
The Parliament of the Commonwealth of Australia

Eyes in the sky

Inquiry into drones and the regulation of air safety and privacy

House of Representatives
Standing Committee on Social Policy and Legal Affairs

July 2014
Canberra

© Commonwealth of Australia 2014

ISBN 978-1-74366-178-9 (Printed version)

ISBN 978-1-74366-179-6 (HTML version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.



Contents

Foreword	v
Membership of the Committee	vii
Terms of reference	ix
List of abbreviations	xi
List of recommendations	xiii

THE REPORT

1 Introduction	1
Conduct of the inquiry	2
Structure of the report	3
Terminology.....	4
2 Our Drone Future.....	5
Current and future drone applications.....	6
Law enforcement and emergency services	6
Commercial and agricultural applications	8
Media applications	9
Scientific and research uses.....	10
Interest groups and recreational uses	11
3 Safety in the air.....	13
Safety concerns arising from RPA technology	13
CASA regulations – commercial and recreational use	17
Non-certified RPA use	20

Review of the regulations.....	25
Committee comment.....	29
4 Drones and privacy	33
A 'fractured landscape' – RPAs and privacy laws	33
Possible shortcomings of the current privacy regime.....	38
Uncertainty and access to remedies	38
Burden on industry	39
Gaps in the law	41
Private surveillance	42
Prospects for reform.....	43
A tort of privacy.....	45
Committee comment.....	46

APPENDICES

Appendix A	51
Appendix B	55
Appendix C	57

LIST OF TEXT BOXES

Text Box 3.1	15
Text Box 3.2	17
Text Box 3.3	22



Foreword

Australia's Remotely Piloted Aircraft or 'drone' industry is growing rapidly. Increasing numbers of consumers are buying and using drones, and they already play a role in a range of Australian industries, from journalism, cinematography, policing and emergency services, to agriculture, mining and scientific research. They come in a huge range of shapes and sizes, from large fixed-wing craft that look and behave much like aeroplanes right down to tiny multi-rotor helicopters weighing less than a kilogram. Drones are able to do jobs that were previously impossible, and they can reduce the cost – and the risk – of many 'dull, dirty or dangerous' jobs.

However, like any new technology, drones can be misused. They can pose a safety risk to other aircraft or to people and property on the ground, and the cameras and sensors they carry can be used to invade Australians' privacy. The challenge we face is to realise the potential of this innovative technology while protecting against its risks.

This report has surveyed the emerging issues around drone use and the adequacy of the existing regulatory framework. At a series of hearings and roundtables, the Committee heard from air safety regulators about the importance of allowing drone technology to mature so that the risk to people and property is minimised. The Committee also heard from privacy experts about the complexities and gaps in Australia's privacy laws which make it difficult to protect against privacy-invasive drone use.

Issues arising from the expanding use of drones will require sustained attention in years to come. It is the Committee's intention that the recommendations in this report serve as a starting point to adjust current privacy and air safety regimes in response to drone use. Further, the recommendations are intended to bring a more coordinated and harmonised regulatory approach to protecting Australians from malicious drone use while still permitting this dynamic new industry to grow.

I thank the Committee members for the diligence given to these serious issues and the industry groups, agencies and members of the public who assisted the Committee in this inquiry.

Mr George Christensen MP
Chair



Membership of the Committee

Chair Mr George Christensen MP

Deputy Chair Ms Sharon Claydon MP

Members

Ms Terri Butler MP (from 18/03/14)	Hon Mr Mark Dreyfus QC MP
Hon Ms Jenny Macklin MP (to 18/03/14)	Mrs Louise Markus MP
Mr Tony Pasin MP	Mr Graham Perrett MP
Hon Mr Christian Porter MP	Hon Dr Sharman Stone MP
Mr Michael Sukkar MP	

Committee Secretariat

Secretary	Dr Anna Dacre
Research Officer	Mr Peter Pullen
Administrative Officer	Ms Jessica Hargreaves



Terms of reference

On 12 December 2013, the House of Representatives Standing Committee on Social Policy and Legal Affairs resolved in accordance with Standing Order 215 (c) to conduct the following inquiry:

Inquiry into a matter arising from the 2012-13 Annual Report of the Office of the Australian Information Commissioner, namely the regulation of Unmanned Aerial Vehicles.



List of abbreviations

AAUS	Australian Association of Unmanned Systems
ACUO	Australian Certified UAV Operators' Association
AFP	Australian Federal Police
AGD	Attorney-General's Department
ALRC	Australian Law Reform Commission
ARCAA	Australian Research Centre on Aerospace Automation
CASA	Civil Aviation Safety Authority
CASR	Civil Aviation Safety Regulations
CSIRO	Commonwealth Scientific and Industrial Research Organisation
ICAO	International Civil Aviation Organisation
NFRM	Notice of Final Rule Making
NPRM	Notice of Proposed Rule Making
OAIC	Office of the Australian Information Commissioner
QFES	Queensland Fire and Emergency Services
QPS	Queensland Police Service
RPA	Remotely piloted aircraft
RPAS	Remotely piloted aircraft systems

UAS Unmanned aircraft system

UAV Unmanned aerial vehicle



List of recommendations

3 Safety in the air

Recommendation 1

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.

4 Drones and privacy

Recommendation 2

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.

Recommendation 3

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 include alternate measures to achieve similar outcomes, with respect to invasive technologies including remotely piloted aircraft.

Recommendation 4

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:

- listening devices
- optical surveillance devices
- data surveillance devices, and
- tracking devices

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.

Recommendation 5

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.

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.

Recommendation 6

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.

