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The EU Space Act

Setting the new regulatory landscape for space business

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A new paradigm for space law?

As the world digests the new draft **EU Space Act**, Fieldfisher's space law team highlights some of the features of the new regime which will impact on space businesses in the EU, as well as non-EU businesses trading with European space businesses in the coming years. So its effects will be felt round the world.

The key aim of the Space Act is to create a new framework for safety, sustainability and resilience in space, and in so doing to promote investment in the sector – the objective is to help Europe to become a leader in the global space market by 2050. At a time when so many aspects of the space sector are in flux, the EU has aimed to strike a balance between promoting space business and setting out new rules to ensure the safety and resilience of EU space infrastructure and preserve the space environment for generations to come.

Underpinning the Act is the EU's **new Vision for the European Space Economy**. For the first time, the European space economy is treated as a single ecosystem, with a consistent regulatory framework applying across the continent.

As we evaluate the expansive Space Act, running to 150 pages, industry will be focused on a number of key points, including:

How will space services be authorised?

EU space services providers will need to be authorised by national Member State authorities, operating in line with the Space Act regime. The authorisation will be valid across all Member States - a mechanism for mutual recognition of authorisations. This reflects the desire to create a single European market in space and achieve consistency across the Member States.

Some administrative licensing requirements will be streamlined for constellations which launch identical satellites, reducing the burden on operators, which have in some cases been obliged to obtain a separate licence for each satellite.

Space data providers will need to register their satellites in the EU Register of Space Objects, managed by the EU Agency for the Space Programme (the Agency).

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What will this mean for European national space regulation?

13 Member States already have legislation regulating space activities. With this in mind, it will be interesting to see how the Commission's ambition of "one market, one rulebook" plays out in practice, given that the Act provides an express right for Member States to impose their own stricter requirements in certain scenarios where "objectively necessary".

However, for Member States which do not yet have their own established framework, the Act offers a ready -made way of establishing a domestic structure which aligns with EU-level ambitions from the outset.

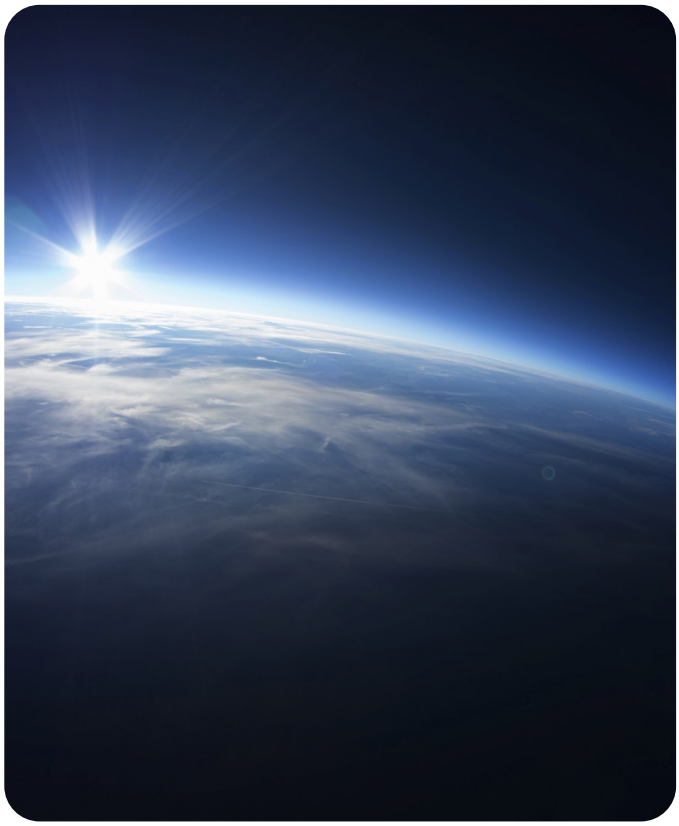
> ***EU space operators will have to flow down their security obligations in their supply chain contracts***

How are the sustainability, safety and resilience requirements set?

The Act sets out requirements for trackability, collision avoidance, manoeuvrability, orbital traffic rules, orbit selection, debris mitigation and limiting light/radio pollution, among other issues. Operators will need to calculate their environmental footprint, apart from SMEs who will be exempt until December 2031. As many of these issues have to date been addressed, if at all, only through guidelines and codes of practice in many jurisdictions, these requirements will entail a more definitive/higher bar for operators to achieve.

Significantly, there are new rules requiring EU space operators to establish a supply chain risk management framework and flow down their security obligations (especially on cyber security) in their contracts with suppliers. These rules reflect the NIS2 cyber security principles which have been rolled out over recent months.

The Act recognises the valuable role played by in-space services and operations services (ISOS) providers, which are largely early in their maturity. To-date, the crucial role these players can fulfil has been somewhat held back by the lack of binding requirements on large operators relating to debris, collision avoidance, and sharing of satellite position data. As a first step in promoting wider uptake of in-space services, EU operators will also have to incorporate interfaces to support in-space services for EU owned satellites (except for mini satellites) - significant as being one of the first requirements of this type round the world. The Commission will adopt further requirements in this field.



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How are security and defence applications treated?

Space services providers which are exclusively delivering defence or national security services are exempted from the Act. What is less clear is how an operator is treated which offers services for both commercial and defence/military purposes. The implication is that it would be subject to the Space Act requirements, but it is unclear how the borderline is drawn where it is providing services which are in practice dedicated to defence/military purposes, but without the entire satellite being used for these purposes, such as using a hosted payload.

What cyber security requirements will apply?

The EU policy is to align all space service providers with existing EU cyber security laws (NIS2) which industry has been wrestling with over recent months. Among other areas of debate has been the challenge of the Member States' option to recognise the main establishment of an operator for registration purposes. Under NIS2, some states have adopted this principle, while others have not, leading to some confusion.

Notably, the current proposal highlights increased cybersecurity standards as a global competitive advantage, with a potential saving by manufacturers of EUR 320 million per year owing to reduced cyber-related risks.

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How will non-EU space services be covered?

Third country operators, such as those from the UK, US and Asia, would need to secure EU registration via the Agency and the Commission, in order to deliver services in the EU. Thus, many of the major non-EU satellite operators, whether using constellations or individual satellites, will be assessing how this impacts on their future business strategy. In addition, the Commission has a broad role in the international dimension of the new space regime, with responsibility for supervising EU operators of EU space assets and international organisations.

> ***Non-EU operators will be assessing how the new rules on delivering services in the EU impact on their future business strategy.***

As well as applying to third country space operators providing services in the EU, the Act restricts EU based space operators from engaging with third country launch operators unless they are registered with the Commission, or they come from a third country where equivalence applies, or in specific circumstances where derogations apply. In the current state of the launch market, where most launches occur from the US, this would entail US launch providers becoming approved to provide launch services for EU operators through one or other of these channels. As the European launch capability matures, the Commission no doubt anticipates that there will be less need to rely on US launch capabilities in the future. The US launch industry, in particular, will need to carefully consider what steps they must take to meet the requirements in the Act, in order to continue to service EU based operator customers.

Significantly, third country space operators must appoint a legal representative in the EU with all necessary powers and resources to guarantee efficient and timely cooperation with the authorities. So this representative should be more than a shell subsidiary.

The requirements for registration of third country public entities include review by a Member State or the Commission of the potential security risks. So it appears that the Commission will have a veto here. Part of the Commission's assessment will be how far the third country public entity is a form of governmental entity or whether it operates military systems. This process will enable the Commission to review the background to the entity's application, taking account of the rapidly changing geopolitical landscape.

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How far will the EU recognise non-EU operators' authorisations?

In addition to requiring registration of third country operators, the Commission may issue equivalence certificates where it concludes that a third country regulatory regime is at least as protective. This echoes the equivalence approach used in other cases (such as GDPR adequacy decisions), which could lead some non-EU states to work on aligning their laws with the EU model, in order to achieve equivalence. It will also raise questions about how transparent the Commission's decision-making on equivalence will be.

How will non-EU space businesses manage their potentially dual track compliance requirements?

For cross-border space businesses (which will be most companies), there will almost inevitably be a doubling up of compliance obligations, both in their home state (for the primary licences) and in the target markets (for market access), unless an equivalence certificate is in force. For US players, this will present challenges especially in areas such as sustainability, where the US authorities have to date typically been content to operate a set of voluntary codes of practice and similar mechanisms.

What are the penalties for non-compliance?

In cases of breach, the Commission can levy fines of up to twice the level of the profit resulting from the breach, twice the losses avoided through non-compliance or 2% of global turnover. This represents a significant penalty for the most severe cases and reflects similar penalties in other EU laws, such as GDPR.

Will the new law encourage investment in EU space companies?

The Act underpins the EU's ambition of showcasing European space businesses as attractive propositions for private investment. By removing current fragmentation across the EU market and providing greater legal clarity, it should create a more predictable environment for investors to navigate. The rules on sustainability, safety, resilience and environmental accountability (including consistent reporting) all represent important green flags for private capital.

How are SMEs supported?

As the EU recognises, the extra costs and compliance burden on space business could present a serious obstacle for SMEs, who often bring some particularly innovative offerings. In order to mitigate this pressure, the EU is planning a lighter regime for SMEs and offering a range of supporting measures to encourage new business, such as capacity building, technical assistance and testing support for SMEs. The proposal also flags the plans for various supporting measures to facilitate compliance by start-ups, scaleups, SMEs and small mid-caps. While these measures would no doubt help SMEs in their early years, the open question remains how far the increased regulatory costs will nevertheless be seen as a significant burden by entrepreneurs.

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Will the new regime promote new space business in the EU? Or will it divert innovation to other (less heavily regulated) jurisdictions?

While many across the sector recognise the importance and urgency of addressing sustainability, safety and resilience in space, there is always a big issue of how far the additional costs of raising the bar are proportionate to the objectives.

The EU acknowledges the extra compliance costs which will result from the new Act. However, it argues that the benefits to the EU space market as a whole (and to the space ecosystem) are justified.

Perhaps the bigger issue is how the EU aims to manage the market access rules for non-EU space businesses. The combination of mandatory sustainability, safety and resilience rules, new registration requirements for US, UK and other non-EU players and the questions about how the Commission and the Agency will apply their oversight responsibilities mean that many space businesses from outside the EU will be keen to assess whether the bar is being set at an appropriate level.

What are the timelines for implementation?

We expect there will be a period (possibly a couple of years) for review and consultation before the Act is finally passed. The Act is to be applied from 1 January 2030, aside from certain new requirements being deferred for SMEs and ISOS providers.

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Next steps for business

And what will businesses need to do?

Numerous businesses, from satellite operators, space infrastructure operators and launch providers to earth observation/space data service providers and telecommunications operators (as well as their supply chains), both in the EU and beyond, will be carefully considering the impact of the Act on their current and future business plans. Their lens will focus especially on the balance between the overarching sustainability benefits for the space community and the compliance burdens for specific businesses.

For those concerned about the short or long term effects of the additional regulatory obligations, a broader question will be how far they wish to lobby to refine the cost-benefit analysis, push for clarification on some of the uncertain aspects of the Act and how best to present the arguments to ensure traction with the EU authorities.

Assuming the Act is adopted in largely its current form, considerable time and resource will be needed to prepare for the registration and compliance processes. Companies will need to gear up for the new compliance standards and build the additional requirements imposed by the Act into their strategic future planning, including:

Businesses will be looking at how far they wish to lobby to refine the balance between sustainability benefits and compliance burdens.

→ EU space businesses

- **New authorisation requirements for EU operators:** preparing for the new requirements for authorisation for EU space operators and engaging with the Member State/EU authorities who will be adopting new processes to align with the Act.
- **Compliance gap analysis:** to identify the in-scope space assets, supply chains and internal policies and where any compliance shortfalls may need to be addressed – e.g. on cyber security, resilience, sustainability, safety, supply chain, and contractual frameworks which will need to include the required e-certification and associated compliance terms.
- **Updating risk management frameworks:** existing frameworks will need to be updated to address the Act's requirements and the need to apply these requirements to the supply chain. The new risk management, liability, and security requirements imposed by the Act will all require a reconsideration of appropriate insurance coverage.
- **Design and manufacturing/procurement plans:** in view of the typical long lead times between initial design and eventual launch, it will be necessary to assess which space assets designed and manufactured before the Act comes into force will be subject to the new requirements, including end of life rules. In its current form, the Act will apply to assets launched after 1 January 2030.
- **Contract requirements:** contracts for space services or space-based data which may extend beyond 2030 should be reviewed to identify any revisions required.
- **Reporting:** Planning in advance to be ready to comply with future environmental and other reporting requirements.
- **Cost implications:** the current proposal acknowledges that manufacturing costs would rise by 3% to 10%, which is no small number. More generally, there will be potentially significant costs associated with evaluating and implementing the various requirements of the Act, as well as ongoing compliance and risk management obligations.

→ Special cases

- **ISOS providers:** these providers will wish to see the Commission build on its baseline requirements for the use of ISOS and include additional detail in the further laws which are envisioned.

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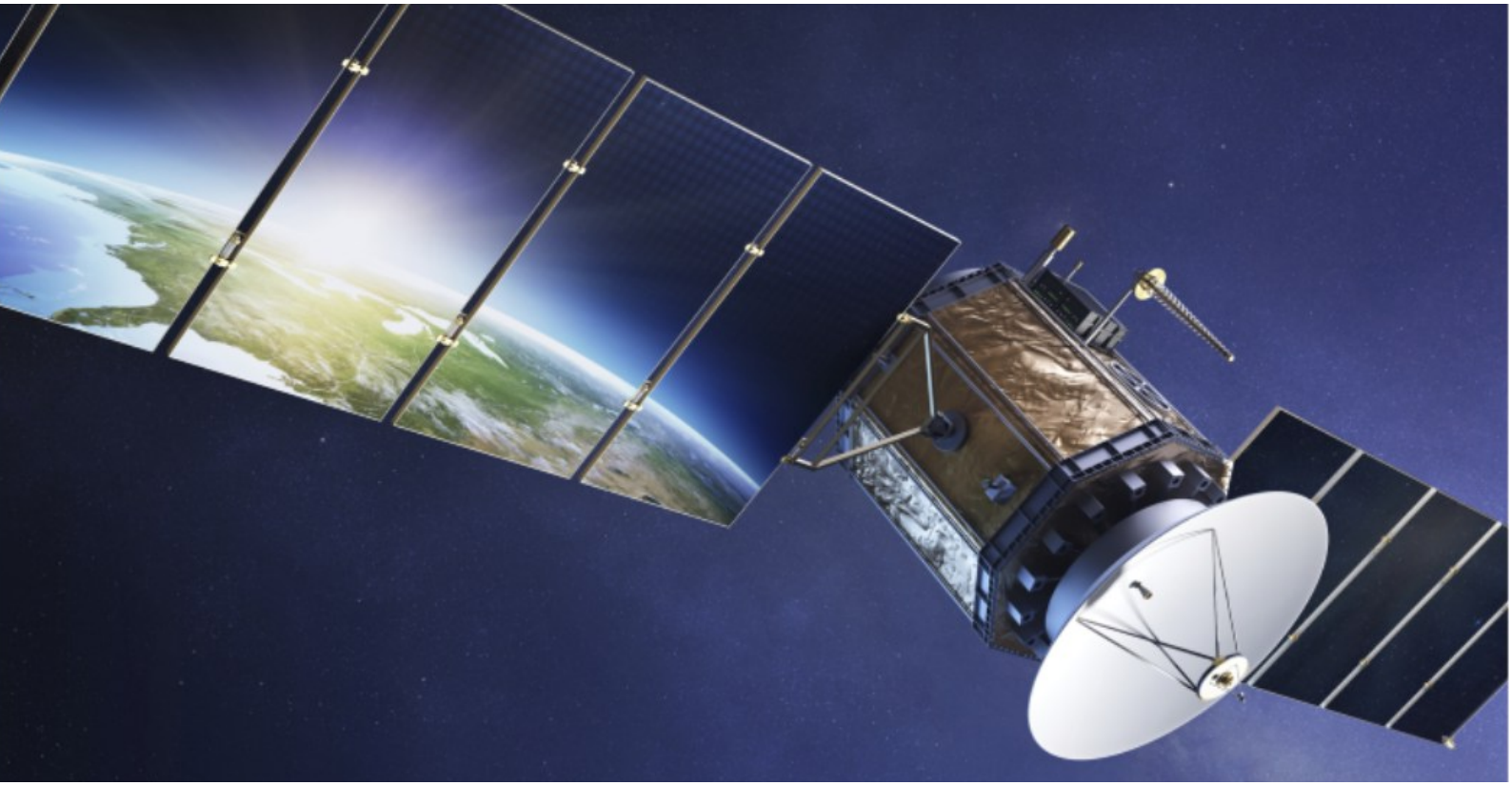
- **SMEs:** small and medium sized enterprises will be looking at how far the Act's requirements apply to them and how the deferred timelines may help them to plan the transition.

→ Third country (non-EU) businesses

- **Impact on third country space businesses:** third country space services providers (including in the UK or US) who are within the ambit of the Act will need to prepare for registration with the Agency as well as establishing the required legal representative in the EU. Non-EU subsidiaries of EU operators will also need to review how far they fall under the Act's umbrella, which Member State they will be regulated by and how they will approach compliance.
- **Equivalence certificates:** non-EU operators may wish to look at the potential for the Commission to issue an equivalence certificate to smooth the path to future commercial opportunities with EU space businesses, avoiding the need for case-by-case compliance.
- **Non-EU launch providers:** where non-EU launch providers wish to engage with EU customers, those launch providers will need to prepare for helping the customer to demonstrate that there is no realistic alternative launch service available within the EU.
- **Engagements between EU companies and third country players:** to avoid business disruption, EU companies will need to engage early to ensure that where they are dependent on in-scope third country companies, such companies will be registered under the Act.

→ Investors/M&A

- **Investors' planning/M&A implications:** When considering new investments in/acquisitions of businesses impacted by the EU Space Act, investors should ensure that the prospective investee or target is gearing up for the Act's requirements, as applicable. Due diligence on compliance with the Act, as well as the Act's impact on the prospective investee/target, will be a material consideration for investors.



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About Fieldfisher

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International law firm Fieldfisher offers a market leading space practice, built on over 30 years' top-flight experience across the space sector in the UK, Europe and around the world.

Among our recent accolades are **Client Choice lawyer: Space and Satellite UK 2025, and Global Elite Thought Leader, Space and Satellite law 2025,** Lexology Index.

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