

# Australian Certified UAV Operators Inc.

*"Strength Through Unity"*

72 Gordon Parade  
Everton Park  
QLD 4053  
ABN: 97 232 132 361  
Email: [secretary@acuo.org.au](mailto:secretary@acuo.org.au)  
Website: [www.acuo.org.au](http://www.acuo.org.au)



Number 08/ 2014

June 14<sup>th</sup> 2014

## PRESS RELEASE

### 'Eye's In the Sky' Report Is Timely But Confuses Impact of RPAS Deregulation With Opportunities for Enhanced Privacy Structures

The Australian Certified UAV Operators Association (ACUO) notes today's release of the report 'Eyes in the Sky' by the House of Representatives Standing Committee on Social Policy and Legal Affairs.

ACUO provisionally backs the six recommendations of the report, but is deeply concerned that the Committee has stepped outside its terms of reference to provide unqualified support for the proposed deregulation of the sub 2kg category of Remotely Piloted Aircraft Systems (RPAS) as being sought by the Australian Civil Aviation Safety Authority (CASA) under its Notice of Proposed Rule Making (NPRM) 1309OS. ACUO holds that such deregulation will directly increase the scale and nature of the privacy challenge the Eyes in the Sky report seeks to address.

ACUO president Joseph Urli says "We do not believe the Committee has given NPRM 1309OS the level of in-depth consideration required to provide an informed basis for agreeing to such sweeping changes to Australia's civil aviation regulations. Indeed, by backing the implementation of those regulations the Committee has directly undermined the capacity of each of its specific recommendations on addressing RPAS privacy issues to succeed.

"Deregulation of the sub-2kg category of RPAS will remove the capacity of effectively ensuring that RPAS do not become a widespread privacy nuisance and do not jeopardise the safety of the entire aviation sector. It is the sub-2kg class of systems, operated by hobbyists, which are already the primary source of near miss incidents involving manned aviation, and of emerging privacy complaints. This is the fastest growing segment of RPAS adoption in Australia with the bulk of buyers being consumers, not aviation professionals, and CASA's efforts to educate this group is incommensurate with the scale of the problem that is emerging.

"NPRM 1309OS was released for public comment after the Committee completed its public consultation processes. Neither the RPAS industry nor the privacy lobby had opportunity to explain to the Committee why NPRM 1309OS poses such a problem in its current form. The Committee backing for NPRM 1309OS comes despite widespread opposition to those specific air safety regulations by entities ranging from ACUO to the Australian Airports Association to the Aerial Agricultural Association of Australia.

"'Eyes in the Sky' effectively confuses its important and valuable contribution to the discussion of RPAS and privacy in Australia. We urge the Committee to reconsider its readiness to back NPRM 1309OS in such broad terms without taking the time to consider the necessary evidence."

ACUO's responses to each of the specific recommendations of the Committee report are set out in the table on page 3.

---

**About ACUO:**

ACUO was established as a legal entity in March 2010 and currently represents approximately one third of all entities holding Australian Civil Aviation Safety Authority unmanned aircraft operator certificates. The association is chartered to promote the growth and the expansion of the commercial unmanned aircraft industry in Australia and to ensure the safe and orderly growth of the sector. ACUO represents Australia globally as part of the International Remotely Piloted Aircraft Systems Coordination Council, the pre-eminent global policy coordination body for this important sunrise industry.

For further information please contact:

Joe Urli  
President  
ACUO  
Email: [president@acuo.org.au](mailto:president@acuo.org.au)

Brad Mason  
Secretary  
ACUO  
PH: 0408 772 571  
Email: [secretary@acuo.org.au](mailto:secretary@acuo.org.au)

## ACUO RESPONSES TO THE SPLA COMMITTEE REPORT RECOMMENDATIONS

Recommendation	ACUO response
<p><b>Recommendation 1:</b> The Committee recommends that the Australian Government, through the Civil Aviation Safety Authority, broaden future consultation processes it undertakes in relation to remotely piloted aircraft regulations so as to include industry and recreational users from a non-aviation background. Future consultation processes should identify and seek comment from peak bodies in industries where remotely piloted aircraft use is likely to expand such as real estate, photography, media, and agriculture, amongst others.</p>	<p><b>Strongly agree.</b> Australia faces a significant problem of widespread usage of unregulated RPAS being flown commercially and recreationally with no regard for existing air safety regulations, or the basic principles of privacy as currently exist in Australia. ACUO believes that the proposed deregulation of the sub-2kg class of RPAS by CASA, as detailed in NPRM 1309OS, will directly result in these problems becoming more widespread with significant consequent risks for the national airspace safety system, as well as individual privacy. There must be an equivalent level of focus on CASA policing &amp; enforcement policies if these changes are to be at all effective. ACUO is deeply disappointed that the House of Representatives Standing Committee on Social Policy and Legal Affairs has seen fit to recommend that the measures proposed by NPRM 1309OS proceed as proposed by CASA, without detailed analysis of those changes. ACUO believes the Committee's findings in favour of NPRM1309OS are short sighted and provides unqualified support for what are poorly conceived regulatory changes. These changes are opposed by a broad spectrum of aviation sector participants including ACUO, the Aerial Agricultural Association of Australia and the Australian Airports Association. ACUO holds that NPRM1309OS should be suspended and redeveloped under the direct guidance of the Department of Infrastructure and Regional Development and with deeper consultation with the entire aviation industry. Recommendation 1 of Eyes in the Sky is consistent with the approach sought by ACUO in this regard.</p>
<p><b>Recommendation 2:</b> The Committee recommends that the Australian Government, through the Civil Aviation Safety Authority (CASA), include information on Australia's privacy laws with the safety pamphlet CASA currently distributes to vendors of remotely piloted aircraft. The pamphlet should highlight remotely piloted aircraft users' responsibility not to monitor, record or disclose individuals' private activities without their consent and provide links to further information on Australia's privacy laws.</p>	<p><b>Strong agree.</b> ACUO assesses the current content of the information pamphlet issued by CASA as significantly underdeveloped and in need of being significantly improved to a standard equivalent to other CASA guidance materials such as its multi-booklet guide to aviation safety management systems policy and practices. A single double sided leaflet, provided on a voluntary basis to only one small sector of the total market for RPAS, is incapable of providing an effective means of educating RPAS operators.</p>
<p><b>Recommendation 3:</b> The Committee recommends that the Australian Government consider introducing legislation by July 2015 which provides protection against privacy-invasive technologies (including remotely piloted aircraft), with particular emphasis on protecting against intrusions on a person's seclusion or private affairs. The Committee recommends that in considering the type and extent of protection to be afforded, the Government consider giving effect to the Australian Law Reform Commission's proposal for the creation of a tort of serious invasion of privacy, or</p>	<p><b>Agree in principle.</b> ACUO is of the view that the approach proposed by the Australian Law Reform Commission can represent a workable solution to the overall RPAS privacy issue. However, we note with concern that the Federal Government appears to have pre-emptively rejected the ALRC proposals in April this year without seeking the views or input of the Australian certified RPAS operator community, this adding to the overall legislative confusion faced by those who seek to responsibly develop commercial applications of this technology. ACUO believes that any final legislative solution developed by Australian governments must</p>

<p>include alternate measures to achieve similar outcomes, with respect to invasive technologies including remotely piloted aircraft.</p>	<p>give due consideration not just to the capabilities of RPAS technology but also the manner in which the technology is applied, and who is using the technology. In this regard, as per ACUO's submission to the Committee inquiry, legislative actions must be able to operate in concert with operational best practices in the case of commercial operators as well as recreational users, with privacy measures fully integrated with all other elements of safe airmanship. Any separation of airmanship from legislative measures risks creation of an unworkable set of arrangements which ultimately fail to address the acknowledged privacy challenge posed by RPAS of all forms, whether commercial or recreational.</p>
<p><b>Recommendation 4:</b> The Committee recommends that, at the late-2014 meeting of COAG's Law, Crime and Community Safety Council, the Australian Government initiate action to simplify Australia's privacy regime by introducing harmonised Australia-wide surveillance laws that cover the use of:</p> <ul style="list-style-type: none"> <li>☑ listening devices</li> <li>☑ optical surveillance devices</li> <li>☑ data surveillance devices, and</li> <li>☑ tracking devices</li> </ul> <p>The unified regime should contain technology neutral definitions of the kinds of surveillance devices, and should not provide fewer protections in any state or territory than presently exist.</p>	<p><b>Agree in principle.</b> RPAS as now being widely used in Australia for commercial and recreational uses are the result of a convergence of multiple technologies at the global level. Addressing one technological stream in isolation to others can only result in legal confusion. Harmonisation of legislative structures across Australia is essential for the same reason. ACUO accordingly calls COAG's Law, Crime and Community Safety Council to progress a model state and territory bill, with the consultation process for this to include substantive engagement with the commercial RPAS operators community.</p>
<p><b>Recommendation 5:</b> The Committee recommends that the Australian Government consider the measures operating to regulate the use or potential use of RPAs by Commonwealth law enforcement agencies for surveillance purposes in circumstances where that use may give rise to issues regarding a person's seclusion or private affairs. This consideration should involve both assessment of the adequacy of presently existing internal practices and procedures of relevant Commonwealth law enforcement agencies, as well as the adequacy of relevant provisions of the Surveillance Devices Act 2004 (Cth) relating but not limited to warrant provisions.</p> <p>Further, the Committee recommends that the Australian Government initiate action at COAG's Law, Crime and Community Safety Council to harmonise what may be determined to be an appropriate and approved use of RPAs by law enforcement agencies across jurisdictions.</p>	<p><b>Agree in principle.</b> ACUO notes that while public sector entities are already operating RPAS in Queensland, Victoria and New South Wales, only Queensland has taken initial steps to inform those entities of their privacy law obligations. ACUO believes that as well as RPAS, implementation of this recommendation needs to incorporate assessment of the use of all forms of aviation assets, whether manned or remotely piloted, to ensure a fully harmonised regime. ACUO is aware that some actions towards this recommendation have been progressed by the Federal Attorney General however this has been restricted to discussions directly between Federal and State or Territory Attorney general's agencies. ACUO holds that the RPAS sector as a whole should be engaged in the recommended assessment process so as to ensure parallel alignment of commercial solutions with emergent standards and mandated technical practices lest governments find their costs of acquisition being driven up due to the need to modify off the shelf solutions.</p> <p>With respect to the second part of this recommendation, ACUO calls for the COAG Law, Crime and Community Safety Council to consider not just legislative harmonisation but establishment of a national assessment program, modelled on that developed by the US Department of Homeland Security, where commercial RPAS products can be comparatively trialled and evaluated for public entity adoption. ACUO is concerned that despite Australia's</p>

	<p>small size and available fiscal resources, Australian public sector entities are buying without consideration of the benefits of commonality of systems between jurisdictions and the potential for an overall lowering of the costs of acquisition. ACUO believes the National Aerial Firefighting Centre Fire (NAFC) provides an effective template for the Commonwealth and States upon which to develop and implement this concept.</p>
<p><b>Recommendation 6:</b> The Committee recommends that the Australian Government coordinate with the Civil Aviation Safety Authority and the Australian Privacy Commissioner to review the adequacy of the privacy and air safety regimes in relation to remotely piloted aircraft, highlighting any regulatory issues and future areas of action. This review should be publicly released by June 2016.</p>	<p><b>Strongly agree.</b> ACUO notes that while CASA has understandably sought to distance itself from privacy issues, the development of a coherent regulatory environment for RPAS, whether commercial, publicly operated or recreational, cannot be developed without consideration of privacy matters as a whole. In this regard we note the precedent set by the Italian national airspace regulator, ENAC, which has promulgated RPAS regulations which specifically require all operators to ensure compliance with Italy's national data protection laws. CASA itself appears to have accepted the emergent need to address privacy issues in relation to RPAS operations, with its draft advisory circular for NPRM 13090S including the recommendation that an appropriate privacy policy be developed by each user. However, the breadth of the privacy challenge makes development of enduring solutions beyond the reach of any single operator with this task necessarily re-emerging as one which must be taken up by government. ACUO urges that as Recommendation 6 is developed further by CASA and the Australian Privacy Commissioner, commercial RPAS operators be closely engaged in this overall process rather than held at arms length. An appropriate structure, consistent with the recent finding of the Aviation Safety Regulation Review that CASA needs to consult more closely with the aviation industry, may be a joint regulator-industry privacy working group, this having a trilateral chair comprising a representative from CASA, a representative of the Australian Privacy Commissioner, and a commercial RPAS operator.</p>