



THE ROYAL FEDERATION OF AERO CLUBS OF AUSTRALIA

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Royal Federation of Aero Clubs of Australia Submission to the Aviation Safety Regulation Review January 2014

The RFACA applauds the establishment of the Aviation Safety Regulation Review and appreciates the opportunity to make input to the review. While the RFACA understands that the Review is to cover all of the Federal Government agencies involved in aviation safety the bulk of this response refers to CASA.

It has been clear for some time that General aviation in Australia has been in serious decline, to the stage where the industry may no longer be sustainable. While world and national economic conditions have played a part in this decline, a large part of the decline can be attributed to the inability of the CASA to discharge its duties in an effective manner.

The RFACA considers that CASA has failed the nation generally, but has particularly failed regional Australia and the general aviation industry, due to its inability to appropriately perform in its primary roles of regulator, enforcer, service provider and safety educator. Similarly it has not demonstrated any competence as a Communicator. Since this malaise has continued through various administrations the RFACA suggests that the structure under which CASA works is at fault and that the basic concept of having a user pays regulator is flawed.

REGULATIONS:

As a developer of Regulations, CASA has failed dismally to deliver modern regulations in a timely manner. It really is two decades since CASA's predecessor started the Regulatory Review process. Considering that other government agencies are able to formulate and introduce regulations for far more complex issues in a fraction of that time, it is clear that CASA is not up to the task of developing regulations. The regulations that have been developed show an obvious bias towards successful prosecution rather than safety of flight. RFACA considers that having the one organisation write and enforce the rules is an unacceptable concept. The situation can be likened to the Police writing road laws. The RFACA suggests that the Regulatory Development function would be more appropriately conducted within the Department.

The RFACA further points out that those new regulations that have been delivered are quite unsatisfactory due to their complexity, confrontational language, and lack of harmonization with Australia's regional partners. The

root cause of this appears to be the policy objective of a two tier legislative structure. The RFACA recommends that this policy be revisited with a view to returning to a three tier structure, so that the actual working part of the legislation can be written in technical rather than legal language.

The RFACA also recommends that the Civil Aviation Act needs to be changed to address industry sustainability, as is the case with the NZ Act.

ENFORCEMENT:

As an Enforcer CASA has replaced direct surveillance with a process of administrative operations compliance that serves the interests of the aviation bureaucracy, but not the industry. CASA has taken a belligerent and confrontational approach to enforcement and has recklessly pursued companies and individuals through the courts, expending huge amounts of resources and money from the public purse, for very little safety gain.

SERVICES:

As a Service Provider, CASA fails to provide a timely and affordable service. CASA will claim that it meets its service standards, but in fact these standards fall far short of a standard that is reasonable in this modern age. CASA's administrative procedures leave a great deal to be desired, resulting in unnecessary delays, uncertainty and frustration. These are not helped by CASA's geographic dislocation. It is understood that all mail for the Brisbane service centre must first go through the Canberra head Office, a procedure that adds days to any transaction

A major part of the Service delivery problem is that, as result of a complex regulatory structure, industry is forced to seek too many permissions for too many things. Further CASA have failed to delegate the provision of such services to industry, or have removed existing delegations, so that CASA has kept as much in house as possible.

EDUCATION:

In the area of Safety Education CASA has spent considerable resources and funds in questionable ways. For example many of the CASA Safety Promotion publications, e.g. Flight Safety Australia are noted for their art work and glossy appearance rather than their safety message. It may be that the ATSB is the more appropriate agency to undertake the Safety Education function as ATSB's role is concerned with the safety lessons to be learned from accidents and incidents whereas CASA appears only interested in compliance and prosecution.

COMMUNICATION:

The Review panel will, during its deliberation and investigations, note a virtual breakdown of communication between CASA and the general aviation industry. CASA would not tolerate this lack of communication within any organisation under its oversight, yet it appears incapable of rectifying this situation in its own area of responsibility. Strangely the so called General Aviation Task Force, which should have been an excellent vehicle with which to restore communication with general aviation, appears to have been little more than window dressing. In fact there have been reported occasions when this office has added to the misinformation and confusion.

Some examples where communication has failed are:

Class D airspace at Secondary Airports

CASA failed to adequately communicate with industry over the issue of introduction of Class D Airspace procedures at Capital City General Aviation Airports resulting in considerable cost, complications, restrictions and lack of flexibility that act as a deterrent and disincentive for pilots to use these airports, all for no apparent safety gain.

Maintenance Regulations. The industry is totally confused at CASA's intentions regarding Aircraft maintenance. For whatever reason CASA appears prefer the EASA maintenance regulatory model rather than the FAA model despite the short comings of the EASA regime in respect of general aviation aircraft. However CASA is on record as saying that that is not CASA's intention and the industry is at fault for not understanding that.

Flight Crew Licencing/Training Regulations. The recent postponement of the introduction of the pilot licencing and flying training CASR Parts was due to CASA's failure to adequately prepare for the transition to the new Parts. However CASA, in a media release, unfairly laid the blame on the industry.

English Language Testing – CASA introduced an onerous and arguably unnecessary set of regulations and procedures concerning testing for English language competency reputedly to gain brownie points with ICAO. The inflexible nature of these procedures, which has no exemption options, has resulted in such laughable situations as requiring serving Australian Armed Forces officers, and in one case a university English lecturer being required to undertake the assessment. A small thing, but just another impost on industry. It should be noted that there is no way that a person can undertake the CASA English language assessment in another country. The US FAA approach to English language assessment is far more practical.

CASA STRUCTURE:

The RFACA does not believe that the CASA Board actually contributes anything to flight safety in Australia. Over the years we have seen the full spectrum of Boards. Those that fully involved themselves in the day to day working of CASA and took an active interest in the industry that they were serving to Boards that are totally invisible and ineffective and of course there was a period when there was no CASA Board at all. Recommendations concerning the future of the Board should be a priority for the ASSR panel.

INDUSTRY COMPLAINTS COMMISSIONER:

There is a good deal of disquiet in the industry as to the present make up and operation of this office. It is essential that a reliable, robust and transparent complaints process that is managed in a timely manner.

AVIATION MEDICINE:

The AVMED Branch is a disaster area. Its staff seem to think they know more than specialist doctors and DAMEs as they frequently do not accept recommendations on a pilot's capacity to fly safely and require additional tests which are costly and harming the industry by compromising a commercial pilot's ability to earn a living and keeping private pilots out of the air for longer than necessary.

The so called Drivers Licence Medical, as developed by CASA, is unduly complex and restrictive when compared to the FAA criteria for recreational flying.

AVMED have recently set about reversing the position regarding colour vision defective pilots. This is an issue that was resolved over a quarter of a century ago with no impact on aviation safety.

INCONSISTENCY BETWEEN REGIONAL OFFICES:

On many occasions there is inconsistency of interpretation of rules and regulations between CASA officers in different regions. For example Royal Queensland Aero Club AT Archerfield QLD had a Redbird simulator approved almost immediately where as Schofields Flying Club in Bankstown NSW could not get the same simulator approved for months, which meant an expensive asset lying idle with considerable loss of revenue. There are further examples of individual CASA Offices applying their personal interpretation of the "intent" of a regulation rather than the regulation as it is written.

FOSTERING AND PROMOTING AVIATION:

There is no Federal government agency which is tasked with the responsibility to foster and promote aviation. CASA's approach to regulating the industry takes no account of how its decisions impact industry, particularly financially. The Civil Aviation Act should be amended to require all aviation agencies to foster and promote the aviation industry in a manner similar to what is done in the USA.

GENERAL AVIATION:

General aviation is the poor relation in the aviation industry. There is no understanding within government or its agencies of the benefits provided to the economy by general aviation businesses. CASA should simplify the regulations in relation to GA rather than imposing the more onerous airline regulations on their operations.

JOY FLIGHTS:

Many Aero Clubs earn significant revenue from joy flights, which are currently classified in the Charter category thus needing to be carried out under an AOC. It is understood that when Part 135 is introduced such flights will be considered as Air Transport flights with attendant costs. Under the US system these flights, where they take off from Point A and Land at Point A, are not regarded as air transport.

In November 2012 the RFACA submitted a detailed and reasoned response to a CASA Discussion Paper on this subject, but the industry has heard nothing more making it hard for operators, such as Aero Clubs, to plan their future.

CONCLUSION:

CASA appears to be obsessed with achieving what it claims is “world’s best practice”. However, world’s best practice is in reality a totally subjective term and an unattainable goal. What the nation needs is a set of Regulations that reflect “world’s common practice”. Since most of the world general aviation aircraft originate from, and most general aviation activity takes place in North America it is clear that North America would be a good place to look for world’s most common practice. It is pointed out that New Zealand has mimicked North American practices for some time and, as a result, has a successful and viable general aviation industry.

While the RFACA appreciates that CASA is not obliged to consider the economic effect of its Regulations on industry the Government should bear in mind the potential effects of this policy on the Australian public. Many small communities are served by small operators who may provide a range of general aviation activities, such as non-scheduled air transportation, flying training, aerial work or aerial agriculture, to generate sufficient income to be viable. If the costs and/or administrative burden associated with providing any one these services cause the operator withdraw the service the operator may well fail and the local community will be disadvantaged.. Further, these types of operators are often the persons in their local communities who ensure that the local airport survives. Withdraw the operator and the local community may not see the value of a local airport and close the facility. Australia is then the loser.

Another aspect to consider is that of employment and training. Small operators provide job opportunities and skills development in piloting and aircraft maintenance. Without these opportunities provided by these operators, the base of persons available for employment in the higher echelons of the industry will not be there. The Australian aviation industry is largely successful because of the broad base of employable persons who gain their experience with small operators before working their way up. Again Australia will be the poorer for a very small gain, if any, in safety.

ISSUES INVOLVING OTHER AGENCIES:

Maps & Charts – The AirServices policy of constantly amending maps and charts and documents on a short cycle adds a considerable cost burden and work load on industry. Often these amendments amount to little more than window dressing.

Transport Security - The RFACA considers that the Aviation Transport Security legislation, as it is applied to general aviation, is very much over done. While appreciating the need for the highest standard for the Air Transport sector the RFACA suggests one size does not fit all and that security equivalent outcomes for general aviation can be achieved in other ways for less cost and inconvenience and impediment. For example the validity of

Aviation Security Identification Cards (ASIC) for pilots should be extended from two to five years and could form part of the pilot's licence.

Military airspace - The RFACA is of the opinion that the Australian armed forces unnecessarily tie up too much prime airspace. This is especially so on the Australian east coast and in the vicinity of Perth. The RFACA understands that the RAAF and Airservices are working on a program called "One Sky" that should revolutionise airspace management and air traffic control in Australia.

Airports

The RFACA is concerned at an apparent lack of oversight by the Department concerning compliance with Commonwealth airport leases issued under the Airports [Transition] Act and Airports Act. There are blatant examples where the main use is no longer as an airport.

The prime objectives of the RFACA are to promote and foster the development of safe aviation, to ensure adequate flying training is available to all pilots and to encourage national and local competitions and aviation events.

The RFACA has confidence that the Review Panel will devise and recommend a satisfactory model for the regulation of aviation in Australia in the future.

If we can be of further assistance in any way we would be only too pleased to do so.

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President