

Frequency Check: Is Your UAS FCC Compliant?

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Authors: [David M. Krueger](#)

The past decade has seen a rapid increase in the use of unmanned aircraft systems (“UAS”) (sometimes, though unusually inaccurately, called “drones”). The integration of UASs into the national airspace continues to be an area of major attention for the FAA and industry proponents. While the FAA naturally plays a crucial role in this process, UASs by definition, are unmanned. As such, it is equally critical that UAS manufacturers ensure compliance with all applicable requirements of the Federal Communications Commission (“FCC”), as evidenced by the FCC’s recent civil penalty imposed against Lumenier Holdco LLC (f/k/a FPV Manual LLC) (“Lumenier”).

Lumenier sold a series of UASs that were marketed purportedly as constituting Amateur Radio equipment. Generally speaking, equipment that is for amateur use is typically exempt from FCC certification requirements. The problem, however, was that many of Lumenier’s UASs did not operate on approved frequencies and operated on frequency bands reserved for federal aviation navigation and communication (amongst other unapproved bands). Further, even some of UASs that operated in approved frequencies still used unauthorized transmitters which exceeded the authorized power limit (1 watt) for model aircraft.

Lumenier ceased all sales of the deficient UASs upon notice from the FCC. However, this was not enough for the FCC. Instead, the parties entered into a Consent Decree in which Lumenier admitted liability. Even though there were fortunately no adverse incidents that occurred, the FCC also imposed a civil penalty of \$180,000 against Lumenier.

The significance is obvious: UAS manufacturers must ensure that all aspects of their equipment are compliant with FCC regulations. Whether a UAS is FCC compliant is not simply limited to ensuring operation in approved frequency bands. UAS manufacturers must also ensure the transmitter’s compliance with the FCC’s Equipment Authorization and Marketing Rules, including but not limited to power limits and any potential equipment registration and approval requirements.

Companies must engage qualified counsel to ensure their devices comply with all FCC requirements and should not rely on internal technical expertise alone. Failure to ensure compliance may result in steep fines from the FCC or potentially even more onerous penalties (not to mention negative press), even if no adverse incidents ever occur.

For more information on this topic, contact a member of our [Transportation & Logistics Practice Group](#).

David Krueger | dkrueger@beneschlaw.com | 216.363.4196

David is a partner with the firm’s Litigation and Transportation & Logistics Practice Groups, representing businesses in commercial and consumer disputes, aviation, and class action litigation, and maintains currency on both his private pilot and remote pilot certificates.