

**SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION:
QUESTIONS FOR THE RECORD**

**HEARING ON
UNMANNED AIRCRAFT SYSTEMS: KEY CONSIDERATIONS REGARDING SAFETY, INNOVATION,
ECONOMIC IMPACT, AND PRIVACY
TUESDAY, MARCH 24, 2015**

**Questions for Professor John Villasenor, Nonresident Senior Fellow, The Brookings
Institution**

From Chairman Thune

- 1. What can Congress do now to help the FAA and other stakeholders facilitate the integration of UAS in a safe and secure manner?**

Answer. Congress is uniquely positioned to promote safe and secure UAS integration. Three years ago, by enacting the FAA Modernization and Reform Act of 2012 (FRMA), Congress has already taken the key initial step in this process.

Moving forward, Congress can play a key role in continuing to promote dialog, raise awareness, and spur the FAA and other relevant government entities to take the regulatory and other steps needed to ensure the safe, responsible, and productive use of UAS technology.

In a future Commerce Committee hearing on UAS, I would recommend including a one or more representatives from the UAS hobbyist community. Some of America's greatest innovators have started out as hobbyists – and that will certainly occur in the realm of UAS as well. The UAS hobbyist community is different in many ways from the commercial UAS community – and operates under a different regulatory framework. Ensuring that Members of the Committee have the opportunity to hear about this important aspect of the UAS ecosystem will be helpful as the UAS policy discussion continues.

From Senator Wicker

- 1. Does Congress need to pass legislation for federal preemption?**

Answer. At present, I do not believe that Congress needs to specifically pass legislation for federal preemption with respect to UAS. That may change in the future – if, for example, states were to enact legislation that would potentially impede the FAA's ability to oversee the safety of the National Airspace System, especially at the lowest altitudes where UAS operations will be most common. But, at least at present, I do not believe such legislation is warranted.

2. Should Congress treat privacy issues associated with UAVs differently than other technologies?

Answer. As I noted in my written testimony in the March 24, 2015 hearing, I think that existing privacy frameworks – including the Constitution, common law, and statutory law – will provide significantly more privacy protection with respect to UAS than is sometimes suggested.

While the temptation to enact UAS-specific privacy laws is understandable, it is difficult to draft laws that would both 1) avoid being duplicative with respect to protections we already have, and 2) avoid unintended consequences that could impede non-privacy-violating uses of UAS.

In addition, UAS technology is changing very quickly. As I wrote in testimony before the House Judiciary Committee in 2013:

If, in 1995, comprehensive legislation to protect Internet privacy had been enacted, it would have utterly failed to anticipate the complexities that arose after the turn of the century with the growth of social networking and location-based wireless services. The Internet has proven useful and valuable in ways that were difficult to imagine over a decade and a half ago, and it has created privacy challenges that were equally difficult to imagine. Legislative initiatives in the mid-1990s to heavily regulate the Internet in the name of privacy would likely have impeded its growth while also failing to address the more complex privacy issues that arose years later.¹

Finally, even if UAS-specific privacy laws are shown to be necessary, such laws may in some cases be better handled at the state level.

¹ *Eyes in the Sky: The Domestic Use of Unmanned Aerial Systems*, Written Testimony of John Villasenor before the House Committee on the Judiciary - Subcommittee on Crime, Terrorism, Homeland Security, and Investigations (May 13, 2013), available at <http://www.brookings.edu/~media/research/files/testimony/2013/05/17%20privacy%20drones%20villasenor/villasenortestimonymay17>