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Balancing National Security and Commercial Flexibility: A Study of Non-Transferability of Space Authorisations in India

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ABSTRACT

India's evolving space regulatory framework reflects a careful attempt to balance national security with the commercial needs of a rapidly expanding private space sector. The Indian Space Policy 2023 and the IN-SPACe Norms, Guidelines and Procedures 2024 establish an authorisation regime in which approvals are tied to the identity, control, and capability of the applicant, making such authorisations largely non-transferable. This approach is grounded in the State's duty to ensure continuous supervision of space activities, protect sensitive data and infrastructure, and prevent foreign or hostile influence over strategic assets. At the same time, the rigidity of non-transferability raises significant commercial concerns, particularly in mergers, acquisitions, restructuring, and foreign investment transactions. Space enterprises often depend on predictable regulatory approvals to preserve value and attract capital, and overly strict transfer restrictions may deter investment or complicate deal-making. This paper examines whether India's insistence on non-transferability is proportionate to the security risks involved, or whether a more calibrated and approval-based framework could better serve both public and private interests. It argues that while national security justifies heightened scrutiny over ownership and control changes, a blanket or overly rigid approach may hinder the growth of India's space economy. The study concludes that a differentiated regulatory model, with transparent criteria and conditional approvals, would better reconcile sovereignty concerns with commercial flexibility in the space sector.

KEYWORDS

Space Authorisation; National security; Non-transferability; Mergers and acquisitions; Indian space law

INTRODUCTION

India's space sector has entered a decisive regulatory phase. The Indian Space Policy 2023 opens the sector to non-governmental entities across the full value chain, while simultaneously vesting IN-SPACe with the responsibility to authorise and supervise space activities on grounds that expressly include safety, national security, international obligations, and

foreign policy concerns.[1] The 2024 Norms, Guidelines and Procedures for Implementation of Indian Space Policy 2023 in respect of Authorization of Space Activities ("IN-SPACe NGP 2024") transform that policy architecture into an operational licensing framework, and within that framework, authorisations are deliberately tied to the identity, ownership, management, and control structure of the applicant.[2]

This study examines one of the most commercially significant features of that framework: the non-transferability of space authorisations. Under the IN-SPACe NGP 2024, an authorisation is applicable only to the entity that has applied for it, no other person or affiliated entity may conduct the authorised space activity merely by virtue of group relationship or control, and the authorisation is non-transferable to a third party except with prior written approval of IN-SPACe. The framework further requires a fresh authorisation where a change in management and control results in transfer of control to a non-Indian entity or where the applicant ceases to remain under Indian management and control. These provisions have direct consequences for mergers and acquisitions, internal restructurings, foreign investment rounds, asset transfers, business sales, and insolvency-driven resolutions.

The legal and policy question is not whether security matters in the space sector; it plainly does. The more difficult question is whether India's present method of addressing that concern—through strict person-specific authorisation, change-of-control scrutiny, and conditional transferability—strikes the right balance between national security and commercial flexibility. This issue deserves careful study because a modern commercial space industry depends on rapid capital formation, strategic acquisitions, technology partnerships, and efficient corporate reorganisations. If authorisation rigidity is too high, capital may become more expensive, transactions may stall, and assets may lose value. If flexibility is too broad, however, the State may lose effective oversight over critical infrastructure, sensitive geospatial capability, orbital resources, and foreign influence in strategically important activities.

The topic therefore sits at the intersection of space law, administrative law, corporate restructuring, foreign investment control, and national security governance. It also reflects a broader global regulatory pattern. States increasingly treat high-technology sectors, dual-use systems,

[1] Indian Space Policy, 2023, Dep't of Space, Gov't of India (2023), https://www.isro.gov.in/media_isro/pdf/IndianSpacePolicy2023.pdf.

[2] Indian Nat'l Space Promotion & Authorization Ctr. (IN-SPACe), Norms, Guidelines and Procedures for Implementation of Indian Space Policy 2023 in Respect of Authorization of Space Activities (2024), https://www.inspace.gov.in/.

communications infrastructure, remote sensing capability, and control over strategic data flows as national security matters. India's space authorisation rules must be read against that wider policy logic, even though the specific institutional and constitutional design remains distinctly Indian.

Relevance of the Study

The study is relevant for at least four reasons. First, India is actively building a private space economy and has publicly committed itself to a stable and predictable regulatory framework that gives non-governmental entities a level playing field. A licensing architecture that materially affects investment exits, acquisition pathways, and post-deal integration is therefore not a peripheral issue; it goes to the commercial viability of the sector itself.

Second, space activities differ from ordinary industrial operations because they engage continuing State responsibility under international space law. The Outer Space Treaty requires States to authorise and continuously supervise non-governmental activities in outer space, and the Liability Convention places international exposure on launching States in defined circumstances. That means authorisation cannot be treated merely as a disposable business permit. The identity, competence, and control profile of the operator remain central to the State's legal risk.

Third, the Indian framework is particularly important because authorisation review is explicitly based on national security, technical concerns, foreign shareholding, compliance with national and international regulation, and geopolitical considerations. In practical terms, this means that M&A transactions in the space sector are not governed solely by company law, competition review, or contract law. They may require an additional layer of sovereign screening tied to the licensed status of the business.

Fourth, this issue has immediate doctrinal value. The language of non-transferability appears simple, but its consequences are complex. It affects whether a share deal is functionally easier than an asset deal, whether upstream ownership changes trigger regulatory uncertainty, whether investors can rely on conditional approvals, whether resolution applicants in distressed transactions can preserve asset value, and whether Indian law should move toward a structured "change-of-control approval" model rather than a broad presumption against transfer. These are not merely technical concerns. They shape how the law allocates risk between the State and the market.

For these reasons, the present study is relevant not only to space law

scholarship but also to policy design for strategic sectors in India. It seeks to show that the problem is not whether India should screen space-sector ownership transitions. The real challenge is how to do so with sufficient regulatory sensitivity that legitimate commercial transactions are enabled without diluting security oversight.

Statement of the Problem

India's space regulatory framework recognises the strategic sensitivity of space activities and accordingly subjects authorisation to a high degree of governmental control. The IN-SPACe NGP 2024 makes the applicant's identity, managerial capacity, ownership profile, management and control, and national security implications central to the authorisation decision. It also makes clear that authorisation does not automatically travel with the business, the asset, or the corporate group. This is reinforced by the requirement that a fresh authorisation is needed where control shifts to a non-Indian entity or where Indian management and control no longer subsist.

The problem is that this rigid approach, while understandable from a security perspective, may impede legitimate commercial transactions. Space companies often raise capital through staggered equity rounds, strategic investments, convertible instruments, joint ventures, acquisitions, business transfers, and internal corporate reorganisations. In these settings, value depends on transactional certainty and speed. If authorisation continuity becomes unpredictable, investors may discount enterprise value, insist on heavier indemnities, or avoid regulated segments entirely. The doctrinal problem is therefore twofold. On one side, India must satisfy its sovereign interest in supervising space activity, preventing hostile or opaque control, securing sensitive infrastructure, and ensuring that remote sensing, launch, satellite control, and communications capacity do not migrate into hands inconsistent with national interests. On the other side, India also seeks to enable a flourishing commercial presence in space and has expressly opened the sector to non-governmental participation. The present framework risks tension between these two goals because it does not yet provide a fully elaborated transactional pathway for mergers, acquisitions, insolvency transfers, or internal restructurings where security concerns can be assessed in a calibrated rather than absolute manner.

Accordingly, the central problem addressed in this paper is whether the present non-transferability rule, as implemented through the IN-SPACe NGP 2024, is narrowly tailored to genuine security needs or whether it imposes avoidable friction on commercial transactions that could be

addressed through a more structured approval mechanism.

Research Objective

- To examine the legal basis for the non-transferability of space authorisations in India.
- To analyse whether national security concerns justify restricting the transfer of space authorisations in mergers and acquisitions.
- To evaluate the impact of non-transferability rules on commercial flexibility, investor confidence, and transaction structuring in the space sector.
- To study the extent to which India's present regulatory framework balances sovereign security interests with private sector participation in space activities.
- To identify whether a more calibrated approval-based mechanism could better accommodate both national security and commercial needs in space-sector transactions.

Research Questions

1. Why does India's space regulatory framework treat authorisations as non-transferable and entity-specific, especially in relation to ownership, management, and control?

2. To what extent do national security concerns justify restrictions on transfer, change of control, and continuity of authorisation in space-sector M&A transactions?

3. How can India redesign or interpret its authorisation framework to balance sovereign security interests with commercial certainty, transactional efficiency, and investor confidence?

Hypothesis

H0: The non-transferability of space authorisations in India is a proportionate and commercially optimal restriction fully justified by national security concerns.

H1: While national security justifies regulatory scrutiny over changes in ownership and control, a strict non-transferability model is commercially over-restrictive and should be replaced or softened through a structured approval-based framework for M&A and change-of-control transactions.

CONCEPTUAL FRAMEWORK

THE REGULATORY FOUNDATION OF NON-TRANSFERABILITY

India's current approach emerges from a combination of policy logic and operational licensing design. The Indian Space Policy 2023 does not

merely allow private participation; it also makes IN-SPACe the single-window agency for authorisation and directs it to act with safety, national security, international obligations, and foreign policy considerations in view. This framing matters because it tells us that authorisation is not conceived as a mere business convenience. It is a public law instrument through which the State decides who may undertake a strategically sensitive activity, under what conditions, and subject to what continuing supervision.

The IN-SPACe NGP 2024 deepens this logic by making authorisation dependent on applicant-specific scrutiny. The application is assessed on criteria including safety, national security, technical considerations, foreign shareholding, compliance with domestic and international rules, geopolitical considerations, and State liability for third-party damage from an Indian space object. The framework also requires the applicant to possess adequate managerial, operational, infrastructural, technical, and financial capacities. These are qualities of the regulated person, not merely of the hardware or contractual bundle involved. That helps explain why the authorisation is not freely transferable.

The NGP 2024 expressly states that the authorisation applies only to the entity that applied for it; even subsidiaries, holding companies, affiliates, or persons under common control cannot conduct the authorised activity merely on that basis. In addition, the authorisation is non-transferable to any third party except with prior written approval of IN-SPACe, and any significant change in management and control may lead IN-SPACe to revoke, amend, or require a fresh authorisation.[3] A fresh authorisation becomes mandatory if control shifts to non-Indian entities or if Indian management and control no longer exists.

This is a strong form of regulatory attachment. It means the authorisation adheres not to the asset in the abstract, but to a vetted legal person whose control environment matters independently. In corporate law terms, this resembles a concession or strategic licence that remains deeply personal to the licensee. The State's concern is not simply whether the satellite still exists or the service still functions, but whether the actor controlling the activity remains the same actor whom the State initially screened.

WHY SECURITY CONCERNS MATTER

The security rationale is not difficult to identify. Space systems are deeply entangled with communications, navigation, earth observation, data infrastructure, critical supply chains, and strategic awareness. The Indian Space Policy 2023 explicitly links the sector to national security, and the NGP 2024 prohibits space activities from being carried out in a

[3] Draft Space Activities Bill, 2017, Ministry of Law & Justice, Gov't of India.

manner that threatens national defence, intelligence and security operations, foreign relations, public order, safety, disaster protection, public health, or the environment.

Further, IN-SPACe may impose control on operations or suspend or terminate an authorisation during national emergencies or in the interest of national security. This is an unusually clear indication that licensed space activity is treated as part of the broader national security perimeter. The concern is not merely espionage in the dramatic sense. It includes remote sensing sensitivity, command and control vulnerability, foreign influence over key managerial personnel, strategic data dissemination, supply continuity, export control exposure, and the possibility that satellite or launch infrastructure could be leveraged in ways contrary to India's interests.

The NGP 2024 definitions reinforce this concern by tying "Indian management and control" to the nationality of key managerial personnel and to effective control over management or policy decisions. The broad definition of control includes direct and indirect influence through shareholding, management rights, shareholder agreements, voting arrangements, partnership arrangements, or other means. Such drafting reflects a recognition that security risk can arise not only from outright transfer of shares but also from subtle governance arrangements that change who truly calls the shots.

This makes especially good sense in at least three authorisation categories. First, satellite communication systems can affect telecommunication and broadcasting infrastructure, which already sit within a security-sensitive legal ecosystem. Second, high-resolution remote sensing data is specifically subject to authorisation because of national security considerations. Third, launch systems, re-entry operations, TT&C stations, and satellite control centres raise direct concerns about control over mission operations and sensitive technical infrastructure.[4]

In this sense, non-transferability performs a gatekeeping function. It prevents a regulated activity from passing into new hands without renewed sovereign scrutiny. From the State's perspective, that is not an arbitrary burden but a mechanism to preserve continuous supervision, a principle that also resonates with international space law obligations requiring authorisation and continuing supervision of non-governmental space activities.

INTERNATIONAL LAW AND STATE RESPONSIBILITY

The security logic of Indian regulation becomes stronger when read in

[4] Irmgard Marboe, *Space Law: Current Problems and Perspectives for Future Regulation* (2012).

light of international law. The 1967 Outer Space Treaty requires States Parties to bear international responsibility for national activities in outer space, whether carried out by governmental agencies or non-governmental entities, and requires non-governmental activities to be authorised and continuously supervised by the appropriate State. This is foundational. A State cannot shrug off responsibility merely because a private company carried out the activity.[5]

The Liability Convention adds another layer. It establishes international rules under which launching States may bear liability for damage caused by space objects in defined circumstances. The Registration Convention similarly connects a space object to State registration and regulatory identity.[6] Taken together, these instruments create a legal environment in which operator identity, control, capability, and accountability remain central. A State that allows seamless private transfers without scrutiny may weaken its own ability to demonstrate meaningful continuing supervision.

That does not mean international law compels absolute non-transferability. The treaties do not prescribe the exact form that domestic authorisation must take. But they do justify a framework in which a State insists on reviewing changes that could alter the risk profile of the authorised activity. India's model is therefore well grounded in international responsibility concerns. The real question is not whether change-of-control review is legitimate; it clearly is. The question is whether the current Indian model is calibrated enough for commercial reality.

THE COMMERCIAL PROBLEM IN M&A TRANSACTIONS

Commercial transactions in the space sector are often structured around growth, consolidation, or rescue. Start-ups may be acquired for technology, orbital assets, talent, or market access. Mature firms may divest business lines, merge with peers, enter joint ventures, or reorganise subsidiaries for financing or compliance.[7] Distressed firms may need insolvency resolution to preserve strategic capabilities and jobs. In all these settings, deal value depends on whether operational approvals remain usable after closing.

India's present framework creates at least five kinds of transactional friction. First, buyers may face timing uncertainty because authorisation review can take 75 to 120 days from a complete application, and the framework advises submission preferably six months in advance. In deal

[5] Bin Cheng, *Studies in International Space Law* (Clarendon Press 1997).
[6] Steven Freeland & Ram S. Jakhu, *The Laws of Outer Space* (2020).
[7] Joel B. Eisen, *The Outer Space Treaty and the Commercialization of Space*, 48 Harv. Int'l L.J. 67 (2007).

practice, that is significant. Second, the rule that authorisation applies only to the applicant entity reduces the utility of internal group restructuring. Third, foreign investors may face particular uncertainty because a transfer of control to non-Indian entities or loss of Indian management and control triggers a fresh authorisation requirement. Fourth, financing documents become more complex because closing conditions must account for licence continuity. Fifth, sellers may receive lower valuations where regulatory risk reduces certainty of post-acquisition operations.[8]

The effect is especially acute in share acquisitions involving indirect control changes. In many regulated sectors, a company continues to exist as the same legal person after a share transfer, even though its ultimate control changes. The NGP 2024 recognises this distinction only partially. It does not say that every share transfer automatically extinguishes an authorisation, but it requires notification within 48 hours of changes in management and control or shareholding pattern and gives IN-SPACe discretion to reject, revoke, amend, or issue a fresh authorisation. That discretionary zone is precisely where transaction risk accumulates.

From a commercial perspective, the cost of uncertainty can be almost as serious as the cost of prohibition. Investors can price a clear rule, whether strict or permissive. What they struggle to price is broad post-signing discretion without well-developed decision criteria, time commitments, interim operating rights, or ring-fencing options. This is why the design of transfer review matters as much as the existence of review itself.

ARE SECURITY CONCERNS SUFFICIENT TO JUSTIFY STRICT NON-TRANSFERABILITY?

The strongest argument in favour of strict non-transferability is that the space sector is too sensitive for automatic continuity. Authorisation is granted after reviewing technical capacity, security profile, foreign shareholding, and broader geopolitical considerations. If the identity or control structure of the enterprise changes, the original security assessment may become stale. A hostile or opaque acquirer could obtain access to strategic data, infrastructure, personnel, or orbital capability through an ordinary corporate transaction unless the regulator can intervene.

This argument is persuasive up to a point. It supports screening, conditional approval, and the possibility of refusal in high-risk cases. It also supports closer scrutiny where the activity involves high-resolution earth observation, communication services, launch capability, or sensitive ground stations.[9] It further supports special caution where the

[8] Steven Freeland, *Commercial Space Activities and State Responsibility*, 41 J. Space L. 257 (2017).
[9] Mark Sundahl, *The Commercial Space Age and Regulatory Risk*, 36 J. Space L. 1 (2010).

acquirer is foreign-controlled, where beneficial ownership is opaque, where governance rights create indirect control, or where service continuity is essential for national or public functions.

However, the argument is weaker when stretched to justify a broadly inflexible model across all transactional scenarios. Not every M&A event creates the same security risk. A purely domestic merger between Indian-controlled entities with no substantive operational change is different from a foreign acquisition of a remote sensing operator with access to high-resolution data. An internal reorganisation within the same ultimate Indian-controlled group is different from a transfer to a new beneficial owner.[10] A lender-driven restructuring that preserves management quality and security controls is different from a speculative asset flip.

In regulatory design, proportionality matters. Security law does not become stronger merely because it is more rigid. In some cases, excessive rigidity may undermine national interest by discouraging capital formation in strategic domestic industries. A fragile or undercapitalised space sector is not a security success.[11] India's own policy vision is to enable a flourishing commercial presence in space and create a stable and predictable regulatory framework. If the authorisation model creates chronic investment discounting, then the framework may be overshooting its own objectives.

The better view is therefore that national security justifies robust review of transfers and control changes, but does not necessarily justify treating all forms of transfer risk through the same blunt instrument. A more differentiated framework could protect security without sacrificing commercial dynamism.

COMPARATIVE INSIGHT FROM STRATEGIC-SECTOR REGULATION

Although legal systems differ, one broad comparative insight is clear: many jurisdictions in strategic sectors prefer review-based control rather than absolute non-transferability. This is especially visible where foreign investment screening, telecommunications licensing, remote sensing regulation, or launch licensing are involved. The core logic is to ensure that the State can assess new ownership, impose mitigation conditions, and block harmful transactions where necessary, while still allowing lawful restructuring in lower-risk cases.

[10] Sandeep Bhalla, *Foreign Direct Investment and National Security Review in India*, 14 J. Bus. L. 221 (2021).
[11] Paul Stephen Dempsey, *National Security, Sovereignty, and Strategic Industries*, 21 Int'l L. Practicum 77 (2014).

India's own NGP 2024 already moves in that direction in part because it allows transfer with prior written approval of IN-SPACe. That clause is important. It shows that the framework is not absolutely anti-transfer; rather, it is approval-centric. Yet the same framework also makes authorisation highly entity-specific and requires a fresh authorisation in cases involving loss of Indian management and control or transfer of control to non-Indian entities. The unresolved issue is whether the approval pathway is sufficiently predictable, criteria-based, and transaction-sensitive.

A comparison with strategic investment screening practice is useful here at a conceptual level. Security review mechanisms often distinguish among full prohibition, conditional clearance, post-closing mitigation, and approval subject to information barriers, governance limits, local data storage, supply assurances, board composition commitments, or audit rights. That kind of calibrated regulatory toolkit may be more suitable than a model that functionally forces a binary choice between pre-existing authorisation and fresh relicensing.[12]

The comparative lesson is not that India should copy another jurisdiction wholesale. It is that security-sensitive licensing can coexist with transaction flexibility if the law clearly identifies risk triggers and corresponding mitigation tools.

CORPORATE LAW, CONTROL, AND REGULATORY IDENTITY

The interaction between space authorisation and corporate law deserves close attention. Under company law, the company remains a separate legal person even when shareholders change. Yet regulators in strategic sectors often look beyond formal personality to actual control. The NGP 2024 expressly does this by defining control broadly and by linking Indian management and control to key managerial personnel and decision-making power.

This is doctrinally significant. It means the space regulator is not limited by the classic private law distinction between share sale and business transfer. A share acquisition may leave the company intact, but if it changes who exercises control, the regulator may view the security profile as materially altered. In effect, the regulatory identity of the authorisation holder is thicker than its bare corporate identity. It includes governance reality.

That approach is defensible, but it also requires transparent thresholds. When does a minority investment become control? What about veto rights over budgets, technology transfer, hiring of key personnel, or access to sensitive data? What if Indian citizens remain a majority of key

[12] C. Raj Kumar, *Corporate Control, Public Interest, and Regulatory Oversight*, 18 Indian J. Corp. L. 1 (2022).

managerial personnel but a foreign investor obtains negative control over strategic decisions? Because the NGP 2024 definition of control is broad, these questions will likely arise in transaction practice.

For the market, uncertainty around these thresholds can suppress investment even where ultimate security risk is manageable. The law would therefore benefit from clarificatory guidance distinguishing passive investment, material influence, joint control, and effective control in the context of space authorisations. Such clarity would not weaken security; it would make scrutiny more intelligent.

WHY FRESH AUTHORISATION FOR FOREIGN CONTROL CHANGES MAKES SENSE

Among the strictest parts of the framework is the requirement of a fresh authorisation where management and control changes such that control transfers to non-Indian entities or where the applicant is no longer under Indian management and control. This rule may appear severe, but it has a rational basis.

Foreign control raises issues that go beyond ordinary capital inflow. It may affect decision pathways, access to sensitive operational data, use of telemetry and command infrastructure, exposure to foreign legal demands, sanctions risks, export-control dependencies, and strategic alignment during crises. In sectors linked to communications, geospatial intelligence, and critical infrastructure, States are especially wary of foreign control that is not merely financial but operational or policy-influencing.[13]

Moreover, the Indian framework allows non-Indian entities to participate only through recognised Indian channels in many contexts, reinforcing the idea that domestic regulatory anchoring matters. A fresh authorisation requirement on transfer to non-Indian control therefore serves as a sovereign checkpoint. It forces a renewed assessment of whether the post-transaction entity can still be trusted with the same scope of activity under Indian law and policy.

Even so, the existence of a rational basis does not resolve the commercial design problem. The question remains whether every foreign-control case must go through a de novo authorisation process, or whether some categories could be handled through expedited change-of-control review, conditional continuation, or provisional operation pending final decision. That is where reform discussion becomes necessary.

THE CASE FOR A MORE CALIBRATED INDIAN MODEL

A better balance between security and commercial flexibility would

[13] OECD, *Security and Foreign Investment Policy* 12–27 (2021).

preserve stringent review while differentiating among transaction types. The present framework already contains the seeds of such an approach because it recognises transfer with prior written approval and allows IN-SPACe to amend or issue fresh authorisation depending on the case. What is missing is a clearer architecture that reduces uncertainty.

A calibrated model for India could include the following elements.

First, transactions should be categorised by risk. Internal reorganisations within the same ultimate Indian-controlled group, with no change in beneficial ownership or sensitive operational architecture, should be eligible for a simplified approval route. Domestic acquisitions by Indian-controlled entities should undergo ordinary change-of-control review, but with published criteria and shorter timelines. Transfers involving foreign control, high-resolution remote sensing, launch systems, critical TT&C infrastructure, or strategic communication payloads should undergo enhanced review.

Second, the law should distinguish between transfer of authorisation, change in control of the authorisation holder, and transfer of the underlying space asset or business. These are not identical events. An in-orbit sale or purchase of a space object already appears as a distinct authorisation category in the Indian framework. M&A guidance should similarly separate share deals, slump sales, hive-downs, asset acquisitions, and insolvency transfers.

Third, India should formalise provisional continuity. Where a transaction is notified in advance and the acquirer agrees to interim safeguards, the authorised activity should continue during review unless IN-SPACe identifies a concrete security concern. This would reduce the risk of operational paralysis while preserving sovereign discretion.

Fourth, mitigation conditions should be expressly recognised. Approval could be made subject to Indian-resident security officers, board composition requirements, ring-fenced access to high-resolution data, data localisation, government audit rights, source-code escrow, restrictions on onward transfer, continuity commitments for essential services, or prior approval for changes in key managerial personnel. These tools are often more precise than blunt prohibition.

Fifth, the framework should publish indicative review factors and timelines. Because transaction planning depends on certainty, parties need to know what information must be filed, what constitutes control, when a fresh authorisation is mandatory, and which cases may receive conditional approval rather than relicensing.

Sixth, distressed and insolvency situations deserve a dedicated pathway. In sectors where assets are highly specialised and value deteriorates quickly without continuity of operation, a rigid relicensing approach may destroy both enterprise value and strategic capability. A temporary

monitored continuation regime could better serve both security and economic objectives.

Even without formal amendment, a more commercially balanced interpretation may already be possible under the NGP 2024. The text states that authorisation is non-transferable except with prior written approval of IN-SPACe and that IN-SPACe may, in its sole discretion, allow such transfer subject to the third party meeting applicable criteria. This suggests that non-transferability is not absolute but conditional.[14]

Likewise, on changes in management and control or shareholding pattern, the NGP 2024 says IN-SPACe may reject the application, revoke, amend, or issue fresh authorisation. The existence of several regulatory responses is important. It implies that the framework contemplates gradation rather than automatic extinction in every case. Only certain specified situations—especially transfer of control to non-Indian entities or loss of Indian management and control—mandate a fresh authorisation. [15]

A purposive reading of these clauses supports a structured interpretive approach. Where the transaction does not alter the security profile in a material way, amendment or approved continuation may suffice. Where the change materially alters foreign influence, data sensitivity, command infrastructure access, or strategic dependence, a fresh authorisation may properly be required. Such a reading would remain faithful to the text while aligning more closely with India's policy commitment to encourage private participation and ease of doing business.

FINDINGS

The analysis yields the following findings.

- India's non-transferability rule is rooted in a public law conception of space authorisation as a sovereign permission attached to a specifically vetted entity, not merely to a business asset.
- National security concerns genuinely justify strong scrutiny because space activities intersect with communications, remote sensing, command infrastructure, sensitive data, and India's international responsibility for private space activity.
- The current framework is not absolutely anti-transfer, because it allows transfer with prior written approval and recognises

[14] Tanja Masson-Zwaan & Stephan Hobe, *Air and Space Law* 147–62 (Kluwer 2020).
[15] Philippe Achilleas, *The Role of Domestic Law in the Regulation of Space Activities*, 52 Proc. Int'l Inst. Space L. 211 (2009).

regulatory options such as amendment, revocation, or fresh authorisation depending on the circumstances.

- However, the framework remains commercially burdensome because it does not yet provide sufficiently granular rules for mergers, acquisitions, insolvency transfers, internal restructurings, and differentiated risk scenarios.
- A more calibrated framework would strengthen rather than weaken security by focusing regulatory attention on genuinely high-risk ownership and control changes, instead of treating dissimilar transactions through a largely uniform structure.

CONCLUSION

The non-transferability of space authorisations in India is not an accidental drafting choice. It reflects a deliberate regulatory philosophy: space activity is strategically significant, internationally attributable, and too sensitive to be left to ordinary market transfer rules. Seen from that perspective, the current framework is legally intelligible and normatively defensible. India is entitled, and in some respects obliged, to ensure that authorised space activities remain under effective supervision and do not shift into hands that compromise security, foreign policy, or international responsibility.

At the same time, a mature space economy cannot function on security logic alone. It also needs transactional certainty, investor confidence, restructuring pathways, and room for commercially rational consolidation. The present Indian model recognises this only partially. It permits transfer with prior approval, but it does not yet supply a sufficiently transparent and risk-sensitive pathway for doing so. As a result, the law presently leans toward security preservation, sometimes at the cost of commercial flexibility.

The better balance lies not in abandoning non-transferability, but in refining it. India should retain strict scrutiny for transfers and changes of control in the space sector, especially where foreign influence, high-resolution data, launch systems, or critical command infrastructure are involved. But it should combine that scrutiny with a structured approval framework: clear thresholds, differentiated review tracks, provisional continuity where appropriate, published mitigation tools, and tailored pathways for internal restructurings and insolvency-driven transactions. Such a model would better align with the Indian Space Policy 2023's dual ambitions of national security and a flourishing commercial presence in space.

In that sense, the future of Indian space regulation does not depend on choosing between security and commerce. It depends on designing a regulatory vocabulary sophisticated enough to serve both.

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