

Additional Comments from Labor Senators

Key Issues

1.1 Labor Senators broadly support the Space Activities (Launches and Returns) Bill 2018 (the Bill).

1.2 The Bill responds to long standing concerns about the effectiveness of Australian regulation of satellite launches and returns. As Professor Melissa De Zwart of the Adelaide Law School submits:

The current *Space Activities Act* can be classified as a general failure. No company has launched from Australia since its implementation, with the only example of local activity being the 2010 return of the Japanese Hayabusa spacecraft and the occasional overseas satellite launch. The tenor of that Act reflects a very narrow and specific view of Australia's role in a space industry, as a launch provider and little more.¹

1.3 This Bill has been three years in the making. The Government launched a review of the Space Activities Act in 2015, receiving a report by Professor Steven Freeland in August 2016. The Department of Industry, Innovation and Science (DIIS) produced a legislative proposals paper in March 2017. The Bill that is subject to this inquiry was only introduced into the House of Representatives on 30 May 2018.

1.4 There is without doubt a pressing need for reform. The current legislative and regulatory settings have been identified as a key factor inhibiting the development of a viable commercial and scientific space industry in Australia.

1.5 This Bill is not the wholesale reform many have been calling for. It tinkers around the edges. Clearly Parliament will be asked to revisit space regulation in the near future.

Scope of the Bill

1.6 The Bill makes attempts to modernise and update Australian space regulation. Some advances have been achieved but other opportunities have been lost.

1.7 Labor Senators understand that regulation must change as circumstances change. The global space industry of 2018 is vastly different to 1998. As the Review of Australia's Space Industry Capability notes:

Not since humans first walked on the Moon have we seen the global space industry undergo such rapid reinvention.

No longer restricted to government agencies and budgets, space has become a fast-growing and fiercely competitive commercial sector, as falling launch

1 Adelaide Law School, University of Adelaide, *Submission 3*, p. 2.

costs and high levels of private funding continue to push the price of entry lower than it has ever been.²

1.8 The review further notes that the global space economy, worth \$345 billion in 2016, is expected to grow to \$1.1 trillion by 2040.

1.9 Given the scale of the opportunity for Australia, it is surprising that the Bill fails to provide for a more expansive statement of purpose. These statements exist in the United Kingdom's Space Industry Act, the United States' Commercial Space Launch Activities Act, and New Zealand's Outer Space and High-altitude Activities Act. As the Space Industry Association of Australia submits:

We would encourage the Australian Parliament to consider a stronger pro-industry statement of purpose in any space-related legislation.³

1.10 As a number of submitters have noted, a lot of the proposed detail of the operation of the regulatory regime will be contained in regulation, rather than legislation. While leaving much of the operational detail in subordinate legislation has its advantages, it risks impeding the ability of Senators to understand what they are being asked to vote on.

Role of the Australian Space Agency

1.11 The Bill is silent on which government agency will be responsible for the administration of the Act. While the assumption is that it will fall under the purview of the Australian Space Agency, there is no certainty that this will be the case.

1.12 The only guarantee of a continuing Australian Space Agency is legislation, yet it appears that this is not intended to be pursued. As evident in evidence before the Economics Legislation Committee Budget Estimates hearing on the 5th of June:

Senator KETTER: Will the agency be established through legislation?

Mr Power: The government's response said it would consider legislative establishment after the operation and review of the space agency. It's not intended for the agency to be set up by legislation in its initial set-up.

Senator KETTER: So 12 months down the track that will be reviewed?

Mr Power: The government's response said it would be reviewed within four years of operation.⁴

2 Review of Australia's Space Industry Capability, *Report from the Expert Reference Group for the Review*, March 2018, p. 15, https://www.industry.gov.au/sites/g/files/net3906/f/June%202018/document/pdf/review_of_australias_space_industry_capability_-_report_from_the_expert_reference_group.pdf (accessed 13 August 2018).

3 Space Industry Association of Australia, *Submission 12*, p. 5.

4 Senate Economics Legislation Committee, Budget estimates 2018–19, *Committee Hansard*, 5 June 2018, p. 56.

1.13 The failure of the government to legislate a role for the Australian Space Agency is concerning. History is against the agency. In the past, attempts to boost support and co-ordination for Australia in space—often by Labor governments—has been met with a hostile reaction from Treasury and Finance, and has been undone by subsequent Liberal governments.

Impact on aviation safety and regulation

1.14 The explanatory memorandum to the Bill explains that one of the objectives of the Bill is to:

[broaden] the regulatory framework to include arrangements for launches from aircraft in flight and launches of high power rockets.⁵

1.15 The provisions on high power rockets have raised some concerns from amateur scientists, educationalists and hobbyists. The Bill proposes to require all high power rocket launches to obtain a permit.

1.16 Australian Rocketry submits that:

High powered hobby rocketry already has a working model which is governed by strict regulations under Civil Aviation Safety Regulations 1998, Part 101.A, B, C and H. Launch sites are issued area approvals which dictate operational requirements including lateral and vertical limitations. Rocketry organisations such as the Australian Model Rocket Society Inc. (AMRS) operate under internationally recognised safety codes and risk assessments which assesses competency of individuals and permits access to varying classes of rockets and rocket motors capable of reaching altitudes approaching 100km.⁶

1.17 In a similar vein, submissions from the Internal Aerospace Law Policy Group, Australian Airline Pilots Association and Australia New Zealand Space Law Interest Group have all raised issues around the intersection of the space regulatory regime and civil aviation requirements, the role of the Australian Transport Safety Bureau (ATSB) in accident investigations and the absence of aviation safety from a list of factors the Minister must consider when deliberating on a permit.

1.18 Labor Senators consider that it is incumbent on the government to clarify its intentions on these matters, and if necessary, offer reasoned amendments to the Bill.

5 Explanatory Memorandum, p. 1.

6 Australian Rocketry, *Submission 10*, p. 1.

Recommendation 1

1.19 Labor Senators recommend that the Senate support the Bill, noting its deficiencies and lack of clarification from the government in a number of areas.

**Senator Chris Ketter
Deputy Chair**

**Senator Jenny McAllister
Senator for New South Wales**

**Senator the Hon. Kim Carr
Senator for Victoria**