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April 20, 2015

John Verdi
Director of Privacy Initiatives
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue NW.
Room 4725
Washington, DC 20230

(Submitted electronically via email to UASrfc2015@ntia.doc.gov)

RE: Comments on Privacy, Transparency, and Accountability Regarding Commercial and Private Use of Unmanned Aircraft Systems; Docket ID No: 150224183-5183-01

Dear Director Verdi:

I am writing on behalf of the more than one million members of the National Association of REALTORS® (NAR) to comment on the National Telecommunications and Information Administration (NTIA) request regarding Privacy, Transparency, and Accountability Regarding Commercial and Private Use of Unmanned Aircraft Systems (UAS).

The National Association of REALTORS® is America's largest trade association. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®. Commercial and residential REALTORS® across the country are excited to use unmanned aircraft systems (UAS) in the National Air Space (NAS) in their businesses for aerial photography, videography, and property inspection.

Citizen safety and privacy are a primary concern of REALTORS® and we appreciate the steps that the NTIA has taken to ensure that these values are protected. REALTORS® are committed to working with the NTIA to balance the exciting business opportunities that this technology represents with safe operation and clear citizen privacy protections. NAR envisions some REALTORS® using the UAS technology themselves, while others might work with third-party contractors.

In envisioning the growth of the UAS industry in real estate, there are three areas of best practices that NAR values greatly. Beyond safe operation of the technology, business practices espousing transparency, accountability and notice are critical to the success of the UAS industry. NAR believes that safe operation of UAS technology can be bolstered by a transparent network of rules, operators, users, and enforcement. Easily identifiable information about the operator of the machine will lead to transparency and accountability. Keeping operators accountable for safety and privacy requirements is essential to the successful integration of UAS into the NAS. Creating common protocol for notice procedures will keep operators and bystanders safe, and foster a culture of safety within the UAS community.

REALTORS® work with sensitive consumer data each day, and thus understand the value of strong safeguards for privacy. The personal information that is necessary for a consumer to buy or lease a property is essential for a REALTOR® to facilitate the transaction.



REALTORS® have long been developing and practicing industry standards to protect this information.

NAR has been a leader in data privacy and security issues for several years. The NAR Board of Directors has adopted data security and privacy policy principles that guide Association activity and member standards. Based on these principles, NAR has been active in both legislative and regulatory activities concerning data privacy and security. In January 2015, NAR updated its *Data Security and Privacy Toolkit*, aimed at educating real estate associations, brokers, agents, and Multiple Listing Services about the need for data security and privacy and assist them in complying with legal responsibilities. The *Toolkit* was created in 2011 to address industry challenges with data privacy and security.

In addition to these efforts, REALTORS® rely on the REALTOR® Code of Ethics to self-govern the membership. This document, first presented in 1913, has been the cornerstone of the REALTOR® brand for millions of professionals, consumers, and the business community. The Code is a living document that is frequently updated to represent the changing needs of the REALTOR®. There are several entries in the Code that address consumer privacy, reflecting REALTORS® longtime sensitivity to the issue.

I. Applications of UAS Technology in Real Estate

The applications for use of UAS technology in real estate are plentiful and encompass a variety of activities. The images and videos obtained through using UAS technology are the next step in consumer information for the digital age.

A residential real estate practitioner can use a video or images obtained through UAS technology to create a robust web-based listing that can be viewed by potential purchasers. Buyers can see the interior and exterior of the home, and views afforded by different vantage points on the property previously difficult or too expensive to access for photographs. The aerial imagery brings a new level of sophistication and accessibility to the images and information that is available to both the real estate practitioner and his or her clients.

This is an incredible tool for potential homeowners in several common situations such as moving to a different city, buying a second home, or trying to streamline the research process necessary to buy a new home. Being able to easily view the information obtained through the use of UAS technology will help better inform the consumer. Just as digital photography made it easier to create high-quality, affordable images that are listing-ready, real estate practitioner want to use UAS technology to take their listings into the next level in technical creativity and quality.

Many structures are not well suited for conventional photography due to their size, height, or unconventional shape. Introducing UAS technology will be very helpful to commercial real estate practitioners who work with properties such as strip malls, office parks, parking lots, or farms. Commercial properties such as a shopping center, an office building, or a restaurant often can't be seen as a whole in a single image. Using images taken from an UAS can help the real estate practitioner efficiently present complex properties for marketing purposes. The ability of a potential buyer or tenant to examine a several thousand square foot office building, including exterior walls, parking structures, roof, and other fixtures from the safety and comfort from his or her office is an invaluable advantage afforded by the use of UAS technology.

Traditionally these properties have been photographed using a helicopter or small plane to obtain images. Using a UAS is less expensive, less time consuming, and less dangerous to everyone involved.

The same benefits also apply to land sales. Real estate practitioners often work on deals with properties that are hundreds or thousands of acres of farmland, timber, or undeveloped land. Potential buyers can see the topography, geography, hydrogeology features, as well as examine what plants are growing and what animals live on the property. Spending a few minutes looking at the images collected from an UAS is more efficient and safer than spending hours or days driving around a property or even flying above it in a chartered plane or helicopter.

Any consumer making a real estate purchase or entering into a lease can benefit from the images obtained by using an UAS. The images are another tool for a real estate professional to use to help a consumer make an informed decision about the property he or she is considering purchasing. UAS-obtained images are a cost-effective way to get more information to the consumer, when compared with previous methods for aerial photography such as a helicopter or small airplane.

Just like online listings and 360 degree virtual tours, UAS-obtained imagery is a further advancement of technology that puts brokers and agents in a better position to serve their clients, and the consumers in a better place to make an informed decision.

II. Transparency, Accountability and Notice

NAR believes that transparency and accountability of UAS operations are values that are essential to the successful integration of this new technology into the NAS. Just as cars, boats, airplanes and other movable machines have registration requirements, so should UASs. To understand the identity of the owner and operator of the machine is to create a culture of accountability within the UAS user community.

NAR believes that a reasonable approach to accountability that permits this technology to be used responsibly while honoring citizen safety and privacy is an important goal. NAR believes that UAS operators should have to comply with operating rules and guidelines, and that increased transparency will help achieve goals of accountability.

Sharing best practices among operators and educators would help elevate standards throughout the industry. By exchanging ideas and problem-solving strategies, operators and educators can learn from past experiences.

More information about safe operation can help consumers make better decisions about working with an UAS operator. Transparency about safety records can help REALTORS® select an UAS operator with a good safety record. REALTORS® want to work with responsible operators, and providing more information through transparency will help foster safety as a goal for the UAS industry. Consumers respond to safety information in many fields such as selecting restaurants, a car, hotels, other services, so it makes sense to make that information available about UAS services.

NAR believes that one of the first steps of a safe UAS flight is providing adequate notice to people nearby the operation who are not directly participating in the operation of the UAS. Developing a proper protocol that will acknowledge safety and privacy concerns for both the operator and bystanders is essential for successful integration of UAS into the NAS.

There is currently no standardized protocol for notice to bystanders before or during an UAS flight. This creates a great leadership opportunity for the NTIA, along with the FAA and industry partners, to create a system-wide protocol for operations that will achieve safety and privacy goals that reflects the values of transparency and accountability discussed above.

Until a standardized protocol for notice is developed, operator procedure will vary from operator to operator. As Section 333 waivers become more widely available and until the FAA rules for small UASs are finalized, this will result in a patchwork of practices. Citizens and consumers should be able to have a single set of standards so that notice protocols are predictable across the country. Predictability in the market will lend itself to the accountability and best practices discussed above.

NAR supports policies that lead to predictability when it comes to safety and privacy of citizens. Consistent application of notice policies for UAS operation is a critical aspect of the safe integration of UAS into the NAS.

III. REALTOR® Code of Ethics and Board of Directors Policy

a. REALTOR® Code of Ethics

In 1908, the National Association of Real Estate Exchanges was founded in an effort to standardize real estate practices; the entity later became the National Association of REALTORS®. The organization's original goals were to establish ethical standards, allow for the exchange of real estate information and statistics, and to develop sound public policies on real estate matters. On July 29, 1913, the REALTOR® Code of Ethics was adopted.

All REALTORS® must take comprehensive training on the Code of Ethics, which has been amended 37 times and is considered a living document that protects sellers, buyers, landlords, tenants and others who place their trust in REALTORS®.

REALTORS® are accustomed to working with sensitive client data with each transaction. Consumer's financial information, social security number, and other information is often part of the information necessary when making a real estate purchase or entering into a lease. REALTORS® have been trained in privacy protections for consumers. NAR provides continuing education on the changing requirements of privacy laws for its members,

and provides these resources to its state and local associations. As it has in the past when industry standards have evolved on such issues as keeping personally identifiable information of clients on computer networks, NAR will make a point of staying abreast of the requirements set by the NTIA for operation of UAS technology and will provide its members with the most up-to-date information on them.

The REALTOR® culture that has grown for over 100 years around the REALTORS® Code of Ethics is reflected in the Code's continual updating to reflect modern challenges, changing technology, and the needs of both the REALTOR® and the client. Two excerpts reflect specifically the challenges anticipated when using UAS technology to gather information.

REALTOR® Code of Ethics

Duties to Clients and Customers

Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

Standard of Practice 1-9

The obligation of REALTORS® to preserve confidential information (as defined by state law) provided by their clients in the course of any agency relationship or non-agency relationship recognized by law continues after termination of agency relationships or any non-agency relationships recognized by law. REALTORS® shall not knowingly, during or following the termination of professional relationships with their clients:

- 1. reveal confidential information of clients; or*
- 2. use confidential information of clients to the disadvantage of clients; or*
- 3. use confidential information of clients for the REALTORS®'s advantage or the advantage of third parties unless:*
 - a) clients consent after full disclosure; or*
 - b) REALTORS® are required by court order; or*
 - c) it is the intention of a client to commit a crime and the information is necessary to prevent the crime; or*
 - d) it is necessary to defend a REALTORS® or the REALTORS®'s employees or associates against an accusation of wrongful conduct.*

Information concerning latent material defects is not considered confidential information under this Code of Ethics. (Adopted 1/93, Amended 1/01)

Article 12

REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional. (Amended 1/08)

Standard of Practice 12-10

REALTORS® obligation to present a true picture in their advertising and representations to the public includes Internet content posted, and the URLs and domain names they use, and prohibits REALTORS® from:

- 4. engaging in deceptive or unauthorized framing of real estate brokerage websites;*
- 5. manipulating (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;*
- 6. deceptively using metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic; or*
- 7. presenting content developed by others without either attribution or without permission, or*
- 8. to otherwise mislead consumers. (Adopted 1/07, Amended 1/13)"*

As with other forms of technology, REALTORS® rapidly respond to integrate best practices necessary into their businesses. REALTORS® want to keep up with the pace of business and consumer demands, especially regarding technological advances. The privacy challenges presented by using UAS photography and videography

are one of the next modern challenges that REALTORS® will face. Given that REALTORS® are steeped in a culture of ethics, it is expected that these professionals will respond with discipline and cooperation. Just as with the duty to protect personally identifiable information, REALTORS® will adapt to the accountability and privacy requirements of UAS photography.

The National Association of REALTORS® prides itself on being the leading industry for real estate professionals. That includes REALTOR® use of technology and its unintended consequences. NAR welcomes the opportunity to work with the NTIA and other stakeholders to create a set of guidelines that will ensure that the UAS technology can be used in a way that is respectful of citizen privacy. NAR's Code of Ethics and the culture that has grown around it are emblematic of its members' commitment to protecting consumer information. NAR is committed to educating its members about responsible use of UAS technology, including respecting citizen privacy.

b. REALTOR® Board of Directors Policy

The Board of Directors of the National Association of REALTORS® has adopted the following principles regarding best practices and data privacy. These principles are meant to provide a model for members on how to deal with the sensitive information that REALTORS® handle each day in the course of business. These principles also demonstrate how, as an organization, NAR views and values best practices for data privacy.

NAR Principles

REALTORS® recognize that as data collection continues to become a valuable asset for building relationships with their clients, so does their responsibility to be trusted custodians of that data. Consumers are demanding increased transparency and control of how their data is used. While each state has its own definition of "Personally Identifiable Information," for purposes of these principles "personal information" will be interpreted broadly to mean any information that can be used to uniquely identify, contact, or locate a single person or can be used with other sources to uniquely identify a single individual.

For this reason, REALTORS® endorse the following Data Privacy and Security principles:

Collection of Personal Information Should be Transparent

REALTORS® should recognize and respect the privacy expectations of their clients. They are encouraged to develop and implement privacy and data security policies and to communicate those policies clearly to their clients.

Use, Collection and Retention of Personal Information

REALTORS® should collect and use information about individuals only where the REALTOR® reasonably believes it would be useful (and allowed by law) to administering their business and to provide products, services and other opportunities to consumers. REALTORS® should maintain appropriate policies for the reasonable retention and proper destruction of collected personal information.

Data Security

REALTORS® should maintain reasonable security standards and procedures regarding access to client information.

Disclosure of Personal Information to Third Parties

REALTORS® should not reveal personal information to unaffiliated third parties unless 1) the information is provided to help complete a consumer initiated transaction 2) the consumer requests it; 3) the disclosure is required by/ or allowed by law (i.e. investigation of fraudulent activity); or 4) the consumer has been informed about the possibility of such disclosure through a prior communication and is given the opportunity to decline (i.e. opt-out.)

Maintaining Consumer Privacy in Business Relationships with Third Parties

If a REALTOR® provides personal information to a third party on behalf of a consumer, the third party should adhere to privacy principles similar to the

Single Federal Standard

NAR supports a single federal standard for data privacy and security laws in order to streamline and minimize the compliance burden.”

IV. Conclusion

In conclusion, REALTORS® are excited about the opportunities afforded by using UAS technology. NAR supports NTIA’s efforts to create operational standards for safety and privacy of citizens. NAR looks forward to working with the NTIA to educate its members about safe and responsible UAS use.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Polychron". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chris Polychron
2015 President, National Association of REALTORS®