



April 11, 2016

BY EMAIL
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FOIA Officer
National Telecommunications and Information Administration
U.S. Department of Commerce
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Dear FOIA Officer:

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the National Telecommunications and Information Administration (“NTIA”), U.S. Department of Commerce.

Documents Requested

EPIC seeks the following documents:

1. All communications up to August 3, 2015 involving/referencing Google and drones, including those communications involving/referencing Google and the NTIA multistakeholder process on drones.¹
2. All communications up to August 3, 2015 involving/referencing NetChoice and drones, including those communications involving/referencing NetChoice and the NTIA multistakeholder process on drones.
3. All communications up to August 3, 2015 involving/referencing Small UAV Coalition and drones, including those communications involving/referencing Small UAV Coalition and the NTIA multistakeholder process on drones.
4. All communications up to August 3, 2015 involving/referencing Hogan Lovells and drones, including those communications involving/referencing Hogan Lovells and the NTIA multistakeholder process on drones.

¹ “Drones” are also referred to as “Unmanned Aerial Vehicles,” “UAVs,” “Unmanned Aircraft Systems,” or “UAS” among other terms.

Background

On Feb 15, 2015, President Obama issued the Presidential Memorandum: Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems.² The Presidential Memorandum called for “ a multi-stakeholder engagement process to develop and communicate best practices for privacy, accountability, and transparency issues regarding commercial and private [drone] use in the [National Airspace System].”³ The Memorandum specifically called upon the Department of Commerce’s NTIA to start the process.⁴

Shortly after the Presidential Memorandum on drones was released, the “NTIA sought public comments regarding privacy, accountability, and transparency issues concerning [drones].”⁵ NTIA received over 50 comments, which “provided the basis of the [multistakeholder] group’s initial discussions.”⁶ Including the initial discussion on August 3, 2015, the NTIA has held five multistakeholder meetings on drones.⁷

The drone multistakeholder process, like previous NTIA multistakeholder processes, has been heavily dominated by involvement of industry representatives. In the NTIA’s recent privacy multistakeholder process on facial recognition technology, the consumer and privacy advocates participating withdrew from the process after industry stakeholders would not agree on minimum protections.⁸ As one of the privacy advocates

² Presidential Memorandum: Promoting Economic Competitiveness While Safeguarding Privacy Civil Rights, and Civil Liberties in Domestic Use on Unmanned Aircraft Systems, <https://www.whitehouse.gov/the-press-office/2015/02/15/presidential-memorandum-promoting-economic-competitiveness-while-safegua>.

³ *Id.* § 2(a).

⁴ *Id.* § 2(b).

⁵ NTIA, *Request for Comments on Privacy, Transparency, and Accountability Regarding Commercial and Private Use of Unmanned Aircraft Systems*, <https://www.ntia.doc.gov/federal-register-notice/2015/request-comments-privacy-transparency-and-accountability-regarding-comm>.

⁶ Angela Simpson, Deputy Assistant Secretary for Communications and Information, *Improving Privacy, Transparency, and Accountability for Unmanned Aircraft Systems*, NTIA Blog (July 13, 2015), <https://www.ntia.doc.gov/blog/2015/improving-privacy-transparency-and-accountability-unmanned-aircraft-systems>.

⁷ NTIA, *Multistakeholder Process: Unmanned Aircraft Systems*, <https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-unmanned-aircraft-systems>.

⁸ Elizabeth Weise, *Privacy Groups Leave Over Dispute on Facial Recognition USA Today* (June 16, 2015), <http://www.usatoday.com/story/tech/2015/06/16/facial-recognition-software-google-facebook-moments-ntia/28793157/>.

from the facial recognition multistakeholder process argued, “industry lobbying [] is shutting down Washington’s ability to protect consumer privacy.”⁹

The integration of drones into the National Airspace has privacy implications for all people living in the US. As the process of integrating drones moves forward, it is vitally important that transparency is maximized so the public can hold to account any process that purportedly seeks to mitigate the privacy risks of commercial drones. The documents EPIC has requested will provide the public with important insight on the drone industry’s communications with the government and contribute to an informed public debate on the need for drone privacy protections.

Request for “News Media” Fee Status and Fee Waiver

EPIC is a “representative of the news media” for fee classification purposes.¹⁰ Based on EPIC’s status as a “news media” requester, EPIC is entitled to receive the requested record with only duplication fees assessed.¹¹

Further, because disclosure of this information will “contribute significantly to public understanding of the operations or activities of the government,” any duplication fees should be waived.¹² According to the agency’s regulations, a fee waiver should be granted because (i) the subject of the request concerns “the operations or activities of the government”; (ii) disclosure is “likely to contribute” to an understanding of government operations or activities and the information is not already in the public domain; (iii) the disclosure “will contribute to the understanding of a reasonably broad audience of persons interested in the subject,” and EPIC has the “expertise in the subject area and ability and intention to effectively convey information to the public” (As the agency notes, “[i]t shall be presumed that a representative of the news media will satisfy this consideration.”); and, (iv) the disclosure is likely “to contribute ‘significantly’ to public understanding of government operations or activities.”¹³

Conclusion

Thank you for your consideration of this request. As provided in 5 U.S.C. § 552(a)(6)(A)(i), I will anticipate your determination on our request within 20 business days. For questions regarding this request I can be contacted at 202-483-1140 x108 or FOIA@epic.org.

⁹ Alvaro M. Bedoya, *Why I Walked Out of Facial Recognition Negotiations*, Slate (June 30, 2015), http://www.slate.com/articles/technology/future_tense/2015/06/facial_recognition_privacy_talks_why_i_walked_out.html.

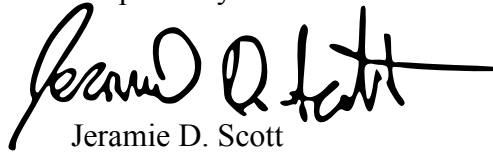
¹⁰ *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).

¹¹ 5 U.S.C. § 552(a)(4)(A)(ii)(II).

¹² § 552(a)(4)(A)(iii).

¹³ See 15 C.F.R. § 4.11.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Jeramie D. Scott". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jeramie D. Scott
EPIC National Security Counsel
Director, EPIC Domestic Surveillance Project