

Submission to the Aviation Safety Regulation Review

Douglas Stott

Author's background:

Fifty years flying experience, with over 21,000 hours on approximately seventy aircraft types. Holder of ATPL with qualifications as a flying instructor, Training and Checking Captain, including Multi-engine and IFR training approvals. Experienced Charter and Regional airline pilot (above 5700kg). Safety & Quality Manager for two high capacity operators, Aviation Auditor – including over a dozen audits of major world airlines under the International Air Transport Association (IATA) operational safety audit (IOSA) program and further audits of aviation support to the resources industry in PNG. Continues to be an active private pilot and has owned an aircraft for forty years.

Submission:

CASA

If there is one thing that is consistent in aviation, it is change. Over the past 50 years, I have seen many changes in the industry and how the Government and its agencies manage it. It is a sad indictment that I believe this management, now, is not achieving outcomes that we have seen in the past. Certainly, the industry and the regulator have changed, however the Government and the regulator has failed in my opinion to bring industry along on the same train. From about the time that the Government of the day choose not to have a dedicated Aviation Minister and Department, and the initiation cost recovery, things started to go downhill.

It has been said that a pilot passing a Commercial pilot flight test today would not have passed a Private pilot test 25 plus years ago. Having flown with many new CPL holders over my career, I would have to agree with this statement. Only those that were about in the 70's and 80's will understand. In many cases the standards, including flight test standards have fallen, but we fail to acknowledge this in the face of commercial pressure. I believe this change resulted in part from the transfer of testing from CAA/CASA Examiners to industry delegates.

Whilst many of these changes may have been seen to be necessary at the time, however the unintended consequences needed to be reviewed. I doubt if they were at the time, and most probably not since. These changes, generally, promoted a view of "them and us" between the industry and the regulator of which culture is the most significant part. Culture is not understood by many and will only be changed when the industry sees the regulator more supportive of the industry. The difficulties with the airspace changes in the early 90's were a direct result of a failure to realise that the culture in Australia was different (worse) than elsewhere in the world.

You cannot regulate safety.

As an example, an operator can be fully compliant with all the regulations and deemed not to be safe; however, another operator can be as safe as possible and not be compliant.

The present CASA establishment seems to believe that regulation will bring about safety. Whilst this might be a justifiable aim, unless the culture of the industry is addressed and brought on side it is not likely to have the desired outcome. Regulations, in themselves, must not micro-manage the industry with potential to drive common sense away. Surely, there must be a way to educate and acknowledge the use of common sense in our industry. Training is the lynchpin with many of these issues.

The use of 'safety' in the regulators title is inappropriate, as the organisation is really the Civil Aviation Regulatory Authority. Perhaps the name should be changed (again) to reflect what it is really about(?) – The administration of civil aviation (that might be a chance to have a new start with a new culture?). The regulators in the UK, the USA and other nations seem to appreciate this as perhaps we once did in this country!

In March 2003, the CASA conducted a FLOT (Flight Operations and Training) conference in Sydney over two days with many industry and government representatives. There was much fanfare and use of on-line broadcasting of some of the sessions. I was engaged by CASA to act as an industry facilitator for one of the working groups.

Over ten years have passed since that conference and I do not see much evidence that many of the recommendations discussed made it to first base!

One of the recommendations from the working groups is that they considered that a major hazard to aviation safety in Australia was the **Attorneys Generals Department**.

This was shortly before the time of the changeover of CEO from Toller to Byron, both of whom were in the front row during the reading of the recommendations – and they clapped!!

This was brought about because it was considered that the Office of Legal Drafting (OLD) had too much say in the regulations and that the AG's Department would not permit the format of the regulations to be written/formatted in a user-friendly manner for aviation use. The example used was along the lines that when you learnt to drive, there was a book available at most, News Agencies that gave you all the required info needed to obtain a drivers licence. The only time a driver needs to get involved in the regulations is when he crosses the line and needs to obtain legal assistance. Whilst in aviation, an industry that exists with the rules in its face, just about every page is written in such a style that it is difficult to understand and phrases concerning 'strict liability' are regularly placed throughout the document/s. Notwithstanding that the use of Strict Liability in aviation is totally inappropriate. The result is that the regulations are not user friendly, often not understood, and are no longer used when they should be.

The absence of an alternative document like the USA AIM does not help in the Australian case.

There are instances where officers in CASA have made decisions, which seem to be more in line with covering their legal position, than facilitating a practical and safe operational decision. The influence of the OLD and AG's Department in the aviation context needs to be deeply examined. It is perhaps one reason that the reform of the regulations in Australia has taken so long and is so large (when compared with some other countries, eg: NZ).

It is essential that the charter for CASA be amended so that it has a role to encourage aviation. CASA presently has no obligation to act for the benefit of Australian Aviation – it should! Only when this occurs will there be any chance of a culture change that will bring industry on board with the regulator.

ATSB

The ATSB must be fully independent from both any Government Department and CASA.

The Director must report direct to the Minister and it must have appropriate funding.

The former BASI with regional offices was much closer to the industry and was able to facilitate safety education to all segments of the industry as well as to conduct investigations in the regions of accidents and incidents that do not seem to raise a file these days. Obviously funding is an issue; however, I believe the line has been set too high, making the ATSB out of reach from many in the industry.

Perhaps there is a case for aviation safety promotion and education to be provided by the ATSB?

Summary

Do we have a problem with the regulator and the culture it has generated over the past decade or so? The answer I believe is YES. Addressing the culture of both the industry and the regulator is the only way I believe it might be fixed. To do this, they must be brought closer together and work for a common aim, including trust. The issues with the OLD and AG's Department must be resolved with simple, user-friendly regulations and the CASA charter must encourage and support the industry it has to regulate.

I would be happy to discuss the above if so required.