

ALERT

NTIA Concludes UAS Multistakeholder Process; Releases Consensus Document on Voluntary Best Practices

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On May 18, 2016, the National Telecommunications & Information Administration (NTIA) concluded its multistakeholder process on unmanned aircraft systems (UAS) and released a consensus document proposing voluntary best practices for UAS privacy, transparency, and accountability. The best practices document is the product of a 13-month process that included a request for public comment, several public meetings, and the involvement of dozens of stakeholders from the UAS industry, civil society, and academia. Although some stakeholders declined to support the resulting document, the document achieved consensus.

The resulting best practices are non-binding, but important nonetheless. Best practices could form the basis for subsequent Federal, state, or local regulation. They also could set a de facto industry standard that could guide state or federal enforcement activities. Companies that publicly commit to following the best practices may open themselves to enforcement under Section 5 of the Federal Trade Commission Act for unfair or deceptive acts or practices if they fail to comply.

The best practices document contains five overarching recommendations for commercial and private UAS operators: (1) provide appropriate notice to individuals of intended UAS data collection; (2) take care to avoid encroachments on reasonable expectations of privacy and minimize the collection and storage of data that identifies a particular person; (3) place reasonable limits on the use and sharing of such data; (4) implement safeguards to secure such data; and (5) monitor and comply with evolving laws and

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operators' own privacy and security policies. The document clarifies that the recommendations are not designed to apply to activities protected by the First Amendment, including the activities of newsgatherers and news reporting organizations. Finally, the consensus document includes a reference guide for recreational users containing eight recommendations distilled from the more detailed best practices.

The release of the best practices document marks the conclusion of NTIA's multistakeholder process, which was convened to "develop a framework regarding privacy, accountability, and transparency for commercial and private UAS use" pursuant to President Obama's February 2015 Presidential Memorandum. NTIA will accept and publish comments on the best practices document, including statements of support or opposition, but changes to the document are not expected.

More information about NTIA's multistakeholder process on UAS, including comments on the consensus document, can be found [here](#).