

**Before the U.S. Department of Transportation
Federal Aviation Administration
Comments of the Student Press Law Center
Docket No. FAA-2015–0150**

Federal Register Number 2015-03544

***Notice of Proposed Rulemaking, “Operation and Certification of Small Unmanned Aircraft Systems”
Filed April 19, 2015***

A. Introduction and Summary

The Student Press Law Center submits the following comments to docket number FAA-2015-0150 regarding the use of micro UAS in journalism education.

Since 1974, the Student Press Law Center has helped educate high school and college journalists about their legal rights and obligations. We speak to thousands of student journalists and educators every year, helping them to navigate media law questions, including questions about privacy and obeying applicable regulations. Increasingly, those questions involve the use of new technology, including the use of unmanned vehicles that would qualify as micro UAS.

Student journalists increasingly are producing work indistinguishable in quality from that of paid professionals, and that is especially so as it regards technology-aided journalism, as to which young “digital natives” may even have the advantage over experienced pros. It is well documented that young audiences do not have the attention span or appetite for traditional newspapers, magazines and television newscasts that existed in earlier generations. To sustain young people’s interest in news – an interest that is imperative if schools are to produce aware and productive citizens – news must be delivered in an engaging, participatory way. The government should do everything in its power to remove roadblocks to the technology-aided gathering of news by and for young viewers.

The Student Press Law Center strongly supports the inclusion micro UAS regulations. These tools have substantial educational and journalistic value. Permitting their incorporation into the curriculum ensures the next generation of journalists knows and follows safe practices for the operation of micro UAS.

In order to accomplish this mutual goal, the Student Press Law Center also proposes the following elements to any micro UAS regulation:

I. There should be no age restriction on the operation of a micro UAS.

There would not seem to be any logical reason to restrict the age of the operators of micro UAS vehicles. The FAA sets no minimum age to operate a hang glider (*see* 14 CFR Sec. 103.7(b)). It takes very little knowledge of the laws of physics to know that the risk of permitting a 14-year-old to remotely operate a 4.4 pound micro UAS is lower than permitting the same teen to glide his 100-plus pound body through the air attached to a 50-pound metal frame. The FAA proposes to equate the age limit for operating an actual 2,000-pound airplane carrying live passengers with the age limit for a glorified model aircraft weighing less than a two-liter soda bottle. These two activities are not comparable, as the agency has acknowledged in the Rulemaking by recognizing that micro UAS are relatively easy to control and carry

exponentially less risk than manned aircraft. It is logically inconsistent to relax the licensure requirements in every other way but age.

The technology already exists to permit a micro UAS to be operated by students while ensuring the teacher has the ability to resume control if necessary. Joining two radio systems together in the so-called "buddy box" configuration creates system not unlike a car for student drivers, where the instructor's separate pedals and wheel allow the better-trained instructor to maintain positive control of the vehicle.

The public's interest is in the safe operation of these vehicles, not in the age of the operator. (There is no *upper* age limit on operators, even though it seems likely that a 15-year-old will operate an unmanned aircraft at least as safely as a 95-year-old will.) And, in reality, restricting the age of the operator of a micro UAS would make the community less safe, by restricting the ability of students to learn about the safe operation of a micro UAS from an experienced educator. Much like abstinence-only education, restricting access to information about a potentially risky behavior only multiplies the dangers created by those who engage in the behavior anyway. If there is no legitimate way to permit students to operate micro UAVs within the context of an educational process, there will be no one to direct students to comply with the FAA's regulatory scheme when they obtain a micro UAV at home.

II. Newsgathering and other constitutionally protected activities must not be burdened as "commercial."

The FAA tends to view the universe of micro UAV operators as consisting of "hobbyists" and "professionals." These definitions are far too narrow, as the thousands of comments you have already received from individuals who make money from their hobby attest. We wish to emphasize, however, that those who use micro UAVs for the constitutionally protected activity of newsgathering must not be regulated more stringently than hobbyists.

Failing to carve out appropriate exemptions for student journalism could leave a micro UAS regulatory scheme vulnerable to a First Amendment challenge. If a student hobbyist and a student journalist are equally qualified to operate a micro UAS, denying the journalist access to the skies on the basis of his intent to engage in protected speech later unfairly punishes the would-be speaker. Nor can the intent to engage in a protected activity be used as a basis for more burdensome regulation.

Nor is the distinction between the hobbyist and the professional particularly clear, even in the case of journalism. A hobbyist who has no intent to publish may well decide later to publish pictures taken by a drone; similarly, a student journalist could begin a flight with the intent to gather information but decide there was nothing worth publishing. Trying to categorically segregate one activity from the other becomes pointless.

Instead, we propose either (1) an exception from this dichotomy for "news, noncommercial, or public interest" use; or (2) a reclassification of the hobbyist designation to include news, noncommercial, or public interest uses, with a definition as the FAA sees fit to provide, but one which encompasses use by student journalists.

Thank you for your attention and consideration.

Respectfully Submitted,

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