

ISS Faces Uncertain Future in the Commercial Space Age

By Joshua Trosch, J.D. Candidate 2020 | February 12, 2018

The White House [recently revealed](#) in a NASA budget draft its plans to discontinue federal funding for the International Space Station (“ISS”) by 2025. This news comes on the tails of the administration’s plan to transition the ISS from NASA operation to one that accommodates competing commercial customers. While the White House has not yet released a concrete plan for what such an unprecedented transition would entail, the novelty of transforming an international, state-funded space research laboratory into a commercially available entity in low-orbit is sure to have a profound effect on international space law.

The ISS, whose first module launched in 1998, is a low-orbit, research laboratory. The product of five different space agencies and manned by astronauts from more than half a dozen nations, the ISS represents an international partnership existing for the furtherance of scientific research and technological innovation, done in the spirit of international cooperation. That being said, the U.S. government [covers the overwhelming portion](#) of the ISS’s costs. Now, [the emergence of companies](#) SpaceX, Blue Origin, and Orbital ATK, as key, commercial players in space, speaks to what seems like an inevitable shift away from state-sponsored operations. However, the extent to which commercial entities are poised to assume NASA’s current role is unclear, as is the role that NASA will play in the future of space travel and research.

Reactions to the White House’s planned transition have been largely negative. Senators on both sides of the aisle have decried the White House’s position. Bill Nelson, the Democratic Senator from Florida, has expressed his opposition to the transition based on the harm it would cause to the state’s commercial space industry, fueled by its Cape Canaveral launch site. Ted Cruz, the Republic Senator from Texas and Chair of the Senate Science Committee, cited the federal government’s already enormous expenditure on the station, [urging instead that NASA ought to maximize its use of the station](#). Moreover, it is unclear how the White House intends to privatize the international operation, as they have neither released a formal plan outlining the transition nor is it clear that the White House, by virtue of the station’s international status, is even in a position to auction it off.

If the Trump administration is sincere in its desire to see the ISS privatized, it is at least somewhat evident that the administration has a long way to go before such a transition becomes viable. The ISS’s original designers and builders [did not intend for or anticipate the kind of commercial transition in question](#). Despite a plan to request \$150 million for the 2019 fiscal year intended to aid in this transition, the White House’s vision may require a substantially larger sum of money, especially when one considers the \$100 billion spent on the station by the U.S. alone, to say nothing of what commercial entities might need to pay to alter the station’s current infrastructure to suite their individual needs and extend its shelf-life.

Looking ahead, handing the ISS over to the private sector presents a number of novel legal questions. What governing body will oversee the operations of a privately owned ISS? How will companies share or limit the usage of certain modules that they might not own? What duties do governments here on earth have to a privatized ISS? These questions, along with many others that emerge in this new, commercial space age, will undoubtedly shape humanity's tenure in space in the decades to come.