U. S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable James H. Scheuer
Chairman, Subcommittee on Natural Resources,
Agriculture Research and Environment
Committee on Science and Technology
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on H.R. 4836, the "Land Remote-Sensing Commercialization Act of 1984" ("the Act"). The Department of Justice does not object to enactment of this legislation if amended as suggested herein.

I. Summary of the Bill

The bill provides for the transfer to the private sector of the responsibility for operating land remote-sensing satellites, a function now performed by the "Landsat" system operated by the National Oceanic and Atmospheric Administration. Title I of the bill states that it is the policy of the United States to commercialize those remote-sensing functions that lend themselves to private sector development. Section 103(c). The Government's right to acquire and disseminate land remote-sensing data must, however, be preserved. Section 103(a).

In general terms, Title II of the bill provides for the Secretary of Commerce to contract with a private party to operate the Government's current Landsat system. Title III contains certain interim provisions designed to assure continued availability of the data through private sector operation of new privately-owned land remote-sensing systems

after the "practical demise" of the space segment of the Landsat system. Title IV sets the conditions under which private operators of future land remote-sensing systems will be licensed. Title V provides for continued federal research and development. Title VI requires that in all circumstances users are to have "non-discriminatory" access to the data as defined in Section 104(3). 1/ Although by its express terms the bill applies only to the land remote-sensing system, and not to the meteorological system, Title VII specifically prohibits sale of the Government's meteorological system.

Specifically, the contract for operation of the Landsat system provided for in Title II will be awarded on a competitive basis. Section 201(b). The Government will continue to own the data marketed by the operator. Section 202(a). Such sales may continue after the "practical demise" of the space segment of the Landsat system. Section 202(b). The contractor may use and replace elements of the system at its own expense. Section 210(c). The Secretary of Commerce shall award the contract on the basis of financial return to the Government, technical competence, ability to satisfy all conditions of the sale, marketing ability, absence of conflicts of interest affecting access to the data, and ability of the contractor to effect a smooth transition from Government to private operation and "such other factors as he shall deem appropriate." Section 203(b).

Under Title III, the Secretary is to award a contract, on a competitive basis, to a private party that will offer for a period of six years the "capability of generating data of a quality at least equal to the quality of multi-spectral scanner data and of selling and delivering such data to the United States Government" in quantities equal to the annual volume of federal usage during fiscal year 1983. Section 302. The Government may contract to prepay to the operator a portion of the capital cost of the system, Section 302(b)(4), but shall not guarantee any data purchases by the United States Government. Section 302(b)(6). The United States Government, unlike other buyers, will recover a rebate of at least five percent on any purchases of data. Section 303(b). The bases for the award of the contract are: (1) the cost to the

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1/ According to Section 104(3)(A), the term "non-discriminatory basis" means:

> without preference, bias, or any other special arrangement regarding delivery, format, financing, or technical considerations which would favor one buyer or class of buyers over another.

Government of providing the capability; (2) the technical and financial qualifications of the contractor; (3) the contractor's ability to develop the private market for land remote-sensing data; (4) the contractor's ability to supplement the basic system and maintain United States leadership in the industry; (5) the contractor's ability to be licensed under Title IV of the Act; (6) the reliability of the contractor; (7) the contractor's ability to effect a smooth transition to Title III of the Act; (8) the size of the royalty or rebate to the United States Government; and (9) any other factors the Secretary of Commerce deems appropriate. Section 302(c).

The licensing provisions in Title IV authorize the Secretary of Commerce to license qualified private parties, consortia of private parties, or consortia of federal agencies and private parties wishing to operate their own land remote-sensing systems. Section 403. Licensees must operate any system under the following conditions: (1) operation must preserve and promote United States national security; (2) data must be available to all potential users on a non-discriminatory basis; (3) the system shall be administered by a central entity (in the case of a consortium); (4) the license shall not protect the holder from "fair competition" from other licensees; (5) before terminating its operations, the licensee shall dispose of any orbiting satellites in a manner acceptable to the President; (6) the licensee shall make any data available to the Secretary of Commerce for archiving purposes; and (7) the licensee shall provide the Secretary of Commerce with notice of "value-added" activities and a plan for compliance with the non-discrimination requirement. Section 402(b). The Secretary determines the term of any license and has 120 days to approve any application, except that pending issues and actions to resolve them may extend the period. Section 403.

Licenses may be revoked for non-compliance with all Title IV conditions. Section 401. The Secretary may also revoke, suspend, or modify a license upon written notice that there has been substantial failure to comply with any provision of the Act, any regulations, any terms, conditions, or restrictions of the license, or any international obligation or national security concern. Section 403(e). Upon request, the applicant or licensee is entitled to an agency hearing and decision by the Secretary on the record, subject to judicial review under the Administrative Procedures Act. Section 403(f). Regulations can be issued after public notice and hearings. Section 404. The Secretary can monitor remote-sensing satellite systems and "value-added" activities by inspections of business or financial records and any space-related or ground segment hardware or software, and, after notice and

hearing,2/ impose civil penalties of $10,000 per day for each violation. Section 405. The Secretary has the power to subpoena materials, documents, records, and testimony under oath, and to seize objects, records, or reports used or likely to be used in violation of the Act. Section 405(d).

II. Discussion

The determination to commercialize the land remote-sensing system raises difficult issues. A private firm would choose to operate the system only if it believed it could derive sufficient revenues from buyers of land remote-sensing data to more than offset its costs. Thus, if the initial fixed costs of investing in the system were very high, high prices would have to be paid by data users to make commercialization feasible. Since users pay very little at present for these data, it is not at all clear whether the market would be able to support a private Landsat system absent large continuing Government subsidies. 3/ Even assuming, however, that potential users valued Landsat data highly, the system operator could sustain profitable prices only if it could encrypt the data and thereby prevent satellite signal piracy.

The questionable outlook for commercialization is further clouded by Sections 103(b), 402(b)(2), and 601(a), which require that all potential users be granted access on a "non-discriminatory" basis. It may be that only a system of discriminatory pricing -- under which different users are charged different prices according to the value they place on the data, and thus the price they are willing to pay for it -- would yield sufficient revenues to cover costs and make

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2/ We assume that the reference to Title 5 is to the formal notice and hearing procedures of the Administrative Procedure Act, 5 U.S.C. § 551 et seq. Express reference to the apparently relevant provisions of Title 5 (5 U.S.C. §§ 554-57) should be made, or the precise intent otherwise clarified.

3/ It is not clear that total demand for land remote-sensing data is sufficient for full commercialization of the land remote-sensing system. See Report of National Oceanic and Atmospheric Administration in Response to P.L. 97-324 (January, 1983); The National Academy of Public Administration, Space Remote Sensing and the Private Sector: An Essay (March, 1983).

commercialization attractive. 4/ Under such a system, revenues derived from customers willing to pay higher prices might substitute for the subsidy now provided by the Government. As described below, a subsidy gives a competitive advantage to the initial operator. This suggests that, in order to maximize the likelihood of successful commercialization without a Government subsidy and with some prospect of competition, H.R. 4836 should be modified to omit any requirement that the prices charged for data necessarily be "non-discriminatory." If foreign policy considerations require that foreign governments' concerns about the availability of the data be accommodated, a requirement that foreign governments be given access to these data on equal terms could be added. 5/

We also wish to point out that, assuming the aggregate social benefits of operating Landsat exceed the costs, and that commercialization is feasible, the transfer of the Landsat system from public to private hands may inefficiently restrict the usage of remote-sensing data. Economic welfare is maximized when a good is sold to all buyers willing to pay at

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4/ For a good description of price discrimination in "decreasing cost" industries, see generally 1 A. Kahn, The Economics of Regulation 123-58 (1970). In order for discriminatory pricing to be effective, the system operator would have to be able to prevent arbitrage -- the resale of data by customers charged a low price to customers charged a high price. Arbitrage might be prevented by enforceable contractual clauses prohibiting such resales. The bill, in Section 603, authorizes such conditions on sales of data, although the bill prohibits discriminatory pricing.

5/ Under such a "most-favored nation" clause, the treatment of foreign government users would not necessarily be identical to the terms afforded domestic purchasers of data. Of course, due to commercialization, foreign governments would be charged higher prices after the demise of Landsat than they presently pay for the data -- unless the United States Government explicitly subsidized private sales to foreign governments.

If the treatment of foreign private users raised no foreign policy concerns, they could be sold data under the same terms as domestic users. It is, of course, possible that foreign governments might request preferential treatment for politically influential private users. United States Government agreement to such special treatment would, once again, require the payment of federal subsidies to the Landsat operator.

least marginal cost -- the cost of supplying one more unit of the good. If the marginal cost of supplying remote-sensing data is extremely low, the socially optimal use of these data is assured by charging a correspondingly low price for them -- as the Government may be doing at present. If, under private ownership, higher prices were charged (to ensure that total revenues covered total operating costs), some current users who value the data at an amount equal to or greater than marginal cost -- but at less than the privately charged price -- would be inefficiently deprived of the data. 6/

Particularly notable in light of these principles is the language of Section 104(3)(B) stating that sales will be deemed to be on a "non-discriminatory basis" only if:

> (i) any offer to sell or deliver data is advertised in advance and is equally available to all prospective buyers; (ii) the system operator has not established or charged any price, policy, procedure, or other term or condition in a manner which gives one class of buyer de facto favored access to data; and (iii) in a case where a system operator offers volume discounts, such discounts are no greater than the demonstrable reductions in the cost of such sales. The sale of data "on a non-discriminatory basis" does not preclude the system operator offering discounts other than volume discounts to the extent that such discounts are not inconsistent with any other provision of this paragraph.

This language raises in precise terms the possibility of rate of return regulation that most troubles us. First, the bill's proposed regulatory structure in Title IV to enforce Section 104(3)(B) and other conditions confirms that rate and other regulation may be anticipated. Second, there is no basis for the proposed degree of regulation.

6/ This inefficiency probably would exist to some extent whether the land remote-sensing industry became competitive or monopolistic. If several competitors could profitably serve the market -- as H.R. 4836 apparently assumes -- competition would somewhat constrain prices (and incidentally, limit the use of price discrimination). Nevertheless, price probably would not reach the very low level of marginal cost, and some would-be users would be denied access to the data, notwithstanding their willingness to pay an amount equal to or exceeding marginal cost.

Unless the provision of satellite data involves a natural monopoly, or there is some other "market failure," there is no economic rationale for regulation of land remote-sensing satellite systems at all. Moreover, even the existence of natural monopoly would not necessarily justify regulation. Rate of return and other forms of natural monopoly regulation are economically justifiable only if regulatory costs do not outweigh regulatory benefits. 7/ Public availability of prices, as well as the extensive enforcement mechanism under Title IV that could apparently be used to shut off any price discrimination possibilities and increase the costs of a rate regulatory process, would discourage any price competition. In addition, in a technologically dynamic area such as land remote-sensing, the static nature of regulation may actually cause more damage by retarding innovation than would be caused by allowing a temporary monopolist to set prices without constraints. 8/

Title IV of the Act, furthermore, if viewed literally, provides for a panoply of regulatory requirements extending

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7/ Regulation is justifiable generally where market failures result in inefficient levels of production of goods and services or no production at all. Some forms of regulation, however, have counter-productive tendencies. Rate base and rate of return regulation reduces incentives for efficiency and emphasizes service competition at the expense of price competition. Since a "normal" rate of return is guaranteed on service expenditures that are included in a regulated firm's rate base, the regulated company has an incentive to "overinvest" in services, with little regard to cost. In addition, regulation consumes significant resources of both the regulated firm in supporting rate requests and the regulating agency in sorting out the large volume of data submitted with these rate requests. A rate regulatory process can also provide a licensee with incentives for inefficiency in its investments and operations, and for rigidity in its rate structures and service offerings. See Joskow & Noll, Regulation in Theory and Practice: An Overview, in G. Fromm (ed.), Studies in Public Regulation 1 (1981); S. Breyer, Regulation and Its Reform 36-59 (1982).

8/ There are currently prospects for competition from foreign (e.g., French and Japanese) launched and operated systems. These systems may not be profit-making enterprises, and may involve significant Government subsidies. They may, nevertheless, represent a competitive check on the exercise of monopoly power by a United States firm.

well beyond considerations of price and non-discriminatory access. "Value-added" activities, for example, must be proposed to the Secretary of Commerce under Section 402(b)(7), are subject to imposition by the Secretary of terms, conditions, or restrictions under Section 403, and are subject to the full enforcement powers of the Secretary in Section 405. 9/ Investigatory, hearing, adjudicatory, and administrative penalty powers are all centered in the Secretary of Commerce. Unlimited rule-making authority is vested in the Secretary. Section 404. In short, a comprehensive new regulatory agency would be created within the Department of Commerce to regulate virtually every aspect of the industry. Not only would transactional costs of implementing operations, pricing sales, or developing new value added services skyrocket as each change had to be presented to the Secretary, but innovation would be dampened. Delays would attend the administrative process, virtually assuring that new technology would lag in implementation, that better and cheaper data for users would be slower in being marketed, and that full commercialization would be a longer process. These regulatory costs would outweigh, in our view, any benefits of such an extensive regulatory scheme. While we recognize the importance of assuring compliance with our international obligations, achievement of this goal does not justify the scope of Title IV and can be assured by other means.

Because the bill as presently drafted would structure the land remote-sensing industry as a pervasively regulated industry, the warrantless inspection authority in section 405 is probably constitutional, although it would be desirable to limit inspections to "reasonable times." See Donovan v. Dewey, 452 U.S. 494 (1981) (need for predictable and guided federal regulatory presence). We believe, however, that Section 405(e)(1), which provides for seizure authority, is subject to constitutional challenge. Subsection (e)(1) states that, in carrying out his enforcement responsibilities, the Secretary may "seize any object, record, or report where it reasonably appears that such was used, is being used, or is likely to be used in violation of this Act. . . ." (emphasis added). As a rule, warrantless searches are permissible only where the exigencies of the situation make that course imperative. See Coolidge v. New Hampshire, 403 U.S. 443, 455 (1971). Emergency situations might involve an alerted criminal bent on flight, a movable car containing contraband or stolen or dangerous articles that may never be found again, or misbranded drugs

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9/ These enforcement powers do not create in the Secretary an independent power to litigate.

that threaten the national health and safety. See, e.g., 21 U.S.C. § 334(a) (grounds for seizure of adulterated or misbranded food and drugs). With respect to the present bill, we believe that legislative history specifically establishing that the authority to make warrantless seizures of objects (presumably hardware or software used in satellites), records or reports is both necessary for national security or other reasons and otherwise meets the "exigent circumstances" rationale would be necessary in order to sustain the constitutionality of this provision.

Assuming that there is a legitimate federal need for warrantless seizures, we would nevertheless recommend that, if enacted, the language of Section 405(e) be altered to meet the substantive requirements of the Fourth Amendment. The Supreme Court has generally indicated that probable cause is necessary to justify a warrantless seizure. See Coolidge v. New Hampshire, 403 U.S. at 472-73. We are aware of no Supreme Court case that expressly authorizes warrantless seizures based on less than probable cause. See, e.g., Colorado v. Bannister, 449 U.S. 1, 3 (1980) (per curiam); G.M. Leasing Corp. v. United States, 429 U.S. 338, 351 (1977). Although the common law "reasonable grounds to believe" standard is the substantial equivalent of the Fourth Amendment's "probable cause" requirement, see Draper v. United States, 358 U.S. 307, 310 n.3 (1959), it is not clear that the "reasonably appears" language in Subsection (e)(1) is the equivalent of the "reasonable grounds to believe" standard or its constitutional analog, "probable cause." Section 405(e)(1) would have to be amended to read: "seize any object, record or report where he has probable cause to believe that such was used, is being used, or is about to be used in violation of this Act."

Thus, as broadly as it is currently drafted, Title IV of the bill raises fundamental policy and legal concerns. Title IV is subject to the interpretation that an extensive regulatory scheme is to be imposed. If so, we oppose Title IV and recommend its deletion in substantial part.

We are also troubled about the possibility that the contractor who contracts to make data available to the Government during the six-year interim period will be provided, as a result of the contract, with a significant subsidy that will lessen the possibility of competitive entry into the market (assuming no natural monopoly). Section 302 provides that a party or parties contracting for the provision of data to the Government must be capable of providing, at a minimum, the amount of data used by the Government during fiscal year 1983. To encourage such production, Section 302 also provides for a prepayment by the Government of a portion of the capital cost of providing this capability. This prepayment subsidy

would be at least partially repaid to the Government through the five percent minimum rebate on United States Government data purchases, but might not be fully repaid during the contract period. Although the contractor would have no guarantee that the Government would purchase data, the subsidy could allow it to provide data at a lower cost. The rebate, then, would act as a repayment mechanism encouraging the Government to purchase from that contractor even if others offered data to the public on equivalent terms. Thus, that contractor could enjoy a significant advantage over other potential entrants. While we recognize the possible need for a subsidy to assure that land remote-sensing data will be available, we are concerned that such a contract may make it difficult, as a practical matter, for any competing systems to be formed.

The prepayment of the subsidy, under the bill as drafted, poses other significant problems. It is unclear whether the limitation on the Title III contract that it "shall not provide for any guaranteed data purchases by the Federal Government," Section 302(b)(6), means that the United States Government is free to purchase data from other sources or simply that no minimum level of purchases from a sole licensee is anticipated. First, if the contract is not for United States Government requirements, then incentives to repay the initial subsidy may be lessened. Although required to maintain capability for six years, the contractor may find it more in its interest to keep the subsidy and either terminate the contract, not sell to the Government or not compete vigorously for sales that, through rebates, reduce the start-up advantages given by the prepayment. Sales to private users might be substituted as the private market develops. 10/ Second, if the contract is, in fact, a requirements contract, then it raises the possibility that it may provide the contractor with an unnecessary competitive advantage continuing beyond the term of the contract. The bill should balance generating the necessary incentive for the provision of the Government's data needs with the creation of undue competitive advantage.

The foregoing discussion highlights the broad competitive issues raised by the bill. There are also more specific definitional issues raised by the bill as currently drafted. Section 203(b)(5) imposes as a criterion for selection as a provider of land remote-sensing data the "absence of any

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10/ Required repayment by the end of the contract period or over a longer period might correct for this built-in disincentive.

conflicts-of-interest which could inhibit non-discriminatory access to such data." While, standing alone, that language could be construed to bar the system operator from providing "value-added" services regardless of whether it is a regulated monopolist, the specific reference to "value-added" activities in Sections 402(b)(7) and 405(b) may be sufficient to counter such a narrow intepretation. Leaving to the Secretary of Commerce the power to define "value-added" may, however, by implication, impose a type of public convenience and necessity test for new services, similar to that required for facilities construction under Section 214 of the Communications Act of 1934, 47 U.S.C. § 214. As noted, we believe that no such extensive regulatory scheme is needed here.

Furthermore, Title II as whole raises serious definitional problems. There is no specification of when the Landsat operator's activities are to end and when the Title III operator's activities begin. The language in Section 201(b) concerning renewal implies a continuing contract. It is also unclear what the source of compensation for an operator will be -- whether this compensation will take the form of fees from Government appropriations alone or sales to private users or both. Our concern with competitive issues in Titles III and IV would extend to Title II were the same operator to gain a continued competitive advantage from its Title II license and thereby increase the likelihood of monopoly and decrease any competitive initiatives by itself or others.

Additionally, the criterion in Section 402(b)(4) that no license shall protect the holder from "fair competition" should be clarified, so as to fulfill two distinct and important functions. First, specific language should be added to the general language of Section 607, that "[t]he requirements of this Act are in addition to, and not in lieu of, any other provision of law," to insure against any implicit repeal of the antitrust laws. We suggest the following language: "Nothing in this Act shall be deemed to create an exemption or defense to any action under the federal antitrust laws, as defined in Section 1 of the Clayton Act (15 U.S.C. § 12), or the Federal Trade Commission Act (15 U.S.C. § 41-58); provided, that a contract entered into by the Secretary in accordance with this Act shall not be deemed to violate such statutes." Second, Section 402(b)(4) should preclude an unduly restrictive licensing process that might exclude potential entrants. The section should specifically provide that the Secretary is not to grant exclusive licenses, or to consider the economic effects of entry of additional firms into the land remote-sensing or "value-added" business. Thus, replacing the "fair competition" language with a provision clarifying the Secretary's powers and insertion of an antitrust savings clause would more effectively serve the purpose of preserving competition.

Moreover, the participation of federal agencies in consortia, even with private parties, raises both substantive and definitional problems. Section 406(b) limits such activities to those that "will not compete with other United States private sector activities." However, both operational and "value-added" services of such mixed public and private sector consortia would seem inherently likely to compete with purely private sector activities in the land remote-sensing industry. Moreover, the possibility of mixed consortia may in itself distort the incentives of the private sector to develop land remote-sensing services. Potential private entrants would be deterred if they feared that the participation of federal agencies might entail public subsidies for the consortium with which they would have to compete. This suggests that individual Government agency needs should be met contractually through the private sector alone, not through Government partnership arrangements, so that all potential providers may have the opportuntity to compete for any necessary Government subsidies. On balance, permitting Government participation in consortia appears unnecessary and possibly damaging to competition.

Finally, apart from those policy concerns set forth above, we have several reservations regarding the bill's structure of judicial review and required administrative procedures. Additionally, several of the provisions concerning the sale and dissemination of data and the procedures for awarding a contract for the operation of the land remote-sensing system are vague so as to invite initial litigation over their meaning.

Section 403 provides that before granting a license to qualified private sector parties, the Secretary of Commerce must determine that the applicant will comply with the Act, regulations, international obligations and national security concerns. The Secretary may revoke, suspend, or modify a license issued under the Act for failure to comply. Upon timely request after an adverse action, an applicant or licensee is entitled to a hearing and adjudication on the record by the Secretary. A final action of the Secretary is subject to judicial review under the Administrative Procedure Act.

Under Section 606, the Secretary is required to consult with the Secretary of Defense on national security concerns and the Secretary of State on international obligations. The Secretary of Defense and the Secretary of State have responsibility, respectively, for identifying and notifying the Secretary of national security concerns and international obligations relating to activities under the Act. However, Section 606(c)(1) empowers the Secretary of Commerce to determine the appropriateness and reasonableness of conditions based on national security or international obligations to be imposed on any systems operator. There is no express provision for judicial review in Section 606.

We oppose judicial review of those Secretary of Commerce determinations under the Administrative Procedure Act involving national security and compliance with international obligations. Decisions in the national security and foreign relations areas are largely within the authority of the Executive Branch and should not be subjected to judicial review. We recommend that language be inserted to provide that to the extent the decisions of the Secretary of Commerce concern national security and compliance with international obligations, they are committed to the Secretary's discretion and are not subject to judicial review.

Section 404 of the bill authorizes the Secretary to promulgate appropriate regulations. Section 404(b) provides that such regulations "shall be carried out only after public notice and hearings in accordance with the provisions of title 5, United States Code." The language of this provision is ambiguous and may be read to require the Secretary to employ notice-and-comment, and perhaps other, procedures for all regulations, including those that would otherwise be exempt from the required procedures. See 5 U.S.C. §553(a),(b). This ambiguity can be removed simply by deleting the phrase "only after public notice and hearings."

Some provisions of the bill are so vague that they invite litigation over their construction, with the prospect of ceding to the courts what should initially be determined by Congress, and subsequently be interpreted by the Secretary. First, the provisions relating to a contract for the operation of the existing land remote-sensing satellite system are extremely sketchy. These provisions are likely to generate litigation if there is more than one bidder and a disappointed bidder wishes to prevent an award of the contracts. The bill fails to indicate whether other statutes and regulations relating to government procurement are applicable to this type of contract. See, e.g., the Contract Disputes Act, 41 U.S.C. §601 et seq.; the Federal civil procurement statute, 41 U.S.C. §251 et seq., and the Federal acquisition regulations promulgated thereunder.

Additionally, the provisions relating to the sale and dissemination of data have been drafted without regard for the copyright law of Title 17. For instance, section 202 states that "title" to the data is retained by the United States. It is unclear whether the data is a government work within the meaning of 17 U.S.C. §105, so that no copyright can subsist in the data, or that the copyright is obtained by the contractor and assigned to the United States. In either event, it is unclear who may enforce the copyright.

Section 202 also provides that the contractor is entitled to the revenues from the sale of data. A question arises as to whether the contractor is entitled to such revenues if the government sells data to which the government has "title." The bill does not address the contractor's remedy, if any, should someone else sell the data. Another problem is that although "digital remote-sensing

data" is defined, the general term "data," as used in section 202, is not. By implication, the term "data," is broader than "digital remote-sensing data" and would include copyrightable subject matter.

For the foregoing reasons, the Department of Justice believes that this legislation raises questions that should be thoroughly considered. If amended as suggested above, however, the Department does not object to enactment of this legislation.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Robert A. McConnell
Assistant Attorney General