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MANAGING COMPLIANCE AND ETHICS RISKS BY SPACE AGENCIES IN THE CONTEXT OF
NEW SPACE AND MARKET VOLATILITY

Abstract

The advent of the major players of the digital economy in the space industry has led the space agencies and their staff to alter in a deep way their intervention models with respect to the private sector.

Their traditional procurement scheme, where the agency, via a call for tenders, specifies technically system that it intends to have developed by the future holder of the public contract, is to be replaced by that of the anticipated purchase of a "space service", without prejudging the means to achieve it.

This new intervention scheme proves to be virtuous since it allows the public contracting authority to benefit from savings, innovations and additional functionalities resulting from a shared system, and the private sector to benefit from increased public resources for the development of its commercial systems, while retaining full control of its intellectual property and system design. However, it raises potential risks of conflicts of interests, favoritism or even objections of ineptitude against agencies or their experts insofar as they are called upon to give their opinion on criteria other than scientific or technical. In addition to this pressure, both public and private actors are subjected to upgraded anti-corruption laws such as the FCPA in the United States or in France the so-called "Loi Sapin 2" of 2016.

The latter law requires any French economic operator like CNES to set up an internal system to prevent any breach of probity in the conduct of business. These specifications are in addition to those already imposed on CNES as any government agency or public contractor. This agency must also consider the rules of ethics applicable to the technical and scientific expertise of its employees, or more generally the principles that govern the ethics of any space mission.

Highly committed to public-private partnerships, European and international cooperation, CNES has initiated a proactive compliance and corporate ethics policy. It is organized around a coherent plan comprising a risk map, a code of conduct for employees, a partner evaluation process, a whistleblowing procedure, a prior declaration of interest form for the most at-risks people, terms of acceptance or granting of gifts and invitations, review of contractual intervention methods, training and awareness-raising actions, a penalty system, an assessment and auditing system, an Ethics Charter and dedicated high level committees to enlighten the governing bodies.

The author proposes to detail this risk management plan for which he has operational responsibility.