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## India: The Draft Guidelines on Operation of Unmanned Aircraft as Issued by The DGCA Lacks Bite

08 September 2016

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Of late, lots of interest is being shown for the use of Unmanned Aircraft / Drones in the country both for commercial and recreational purposes. While drones have a potential for a large number of civil applications, their use, besides being a safety issue, also poses a security threat, as well as having the potential for invading privacy.

The airspace over the Indian cities already has a high density of aircraft traffic and the unregulated use of drones poses a grave threat for air collisions and accidents.

In light of the above, I am of the considered opinion that issues of security, enforcement and penalty, have not been adequately dealt with under the draft Guidelines. For instance, the Guidelines provide that a drone shall not be sold in any way without the permission from the DGCA. Now without adequate enforcement and penalty provisions, such a provision will remain ineffective. Drones continue to be sold unabated in markets and it will be extremely difficult to enforce the provision of seeking DGCA's permission for "any sale of drones" in India.

There has to be a monetary penalty associated with the unauthorized use of drones in India, as against the incumbent penalty of merely cancelling / suspending the operating permit issued by the DGCA. Take for instance, the recent case in the US in October last year, where the Federal Aviation Administration (FAA), imposed a hefty penalty amounting to USD 1.9 million on a startup – SkyPan International – for conducting drone flights without the required authorization from the regulator.

Without adequate monetary fines, the penalty provisions of the Guidelines will lack the proper 'bite' to make them effective and be taken seriously. The regulator should

also seriously consider penalty provisions to make it obligatory upon the 'offenders' to deposit the penalty amount in an escrow account pending litigation. This will ensure that the operators of UAS take their responsibilities seriously and do not fall foul of their regulatory obligations.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

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