

The regulator – Civil Aviation Safety Authority

- 7.1 Evidence to the committee suggested that aviation safety regulations and the way they are administered impose significant costs on small operators in particular. This is contributing to the reduction in the number of regional operators and the level of air services in regional areas.
- 7.2 The regulator is CASA, established in 1995.
- 7.3 Aviation safety regulation has been a vexed issue, having had some 15 reviews over the last 20 years. The most recent of these, announced in November 2002, is intended to improve CASA's accountability, enhance consultation with industry and build greater fairness, flexibility and strength into its enforcement processes.¹
- 7.4 The *Civil Aviation Amendment Act 2003* gave effect to these intentions which are expected to address many of the industry's concerns.²
- 7.5 However, some industry leaders, witnesses and others were sceptical about the potential for the CASA reform legislation to achieve its intended outcomes.³ The committee believes that the matter requires further consideration.

1 Media release, the Hon John Anderson MP, Minister for Transport and Regional Services, 27 March 2003, A25/2003, 'CASA Reform Bill Introduced to Parliament'.

2 Media release, the Hon John Anderson MP, Minister for Transport and Regional Services, 9 October 2003, A119/2003, 'CASA Reform Bill Passed in Parliament'.

3 Banham, C., 19 November 2002, <http://www.smh.com.au>, last accessed 21 June 2003; Creedy, S., 'Reforms on course, say pilots', *The Age*, 20 November 2002, p. 18; Lloyd's List daily Commercial News, Airfreight, 'Industry and operators cautious about CASA shakeup', 21 November 2002; Paul Rees, transcript of evidence, Wagga Wagga, 7 May 2003, p. 467.

- 7.6 The committee noted that the accident rate in the RPT sector (comprising high capacity and low capacity RPT) had remained low and stable for the past 10 years, and that the overall accident rate for Australian aviation had declined at an average rate of eight per cent per annum over the same period. The overall accident rate is currently about five accidents per 100 000 flying hours, and the number of fatal accidents is less than one per 100 000 flying hours.⁴
- 7.7 The committee noted that there is tension between achieving aviation safety that preserves public confidence and maintains patronage, containing the compliance cost so as not to stifle the industry, and enabling the regional aviation industry to develop and provide an adequate level of services to regional and remote communities.
- 7.8 Achieving a balance between these objectives is difficult and controversial. However, the committee considered that there is a clear need for CASA to improve its performance in three areas:
- Assessing fully and accurately the impact of its changes to regulations;
 - Improving the quality of its services and the time that it takes to deliver its services; and
 - Improving the skills and attitudes of CASA staff, particularly in the regional offices.
- 7.9 The committee considered that CASA's performance should be tested regularly to assess its improvement in these areas.

Impact of regulation

Regulation reform

- 7.10 In 1996, CASA initiated its Regulatory Framework Program after it recognised that many safety regulations were unnecessary or unnecessarily restrictive compared with international standards, and at times ambiguous, difficult to comply with and difficult to enforce. To make them work, the regulations frequently required exemptions. This imposed costs on the industry and on CASA.⁵

4 Australian Transport Safety Bureau, 'Aviation Safety Indicators 2002', pp. 5, 28.

5 CASA, Regulation Impact Statement, RIS 9801, 'Certification and Airworthiness Requirements for Aircraft and Parts', <http://www.casa.gov.au>, last accessed 21 August 2003.

- 7.11 The objective of the Regulatory Framework Program was to produce regulations that were clear, concise and unambiguous, enforceable, consistent with Australia's international obligations and harmonised with overseas requirements where possible.⁶
- 7.12 To achieve the program objective, CASA reviewed and revised Australia's aviation safety requirements jointly with industry.⁷
- 7.13 In regard to Australian aircraft and aircraft components manufacturers, CASA recognised that inadequacies in the legislation hampered the emergence of an Australian aircraft industry by imposing unnecessary and unproductive delays.⁸
- 7.14 Despite CASA responding to industry needs since 1996, the committee found that some parts of the industry continued to have concerns about the regulations, their impact on the industry and the way regulation reform was being implemented.

Cost impacts of regulation changes

- 7.15 The committee received evidence that suggested that CASA appeared not to consider the full impact of regulation and the cost-benefits.⁹ For example, Dick Smith told the committee:

When you talk to the people at CASA, they are very well meaning but they are destroying an industry. It is the dream job. They can sit there, and without this pressure of cost, they can dream up safer ways of doing things.¹⁰

- 7.16 As Basair told the committee:

Changes to the industry are often pushed through for the sake of change, as far as we can ascertain, and with little regard to the effect that those changes will have on the industry.¹¹

6 CASA, 'Why we are doing it', extract from speech by Mick Toller to the 2001 Safe Skies Conference, <http://www.casa.gov.au>, last accessed 21 August 2003, p. 1.

7 CASA, Regulation Impact Statement, RIS 9801, 'Certification and Airworthiness Requirements for Aircraft and Parts', <http://www.casa.gov.au>, last accessed 21 August 2003.

8 CASA, Regulation Impact Statement, RIS 9801, 'Certification and Airworthiness Requirements for Aircraft and Parts', <http://www.casa.gov.au>, last accessed 21 August 2003.

9 Regional Aviation Association of Australia, submission no. 93, pp. 3, 7; transcript of evidence, Canberra, 18 June 2003, pp. 715-716.

10 Dick Smith, transcript of evidence, Canberra, 4 June 2003, p. 578.

11 Basair Australia, transcript of evidence, Sydney, 8 May 2003, p. 531.

- 7.17 Rex told the committee that it had to upgrade its aircraft to meet CASA regulations at a cost of \$5.2 million. Whilst Rex did not describe what it had to do to upgrade its aircraft, Rex argued that the upgrade did nothing to improve the operational effectiveness or earning capacity of the aircraft; it was ‘just an additional safety measure’ to meet CASA requirements.¹²
- 7.18 The committee was told that some safety requirements introduced by CASA were putting at risk the economic viability of small airlines which do not have the operating margins necessary to fund upgrades. It was argued that CASA’s regulations were written for medium to high capacity operators rather than being written to accommodate low capacity RPT operators also. Consequently, only a limited number of aircraft models could meet CASA regulations cost-effectively over the medium term.¹³
- 7.19 For example, CASA regulations require aircraft with more than nine seats to have two pilots and expensive ground proximity warning systems (GPWS). The committee was told that the cost of upgrading an aircraft to have a GPWS was about \$100 000. This was a significant cost penalty to a small operator on a low yielding route.¹⁴
- 7.20 Macair outlined further the impact of these costs:
- ... imposition by CASA and others of things like the GPWS [ground proximity warning system] equipment fit. It has never saved a life yet in Australia, in our opinion, yet, out of some incident or some committee room somewhere in Canberra, somebody dreamed this up as a great idea—we have to go and fit it in an unbridled fashion. It caused us to retire our Bandeirante fleet. We could not afford to fit it. How do you fund these things? It is \$150,000 an aircraft. If you ask Qantas to fit a \$150,000 piece of equipment to their \$100 million jumbo, it is slightly different to asking someone to fit \$150,000 worth of equipment to their \$500,000 to \$1 million aircraft.¹⁵

12 Rex, transcript of evidence, Sydney, 8 May 2003, p. 555.

13 Edge Aviation, submission no. 65, pp. 2-3, 5-6; Edge Aviation, transcript of evidence, Tullamarine, 26 February 2003, p. 208; Island Airlines Tasmania, transcript of evidence, Tullamarine, 26 February 2003, p. 282.

14 Edge Aviation, submission no. 65, pp. 2-3; Edge Aviation, transcript of evidence, Tullamarine, 26 February 2003, p. 208; Island Airlines Tasmania, transcript of evidence, Tullamarine, 26 February 2003, p. 282.

15 Macair Airlines, transcript of evidence, Brisbane, 11 June 2003, pp. 601-602.

- 7.21 State governments such as NSW and Tasmania supported these claims by operators.¹⁶
- 7.22 The committee noted that CASA had introduced the requirement for medium capacity RPT aircraft with turbine engines to be fitted with GPWS by 1 January 1999 to accord with a requirement of the ICAO.
- 7.23 Before introducing this requirement in Australia, CASA conducted a cost-benefit analysis of fitting GPWS to medium capacity RPT and charter aircraft. This analysis showed that the benefit would outweigh the cost by 60 per cent. At the time, CASA acknowledged the industry's concerns about the capital cost, the implementation date, and the threshold for aircraft size and capacity that it had chosen.¹⁷
- 7.24 A particular regulatory matter that concerns regional and remote air service operators was CASA's proposal that charter operators must comply with safety requirements very similar to those of RPT operators. Currently, the requirements on charter operators are less stringent than those applying to RPT service operators.
- 7.25 The committee received mixed responses to CASA's proposal to amend its regulations to remove the distinction between charter operators and those providing RPT services.
- 7.26 The Queensland Government said for example that operators that already provide charter and RPT services would incur no cost from the amendments. Whereas, those operators that only provide charters, will incur costs to upgrade their aircraft to the higher safety standard.¹⁸
- 7.27 Paul Bredereck argued that those airlines unable to comply because of the cost will cease operating. This could force more people on to the roads, possibly exposing them to greater risk of injury.¹⁹

16 NSW Government, submission no. 151, p. 5; South Australia Government, submission no. 148, pp. 2, 8-9; Western Australia Government, submission no. 150, pp. 9-10, 20; Tasmania Government, submission no. 155, p. 12.

17 CASA, 1997-98 Annual Report, p. 30.

18 Queensland Government, transcript of evidence, Brisbane, 12 June 2003, pp. 682-683.

19 Paul Bredereck, transcript of evidence, Brisbane, 12 June 2003, p. 641.

7.28 Remote communities would be most affected by this amendment, as the RAAA said:

... [Civil Aviation Safety Regulation] 121B coming in next year may be a major issue, particularly in some of the remoter parts in the north-west of Western Australia, I suspect, and in the Northern Territory.²⁰

7.29 A contrary argument expressed was that charters can reduce the viability of RPT providers where the both types of air services share the same route.²¹ As one small operator providing RPT services to remote Flinders Island in Bass Strait told the committee:

Current regulations for air operators are skewed to financially favour charter operators rather than RPT operators.²²

7.30 The Tasmanian Government supported the proposed amendment to remove the distinction between charters and RPT operators because it will build the critical mass needed to support RPT services. The change will also have the effect of increasing the use of Flinders Island airport and therefore the revenue to the local council.²³

Regulation impact assessment

7.31 The Commonwealth requires that all its departments, agencies, statutory authorities and boards prepare a statement on regulation that impacts on business. This ensures that all best practice processes are adopted for developing and amending legislation.²⁴

7.32 A regulation impact statement explains the impact of a policy proposal, including the cost and benefit of each option. The statement enables the department or agency to fully consider compliance and other cost issues when formulating its policy. It includes an assessment of the impacts of

20 Regional Aviation Association of Australia, transcript of evidence, Canberra, 18 July 2003, p. 715.

21 Macair Airlines, transcript of evidence, Brisbane, 11 June 2003, p. 605; Government of Tasmania, submission no. 155, p. 10; Government of Tasmania, transcript of evidence, pp. 66-67; Flinders Council, submission no. 110, p. 15.

22 Island Airlines of Tasmania Pty Ltd, transcript of evidence, Tullamarine, 26 February 2003, p. 282.

23 Tasmanian Government, submission no. 155, p. 10; Tasmanian Government, transcript of evidence, Launceston, 24 February 2003, p. 66.

24 Office of Regulation Review, 'A Guide to Regulation – Second Edition: December 1998', <http://www.pc.gov.au>, last accessed 24 July 2003; CASA, 'Standards Development and Rule Making Manual', <http://www.casa.gov.au>, last accessed 24 July 2003.

- the proposed regulation on different groups in the community, including a specific focus on small business. For a proposal that requires legislative change, the impact statement must be tabled in Parliament, thereby making it available to the public.²⁵
- 7.33 CASA stated in its annual report that it is 100 per cent compliant with regulation impact statement requirements.²⁶
- 7.34 CASA's initial proposals for changes to regulations or legislation do not have a detailed cost-benefit analysis. Such an analysis is done after the industry consultation phase and when CASA has decided what change it will make to the regulations or legislation.²⁷
- 7.35 CASA's regulatory efforts focus on protecting air travellers. To achieve this outcome, CASA centres its efforts on improving safety by changing the culture of operators and having them accept responsibility for safety. CASA recognises that simply mandating safety does not work effectively on its own to achieve aviation safety outcomes.²⁸
- 7.36 For example, for its proposal to amend the regulations for charters, CASA argued that statistics from the Australian Transport Safety Bureau (ATSB) showed that charters have substantially more accidents than low capacity RPT operations (by as much as seven times). CASA also said that the Government had expressed the view that CASA should minimise the difference between the accident statistics for charter and RPT.²⁹
- 7.37 However, CASA limited its consideration of the impacts arising from amending the regulations to the operators, aircraft owners, flight and cabin crews, and ground staff.³⁰

25 Office of Regulation Review, 'A Guide to Regulation – Second Edition: December 1998', <http://www.pc.gov.au>, last accessed 24 July 2003; CASA, 'Standards Development and Rule Making Manual', <http://www.casa.gov.au>, last accessed 24 July 2003.

26 CASA Annual Report 2001-02, Part 1, Performance Scorecard, safety, <http://www.casa.gov.au>, last accessed 24 June 2003.

27 CASA, transcript of evidence, Canberra, 8 October 2003, p. 9; CASA 'Standards Development and Rule Making Manual', March 2002, <http://www.casa.gov.au>, last accessed 16 October 2003.

28 CASA, transcript of evidence, Canberra, 8 October 2003, pp. 1, 7, 17-18; CASA (2002), 'CASR Part 121B, Air transport operations – small aeroplanes' <http://www.casa.gov.au>, last accessed 24 July 2003.

29 CASA, transcript of evidence, Canberra, 8 October 2003, pp. 1, 8, 17.

30 CASA (2002), 'CASR Part 121B, Air transport operations – small aeroplanes' <http://www.casa.gov.au>, last accessed 24 July 2003.

- 7.38 CASA told the committee that the main costs to operators to implement the proposed changes are in the areas of training, checking, a fatigue management system and a safety management system.³¹ CASA supported this advice with an estimate of the costs for small airlines to implement these systems and to subsequently comply with them per annum.³²
- 7.39 CASA also told the committee that it had received relatively few (36) responses to its Notice of Proposed Rule Making for amending the charter regulations, and that there was not overwhelming opposition to the regulation amendments. CASA's explanation for industry's general acceptance of the proposed regulation changes after some initial objection was that it had amended its original proposal after its consultation process with industry.³³
- 7.40 The committee noted that CASA planned to introduce the changes to the regulations for charters in 2005, and to allow a transitional period of a further three years for operators to comply with the new regulations. CASA told the committee that it was already encouraging industry to adopt safety management systems and fatigue management systems.³⁴
- 7.41 The committee considered that these measures would lessen the impact of the regulation amendments on charter operators.
- 7.42 However, it was possible that some marginal operators may not be able to afford the changes and they may cease operating. The effect of this would be the withdrawal of some services to regional, rural and remote communities, or a more expensive service provided by an RPT operator.
- 7.43 The committee agreed with the views put to it in the evidence that CASA does not have sufficient regard to the likely broader cost of its changes to regulations on regional, rural and remote communities.
- 7.44 The committee considered that there was a need for an effective process for assessing the full impact of changes to aviation safety regulations. Further, the committee considered that CASA may not be best placed to consider these broader implications of aviation safety regulation, changes to regulation and the associated cost-benefits. DOTARS may be better placed to do so. The new administrative arrangements for aviation safety regulation being introduced by the Commonwealth present an opportunity to address this issue.
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31 CASA, transcript of evidence, Canberra, 8 October 2003, pp. 5-7.

32 CASA, communication with the committee, 29 October 2003.

33 CASA, transcript of evidence, Canberra, 8 October 2003, pp. 5-7.

34 CASA, transcript of evidence, Canberra, 8 October 2003, p. 7.

Recommendation 23

- 7.45 **The committee recommends that the Department of Transport and Regional Services:**
- **Verify the adequacy of regulation impact statements for amending aviation safety regulations prepared by the Civil Aviation Safety Authority; and**
 - **Assess that the cost impacts calculated are reasonable and justified, taking into account the importance of regional aviation to regional, rural and remote communities.**

CASA processes

- 7.46 CASA's service charter describes the service experience that the public and the aviation community can expect in dealing with CASA. The service charter states that its clients have the right to expect high standards of service and behaviour from CASA staff. CASA's commitments to clients are justice and timely delivery of quality services. CASA's values are reliability, honesty, patience, even-handedness, thoroughness, professionalism, trustworthiness and objectivity.³⁵
- 7.47 CASA states in its service charter that the standards of service response time do not apply to its consideration of applications for aviation documents, such as AOCs, the suspension and revocation of aviation documents, its consideration of exemptions and the enforcement of provisions and regulations.³⁶
- 7.48 Evidence to the committee suggested that CASA's processes require improvement. The specific industry concerns are described below.

35 CASA '2001 Service Charter', <http://www.casa.gov.au>, last accessed 21 August 2003.

36 CASA '2001 Service Charter', <http://www.casa.gov.au>, last accessed 21 August 2003.

CASA's responsiveness to clients and the cost of its services

- 7.49 The evidence indicated that CASA should improve responsiveness to clients, provide more accurate quotes for services, improve clients' understanding of its requirements and processes, and better manage its processes.
- 7.50 Brindabella Airlines, for example, advised the committee that CASA took 18 months to upgrade Brindabella Airlines' AOC from charter to RPT. CASA charged more than three times its original quote.³⁷ This cost did not include the cost to the company of revenue lost from the delay in commencing its proposed RPT operation, and its management and staffing costs to deal with constantly changing requirements.
- 7.51 As Brindabella Airlines explained:
- When we applied, we were given an approval date of August last year [2002]. It blew out from August last year till January this year [2003]. The original quote for the approval from CASA of our manuals and upgrading was \$5,000. The end bill was just over \$17,000.³⁸
- 7.52 The South Australian Government gave one instance where CASA invoiced an operator \$34 000 to upgrade its Low Capacity RPT AOC to include a turbine powered aircraft.³⁹
- 7.53 Air Link Pty Ltd said that CASA took 12 months to upgrade Air Link's AOC:
- We have just gone through over 12 months of upgrading our air operator's certificate to operate a larger aeroplane, and that did require the rewrite of our manuals.⁴⁰
- 7.54 In her submission, Mrs Maxine Reid, said:
- It is ridiculous to expect that a type of aircraft takes twelve months to get into an AOC, leaving the airline totally unable to respond to market needs. Again it is the restrictive, unrealistic and obstructive nature of CASA that is the biggest hurdle for any airline, big or small, to overcome.⁴¹
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37 Brindabella Airlines, transcript of evidence, Wagga Wagga, 7 May 2003, p. 449.

38 Brindabella Airlines, transcript of evidence, Wagga Wagga, 7 May 2003, p. 453.

39 South Australia Government, submission no. 148, p. 9.

40 Air Link Pty Ltd, transcript of evidence, Sydney, 8 May 2003, p. 552.

41 Maxine Reid, submission no. 4, p. 2.

- 7.55 CASA told the committee that, while it recognised there was scope for further improvement, over the past three or more years it had improved its service performance. Currently, it issues 83 per cent of AOCs on time and 75 per cent of certificates for approval for maintenance organisations on time.⁴²
- 7.56 To continue improving its service performance, CASA said that it had a range of initiatives. These included cultivating a non-adversarial relationship with its clients and using a case management approach. Its case management approach was aimed at providing applicants with better guidance, advice and better ‘tools’ to enable them to comply more easily with application requirements.⁴³
- 7.57 An independent business analyst, appointed as part of the current reform process, has identified a number of opportunities for CASA to improve further its service delivery. The business analyst’s study of CASA, completed in August 2003, focused on aviation permissions and licenses for general aviation and low capacity RPT, with an emphasis on efficiency and the layers involved in the process.⁴⁴
- 7.58 While the study found that CASA had achieved significant improvements in service delivery outcomes and processes over the last two years⁴⁵, it made a number of additional recommendations which:
- Address matters of procedure and the relationship between two key divisions that deal with regulatory services and safety compliance to further enhance service delivery;
 - Address deficiencies in collecting information on the delivery of regulatory services to enhance measuring and monitoring efficiencies in service delivery; and

42 CASA, transcript of evidence, Canberra, 10 September 2003, pp. 752-755.

43 CASA, transcript of evidence, Canberra, 10 September 2003, pp. 753, 755.

44 CASA and KPMG, ‘Independent business review of CASA’s processes in providing regulatory services to general aviation and low capacity RPT operators’, 12 August 2003, exhibit no. 33, p. 1.

45 CASA and KPMG, ‘Independent business review of CASA’s processes in providing regulatory services to general aviation and low capacity RPT operators’, 12 August 2003, exhibit no. 33, p. 6.

- Require CASA to make philosophical and policy changes to its service delivery practices. In particular, the study strongly recommended that CASA issue certificates in perpetuity or for periods of 10 years or more, and that there be a segregation of responsibilities between those responsible for regulatory service activities and surveillance.⁴⁶
- 7.59 The committee noted that for regional airlines to be competitive in the Commonwealth's deregulated business environment they have respond to market needs in a timely manner. The Commonwealth's policies have imposed significant costs on the industry. Administrative delays can increase business costs on an airline by delaying an investment in a new aircraft, or having aircraft lying idle. This reduces the cash flow to the airline by denying it the opportunity to service a market.
- 7.60 The committee noted that the cost increases over the amounts initially quoted by CASA not only impact on the cash flow and financial viability of smaller operators in particular, but they increase the level of financial risk to which firms are exposed.
- 7.61 The committee considered that the industry needs a regulator that provides world-competitive services to all players in the industry. CASA should work strenuously to continue improving its service delivery to meet the industry's needs without compromising aviation safety outcomes.
- 7.62 The committee noted that CASA charges a fixed fee for some services and an hourly rate for other services. Industry's concerns centred on those services charged at an hourly rate, and particularly where the time to deliver the service became excessive and the cost of the service escalated. The committee considered that in such cases CASA should introduce measures aimed at limiting cost increases by improving the efficiency of its service delivery.
- 7.63 The committee also noted that charging for services at hourly rates can result in savings to firms in situations where the service is delivered in less than the predicted time.

46 CASA and KPMG, 'Independent business review of CASA's processes in providing regulatory services to general aviation and low capacity RPT operators', 12 August 2003, exhibit no. 33, pp. 6, 24-36.

- 7.64 The committee formed the opinion that mandated response times and fixed prices would assist in improving CASA's service response to industry. The committee noted that the independent business analyst who contributed to the CASA reform process made a recommendation on this issue.⁴⁷

Recommendation 24

- 7.65 **The committee recommends that the Civil Aviation Safety Authority introduce into its service charter mandated response times and fixed and fair prices for its services.**

Quality of CASA's advice to industry

- 7.66 Evidence pointed to inconsistencies in CASA's interpretation of the law and its regulations.
- 7.67 Brindabella Airlines attributed CASA's delay processing its AOC application in part to inconsistencies in interpretation of the regulations by different staff. As Brindabella Airlines explained:

The manuals we wrote in the first place went back and forth, back and forth. Changes were made. Depending on which CASA representative you had—often with a different opinion on a different interpretation of the same regulation—it was changed.⁴⁸

- 7.68 After Brindabella Airlines obtained the intervention of the Minister for Transport and Regional Services, and CASA assigned different airworthiness staff to the case, Brindabella said it had relatively few difficulties, and:

The manuals that [Brindabella] submitted in the first place were basically accepted.⁴⁹

47 CASA and KPMG, 'Independent business review of CASA's processes in providing regulatory services to general aviation and low capacity RPT operators', 12 August 2003, exhibit no. 33, p. 35.

48 Brindabella Airlines, transcript of evidence, Wagga Wagga, 7 May 2003, p. 453.

49 Brindabella Airlines, transcript of evidence, Wagga Wagga, 7 May 2003, p. 454.

7.69 Basair Pty Ltd reported similar difficulties, saying:

Some of the people that we have had assigned to us as flight operations inspectors may interpret the rules slightly differently, and there are varying views on how those regulations should be interpreted. Perhaps the experience is not there. There is a well-known adage within the industry: if you do not get the answer you want the first time, go and talk to someone else.⁵⁰

7.70 Edge Aviation made similar comments about the lack of consistency of CASA's interpretation of the regulations, saying that different CASA officers interpreted the rules differently. It identified the flying operations inspectors in particular as a source of this inconsistency.⁵¹

7.71 Brindabella Airlines considered that as CASA changed the regulations it needed to train its staff and ensure they are fully conversant with existing and the new regulations:

The airworthiness or maintenance side of the approval [for upgrading its AOC from charter to RPT] was an absolute shambles.

As CASA change the regulations—and I have said this to CASA representatives—they need to be training their staff.

Particularly in airworthiness, you have people who, to be quite blunt, would not get a job as an aircraft engineer working for me but who are in there writing the rules and auditing the organisations.⁵²

7.72 CASA told the committee that all applicants must support their applications to conduct aviation-related activities with sufficient and appropriate evidence. It said that the cost and time that is incurred in gaining CASA's approval of an application is directly proportional to the quality of the submission. CASA's estimate of its charge for a service is based on a 'best case' scenario of a first class submission.⁵³

7.73 CASA provides interpretation of its regulations in what are called Aviation Rulings, Advisory Circulars and Civil Aviation Advisory Publications. However, these interpretations have a caution that says the operator should always have regard to the law and regulations rather than

50 Basair Australia Pty Ltd, transcript of evidence, Sydney, 12 June 2003, pp. 533.

51 Edge Aviation Pty Ltd, transcript of evidence, Tullamarine, 26 February 2003, pp. 205-206.

52 Brindabella Airlines, transcript of evidence, Wagga Wagga, 7 May 2003, pp. 453, 457-458.

53 CASA, communication with committee, 29 October 2003.

the interpretation offered in the ruling. The reason given by CASA is that the ruling is one interpretation of the regulations as they apply in the particular situation explained in the ruling and as CASA understands the law from time to time.⁵⁴

- 7.74 When asked by the committee about the ‘inconsistency’ issue, CASA told the committee that it had implemented a range of initiatives to address the issue. These included aviation ruling systems and rewriting its manuals.⁵⁵ CASA has made its manuals available publicly through the web, centralised its decision making and tightened its internal procedures. It now has a business model and quality assurance accreditation with an international standards body.
- 7.75 With these measures in place, CASA can measure its performance, identify the source of any inconsistencies and take appropriate remedial action.⁵⁶
- 7.76 CASA also told the committee that the new manuals with a common set of rules enabled CASA to provide effective training to industry and its staff.⁵⁷
- 7.77 CASA explained the current issues that industry has with inconsistencies in CASA’s advice to industry arise from its suspension of regulation development whilst it completes the regulation reform program.⁵⁸
- 7.78 The committee considered that it is unacceptable for the regulator to provide substandard services that impose delays and costs on smaller regional airlines in particular. The committee noted however, that CASA is aware of the issue and is taking action to rectify the situation.
- 7.79 However, the committee considered that the effectiveness of the measures it employs should be audited regularly using independent and anonymous surveys of industry. The committee also considered that CASA should continuously train new and existing staff to improve the consistency of interpretation of the law and regulations across the organisation.

54 CASA Aviation Ruling 02/2003, <http://www.casa.gov.au>, last accessed 23 July 2003.

55 CASA, transcript of evidence, Canberra, 10 September 2003, p. 754.

56 CASA, transcript of evidence, Canberra, 8 October 2003, p. 19.

57 CASA, transcript of evidence, Canberra, 8 October 2003, p. 20.

58 CASA, transcript of evidence, Canberra, 8 October 2003, p. 20.

Recommendation 25

7.80 **The committee recommends that the Civil Aviation Safety Authority:**

- **Review its training processes to ensure consistency of the Civil Aviation Safety Authority's interpretation of the law and regulations;**
- **Introduce an ongoing program of staff training in regulation interpretation to ensure improved consistency of the Civil Aviation Safety Authority's interpretation of the law and regulations; and**
- **Regularly assess and record in its annual report, the levels of knowledge and competency of its staff in interpretation of the law and regulations.**

Industry consultation

7.81 The committee received evidence that CASA's processes for changing regulations do not recognise the commercial realities. Small operators have very little time to consider the full implications of proposed changes. This means that they have limited time to provide constructive comment to CASA.⁵⁹

7.82 Furthermore, the committee was told that the regulations change frequently, lack clarity and often have significant cost implications. Also, an operator risks being put out of business if it accidentally discovers that it is non-compliant. Consequently, it is particularly difficult for small operators to plan their business with any certainty.⁶⁰

7.83 Basair Pty Ltd explained this situation to the committee:

I have [a] ... pile of documents ... sent to operators last year, and these are proposed changes to the whole way aviation operates in this country. If you asked for them, you received these documents and had about six weeks to read all the documents, digest the documents and then put a submission back to CASA about the entire future of the aviation industry. Admittedly, CASA extended

59 Basair Australia Pty Ltd, transcript of evidence, Sydney, 8 May 2003, p. 532.

60 Basair Australia Pty Ltd, transcript of evidence, Sydney, 8 May 2003, p. 532.

that time, but that was a completely unrealistic time frame to give the industry to digest such documents as these.⁶¹

- 7.84 The committee noted that the regulations are a significant factor influencing the regional aviation industry, and that a lack of awareness of future rules governing flight operations may compromise the economic viability of an airline.
- 7.85 The committee was not convinced that CASA's industry consultations have sufficient influence on its decisions regarding introducing changes to the regulations. The committee considered that if all parts of the industry did not view the consultation process as taking adequate account of their views then CASA's credibility with industry would suffer. In coming to this view, the committee noted that CASA has a leadership and educative role to more adequately explain the rationale behind its decisions to change the regulations to all parts of the industry.
- 7.86 The committee noted that CASA is conducting a wide ranging review and rewrite of its regulations to improve their clarity through its Regulatory Reform Program. Such a major exercise can be expected to generate a greater volume of regulation amendments than during CASA's normal periods of business.
- 7.87 CASA's Annual Report 2001-02 showed that it had recognised many of industry's concerns more than a year before the inquiry's public hearings. The annual report stated that:
- It has extended the timeframe for the completion of the rewrite of the regulation by some 15 months to December 2003;
 - Sixty five per cent of draft new sections of the regulations had been released;
 - The review of the Regulatory Reform Program confirmed the need for CASA to consult more effectively with industry on proposed regulatory changes; and
 - The implementation of regulatory reforms will be supported with greater industry education, promotion and training.
- 7.88 CASA surveys the satisfaction of the public and the industry and reports these in its Annual Report. CASA reported that the August 2001 industry satisfaction survey showed that the majority considered the general standard of air safety to be good. However, there was overwhelming support for the current regulations to be reviewed and overhauled

61 Basair Australia Pty Ltd, transcript of evidence, Sydney, 8 May 2003, pp. 531-532.

urgently. All those surveyed wanted the new regulations to be easier to understand, simple and effective, uniform and consistent, and aimed at improving air safety.⁶²

- 7.89 The committee noted that the reforms of CASA and its Regulatory Improvement Program are intended to deliver the outcomes for which industry is calling.
- 7.90 The committee also noted that CASA has introduced a safety systems awareness program to guide operators in the implementation of safety systems ahead of proposed legislative requirements.⁶³ CASA webcasts its conferences and workshops to provide operators with a more cost-effective way to hear the proceedings.⁶⁴ CASA also has other online resources such as safety quizzes to assist operators.⁶⁵
- 7.91 The committee considered that while CASA stated in 2002 that its processes involve greater engagement with industry, some smaller operators remain unsatisfied with what CASA is doing. This level of client satisfaction should be tested regularly and CASA should address industry's concerns where appropriate.

Recommendation 26

- 7.92 **The committee recommends that the Department of Transport and Regional Services:**
- **Conduct an annual confidential client satisfaction survey to test industry's satisfaction with the services that the Civil Aviation Safety Authority delivers, and assess compliance with its service charter; and**
 - **Publicly report the results of these surveys, ensuring that confidentiality is maintained.**

62 CASA Annual Report 2001-02, Part 1, <http://www.casa.gov.au>, last accessed 1 April 2003.

63 CASA Annual Report 2001-02, Part 1, <http://www.casa.gov.au>; CASA, transcript of evidence, Canberra, 8 October 2003, p. 7.

64 CASA media release, 4 March 2003, 'First on-line conference for regional aviation', <http://www.casa.gov.au>; CASA media release, 25 March 2003, 'Key safety conference back on-line', <http://www.casa.gov.au>, last accessed 24 June 2003.

65 CASA media release, 12 June 2003, 'Online air safety quiz', <http://www.casa.gov.au>, last accessed 24 June 2003.

A differential approach to firms in the industry

7.93 The committee received evidence that CASA has a differential approach to operators in the industry. Larger airlines such as Qantas, Virgin Blue and Rex appeared to have fewer difficulties in dealing with CASA compared to smaller airlines.

7.94 Basair's explanation of this was that CASA assigns senior and experienced officers to deal with larger airlines:

I can only assume that they assign people who are very well versed, are very senior and have many years of experience to airlines like Qantas and the larger regional airlines.⁶⁶

7.95 Qantas confirmed to the committee that it has a very good working relationship with CASA:

I would like to emphasise that we have a very strong and, I think, effective working relationship with the relevant government bodies involved in those safety and operational areas ... we do not have difficulties with CASA's operations.⁶⁷

7.96 Virgin Blue also confirmed that after a difficult start with CASA and having worked hard to build its relationship, it now had a good working relationship with CASA. Virgin Blue described this as follows:

... we have a good working relationship with CASA. It would not be unknown that we had a bit of bumpy start on the first day when we got going, but since then we have really tried to work with CASA.⁶⁸

7.97 Some smaller airlines such as Air Link Pty Ltd and Macair Airlines also have a very good working relationship with CASA. Airlink said:

I have been dealing with CASA for 18 years ... but we have never had too much difficulty at all.⁶⁹

66 Basair Australia, transcript of evidence, Sydney, 8 May 2003, pp. 533-534.

67 Qantas Airways Ltd, transcript of evidence, Sydney, 8 May 2003, p. 483.

68 Virgin Blue, transcript of evidence, Canberra, 25 June 2003, p. 722.

69 Air Link Pty Ltd, transcript of evidence, Sydney, 8 May 2003, p. 552.

7.98 Macair said it manages its business to the required standards⁷⁰ and consequently:

As a company we enjoy a very good relationship with CASA on [an] operational basis.⁷¹

7.99 The committee found that operators who followed the regulations, and did not question or object to regulations or the way CASA conducted its business, had fewer difficulties than other operators. As Air Link put it:

... one of the problems is that a lot of operators begin to fight the change before they have really looked at it to see how it might benefit them.⁷²

7.100 The priority that CASA accords to certain sectors of the industry is based on its risk management approach to managing aviation safety. This approach is founded on aviation safety statistics which CASA appears to interpret as reflecting the level of maturity in the 'attitude' and 'culture' that the different sectors have to safety. This was born out by evidence taken by the *Seaview* inquiry of 1996 that pointed to the company's attitude to safety and regulation as contributing to the accident.⁷³

7.101 Further evidence of factors contributing to the safety culture in different sectors of the industry was provided by the *Plane Safe* inquiry report of 1995 which discussed the relationship between operator profitability and safety. The report said that higher operating margins appeared to be correlated with lower accident rates. Equally, lower margins would be expected to be correlated with higher accident rates.⁷⁴ This suggested that companies with lower operating margins used unsafe practices and pressured pilots to compromise safety in an effort to remain financially viable.

70 Macair Airlines, transcript of evidence, Brisbane, 11 June 2003, p. 601.

71 Macair Airlines, transcript of evidence, Sydney, 11 June 2003, p. 601.

72 Air Link Pty Ltd, transcript of evidence, Sydney, 8 May 2003, p. 552.

73 CASA, transcript of evidence, Canberra, 8 October 2003, pp. 3-4, 7-8; Commonwealth of Australia, 'Commission of Inquiry into the Relations Between the CAA and Seaview Air, Report of the Commissioner', Volume 1, September 1996, p. 64.

74 House of Representatives Standing Committee on Transport, Communication and Infrastructure (1995), '*Plane Safe*, Inquiry into Aviation Safety: the commuter and general aviation sectors', Australian Government Publishing Service, Canberra, pp. 54-57.

7.102 CASA's Safety Maturity Curve expresses the correlation between industry maturity and safety.⁷⁵ At the bottom left of the safety maturity curve are typically small marginal operators which are described as lacking a mature attitude to safety and having a low level of safety. At the top right of the curve are the larger domestic airlines which are described as having a mature attitude to safety and a corresponding high level of safety.



7.103 To highlight the rationale for its risk management approach, CASA told the committee that, according to ATSB statistics, the accident rate for the charter sector of the industry was five to seven times greater than the RPT sector (a total of 375 accidents compared with 50 accidents respectively over the past 10 years). In contrast, the private/business sector has an even higher incidence of accidents (a total of 852 accidents over the past 10 years).⁷⁶

75 CASA, exhibit no. 6.

76 CASA, transcript of evidence, Canberra, 8 October 2003, pp. 7-8; Australian Transport Safety Bureau, 'Aviation Safety Indicators 2002', pp. 5, 28-30; CASA, transcript of evidence, Canberra, 8 October 2003, pp. 7-8.

- 7.104 The committee noted that the statistics show that the accident rate for general aviation, which includes agriculture, charter, flying training, other aerial work and private/business, had declined significantly over the past 10 years, and this had lowered the overall accident rate and fatal accident rate for the whole industry. The average annual rate of decline in accidents and fatalities was seven and eight per cent respectively.⁷⁷ This could reflect the positive influence of CASA on aviation safety.
- 7.105 The committee agreed that, based on aviation safety indicators, CASA's risk management approach was reasonable.

Attitude of CASA's officers

- 7.106 Allegations of CASA officers having a vindictive attitude to smaller operators was presented in written and verbal evidence.⁷⁸
- 7.107 Brindabella Airlines' Jeff Boyd told the committee that he expected some retribution from CASA for what he had told the committee and for his assertiveness in resolving his airline's AOC issue with the Minister's help:
- We will get undue attention—there is no doubt about that ... Because, as you said, there is a vindictive attitude in there. People are people, and there are people in there with a vindictive attitude—so we will get singled out ... The undue attention that I think we get, and will continue to get, is from the airworthiness side.⁷⁹
- 7.108 Anecdotal evidence from Ord Air of Western Australia suggested that CASA paid undue attention to Ord Air after its owner questioned some of CASA's decisions. The undue attention took the form of frequent 'ramp' inspections by CASA. Some of these inspections were conducted in the presence of passengers, which had the effect of diminishing the airline's reputation.⁸⁰ Ord Air ceased trading in January 2000 after 30 years of operation.⁸¹

77 Australian Transport Safety Bureau, 'Aviation Safety Indicators 2002', pp. 5, 28- 30; CASA, transcript of evidence, Canberra, 8 October 2003, pp. 7-8.

78 Paul Bredereck, submission no. 42, p. 3.

79 Brindabella Airlines, transcript of evidence, Wagga Wagga, 7 May 2003, p. 456.

80 Maxine Reid, transcript of informal discussions, Alice Springs, 6 November 2002, pp. 6-16

81 Australian Regional Airlines Index – N to R, <http://users.chariot.net.au/~theburfs/regional4.html>, last accessed 25 July 2003.

- 7.109 The SBS program *Insight* of 17 July 2003 provided allegations of CASA's vindictive attitude towards the managing director and chief pilot of the former large aviation charter company, Schutt Aviation, Mr Stan van der Weil. Mr van der Weil told *Insight* that CASA forced him out of business because he challenged CASA over its delay in responding to the December 1999 fuel contamination incident.⁸²
- 7.110 Mr van der Weil said that CASA's response to his action was to inspect his aircraft up to six times per day. Schutt Aviation's competitors were not inspected for weeks or months in the same period.⁸³
- 7.111 Paul Rees and Ken Cannane gave evidence that CASA had not followed due process, took a long time to respond to issues and had ignored critical pieces of evidence in reaching a decision that impacted on the future of airlines.⁸⁴
- 7.112 The *Plane Safe* inquiry also found that CASA had a vindictive attitude in some instances. To improve CASA's accountability, that inquiry recommended that:
- ... industry associations be asked to encourage their members to take their complaints of victimisation by officers of the Civil Aviation Safety Authority to the Commonwealth Ombudsman.⁸⁵
- 7.113 CASA told the committee that its centralised decision making was intended to address the issue of vindictiveness. However, it said that it could not guarantee that CASA officers did not intimidate operators.⁸⁶ There are two possible interpretations from this. Either, CASA's central office directed its regional staff to conduct ramp inspections and other actions designed to intimidate and frustrate operators. Alternatively, CASA was unaware of, and unable to exercise sufficient control over, the behaviour of some of its regional staff.

82 SBS program 'Insight', 17 July 2003.

83 SBS program 'Insight', 17 July 2003.

84 Paul Rees, submission no. 78, pp. 2-3; Paul Rees, transcript of evidence, Wagga Wagga, 7 May 2003, pp. 467-469; Paul Rees, submission no. 191; Ken Cannane, correspondence with secretariat, 12 May 2003.

85 House of Representatives Standing Committee on Transport, Communication and Infrastructure (1995), '*Plane Safe*, Inquiry into Aviation Safety: the commuter and general aviation sectors', Australian Government Publishing Service, Canberra, pp. 128, 131.

86 CASA, transcript of evidence, Canberra, 10 September 2003, p. 757; CASA, transcript of evidence, Canberra, 8 October 2003, p. 2.

- 7.114 The communication and interpersonal skills of CASA's technical officers may have contributed to the difficulties experienced by operators. In addressing this issue, CASA told the committee that the communication skills of its staff that deal with industry could be better. CASA's explanation of this was that it draws most of its staff from the aviation industry, and that the interpersonal communication skills of these recruits are not their strongest attribute.⁸⁷
- 7.115 CASA told the committee that it will take action if it receives an allegation from industry concerning the professional conduct of its officers, provided that it believes there is significant truth in the allegation.⁸⁸
- 7.116 The committee noted that the *Civil Aviation Amendment Act 2003* gives effect to a number of reforms, some of which focus on procedural fairness and enhance natural justice.⁸⁹
- 7.117 One of these reform measures is an automatic stay of a CASA decision to suspend, vary or cancel a civil aviation authorisation such as an AOC, licence or certificate where there is no immediate risk to air safety. A second reform measure is a demerit points system for more minor breaches of the regulations.⁹⁰
- 7.118 The automatic stay enables people affected by CASA's administrative decisions the opportunity to argue their cases before an independent arbiter – either the Federal Court or the Administrative Appeals Tribunal.⁹¹ This measure also allows the operator to continue conducting its business while the issue is being resolved.
- 7.119 In addition to the measures introduced by the *Civil Aviation Amendment Act 2003*, the committee noted that there are several avenues available to an individual to resolve an issue that they may have with a government body such as CASA. The avenues are as follows:

87 CASA, transcript of evidence, Canberra, 8 October 2003, p. 22.

88 CASA, transcript of evidence, Canberra, 8 October 2003, p. 2.

89 Media release, the Hon John Anderson MP, Minister for Transport and Regional Services, 9 October 2003, A119/2003, 'CASA Reform Bill Passed in Parliament'; The Parliament of the Commonwealth of Australia, House of Representatives, 'Civil Aviation Amendment Bill 2003, Explanatory Memorandum'.

90 Media release, the Hon John Anderson MP, Minister for Transport and Regional Services, 9 October 2003, A119/2003, 'CASA Reform Bill Passed in Parliament'; The Parliament of the Commonwealth of Australia, House of Representatives, 'Civil Aviation Amendment Bill 2003, Explanatory Memorandum'.

91 Media release, the Hon John Anderson MP, Minister for Transport and Regional Services, 9 October 2003, A119/2003, 'CASA Reform Bill Passed in Parliament'.

- The complainant can attempt to resolve the matter with CASA on an individual basis. CASA has an Internal Ombudsman to deal with matters of serious impropriety. The Internal Ombudsman can give an opinion about whether a decision was arrived at in a proper manner. The Internal Ombudsman reports to the Director of Aviation Safety;⁹²
- The complainant can take the matter to the local Member of Parliament, Parliamentary committees, the Minister or DOTARS;⁹³
- The complainant can take the matter to the Commonwealth Ombudsman if it considers CASA's actions and decisions are wrong, unjust, unlawful, discriminatory or unfair.⁹⁴ The *Ombudsman Act 1976* sets out the grounds for an investigation.⁹⁵ The Ombudsman may decide not to investigate a matter until the complainant has complained to the agency concerned about the matter;⁹⁶
- Criminal matters can be referred to the Australian Federal Police;⁹⁷
- The freedom of information legislation enables a complainant to obtain relevant documents pertaining to the administrative decision;⁹⁸
- The administrative decisions legislation enables a person affected by an administrative decision to obtain a statement of reasons for the decision from the person who made the decision (sections 13 and 28 of the Act). However, there are classes of decisions to which this section (s. 13) of the Act does not apply.⁹⁹
 - ⇒ Under the *Civil Aviation Amendment Act 2003*, in circumstances of a breach of the regulations where there is not a serious or imminent risk to aviation safety, CASA must provide an operator with a statement of reasons why it is considering making the decision; and

92 CASA Industry Delegates and Authorised Persons Management Manual, 1.5.4, <http://www.casa.gov.au>, last accessed 24 September 2003.

93 CASA '2001 Service Charter', <http://www.casa.gov.au>, last accessed 21 August 2003; CASA, transcript of evidence, Canberra, 8 October 2003, p. 2.

94 Commonwealth Ombudsman website, <http://www.comb.gov.au>, last accessed 25 July 2003.

95 *Ombudsman Act 1976*, s 15.

96 *Ombudsman Act 1976*, s 6(1A).

97 CASA, transcript of evidence, Canberra, 8 October 2003, p. 2.

98 *Freedom of Information Act 1982*.

99 *Administrative Decisions (Judicial Review) Act 1977*, s. 13.

- The complainant could refer the matter to the Administrative Appeals Tribunal¹⁰⁰, the Federal Court or the Federal Magistrates Court.¹⁰¹ The *Civil Aviation Act 1988* (s. 31) provides for applications to be made to the Administrative Appeals Tribunal to review 'reviewable decisions'.
- 7.120 The committee noted that CASA's service charter specifies the complaints-handling process that clients can pursue.¹⁰² CASA's 'Enforcement Manual' also sets out the appeal mechanisms available to a person affected by a decision by CASA.¹⁰³
- 7.121 The committee noted the limitations inherent in these remedies and considered that CASA should do more to address some of the difficulties industry has in dealing with it by training its staff in better ways to manage customers. This would be part of CASA reforming its corporate image to one of aviation safety leader and educator. This is discussed in greater detail later in the chapter.
- 7.122 Furthermore, the committee considered that industry associations and individuals had every right to pursue complaints with an independent appeals or review body. The committee is of the opinion that complaints made to the Commonwealth Ombudsman may not have satisfactory outcomes for aviation industry complainants, due to the complex nature of the aviation sector and its regulations. The committee recognises that such skill-specific industry complaints need to be dealt with by an appeals or review body that has the appropriate skills and expert knowledge. Consequently, the committee strongly recommends the establishment of an independent Aviation Ombudsman.

100 *Administrative Appeals Tribunal Act 1975*, s. 28.

101 *Administrative Decisions (Judicial Review) Act 1977*, s. 5.

102 CASA '2001 Service Charter', <http://www.casa.gov.au>, last accessed 21 August 2003.

103 CASA, 'Enforcement Manual', <http://www.casa.gov.au>, last accessed 30 October 2003.

Recommendation 27

7.123 The committee recommends that:

- The Civil Aviation Safety Authority provide customer relations management training to its staff, particularly those in regional offices;
- The Commonwealth establish an Aviation Ombudsman, and ensure that this position is filled by an appropriately skilled person, to consider all aviation industry related complaints; and
- The duties of the Aviation Ombudsman would include, in addition to examining operational complaints, conducting independent surveys of industry, ensuring that the confidentiality of respondents is maintained. These surveys would assess the effectiveness of the Civil Aviation Safety Authority's measures to improve the consistency of its interpretation of aviation regulations.

CASA's future role: enforcer or leader

7.124 The committee heard the concerns of a number of witnesses that CASA has a culture of policing the regulations rather than educating the industry. A sample of some of these concerns is provided.

7.125 Edge Aviation said that CASA could improve its service delivery if it concentrated more on education than on enforcement:

I think CASA could probably have a bit more of a capacity to learn from the industry. More recently CASA have lost their capacity, their ability or their willingness to educate, not just regulate.¹⁰⁴

104 Edge Aviation, transcript of evidence, Tullamarine, 26 February 2003, p. 206.

7.126 The Champions of the Bush told the committee that CASA behaves as the aviation safety police whereas previously:

... [in the old days] there was a great depth of experience at CASA, and that experience was very readily available. When the experienced flight operations inspector came into a small airline, he was willing to provide guidance and assistance. The attitude now seems to be, 'We are the regulator, we are the policeman; it is not appropriate for you to do that, so just go and look, and don't say anything'.¹⁰⁵

7.127 Paul Rees said:

Now CASA's attitude is that it is not there to assist; it is there to regulate. My argument has always been that you do not force people to do things; you lead them to do them. If you cannot lead them to do something, then you should not be doing it at all ... A lot of people are saying that the field staff have to be brought up to speed. Leadership starts at the top and works down; it does not start at the bottom and work up.¹⁰⁶

7.128 The RAAA said that CASA should be more of a leader and educator than an enforcer of regulations:

I believe there are better opportunities for CASA to be more interactive with the operators at a lower level, rather than being the policeman. I think they should be looking to move in with a lot of these operators—almost have their local man on the ground and take them by the hand and lead them through that safe culture that they need and that this country will need at the end of the day.¹⁰⁷

7.129 The committee formed the view that CASA's emphasis on policing aviation safety rather than educating operators appeared to have developed relatively recently and arose from the *Plane Safe* inquiry of 1995 and *Seaview* inquiry of 1996.

105 Champions of the Bush, transcript of evidence, Tullamarine, 26 February 2003, p. 223.

106 Paul Rees, transcript of evidence, Wagga Wagga, 7 May 2003, pp. 463-471.

107 Regional Aviation Association of Australia, transcript of evidence, Canberra, 18 June 2003, p. 713

7.130 In coming to this view, the committee noted an observation in the *Plane Safe* inquiry report that:

The committee believes that this ‘accountability to the aviation industry’ approach could be [an] explanation for some shortcomings of the [Civil Aviation Authority] CAA in the performance of its duties.¹⁰⁸

7.131 The *Plane Safe* inquiry report went on to say:

The Civil Aviation Authority was never captured by the industry. On the contrary, the regulator offered itself as a willing captive.¹⁰⁹

7.132 The *Seaview* inquiry provided evidence indicating ‘institutional timidity’ in the then Civil Aviation Authority (CAA) against taking strong action for transgressions by the aviation industry. The then CAA accepted this observation and asked for the Commission of Inquiry to:

... give clear and unequivocal support for the view that regulatory staff are entitled to and should take strong action against contravention of safety regulations.¹¹⁰

7.133 The *Seaview* inquiry went on to provide the regulator with a clear role to protect the travelling public by saying that:

The travelling public has a right to expect that their safety will be protected by the regulatory body.¹¹¹

7.134 Evidence presented to the committee in this inquiry indicates that the industry considers that the policing of aviation safety currently has preeminence for CASA.

7.135 Nevertheless, CASA believes it has recognised industry’s need for greater consultation in regulation changes and guiding industry in the implementation of changes by its Regulatory Reform Program and Regulatory Reform Program Implementation.

108 House of Representatives Standing Committee on Transport, Communication and Infrastructure (1995), ‘*Plane Safe*, Inquiry into Aviation Safety: the commuter and general aviation sectors’, Australian Government Publishing Service, Canberra, p. 24.

109 House of Representatives Standing Committee on Transport, Communication and Infrastructure (1995), ‘*Plane Safe*, Inquiry into Aviation Safety: the commuter and general aviation sectors’, Australian Government Publishing Service, Canberra, p. 24.

110 Commonwealth of Australia, ‘Commission of Inquiry into the Relations Between the CAA and Seaview Air, Report of the Commissioner’, Volume 1, September 1996, pp. 3-4.

111 Commonwealth of Australia, ‘Commission of Inquiry into the Relations Between the CAA and Seaview Air, Report of the Commissioner’, Volume 1, September 1996, p. 4.

- 7.136 CASA's service charter states that industry leadership and education are cornerstones of its role as the aviation safety regulator.¹¹²
- 7.137 However, the committee considered that reforming the regulations and addressing an organisational culture of policing are separate issues, needing different remedies. Culture can be a difficult thing to change quickly. One indicator of a dysfunctional relationship between industry and the regulator is the evidence of an endemic distrust of CASA in the industry. This distrust has developed over time as suggested by the *Plane Safe* inquiry that found:
- ... rampant distrust between the regulator and certain sections of the industry and within CAA/CASA itself.¹¹³
- 7.138 In light of this history, the committee formed the opinion that to deliver aviation safety outcomes, the regulator has the dual roles of leading firms in the industry to adopt a safety culture, and of enforcing the regulations.
- 7.139 The committee considered that CASA should initiate a continuing process of improving the way it interacts with industry to improve its effectiveness in achieving aviation safety outcomes. As part of achieving this, CASA should reform its corporate image to one of aviation safety leader and educator.
- 7.140 However, in coming to this conclusion, the committee cautioned against CASA again becoming a 'captive of the industry' again. The committee recognised that a strong, effective and credible regulator is essential for the industry. The committee considered that CASA should aim to strike the right balance between fostering a culture of safety in the industry and policing the regulations to achieve aviation safety outcomes.
- 7.141 To test that this was occurring, the committee considered that there was a need for regular independent monitoring and assessment of CASA's performance, and of its implementation of recommended changes.
- 7.142 The committee noted that the Australian National Audit Office (ANAO) provides an independent view of the performance and financial management of public sector agencies and bodies.

112 CASA '2001 Service Charter', <http://www.casa.gov.au>, last accessed 21 August 2003.

113 House of Representatives Standing Committee on Transport, Communication and Infrastructure (1995), *Plane Safe*, Inquiry into Aviation Safety: the commuter and general aviation sectors', Australian Government Publishing Service, Canberra, pp. 109, 123.

- 7.143 To achieve its audit outcomes of improving public administration and assurance, ANAO conducts a range of audits including performance audits, assurance audits, and other audit and related reports. As part of this service, ANAO can develop better practice guides. ANAO tables its audits in the Parliament to enable public scrutiny of the activities of public sector agencies and bodies.¹¹⁴
- 7.144 Notwithstanding the importance of the Aviation Ombudsman in dealing with individual aviation complaints, the committee considered that ANAO should audit CASA on the broad issues identified in this report.
- 7.145 Accordingly, the committee recommends that ANAO audit CASA periodically to ensure that CASA is achieving its outcomes and implementing the recommendations of this committee. Of particular concern to the committee is the auditing of CASA's performance management and service delivery.

114 Australian National Audit Office (ANAO), 'About Us', <http://www.anao.gov.au>, last accessed 25 September 2003; ANAO, 'Audit Work Program 2003-2004', July 2004, <http://www.anao.gov.au>, last accessed 25 September 2003.

Recommendation 28

7.146 **The committee recommends that:**

- **The Civil Aviation Safety Authority, in addition to enforcing aviation safety compliance, place greater focus on activities to assist industry players in complying voluntarily with the regulations; and**
- **The Australian National Audit Office periodically audit and report to Parliament on the Civil Aviation Safety Authority's:**
 - ⇒ **compliance with its service charter;**
 - ⇒ **fulfilment of fostering a culture of safety in the industry;**
 - ⇒ **policing the regulations to achieve aviation safety outcomes;**
and
 - ⇒ **provision of information and education services provided jointly with the industry.**

Paul Neville MP

Committee Chair

6 November 2003