Regulatory update from Unmanned Canada National Conference and Tradeshow 2019

December 9, 2019

From October 30 to November 1, 2019, Canada's drone industry gathered in Ottawa for the 12th annual Unmanned Canada National Conference and Tradeshow. Approximately 400 participants and 60 speakers discussed Canada's current legal and visual line of sight (VLOS) regulatory framework, counter-drone measures, new technologies, integrating drones into Canadian airspace, and the future of beyond visual line of sight (BVLOS) operations.

Key regulatory updates and takeaways from the Conference include:

The new VLOS regulations: Reflection of the first six months

Several Transport Canada (TC) officials spoke about the state of affairs since the new VLOS regulations came into force on June 1, 2019:

- TC is pleased with the new performance-based regulations that have moved away from the special flight operations certificate (SFOC) approach. Overall, TC believes that the new regulations make compliance easier for operators.
- TC commented that they have been overwhelmed by applications from foreign pilots (approximately 1,000 applications). TC had not anticipated the level of uptake of foreign pilots that would want to fly in Canadian airspace. They are in the process of developing a streamlined examination process for foreign applicants and/or equivalencies to permit them to more easily fly in Canadian airspace.
- TC is in the process of finalizing partnerships with first responders to utilize drones in "exigent circumstances".
- When asked whether TC would agree to relax geofencing around airports for certain operators, the Deputy Minister conceded that TC would evaluate these requests on a case-by-case basis. However, TC is "very concerned" about an "adverse interaction" between drones and manned aircraft, and is unwilling to sacrifice principles of safety.

NAV CANADA also spoke about its experience since the new VLOS regulations came into force, and provided its perspective to attendees:

- NAV CANADA commented that it had processed approximately 1,800 requests per month for controlled airspace operations under section 901.71 of the CARs since the new VLOS regulations came into force.
- NAV CANADA described its systematic approach, which permits the efficient processing of applications that are away from control zones and under the maximum altitude. Where the risk and complexity of operations increase with flights in or near control zones, more time and coordination is required by the involved ATC unit that will be affected by the operation. NAV CANADA's goal is to find ways to allow operations to proceed without posing risks to

aviation safety.

- Additionally, NAV CANADA communicated that it understands the need to automate processing and responses to clearance requests for operations, and is in the process of preparing a situational awareness app to assist operators with flight planning, accessing NOTAMs, understanding airspace restrictions, and automating the existing authorization process.

What is on the horizon from a regulatory perspective for VLOS operations?

- The industry should expect some “surgical” amendments to the VLOS regulations to improve the ability to comply. TC is considering regulations relating to the remote identification of drones in order to align Canada with the US. TC will likely initiate a CARAC process in this regard shortly.
- In the near future, TC will be looking into the certification process and airworthiness standards for drones weighing more than 25kgs.
- A more formal drone advisory committee will be established in 2020.
- A member of TC was elected the Vice-Chair of the Joint Authorities for Rulemaking on Unmanned Systems (JARUS) for a two-year term, which will help TC align with international partners and defend Canadian interest in the international forum.

BVLOS operations

- TC estimated that approximately 30-60 hours is required to evaluate each BVLOS application it has received to date. Operators who deliver applications that follow the requirements set out in the regulations and consider as many of the risks as possible are more likely to be approved and processed in a timely manner. TC (in conjunction with NAV CANADA) is currently attempting to streamline the process for BVLOS operations near or in controlled airspace.
- At present, there is a practice of issuing notices to airmen (NOTAMs) pursuant to s. 5.1 of the *Aeronautics Act* and closing airspace for BVLOS applications. TC views this practice as a short-term solution; BVLOS operations will ultimately need to be integrated with—not segregated from—manned aircraft traffic
- TC expects to be authorizing more low-risk BVLOS operations, including those in remote areas, atypical airspace and uncontrolled airspace, where there are good use cases based on Canadian geography that will permit TC and industry to learn together.
- TC is focusing on a stepped approached to permitting BVLOS operations. TC is developing a Canadian SORA (specific operations risk assessment) process to analyze the risk associated with BVLOS operations.
- NAV CANADA is investing significant time and attention to supporting BVLOS operations in a manner that will preserve and ensure the safety of all aviation operations.
- The *Canada Gazette* Part I publication of BVLOS regulations are anticipated in 2020, with *Canada Gazette* Part II publication slated for 2022.

Remote traffic management for drones: Soon to be a reality in Canada

- In January 2019, a joint government and industry group was established to create a roadmap for the development of remote traffic management (RTM) in Canada: the Remote Traffic Management Action Team (or RTMAT).
- With input from NAV CANADA and other stakeholders, TC will undertake a risk-based, multi-phased rollout approach. The aim of the rollout will be to facilitate the full integration of drones into a harmonized air traffic management system.
- The RTMAT collaborated and has devised a stepped approach to the implementation of RTM in Canada. TC communicated that it will initiate the implementation of the plan with a focus on primary and secondary services within the next 12 months. Approximately 30 different services are necessary to run an RTM.
- The RTM rollout will commence shortly, and will involve trials in different environments (urban, rural and airport), a consideration of necessary amendments to the regulations to facilitate progress and how to fund these developments. In the early stages, RTM operations will be required to remain below 400ft and separated from manned aircraft.
- With the rollout of RTM, safety remains TC's main priority. Technological advances and industry expertise will need to continue to develop to allow it to move forward.

Many other exciting developments were discussed and industry presentations made, including a session presented by Dentons on key legal considerations for drone industry participants. For more information, or to discuss the exciting regulatory and industry developments, please contact Kathryn McCulloch, Rachael Andrew or another member of Dentons' Aviation team.

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