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Matthew Schaefer*

Introduction: The University of Nebraska College of Law's Space and Telecommunications Law Program

On March 2, 2007, the Law College hosted its first ever space and telecommunications law conference titled "Security and Risk Management in a New Space Era: Military, Commercial, and Tourism Dimensions." The theme of the conference was particularly timely as in mid-January 2007 China conducted the first anti-satellite weapon test in 20 years, knocking out one of its own aging weather satellites 537 miles from Earth. In the process, China created a debris field of hundreds—if not thousands—of fragments. Previously, in September of 2006, there were media reports of China "illuminating" satellites with lasers. Before that time, the last test of an anti-satellite weapon was conducted by the United States in 1985, and the last piece of debris created by that test just deorbited in 2004. China was roundly criticized by the international community for its test and the test's potential impact.

General James Cartwright, then Commander of US Strategic Command ("US STRATCOM") and current Vice-Chair of the Joint Chiefs of Staff, gave the keynote address at the conference. General Cartwright noted that the military tracks over 40,000 objects in space, occasionally warning satellite operators of potential collisions with each other or with debris. General Cartwright also made the point that the law is not as precise as it needs to be given the density of space activities today. For example, whose responsibility is it to maneuver when two objects are on a potential collision course? Other problems identified during the talk included piracy of bandwidth, jamming of signals, and other interference with communications. US STRATCOM continues to attempt to improve space situational awareness, including more proactive awareness of space activities. General Cartwright con-

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cluded by noting that there is no need for an arms race in space. In addition to General Cartwright's keynote address, several different panels were held to address a variety of issues. These panels addressed issues involving "space tourism," the military dimensions of space law, and the commercial/telecommunications aspects.

The speakers on the Tourism/Transportation Dimensions Panel included Laura Montgomery, Chief Counsel's Office, FAA Commercial Space Transportation; Frans von der Dunk, Director, Space Law Research, International Institute of Air and Space Law, Leiden University (Netherlands); Stephan Hobe, Director, Air and Space Law Institute, University of Cologne; and Tracey Knutson, Knutson and Associates (Alaska). Articles based on Professor von der Dunk's and Professor Hobe's panel presentations are published in this edition of the *Nebraska Law Review*.

The Military Dimensions Panel focused on "Protecting Systems and Using Military Power to Protect Civil, Commercial, and Tourist Operations; and System Negation." The panel's speakers included Phil Meek, Air Force General Counsel's Office; Major Darren Huskisson, then Chief, Cyber and Space Law, US STRATCOM and a Law College graduate; and Colonel Patrick Gleeson, Canada. Eligar Sadeh, Professor, University of North Dakota Space Studies Department, served as moderator for the panel. Phil Meek noted that there is very little transparency in other nation's space policies and that the U.S. has an asymmetrical advantage in space. However, Meek also warned that this could turn into an Achilles heel if space assets are not properly protected. Darren Huskisson analyzed what the principles identified in International Court of Justice's opinion in the *Oil Platforms* case might mean for the defense of the space network. Finally, Colonel Gleeson provided a Canadian perspective on system protection and system negation issues.

The Commercial/Telecommunications Dimensions Panel focused on "Managing Risks, Securing Assets." The panel's speakers included Ram Jakhu, Professor, McGill University Institute of Air and Space Law; Hal Burman, Legal Advisor's Office, United States State Department; Joanne Gabrynowicz, Director, Remote Sensing and Space Law Center, University of Mississippi; and Pamela Meredith, Co-Chair, Space Law Practice Group, Zuckert, Scutt, and Rasenberger. June Edwards, a Law College graduate, formerly with NASA General Counsel's Office and currently with US STRATCOM, served as moderator for the panel.

The conference was not the only activity for the space and telecommunications law program during the 2006-07 academic year. During the Fall 2006 semester, Professor Matt Schaefer taught the first space law class at the Law College since the mid-1960s. This course covered military, civilian, and commercial aspects of space law, including the

five major Cold War era space law treaties, national security aspects of space law, the NASA act, the International Space Station Agreement, remote sensing, property rights in space, intellectual property in space, insurance for launches and satellites, and tort law aspects of space tourism. The class included a variety of guest lecturers including two law college graduates: June Edwards of NASA/US STRATCOM and Major Darren Huskisson, then Chief, Cyber and Space Law, US STRATCOM. Other guest lecturers included Pamela Meredith, Co-Chair, Space Law Practice Group, Zuckert, Scoult, and Rasenberger (Washington, D.C.); Tracey Knutson, Knutson & Assoc.; Professor Joanne Gabrynowicz, Director, National Remote Sensing and Space Law Center, University of Mississippi School of Law; Professor Ram Jakhu, McGill University; and Billy "Sensei" Starkey, Northrup Grumman.

The Law College faculty unanimously approved the creation of a space and telecom law LL.M. (Masters of Law) program in the Spring 2007 semester, and final University approval followed in the summer of 2007. The Law College's first LL.M. class will begin studies in August 2008. The program will also benefit J.D. students through expanded course offerings, and J.D. students will have the opportunity to receive a certificate in space and telecommunications law. The Law College also anticipates that some M.L.S. students will choose to focus on space and telecommunications law as an area of study. Professor Frans von der Dunk, former Director of Space Law Research at Leiden (Netherlands) Air and Space Law Institute, has been hired to teach space law, national security space law, European regulation of space, and national space legislation. Marvin Ammori, a graduate of Harvard University Law School and currently serving as General Counsel to the Free Press, the nation's leading media reform organization, has been hired to teach telecommunications law, international telecommunications law, and cyber law.

Program activities for 2007-08 academic year are already underway. On September 24-28, 2007, Professor Matt Schaefer, Executive Director Jessica Schaefer, and Asst. Dean of Admissions Sarah Gloden traveled to Hyderabad, India (the fifth largest city in India and the country's "second silicon valley") to promote and market Nebraska's LL.M. program at the International Astronautical Congress and International Institute of Space Law Annual Meeting. This trip put Nebraska's program on the "international map," particularly because the hiring of Professor Frans von der Dunk was announced at the conference. The conference also allowed UNL to rapidly expand its international contacts in the space law arena.

The Space and Telecom Law Program hosted a space law seminar on "Formalism v. Informalism in Space Law" in conjunction with the Strategic Space and Defense Conference in Omaha October 9, 2007.

Steve Mirmina, Senior Attorney, NASA General Counsel's Office, was the lead speaker. Steve's presentation focused on informal mechanisms for regulating space debris, including exploring analogies in other international law fields to regulation through means less formal than a treaty. Darren Huskisson, former Chief of Cyber and Space Law at US STRATCOM, provided a military viewpoint on formal versus informal regulation, and Jonathan Solomon, Legal Officer, Department of Foreign Affairs, Canada provided a non-U.S. perspective on these issues.

The "off-the-record" discussion among the panelists explored the following set of questions:

1. While new formal space treaties (or major amendment of existing treaties) are unlikely in the near future, there are an array of informal mechanisms and national legislation and practice that occur to regulate space—what degree of formalism is most appropriate;
2. Do certain informal mechanisms work better than others;
3. What factors impact government choices regarding the degree of formalism;
4. How do the informal mechanisms interact with the formal treaties;
5. Will informal mechanisms have to become more formalized over time;
6. How do new space actors impact the choice between formal and informal mechanisms;
7. Given rapidly evolving technology and commercial activities, are informal mechanisms going to continue to be the major law making device;
8. How does potentially increasing militarization impact choices between formal and informal mechanisms; and
9. What "gaps" or issues in existing law most need "filling" through informal or formal mechanisms?

Two Law College graduates gave guest lectures during the Fall 2007 semester as part of the space and telecom law program. On September 18, 2007, Larry Rissler, former Vice-President of DirectTV, spoke on measures that the company has taken to protect its signals from theft. On November 5, 2007, Fred Campbell, Chief, Wireless Division, Federal Communications Commission ("FCC"), spoke on orbital slot allocation and frequency allocation by the International Telecommunications Union and the FCC.

The Law College will host its second major space and telecom law conference on May 1-3, 2008, titled "Formalism, Informalism, and Innovation in Space and International Telecommunications Law." The conference will feature the inaugural lecture of Professor Frans von der Dunk.