

Congress of the United States
Washington, DC 20515

April 19, 2012

The Honorable Michael P. Huerta
Acting Administrator
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

Dear Acting Administrator Huerta:

On February 14, 2012, President Obama signed the Federal Aviation Administration (FAA) Modernization and Reform Act into law. Sections 331-336 of the statute require the FAA to fully integrate government, commercial, and recreational unmanned aircraft systems, commonly known as drones, into U.S. airspace by October 2015. Full access to U.S. airspace for drone use will certainly produce a number of beneficial applications and innovations that can aid in the protection and security of our local communities. As Transportation Secretary Ray LaHood said in a statement on March 7, 2012, "Unmanned aircraft can help us meet a number of challenges, from spotting wildfires to assessing natural disasters." However, in addition to benefits, there is also the potential for drone technology to enable invasive and pervasive surveillance without adequate privacy protections. We are writing to express our concerns about the law's potential privacy implications and to request information about how the FAA is addressing these important matters.

Drones have traditionally been used almost exclusively overseas by military and security organizations. However, state and local governments, businesses, and private individuals are increasingly using unmanned aircraft in the U.S., including deployments for law enforcement operations.¹ As technology advances and cost decreases – drones are already orders of magnitude less expensive to purchase and operate than piloted aircraft – the market for federal, state, and local government and commercial drones rapidly grows.²

Many drones are designed to carry surveillance equipment, including video cameras, infrared thermal imagers, radar, and wireless network "sniffers". The surveillance power of drones is amplified when the information from onboard sensors is used in conjunction with facial recognition, behavior analysis, license plate recognition, or any other system that can identify and track individuals as they go about their daily lives.³

Now that the FAA has initiated the rulemaking process for implementing the FAA Modernization and Reform Act, the agency has the opportunity and responsibility to ensure that

¹ <http://articles.latimes.com/2011/dec/10/nation/la-na-drone-arrest-20111211>

² <http://www.foxnews.com/politics/2012/02/26/police-border-patrol-other-agencies-looking-to-expand-drone-use-at-home/>

³ <http://www.wired.com/dangerroom/2011/09/drones-never-forget-a-face/>

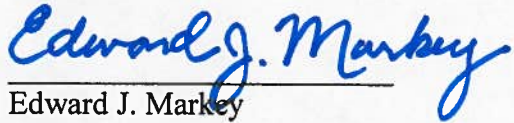
the privacy of individuals is protected and that the public is fully informed about who is using drones in public airspace and why.

As co-Chairmen of the Congressional Bipartisan Privacy Caucus, we request the following information:

1. What procedure does the FAA currently use to grant temporary licenses for drones?
2. Please provide a list of all past and current certifications and authorizations for drones.
3. Have any applications for drone licenses been denied? If yes, how many have been denied and for what reasons?
4. What privacy protections and public transparency requirements has the FAA built into its current temporary licensing process for drones used in U.S. airspace?
 - a. Is the public notified about where and when drones are used, who operates the drones, what data is collected, how is the data used, how long is the data retained, and who has access to that data? If yes, how? If not, why not?
 - b. Does the FAA require current drone operators to follow guidelines that address privacy concerns? If yes, please describe those guidelines. If not, why not?
5. Please describe the FAA's plans for implementing Sections 331-336 of the FAA Modernization and Reform Act, which mandates government and non-government drone access to U.S. airspace.
6. Please describe the process by which drone license applications will be evaluated and approved.
7. How does the FAA plan to ensure that drone use under the FAA Modernization and Reform Act is transparent and protects individual privacy rights?
 - a. How will the public be notified about where and when drones are used, who will operate the drones, what data will be collected, how the data will be used, how long the data will be retained, and who will have access to that data?
 - b. How will the FAA determine whether an entity applying to operate a drone will properly address these privacy concerns?
 - c. How does the FAA plan to work with government agencies, businesses, nationwide community-based organizations and other stakeholders on privacy and transparency issues to implement the new law?

Thank you for your attention to this important matter. Please provide a written response no later than May 10, 2012. If you have any questions, please have your staff contact Dr. Makenzie Lystrup in Congressman Markey's office (202-225-2836) or Emmanuel Guillory in Congressman Barton's office (202-225-2002).

Sincerely,



Edward J. Markey
Co-Chairman
Congressional Bi-Partisan Privacy Caucus



Joe Barton
Co-Chairman
Congressional Bi-Partisan Privacy Caucus

Cc: Ray LaHood, Secretary of Transportation