

# CLIENT ALERTS

---

## An Enlightened FCC

### Client Alert

1.5.2023

In a client alert last month, we addressed the problems that can arise when there are clashes between Executive federal agencies subject to the directions of the President (such as the Department of Transportation) and Independent federal agencies not subject to the direction and oversight of the President (such as the Federal Communications Commission). We illustrated this by discussing the problem of C-band spectrum potentially causing interference to altimeters on-board aircraft, where the FCC and the FAA disagreed on the level of potential interference, the safety risks and possible solutions – Aviation and the 5G/C-band. But we are also glad to be able to report on a more recent development that demonstrates that these different types of federal agencies can also work cooperatively to address an issue that is also critical to aviation – spectrum for unmanned aircraft. On January 4<sup>th</sup>, the FCC released a Notice of Proposed Rulemaking (NPRM) for creating service rules to govern licensing and operation of spectrum for unmanned aircraft systems – FCC Starts Rulemaking. Access to licensed spectrum will be critical to provide for reliable links between remote pilots and the unmanned aircraft, for communications between air traffic control and the unmanned aircraft, and for communications directly between unmanned aircraft.

The FCC recognizes that much work remains to be done with regard to establishing standards for operation of unmanned aircraft, but the NPRM proposes several initial steps in that process of developing comprehensive regulations for UAS spectrum licensing and use. The NPRM seeks comment on service rules for the 5030-5091 MHz band that will provide Unmanned Aircraft Systems (UAS) operators with communications links capable of supporting safety-critical communications links. In addition, the NPRM seeks comment on whether using terrestrial service spectrum, such as cellular

### Related People

Erin Malone  
Associate

### Related Services

Aerospace & Defense Industry  
Team

Aerospace and Defense

Emerging Technology

Emerging Technology Specialty  
Team

Telecommunications and  
Technology

## CLIENT ALERTS

---

networks, to provide UAS links in a manner that allows both the terrestrial and UAS networks to operate without causing harmful interference between these different systems. Finally, the FCC seeks comment on the potential grant of licenses in the aeronautical VHF band to UAS operators to allow those systems to communicate with air traffic control and other aircraft. Comments are due 30 days after publication of the NPRM in the Federal Register, and reply comments are due 30 days after the initial comment date.

Importantly, the FCC in the NPRM also recognizes the critical roles that two Executive Agencies -- the Federal Aviation Administration and the National Telecommunications and Information Administration -- play with regard to these issues. The FCC acknowledges the need to closely coordinate with these other federal agencies:

“Accordingly, a whole-of-government approach is needed to ensure that this proceeding addresses the relevant concerns and issues within the responsibility of each stakeholder agency and that our efforts in this area work in complement with those of our federal partners to support and promote the safe and productive operation of UAS. To facilitate this approach, we have consulted with [the FAA and NTIA] in the preparation of this NPRM, and will continue to do so as the proceeding advances.”

We are heartened by the FCC enlightenment on this issue.

If you have any questions about this topic, or if you need any assistance preparing comments for the FCC proceeding, please contact the authors or your Butzel attorney for further assistance.

**Steve Goodman**

202.454.2851  
goodman@butzel.com

**Erin Malone**

313.225.7063  
malone@butzel.com