



October 13, 2016

Federal Trade Commission  
Constitution Center  
400 7th St SW, Washington, DC 20024

Re: Fall Technology Series: Drones

Dear Commissioners:

The Center for Democracy & Technology (CDT) is a nonpartisan, nonprofit technology policy advocacy organization dedicated to protecting civil liberties and human rights, including privacy, free speech, and access to information.

CDT is committed to working with policymakers to develop policy on Unmanned Aerial Systems (UAS) that is both innovative and privacy protective. In advancing this goal we have written publicly,<sup>1</sup> testified before Congress,<sup>2</sup> and participated in the multi-stakeholder process conducted by the National Telecommunications and Information Administration (NTIA).

We applaud the Commission's focus on UAS, more commonly known as "drones." Today's workshop addresses the changing uses of UAS and the expansion of UAS technology to enhance monitoring and inspection, commercial package delivery, and news reporting, among other uses. While there are clear benefits to using drones both commercially and by the government, these uses come with privacy concerns. Small, inexpensive drones with cameras mounted on them can improve package delivery, identify wildfires for firefighters and help reporters deliver public safety news, but they can also be used to peer into peoples' homes and track their movements.

As the Commission knows, last year the NTIA convened a multi-stakeholder process (MSP) to develop best practices on the privacy, accountability, and transparency of UAS use. CDT was an active participant in this process, leading diverse stakeholders towards agreement on a consensus document that represents a significant step forward in establishing uniform use principles for UAS. The consensus best practices are not perfect, but they represent a set of privacy-protective principles that can take root at this nascent stage of UAS usage. They can help foster a climate that balances privacy protections and free expression principles with practices that allow for commercial innovation.

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<sup>1</sup> See for example: <https://cdt.org/blog/help-is-here-how-not-to-be-a-jerk-with-your-drone/> and <https://cdt.org/blog/from-self-help-skeet-shooting-to-dhs-guidance-for-law-enforcement-regulation-of-drones-is-a-bumpy-ride/>

<sup>2</sup> *Drones: The Next Generation of Commerce?: Hearing before the U.S. House of Representatives Committee on Oversight and Government Reform, 114<sup>th</sup> Congress (2015).*  
<https://cdt.org/files/2015/06/Testimony-of-Harley-Geiger-House-Oversight-Hearing-on-Drones-Commerce-Center-for-Democracy-Technology-061715.pdf>

In its description of today's workshop, the FTC asks, "Given the difficulties of providing consumers with meaningful choices, what should the rules around privacy look like?" Through NTIA's MSP, CDT and others addressed this question by drawing on concepts in the Fair Information Practice Principles (FIPPs) and crafting strong protections specific to the drone industry. The consensus document, which is attached, is supported by a wide variety of stakeholders<sup>3</sup> and provides critical privacy and civil liberties protections including:

- Strongly safeguarding the areas where an individual has a reasonable expectation of privacy,
- Restricting persistent and continuous collection of data about individuals,
- Requiring drone operators to minimize operations over or within private property without consent of the property owner or appropriate legal authority,
- Limiting the use of data for marketing campaigns without user consent,
- Requiring drone operators to have a detailed data collection policy and to limit data collection to what is outlined in that policy, and
- Barring drone operators from retaining data longer than reasonably necessary and granting data subjects control over data linked to them.

CDT believes this document achieves two key objectives. First, it safeguards privacy. These practices provide a guide for the commercial expansion of drone use that respects individual privacy and creates safeguards against drones becoming ubiquitous surveillance platforms. They also provide useful, easy to understand guidance for ordinary drone users to help them use their UAS in a privacy protective manner.

Second, they reflect a commitment to the First Amendment without adding potentially overreaching legal mandates that could implicate or limit important First Amendment rights, such as the right to take photographs in public. All of this will enable the growth of the nascent drone industry in a responsible and effective manner.

We believe the NTIA best practices fill an important regulatory void, providing guidance on ethical practices for UAS data collection and use. They have already informed the Federal Aviation Administration (FAA) guidance document on small UAS usage.<sup>4</sup> The agency will provide all drone operators and pilots with the NTIA's recommended privacy guidelines in the registration process and in

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<sup>3</sup> Endorsers of the MSP consensus document include Amazon, Association for Unmanned Vehicle Systems International (AUVSI), Center for Democracy and Technology, Commercial Drone Alliance, Consumer Technology Association, CTIA, Future of Privacy Forum, Intel, New America's Open Technology Institute, PrecisionHawk, X (Formerly Google [x]), Small UAV Coalition, Online Trust Alliance (OTA), News Media Coalition, Newspaper Association of America (NAA), National Association of Broadcasters (NAB), Radio Television Digital News Association (RTDNA), Digital Content Next (DCN), Software & Information Industry Association (SIIA), NetChoice, U.S. Chamber of Commerce. Some entities also filed statements supporting the best practices in whole or part including [Academy of Model Aeronautics](#); [Academy of Model Aeronautics](#), [DJI](#), [Drone Manufacturers Alliance](#), [Drone Pilots Federation](#), [Drone User Group Network](#), [Hobbico](#), [Horizon Hobby](#), [Measure](#), [Tesla Foundation](#), [UAVUS](#), [Yuneec](#); [Association for Unmanned Vehicle Systems International](#); [Future of Privacy Forum](#); [National Press Photographers Association](#); [Online Trust Alliance](#); and [Software & Information Industry Association](#).

<sup>4</sup> See: [https://www.faa.gov/uas/media/AC\\_107-2\\_AFS-1\\_Signed.pdf](https://www.faa.gov/uas/media/AC_107-2_AFS-1_Signed.pdf)



the agency's B4UFly mobile app. The FAA also committed to issuing new guidance for local and state governments on drone privacy issues that utilizes the NTIA best practices. This action by the FAA is an example of why it's important that we act quickly to establish privacy norms that can be embraced by operators and companies. We encourage the Commission to embrace this existing compromise.

If the FTC is interested in moving beyond the practices laid out in the NTIA multi-stakeholder process, as part of our participation in that process, CDT also developed a set of best practices that goes further than the consensus document published by NTIA (CDT's document is attached). CDT's document offers operators more detail and guidance on types of covered personal data, additional information on security best practices, and greater limits on the coverage areas where drones can fly. These practices are all important and CDT remains committed to them. However, it is incumbent upon the Commission to identify its goal for this workshop. If that goal is to provide a different framework for privacy protections for drone operation, CDT would be happy to discuss in detail its own views. But if the Commission wants to see speedy adoption of privacy protective best practices, it should embrace the existing compromise brokered by the NTIA.

Thank you for conducting this workshop. CDT is committed to working with the Commission and other stakeholders to ensure that the full potential of UAS is realized through the adoption of strong and flexible privacy protections.

Sincerely,

Chris Calabrese  
Vice President, Policy