

Drone Talk: What Are the Legal Concerns at Meetings?

This Law Review was written by Timothy A. French and edited by Jed R. Mandel, both of whom are founding members of Chicago Law Partners, LLC. CLP serves as Association Forum's general counsel.



Q: Can we use "drones" to film and take pictures at our next conference?

A: The use of unmanned aerial vehicles (UAV)—sometimes referred to as drones, hover-cams or quadcopters—to plan, market, broadcast and record meetings and events is a growing phenomenon and an emerging trend that raises a number of legal concerns, including potential liability, privacy and legal authority issues.

If you are interested in using a UAV at an event, it is prudent to hire a company that is both experienced in operating UAVs and knowledgeable about the applicable laws, rules and regulations. Make sure that your agreement with the vendor includes representations and warranties concerning the quality of the services that will be provided and provisions indemnifying your organization in the event of an accident, the vendor's negligence, or failure to follow applicable laws and rules. Also, make sure that the vendor has insurance that will cover your organization in the event of an accident.

If you want to use the UAV to take pictures, you must get permission from attendees to be photographed and to use those images for marketing or other purposes. And don't forget your exhibitors—they may not want their booths to be photographed or filmed. As such, you should make sure to notify your attendees, guests, exhibitors, and officials that their attendance at the meeting constitutes their express permission for themselves (and their exhibits) to

be photographed and filmed, and that images may be used by the organization in promotional and other materials.

Finally, don't automatically assume that you may use a UAV in or around the convention center or meeting space. The Federal Aviation Administration (FAA) has jurisdiction over the operation of UAVs. In February 2015, it proposed new regulations to govern the commercial use of UAVs, but those regulations are not yet final. In the meantime, anyone interested in operating a UAV for "low-risk" commercial purposes must obtain a Section 333 exemption from the FAA. By law, any aircraft operating in national airspace must be certified and registered and must be operated by a licensed pilot. Under Section 333, however, the FAA can grant exemptions from the requirement for airworthiness certificates, which it does in the case of UAVs. To date, the FAA has issued more than 4,500 Section 333 exemptions for UAV operation. All Section 333 exemptions are issued with a "blanket" Certificate of Authorization (COA), which allows UAV operation for aircraft that weight less than 55 pounds and that (1) operate during daytime visual flight rule conditions, (2) maintain a visual line of sight with the pilot, (3) do not exceed an altitude of 400 feet, and (4) maintain specified minimum distances (e.g., five miles) from airports, restricted airspace and major cities. UAV operators are required to have a recreational or sport pilot certificate (as well as a valid driver's license).

In addition to the need for a valid Section 333 exemption, any-

one interested in operating a UAV must comply with all applicable local ordinances and convention center rules. For example, the City of Chicago enacted an ordinance in November 2015 that, in addition to adopting the FAA's COA requirements, prohibits UAV operation between the hours of 8 p.m. and 8 a.m., as well as over schools, hospitals, churches, police stations, stadiums and any "property the operator does not own."

Convention centers typically have their own rules regarding UAVs. At Chicago's McCormick Place, UAV operation requires specific preapproval from convention center management and is further subject to the condition that "no other personnel [other than the pilot] can be present when the drone is being flown." The Los Angeles and Las Vegas convention centers are more flexible regarding the use of "aerial drones." At those facilities, the following conditions generally apply:

- Approval must be obtained from convention center management before flying any device.
- Evidence must be provided of a Section 333 exemption and compliance with FAA requirements.
- A copy of the UAV's manufacture and operational guidelines must be provided to the local fire marshal.
- UAVs may not be flown in lobbies, restaurants or other common areas.
- UAVs are only allowed to fly in defined exhibit booth space or meeting rooms.
- UAVs cannot fly over people; the public must be protected

from UAVs with the use of netting, plastic or another approved safety feature, such as tethers.

- UAVS are generally prohibited from flying within 18 inches of any building structure, including sprinklers.

In light of the foregoing, meeting organizers interested in using UAVs should consider the following steps:

1. Hire an experienced vendor using a written contract including appropriate representations and warranties, indemnifications, and insurance requirements.
2. Notify all attendees and obtain their permission to be filmed/use their likeness.
3. Confirm whether the meeting site will allow the use of UAVs and under what conditions.
4. Consult with the local fire marshal or other official to inquire about any other UAV operating conditions and permits.
5. Ensure that any relevant meeting contracts allow for any intended use of UAVs.
6. Confirm that the UAV operator has a valid Section 333 exemption and adequate insurance.
7. Clearly define the areas of operation for any UAV (including through use of all necessary protective barriers), and provide clear notice to all meeting attendees. **f**

The answers provided here should not be construed as legal advice or a legal opinion. Consult a lawyer concerning your specific situation or legal questions.