

Senate Economics Legislation Committee

Trade Practices Amendment (Liability for Recreational Services) Bill 2002

Submission No. 10

Submittor: Model Aeronautical Association
of Australia Inc.
Mr Ivan Chiselett
Secretary
1 Watson Avenue
MONT ALBERT VIC 3129

Telephone: 03 9897 1220

Facsimile: 03 9897 1445

EMAIL: maaasec@ozemail.com.au

Attachments? No Attachments



MODEL AERONAUTICAL ASSOCIATION OF AUSTRALIA INC

MEMBER OF THE AUSTRALIAN SPORT AVIATION CONFEDERATION INC.

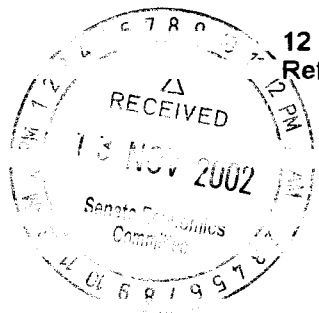
ABN 64 819 095 900

Telephone: 61 (0)3 9897 1220
Fax: 61 (0)3 9897 1445
MAAA Page: <http://www.maaa.asn.au>

Ivan Chiselett
Federal Secretary
1 Watson Ave.
Mont Albert Nth Vic 3129

e-mail; maaasec@ozemail.com.au

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The Secretary
Senate Economics Committee
Suite SG.64
Parliament House
Canberra ACT 2600

Dear Sir/Madam,

Inquiry into the Trade Practices Amendment (Liability for Recreational Services) Bill 2002

The Model Aeronautical Association of Australia, representing some 10,000 members, supports the general thrust of the Bill to restrict the ability to sue a service provider for an activity where there are some inherent risks in participating.

We certainly do not support the waiver of all aspects of duty of care and would be concerned if only in the case of gross negligence could action be taken. There is obviously an issue in the definition of the term. Nevertheless the application of the current legislation seems to be that if someone gets hurt then someone has to be to blame and so has to pay. The reality is that in some sporting and recreational activities, of which model aviation is one, no matter what regulations are put in place it can never totally eliminate the possibility of a genuine accident happening. We should point out that in saying this that model aviation has an excellent safety record. Informed participants are of course aware of the small residual risk when taking part and so should be prepared to assume this risk on a personal basis.

The alternative to providing some legal limit on liability is that the current dramatic escalation in insurance costs will continue. This will have one of two outcomes. The activity will continue without insurance cover in any form in which case there will inevitably be genuine financial hardship, possibly to both parties, in the event of a claim as a result of an incident. The alternative is that the cost of participating will escalate so that it becomes unaffordable to the majority. This will result in spiraling costs for those remaining and the inevitable ceasing of the activity. Thus the very people that the current legislation seeks to protect would be denied the opportunity to participate. This would have the flow on effect on youth development programs, competitive sport (both nationally and internationally), as well as the general social participation in an activity that gives much pleasure to those who take part year after year without any problems.

We would urge however that any changes in the Trade Practices Act do not protect the organisational providers but under the same circumstances leave the individual members open to direct action themselves. Our insurance policies cover not only the organisation but also the individual members. Whilst the clubs generally provide the facilities, it is the individual members who fly the aircraft and directly provide the other services including instruction. Member to member insurance cover in the last year proved particularly difficult and expensive to obtain, and we would not wish this situation to become worse due to well-intended legislation.

Yours Sincerely
Model Aeronautical Association of Australia Inc

Ivan Chiselett
Secretary