

Applicability to Newsgatherers: Two changes

1. On page 2, Section II, Paragraph 1, Sentence 2:
 - a. Strike: “However, there is one additional section applicable to Newsgatherers and news reporting organizations, considering that their activity is strongly protected by the First Amendment to the Constitution of the United States (Section V).”
 - b. Replace with: “The only section applicable to newsgatherers and news reporting organizations is Section V considering that their activity is strongly protected by the First Amendment to the Constitution of the United States.”
 - c. Justification: The drafting of this sentence applying “one additional section” to the news media creates confusion where certainty is needed. A plain reading of the current draft would mean that the entire document applies the news media, as well as “one additional section,” Section V. We believe this was an error in drafting and can be fixed with this alternative language.

2. On page 6, Section V, Paragraph 2, Sentence 1:
 - a. Strike: “are not designed to apply”
 - b. Replace with: “do not apply”
 - c. Justification: The phrase “are not designed to apply” creates confusion where certainty is needed. It could be read as all the best practices apply even though that was not their design. Or it can be read as none of the best practices apply because they were not designed to apply. There is no need for ambiguity here. If the language is “are not designed to apply,” the Coalition would have to revisit the rest of the document and redline the whole document because it could be applied even though that was not its design. Restoring “do not apply” will provide certainty as to what we are all agreeing to in the document.

Affirmative First Amendment Rights: One change:

1. On page 6, Section V, Paragraph 2:
 - a. Add: A new sentence 2 in paragraph 2: “Newsgatherers and news reporting organizations may use UAS in the same manner as other technology to capture, store, retain and use data or images in public spaces.”
 - b. Justification: Section V needs to include the statement affirming the fundamental First Amendment rights to gather news consistent with all other technology – no more and no less. The FAA reauthorization passed by the Senate states the NTIA report to Congress “shall take into account existing rights protected under the First Amendment to the United States Constitution in public spaces and the First Amendment rights of journalists to control their archives.” An affirmative statement of First Amendment newsgathering in public places was critical for the News Media Coalition in the drafting

of our alternate draft. To address concerns this statement would do anything other than restate that the First Amendment protections apply in the same way for UAS as other technology, we removed the language “without limitation” from this sentence that we had previously proposed in our alternate proposal. This modified sentence ensures everyone’s intent that newsgatherers and news reporting agencies retain the exact same rights and restrictions to gather the news that they currently have under the Constitution.

With these changes, the resulting text in Sections II and V would read:

II. APPLICABILITY

These voluntary Best Practices for UAS focus on data collected via a UAS, which includes both commercial and non-commercial UAS. The only section applicable to newsgatherers and news reporting organizations is Section V considering that their activity is strongly protected by the First Amendment to the Constitution of the United States. ~~However, there is one additional section applicable to Newsgatherers and news reporting organizations, considering that their activity is strongly protected by the First Amendment to the Constitution of the United States (Section V).~~ There is also an Appendix entitled, “Guidelines for Neighborly Drone Use” that is intended to be a quick and easy reference guide for recreational UAS operators.

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V. BEST PRACTICES FOR NEWSGATHERERS AND NEWS REPORTING ORGANIZATIONS

Newsgathering and news reporting are strongly protected by United States law, including the First Amendment to the Constitution. The public relies on an independent press to gather and report the news and ensure an informed public.

For this reason, these Best Practices ~~do not are not designed to~~ apply to newsgatherers and news reporting organizations. *Newsgatherers and news reporting organizations may use UAS in the same manner as other technology to capture, store, retain and use data or images in public spaces.* Newsgatherers and news reporting organizations should operate under the ethics rules and standards of their organization, and according to existing federal and state laws.

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