

## **ANGEL FLIGHT AUSTRALIA OVERVIEW STATEMENT RE CASA LEGISLATIVE INSTRUMENT 09/19 FOR SUBMISSION TO SENATE INQUIRY**

The entire process of introducing CASA 09/19 was unreasonable, poorly managed, delivered no identified safety benefit, and contradicted most of the principles that underpin CASA's regulatory philosophy - significantly, CASA has conceded that none of the Rules addressed, nor would have prevented, any community service accident (or other identifiable accident):

1. Issuing the draft one week before Christmas and limiting the time for comments to the peak January holiday season was totally unreasonable and minimised the opportunities for feedback from the aviation and wider communities. None of the draft rules had been raised nor discussed with Angel Flight, notwithstanding communications, meetings and correspondence between Angel Flight and CASA (on a voluntary basis), and inviting CASA to Angel Flight offices to observe all processes and view all documents. The hastily-prepared Rules were presented (orally – no written document was provided) to Angel Flight by Chris Monahan on 28 November, the day after the ATSB had called to request advice from both Angel Flight and CASA as to what actions had been taken since the June 2017 accident. When at this time CASA (Monahan) was challenged about this, his response was to acknowledge that the Rules as proposed did not have any relationship to the accidents, but that “we had to do something”. This conversation occurred at the Angel Flight office on 28 November 2018.
2. The draft of the Legislative Instrument was issued with undue and unprecedented haste, only days after the closing date for submissions. CASA purported to rely upon the Consultation Responses in formulating its Rules. This was highly selective and lacked transparency and integrity - a single example will suffice to illustrate this:

***Response 624327021 by experienced ATPL/Airline/Corporate Jet/Light Aircraft (twin) owner/operator (H P R....) is attached to this overview. The submitted response by the pilot comprises 4x A4 pages typed in single-line spacing. The CASA- published submission did not represent what the pilot wrote (and is also attached) : the latter comprises only a single paragraph, unrepresentative of the actual submission of this pilot. This has flowed on to the ATSB – CEO Mr Greg Hood has (in a pre-publication meeting in Canberra on 19/8) stated that he had read all of the submissions to CASA as part of his information.***

3. The Instrument initially excluded helicopters although there was no safety reason for doing so, and an amendment was hastily issued to rectify this deficiency. At no time had Angel Flight (during any of the meetings with CASA nor in any correspondence) been given any notice of the proposal to ban helicopters, and CASA was well aware that Angel Flight arranged volunteer helicopter flights to remote locations, particularly in Queensland and NSW, during flood events.
4. Contradictory statements were made about the definition of a community service flights. At Senate Estimates, CASA agreed that positioning legs were also community service flights. Mr. Monahan said “If you're going to be reimbursed by the CSF then, in that case, yes. It goes under that construct.”. All legs are co-ordinated, and fuel reimbursed, by Angel Flight. The only possible explanation for reducing the flight numbers by more than half (and substantially reducing flight hours) is to ensure a statistical justification for the Rules.
5. The limitations on passengers mean that, for example, a parent taking a child for medical treatment could not take another child who did not have a medical condition, even when there was no care available for the second child while the parent was absent. When this was questioned, the response was “It is CASA's understanding that CSF are scheduled in advance,

*often by several weeks which should give sufficient time for families to make any necessary arrangements, such as for those who cannot accompany the patient on an CSF".* Clearly, the author (CASA's Chris Monahan), has little appreciation of the limited services available in rural areas. The advice to pilots on the CASA web site is now *"The decision on whether the carriage of ..... a support person or persons chosen by the patient is considered necessary to provide the required support or assistance is a matter for the reasonable judgement of the pilot-in-command"*. It is unlikely that CASA has jurisdiction to impose upon a pilot the requirement to assess the emotional or psychological state of a passenger for this purpose, and nor should that be the responsibility of a pilot.

6. The same limitation on passengers meant that Angel Flight could not continue its pilot mentoring program. CASA initially advised that a second pilot could be carried only *"so long as the other pilot qualifies to be a co-pilot of the aircraft and has such duties in relation to the CSF"*. That statement differs from the current advice on the CASA web site, which now permits carrying additional operating crew. *"The decision on whether the carriage of operating crew .... is a matter for the reasonable judgement of the pilot-in-command in exercising their responsibilities, under regulation 224 of CAR, to ensure the safety of the aircraft, persons and cargo carried on the aircraft."* The mentoring programme implemented at the initiative of Angel Flight was lauded by CASA at the time. Clearly the observation by a new volunteer pilot, of the processes, safety culture, and operation of the charity is beneficial - and was never intended to be a co-pilot or technical training role. There is no plausible explanation for the curtailing of this mentoring initiative.
7. One of CASA's stated principles is that *"CASA will adopt a regulatory approach based on a sound assessment of the level of risk associated with particular aviation operations."* However, the risk analysis employed in justifying the Instrument was totally invalid. CASA claimed at Senate Estimates that *"it is four or five times less safe to fly with Angel Flight than it is to fly with your mate"*. That claim was based on data obtained from the BITRE annual survey of general aviation activity. However:
  - It is individual aircraft owners, not Angel Flight, who report aircraft usage to BITRE and, for most owners, it is difficult, often impossible, to determine the aircraft hours used in community service flights because is no way of recording the purpose of a flight in the aircraft log book.
  - BITRE has requested data on community service flights only since 2014 and their records show an average of only 46 aircraft reported CSF activity each year, with average annual flying hours of 1775. The figures for Angel Flight in the corresponding period are 207 aircraft and 3111 hours. It would be impossible to extrapolate the four years of BITRE data to 10 years and expect to have reliable data, as CASA claimed. And these figures did not take into account any other community service or 'fun flight' operation, and nor was there any matching definition of what constituted a community service flight, in the BITRE surveys. It has been admitted by the ATSB that the BITRE data is further unreliable because the survey is not completed by all pilots - and the non-compliance rate is high.
  - BITRE define community service flights as *"flights provided on a voluntary basis for public benefit"*, a broader definition than now applied by CASA and one which would include not only Angel Flight but Little Wings, Wings4Kidz, Funflight, flights for Cancer Kids and various local events organized by aero clubs and other organisations.
8. The DAS has previously stated (Ref.: CASA Briefing June 2018) that *"In aviation, we don't need more rules - we probably need fewer"*, yet this Instrument introduced more regulation with no demonstrated safety benefit.

9. The Instrument is contrary to the "Statement of Expectations for the Board of the Civil Aviation Safety Authority" published 15 April 2015 that requires CASA to consider the economic and cost impact on individuals, businesses and the community in the development and finalisation of new or amended regulatory changes. There is no evidence that the possible increase in maintenance costs for owners using CASA Schedule 5 were considered.
10. CASA's approach to this matter is also contrary to both the spirit and the letter of the Australian Government Guide to Regulation (Commonwealth of Australia, Department of the Prime Minister and Cabinet, 2014). That guide makes clear that non-regulatory alternatives must be properly considered and that safety benefits need to be quantified - not just subjective.
11. CASA's approach to this matter is also contrary to the recommendations of The Aviation Safety Regulatory Review (ASSR), which recommended that the principles of future rule development should:
  - o adhere as closely as possible to the substance of rules in other developed jurisdictions (US, New Zealand, Europe, and Canada) to ensure compatibility, facilitating bilateral recognition agreements and efficient international operations; and
  - o include unique Australian provisions only when absolutely necessary, and only when the Steering Committee formally agrees to their inclusion.
12. During the course of a meeting 11 January 2019, in Canberra between Angel Flight CEO Marjorie Pagani, Angel Flight Director Bruce Sackson, Shane Carmody, Chris Monahan and senior executive staff, Mr Carmody was challenged (by Angel Flight CEO) as to why CASA had chosen to by-pass the usual protocols for regulatory reform. Mr Carmody responded firstly with "I have the power", and when challenged further on this issue, responded with "because it's easy".

However, the fundamental deficiency with the Instrument is that none of the additional rules would have prevented, or even reduced the potential for, the only two Angel Flight fatal accidents (Nhill and Mt. Gambier) that have occurred more than 16 years. In both cases, the pilots and aircraft involved met or exceeded all of the new requirements. Mr Monahan conceded this at a meeting with Angel Flight CEO Marjorie Pagani in the offices of Angel Flight, on 28 November 2018 and subsequently has reaffirmed this in answers to the Senate Estimates Committee.

Angel Flight has consistently implored CASA to revisit the training for pilots in respect of Human Factors, Threat and Error Management, and Weather-related incidents, *prior* to the issue of licences. This has been ignored. CASA has added to its post-licence seminar program some additional human factors modules, but nothing has been done to address the cause of these accidents, or any of the many VFR into IMC events which occur annually in Australia.

The value of the Legislative Instrument is accurately reflected in a recent letter to the editor of Australian Flying (September – October 2019), unrelated to either Angel Flight or the Legislative Instrument, which says *"Instead of changing the rules, CASA should concentrate on why pilots bend the rules or do not understand the consequences of their actions"* and further that *"Changing the rules will have little impact on pilot behavior"*.

Marjorie Pagani CEO Angel Flight

Dr Owen Crees, Hon. Safety Manager, Angel Flight


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## Proposed safety standard - Community service flights (CD 1814OS)

(<https://consultation.casa.gov.au/regulatory-program/copy-of-cd1804os-1-1/>)

## Response 285477871

 Back to Response listing ([https://consultation.casa.gov.au/regulatory-program/copy-of-cd1804os-1-1/consultation/published\\_select\\_respondent?show\\_all\\_questions=0&sort=submitted&order=ascending&q\\_text=Angel+Flight&uuld=285477871](https://consultation.casa.gov.au/regulatory-program/copy-of-cd1804os-1-1/consultation/published_select_respondent?show_all_questions=0&sort=submitted&order=ascending&q_text=Angel+Flight&uuld=285477871))

 Include unanswered questions

## Personal information

### Last name

(Required)

Pagani

### Do your views officially represent those of an organisation?

If yes, please specify the name of the organisation.

Angel Flight Australia

## Introduction of proposed safety standard - community service flights

**The proposal introduces minimum CSF pilot experience, licensing and medical requirements, requirement of flights at night to be conducted using instrument procedures instead of visual procedures and requires slightly enhanced aircraft maintenance requirements, in line with other operations within Australia involving similar participants.**

Please provide feedback below. You may enter as little or as much information as you wish.

ANGEL FLIGHT AUSTRALIA RESPONSE TO CD1814OS 21 January 2019 Angel Flight is wholly opposed to the administrative directions as proposed, or any administrative directions, being imposed on pilots who fly legally under their CASA-granted pilot licences, and/or use their aircraft pursuant to existing Regulatory requirements: all of which have the effect of curtailing the rights of pilots and owners to exercise the privileges of their licences, granted pursuant to CASRs.

1. METHOD OF CONSULTATION AND IMPLEMENTATION For approximately 18 months, Angel Flight has been working on a voluntary basis with CASA, and keeping CASA informed of developments, all of which are aimed at pilot education and enhanced safety in the general aviation environment. CASA was provided with all of the Angel Flight documentation, procedures, processes and aides (notwithstanding no compulsion of Angel Flight to do so – but all of which were offered on a voluntary basis, in the spirit of cooperation and collaboration). At the time of the issuance of the proposed directions, Angel Flight was working with CASA's Melbourne Office, on various steps being taken by the charity, to develop further safety procedures (not required by regulatory dictate, even for charter organisations). Angel Flight had also kept CASA updated on the steps being taken, and safety procedures being developed, again, in excess of those required by charter or similar commercial organisations, notwithstanding that Angel Flight has always, and continues, to rely upon the training, checking and licensing requirements of the Authority, in accepting pilots to fly as volunteers for the organization. CASA has not proposed any changes to these requirements for the obtaining of PPLs, CPLs, nor ATPL's, therefore it is appropriate for the charity to continue to rely upon CASA-issued licences and private flight maintenance



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requirements.. Rather than seek to improve training, education or any other matter related to general aviation safety, prior to issuing licences, the authority seeks to arbitrarily and selectively restrict the use to which licences can be put. CASA is seeking, by administrative direction, to curtail the rights of pilots to fly pursuant to the licences which CASA has granted, and similarly, curtail the rights of aircraft owners to fly their machines in the private category depending upon the health and residential location of their passengers. Despite the voluntary cooperation by Angel Flight with CASA over the past 18 months, Angel Flight was not at any time advised that the regulator was working on, and had developed, a set of restrictive directions (or any directions) it proposed to impose upon properly-licensed pilots, should they choose to operate private flights with disadvantaged rural passengers needing regular medical check-ups in the cities. CASA, by embarking upon this process, and without any risk-based analysis, cost-risk data, nor demonstrated safety benefits, seeks to discriminate against pilots who choose to assist the underprivileged in the community, and to further discriminate against those people living in our rural communities, who have the misfortune of medical problems. Angel Flight was first notified of these (settled) directions just prior to the Christmas holiday period, when visited by a senior CASA officer. At that time, no draft nor written proposal was offered to Angel Flight – simply an oral presentation of what CASA intended to implement. Strenuous objection was taken at that time, in respect of the failure to consult with Angel Flight or industry, the proposed method of amending a regulation (via a direction and not an amending regulation), and the substance of the proposed changes themselves. At that time, Angel Flight was not informed at all about the changes proposed for the maintenance of aircraft in the private category (viz., that the aircraft be maintained to charter category only if the pilots/aircraft were carrying disadvantaged rural passengers to medical treatments, free of charge.) The Authority has deliberately bypassed proper processes which, in effect, seek to add a new licence category, and a new maintenance category, for private flights and private/CPL and ATPL pilots, without adhering to settled and well-published procedures – all of which were designed to ensure proper industry consultation: and all of which CASA has, on many occasions, championed. CASA has stated that “it is not proposing any change to existing flight crew licensing requirements for the conduct of CSFs”. That is exactly what the Regulatory is proposing, but without adherence to proper pathways. The processes CASA has failed to follow, include but are not limited to: a. Bypassing the Notice of Proposed Rule-Making (NPRM) process; including the recommendations and processes of the Aviation Safety Regulatory Review, (ASSR) which adopted the rule-making recommendations of CASA: In creating a new aviation safety regulation, the typical process is for a working group to draft a discussion paper on the topic. The draft discussion paper

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is reviewed by the relevant sub-committee and the SCC and, if approved, published for comment. Comments on the draft discussion paper are considered by the sub-committee and a Notice of Proposed Rule Making (NPRM), containing a draft of the rules, is developed. This NPRM is published for comment. Comments are considered before a Notice of Final Rule Making (NFRM) is published, which outlines how CASA has acquitted comments received on the NPRM and provides the intended final rules.

b. Bypassing the further Recommendations of the ASSR, which include:

- adherence as closely as possible to the substance of rules in other developed jurisdictions (US, New Zealand, Europe, and Canada) to ensure compatibility, facilitating bilateral recognition agreements and efficient international operations
- include unique Australian provisions only when absolutely necessary, and only when the Steering Committee formally agrees to their inclusion

c. Failure to adhere to the 2015 Statement of Expectations for the Board of the Civil Aviation Safety Authority, which includes a requirement for CASA to:

- Consider the economic and cost impact on individuals, businesses and the community in the development and finalisation of new or amended regulatory changes.

d. Failure to adopt a proper, fair and transparent process, by publishing proposed Directions immediately upon the rising of Parliament, with the closing date set prior to the resumption of Parliament.

e. Failure to adhere to the proper regulatory processes, whereby long-standing Regulations, or sets of Regulations, which confer fundamental rights on pilots and aircraft owners (being the rights to exercise the full privileges of their licences and aircraft use) are sought to be changed by the direction of the CEO of CASA, and not subjected to Parliamentary scrutiny as would be the case if they were tabled as is required for Regulations, which is particularly offensive given that the proposed changes substantially curtail or extinguish those rights.

f. Failure to adhere to CASA's core tenets, set out in its published Regulatory Philosophy.

g. Failure to adhere to its published philosophy of ensuring that its "Actions and decisions are informed, consistent, risk-based, evidence-driven and without bias": none of these criterion are reflected in the current proposed directions changes. The senior CASA officer who personally (orally) delivered to Angel Flight the notice that the directions were about to be published, conceded, when pressed, that "none of these changes bear any relationship to the accidents". By way of comparison, another current consultation is underway relating to maintenance requirements for GA aircraft (but does not include the current proposed directions in relation to requiring private aircraft engines to be maintained to charter category). That consultation was open for a period of approximately two months, not one as is the case with the proposed directions, and has been undertaken pursuant to a proposed regulatory change (Part 43) to "create Australia's first specific set of rules (Part 43) for maintenance for aircraft used in private and aerial work operations". There has

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been no explanation as to why the proposed maintenance standards for GA aircraft involved in CSFs were not included in this document, nor why that change has been proposed by proper regulatory processes, and the significant changes to pilot and aircraft requirements and restrictions for CSF have been proposed by way of administrative direction. This can only indicate unfair and inappropriate bias, contrary to CASA's philosophy. h. Failure to utilise its analytical specialist resources (including a manager for strategic analysis) to develop Sector Safety Risk Profile (SSRP) upon which to base the proposed directions, prior to issuing them to industry and charities flying community service flights. CASA's head of the relevant department has said publicly : "an SSRP requires frank reporting and active participation from industry members. Sector participants have a strong incentive to contribute to the risk profile. It's their profile and it can enhance their safety. Once completed, the risk profile is then made available to sector participants who can draw from their own section developed SSRP", and has endorsed the advantages of sector safety risk profiling as being: 1. Consultation is driven by industry sector subject matter experts and CASA; 2. Sector risk registers are jointly developed, including risks attributes such as causes, current controls and future treatments; 3. It promotes an assurance mapping process which contains a gap analysis of the sector risk register and each sector entity's risk register; 4. It introduces a 'living' risk profile' by implementing and integrating a risk register into an operator's Safety Risk Management practice, and into the authority's safety sector surveillance program responding to identified merging risks. Given that CASA has now deemed CSF's to be a 'sector' worthy of specific and unique directions, which impact significantly upon the rights of pilots and owners to fly and operate their machines according to current regulatory requirements, then it is incumbent upon the Authority to heed its own recommendations before publishing a set of directions without industry or 'sector' consultation. It is insufficient that it has written the directions without consultation nor proper analytical process, to now stand behind the one month 'consultation' feedback process (which has no statutory mandate in terms of changing the directives pursuant to the consultation), or that it may now be embarking on a data analysis or risk analysis subsequent to the issuance of the proposed directions. i. These failures are in addition to the unannounced commencement of changes to the Aviation Medical Questionnaire/Assessment process introduced without any consultation with Angel Flight or industry, which required, and still require, pilots to indicate on their AvMed application forms, as to whether they intend to fly for Angel Flight or similar. This was done without any notification to pilots or the industry at all. The inescapable inference to be drawn from this change in the AvMed form, is that it was, and is, the intention of CASA to assess the medical health (and fitness to fly) of the pilots (both in Class 1 and Class 2), based on the



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health of their passengers. CASA also purports to impose a significant penalty on any pilots not accurately answering this question. This appears to have been the initial step in seeking to close down the community service flight charities, now followed by the proposed further changes.

2. RESPONSE TO OVERVIEW OF CD1814OS (adopting the Headings in that document): OVERVIEW: (i) The statements made in this document underpin the proposed directions. The assumptions made are fundamentally flawed, and made without appropriate research, analysis, supportive (or any) data, and therefore the proposed directions themselves are ipso facto, fundamentally flawed. CASA states that it 'anticipates' that 'most pilots currently conducting CSF (sic) will meet the proposed new standards: there was no research whatsoever, nor questions asked of Angle Flight, upon which to base this assumption. Given that the Authority is seeking to rely upon safety and risk-based criteria, it is a fundamental requirement to properly gather reliable data. It is not possible for the Authority to make this statement with any credibility. It assumes, inter alia, , that 'most' pilots will take off and land within 30 days on each type they fly (as opposed to 90 day requirements pursuant to the Regulations – and with no type requirements); will have twice the number of hours for both VFR and IFR flight on type (10/20 respectively) than are required in commercial operations; will have a minimum of 100 hours on type in a twin (not required for charter); will have more than 400 hours TT; will fly aircraft (in private category) which are maintained to the charter engine standards. These are patently wrong, and inappropriate assumptions to make without any attempt to collect relevant data. Moreover, the two CSF accidents in the last 16 years, are unrelated to any of the new criteria sought to be imposed, as the pilots involved in those incidents well exceeded each of these relevant criteria. (ii) CASA foreshadows that charities 'may come to be (an) Approved Self-administering Aviation organisation ASAO,' under Part 149. However, CASA acknowledges that this proposal was part of the earlier DA, which it concedes was soundly rejected by the aviation community, and which was scrapped. The only proper inference which can here be drawn is that CASA has a present intention to regulate the charities (thereby forcing them to become Aviation organisations in order to continue their valuable volunteer services), perhaps again, without industry consultation nor support, by way of a further administrative directive. (iii) CASA states that the proposed conditions are 'necessary'. Again, there is no supportive data nor risk-analysis to make this pronouncement. (iv) And it is stated they are 'to ensure maintenance standards appropriate to the nature of the operation have been satisfied'. This, again, flies in the face of CASA's own regulatory compliance structure. These flights are, always were, and will continue to be, private flights. The pilots and machines are compliant with this category of flight. There is no demonstrated 'necessity' to create, unofficially, a separate category of aircraft

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maintenance, which lies somewhere between private and charter. (iv) The directions are premised upon the generalised and unsupported statement that 'The safety benefits of the standard significantly outweigh the requirements being imposed.....and the proposal reflects a proportionate risk-based approach'. Not only is there a lack of evidence to suggest that these directions will "significantly" outweigh the requirements, there is no evidence whatsoever to underpin the statement that it will at all be outweighed. As to the proportionality of the alleged risk-based approach, again, this is a 'generalised' statement, used to underpin a specific set of perceived issues, none of which have been analysed, nor industry data nor opinion sought. It is highly inappropriate to use such statements without foundation. BACKGROUND: (i) CASA has reasoned that "CSF's can pose potentially significant challenges for pilots who may have limited flight experience." Only CASA licenced pilots are used for these volunteer flights, and only aircraft with Australian registration/certification in the 'normal' or greater category are used. CASA has mandated by regulation that the pilots so licenced can carry out these flights, with passengers, so long as they comply with the regulations. It is now being suggested, by way of this statement, that CASA does not properly train, check, test, nor licence its pilots to fly safely with passengers, notwithstanding it issues licences to them for that purpose. (ii) If there is to be a remedy to what CASA clearly sees as a defect in its training, testing and licencing procedures, then that remedy lies in their training requirements. It is inappropriate to issue a licence allowing flight with passengers in certain categories, then administratively declare that they are not fit to fly pursuant to those licences, if their passengers are of a certain status or from country locations. CASA has conceded that none of the proposed directions relate to CSF crashes (or any other specific category of crash). Any improvement in relevant areas should be a matter for CASA to regulate in its training and licensing procedures, given its implied admission that its licenced pilots are unsafe to carry out the functions of their licences. Again, overall, the use of untested generalisations is inappropriate. (iii) CASA states that "Many of these flights are carried out in difficult operational situations...." This is patently wrong, another inappropriate generalisation, and without even recourse to data which Angel Flight could have supplied. To this point, Angel Flight has co-operated on a voluntary basis with CASA. It has supplied to the authority all of its operational documents in all aspects. There is no foundation whatsoever for the making of this claim, particularly as it is relied upon in the head document as a reason for seeking the changes (although no reason has been offered for the use of the directions method in seeking the changes). (iv) CASA states it is concerned that its properly licenced and authorised pilots, flying their compliant and regulated aircraft pursuant to Australian aviation rules, will not "continue to satisfy the requirements for undertaking CSF operations". What CASA deems to be "CSF Operations" are

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private flights, which can be conducted legally in private aircraft. CASA has offered no explanation to underpin its 'concerns'. Again, a generalisation, inappropriate in the circumstances, which again can only reflect a clear lack of confidence by the regulator in its own training and licensing procedures. (v) CASA states that its proposed directions are causally-related to, inter alia, the operational risks of charter, which are "exacerbated" in a "CSF environment". Again, that is an unsupported generalisation. A random survey could have been undertaken (with pilot consent), and facilitated by Angel Flight, which would have shown the authority that this is not the case. It also appears, by this statement, that CASA is not cognisant with the pressures of charter, particularly when a pilot with approximately 150 hours total time, can carry fare-paying passengers, in an unfamiliar machine, to unfamiliar places, with time and economic constraints - which do not apply in Angel Flight's environment. (vi) CASA notes that 'some actions' have been taken 'by the sector', it does not recognise that the actions taken, and being taken, are directed towards safety, pilot education, and culture. These are the matter CASA should be addressing in its pre-licence training regime, if it wants to direct its energies towards safety - rather than imposing irrational ad hoc and unsupported restrictions on pilots - such restrictions only applying if they are carrying people who need help and who come from country areas. PREVIOUS CONSULTATION: Casa has noted that its previous "INDICATED A SIGNIFICANT LACK OF SUPPORT FOR ANY REGULATORY INTERVENTION". Regrettably, CASA appears to have interpreted this as meaning that it should take other 'easier' steps to regulate without submitting itself to the regulatory, democratic, and fair processes associated with rule-making of such a significant nature. SUMMARY OF PROPOSED CHANGES DOCUMENT: In addition to the matters listed in the 'OVERVIEW' section above, CASA further states, by way of underpinning rationale for its proposed directional changes: 1. CASA's Actions to Date Statements (i) CASA states it has examined 'foreign' CSF operations prior to making these proposed directions. It fails to advise the aviation community that the largest of these, the FAA (US) does not have any such directions or regulations. To the contrary, the FAA has made recommendations., some of which are adopted by CSF organisations, whilst others are not. The major organisation in the US carrying out these flights has adopted only one of the FAA recommendations, and that is to have the pilots sign an annual affirmation to effect they will comply with the rules. Angel Flight Australia goes far beyond that. The implication sought to be conveyed here is that there are stricter requirements in other major nations - this is not correct, and should have been stated. (ii) CASA has incorrectly categorised rural passengers with health problems flying to city treatment facilities in non-emergency situations, with back-up plans in place on every occasion, as "uninformed participants". CASA has the entire suite of Angel Flight documents



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and procedures, and its officers have attended and observed those procedures in situ. The information provided, in writing, orally and by video, the passenger acknowledgements, confirmation by medical professionals, and the requirement that all of these processes take place before a passenger is accepted for a flight, are in stark contrast to the description of them and the processes as being 'uninformed'. It is far more likely that charter passengers (who are not briefed in this way) are "uninformed" when comparisons are being made between RPT flight and aircraft requirements. It is not suggested that this should be the case, but the comparisons are obvious and have been ignored by the Authority. (iii) CASA refers to the proposed changes as "modest", notwithstanding that the maintenance engine costs proposed could affect the majority of private volunteer pilots' machines to the extent of a cost of about \$60,000 for singles and \$120,000 for twins (in the piston category). (iv) Another inappropriate generalisation is contained in the statement that the changes 'will not significantly impact the CSF sector'. This is patently wrong, stated without any research or basic enquiry of Angel Flight, and grossly misleading. The cost effect alone will be likely to reduce the available aircraft by about 80%. This will flow on significantly to the aircraft maintenance industry. - there are a significant number of pilots whose primary reason for flying is to help those in need. Without these flights, there will be no continuing maintenance - a significant but unquantified loss to that sector, which clearly has not been factored into the non-existent cost-benefit analysis which ought have been carried out by the authority before embarking on this process. It will also affect the recruitment process, ensuring that young pilots cannot enter the field at the earliest opportunity. PROPOSED NEW STANDARDS: 1. Licensing: CASA states it is not proposed changes to flight crew licensing requirements. That is exactly what it ought be doing in the face of its implied admission that its pilots are not properly nor safely trained to carry passengers, and they should not be able to carry out flights in accordance with their legal regulatory obligations, including the right to fly according to the privileges of those licences. CASA is restricting the right to fly, or in the alternative, creating a sub-class of charter category, without proper or any rule-making processes. It concedes that the flights are private in nature, and can be carried out by the holders of private licences, yet at the same time curtails the rights of those pilots. 2. Medicals: CASA proposes to ban holders of a Basic Class 2 medical from private flight, in cases where the passengers are rural people in need of care in cities. It cites rail comparisons as an example. It fails to advise that heavy transport industries (including quadruple road trains) use the same criteria. It also fails to explain why a light aircraft carrying a few people is more dangerous than, for example a large turbine aircraft such as a Metroliner (which can be full of freight) can enter, exit, and traverse large populated cities with the same licence. The comparative safety analyses are non-existent, and the



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presumptions flawed. This may affect future Angel Flight Operations. Currently Angel Flight requires Class 2, however, this is solely due to the requirement for pilots on each flight to disclose their medicals and aviation examination status (and other personal matters) to each passenger on each flight under the Basic Class 2 - itself an unruly, impractical, and unfortunate requirement which can only cause unnecessary and unwarranted apprehension for the passenger. No such disclosure is required for Bus, truck and other public transport drivers who operate under the same licence requirements.

3. Aeronautical Experience Requirements: 30 day landings - even for CPL and ATPL pilots - not required anywhere else in the aviation world, and developed without any safety case nor supportive data - and in particular, irrelevant to the GA accident statistics. Hours on type for VFR and IFR flight respectively: These are twice what is required in charter operations - no plausible underpinning nor subsequent explanation for this has been offered by CASA - it is totally unsupported by any data or risk-analysis process, and unrelated to the relevant crash statistics/causes.

4. 400 Hours Total Time: This is unrelated to CSF accident statistics. It also flies in the face of CASA's published philosophy to move away from 'hours' to competency-based training and assessment, and indeed, to the entire backgrounding of Part 61. It is unsupported, archaic, and unsupportable. A very competent and fast-learning pilot could not join the CSF volunteers, whereas one which took perhaps 4 times the training hours to achieve a licence, would be qualified. Again, it appears as though CASA has lost all confidence in its training and licensing requirements, and if so, that is where it should make the correction, rather than assuming that not all licenced pilots are safe to fly.

5. 250 PIC: This is up to organisations, as with charter companies and airlines, who dictate a variety of min times for a variety of reasons: it ought not be mandated by the authority as a generalised approach to the competency of its properly licensed pilots.

6. 100 HRS twin time: This is not required in charter operations. It is an extreme expense to those who choose to upgrade to a twin - following a CASA-approved endorsement they are then not able to fly passengers in this category until they have reached 100 hours (but may fly any other passengers) - this is unrelated to any CSF or light aircraft crash data in the GA sector. It appears to be a round figure unsupported by any risk-analysis, and is contrary to the 'modest' change statement which is not a cost burden. This will have a serious impact on those upgrading for better safety and performance, who will then be prohibited from using their aircraft for those in need of help. If CASA believes its delegated testing officers/examiners are incompetent, and that the endorsement requirements and processes are inadequate, then that is where its focus should be - not on curtailing rights of those whom it has authorised to operate these machines.

7. Aircraft Operational Limitations: Aeroplanes Only: Unsupported from a safety case perspective, and irrational from a logics

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perspective. A pilot can accrue 400 TT in a helicopter, but then not be permitted to fly that helicopter for community purposes. However, that same pilot could convert, do 20 hours in a small fixed wing, and be permitted to fly community flights in the small fixed wing. Angel Flight volunteers include helicopter pilots, with R44 helicopters. Under the proposals, these will be banned. This will have the practical effect of precluding uplifts and return of those people needing transport from flooded cattle stations and outback towns. No Night VFR. This should be a private operational choice, as CASA licences pilots to fly under the NVFR. If CASA believes this to be inherently dangerous, then it ought take steps in relation to that rating – not take steps against the pilots choosing to use that rating. Max 5 Pax: This is the rule applied to Basic Class 2 medical holders – however, CASA proposes to ban those certificate holders from flying community flights. There is no safety justification for this – indeed, it has the opposite effect. Angel Flight has the privilege of having volunteers who own and operate machines such as Citation Jets, B200s, Cheyenne, PC12s and a variety of other 8 seat machines. These people operate over long legs, for the purpose of collecting two or three families from various locations on or near track – combined flights. This rule will now prevent the use of these fast, safe and comfortable machines, instead requiring several small aircraft to fly over long routes to collect families individually. Again, it comes back to the lack of confidence CASA has in its licensing, endorsing, and testing procedures, and it should not be addressing what it clearly sees as a problem in its own processes, by earmarking certain pilots (without justification nor research) for restrictions in the manner in which they can use their machines.

8. Flight Notifications: These should follow general regulatory procedures, and not be adjusted due to the nature of the passenger on board. This, and the concomitant requirement for logging the nature (viz health status) of the passenger, can only be for policing and prosecution purposes, and has no bearing on safety. CASA is well aware that CSF providers have processes for tracking in place. The flight will not be safer just because the pilot makes an unregulated and extraordinary notation in a log book to effect that he or she was carrying a rural passenger in need of help.

10 Maintenance to Charter Standards: There is no safety data nor risk-analysis which indicates that this proposed change will have any positive effect on safety – indeed the published data (known to CASA) indicates the opposite. Moreover, it will cause the retirement (and prohibition on new pilots entering the community flight area) to drop by about 80%, due to the prohibitive costs involved. A comparison with parachute operations is a flawed generalisation, unsupported and unsupportable. None of the CSF nor GA crash statistics generally support this change as a safety factor.

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**Submission in response to CD18140S 23 January 2019**

**Personal Information**

**First Names:** Howden Phillip  
**Last Name:** Reiss

**Email Address:**

**Do your views officially represent those of an organisation?**  
No

**Where do you operate from?**

**Please enter your postcode below:**

**Who are you (mandatory).**

Pilot with own aircraft used for business flights and  
occasional Community Service Flights

**Other:**

VP IAOPA Pacific Region retired Corporate Chief  
Pilot, Director Yowie bay Pty Ltd

**Do you give permission for your response to be published?**

No, I want my response/submission to remain  
confidential, but I do understand that de-identification  
aggregate data may be published.

**Introduction of proposed safety standards – community service flights**

I am opposed to the administrative directions as proposed which in my opinion  
imposes restrictions over and above the legally granted CASA Pilots licenses to  
exercise the privileges of their licences as granted under the current CASR's.

CASA has bypassed proper process in its intention to implement what would  
appear to be a new class of license for CSF's, a new category and an additional  
maintenance category, for private flights and for private/CPL and ATPL pilots  
without full industry consultation.

**Introduction of proposed safety standard – community service flights**

The proposal introduces minimum CSF pilot experience, licensing and  
medical requirements, requirement of all flights at night to be conducted  
using instrument procedures instead of visual procedures and requires  
slightly enhanced aircraft maintenance requirements in line with other  
operations within Australia involving similar participants.

Please provide feedback below, you may enter as little or as much  
information as you wish:



**Submission by: H Phillip Reiss MAP**  
**VP IAOPA Pacific Region**

**ON:**

Consultation Draft for Proposed Safety Standard  
1. Community Service Flights ("The Proposal")

**Introduction:**

I hold an Australian Airline Transport License, USA ATPL, and a Command IFR Rating.

I commenced flying in 1964, was an Instructor, Charter Pilot and for most of my career flew Corporate jet Aircraft and held check and training approval on all of them. I was Chief Pilot and director of Aviation for the Westfield Group and flew their Boeing 727 and Learjets, Hawker 700 and Challenger 604. I have over 20,000 hours and currently own and fly a Twin Comanche that has been rebuilt to the highest standard and contains the latest avionics equipment; dual glass Aspen displays, ADS-B and is PBN compliant, Autopilot with coupled vertical modes, Primus 300 Colour Radar. Engine analyser, dual GPS Avidyne IFD 440 and Garmin W430 plus Tas 620 TCAS. I have conducted 75 CFS flights, if the proposed regulatory changes come into effect I will have to withdraw my aircraft and my services from CSF's.

**The four points of CASA Consultation Draft are:**

Licensing and medical requirements

Minimum CSF pilot experience

Requirement that flights at night be conducted under IFR

Enhanced maintenance requirements

The first three requirements are based on the assumption that these are not addressed in Angel flight operations, this is completely wrong and reflects either poor research or personal subjective opinion in CASA. Angel Flight has in place standards that are in excess of those required by CASA for private pilots. Night VFR is strictly banned by Angel flight, all documentation received from the Co-ordinators clearly state this, Angel flight co-ordinators monitor the qualifications and recency experience, medical status of the pilots who sign a declaration of their currency, Co-ordinators send out reminders to pilots when their medicals and IFR renewals are falling due.

Passengers using Angel Flight Services are informed that these are private flights and are conducted in aircraft that are not operated to Commercial regulatory standards and pilots are not required to hold a commercial license; many do, but this is not required. Passengers are fully informed by the co-ordinators and receive a written document outlining all of the above and sign a waiver and agree to the conditions as detailed to them by the co-ordinators.

Further, passengers must have a referral from a Health Care Professional to be able to apply for the service.

**Circumstances that preclude a passenger from taking an Angel Flight**

- **Unaccompanied minors**
- **International requests**
- **Nursing home relocations**
- **Passengers travelling for critical care**
- **Passengers requiring a rescue service or air ambulance service or who need monitoring by medical staff or medical equipment in flight**
- **Adult passengers who are not able to enter or exit the aircraft unassisted**
- **Passengers who are not medically stable or whose medical condition is unsuitable for transport in a non-pressurised light aircraft**

Medical conditions of passengers are not of an extreme nature and they must be able to be able to communicate unimpeded, board the aircraft without assistance and leave the aircraft without assistance, passenger's medical conditions are never critical, we simply provide a means for them to attend specialist treatment unavailable in country centres. Unlike RFDS we do not require medical personnel on board and our flights are not medical emergencies.

Challenges are present in all facets of flying, however there are far greater pressures to complete flights when flying Charter for example where the client is paying the bill and demanding he or her reach their destination on time. Often charter pilots are junior pilots and have the lowest experience and therefore often pushed to fly under conditions that they are not comfortable with. Angel flight on the contrary has no obligation to the passenger other than to provide a safe flight, the passenger is not paying for the flight. Have been informed that the pilot may cancel the flight if they are not comfortable with weather conditions and alternative means of transport is then provided for the passenger.

I have cancelled three flights, one when extreme turbulence was forecast, another due icing and thunderstorm conditions and the third was to a destination with no Instrument approach facility and low cloud forecast, on that occasion I flew them to an alternative airport that was within an hours drive of their destination which was completed by road. The passengers on each occasion were appreciative, when it was explained to them that their safety and comfort was the prime consideration and that there was a plan B in place.

Corporate flying places a far greater imperative on flight completion and I made many flights into airports in extreme weather conditions in the B727 that I would not do in my Twin Comanche, of course I had the back up of a First Officer and a Flight Engineer. Angel Flight is particular in making their pilots aware that they may cancel without recrimination, of course there will always be those pilots that are prepared to take risks, these pilots are also present in Charter, Corporate and in Airline operations. The proposed rule changes for CSF's will not prevent that, Angel flight in particular have made considerable effort to address that and a mentoring program has been mooted whereby the more experienced pilots are available to advise newer pilots on weather conditions or operational issues.

RFDS flights have their own pressures; often-medical emergencies where time is critical to patient survival, CSF's are not critical flights and missions don't have to be completed.

CSF pilots are generally owners of their aircraft, keep them well maintained and are vastly better equipped than the usually tired old revenue earning charter aircraft that are usually also rather tatty and dilapidated in spite of their operation under an AOC.

It would appear CASA has made a subjective decision without supporting evidence and without following normal well-published procedures.

a/. Bypassing the Notice of Proposed Rule-Making (NPRM) process

b/. Bypassing recommendations of the ASSR, in particular:

Not adhering as closely as possible rules in other similar jurisdictions USA, New Zealand, Europe and Canada

Not developing unique Australian regulations except when absolutely necessary and only when the steering committee agrees to them.

c/ Not considering the impact on individuals, businesses and the community when developing or amending regulations. This is clearly spelt out as a requirement in the 2015 Statement of Expectations for the Board of the CASA

d/. Changing regulations without proper regulatory process by the CEO of CASA without Parliamentary scrutiny thereby curtailing the rights of pilots to exercise the full privileges of their licenses.

e/. CASA claims to hold a philosophy of ensuring that its "Actions and Decisions are Informed, Consistent, risk Based, Evidence Driven and without bias" Their actions over this matter do not support their espoused philosophy.

f/. Further adding changes to the Aviation Medical Questionnaire/ Assessment process to introduce a requirement for pilots to indicate if they intend to do Angel flights - since when did it become a requirement for a pilots medical, whether Class 1 or Class 2 to asses the health of the passengers.

g/. To describe the changes to maintenance standards as slightly enhanced is farcical, the changes from AD/ENG/4 amendment 11. Requirement 1 to requirement 2 will impose major cost penalties requiring perfectly serviceable engines to be overhauled on Calender life, 80% of private owners will have engines that are at half engine hour TBO, running on condition and at peak engine performance and reliability. The cost Involved in the case of a twin-engine aircraft will be well in excess of \$100,000 and in many high performance singles well north of \$70,000. Surely if it is considered safe for Flying Schools to operate to Arial Work Requirement 1 then it is also safe for private CFS flights. Lifting

maintenance standards to "Arial Work" would be an acceptable standard as most privately owned aircraft are at present being maintained to this standard. The proposal to require Charter category maintenance will result in 80% of present aircraft owners withdrawing from CFS and most of the more experienced owner pilots will be lost to CSF's for no safety benefit. There have been no accidents in Angel Flight operations related to engine failures or maintenance issues.

Mike Busch a highly respected GA Maintenance Engineer, he is a recipient of FAA National Aviation Technician of the year and has written many papers on engine maintenance, is of the opinion that many thousands of hours of engine operating experience have proven that engines that are calendar expired are more reliable than freshly overhauled engines, provided of course that they are maintained, correctly, cylinder leakage tests conducted and 50 hourly oil and filter changes performed, spectrographic engine oil analysis can also be used to determine engine condition.

- h/. None of the proposed changes have any bearing or relationship to the two accidents that occurred and Angel Flight have put in procedures above and beyond the CASA's license standards for private pilots, or even commercial pilots.

I can only assume that CASA have made an arbitrary decision, which is neither evidence based, nor that will make any real contribution to aircraft safety, simply to shut down the Community Service Charities. The irony of this is that many country people will die prematurely simply because they cannot access specialist medical treatment in Capital Cities, because they cannot afford any other form of safe air transport, but then I can only assume that the CASA's Philosophy is that ultimate air safety can be achieved by grounding all aircraft, forget community benefit and the life saving health benefits of CSF.

I often meet people who have been able to access often life saving treatment that that they could not have afforded were it not for Angel Flight. Their gratitude is reward enough for the cost and effort that my skills and aircraft provide.

This great service must not be killed off by an over zealous regulatory environment that will not enhance safety. The community benefit is far too important to be closed down by bureaucratic intransigence, without this service many country people will not be able to afford specialist treatment.

H Phillip Reiss



29/08/2019

Proposed safety standard - Community service flights (CD 1814OS) - Civil Aviation Safety Authority - Citizen Space

## Proposed safety standard - Community service flights (CD 1814OS)

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## Response 624327021

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🔍 Include unanswered questions

## Personal information

### Last name

(Required)

Reiss

### Do your views officially represent those of an organisation?

If yes, please specify the name of the organisation.

Angel Flight

29/08/2019

Proposed safety standard - Community service flights (CD 1814OS) - Civil Aviation Safety Authority - Citizen Space

## Introduction of proposed safety standard - community service flights

**The proposal introduces minimum CSF pilot experience, licensing and medical requirements, requirement of flights at night to be conducted using instrument procedures instead of visual procedures and requires slightly enhanced aircraft maintenance requirements, in line with other operations within Australia involving similar participants.**

Please provide feedback below. You may enter as little or as much information as you wish.

I agree with minimum experience requirements and flights at night to be conducted under IFR and pilots to be suitably qualified. I also consider a Class 2 medical should be required. I don't consider maintenance standard should be the same as for charter, aircraft maintained to CASA Private category is adequate.

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