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Lamar Smith, Chairman

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Statement of Space Subcommittee Chairman Brian Babin (R-Texas)
Commercial Remote Sensing: Facilitating Innovation and Leadership

Chairman Babin: For over two decades, the United States has led the world in space-based commercial imagery, supporting our civil, commercial, and national security communities. In just the past few years, American innovation in space-based remote sensing has enjoyed a period of immense growth. American companies are investing in, and developing, a host of new and innovative technologies, services and applications, including space-based full-motion video, hyper and multi-spectral imaging, space-to-space remote sensing, and commercial signals intelligence.

As these technologies grow, we must ask: Why, what, and how should we regulate space-based remote sensing activities? The last time Congress passed legislation on this subject was the *1992 Land Remote Sensing Act*. Back then, CubeSats had not yet been invented or standardized. Computers, sensors, and other key technologies were orders of magnitudes more expensive and far less capable. Today we depend on these technologies and the geospatial data they produce. Satellites, UAVs, and many other data collection systems provide the public with unprecedented information. After 24 years, it is time to take a hard look at these changes and see where the laws, regulations, and policies governing this industry need reform.

Section 202 of the *Commercial Space Launch Competitiveness Act* directed the Secretary of Commerce, in consultation with the National Oceanic and Atmospheric Administration's (NOAA) Advisory Committee on Commercial Remote Sensing, also known as ACCRES, to report on statutory updates necessary to license private remote sensing space systems no later than November 25th of this year. For this report to be worthwhile, the Secretary should ensure the advisory committee has sufficient time to contribute to and inform the report.

Let me say again that Congress directed **consultation** with ACCRES. Yet as we near the due date for the report, I have some concerns. The last time the Department of Commerce held an ACCRES meeting was in June, 2015, over a year ago. This is unacceptable in light of the law passed by Congress and signed by the President directing the Department of Commerce to seek guidance from ACCRES. Slow-rolling and obstructing this law is not only an affront to Congress and the President, but also to the American people. The Department has had ample time to draft the report, call an ACCRES meeting, and solicit their input. In addition, since the passage of the *Commercial Space Launch Competitiveness Act*, the Department has changed the

composition of ACCRES by including representatives from Federal agencies. While the inclusion of Federal representatives on ACCRES is within the authority of the Secretary, it is completely unnecessary. The Department already has a multitude of ways to engage with other federal agencies. In a response to a recent oversight letter, the Department argues that "including Federal representatives in ACCRES' membership facilitates meaningful interaction among government experts, knowledgeable industry representatives, and other critical stakeholders to provide advice to the Department…." While this may be true, it's also true that such interaction does not necessarily require inclusion of Federal representatives on the advisory committee. One thing is certain: If ACCRES operates on a consensus basis, the inclusion of Federal representatives gives the Executive Branch a means to influence and control the advice provided - - including advice directed by Section 202 of the *Commercial Space Launch Competitiveness Act*.

We, as a Congress, and as a Nation, must adhere to certain principles as we reform that which governs private space-based remote sensing. First, we must ensure U.S. industrial leadership. This requires regulatory certainty and a permissive environment that promotes innovation. In addition, we must, to the greatest extent possible, have both friend and foe justifiably rely on U.S. private sector services and applications. Finally, we must address broader national interests, particularly our national security interests.

Few would contest these principles. The challenge lies in achieving the right balance. And right now, the balance is all out of whack. This is partially a result of the policy Congress established in the *1992 Land Remote Sensing Act* and partially due to Executive Branch policies and regulatory processes. Congress and the Administration can and must work together on reforms that encourage U.S. industrial innovation in a way that aligns with national security interests. We cannot have the private sector compete with national security.

Make no mistake; we need reform. Over the past several years, NOAA's commercial remote sensing license applications have increased exponentially. Many of these applications are precedent-setting and challenge the legal construct of the *1992 Land Remote Sensing Act.* Some of NOAA's licensing actions are months, if not *years*, over the 120-day determination timeline required by law. Companies are applying and waiting without any understating as to why NOAA takes so long to get back. Stakeholders report significant uncertainty with licensing actions, including modifications to operational license conditions without notice or due process. American remote sensing startups want to stay in United States, but must plan for overseas operations due to uncertainty in the regulatory approval process. Without reform, we risk losing American leadership in commercial remote sensing. Such a loss hurts our national security and our economic competitiveness.

We saw this happen before when, in the 1990s, a number of U.S. companies sought to establish commercial space-based synthetic aperture radar (SAR) remote sensing satellite services. But due to regulatory uncertainty and dysfunction in Executive Branch license determination processes, U.S. investment went overseas. Instead, Germany and Canada benefited. Each established for-profit commercial synthetic aperture radar remote sensing satellite services, which to this day dominate the international commercial market. We can't make the same mistake again.

I am dedicated to continuing vigorous oversight on this subject and working with my colleagues, on both sides of the aisle, to achieve constructive reform.

I thank today's witnesses for joining us as we discuss these important issues and I look forward to hearing your testimony.

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