

To: FBA, ATTN.: Chair, Federal Career Services Division, Steve Miller, Esq

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Re: Relevance of the Federal Bar Association (FBA) to the Commercial Space Sector Legal, Policy, and Regulatory Framework

Introduction

This Bulletin is a preliminary analysis and proposal on how the legal community, especially the Federal Bar Association (FBA), can take the front seat in the journey of space and satellite law. The FBA serves as the catalyst for communication between the bar and the bench, as well as the private and public sectors. In this way the bench, the bar, and the greater legal community may also support Diversity and Inclusivity principles in emerging fields and in areas that are crucial to U.S. national interest and to the global world.

By way of background, the FBA is a voluntary Bar consisting of some 15,000 members—including 2,000 Federal judges—involved in federal practice, inclusive of small to large firms, corporations, and Federal agencies. The FBA serves as the catalyst for communication between the bar and the bench, as well as the private and public sectors. (<https://www.fedbar.org/>). Based on preliminary discussions with FBA Federal Career Services Division, the FBA shows potential as a perfect vehicle for program development on topics of great value and interest for the future of humanity in the global world.

New Trends in Space and Satellite Law

In speaking of novel fields, Space and Satellites is an emerging practice area that deserves focus and attention. This is in the light of the burgeoning commercial space economy that originally was dominated by the sectors of military and civil space (i.e NASA).

Programs – From CLE to Networking, Mentorship & Career Development, Etc.

Accordingly, it is opportune to propose programs that will help the bench and the bar deal with complexities, and leverage opportunities presented by developments in the field of space and satellites.

Such programs will necessarily begin with continuing legal education (CLE) for judges, lawyers, and subject matter experts, as well as programs that will help intersect this field with other practice areas for maximum benefit and promote mentorship, networking and career development for beginners and transition for intermediate and seasoned lawyers seeking new and exciting possibilities.

The FBA consists of various Sections and Divisions that offer specific resources and expertise that demonstrate immense value to the burgeoning commercial space economy.

Accordingly, lawyers and judges stand to benefit from gaining knowledge and exposure to the commercial space sector through Fireside Chats, CLEs, and other forms of training. Such education and training will enhance the legal support they are providing across the many government agencies with regulatory oversight of the commercial space sector.

Space Law Background

There is a rapid growth and innovation of the commercial space industry, demonstrated by: hundreds of satellites, known as proliferated Low Earth Orbit (pLEO) constellations, Cislunar exploration, and growing International Space Consortiums, etc.

Keeping Up with Rapid Growth

Such rapid growth is rendering existing space law, policy, and regulatory framework outdated day by day. There is a great need to keep the law relevant and current. In this regard, the following points are noteworthy:

- “Satellites are the backbone of modern society. We need them for communications position, navigation and timing, and remote sensing across the globe. In addition to the vast range of services offered by the industry today, the companies represented by the Satellite Industry Association (SIA) are poised to lead the U.S. into an interconnected and data-driven future. We are at a time of explosive innovation in the space industry, with over 7,000 active satellites on orbit today and plans for tens of thousands more through the end of the decade.”
 - **Source:** Satellite Industry Association (SIA) testimony before the United States House Committee on Energy and Commerce Subcommittee on Communications, Technology, Innovation, and the Internet.
- “Space-based services have become fundamental to daily life. A June 2019 report estimates that global positioning system (GPS) satellites have generated roughly \$1.4 trillion in economic benefits since the system was made available for civilian and commercial use in the 1980s. GPS is just one of many satellite capabilities that give us daily benefits.”
 - **Source:** Aerospace Corporation’s “Value of Space”
- “We are in a historic moment: space activities are rapidly accelerating, resulting in new opportunities in multiple sectors of society, as well as new challenges to U.S. space leadership, global space governance, the sustainability of the space environment, and safe and secure space operations.”
 - **Source:** US Space Priorities Framework

Relevance to FBA

Circling back to the FBA, this voluntary bar offers Sections and Divisions with various practice areas and expertise that closely relate with the Space and Satellite Commercial Space Sector.

The following enumerates and discusses FBA Sections and Divisions, analyzing how each one intersect with space law.

The Intersection of Commercial Space with FBA Sections and Divisions

- **Federal Career Service Division**
 - As stated in the introduction, Space Law intersects with multiple legal fields. In fact, the FBA’s Sections and Divisions consist of many legal fields with direct expertise that offer immense value to the “burgeoning commercial space economy.” Lawyers across the federal government including NASA, DoD, DOT, FAA, DOS, DOC, NOAA, Judiciary, and Treasury support the existing space law, policy, and regulatory framework governing our Civil, National Security, and Commercial space activities. This enumeration of legal support includes Export Control (ITAR, EAR99), Spectrum Management and approval, Space Debris Management, Space Traffic Management and Collision Avoidance, space mining rights, International Consortium Agreements, Space Treaties, Commercial Consortium Agreements, proximity operations, and a host of new technical areas.
- **Immigration Law Section**
 - The rapid commercial space growth has led to hiring challenges; companies are buying companies as a "quick fix" to expand their workforce Immigration law can help in the sponsorship of foreign-born experts to resolve scarcity of experts in technological fields including space law. Self-petitions for extraordinary and exceptional ability aliens, and increased quotas for H-B1 and other work visas are crucial. The work in the U.S. of experts and professionals can in turn help in easing the humanitarian crisis.
- **Focus on legislative Issues**
 - The White House released it’s new proposed mission authorization policy framework governing the space law, policy, and regulatory framework.
- **Admiralty Law Section**
 - The rapid growth of the commercial space industry with Cislunar, mega constellations, and with proliferated Low Earth Orbit (pLEO) constellations, Cislunar exploration, and In-Space Servicing, Assembly, and Manufacturing (ISAM) has generated a push to evaluate current Space Law and regulatory requirements along the lines of Admiralty Law.
 - **Source:** Aerospace Corporation’s “(Space) Ships Passing in the Night: Translating Maritime Rules of the Road for the Space Domain”
- **Banking Law Section**
 - Both legacy and new startup commercial space providers are leveraging billions in private investment from venture capital and Special Purpose Acquisitions Company (SPAC) funding to disrupt and revolutionize the traditional business models for commercial satellite communications and Earth observation.
- **Corporate and Association Counsel Division**
 - Mergers and acquisitions have become an extremely dynamic environment in the “New Space” commercial sector requiring dedicated legal expertise.
- **Intellectual Property (IP) Law Section**

BULLETIN # 2

Space Law Program Proposal

for the Federal Bar Association (FBA)

- IP Law has always been a fundamental need for any industry and has become even more important with the rapid growth of the commercial space sector and hundreds of new small startup companies. The competition and conflicts that are an inevitable result of this rapid growth in this sector drives the need for space specific IP law.
- **International Law Section**
 - The National Space Council meeting this month emphasized the need for international cooperation in all aspects of space (Civil, National Security, and Commercial).
 - **Source:** Space News Article 21 Dec 2023
- **Law Student Division and Younger Lawyers Division**
 - The space sector is investing heavily in STEM (Science, Technology, Engineering, and Math) to grow the future space workforce. In a similar vein, lawyers with basic space related technology, regulatory, and legal knowledge across the many practice areas supporting the growing commercial space sector.
- **State & Local Government Relations Section**
 - A prime space example relevant to the State & Local Government Relations Section is support of the National Spaceport Intergovernmental Working Group (NSIWG) led by the FAA and supported by multiple government agencies (DOC, DOS, NASA, OSD, USSF. “The efforts of the NSIWG will be informed by participation from state and local governments, state/local/private spaceports, the launch industry, the financial industry, and academia.”
 - **Source:** FAA website and Charter for the NSIWG

Disclaimer: This proposal is intended solely as a high-level introduction to the FBAs value to the commercial space legal and regulatory framework. All sourced content is publicly available data and is by no means all-encompassing or legal advice.