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NTIA Requests Comment on UAS Privacy Comments
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March 5, 2015

On March 5, 2015, the National Telecommunications and Information Administration (NTIA) published in the Federal Register a request for public comment on privacy, transparency, and accountability issues relating to commercial and private use of unmanned aircraft systems (UAS). The request follows a February 15, 2015, Presidential Memorandum directing the agency to engage the public and private sectors in a multistakeholder dialogue to develop privacy, accountability, and transparency best practices. A summary of that memorandum, including additional background on NTIA's multistakeholder processes, is available here.

Comments in response to NTIA's request are due no later than 5 p.m. Eastern Time on Monday, April 20, 2015. NTIA shortly will be announcing the date of the first public meeting of its multistakeholder process, which will be convened in the Washington D.C. metro area. The meeting will be open to the public, webcast, and NTIA will provide an audio conference bridge. Stakeholders will be able to express interest in attending the meeting here.

Wiley Rein's UAS Practice Group is available to provide guidance about the NTIA process and to assist those interested in submitting comments or otherwise engaging in the multistakeholder process. The practice includes former high-ranking NTIA officials, such as Anna M. Gomez, former NTIA Deputy Administrator. The practice also includes privacy and First Amendment experts, such as Kathleen A. Kirby, one of the country's leading advocates on First Amendment issues before Congress and the Federal Communications Commission ("FCC"), and Amy E. Worlton, a privacy specialist who assists companies with privacy, encryption, and security compliance issues.

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Summary of Request for Comments

NTIA requests comment on the following issues that could frame upcoming multistakeholder discussions:

Structure. NTIA seeks comment on how to structure the multistakeholder engagement process, and on whether existing best practices could serve as models for stakeholders' work. NTIA also asks whether it would be helpful to distinguish between micro, small, and large UAS platforms, and whether smaller or larger platforms could raise different privacy issues.

Privacy. Recognizing that UAS can be used for a wide variety of commercial and private uses, including aerial photography, package delivery, farm management, and the provision of Internet service, NTIA asks whether some commercial uses of UAS raise heightened privacy concerns compared to non-UAS platforms that provide the same services. NTIA also asks whether specific best practices might "mitigate the most pressing privacy challenges while supporting innovation."

Transparency. NTIA recognizes that "transparent UAS operation can include identifying the entities that operate particular UAS, the purposes of UAS flights, and the data practices associated with UAS operations," and asks whether there is other information that UAS operators should make public. NTIA also requests commenters to identify "what mechanisms can facilitate identification of commercial and private UAS by the public," including standardized physical markings, electronic identifiers, or other technology. In addition, NTIA asks how UAS operators can inform the public about operations that "significantly impact privacy, anti-nuisance, or safety interests."

Accountability. NTIA seeks comment on accountability mechanisms to ensure that privacy protections and transparency policies are enforced within an organization. Specifically, NTIA asks whether audits, assessments, or reporting can help promote accountability. NTIA also asks what rules regarding conduct, training, operation, data handling, and oversight would promote accountability regarding commercial and private UAS operation.