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Darren Jones MP
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Dear Darren,

LETTER TO THE BEIS COMMITTEE ON THE OUTCOME OF THE CALL FOR EVIDENCE

I am writing to update you on the UK Government's work on liability and insurance issues, following the review of orbital liability and insurance matters raised by stakeholders in response to the consultation on the draft Space Industry Regulations.

As we look to establish a strong UK commercial space sector, it is increasingly clear to me that there is a huge opportunity for the UK in building a leadership position in the appropriate regulation of the commercial satellite sector and the creation of a framework for commercial insurance of satellite risk. Given the widespread calls for better regulation of satellite launch, management, retrieval & recyclability to reduce and mitigate debris risk; and London's strengths as the current headquarters of space insurance, I am keen to explore all options for establishing strategic UK commercial advantage in this area.

The Government committed in its response to the consultation,[1] as well as in the National Space Strategy,[2] to reviewing the matters raised, and a call for evidence seeking views was issued in October 2021.

The recommendations in the package summarised below address key issues raised by the sector and amount to a substantial change in the UK's approach to setting liability limits for satellite operators. As well as minimising operators' insurance costs, the package also contains proposals to align with key elements of the National Space Strategy (NSS) and places the UK as a global thought leader in promoting responsible and sustainable use of space.

Summary of the package of proposed measures

- **The UK Space Agency and Department for Business, Energy and Industrial Strategy are exploring with the Department for Transport (DfT) the legislative options for including a mandatory limit of liability under section 12(2) of the**

[1] The detail of the review is included in paragraphs 4.102-6 on page 22 of the response.
[2] See page 31 of the strategy 'We will also launch a review of options to consider a lower limit of operator liability for in-orbit operations and alternative insurance models to support the needs of small satellite operators.'

Space Industry Act. This is the key regulatory ask of the space sector to provide legislative certainty for operators and investors around liability limits as we have already announced our policy that liability will be limited in all licences for this section.

- **The Government will develop proposals to move from the current fixed €60m operator liability limit approach to a variable liability limit approach**, where satellite missions are placed into one of a limited number of liability bands, based on well-defined, transparent and assessable criteria. This has the potential to reduce operators' insurance costs, which is a key ask of the satellite sector. The Government is also proposing to set a defined upper limit to provide clarity to operators on their maximum liability, although further discussion is needed on the level this will be set.

- **The approach would set a range of fixed insurance values to reflect each band, with a minimum value of zero and maximum recommended of £50m** (which equates to the current €60m limit for standard missions). Further discussion is needed on this, including the defined upper limit, taking into account also any new potential model adopted for third-party liability insurance and the new methodology for calculating liability limits for orbital operators (see below). Liability limits for proximity missions will also be developed as policy thinking develops on this issue.

- This approach will reflect **an orbital sustainability focus**, to incentivise and promote wider UK Government policy and ambitions, to provide thought leadership on the global stage in developing a responsible 'race-to-the-top' regulatory approach. This will also take into account considerations around safety, as is applied to licensing currently.

- We have set up a working group with industry stakeholders to develop such a methodology. The group is made up of representation from satellite operators undertaking different mission types, academia and insurers and held its introductory meeting in late May. The group will be meeting a number of times over the coming months to develop a methodology for consultation.

- The Government is also **exploring ways in which the insurance requirements can be adapted to support key themes of the NSS of promoting growth and innovation.** This will consider for example whether it is appropriate to expand the current waiver of insurance approach, which can be applied to the lowest risk satellites operating below the International Space Station, to include other criteria.

- **The current waiver of insurance applied to the lowest risk missions launched from or operating below the International Space Station (ISS) should be retained for operations licensed within the next two years** but be subject to further review as the orbital environment below the ISS changes.

- Review the current **insurance aggregate limits** which apply and align these with the revised liability limit values, developing constellation policy and on-going market capacity.

Alternatives to traditional third-party liability approach

The call for evidence sought views on alternative approaches to the current method of insuring for third-party liability, in particular looking at support for a mutual approach proposed by the small satellite sector.
The Government recognises that commercial insurance is currently available and officials will work with the sector to find market-based solutions to the present challenges, noting that across all markets, any government intervention is generally considered a last resort.

On the basis of the call for evidence, the Government will explore the following options for further development before consulting on formal proposals to agree the preferred approach:

- Sector-led mutual – the Government is assessing potential adaptations to the proposed model to consider how it could be used in conjunction with the variable limit approach;
- Collective insurance policy for the whole sector - this option would agree a single policy to cover all licensees and negotiated by a sector organisation in the first instance. This option could be used in conjunction with the proposed mutual;
- Government Space Bond – this option is proposed as a longer-term option for increasing funding for the UK space sector as a whole.

Review areas not covered by the call for evidence

The following topics were not included in the call for evidence. The Government is proposing the following with regards to these issues:

- Insurance requirements for orbital operators for the procuring of a launch overseas – The current policy when procuring a launch overseas is for the satellite operator to take out or have access to €60m of insurance for the launch. Under usual practice, the satellite operator would be included as an additional insured on the launch insurance policy. With increasing numbers of launch vehicles requiring less than the €60m the UK currently requires, this means that some satellite operators are required to take out more insurance than is necessary for the launch. We are proposing to change the approach so that the insurance required (and therefore the operator's limit of liability) will be the same as that for the launch vehicle.

  In cases where the level of insurance required (i.e. by the foreign jurisdiction licensing the launch) would exceed the current €60m requirement, the €60m requirement will still apply (or the £50m equivalent once the changeover is applied), so that operators are not disadvantaged by this change.

- End-of-life insurance requirements – The current policy is generally that, if agreed with the regulator, once the licensed activities have been completed and the satellite has been safely positioned to the satisfaction of the Secretary of State / Regulator, passivated and switched off, the licence will be terminated. Operators are not required to hold insurance following the termination of the licence.

- Even though the insurance will no longer be required following the termination of a licence, the requirement to indemnify the Government for any successful claims will remain, up to the operator's limit of liability.

- Moving forward, the insurance requirements for end-of-life activities will be determined by the approach taken under the safety / sustainability approach (if this approach is taken forward) and wider Government policy on sustainability.

  This will include recognising actions that minimise the amount of time that a satellite remains in orbit once the operations have concluded, provided these actions also meet the Regulator's safety criteria.

- Re-entry insurance requirements – Further policy development is underway to determine licensing requirements for missions where objects are designed with the intent to survive re-entry intact (for example during sample return missions). As part of this thinking the government is considering whether insurance for re-entry activities will only be required where the re-entry object is designed to survive re-entry intact and such activity would be licensed and risks modelled. In such cases, we are exploring whether it is appropriate to apply the default values of the variable limit approach (i.e. £20m and £50m) or whether a bespoke value is required.

- Consider with DfT colleagues the possibility of aligning orbital and launch insurance requirements – this would simplify the requirements for orbital operators as they often make use of the launch insurance policy for the first year of their operations. This prevents such operators having to buy top-up insurance which could double their insurance costs.

The Government believes that this is a significant package to address a range of matters raised by the satellite sector and we will work with these stakeholders to develop the measures further.

We have tested these recommendations with stakeholders at a number of plenary events held in late March and early April and the feedback has been supportive of the recommendations. We intend to publish the call for evidence response to coincide with the Summit for Space Sustainability to be held in London on 22-23 June.

Yours ever,

George Freeman.

GEORGE FREEMAN MP
Minister for Science, Research and Innovation