 (Apr. 11, 2019).

⁴ https://policyintegrity.org/documents/FCC_Orbital_Debris_Initial_Comments_2019.4.3.pdf;
https://policyintegrity.org/documents/FCC_Orbital_Debris_Reply_Comments_2019.05.06_final.pdf.

⁵ 84 Fed. Reg. at 14,646.

*the United States if they are also adopted globally?”*⁶ As to the first part of the question, Policy Integrity’s reply comments to the FCC encourage agencies to explore market-based regulatory alternatives that might efficiently increase safety and advance best practices. The Department of Commerce should also consider market-based alternatives. As to the second part of the question, Policy Integrity’s reply comments to the FCC explain why the United States should take the lead to address the global tragedy of the commons posed by the risks of orbital debris, and how regulatory leadership by the United States can leverage lead-by-example, coalition-building, and tit-for-tat dynamics that will encourage foreign reciprocity. Our comments also explain the benefits to the United States of foreign reciprocity, as well as how even those effects of U.S. regulatory action that may seem to benefit only foreign space operations will also directly and indirectly benefit U.S. interests, through spillover effects, reciprocity, and U.S. extraterritorial interests. In short, the United States should not wait for full global adoption of best practices and should instead lead by promulgating efficient U.S. regulations.

The RFI asks *“What U.S. actions might incentivize global adherence to SSA/STM standards and compliance with space treaty obligations?”*⁷ As mentioned just above, Policy Integrity’s reply comments to the FCC explain how the United States can encourage reciprocal foreign actions by taking the lead on issuing efficient regulations and by considering the full global externalities in setting U.S. regulatory standards. Demonstrating that the United States cares about how its regulatory actions affect other countries will encourage those other countries to likewise consider how their regulatory actions affect the United States.

Finally, the RFI asks *“How can the proper regulatory environment drive a space activity insurance market that encourages investment?”*⁸ Policy Integrity’s reply comments to the FCC explain how setting clearer liability standards and generating more information can foster the development of a more effective insurance market. But Policy Integrity’s comments also explore how other market-based regulatory approaches besides insurance—such as marketable permits, offset credits, or regulatory fees—could also be applied to the context of orbital debris management.

Respectfully submitted,

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Attached: Initial and Reply Comments from Policy Integrity, to FCC, on Mitigation of Orbital Debris in the New Space Age (IB Docket No. 18-313) (submitted April 5, 2019 and May 6, 2019)

⁶ 84 Fed. Reg. at 14,647.

⁷ 84 Fed. Reg. at 14,647.

⁸ *Id.*