

# Senate Rural and Regional Affairs and Transport References Committee

## Questions on Notice – Friday, 27 May 2011 CANBERRA

### Inquiry into Pilot Training & Airline Safety

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**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT  
REFERENCES COMMITTEE**

**Inquiry into Pilot Training & Airline Safety**

**Public Hearing Friday, 27 May 2011**

**Questions Taken on Notice – Tiger Airways**

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**1. HANSARD, PG 4**

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**Senator STERLE:** Can I follow on that please, Chair. Mr Berry, taking it on notice, could you provide the committee with a breakdown of where your pilots have been recruited from? Could you do that for us as we have requested from other companies?

**Mr Berry:** Yes, I can do that.

**Senator STERLE:** Thank you, and that includes international, regional and other airlines.

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**2. HANSARD, PG 17**

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**Senator NASH:** Thank you. Just finally, because I know we are due to break, how many pilots do you employ domestically in Australia?

**Mr Berry:** At this particular moment in time it is about 97 but the establishment is 103.

**Senator NASH:** Do you have a ballpark figure of retention rates? How many pilot movements have you had since 2007 of pilots leaving the airline? I am happy for you to take that on notice?

**Mr Berry:** I would take it on notice but I would comment that it is very few.

**Mr Rix:** Very few.

**Senator NASH:** Very few is good but if you take that on notice that would be great. Thanks.



SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE  
 INQUIRY INTO PILOT TRAINING & AIRLINE SAFETY  
 PUBLIC HEARING FRIDAY, 27 MAY 2011

TIGER AIRWAYS QUESTIONS TAKEN ON NOTICE

**Question 1 – Sources of Tiger Airways Pilots**

Tiger Airways has drawn its pilots from a range of sources, with approximately 100 pilots currently employed in Australia. In the initial start up phase, pilots with jet airline experience were sought in order to establish a core of pilots with high levels of experience. Subsequent pilots have been recruited from the broad aviation community within Australia.

**Jet Airline Pilots**

Fifty-three pilots joined Tiger Airways Australia from other jet airline operations. The majority of these pilots are expatriate Australian pilots who were working abroad.

Airlines within Australia	6
Tiger Airways Singapore	15
Europe	7
Middle East	4
Taiwan	4
India	3
Hong Kong	4
Vietnam	5
Asia (other)	3
Papua New Guinea	2

**Turboprop and General Aviation Pilots**

The remainder of the pilots were recruited from within Australia.

CASA	1
Corporate Jet Operations	3
General Aviation	23
RAAF	1
REX	7
Royal Flying Doctor Service	7
Other Turboprop operations	3

**Question 2 - Tiger Airways Retention Rates**

	Total Flight Crew	Total Attrition	Flight Crew Turnover
November 2007 - October 2008	50	5	10.0%
November 2008 - October 2009	50	7	14.0%
November 2009 - October 2010	102	7	6.9%
November 2010 - June 2011	102	11	10.8%

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**Questions Taken on Notice - CASA**

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**1. HANSARD, PG 22**

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**Senator XENOPHON:** Have any other major airlines in the last 12 months received show cause notices, without naming them? I might be guided by Senator O'Brien in relation to this.

**Senator O'BRIEN:** If the answer is positive then the story will run. I suppose it will run off the question now.

**Senator XENOPHON:** I am just trying to work out, if there is a leak about one particular entity getting a show cause notice, how do you deal with the issue of clearly there being a leak within the organisation?

**Mr McCormick:** My view is that the leak did not come from CASA of any of our activities. To answer your previous question, we may need a bit more clarity around the word 'major'; do you mean high capacity regular public transport operators?

**Senator XENOPHON:** Sorry, I should use the proper terminology; high capacity regular public transport.

**Mr McCormick:** We will take that on notice for a moment. We will try to get the answer to you before the committee ends. I do not have that information with me.

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**2. HANSARD, PG 25**

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**Senator O'BRIEN:** Can I get some other statistical information from you? You have provided some information about show cause notices, variations, suspensions and cancellations, but can you tell me how many cases were the subject of proceedings before the Federal Court of Australia or other tribunals, and were there any variations to CASA decisions as a result of those proceedings?

**Mr McCormick:** I think we will take that on notice. We will try to get it back to you today.

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**3. HANSARD, PG 26**

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**CHAIR:** Who approves the issuance of instruments?

**Mr McCormick:** Obviously in my capacity, and as the act says, anything I do is deemed to have been done by CASA, I can sign any instrument.

**Senator O'BRIEN:** Do you mean a documentary instrument, not a flying instrument?

**CHAIR:** Yes, not a flying instrument. Do they have a life span before you have to regulate the instrument?

**Mr McCormick:** Some instruments do have a life span where they must be renewed.

**CHAIR:** Who approved instrument 405/09?

**Mr McCormick:** A very good question, Senator. What actually does it relate to?

**CHAIR:** I am asking the questions.

**Mr McCormick:** I will take it on notice.

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#### **4. HANSARD, PG 27**

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**CHAIR:** Are you familiar with 405/09?

**Mr McCormick:** No, I am not.

**CHAIR:** Maybe I will have to put some questions on notice. As I understand it, 405/09 was replaced on 29 April 2011, which is just recently, on your website by 14/11. Are you not familiar with that either?

**Mr McCormick:** No.

**CHAIR:** Who would be familiar in CASA with this?

**Mr McCormick:** Within legal, we have the drafting people who actually write the documents. If it is an operations document that you refer to, without the title, I cannot help you. We issue a lot of these instruments to which you refer, as do some of our delegates.

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#### **5. HANSARD, PG 28**

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**Mr McCormick:** Again I will ask Dr Aleck to give you the legal position.

**Dr Aleck:** The terms is a little problematic. There are circumstances in which operations can be conducted under another person's AOC, but the terms and conditions that govern that are specified in the Civil Aviation Orders.

**CHAIR:** Could you set out the circumstance in which it is possible for someone that does not have an air operators certificate to conduct charter flights with a leased plane in the name of a company that does not have an air operators certificate?

**Dr Aleck:** I would need to take that on notice.

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**6. HANSARD, PG 29**

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**Senator XENOPHON:** Referring back to the show cause issue, I am happy for you to take this on notice, but when was the minister's office advised of the show cause notice with Tiger?

**Mr McCormick:** We will take it on notice.

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**Senator XENOPHON:** Sorry, I should use the proper terminology; high capacity regular public transport.

**Mr McCormick:** We will take that on notice for a moment. We will try to get the answer to you before the committee ends. I do not have that information with me.

**Answer: Hansard 27 May 2011 p.29**

**Senator XENOPHON:** I would be very interested. Finally, are there any other show cause notices current for high capacity passenger airlines? Are you in a position to answer that?

**Mr McCormick:** We are still looking at that. Our breakdown did not break down between high capacity, low capacity or charter. They were all put together.

**Senator XENOPHON:** The definition of high capacity is anything more than 50 seats?

**Mr McCormick:** There are currently no show cause notices issued to any other high capacity RPT operator.

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**Mr McCormick:** I think we will take that on notice. We will try to get it back to you today.

**Answer:**

Following clarification from the Committee the following matters relate to tribunal decisions regarding Air Operator's Certificates (AOCs) in the past two financial years.

There were no Federal Court matters referring to CASA decisions made in respect of AOCs.

**AAT DECISIONS RESULTING IN A VARIATION TO A CASA DECISION  
RELATING TO AN AIR OPERATOR'S CERTIFICATE**

**i) Caper Pty Ltd T/A Direct Air**

Decision to vary AOC (to not permit flights between Darwin and Bathurst Island).

Date of Decision: 7 September 2010.

On 21 March 2011 the Tribunal sets aside the decision of CASA and instead determined that the conditions on the AOC of Caper Pty Ltd trading as Direct Air Charter remain unaltered. Caper Pty Ltd trading as Direct Air Charter is permitted to continue with its charter operations between Darwin and Bathurst Island. CASA is appealing this decision.

**ii) Trans Air Ltd (PNG)**

Refusal to issue AOC.

Date of Decision: 3 April 2009.

On 22 January 2010 the Tribunal sets aside the decision under review and remits the matter to the respondent for reconsideration in accordance with a direction that a Foreign Aircraft Air Operator's Certificate be issued to the applicant, subject to the conditions ordinarily imposed by the respondent upon certificates of that type.

**AAT DECISIONS AFFIRMING A CASA DECISION RELATING TO AN AOC**

**i) Avtex Air Services**

Cancellation of AOC.

Date of Decision: 20 August 2010.

On 4 February 2011 the Tribunal affirmed CASA's decision.



**ii) Helicopters Pty Ltd/Hodgson, Brett**

Decision to cancel AOC and chief pilot approval of Mr Hodgson.

Date of Decisions: 17 June 2009.

On 7 October 2010 the Tribunal affirmed CASA's decision, by consent of the parties.

**iii) White, John (Heli-Co Australia Pty Ltd)**

Refusal to issue AOC.

Date of Decision: 12 January 2010

On 13 August 2010 the Tribunal affirmed CASA's decision.

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**CHAIR:** Who approved instrument 405/09?

**Mr McCormick:** A very good question, Senator. What actually does it relate to?

**CHAIR:** I am asking the questions.

**Mr McCormick:** I will take it on notice.

**Answer:**

Instrument 405/09 was signed by Mr John McCormick, CASA's Director of Aviation Safety on 9 October 2009. The instrument is a Direction made under regulation 209 of the Civil Aviation Regulations 1988. The instrument applies to aircraft engaged in parachute training operations, which is defined in the instrument to mean a parachute descent by a student or novice parachutist and all tandem parachute descents. The instrument imposes various requirements to be met for parachute training operations, including:

1. the aircraft be operated in accordance with the Australian Parachute Federation Jump Pilot Handbook;
2. the pilot of the aircraft hold an Australian Parachute Federation Jump pilot authorisation,
3. if the aircraft is not a class A aircraft, the aircraft be maintained to charter standards and have a maintenance release issued in the charter category.

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**Mr McCormick:** No.

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**Mr McCormick:** Within legal, we have the drafting people who actually write the documents. If it is an operations document that you refer to, without the title, I cannot help you. We issue a lot of these instruments to which you refer, as do some of our delegates.

**Answer:**

Instrument 405/09 has not been replaced and remains in force.

Instrument 14/11 was signed by Peter Boyd, Executive Manager of CASA's Standards Development and Future Technology Division on 20 January 2011 and is a general authorisation to members of the Australian Parachute Federation to make parachute descents. It also provides for the written specifications by which such descents are to be conducted. This instrument replaces a previous instrument of authorisation and specification.

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**Dr Aleck:** The term is a little problematic. There are circumstances in which operations can be conducted under another person's AOC, but the terms and conditions that govern that are specified in the Civil Aviation Orders.

**CHAIR:** Could you set out the circumstance in which it is possible for someone that does not have an air operator's certificate to conduct charter flights with a leased plane in the name of a company that does not have an air operator's certificate?

**Dr Aleck:** I would need to take that on notice.

**Answer:**

Certain operations are permitted only if the operator is the holder of an Air Operator's Certificate (AOC) [Subsections 27(2) and (9) of the Civil Aviation Act 1988 (Cth) and regulation 206 of the Civil Aviation Regulations 1988].

The arrangements by which such an operator may provide aircraft or pilots for such operations can be complex and various and include leasing arrangements and various employment arrangements with pilots and other personnel. In some circumstances it is difficult to identify whether a particular operation is in fact being conducted by an operator who holds an AOC. In such cases all the circumstances of the operation and how it is conducted would need to be analysed by CASA.

To stop or limit sham arrangements between persons and an operator which purport, between those parties, to provide for a person to conduct an operation but it is in fact not an operation conducted by the holder of an AOC (commonly referred to as a borrowing arrangement), paragraphs 3.1 to 3.3 of section 82.0 of the Civil Aviation Orders imposes conditions on all AOCs that requires an AOC holder to obtain prior written approval from CASA where:

1. the AOC holder seeks to enter into an arrangement with a person (the other person) whose AOC is suspended or cancelled, under which the AOC holder agrees to use in their operation any aircraft and personnel of the other person or conduct operations that the other person intended to conduct;
2. the AOC holder seeks to enter into an arrangement with a person (the other person) whose AOC is varied, under which the AOC holder agrees to use in their operation any aircraft and personnel of the other person or conduct operations that the other person was authorised to conduct before the variation, but cannot conduct after the variation;
3. the AOC holder seeks to enter into an arrangement with a person (the other person) who has applied for an AOC, under which the AOC holder agrees to use in their operation any aircraft and personnel of the other person proposed to be used in the operation or conduct operations that the other person intends to conduct.

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**Mr McCormick:** We will take it on notice.

**Answer:**

The Office of the Minister for Infrastructure and Transport was advised on 23 March 2011.