



April 20, 2015

Comments of the Center for Digital Democracy

Request for Comments on Privacy, Transparency, and Accountability Regarding Commercial and Private Use of Unmanned Aircraft Systems: Docket No. 150224183-5183-01

The Center for Digital Democracy (CDD) calls on the Department of Commerce and its NTIA division to withdraw from overseeing a “multi-stakeholder” process designed to develop a framework to protect the privacy of U.S. citizens and consumers from the commercial use of drones (unmanned aircraft systems).

The NTIA has failed to establish any legitimate or successful track record with its multi-stakeholder work designed to implement President Obama’s Privacy Bill of Rights framework. Although more than three years have passed since the president unveiled his proposed set of privacy rights, which articulated the need to develop a broad range of “codes” to ensure American privacy is protected in the digital era, the NTIA has barely managed to address two privacy-related issues. Its work on “mobile app transparency” has not led to any significant new approaches by app and mobile device developers—with only been a tiny handful of companies agreeing to endorse the code. Instead of demonstrating a serious commitment to consumer privacy by addressing the full range of related mobile and app practices requiring “codes” and safeguards, the NTIA was only willing to tackle a small fragment of the issue. As CDD [explained](#) in its report, the NTIA’s work on mobile app transparency failed to address the actual data collection practices of apps, including their implications for so-called “transparency.” The inability of the NTIA to adequately address consumer privacy issues on the mobile and app-related platform has placed millions of U.S. consumers at continued privacy risk.

The NTIA’s current effort on facial recognition, still ongoing, has thus far failed to accomplish anything significant. As the NTIA knows, consumer and privacy groups have expressed strong concern about the failure of its process to address how an

individual can effectively control their facial and biometric data. As with mobile apps, the industry has largely refrained from revealing the actual practices they are currently using or plan to use regarding facial recognition.

The NTIA has a major conflict of interest when it comes to privacy—and it cannot in good conscience represent at all the interests of the public. For example, its work on the recent “discussion draft” of the president’s Privacy Bill of Rights, as admitted by NTIA officials themselves, was designed to enable today’s vast commercial data collection system to continue, largely unimpeded. The NTIA and Department of Commerce’s loyalties lie with industry, since the Department’s primary function is to promote U.S. business interests at home and abroad (such as with its work on the U.S. and EU Safe Harbor Framework for data). The NTIA leadership has continually failed to ensure stakeholders have access to actual marketplace data, including the activities of the companies involved, preventing a more informed discussion of the implications to privacy and consumer protection. Nor have the discussions been truly diverse, in terms of NGO participation, such as from organizations representing communities of color and other groups that should participate. We have not witnessed any significant outreach effort by the NTIA to address this critical diversity shortcoming. As a consequence, consumer and privacy groups are vastly outnumbered by industry lobbyists, creating an imbalance that is ultimately unfair and harmful to the vast majority of the U.S. public.

The issue of privacy and drones is one of utmost important to Americans, as commercial “surveillance” systems further evolve from offline to online and now in the skies. CDD calls on the Department of Commerce/NTIA to step aside from their plans to conduct a stakeholder processing on drone-related privacy. If the NTIA would be honest with itself, it would recognize that to truly serve the American public’s need for privacy with regard to the commercial use of drones, it should abandon this initiative. The Federal Trade Commission (FTC), an independent agency that serves as the country’s lead privacy regulator, should be asked instead to oversee a process where its expertise can help develop a meaningful set of privacy safeguards and proposed rules.

CDD requests that the DoC/NTIA inform the president that it is not in the best interests of the country for it to engage in another failed or ineffective multi-stakeholder proceeding, and that he urge the FTC to develop a plan to protect Americans from a further erosion of their privacy by the impending growth of commercial drone use.

Respectfully,

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Center for Digital Democracy