

**AIRCRAFT OWNERS AND PILOTS ASSOCIATION OF AUSTRALIA**

OVER 50 YEARS AS THE VOICE OF GENERAL AVIATION IN AUSTRALIA

ACN 004 274 588 • ABN 95 004 274 588

**ALL MAIL - PO BOX 26 GEORGES HALL NSW 2198** • **OFFICE - HANGAR 600 PRENTICE STREET BANKSTOWN AIRPORT NSW 2200**  
TELEPHONE +61 (0) 2 9791 9099 FACSIMILE +61 (0) 2 9791 9355 EMAIL [mail@aopa.com.au](mailto:mail@aopa.com.au)



International Council of the Aircraft Owners and Pilots Association

Pacific Regional Office for IAOPA

The Committee Secretary  
House of Representatives  
Standing Committee on Transport and Regional Services  
Parliament House,  
Canberra,  
ACT, Australia,  
2600

Dear Sir,

The following is a submission to the:

**Inquiry into commercial regional aviation services in Australia and transport links to major populated centres.**

AOPA is grateful for this opportunity to make this submission on behalf of our members, and the small businesses with which they are associated.

AOPA's interest is in the support of members who are small scale owner operator providing on demand (charter) air services, their support services providing maintenance, fuel supplies and related services and complimentary activities.

Yours sincerely,

W.J.R.Hamilton, MAIAA  
Vice-President and Technical Director.  
AOPA of Australia.

Regional Director,  
The International Council of AOPAs.



**An Inquiry into commercial regional aviation services in Australia and transport links to major populated centres.**

**EXECUTIVE SUMMARY.**

**(1) Who is AOPA –**

**A description of the place AOPA and it's members, and the part they play in the Australian aviation community. AOPA characteristics are:**

- (a) The largest representative body in the General Aviation community, with some 5000 financial members, and a contact list of some 10,000 other member categories;
- (b) With a majority small aviation clubs and schools, numbering more than 150, are affiliated with AOPA, effectively meaning that AOPA is representing the aviation interest of some 15,000 plus, and;
- (c) Including members with some 2000 aviation or aviation related businesses and;
- (d) Working in close cooperation with other light aviation and aviation sporting bodies to promote the interests of light aviation.

**(2) An overview of the contribution of small aircraft to Regional, Rural and Remote Australia.**

The contribution of small aircraft to the economy of Australia is vital, but because most of the companies are small and very dispersed, this end of aviation, the "small end of town" is almost invisible on the political radar.<sup>1</sup>

**(3) What is "safe".**

"Safe" is an emotional term, of little relevance to what is, in reality, a risk management exercise.

"Safe" is without dimension.

We all know the expression "***If you can measure it, you can't manage it***".

"Safe" is often put forward in a context where the unattainable "absolute safety" or "zero accident rate" is promoted to those with little or no experience of aviation as a viable goal.

**AOPA always quotes the Chief Justice of the High Court of Australia, Justice Gleeson, for a proper and practical definition of "safe".**

---

<sup>1</sup> The Bureau Of Transport Economics has done at least one relatively recent study of the General Aviation sector, but AOPA is unable to provide further reference.

#### **(4) Unaffordable Safety.**

***“Safety” is not priceless, in any modern regulated environment, whether it is aviation services, or any other field.***

Unaffordable safety is the cost of failure of “safety” regulation, where the measurable societal disbenefits of excessively conservative or misdirected “safety regulation” causes major misdirection of resources, usually with little or no “safety” benefit, and frequently worse [aviation] safety outcomes.

#### **(5) Risk Management in Aviation.**

***Strange as it may seem, the aviation industry is a latecomer to modern risk management techniques, and its benefits.***

The combined benefits of the application of the most advanced risk management methods of analysis are:

(1) Superior Air Safety Outcomes.

(2) Superior economic outcomes as the greatest benefit are achieved from rational allocation of resources.

#### **(6) The Cost of Over Regulation, It's meaning for Regional, Rural and Remote Australia.**

Australia suffers serious societal disbenefits because of manifestly inadequate safety regulation of aviation, resulting in;

(a) Less than optimum air safety outcomes.

(b) Serious outcomes from the twin evils of inappropriate or over regulation, denial of services or excessive cost of services.

#### **(7) The Way Ahead.**

**Suggested solutions, including;**

(a) Ensuring balanced air safety regulation, leading to;

(b) A more certain business environment for aviation; resulting in;

(c) A restoration of small aircraft aviation services that have been lost to Regional, Rural and Remote Australia in recent years, and;

(d) Rejection of inappropriate aviation legislation, under a seriously misleading “safety” banner, that will eliminate many current and vital services, which if not halted, will result in;

The Way Ahead, Ctd:

- (e) Major loss of jobs and aviation related support services in Regional, Rural and Remote Australia;
- (f) Plus associated job losses, including loss of tourist related and many other vital services, such as visiting medical and other specialist professional services.

## Who is AOPA –

AOPA, the Aircraft Owners and Pilots Association of Australian was formed after World War 11, and has served the interests of General Aviation since that time.

AOPA is an organisation that represents it's members at all levels of Government, Commonwealth, State and Local, represents members interests to regulatory bodies, and publishes a monthly magazine that is read by about 25,000 people per issue

Contrary to popular opinion, AOPA was established by commercial operators to represent their interests to the regulator of the day.

AOPA members own and operate about 60% of the aircraft on the Australian civil register of aircraft. It is as well to remember that "airline" aircraft only constitute some 400 of the approximately 12,000 aircraft on the Australia register.

The pilot members of AOPA comprise a mix of all grades of licensed pilots, from active airline pilots, through Commercial Pilots, Private Pilots and Student Pilots.

AOPA is the largest representative body in the General Aviation community, with some 5000 financial members, and a contact list of some 10,000 other member categories.

With a majority small aviation clubs and schools, numbering more than 150, being affiliated with AOPA, this effectively means that AOPA is representing the aviation interest of some 15,000 plus people with an interest in light aviation.

AOPA members are the proprietors or work in some 2000 aviation or aviation related businesses ranging across the whole landscape of aviation, from manufacturing or the import and export of aircraft and aviation parts and equipment, sales of aircraft and aircraft parts and components, operating flying schools, charter operators, to maintenance and service organisation<sup>2</sup>.

AOPA works in close cooperation with other light aviation and aviation sporting bodies to promote the interests of light aviation.

These include the AUF, the Ultra Light Federation of Australia, the SAAA, the Sports Aircraft Association of Australia, and all the bodies associated with the Australian Sports Aviation Confederation of Australia.

---

<sup>2</sup> AOPA member marketing survey, 1999.

## **An overview of the contribution of small aircraft to Regional, Rural and Remote Australia.**

The contribution of small aircraft to the economy of Australia is vital, but because most of the companies are small and very dispersed, this end of aviation, the "small end of town" is almost invisible on the political radar.

These are the members of AOPA, or the aviation community and industry, in whose interests these remarks are directed to the Inquiry.

The majority of small aviation business are the quintessential small business, often family based sole proprietors, most are not based in the major urban conurbation's, but in regional, rural and remote Australia.

***Quite simply, this is an expression of the need for, and the value of these services, since QANTAS started business, with one single engine aircraft, from Longreach in 1921.***

In many respects, the services provided today, by hundreds of small aircraft operators, throughout Australia, have changed little, because these respects, Australia has changed little. Australia is still a vast continent, with a population concentrated in the SE corner, most of Australia is very sparsely populated.

Beyond the coastal fringe and a few trunk roads, good roads are the exception, not the rule.

QANTAS came into being to provide ad hoc passenger transport, transport of the sick and injured to available medical services, vital mail and supplies, initially some flying training, and eventually maintenance and fuel and oil provisions for other aircraft owners and operators.

To this day, this is an accurate description of a typical small aviation business in "the bush", providing any or all of the following:

- 1 Charter passenger transport, ad hoc or on demand ( non scheduled) air transport.
- 2 Regular mail deliveries for Australia Post, and small cargo of all kinds.
- 3 Aerial Work Operations, flying training, emergency search and rescue, cattle mustering, fish spotting, fence and water patrols, and at times quite an amazing variety of operations, all vital to those who need them.
- 4 Flying Training for all manner of pilots, from the beginner to the professional requiring recurrent training.

- 5 Fuel, oil and other servicing for other aircraft, services available because of the needs of the proprietor's business, and available usually for this reason.

***Close the flying operations, and the rest of the business collapses.***

- 6 Maintenance services, vital for maintaining the airworthiness of aircraft, a vital link in the chain of services, without which small aviation cannot survive.

AOPA is of the opinion that major changes to Aviation Regulation, proposed by CASA, will decimate the small "mixed businesses" which are the core of light aviation in regional, rural and remote Australia.

Attached to this document is the AOPA contribution to a CASA Discussion Paper called DP 0207 OS, the proposed Civil Aviation Safety Regulation Part 121B, the proposed which, in the opinion of many who have viewed it:

***-----will eliminate or radically alter the availability of all services by small aircraft.***

The document is large, but for the purposes of this inquiry, the Executive Summary and Expanded Executive Summary cover the major matters of interest to this Parliamentary Inquiry.

The author would be happy to also provide additional verbal testimony on this subject, if so requested by the Committee.

**What is "safe".**

***"Safe" is an emotional term, of little relevance to what is, in reality, a risk management exercise.***

***"Safety" is the outcome of successful risk management.***

Unfortunately, CASA and its predecessors have been remarkably successful in using various emotive visions of air accidents in the promotion of activities that often have little to do with air safety.

Indeed, whether understood at the time or not, these activities are often considered by industry experts as being counterproductive.

In the Lane Report, of 1988, the expression "***the mystique of air safety***"<sup>3</sup> was an expression coined to describe the activities of the regulator of the day, the aim of such activities were to convince politicians and the public that ***any external interference with the untrammelled powers of the "safety" regulator would lead to death and destruction.***<sup>4</sup>

<sup>3</sup>

<sup>4</sup> Aviation Safety Regulation Review, First Report "The Legal Framework of Air Safety Regulation" page 35, para: (b)

"Safe" is without dimension. We all know the expression:

**"If you can measure it, you can't manage it"**

By CASA, "Safe" is often put forward to the public, in a context where the unattainable "absolute safety" or "zero accident rate" is promoted to those with little or no experience of aviation as a viable goal. It is a desirable goal, but it is unattainable, we have to live in the real world ——— unless;

***We are prepared to go without air services, the cost of unaffordable safety.***

AOPA always quotes the Chief Justice of the High Court of Australia, Justice Gleeson, for a proper and practical definition of "safe".

#### **The High Court of Australia and "Safety"**

***It cannot be said too often that safety is, and cannot not be absolute.***

In JONES v. BARTLETT [2000]HCA 56, at 23, Gleeson CJ said in part:

***There is no such thing as absolute safety.***

***All residential premises contain hazards to their occupants and to visitors.***

***Most dwelling houses [aircraft operation] could be made safer, if safety were the only consideration.***

***The fact that a house [aircraft operation] could be made safer does not mean it is dangerous or defective.***

***Safety standards imposed by legislation or regulation recognise a need to balance safety with other factors including cost, convenience, aesthetics and practicality.***

***End of quote***



## The value of life.

Many people are profoundly uncomfortable with the notion that you can put a monetary value on human life, all modern religions effectively ascribe infinite value to human life, the value of our early education and many perceived societal values reject the concept of a finite value for human life.

In reality, in everyday life, we do put a limit on the value of life, **but this is the value of a statistical life, not a "real" life.** Without such a concept, many planning and management tasks, whether within the Public Service, or the private sector, would be impossible.

It is most unfortunate that many fail to understand that the concept of a value for a statistical life, and for emotional or other purposes, want to attack those who cannot make rational decisions without rational data.

***It is not the cold blooded concept the opponents of rational risk management, including many in the aviation industry, make it out to be. Indeed, AOPA would suggest that everybody in regulatory decision making process in the aviation community has a "duty of care" to exercise sound judgement in decision making.***

***AOPA would further suggest that any failure to exercise the most effective tools, including recognized risk management methods<sup>5</sup>, is a breach of duty of care.***

There is almost no activity in which we indulge, day to day, that could not be made "safer", but at what cost, in the words of Gleeson, CJ.

"Affordable Safety" was term used by Mr. Dick Smith, former Chair of CASA, the Civil Aviation Authority, and previously CAA, the Civil Aviation Authority.

Sadly, for various reasons that were all about preservation of jobs and taxpayer subsidies, and very little about air safety outcomes, he was roundly condemned in the most emotive terms. Dick Smith made an attempt at acquainting the aviation industry, as a whole, with the real world of "safe" as a risk management exercise.

Emotion charged rhetoric defeated a proper attempt to introduce to aviation, via the rule making process, the kind of risk management based cost/benefit justified regulation that is expected, as a matter of course, across mainstream Australian industry.

All Dick Smith was advocating was "safety standards", as defined by the High Court, sensible and properly weighted risk management regulations, not the "zero accident" targets, now often promoted by CASA.

---

<sup>5</sup> AS/NZ 4360:1999 Risk Management, the Australian and New Zealand standard.

***Until such time as Australia develops a rational risk management approach to all aspects of aviation operations, we will continue to have the kind of headline aviation problems that have become so common in recent years.***

It will always be the services in "the bush" which will suffer most, because it is the "long thin routes" where economic efficiency cannot be masked, where unbalanced "safety regulation" will, at best, cause excessive cost, for no real safety benefit, at worst cause loss of services and less favorable air safety outcomes

However, as a national economic problem, the excess costs of "unaffordable safety" regulation that makes no cost/benefit contribution to aviation, is just as real for the Qantas Group, Virgin Blue, Advance Airlines and the larger operators.

"Increased levels of safety", "more safety", "added levels/layer of safety" and similar expressions are all meaningless, but appear in profusion in various CASA documents, Press Releases and the like, the one thing never heard is "risk management".

#### **Unaffordable Safety.**

***"Safety" is not priceless, in any modern regulated environment, whether it is aviation services, or any other field.***

Unaffordable safety is the cost of failure of "safety" regulation, where the measurable societal disbenefits of excessively conservative or misdirected.

This is a lesson that is slowly being learnt by the Australian aviation community, but such notions are not yet on the CASA radar.

***The USA produces the world's best Air Safety outcomes<sup>6</sup>, but still succumbs to "fashions in safety" from time to time.***

American Commuter Airlines used to work under a set of regulations called Federal Aviation Regulations ( FAR) Part 135 Commuter.

A decision was taken to move them into the same rules set as the major airlines in USA, called FAR Part 121.

Speaking at the Asia-Pacific Airworthiness Partners Conference in Brisbane, in 1999, Nick Lacy<sup>7</sup> said;" ***For the hundreds of millions of dollars spent, we are unable to identify any measurable safety benefit" [of the move from 135 to 121]--- At least US ( and New Zealand) set benchmarks and try to measure success of failure of regulatory actions.***

<sup>6</sup> AOPA Air Safety Report, a comparison of Australian, European and US Air Safety outcomes. Jon A. Brunner, AOPA Research, available to the Inquiry on request.

<sup>7</sup> Nick Lacy, FAA Associate Administrator for Standards and Compliance

In Australia we have spent hundreds of millions of dollars, over the years, to produce Australia's "complex, convoluted and contradictory" regulations, and now CASA plan a quantum leap in the aviation regulatory burden, all without cost/benefit justification.

Although AOPA only speaks for it's members, AOPA is well aware that the over regulation of the airlines in the Regionals, and similar, are inflating safety compliance costs ***without consideration of rational risk management based, costs and benefits justification.***

***All this has nothing to do with any lowering of safety standards, on the contrary, misallocation of resources can only result in less than optimum safety outcomes, and increasing costs for the consumer.***

#### **Tourism, a victim of unaffordable safety.**

In the last two to three years, eleven airlines have gone out of business, including the then second and third biggest<sup>8</sup>, plus an unknown number of smaller operators, known to be at least twenty eight.

These businesses all had a common problem, the increasing CASA regulatory burden. AOPA is not claiming that this was the only problem, but in many cases it was the pivotal problem, in many cases CASA was :

—— "the straw that broke the camel's back"

They all had something else in common, the services they provided to regional, rural and remote Australia. In many cases, substitutes can be found, mail can go by truck, people can ( in the dry season) drive, maybe etc.

***The big loser is tourism – So vital to so many country centers.***

AOPA does not have to spell out to the Inquiry the value of tourism, one of Australia's biggest export earners.

In the proposed new CASA rules, ( see the attached document) not only will there not be a recovery, many existing services will cease.<sup>9</sup>

***The future of many small resorts will be a serious danger of closing up shop.<sup>10</sup>***

<sup>8</sup> Ansett and Flight West, Yanda, Country Link, UZU Air and many more.

<sup>9</sup> In a limited exercise, AOPA identified 19 operators who fly tourist operations onto beaches and salt pans. Under the new aerodrome rules, they will all close

<sup>10</sup> Tex Battle, of Sweets Island Resort, reports that he will have to walk away, because the new rules will preclude continuation of services to Sweets Island. Many small FNQ and other northern islands are in a similar position..

## **Risk Management in Aviation.**

Strange as it may seem, the aviation industry is a latecomer to modern risk management techniques, and its benefits.

The following is a quote from presentation at the leading Australian Air Safety Conference, SafeSkies, the 2001 conference:

### **AVIATION SAFETY MANAGEMENT - the history – Quote:**

*Aviation has traditionally been interested in safety.*

*Flying is inherently dangerous and it has taken us some time to achieve the levels of passenger safety we nowadays take for granted.*

*But the way this is done is quite old fashioned. Essentially the world of civil aviation is regulated from 'on high', with ICAO at the top in Montreal, handing down SARPs, Standards And Recommended Practices, to be implemented by national aviation regulators.*

*SARPs traditionally define what to do and how to do it, leaving little room for alternatives. Attention was directed primarily at major accidents and the main measurements were, and still are, hull losses and fatalities.*

*The management process, as regulated, was therefore framed in terms of [prescriptive] outcomes and defined in terms of what to do.*

***This is a relatively old fashioned approach when compared with modern goal-setting regimes such as are found in the petrochemical industry.***

***The more modern approaches are based upon the existence and effectiveness of processes, rather than in the specification of exactly how those processes should operate.<sup>11</sup>***

***However, one might wish to argue that the system works and commercial aviation is the world's safest industry. I would argue, on the contrary, that aviation is only safe when measured in very restricted ways and that, as an industry, [and the safety regulator: added wjrh] it is anything but safe or even safety-minded.<sup>12</sup>***

**End of Quote**

---

<sup>11</sup> A description of an outcome based safety systems, not the traditional aviation prescriptive regulations, in the hope that the final result will be a "safe" outcome: [wjrh]

<sup>12</sup> Professor Patrick Hudson, University of Leden, The Netherlands, "Winning Hearts and Minds" SafeSkies 2001.

***The message for the Inquiry is that until such time as Australia introduces full blooded risk management based and cost/benefit justified air safety regulation, every element of the economy that is dependent on any element of air services will suffer the costs of excessive and irrelevant regulation.***

#### **Superior Air Safety Outcomes.**

Superior economic outcomes are the greatest benefit that is achieved from rational allocation of resources.

Rational allocation of resources must include rational risk management based air safety regulation, and I have very deliberately included the notion of failures of air safety regulation, loss of life and injury, and loss or damage to aircraft, as an economic loss.

***The maximum returns on investment, the maximum competitive efficiency in very competitive markets, all require maximum achievable efficiency, and this includes regulatory efficiency.***

Maximum achievable efficiency includes air safety, and contrary to popular myth, Australia does not have the world's best air safety record. — The US does.

Certainly QANTAS has an enviable record, and the record of heavy domestic jet operations is very good, but still not as good as US.

To achieve the best air safety outcomes, which will translate directly into economic efficiency, we have to adopt the same risk management practices as advocated by Professor Hudson – ***The very same practices which are, in fact already the norm throughout most Australian industry.***

Only when this happens, when Australian aviation regulation catches up, will Australia achieve the maximum economic and air safety efficiencies.

***The "command economy" of the Soviet Union failed, because it couldn't succeed, the structure was wrong.***

***The "command air safety" program in Australia has failed, for the same fundamental reason.***

***The safety statistics, the whole picture, shows that quite clearly.***

## **The Way Ahead.**

### **Suggested solutions, including;**

- (g) Ensuring balanced air safety regulation, leading to;
- (h) A more certain business environment for aviation; resulting in;
- (i) A restoration of small aircraft aviation services that have been lost to Regional, Rural and Remote Australia in recent years, and;
- (j) Rejection of inappropriate aviation legislation, under a seriously misleading "safety" banner, that will eliminate many current and vital services, which if not halted, will result in;
- (k) Major loss of jobs and aviation related support services in Regional, Rural and Remote Australia;

***There have been fourteen major and many smaller inquiries into CASA and its predecessors in the last twenty or so years, but little has changed.***

We now await the Anson Report, already with the Minister.

Quite simply, we have to find a new way of doing aviation regulatory business, if economically viable air services are to survive in any but the major coastal markets.

For small aviation companies, the climate of uncertainty consequent on the very uncertain and unpredictable behavior of CASA means that normal sources of capital are not available to small aviation companies, a clear example of the economic cost of inefficient aviation safety regulation.

This is just one of the examples of the penalties of regulatory inefficiency, operators being denied the ability to renew and modernize aircraft.

One thing is clear, we cannot continue down the present path, that leads to major losses to the economy, and it is Regional, Rural and Remote Australia that will be the worst and most immediately hit by CASA attempting to introduce European style absolutely prescriptive and inflexible aviation regulation to Australia.

A style of regulation even more bureaucratic and inflexible than the famously "complex, convoluted and contradictory" regulations Australian currently "enjoys"

***Our neighbour, New Zealand, despite a few bumps along the way, has set an example of aviation safety regulation we should consider, and have not.***

***The US has shown the way in improving air safety outcomes, over the last fifteen years, something Australia has comprehensively failed to achieve.***

The "Australia Aviation Council" attachments to this document present one possible structure to solve the "CASA culture" problem, to eliminate the fundamental conflicts of interest, that dictate the "corporate behavior".

This proposal is based on successful Government reforms in New South Wales.  
End.

Attachments: One file: AOPA submission to CASA re: CASR 121B.

Four files, being the complete document"

"Towards an Effective Aviation Policy  
The Australian Aviation Council  
A New Approach to Aviation Safety"