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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON TRANSPORT AND REGIONAL
SERVICES

**Reference: Commercial regional aviation services in Australia and alternative
transport links to major populated islands**

WEDNESDAY, 8 OCTOBER 2003

CANBERRA

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON TRANSPORT AND REGIONAL SERVICES

Wednesday, 8 October 2003

Members: Mr Neville (*Chair*), Mr Andren, Mr Gibbons, Mr Haase, Ms Ley, Mr McArthur, Mr Mossfield, Ms O'Byrne, Mr Schultz and Mr Secker

Members in attendance: Mr Gibbons, Mr Haase, Ms Ley, Mr McArthur, Mr Mossfield, Mr Schultz and Mr Secker

Terms of reference for the inquiry:

To inquire into and report on:

Commercial regional aviation services in Australia and alternative transport links to major populated islands.

WITNESSES

COLLINS, Mr Rob, Acting Deputy Director, Civil Aviation Safety Authority 765

ELDER, Mr Rob, Executive Manager, Corporate Affairs, Civil Aviation Safety Authority..... 765

GEMMELL, Mr Bruce Robert, Acting Director, Civil Aviation Safety Authority 765

ILYK, Mr Peter, General Counsel, Civil Aviation Safety Authority 765

**McINTYRE, Mr William, Executive Manager, Aviation Safety Standards Division, Civil
Aviation Safety Authority..... 765**

**WHITE, Mr Arthur John, Acting Executive Manager, Aviation Safety Compliance Division,
Civil Aviation Safety Authority 765**

Committee met at 9.15 a.m.

COLLINS, Mr Rob, Acting Deputy Director, Civil Aviation Safety Authority

ELDER, Mr Rob, Executive Manager, Corporate Affairs, Civil Aviation Safety Authority

GEMMELL, Mr Bruce Robert, Acting Director, Civil Aviation Safety Authority

ILYK, Mr Peter, General Counsel, Civil Aviation Safety Authority

McINTYRE, Mr William, Executive Manager, Aviation Safety Standards Division, Civil Aviation Safety Authority

WHITE, Mr Arthur John, Acting Executive Manager, Aviation Safety Compliance Division, Civil Aviation Safety Authority

ACTING CHAIR (Mr Gibbons)—I declare this public hearing open. I will just go through the customary cautions. Although the committee does require you to give evidence under oath, I should advise you that these hearings are formal proceedings of the parliament. Consequently, they warrant the same respect as proceedings of the House itself. It is customary to remind witnesses that giving false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. I guess you are all aware that this is the third time you have appeared before this committee on this particular inquiry, so welcome again. I also apologise for the absence of the chairman, Mr Paul Neville, who is not able to be in Canberra today. Perhaps you would like to lead, Mr Gemmell, with a brief statement.

Mr Gemmell—Thanks for the opportunity to appear before you again. From our previous hearing, there were clearly issues left unresolved. We were also concerned that we had not made our points well enough, leaving the committee to rely on possibly some untested and, at least from our perspective, perhaps sometimes inaccurate evidence. I will recap what we tried to say last time.

Mr Secker, at the last hearing, said in describing the volume of complaints the committee had received about us:

I think you have to see where the problem lies and try to fix it, and take that attitude.

That is exactly what I was trying to say we were doing the last time we were here. We are trying to look at the problems, find out where they are and try to fix them. The only difference between us is that we do not just accept that the complaints are valid. We assess their accuracy and deal with them when they are justified. I think it has to be recognised that on occasions we do things to operators that are not pleasant—suspensions, fines and the like. I cannot say we always get the judgments right, but we seem to get them right more often than not. All I ask of you is that, when you hear complaints against actions taken by CASA, you view them cautiously and perhaps seek our side of the story. You cannot expect a business we have taken action against to thank us or even to agree with us. But parliament requires us, and the travelling public expects us, to take action to protect the safety of air travellers. We know you have received complaints about CASA, so I want to address complaints handling.

There are currently a variety of avenues to pursue if an individual is aggrieved by CASA's actions. First of all, of course, you can appeal to CASA. We have a hotline arrangement. You can apply for an internal review going to the director or chairman, perhaps, or anywhere else. We have an internal ombudsman arrangement. We can direct inquiries to an independent person to assess that case. Indeed, if we think it is sufficiently serious and criminal matters are involved, we can direct things to the AFP, which we have done on occasions. Separately, you can appeal to the Administrative Appeals Tribunal, the Federal Court, the Ombudsman, the minister, the department, local MPs—this committee is an example of that style of thing—the Senate or, indeed if you think there are criminal matters involved, you can go to the AFP direct. We deal with all of these. Some complain they do not get satisfactory responses from these groups of people. In this industry, that generally means that they just did not get what they wanted.

One thing I am aware of now much more clearly is that you as local members as well as a committee have heard significant complaints and that we are not doing well enough in giving you information to allow you to come to a reasonable, well-balanced assessment of these complaints. I would be very pleased to discuss with the committee ways in which we can do better in this respect. I think that would be of mutual advantage to us both.

The legislation currently before parliament in relation to the reform of CASA should assist in addressing concerns about unfair actions by CASA. I will pick a couple of points in there. In effect, decisions will need to be confirmed by the Administrative Appeals Tribunal before they come into effect and within five days by the Federal Court if an action is taken on the grounds of a serious and imminent risk to air safety—in other words, another body gets to confirm the decisions taken by CASA. While these in fact reduce CASA's current powers, we support them as they help redress the undoubted current perception of unfairness.

Victimisation by CASA is one area that is often alleged but rarely proven. We have sought evidence of it, but again we have rarely been provided with any. Where we have, serious follow-up action has been put in train, including referrals to the Australian Federal Police. But for the supposed high number of claims, there are precious few examples where evidence is actually given to us that enables us to follow through. We remain open to receive such evidence, which is rather more than just making allegations, and are committed to weeding out any examples where we find victimisation is pursued. But I am very uncomfortable with seeing staff vilified based on unfounded rumour and innuendo.

I know you have a particular interest in Brindabella. I just want to remind you what was said last time. I will quote Mr Collins:

I think it is very fair to say that, in this particular instance, CASA did not get it 100 per cent right. However, it is also fair to say that in this particular case the applicant also did not realise the amount of work that he had to do to upgrade his operation from essentially a charter based operation to an RPT operation. There were significant difficulties in understanding on his part and, just as significantly, there were difficulties in CASA imparting the requirements to the operator.

Ms Ley said, in responding to that:

We are not talking about a mickey mouse operation in the middle of nowhere; we are talking about a well-qualified, highly professional outfit in Brindabella that wanted to go that extra step and faced enormous road blocks to doing so.

Brindabella is indeed a safe, professional airline. But since they received their RPT licence, they have experienced three significant incidents. The last, two days after our last hearing, was a wheels-up landing in Canberra airport with four passengers on board. That is getting a bit too close for comfort. Incidents happen. It does not mean the operation is unsafe, but it illustrates what we were trying to portray to you. Perhaps they were not quite as clever as they thought they were in their preparedness for RPT. I should add in fairness that we have been very happy with their responses to these incidents in trying to get to the source of the problem and fix that up. Other than the immediate sacking of the pilot in the wheels-up incident, we do not think an immediate sacking is the best means of promoting an appropriate safety culture.

In terms of service delivery, as you have heard and as you know, the minister has been similarly approached by operators with complaints about CASA's service performance. Brindabella is one of those. You heard about a meeting that Brindabella had with the minister. As a result, the minister some months ago had an independent analyst review CASA's performance in respect of service delivery. The report was done by KPMG and has recently been finalised. I would like to table it for the committee's information. I think you will find it interesting reading. It puts into context the complaints being made. I will table that particular report.

ACTING CHAIR—Is somebody prepared to move that we accept that report as an exhibit?

Mr MOSSFIELD—So moved.

ACTING CHAIR—Thank you.

Mr Gemmell—My final point is that a suggestion was made at our last hearing that all we are doing is imposing paperwork. The words 'bureaucratic requirements' and 'paper chases' were used, and it was said that these have little relationship to safety. If that is the view you are forming, I would very strongly encourage you to read closely the report of the Seaview royal commission in 1996, because they directly address this question of paper. I might get Mr Ilyk to give a couple of quotes that came out of that royal commission report.

Mr Ilyk—During the commission, Seaview were saying that all of the things the commission was looking at was simply just aviation trivia, just paper offences, and that they have no safety implications so why bother about them. The commission said:

Inevitably, the commission heard evidence about other operators and maintenance organisations and the approach of the regulatory body towards detecting transgressions and taking appropriate action. The evidence produced to the commission suggests that areas that warrant inquiry and consideration include an attitude that characterises breaches of the Civil Aviation Act, the regulations and the orders as aviation trivia, an attitude about safety and regulation that potentially puts the public at risk, and Seaview in particular sought to characterise the matters that had been the subject of evidence as simply aviation trivia.

But the commission said:

All these matters have a direct bearing on safety. The practices that Seaview engaged in were also breaches of the law. The picture of Seaview Air is a picture of an organisation with which no sensible person would wish to fly if they had been aware of its breaches and attitude to safety.

I think the point Bruce was making was that the breaches that CASA has to regulate are in fact breaches of the Australian law. They are not simply things that CASA imposes; they are breaches of the Australian law. It is the same as the way the Therapeutic Goods Authority looks at the breaches of the legislation for the manufacturing of pharmaceuticals. It is the same as any regulatory authority. These are requirements that have been imposed upon industry not directly by CASA but by parliament indirectly.

Mr Gemmell—That is it.

ACTING CHAIR—Thanks for that. I would like to make a few remarks before we go to questions. This committee recognises that a strong regulator is essential for aviation safety. We also acknowledge the very difficult task that brings. An effective regulator must be very, very credible. When we started this inquiry, it was not an inquiry into aspects of how CASA does its business; it was an inquiry into the adequacy of regional aviation services in remote and rural locations. However, during the course of that inquiry, we received an overwhelming number of complaints about the way CASA does business, which prompted us to invite you here.

What this committee wants from you today—and I think you have done that in your opening remarks—is to acknowledge that there are a high number of inquiries and that is of concern to you. More importantly, we want to know what strategies you have in place to address it. It is not a witch-hunt. That is what we need to know. As I said, the inquiry is not looking at how CASA does business. If we wanted to do that, we could use the powers we have in this committee to establish our own terms of reference and go off and have a look at the way CASA does business. That is not what the inquiry is about. If we could get from you, first of all, a recognition of the problem and strategies in place to address it, this committee would be reasonably satisfied. With that, I will throw to Ms Ley for some questions.

Ms LEY—Thank you. I endorse the Chair's comments. I apologise if you felt offended after our last meeting that we did not listen to you sufficiently. I think that might reflect the time shortages and interruptions we had with parliamentary business. I am also encouraged, Mr Gemmell, by your invitation, whereby if we have problems through our electorate office, we are able to contact possibly yourself or somebody else to deal directly and try to resolve the problem. Of course, our inquiry is into regional aviation. My particular interest is in, as you know, small charter operators and regulation 121B and the effect it may have on them. I gained the impression from the last meeting that it is not going to be particularly onerous financially and that it is going to result in overall benefits for the operators, the industry and the travelling public. I want you to expand a bit more on that. I am consistently being told by small charter operators that it will put them out of business.

Mr Gemmell—Just to step back, we have had two things that we have put out on to the market, so to speak. One is a discussion paper on 121B some time ago and, more recently, the notice of proposed rule making on 121B. There were significant differences between those two, basically in response to the discussion paper, where the reaction was that we impose all these requirements and they are going out of business on large scale and the general concern that we are trying to make small charter operators operate at the same sort of levels that we would require of Qantas or something like that, which was not our intention.

The NPRM on 121B that went out earlier this year was much different to that. We made significant changes to proposals, again trying to cater for this idea that whereas we want one level of safety, we do not want to see continuing differences in standards between charter and RPT operations. We had to have a much greater acknowledgement of the sort of scale and complexity of operations. Where they were small and not very complex, they could have much more simplified systems.

I do not think we were saying this will not cost anyone anything; they will have to do some more to meet those requirements—for example, training and checking. We have increased the requirement on them to do training and checking of the pilots that fly these aircraft. It has to be some form of independent training and checking. We think that is very sound and very logical. It is the system that is used across most of the rest of the sector to make sure someone is actually up to speed to fly particular aircraft. We think it is important when you are carrying passengers. We think there are some costs and we think there are some benefits.

Ms LEY—Where are the main costs?

Mr Gemmell—It is in the training and checking.

Mr McIntyre—The major issues are training and checking, a fatigue management system to make sure that tired pilots are not flying aircraft, and a safety management system which—

Ms LEY—Where are the costs to the operator? They are telling us that there are considerable costs.

Mr McIntyre—The cost to an operator, for example, from training and checking would be that every six months the pilots would have to have somebody do a flight with them and provide some sort of oversight of their capability. That is something which has been part and parcel of mainstream aviation all around the world for a very long time. So there is a cost in that. That means the cost of the aircraft operation which they are not getting any revenue from perhaps in that one circumstance, although remember that there are times when a pilot has to renew an instrument rating as part of his cycle. Every 12 months, he would have to do a non-revenue flight for that. At the other six-month point, it could probably be something like just a route check where somebody sits in the aircraft and watches the pilot's operation for the route and that is it. That would be seen as an additional cost by the industry.

Ms LEY—If they do not have a check and training system in place, they would need to contract out, possibly to yourselves, to do that?

Mr McIntyre—No. In fact, that is not CASA's role at all. Early in the development of the new Civil Aviation Safety Regulations, we recognised that there would be a requirement to have some form of other organisations in the marketplace to provide this service to industry. Part 142, which is training and checking organisations, will fill that role. What would happen is that in city areas you would have quite a number of these organisations, but perhaps at a country airfield you might have one or maybe two.

Ms LEY—Or none.

Mr McIntyre—You may not have any. But that is the same for the renewal of instrument ratings currently. If there is not an approved test officer on that airfield, you go to where there is one. But if training and checking becomes a requirement—at this stage it is just a proposal—then these organisations would spring up to fill that need. I agree with you that there will be circumstances where you could have a very remote operation that is a long, long way away from having a training and checking organisation there. Those organisations would have some difficulty. My view would be that the training and checking organisations would go to them.

Ms LEY—I certainly question whether organisations are going to spring up to meet this need. I do not think we have ever experienced that in general aviation. It is such a tough business. The comments closed for this on 30 September. Is that right?

Mr McIntyre—That is right.

Ms LEY—I would be interested in what sort of comments you have, the range of views expressed and whether people are happy.

Mr McIntyre—So far, we have had 36 responses to the NPRM for 121B. Of them, 15 were a form response. In other words, the 15 responses were exactly the same with just the signature different on the bottom. There have been a few issues raised, but essentially there is not overwhelming opposition to this part. I was so concerned about the development of 121B that I decided in the closing stages, because we had had very little feedback from industry, to write personally to every operator in Australia that was operating a charter operation and seek their direct input on 121B. I would like to table the letter I sent. Contained within this letter is a compact disc, which actually has the whole of 121B on it. Attached to the letter is a comparison chart which shows the differences between the discussion paper and the NPRM. There are significant differences there. We have listened to industry and modified the proposal so it is more acceptable to them.

ACTING CHAIR—Is somebody prepared to move that we accept that as an exhibit?

Mr SECKER—So moved.

ACTING CHAIR—Thank you

Ms LEY—When did those go out?

Mr McIntyre—Two weeks ago, I think. We just were not getting responses back.

Ms LEY—Were they inviting responses?

Mr McIntyre—Yes. They were actually encouraging people to respond.

Ms LEY—In the remaining two weeks?

Mr McIntyre—That is correct. Remember that we had a conference in Sydney. We have had large industry involvement through the standards consultative committees and subcommittees. I think most people have seen a huge shift in the thrust of 121B to the point where it is nowhere

near as contentious as it was originally. There will always be some contention. Whenever CASA does anything which raises a safety system which might increase a cost or require more procedures to be in place, there will always be some form of opposition.

Ms LEY—The main reason behind this is, as you say, your preamble of safety. So why are you waiting until 2005 to implement it?

Mr McIntyre—There are a number of issues with implementing a complete new aviation safety regulation system. Probably the biggest component of it is recertifying the operators into the new system. That will take time. It takes time to train the industry. It takes time to train our own people. More importantly, it takes time to establish systems within CASA to deal with it. We are talking about the conversion of between 800 to 1,000 operators, and that is a significant task for us. We must have sufficient time to do it. Most importantly, we really want to ensure that we have adequate training in place so that everyone fully understands what the requirements are. We do not want this to be a very quick and rushed process. We are already out there in the industry now encouraging organisations to adopt safety management systems and fatigue management systems. We have already set the forerunners of these new systems in place, and they are well received and well accepted by operators in the industry. So we do not want to rush it. We want to take our time and get it right. This is a change which is forever. It is not something that is quickly conceived and that we wish to rush into place.

Mr Gemmell—After 2005, there are three years for operators to make conversions. Again, there is this balance. We think it is a great safety initiative. But if we try to rush it forward, we might lose the whole deal in the rush to get there. We have to make sure we get it right.

Ms LEY—I just see a bit of a conflict when you were saying it is driven by safety. You have mentioned a couple of incidents that demonstrate that perhaps people might not be up to scratch in certain areas yet we are going to wait until essentially 2008.

Mr Gemmell—That is a balance judgment. There is nothing magical about any of those dates. In fact, Mr Collins will perhaps talk about it better, but we sent Rob over to Canada, which had done a similar thing years ago. We said, ‘Well, what did you do?’ They said they took a year to do it. They said, ‘Don’t do that. It is too rushed.’ In fact, the problems were very much that the organisation itself was not geared up to do it, and then there was just a debacle when it turned up in industry. So we have arguably gone to the other end of it.

Mr McIntyre—The most important feature of this, though, is cultural shift. It is not CASA just making up some new rules and going out and doing a bit of training and then all of this just happens and we get an increase in safety. Safety can only improve if the culture of the participants changes; in other words, they accept the responsibility for the safety of the operation. We cannot mandate safety; that does not work. It has to come from within the operator’s organisation.

Ms LEY—So there are problems that you are looking to address with safety?

Mr McIntyre—Yes. If you compare the accident rate between charter and RPT, it is enormous. There is a big gap. You are talking about five to seven times—

Ms LEY—But charter is never going to be as safe as RPT, is it?

Mr McIntyre—I do not believe that, because we have the same aircraft being used for charter and RPT, yet the accident rate is different. Why is that?

Ms LEY—Charter is more random in its nature and it goes to more remote locations.

Mr McIntyre—No. It is not that.

Mr McARTHUR—So the accident rate is higher in the charter?

Mr McIntyre—Yes. It is very much more.

Mr McARTHUR—By how much, again?

Mr McIntyre—It is between five and seven times or something like that.

Mr Gemmell—The average over the last 10 years of accidents in the low capacity—that is, the smaller aircraft—RPT is about one accident per 100,000 flying hours and it is eight for charter.

Mr McIntyre—I think it is pretty well known in aviation that the major cause of accidents is that the pilot makes a mistake, for whatever reason. It might be that the pilot is fatigued. It might be that the pilot was not trained properly. It could be that the pilot has a very poor attitude towards safety. There could be many factors there. If you can improve, first of all, the pilot's capability and then ensure that the pilot is not pressured to do things that are inappropriate and then, finally, have a system in place which encourages safety in the organisations, I think automatically you will see a rise in safety. When you look at the approach that organisations take currently when they move from charter to RPT, they realise that it is a step up for them. But it is not so much a step up in paperwork. It is a step up in the culture of the organisation, where they accept this responsibility and they put in place their own training and checking within their organisation and take responsibility for their own pilots. That is a very important step in safety.

Ms LEY—Have you modelled the cost to a charter organisation to make this change? Have you any idea about the cost of complying under the new regime? I think that is at the heart of the matter. If everybody goes out of business, surely your statistics will improve out of sight. We just will not have any charter operations in the more regional and remote areas of Australia, which is what we are concerned about as a committee. Have you done any modelling on the cost of compliance?

Mr McIntyre—We do know what the additional costs would be. For example, we can say what training and checking would cost an organisation. We know what the cost of running an aircraft is and the cost of the pilot's time when he is non-productive and so on. So we can put a cost on that.

Ms LEY—The additional costs.

Mr McIntyre—Yes. That would be additional costs.

Ms LEY—I am sure you do have that information. Could you provide us with it. I know that organisations vary considerably, but before you embark on something, which after all is going to take a long time to put in place, it would be good to know that. It would be good to get a feel for whether the ordinary, average charter operator is going to be able to implement this.

Mr McIntyre—I have to say to you that part and parcel of what we do in regulatory development is to ensure that we take account of the cost to industry. Not only that, but the Office of Regulation Review, part of the Productivity Commission, sits over the top of that process to ensure that we do it effectively. For example, when we raise a requirement on industry, we are actually required to produce a cost-benefit analysis to show that this additional impost is going to derive a safety benefit that is worth while.

Ms LEY—Well, it was not a very detailed cost-benefit analysis. It was just a sort of—

Mr McIntyre—No, because it is a proposal. It might very well be that in the development of 121B we do not have training and checking as part of 121B. That could actually occur. We are not saying that this is the final position with this rule set. We do not know that. This is all part of a consultative process that we go through with industry. It could be a decision taken by government. They could say, ‘Well, we’ve investigated this and we just don’t think it is reasonable that you place these requirements on smaller operators, so in that case we want that dropped.’ For us to go and do a cost-benefit analysis on each individual component without knowing finally what it is going to be—remember that we have to go through this process anyway for the final state of these rules—would be premature, in my view.

Ms LEY—You have made a statement that it is difficult for CASA to estimate the likely cost impact of these proposals since all operators will be affected differently. There are a few more general comments. That is what you have under benefits and costs. I just do not think that is sufficient.

Mr McIntyre—Perhaps what we could do for you is give you some information on how we see it affecting a 172 at a small country airfield.

Ms LEY—Not many charters have 172s.

Mr McIntyre—Well, 182. We know there are plenty of them, and perhaps at the other end an organisation operating mainly twin-engine aircraft. That can give you a feel for the sort of thing we are talking about here.

Ms LEY—Maybe pick three. Maybe pick large, medium and small in the small end of the market. We are only talking about the small charters in the market. That would be good. I have said enough for the moment.

Mr MOSSFIELD—I have a general question going back to your opening remarks. I was interested to get a final briefing on the wheels-up landing in Canberra. What was the outcome there? The action taken by the company was to immediately sack the pilot. That was the end of it as far as the pilot was concerned, was it?

Mr Gemmell—For the pilot, that was it. He was sacked. As I said, we do not think it was a terribly clever move, but that was the company's prerogative. The chief pilot then looked at the system and how this could have occurred—what went gone wrong in the system such that this occurred—was it fatigue or training or distraction? What was it? They looked for systemic things. CASA, of course, were involved in the investigation as well because we were looking at the same issues. That is still, I guess, ongoing. As I said, from our perspective the attitude of the chief pilot trying to say, 'What is this?' is exactly what we want to see—trying to see the systemic reasons why that sort of thing would occur.

Mr SCHULTZ—Why do you think it was inappropriate for the company to sack the pilot? On what basis are you making that comment?

Mr Gemmell—It is a safety culture. They could suspend the pilot, for example, until they work out what happened. The concern about an action like that is that it tends to send the wrong message. It sends the message that mistakes will not be tolerated and you will pay a high price when you make them. That may or may not have been appropriate in that circumstance. You do not know really until you investigate what happened.

Mr SCHULTZ—But you are making that assessment, are you not, in the process of not knowing whether that particular pilot had been spoken to by his employer about possible infringements or questionable action in the past?

Mr Gemmell—Yes. We cannot comment on that. There may well have been a series of—

Mr SCHULTZ—That is the very point I am making here. How can you make the comment that you do not think it is appropriate for an employer to sack an employee on the basis of something that occurred to the extent where a wheels-up landing in Canberra and not knowing the—

Mr Gemmell—An immediate sacking sends the wrong message. It may send a message to the employees to not report incidents and concerns. That is the problem we have. You may find on investigation that it was the 20th time the guy had screwed up; who knows? That may well have been the case. But it is the question of the message you are sending. What you want in a proper safety culture is for people to report issues and to not be frightened of reporting, not to bury them when they find something, because they are concerned about getting the sack. So we are concerned about the immediate sacking, but there is not anything we can do about it. It is perfectly legitimate.

Mr SCHULTZ—Were you concerned because the outcome of your investigations had not been completed?

Mr Gemmell—Well, yes. Again, I would have thought that perhaps a better method might have been to suspend the person until he actually came to grips with it. For example, I can think of a couple of things like fatigue or something. He was rostered on and he was fatigued. There may be some ameliorating circumstance as to why he got it wrong. There may not be. He may have just screwed up. In that case, you might look at how you managed to have such a pilot. You have to look at your own systems and say, 'Well, we employed a pilot who could screw up like this.'

Mr SCHULTZ—I agree with you that it is a pretty severe penalty, particularly when that is his profession and he has to try to make a living in the future.

Mr Gemmell—But they are right. We cannot say to them, ‘You are not to sack this person’ or anything else. It is a culture issue. The concept that goes around is called a just culture. There are just responses and appropriate responses to the circumstances, which does not necessarily mean sackings but can do on occasions.

Mr MOSSFIELD—When did this happen? What dates?

Mr Gemmell—The wheels-up landing was 12 September. It was at Canberra.

Mr MOSSFIELD—So does the company have to give a report to CASA as to the cause of the incident and what action they have taken?

Mr White—Yes, they do. We looked immediately at the incident. What we are really interested in is what the company itself is doing—if the chief pilot is taking control of it and if he is looking for factors involved. If it had been an engineering problem—that is, the gear would not come down—were the airworthiness people looking in the right areas? It was not the case that it was an engineering problem. It was in fact a human factor. As Bruce has said, they could have suspended the pilot and then looked at mitigating actions. The pilot might have been tired because the rostering system was too heavy. It might be legal but it can still be such that he is not getting the rest required. It could be that he was rushed in the circuit and that he was trying to fly too tight a circuit and did not complete the checks. He could have been ill a few days before. There are all these things that reflect on why the thing happened. That is what we would like to see the company do before they take action against the pilot. But we also want to see them investigate why the incident occurred. I have to say to date they are doing quite a reasonable job. We sit back and watch them do that and wait until they give us their response. That is what we are waiting on.

Mr MOSSFIELD—What would be the process once you have got the company’s response? Can you override the company as to how they should have handled the incident?

Mr White—Let us say that they come up and say, ‘We haven’t found anything. It was just that the pilot screwed up.’ We say, ‘Hang on. We have looked and talked to your people. This pilot had also flown the night before and two nights before that. There is a problem with your rostering system. We would like to see you change it. We would like to see you look more at human factor causes.’ Yes, we can influence the company. But if they come up with a reasonable response and we are satisfied with the actions they have taken that there will not be a recurrence of the incident, or there is unlikely to be a recurrence, we would accept that.

Mr SCHULTZ—I would like to talk to you about improving the quality of CASA’s service, particularly in relation to the comments Mr Gilmore made about the processes available for people in the appeals system. We had evidence from Mr Paul Rees of Yanda Airlines and Singleton services suggesting that CASA denied him natural justice in the withdrawal of his air operating certificate. Mr Rees claimed that CASA had decided to withdraw his AOC before he had opportunity to provide evidence and be heard. He also said that the statutory 28-day response time for a statement of reasons by CASA was not observed and that CASA’s handling

of the process frustrated him to the point where he decided not to pursue the renewal of his AOC after it had expired. An Administrative Appeals Tribunal case—this is what the crux of what I am getting to—would have been too expensive for Mr Rees. Can you describe to this committee the appeal mechanisms that are available to a complainant of one of CASA's decisions, such as that. How would you describe CASA's performance in adhering to the appeal processes and mandatory time frames? That is a classic example of the sort of evidence we have heard that you want to hear about. I am giving you the opportunity to comment on it.

Mr Ilyk—I would be happy to deal with that if we get his complaint and detail it. I do not have the case before me, but I know that we have a lot of material on that particular matter.

Mr SCHULTZ—Would you like to take it on notice and perhaps furnish the committee with responses to those two questions in particular.

Mr Ilyk—Certainly.

Mr SCHULTZ—I will repeat the two questions. Describe the appeal mechanisms available to a complainant of one of CASA's decisions. How would you describe CASA's performance in adhering to the appeal processes and mandatory time frames? I will add another: what are your views with regard to the frustrations of operators not being able to meet the very expensive process in an appeals process? I presume that that would be centred around CASA's ability to have a table full of silks or some well-qualified legal people available to defend its case. That in itself realistically would be very, very difficult for people on a low profit margin trying to defend their appeal process.

Mr Ilyk—I could address some of those issues now. First of all, I will address the issue of CASA having a table full of silks. It never does that. In all of the times that I have been here, we have used a QC twice. Once we used a QC only because the person that we were going to use was not available because we were doing something else. We tried to get a number of other people. The only person available was a QC. So the general notion that CASA has tables full of silks is just not true.

Mr SCHULTZ—How long would an appeal process take with an example like that?

Mr Ilyk—The appeal process?

Mr SCHULTZ—For instance, if somebody had their AOC certificate removed and made an appeal, how long would that normally take? That is if that particular person decided to, you know, take the appropriate obviously legal action against CASA on it. He would not have the ability probably to address the issue himself. How long would a situation like that take?

Mr Ilyk—We need to look at it in two steps—first, the current system, and the system that is about to be changed as a result of the Civil Aviation Amendment Bill which about now is going through the House of Representatives.

Currently, if CASA suspends an operator, it has to issue generally a show cause notice anyway. So it puts a person on notice and provides the individual with a detailed notice of all the allegations that CASA believes warrant action being taken. I know that in the case of Yanda

CASA issued about a 20-page show-cause notice. No decision had yet been made. We were simply saying, 'We have evidence of all these facts and circumstances which we believe warrant action being taken against your certificate. What do you have to say about it?' At that time, we also say, 'If you would like to have an informal conference, you can have an informal conference to address these things personally.' That show-cause process usually lasts for 28 days. Quite often it is extended as a result of the person saying, 'I need more time to be able to get my act together.' We generally do extend it if people want an extension.

After that process has gone through, CASA will then make a decision based on the evidence it has and based on the facts provided to it by the complainant. Sometimes that ends the matter. In other cases, CASA believes that the evidence it has certainly outweighs the response we have got from the operator. Quite often, when people complain, they say, 'CASA is suspending me for one breach.' They will mention one breach. If you look at the show-cause notice and the final decision, quite often it is for a myriad breaches that go on over a number of years. There are 20 or 30. In the case of Yanda, I know that over a period of five years before the suspension, immediately before the serious incident that occurred, they had something like 60 non-compliance notices. They had not complied with the regulatory requirements on about 60 occasions. So that is the process at the moment that you go through.

Once CASA makes a decision, the person then can apply to the Administrative Appeals Tribunal. That is quite often out of our hands as to how long it takes. It can take up to a month sometimes. Sometimes things will go on for three or four months. What generally happens in those cases is that an individual will apply for a stay of CASA's decision. They will apply to the tribunal to say, 'We want a review of CASA's decision but in the interim we want that decision stayed so we can keep operating.' The success rate of stays is probably about 60-40, with 60 per cent not granted and 40 per cent granted.

We need to contrast that now with the legislation that is in parliament. What is happening at the moment under the new legislation puts significant limits on CASA's powers. If CASA decides to suspend an operator, the operator can simply within five days put in an application to the AAT. CASA's decision is automatically stayed. The operator does not have to try and argue the merits or argue hardship or anything. There is an automatic stay. CASA's decision is stayed and it cannot do anything. So the person is free to continue to operate. He has his licence back. He will do whatever he needs to do and then put the case before the AAT.

The question of costs is interesting because the AAT is not a court. It sits in the shoes of the decision maker. It does not look at legal points. It is not a question of legal technicalities that you get in a court with rules of evidence. It simply says, 'What are the facts? CASA, you tell me what the facts are from your point of view. Operator, you tell me what your facts are.' What it does is say, 'If I were in this position, knowing both sides of the story, what decision would I make?' It is not a question of just saying there is a defect. It will substitute a decision. If it thinks that the licence should not have been suspended, it simply says, 'My view, based on everything I have heard, is that the licence should not have been suspended. You should get it back.' So it is a full merits review. How long that takes is very hard to say. Some things can be very quick. When I say quick, I mean a couple of months.

Mr SCHULTZ—You are saying that it depends on the complexity of the case?

Mr Ilyk—Generally the hearing will be one or two days at the most. There are cases where someone actually gets lawyers involved. They try to take all the legal points and it goes on. You have hearing days set for two or three weeks. That is where the money comes in. Generally the cost will depend upon the lawyers that you get. If someone wants to use a QC or a silk or a barrage of lawyers, which they often do, that is where the costs come in. But you do not have to have a lawyer. All the AAT is interested in is saying, ‘Well, what’s your side of the story? What’s CASA’s side of the story? What is the preferable decision in this case?’ I must say that in the case of AAT appeals CASA probably has about a 90 per cent success rate. That is nothing to do with the lawyers; it is simply that the AAT is saying, ‘We find that the correct and preferable decision based on everything we have heard is that there was a safety issue and CASA’s decision to suspend was the correct one.’

Mr SECKER—I want to follow up on one question. It worries me that you say that Yanda had 60 non-compliance notices before the incident.

Mr Ilyk—Yes.

Mr SECKER—Why wasn’t something done if there is something as serious as 60 non-compliances?

Mr Ilyk—Action was being taken. They had to acquit all of these. There were meetings. But there comes a point where you say, ‘There is a systemic problem here.’ The last straw was the incident where there was that final suspension.

Mr SECKER—It begs the question with 60. How serious were they?

Mr Ilyk—At the end of the day, you may say, as the Seaview commissioner reports, taken on their own, quite often an incident or a contravention may not be that serious. If it happens over a period of time, it shows that there is a systemic problem, and you get to a point where you have to do something.

Mr SECKER—That is one of the complaints we get. You talk about 60 non-compliance notices. They say, ‘Most of these are piddling little things. Why are we being given them?’

Mr Ilyk—‘Aviation trivia’ is what they say. That is what the complaint is. Generally, the thing I have seen in terms of complaints is they will say, ‘Look—

Mr SECKER—You have just said yourself, with respect, that some of them are not so serious. Obviously if you have 60, they cannot be very serious.

Mr Ilyk—On their own. If you take them on their own, quite often you will say, ‘On its own that’s not very serious.’ But when you couple them together with a whole lot of other ones and over a period of a year or two, you say, ‘Well, there is a problem.’

Mr SECKER—I can understand that. I was just making a comment that some of the complaints we get are, ‘Well, this is just a piddling bloody thing. I’m getting hauled over the coals for something that really is’—as you say—‘trivia’. With each one on its own, you have

obviously thought the same. But obviously as they grew and when you bring them all together there is a systemic problem.

Mr Ilyk—Particularly when at the end of the process there is a serious incident.

Mr SCHULTZ—I want to follow on from what Patrick said there. I want to ask a question along similar lines. With the Monarch air crash at Young that killed nine people, were there any breaches prior to that crash?

Mr Ilyk—If you look at the report itself—I cannot remember the full detail of it—yes, there had been contraventions of the legislation discovered, but very little had been done. That was one of the complaints of the coroner. He said, ‘You’ve actually had suggestions that there have been contraventions and you didn’t do anything. Why didn’t you do anything?’ The coroner said:

...it is clear that had the CAA management paid more attention to the law and less to accommodating their ‘customers’, NDU would have been grounded and the AOC suspended until the plane was safe to fly. These deaths would have been avoided. CAA management turned over backwards to protect the ‘industry’ from the constraints imposed by the regulations.

There were issues, and that was the whole point of the Monarch report.

Mr SCHULTZ—That begs this question. I lived at Cootamundra at the time. There were two airlines operating out of Cootamundra then: Monarch Air and Country Connections Airlines. I saw enough in terms of cost cutting to change my mind about flying on those nine-seaters. I used to drive an hour to Wagga and fly from Wagga. I am just amazed that it takes a coronial inquiry and the deaths of innocent people and children to identify possible action that should have been taken prior to that crash occurring.

Mr Ilyk—I think that is the lesson to be learnt from—

Mr SCHULTZ—It is a pretty tragic lesson.

Mr Ilyk—It is. It is also addressed in the Seaview commission. The commissioner was saying that the CAA at that time had a problem with institutional timidity. It was too scared to take action. Why was it too scared to take action? Any time it wanted to take action, people would complain. Industry would complain to the higher management in the CAA. They would complain to their local members. They would complain to the media. The people who were trying to make those decisions were being vilified within their own organisation by industry, by everyone. That was the whole point of the commissioner’s report. This institutional timidity is what has been stopping the inspectors of CAA from taking action. They say there was no lack of willingness on the part of the investigators and surveillance officers at Bankstown to enforce safety standards, but they were left waiting, waiting, waiting and grossly misused. That is the reality of the situation.

Mr SCHULTZ—It is one of the frustrations that you guys are talking about experiencing in terms of, you know, 60 infringements, minor or whatever, leading up to a very serious situation where people’s lives are at risk.

Mr McARTHUR—I want to raise with Mr McIntyre the relativities of the charter aircraft accident rate versus the RPT accident rate. What is the actual percentage difference? Could you just add to your answer about the charter operators having a much higher accident rate. Has that been a 20-year relativity?

Mr McIntyre—It has been constant over that time, the difference in the rate.

Mr Gemmell—I could provide some figures. They are the Australian Transport Safety Bureau figures on accident rates. I have used them constantly in speeches to illustrate why we are trying to close it. It shows over a 10-year period a significant gap. It might be useful if I table this one too, if that is acceptable. It is an ATSB report. It is on aviation safety indicators. It is quite a recent one and has useful statistics in it, including on activities.

Mr McARTHUR—Give it to us in simple language because those figures are pretty confusing.

Mr Gemmell—There is the chart.

Mr McARTHUR—Just tell us. Just verbalise the answer.

Mr Gemmell—Well, there is a significant difference over a 10-year period between low capacity RPT and charter, with low capacity averaging about one accident per 100,000 flying hours and charter up around six to eight.

Mr McARTHUR—Six to eight per 100,000?

Mr Gemmell—Accidents per 100,000 flying hours.

Mr McARTHUR—So you are saying to the committee that that is a factor of lax activity by the pilots and a lack of tighter regulation. You are saying that you are attempting to improve the safety arrangements within the whole area. Is that what are you saying?

Mr Gemmell—Yes. And challenge people, when I show the statistics, to say, ‘Which way do you think a regulator would try to drive these?’

Mr McARTHUR—The reaction by the industry is what—that you are being too tough on them?

Mr Gemmell—The reaction by the industry is a bit variable. Some people would support what we are trying to do. Others are concerned about the cost. They are concerned that they are not in a good financial position in regional and rural Australia. If they have to meet some extra imposts, it might drive them to the wall.

Mr McARTHUR—Why do you not use these set of figures every time you respond to that? There is some sympathy here at this committee for the role of the regulator to maintain safety. We see the other side of the argument. Why not just say, ‘Here are the stark figures, and we are duty bound to implement a safety regime to stop you fellows falling out of the sky?’ That is a pretty simple proposition.

Ms LEY—That presupposes that RPT and charter can have the same level of safety. I think Mr McIntyre said they could. However, in your own 121B, the point is made that there are reasons—the destinations of charter operations are challenging, remote and tend to be of a more random nature. You have actually put them as reasons why the accident rate between charter and RPT is different. In fact, the accident rate for charter has not changed over the last 10 years. Yes, it is higher than it is for RPT. I would like to know what proportion of these accidents dug the prop into the ground and made yourselves look pretty silly or did not walk away. I think that is important too. I think it is important to know that, if we could, we would all drive in a Volvo or a Mercedes. In fact, you perhaps would not drive in a Volvo. My life was saved by Mercedes suspension when I was a child in a high-speed accident, but I do not drive one now. But I recognise that there is a range of safety. I know you do not like the term ‘affordable safety’ because of the person who first coined it. But isn’t that the hub of the argument? People have a choice. If you step onto a small six-seater single-engine aircraft in the middle of Mr Haase’s electorate, you know that your risks are higher than if you step onto a 747 flying overseas. You know that, but you should have the option and the choice.

Mr Gemmell—It is relevant that the government has given us its view about it, which is that CASA should minimise the difference between, effectively, the charter and the RPT. So the government has told us that that is what they want us to do, and that is what we are seeking to do.

Ms LEY—To narrow the gap but maybe not to eliminate it.

Mr Gemmell—Well, that is not inconsistent with what the government said. I have to say that. They did not say to eliminate the gap. We are probably not going to, because I think I told you last time that we are going to allow the 121B operations to go into these special category airports in rural and remote Australia and in the Torres Strait with the RASS scheme, the regional air services subsidy arrangements. That does mean they are going into not top quality landing locations. There are risks with that.

Ms LEY—As Mr McArthur said and Mr Schultz has indicated, we are not for a moment trying to negate your role as a regulator. My concern is whether the things you are doing are going to have the desired effect. That is the issue. Are they going to put people out of business or make life too difficult for small charter operations and therefore mean that the people in these remote areas do not have the travel options? Sorry to interrupt your question.

Mr McIntyre—I want to bring you back to the point that I probably have not got across to you effectively. It is about safety culture. It is just fortuitous that in being responsible for CASA’s regulations rewrite I also come from the aviation industry myself. Five and a half years ago, I was a pilot flying around in undeniably the most dangerous area of aviation in Australia in probably what some people would consider the most dangerous types of aircraft. But we never had a—

Ms LEY—Which were?

Mr McIntyre—Helicopters and turbine fixed-wing aircraft in the Snowy Mountains of New South Wales. We never had an accident. Why? Because the pilots’ responsibility and attitude towards safety was such that they would not cut corners. If conditions were marginal, you would

elect not to go or you would find alternative methods of doing the job. The point I am trying to make to you here is that it was an ingrained safety culture within the organisation. What we are trying to do is to ingrain that same culture into the small charter operator. So just because the customer arrives on the doorstep and says, 'I want to go to such and such,' the pilot can say, 'I don't feel well' or 'I have just come off 12 hours of straight flying and I am tired' or 'I've rung ahead and I have found out that things are really marginal at my destination and I just don't want to do this flight' and can do that knowing that the operator will support them.

So many of the accidents that occur in general aviation are caused by these types of factors—pilots pushing on into weather which is beyond their capability and operating aircraft with many known deficiencies on them. In the case of Monarch, there were instruments missing from the instrument panel on the aircraft, from my recollection of that case. There are also inappropriately trained crew.

Ms LEY—You in your operation had a good relationship with CASA, a positive one, and you supported what they were doing at the time? That is if they were called CASA then. I am not sure how many years ago it was.

Mr McIntyre—They were. Yes. I saw that they had a role to play in safety regulation. I could see it was important that I honoured my part of the bargain, that I did what was required from my side. In doing that, I had no difficulty with CASA. They would raise issues with me. They would say, 'We've done an inspection of your operation and we can see these issues you need to address,' and I would address them. That is a healthy approach to take, in my view. So my relationship was a professional relationship. I certainly did not write to politicians or go to newspapers and try to reverse decisions just because I did not agree with them. I certainly did not do that.

Mr McARTHUR—I want to finish by saying that I agree with this culture of safety and that attitude rather than being one of a policeman. I sat through 2½ years of the plane safe inquiry. I have to say that your letter, Mr Gemmell, is just protesting too much. I have heard much more willing debates in front of this committee than we had last time. I think the debate might be a bit calmer. I caution you. I am a bit disappointed that you suggest this committee is a bit rough. We talked to the former director, Mr Smith, and others on both sides of the argument. I can assure you that the arguments were much more willing than you had a couple of weeks ago.

Mr SCHULTZ—I have a question that is probably not related to this but it is certainly related to aviation safety.

ACTING CHAIR—Mr Haase has a question.

Mr HAASE—Sorry, but I want to get away, if I may. Through contacts with constituents—you know I represent remote Western Australia—I have heard numerous comments about CASA with their unnecessary regulation and nitpicking and the imposition of regulations that are meaningless and so on. I suggest to you, therefore, that the major problem CASA suffers in its relationship with commercial pilots and air operators is the inconsistency of interpretation by staff. Maybe that is a gross generalisation, but that is the way I see it. We have every comment from your experience in the past, Mr McIntyre, where you say you knew as an operator that CASA was simply doing the right thing for the industry and you had to comply. I would not

suggest—I think you would agree—that you always do it from a roll over and stick your legs in the air perspective. You resisted strongly from time to time—

Mr McIntyre—No.

Mr HAASE—even though you knew that there was a necessity to comply. You yourself raise the issue of this attitude and culture of safety. Where that culture exists, the safety level is high. Where it does not exist and you see the cowboy operators who will fly by the seat of their pants, there is a high accident level. On the other hand, we have the number of reportable incidents of some operators and the list is extremely extensive. You cite that they are not all hanging offences but collectively they often result in a serious accident. But I wonder if there is a relationship. I think you are yet to prove it. You have cited the fact that so often where an incident occurs there is a history of incidents. But I know that an incidence can be a faded deck or a heater not operating or a door seal being defective. It can be minimal stuff. It is when the engine fails or there is no fuel in the tank or the wheels are up—they are the things that cause fatal accidents.

I wonder what you are going to put into your organisation that will change this perception by the industry that the relationship in a particular area is only as good as the ability of the local representative to cooperate with the operator. What are you doing to make sure that your personalities are removed from that relationship and there is a standardised approach to interpretation? Can one of you give us what might be happening in that area?

Mr Collins—In respect of the issue of AOCs and the assessment of AOC applications, certificates of approval and certificates of that nature, we have centralised the decision making process. We have—

Mr SECKER—Is that going to make it quicker? Sorry to interrupt. That is one of the complaints we get—the time it takes.

Mr Collins—Initially we did identify a problem whereby the delegate might have been unavailable so we have actually made a small number of additional delegates to get around that problem. But also in terms of consistency of assessment, we have got very comprehensive manuals which are available to the industry and the public on the web. We have got internal procedures, which have tightened things up considerably. We have instituted a business model. At the centre of it is the CASA service centre, whereby we have consistency in the way we deal with the industry. We have consistency with the way we assess applications as near to standard as possible. To back that up, we have quality assurance accreditation, which puts an internal discipline on us to ensure that wherever possible we check ourselves to ensure that this is actually occurring.

We can also measure what is going on. A few years ago, it is quite true that we could not measure anything. We did not really have a business model. But we now have a model and we can measure what is going on. We can look for inconsistencies in the data. When we find it, we actually go to the relevant functional area and ask, ‘Why are you out of step with the rest of Australia?’

Mr HAASE—Just to summarise, Mr Collins, can you say that you have within your organisation a resource that is responsible for checking on the standardised performance of its officers?

Mr Collins—Yes, we do.

Mr HAASE—So one would presume then that eventually we will find a more harmonious relationship between CASA and air operators generally? You are saying you are aware of past problems, the necessity for a harmonious relationship and the need to put in place a regulatory regime that will regulate your own performance?

Mr Collins—That is quite correct.

Mr HAASE—That is very reassuring.

Mr McIntyre—There is another thing that is quite important. The reason you talk about inconsistency of decision making is that our current rule set is extremely difficult to negotiate. It is disjointed. It often leads to misinterpretation. One of the—

Mr HAASE—That is my very point.

Mr McIntyre—One of the prime drivers for the regulatory reform program was to have a common set of rules that everyone could understand that was clear, concise and unambiguous, so you could go to one place and have all the rules. Flowing out of that during the implementation of this rule set will be consistent training for the industry and for CASA. There will be the same set of training, which will mean that everyone has a clear understanding of what this rule set means. At the moment, we have pretty much suspended any activity with reg development whilst we get the reg reform program finished, so you still have elements out of there of confusion about what a rule actually means. If it is not really clear, you cannot blame people for interpreting it the way they wish to interpret it.

Mr McARTHUR—That is why you might have had a rough time at the last meeting. It could be exactly for that. That is why along this side of the fence we were getting this sort of feedback all the time. That is why we were giving you a bit of hurry-up last meeting.

Mr HAASE—Mr Collins, you mentioned the internal imposition of a QA-QC system. I do not know who has implemented a QA-QC. My experience with organisations has been that so often it becomes an excuse for not doing the job. Operators say, ‘We have QA-QC in place. It looks after itself.’ In fact, the situation can fall apart, so I caution you to keep an eye on it. Just a yes/no answer: where a show-cause meeting is convened, CASA has some legal representation in attendance, obviously.

Mr Ilyk—It has its regional counsel, who chairs the meeting.

Mr HAASE—Does that regional counsel contain representation?

Mr Ilyk—We have an in-house lawyer.

Mr HAASE—So the answer is yes?

Mr Ilyk—Yes.

Mr HAASE—Is there a warning given to those called upon to show cause to not bring legal representation?

Mr Ilyk—No. You can bring legal representation if you want.

Mr HAASE—Thank you. That is contrary to what I have been told.

Mr Ilyk—That is not true.

Mr HAASE—I will drift right off the case for a moment. With the removal of MBZs, can you tell us anything about what CASA's attitude is going to be to that? I have just had an incident in Leonora where we had a too-close-for-comfort landing. It strikes me that the future regulation that removes MBZs is going to create a reduced safety standard. If you can give me a couple of paragraphs about why it will not, I would be very interested.

Mr Gemmell—CASA's position is that we support the introduction of the NASDA US system because it is a proven system that works in a vastly more trafficked area. The actual introduction of it is being run independently of CASA in the sense that, while we are part of that because we have certain expertise, we are the arbiters of the safety of any particular introduction. We are aware that in some locations where there is currently an MBZ there might be a proposition to make it a CTAF. We would have to look at that and the safety of it. Equally, in some locations where there is currently an MBZ, it might be necessary to put in a class D tower. Putting aside the cost, presumably the safety has gone up somewhat. We do not have the details of all that stuff yet.

When that is proposed—and I think it is proposed for June next year—we will go through it and make sure we are satisfied that they are putting in appropriate safety measures for each location. If there is a proposition for an MBZ to go out, is it just a CTAF? What is it—a certified ground operator, a tower or what? We will look very hard at propositions where a current MBZ will become a CTAF.

Mr HAASE—I am finding it very difficult to have sufficient data to explain to my operators why the removal of MBZs will make it safer when incidents are already occurring because there was some fault in radio communications that has caused a temporary lack of MBZ, if you like. That is my difficulty.

Mr Gemmell—I should say that our analysis over a decade has suggested that MBZs are a safer environment than CTAFs. That is being contested by the National Airspace System Implement Group, who say we do not have that analysis correct. I should tell you that we also compared Australian CTAFs with Australian MBZs. There is the issue that US CTAFs should be different to that, so you have to look at the particular environments. We are analysing what information they can give us.

Mr HAASE—Knowing the interest that CASA has in safety and looking for consistency, it would be a very powerful argument if somebody was to suggest that CASA had approved the removal of MBZs.

Mr McIntyre—I would like to say something which might give you some comfort. Before any changes are made, we have to go through the same regulatory development process that we are going through with 121B. So everybody has an opportunity to participate in whatever changes are going to take place.

Mr HAASE—I live in hope.

ACTING CHAIR—We will run out of time shortly. We have another 10 minutes possibly. From being on this committee and talking to people in my electorate, I would like to know how you go about selecting the people that actually go out into the coalface of the industry and do the inspections? Do you employ consultants to do that? Do you do it in-house? Obviously they would have to have considerable expertise in the field; that is a mandatory qualification. How do you assess their communication skills? Is that part of the selection process? A lot of the problems we are hearing are probably because your people may well be very, very good technically but they may lack just basic communication skills.

Mr Gemmell—CASA has grown out of the Public Service. We were part of the Public Service a while back. We follow the classic Public Service processes. Generally vacancies are advertised. There is a selection process against established criteria. An assessment is made against that. As a matter of interest, we looked at our recruitment. When you look at advertising over the last year or so, you will find that the vast majority of positions are actually filled by people outside CASA. That is not surprising, because you are pulling in expertise, so it tends not to be promotion from within. We have criteria relating to communication skills and everything else. I have to say, from a background that is not deeply aviation, that you have to see that the skills we have in CASA reflect the skills that actually exist in the aviation industry. We are just a microcosm of that. As a general rule and it may be an unfair generalisation, communication skills are not the go of pilots or aircraft maintenance engineers; they are not necessarily their skills. But we only pull from the pool we can.

ACTING CHAIR—I think we might have to call it quits there because there is a division. By the time we get back, we will be without a room. I take your point about the legislation going through the chamber at the moment. It will be interesting to see how all that pans out. This committee might at some stage in the future use its powers to look at the implementation of those new reforms and see how they are impacting on the industry. It is an option that this committee may well want to take up.

Ms LEY—I will certainly want to follow it very closely. Mr McIntyre, I would really appreciate those models of costs to organisations. There is something I wanted to ask. Mr Gemmell or one of you at the last meeting said that the bar was set at a different level in reg 121B for smaller operators.

ACTING CHAIR—I am sorry. We have to go. I thank you for your attendance. Thank you all.

Resolved (on motion by **Mr Schultz**):

That this committee authorises publication of the proof transcript of the evidence given before it at public hearing this day.

Committee adjourned at 10.34 a.m.