AFAP COMMENTS ABOUT
DRUG AND ALCOHOL TESTING IN THE AVIATION INDUSTRY

The Federation asserts at the outset that there is no place for anyone with a drug or alcohol dependency problem working in the aviation industry. The potential costs for drug or alcohol impaired performance could be catastrophic in both human and financial terms.

We also believe that the level of impairment an employee displays in the workplace should be the trigger determining any conflict which may arise between public interest and individual privacy.

Introduction

Minister Anderson’s justification for a review is based on ATSB recommendations following a fatal accident involving a single-pilot charter operation in a light aircraft. Whether the speculation in the investigation report linking the pilot’s prior intake of alcohol and/or cannabis to the accident cause actually reflects a much wider flight safety problem in the commercial sector of the industry is a matter for debate. Research in the United States (US) has found the incidence of drug or alcohol related impairment in operational performance insignificant amongst professional flight crew members. Australia would not differ.

Comprehensive operator testing programs have been mandated for some time in the US but statistics show a positive drug testing rate of less than 1%, and an alcohol positive testing rate of less than 0.5%. Furthermore, the statistics indicate that pre-employment testing accounts for a very large proportion of these results; thus in effect substance abusers are being kept out of the US industry in the first place. One should question whether in a climate of scarce resources, the Australian aviation industry might not be better served by tackling more pressing flight safety issues such as fatigue, national radar infrastructure, airspace safety, and aerodrome security etc. In this regard, a proper risk analysis and cost/benefit study ought to be commissioned as the first step in the review process.

Notwithstanding the above, we acknowledge international experience, public interest and political reality as significant drivers in this Review. The thrust of any policy outcome from the review must recognise individual rights and privacy issues and should place considerable emphasis on the need for education and comprehensive assistance and rehabilitation programs for those suspected of having an alcohol or drug dependency problem.
General Comments

Clearly, the introduction of broad alcohol and drug testing procedures raises competing demands. On the one hand operators have a responsibility to provide safe aviation services and a safe working environment for their personnel. On the other, employees’ have a right to enjoy their privacy in the work place. An appropriate balance therefore has to be found having regards to the intrusiveness of the testing process, international best practice, and of course the public interest.

Whatever the solution to this dilemma, any policies emerging from the review should apply across the board in the commercial sector, not simply targeted at the airline industry. It follows therefore that if drug and alcohol testing is mandated for commercial operators, it must be funded from the public purse, on the same basis as State Governments fund breath testing of drivers.

The review team should also be mindful that commercial operators more often than not use the same airspace and aerodromes as private, recreational and even fringe aviation users – less regulated sectors of the aviation industry where drug and alcohol impairment (and its potential to place others at risk), anecdotally at least, is likely to exist - the recent incident at Tyabb is a case in point. If the need for testing is deemed to be a serious issue, it would be logical to subject every sector to the same form of testing regardless of operating category ie. an all-inclusive rather than a narrowly focussed approach is more appropriate.

As the Minister has raised this on safety and public interest grounds the Government must commit the necessary resources, financial and human, to ensure any program is funded to a level providing a universally acceptable scheme.

And finally, if testing is introduced there will be a need to mandate stringent testing protocols to ensure the efficacy and integrity of the whole process. Experience with local and international agencies such as sporting organisations, suggests that the way in which tests are conducted and the processes in place for identification, storage and retrieval of the results leaves a lot to be desired.

The following comments are made about the specific issues listed for review.

**Should drug and alcohol testing be done on a random or regular basis?**

Testing for the following situations deserve consideration:

- **Pre-employment.** The case for testing new employees prior to appointment in safety sensitive areas has been established locally and in overseas jurisdictions. However, the justification for testing long standing company employees wishing to be transferred to safety sensitive positions from employment outside the safety sensitive areas is a more complex issue. Good character and an unblemished employment history should count for something.

- **Post accident or incident.** We acknowledge there may be grounds for testing a pilot following an accident or serious incident where the immediately known facts and circumstances suggest that alcohol or drug related impairment of performance might be a contributing factor. However, such testing must always
be conditional on the physical and psychological state of the pilot – he or she may be injured or in a state of shock and thus in need of medical attention. Testing should not be undertaken until the pilot has settled down and is cleared for the test by the attending medical practitioner. The health of the pilot should be the number one priority.

- **Reporting of aberrant behaviour and/or impaired performance (including peer reporting).** In this circumstance, testing should be just one of the measures aimed at encouraging affected employees to enter into counselling and rehabilitation programs for eventual re-employment in the workforce. In other words, this is an area where staff and management could collaborate to develop policies eg. peer reporting and counselling groups, which recognise that in many cases chemical dependency, be it alcohol or some other drug, is in fact an illness capable of being managed or cured with appropriate treatment. Sensitivity and confidentiality in handling these situations rather than resorting to disciplinary action should be the guiding policy.

There appears to be a heightened public expectation that pilots will be subjected to alcohol breathalyser tests on a random basis even though the existing eight hour rule has been most successful in its application. The argument goes that such tests are commonplace on the roads and have general acceptance in the community. However, motorists are not subject to the eight hour rule. The manner and timing of any such testing should also be borne in mind in its potential impact on operations.

There is no justification for random drug testing. After all, the ATSB report on just this one accident concluded that there was insufficient evidence to definitely link the pilot’s prior intake of drugs and/or alcohol to the accident although it went on to say that its adverse effects could not be discounted. This rather inconclusive statement is not a convincing enough reason for the imposition of random drug testing on commercial pilots. Random testing can at best be regarded as a deterrent and not preventative.

**Who would carry out the tests?**

This is a vitally important question. Who conducts the tests is but one part of the process. What happens to the test specimen and how test results are arrived at and reported are also important issues for consideration.

If the testing policy is to have any credibility with professional pilots, the organisational and regulatory model must provide for the following minimum requirements:

- The organisation responsible for conducting the tests, and for registering, storing and retrieving test specimens, must be properly accredited and totally independent of the operator. Preferably it should be a Statutory Authority;

- Authority must be available to prevent a crew member from continuing to operate when drug or alcohol impairment is noted or suspected on the basis of the testing; and

- The rules, responsibilities and requirements for the above should be clearly stated in the legislation.
How the test results are conveyed to the operator and what happens from that point on raises equally important industrial, privacy and social issues. Whilst the right of management to run their businesses is recognised, rehabilitative rather than punitive responses to identified drug and alcohol dependency problems should be encouraged – and perhaps legislated for.

**Which aviation personnel should be tested?**

This is also an important question since it requires a meaningful definition of what actually constitutes a safety sensitive area in the aviation context. The issue is complex because there are so many different areas in the aviation industry support infrastructure where impaired performance and decision making can ultimately impact on the safety of flight operations – it’s not just limited to the area commonly referred to as the airside of the terminal.

A meaningful definition has even defied the courts. However, an Air New Zealand description of safety sensitive areas tabled in a recent NZ Employment Court hearing may be instructive even though far from exhaustive.

- “**Safety sensitive areas** in these procedures means areas where employees may, if affected by alcohol or other drugs, expose themselves, other employees or other persons to the risk of injury, and include but are not necessarily limited to, those areas in which employees are working around, with, or on aircraft in the airport environment, network logistics, or on engineering and maintenance bases. Managers making safety critical decisions will also be deemed to be working in safety sensitive areas.”

If the issue is considered seriously, the list of safety sensitive areas is endless ranging from the obvious (eg. the work areas of pilots, ATCs, cabin crew, flight operations, load control and maintenance personnel etc.) to the less apparent areas of support eg. catering, crew scheduling, airworthiness, freight acceptance etc. and management too! Industrially, the spectre of ‘coalface’ workers being regularly tested while managers have long liquid lunches will not go down well.

**Should testing be part of the safety management system for aviation organisations?**

Our response to this is a guarded yes provided those responsible for carrying out the tests and processing the results remain at ‘arms length’ from the operator. In other words if testing is mandated, the operator should be responsible for arranging for appropriately accredited organisations, as previously referred, to carry out the relevant tasks.

The safety management system should describe the processes that follow a positive result including the availability of counselling and rehabilitation programs.

Our guarded yes is also premised on the fact that fatigue is impairing and may be as much a safety risk as alcohol or drugs. Significantly fatigue is an impairment which can be controlled by employers and therefore must be recognised in any safety management system.
On a final note, this heading suggests that minds may have already been made up that any testing policy emerging from the review will apply only to the ‘big end of town’ ie. the airlines. If the need for testing is established as a result of this Review, then it may be that the ‘big end of town’ does establish its own Drug and Alcohol Testing programs. Underpinning these in-house programs, however, must be a government funded and supported safety-net scheme applicable to the entire industry.

**Costs of establishing and running testing programs**

To introduce a drug and alcohol testing regime having any credibility, it will have to meet strict standards of confidentiality, reliability and security. This will attract very high implementation and running costs.

The researchers available to the review team will no doubt have uncovered numerous references regarding the economics of drug and alcohol testing. However, to illustrate the complexities and thus the potentially high costs involved, it is recommended that team members examine the following US document covering the procedures for urine testing – which of course, is just one of many forms of testing in common use:

- “DOT Urine Specimen Collection Guidelines for the US Department of Transportation Workplace Testing Programs (49 CFR Part 40)”

**Privacy**

We cannot overstress the need to protect an individual’s privacy under any scheme that may be implemented. The doctor/patient confidentiality relationship must be the benchmark against which any scheme is to be measured

**Conclusion**

We all agree we cannot afford drug or alcohol dependent personnel working in the aviation industry.

Speaking from the perspective of pilots, we do not believe the ‘problem’ is significant enough to justify the very high costs of imposing drug and alcohol testing. There is already a regulation in place covering drugs and alcohol which has served us well. Should testing be introduced, the Government should pay for it and resource it adequately out of general funds and not impose further costs on the aviation industry.

Any drug and alcohol testing policy should apply across the board, not just to airlines. In fact, if it is deemed to be a serious problem, a testing regime must be imposed on the whole industry, not just the commercial sector.

There is no justification, on a local or international basis, to justify random drug testing.

With regard to the process, the procedures and protocols for testing, identification, storage and retrieval etc. should be clearly defined and set down by regulation. Accredited organisations independent of operators should be responsible for the testing if the process is to have any credibility with pilots.
As part of any policy outcome, operators should be encouraged to assist and rehabilitate alcohol and drug dependent personnel for ultimate reemployment. The Government should provide and resource programs up to and including rehabilitation.

The issue of costs will be significant. At first glance, the introduction and running of drug and alcohol testing programs will be very expensive.

The Minister has chosen to initiate this review on the basis of an accident involving an operation at the lower end of the commercial market. The incidences of pilot impairment due to drugs and/or alcohol are statistically insignificant. This one unfortunate accident should have us review our approach to Drug and Alcohol Testing in much the same manner as risk analysis has been conducted on other aviation issues, eg. airspace, over the past decade and then determine what, if any, cost or benefit emerges for the industry and the travelling public.

Thank you for the opportunity to submit our views on this very important issue and we look forward to participating in any further development of this Review.

(Captain Richard Higgins)
President

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