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COMMENTARY

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Space regulat

Private sector will blaz
stay out of the way

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As the year ends, the last piece of legislation on President Bush's desk is HR 5382, the Commercial Space Launch Amendments Act of 2004. Sponsored by Rep. Dana Rohrabacher, R-Huntington Beach, it directs the federal Department of Transportation to establish a simple regulatory regime for private space ventures. The spectacular flights of Burt Rutan's SpaceShipOne and Sir Richard Branson's establishment of Virgin Galactic Spacelines make such a law timely. Birthed by Peter Diamande's X-Prize, this nascent industry is being funded by the likes of Paul Allen (Microsoft) and Jeff Bezos (Amazon.com) while traditional investors sit on the bench gauging market demand and the attractiveness of the legal environment. While not everything that is needed, the bill is a call for them to get into the game.

Rohrabacher's legislation wisely states its goal to be "safely opening space to the American people and their private commercial, scientific and cultural enterprises." It mandates a single permit processes for spacecraft and offers liability protection for manufacturers and operators. The road to the heavens is being paved with good intentions, but the real battle will be in crafting the devilish details of enforcement at the agency level.

Now is the time to note that business history is not filled with examples of great new industries launched by government regulators. Rather, those that avoided such assistance the longest usually emerge as our strongest businesses.

Unfortunately it is hard to lay below the radar while climbing across the front pages of newspapers at Mach 3. While doing just that, Rutan's group at Mojave also jumped through hoops of red tape ill suited to their entrepreneurial venture. This difficult permitting process added little to the safety of the flights, and might have distracted team members from their very personal concern with real safety issues. After all, SpaceShipOne's pilot - Brian Bennie - is also the project manager.

Those who define the new rules must bear in mind that the most important function of this safety legislation is to protect a new American industry. It is not to coddle thrill-seeking early passengers who thrive on risk. It is naïve to imagine that the thousands already signed up at Virgin Galactic are focused on protection by the DOT or Federal Aviation Administration that they must launch from the United States. These people are committed to "Go" because they believe that mankind has a greater destiny; that our resources are not limited to a 25,000-mile circumference; and that risk-taking is intrinsic to the success of our nation and our species.

Regulators must strive to prevent accidents because they would result in strangulation of the industry. Liability lawyers and other self-appointed guardians of the public good are ever ready to swoop in and send another U.S. job producer packing its bags for Asia.

Therefore, we must stop charlatans, madmen and underfunded efforts from incinerating passengers on television. Beyond that, this industry must be free to experiment and mature in the direction that produces the greatest

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Those who equate oversight with safety must consider the government's existing record of protecting space travelers before we let them do anymore of it. While Congress and NASA have spent billions making safety their top priority, 6 percent of the people who have flown on a space shuttle have died in one. The International Space Station is now running out of food and the crew has been placed on rations! Contingency plans to abandon the multibillion-dollar facility have been put in place. Spare the private spacefarer this level of protection. Instead, regulators must work closely with industry leaders like Ratan to create an attractive regulatory environment similar to the commercial aviation model.

When Ratan and astronaut Mike Melville faced the press after the historic first private space flight, they carried a sign to the podium reading "SpaceShipOne, GovernmentZero." Let's hope the government takes that message to heart.

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