

# Client Alert

November 2014

## **Drones: Hunton & Williams LLP Forms UAS Integration Unit**

*Drones.* For many, the first image that comes to mind is a *Predator* drone launching missiles at terrorist targets halfway around the globe. From Amazon's ambitious plans to deliver packages to customers' doors in fewer than 30 minutes, to everyday uses like targeted applications of fertilizer to crops, the potential commercial uses for Unmanned Aircraft Systems (UAS) are nearly limitless.

Not surprisingly, many businesses and entrepreneurs are looking to seize this opportunity, but their efforts to innovate have outpaced the federal government's progress in developing a suitable regulatory environment. Government agencies face a significant challenge in trying to protect public safety and manage competing demands for use of the national airspace, without stifling the opportunities to be reaped from this rapidly emerging technology.

Recognizing the infancy of the regulatory environment, the immense scope of potential commercial uses, and the importance to our clients of obtaining and maintaining competitive advantages, Hunton & Williams has created a UAS Integration Unit. The unit, which is part of a broader Unmanned Systems Group, advises clients seeking exemption from current Federal Aviation Administration (FAA) regulatory restrictions on commercial UAS operations; participating in the FAA rulemaking process; and otherwise tracking, understanding, and complying with the developing regulatory framework pertaining to commercial UAS use. To anticipate potential issues and navigate our clients through the process, we work hand-in-hand with their internal UAS working groups, which may be composed of representatives from their general counsel's office and their emerging technologies, risk management, and aviation divisions, among others.

### **UAS and Regulation of the National Airspace**

As part of the Federal Aviation Administration Modernization and Reform Act (the Act) passed in 2012, Congress tasked the Secretary of Transportation with developing a comprehensive plan for the full integration of UAS into the national airspace by September 30, 2015. The Act also mandated certain intermediate rulemaking steps and the establishment of six temporary UAS test ranges. The FAA's position is that the commercial operation of UAS within the national airspace requires compliance with, or specifically granted exemption from, all Federal Aviation Regulations (FARs). The FAA broadly defines "commercial" to include nearly any UAS flight outside a strictly recreational context. Since FARs were developed in a context that only envisioned manned flight, UAS operation in full compliance with existing FARs is not only unnecessary, it's essentially impossible.

Importantly, Section 333 of the Act required the Secretary to "determine if certain unmanned aircraft systems may operate safely in the national airspace system *before completion of the plan and rulemaking required by section 332 of [this] Act...*" (emphasis added), and if the Secretary makes such a determination, then the Act further compels the Secretary to establish requirements for the safe operation of such systems.

As a result, Section 333 has become the basis on which the FAA has begun authorizing the commercial use of small UAS (sUAS) by granting exemptions from specific federal regulations that would otherwise be applicable to all aircraft in the national airspace system. In just the past few weeks, the FAA granted the first seven such exemptions to companies requesting to use sUAS in closed-set film and TV

production. In the wake of these first grants, the number of companies submitting requests, and the breadth of proposed uses of sUAS reflected in those requests, has skyrocketed.

### **Commercial Uses & Users**

Considering the variety of available UAS (single-rotor, multi-rotor, fixed-wing, etc.), and the number of different instrument and sensor payloads they can carry, potential commercial uses are far ranging:

- Aerial surveying and mapping (topography, LiDAR, oil and gas exploration)
- Visual inspections of facilities and systems (pipelines, electrical lines, wind turbines, solar installations)
- Photography and videography
- Search and rescue
- Fire detection and suppression
- Crop inspection and spraying
- Temporary telecommunications networks
- Security
- Scientific research
- Pollution control and air sampling
- Advertising
- Light transportation/delivery

The industries and clients that can benefit from the commercial<sup>1</sup> use of UAS is also extensive: regulated utilities; traditional and renewable energy producers; telecommunications and technology companies; insurance companies; manufacturers/producers with substantial infrastructure requiring periodic inspection; film and TV companies; hospital systems; agriculture producers; R&D companies; and marketing firms, among others.

### **Unmanned Systems & UAS Integration**

Hunton & Williams will continue to monitor developments in UAS regulation and the broader unmanned systems space. The use of these emerging technologies involves areas of the law in which we are well-versed: property and land rights; technology; privacy; aviation; government relations and lobbying; local and federal regulatory work; transportation and logistics; maritime; environmental; product liability; patent work; risk management; insurance, and more. For more information, we invite you to visit [www.hunton.com](http://www.hunton.com) or contact any members of the UAS Integration Unit below.

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<sup>1</sup> Note that many public agencies also stand to benefit from the implementation of UAS into their operations. For the sake of brevity, this Client Alert is limited to “commercial” use. We are also strategically positioned to assist public agencies with their UAS integration needs.