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**Comments on the European Commission Proposal (version October 2018):
Commission Implementing Regulation on the rules and procedures for the
operation of unmanned aircraft (with Annex)**

In our view, the Regulation in question improves the proposals so far known and edited by the EASA, in favour of a good future for the operation of model aircraft. Nevertheless, we would like to see several changes to avoid unnecessary restrictions.

Summary:

- The exemption for “operations in the framework of clubs and associations” should:
 1. Clearly allow exemption from all open category and specific category requirements (including age limits, height, pilot registration, training and examination);
 2. Provide for a 3-year transitional period to give national authorities time to provide for the operational authorisation (rather than 3 months); and
 3. Apply to all operations “in the framework of clubs and associations”, not just activities of clubs or their members;
- Operations under the “open category” must better accommodate the characteristics of aeromodelling, in particular through:
 1. Removing all age limits;
 2. Removing height limits, at least for UAS class C4 and privately built and ensure a workable definition of any height restrictions, based on take-off height (vertically) and visual line of sight (horizontally);
 3. A realistic rule to ensure that “uninvolved persons” are not endangered rather than prohibiting flight where those persons may be present;
 4. Any registration, online training and examination requirements for the open category must be simple and workable, involving no or only minimal costs;
 5. Limiting the prohibition to drop any materials to dropping dangerous materials only.

A. Background

The Deutsche Modellflieger Verband e.V. with more than 90.000 members in 1300 model flying clubs represents the interests of individual model pilots and clubs at national level vis-à-vis authorities, regulators and institutions. It is far the biggest national association not just in Europe, but as well one of the biggest in the world.

The DMFV represents a good share of the more than 500.000 aeromodellers in Europe, Aeromodelling plays a central role in ensuring competitiveness and innovation in the aviation sector. Typically it is the first entrance for youth to the fascination of flying, motivating young people to

pursue aviation related professions. It has repeatedly shown itself to be a driver of innovation (electrification of aviation) and provides a market for testing and large-scale deployment of innovative aviation products, including battery technology. Restricting aeromodelling will worsen Europe's shortage of pilots and aviation engineers and slow down innovation and competitiveness in the aviation sector.

Aeromodelling has over its history of more than hundred years always had an excellent safety record (as explicitly recognised in the Basic Regulation) and is not responsible for the safety and privacy concerns underlying the political demand for the stricter regulation of drones.

B. Respecting Recital 34 of the Basic Regulation

Recital 34 of the Basic Regulation requires that the new regulatory framework should ensure that model aircraft can continue to operate as they do today. Also the present draft Implementing Regulation does not respect this requirement in any manner. This paper sets out some proposals to help ensure that the requirements of Recital 34 of the Basic Regulation are respected.

C. The exemption for operations in the framework of clubs and associations

Article 16 of the draft Implementing Regulation gives Member States the possibility to exempt aeromodelling through an "operational authorisation" to a model aircraft club or association "in accordance with relevant national rules". That operational authorisation "shall specify the conditions under which the model aircraft club or association may continue their activities". The drafting of this provision should be improved:

- As the earlier three-year transition period in the earlier proposal was removed, the new draft now requires this operational authorisation to be given within three months after entry into force of the legislation. Without such authorisation, all model aircraft operations may fall either in the open category or under the specific category, three months after the new Regulation enters into force. That three-month deadline will be impossible to meet for most Member States. It must be extended to three years, as in earlier drafts.
- The draft is unclear what exemptions can be provided under the operational authorisation. The inclusion of paragraph (1)(b) under UAS.SPEC.010, in the Annex to the implementing Regulation suggests that all flights under an "operational authorisation" are under the "specific category". If that's the case then an age limit would apply, and no exemption can be given from registration and certain training requirements. Moreover, even if these flights were not under the specific category, the requirement to register pilots in Article 14 still applies to all UAS operations, regardless of which category. The text must make clear that the operational authorisation can exempt aeromodelling from all requirements of the Regulation, including registration, training, examination and height limits, in line with the mandate given by the European Parliament in the Basic Regulation;
- Paragraph (1)(b) under UAS.SPEC.010 draft interprets "in the framework of clubs and associations" as "membership". This means that for instance for international competitions, guest visits etc. clubs and associations will need to put in place a special sort of "guest membership" or equivalent, involving extra unnecessary bureaucracy and costs. The Regulation should allow all operations "in the framework of" clubs and associations to fall within the exemption without the explicit requirement of membership. How "in the framework of" is interpreted and applied in practice is for each Member State to decide.

Proposals:

- Amend Recital 25 as follows: "Member States should issue a model club or association with an operational authorisation ~~it is not necessary to adopt particular provisions for recreational flight activities~~ operations conducted within the framework of model aircraft

clubs and associations. Such operational authorisation should be issued in accordance with relevant national rules and should ensure that model aircraft can continue to operate as they do today.”;

- Amend Article 16(2) as follows: “The operational authorisation shall specify the conditions under which activities in the framework of the model aircraft club or association may be continued outside of the framework for the operation of UAS established by this regulation ~~their activities, and.~~ It shall be limited to the territory of the Member State in which it is issued.”;
- Delete UAS.SPEC.010 (1)(b);
- Any future references to “members of clubs or associations” (currently in UAS.SPEC.010 (1)(b), which should be deleted) should be avoided. Instead use “operations taking place in the framework of a model aircraft club or association”;
- Amend Article 14(5) as follows: “Operators of UAS operators in the open and specific category shall register themselves in accordance with Part A or Part B of the Annex when operating an unmanned aircraft”;
- Add a new Paragraph 4 to Article 23: This Regulation shall apply to UAS operations conducted in the framework of model aircraft clubs and associations from [3 years after the date of entry into force of this Regulation].

D. Workable open category requirements

If a Member State does not provide a provisional authorisation, or doesn’t provide it on time, then most aeromodelling will fall under the Open Category. Open Category rules will also apply to all aeromodelling activities outside the framework of clubs and associations. Moreover, it is likely that a number of Member States will define their exemption for activities in the framework of clubs and associations through exemptions from the open category rules. Some Member States may even not provide an operational authorisation at all. It is therefore essential for the future of aeromodelling that the open category rules are workable for aeromodelling and respect the requirements of Recital 34 of the Basic Regulation.

The proposal on open category requirements is problematic on a number of points:

- 1. Age limits:** There is no relationship between the risks of incidents and the age of the pilot. Moreover, enabling young persons to fly at an early age plays an important role in motivating them to pursue aviation related professions and is key in ensuring future engineers and pilots. All age limits must be removed from the proposal

Proposal:

- Delete Article 9 (Minimum age for remote pilots)
- 2. Maximum altitude:** We continue to strongly oppose any general altitude limit for aeromodelling, with the exception of specific areas defined by Member States, including around airports. Moreover, the definition of the maximum altitude as 120m “from the surface” in Article 4(1)(e) and UAS.OPEN.010 (2) cannot be checked or enforced. There is currently no technology commercially available that provides this information. Current technology only provides information on height above take-off point (barometric sensors) or height above pilot position (GPS sensors). This is also recognised by the proposal of the Delegated Regulation (which requires UAS in the open category to have “a maximum attainable height above the take-off point limited to 120 m”). Any altitude limits must be defined vertically and in relation to the take-off point or position of the operator. Any horizontal distance requirements must be limited to visual line of sight (VLOS). This includes flying in mountainous areas.

Proposals:

- Delete all altitude restrictions, at least for the UAS classes C4 and privately built;
- Any reference to height restrictions, including Article 4(1)(e) should be amended as follows: “the maximum height shall be no more than 120 meters above the surface, take-off point or operator position, except when overflying an obstacle, as specified in Part A of the Annex”.
- Delete UAS.OPEN.010 (2).

- 3. Uninvolved persons:** The proposal restricts flights in the subcategory A3 (most relevant for model aircraft pilots) to areas “where the remote pilot reasonably expects that no uninvolved person will be present within the range where the UA will be flown during the entire time of the UAS operation” (Annex to the implementing Regulation, UAS.OPEN.040, (1)). This requirement is impossible to meet and essentially prohibits all flights. Most areas will have occasional hikers, farmers or cyclists passing through. The text should revert the earlier proposal which required that no uninvolved persons should be endangered.

Proposal:

- Change the text in UAS.OPEN.040 (1) back to: “no uninvolved person will be exposed to danger within the range where the UA will be flown during the entire time of the UAS operation”

- 4. Training and examination:** The proposal contains heavy training and examination requirements, including “declaring the completion of independent self-practical training”, without any provision allowing such training, as well as different requirements for different categories. Any training and exam requirement should be online, and focussed on key safety issues. Moreover, this training or examination should be valid for all categories and provided at minimal costs. The same goes for the registration requirement.

Proposals:

- Significantly simplify training and examination requirements for the open category. Training and certification should be identical for all open category UAVs, be online, simple and free of charge or at minimal costs.
- Delete the requirement of the declaration of the completion of independent self-practical training (UAS.OPEN.030 2(b)) and provide for the opportunity for new entrants to practice (without having completed the online training and exam) under supervision of an experienced pilot.

- 5. Prohibition to “drop any material”:** A prohibition to drop dangerous materials or goods makes sense. A prohibition to endanger uninvolved persons, animals or structures, including through dropping materials or goods, is already set out in the other requirements of the proposal. The separate prohibition to “drop any material” unnecessarily stops the ability to drop parachutes, candy drops during air shows and “target practice” club competitions (which improves pilot skills). This prohibition must be removed.

Proposal:

- Amend UAS.OPEN.070 (3)(a) as follows: “not use the UA to ~~drop any material or to~~ carry or drop dangerous goods [...]”. There is no need for a specific prohibition of dropping any materials. Any dangers to other aircraft, people, animals, environment or property from dropping materials are already to be avoided under UAS.OPEN.070 (2).