



COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

## SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT  
LEGISLATION COMMITTEE

**Reference: Aviation Transport Security Bill 2003 and Aviation Transport Security  
(Consequential Amendments and Transitional Provisions) Bill 2003**

TUESDAY, 6 MAY 2003

CANBERRA

**CORRECTIONS TO PROOF ISSUE**

This is a **PROOF ISSUE**. Suggested corrections for the Bound Volumes should be lodged **in writing** with the Committee Secretary (Facsimile (02) 6277 5811), **as soon as possible but no later than:**

Tuesday, 6 May 2003

BY AUTHORITY OF THE SENATE

**[PROOF COPY]**



## **INTERNET**

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to: **<http://search.aph.gov.au>**

**WITNESSES**

**DAWSON, Mr Paul, Acting General Manager, Organisation Development Unit, Airservices  
Australia ..... 15**

**DOLAN, Mr Martin, First Assistant Secretary, Aviation and Airports Policy, Department of  
Transport and Regional Services ..... 2**

**HOWARD, Mr Michael, Manager, Officer of Security Risk Management Airservices Australia ..... 15**

**LYNCH, Ms Fiona Jane, Director, Policy and Regulation, Aviation Security, Department of  
Transport and Regional Services ..... 2**

---

**SENATE****RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE****Tuesday, 6 May 2003**

**Members:** Senator Heffernan (*Chair*), Senator Buckland (*Deputy Chair*), Senators Cherry, Colbeck, Ferris and O'Brien

**Participating members:** Senators Abetz, Allison, Boswell, Brown, Carr, Chapman, Coonan, Eggleston, Chris Evans Faulkner, Ferguson, Harradine, Harris, Hutchins, Knowles, Lees, Lightfoot, Mason, Sandy Macdonald, McGauran, McLucas, Murphy, Payne, Robert Ray, Santoro, Stephens, Tchen, Tierney and Watson

**Senators in attendance:** Senators Allison, Colbeck, Ferris, Heffernan and O'Brien

**Terms of reference for the inquiry:**

Aviation Transport Security Bill 2003 and Aviation Transport Security (Consequential Amendments and Transitional Provisions) Bill 2003

**Committee met at 9.03 a.m.**

**CHAIR**—I declare open this public hearing of the Senate Rural and Regional Affairs and Transport Legislation Committee. The committee is meeting today to consider the Aviation Transport Security Bill 2003 and the Aviation Transport Security (Consequential Amendments and Transitional Provisions) Bill 2003. On 26 March 2003, the Senate referred the bills to this committee for examination and report by 16 May 2003. The purpose of the bill is to give effect to government policy on the appropriate treatment of travellers, their baggage and other matters in the light of the need to have improved and stronger security in air travel arrangements. The committee has received four written submissions on the bill and now authorises them for publication.

Today's hearing is public and open to all. A *Hansard* transcript of the proceedings is being made which will be available from the committee secretariat or via the Parliament House Internet home page next week. It should be noted that the committee has authorised the recording, broadcasting, and rebroadcasting of these proceedings in accordance with the rules contained in the order of the Senate of 23 August 1990 concerning the broadcasting of committee proceedings.

Before the committee commences taking evidence, let me place on the record that all witnesses are protected by parliamentary privilege with respect to their submissions made to the committee and evidence given before it. Any act by any person which may operate to the disadvantage of a witness on account of evidence given by him or her before the Senate or any committee of the Senate is treated as a breach of privilege. While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to present all or part of that evidence to the Senate. The Senate also has the power to order the production and/or publication of such evidence. I should add that any decision regarding the publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

Today the committee will be hearing from the Department of Transport and Regional Services and Airservices Australia. We will commence by hearing from representatives of the Department of Transport and Regional Services.

[9.05 a.m.]

**DOLAN, Mr Martin, First Assistant Secretary, Aviation and Airports Policy, Department of Transport and Regional Services**

**LYNCH, Ms Fiona Jane, Director, Policy and Regulation, Aviation Security, Department of Transport and Regional Services**

**CHAIR**—Welcome. Please make an opening statement if you choose to do so.

**Mr Dolan**—We do not intend to make an opening statement other than to say that, in the drafting of the legislation, we tried to make it as clear as possible in terms of structure and content. We hope that assists the deliberations of the committee.

**CHAIR**—Thanks very much.

**Senator O'BRIEN**—I must say the submission by the Australian Airports Association causes the opposition grave concern. Airports are critical to aviation security. The peak body representing airports in Australia has roundly and soundly condemned this bill. Does that concern the government?

**Mr Dolan**—It certainly concerns the department. We had thought that, although these issues are always difficult and controversial, we had some understanding from the affected airports as to what we were attempting to do and how we were moving forward on it. I have not seen the details of the AAA submission so I cannot really comment on it at this point.

**Senator O'BRIEN**—The explanatory memorandum discusses consultation. You say you circulated six instalments of information to airlines and peak industry bodies. Did that include the AAA?

**Mr Dolan**—It did.

**Senator O'BRIEN**—You say that the changes to aviation security were presented to the aviation security industry consultative group meeting from 19 to 21 February this year. Did that include the AAA?

**Mr Dolan**—Yes.

**Senator O'BRIEN**—The explanatory memorandum outlines issues raised and how you responded to them. It concludes that the bill otherwise received favourable comment. How does that stack up with the scathing submission to this committee from one of the participants in the consultative group?

**Mr Dolan**—It is something that is a surprise to me. I am always reluctant to speculate. I think the fact that we have not yet been able to complete a full consultation process on the regulations associated with the legislation may be leading to some level of reservation or discontent with the draft legislation. The framework itself, although it is more clearly—

**Senator O'BRIEN**—It is not draft legislation any more, is it?

**Mr Dolan**—Sorry, the bill. The structure actually reflects in a more coherent way the key elements that are there as part of the existing system. This is why I am somewhat puzzled. It is clearly something that we would want to provide comments on. As I say, I have not had the chance to study it in any detail.

**Senator O'BRIEN**—Some of the things they say in their submission are that there has not been widespread prior industry consultation on the detail of the proposed legislation; and that it has been developed without due regard to the industry by embracing bits and pieces from former sections of the Air Navigation Act, various additional security measures and some from the minutes of aviation industry security meetings. They go on to state:

... the Australian Aviation industry was promised legislation that would stand alone, be clear, concise and providing a 'one stop shop' for interpretation, application and measurement. Instead we now have a convoluted document that provides some direction. However, we need to wait for Regulations to provide more positive direction and to confuse matters more, it seems industry will even have to refer to other jurisdictions to round out the package.

At another point they say:

This document requires full industry consultation and a re-work ...

They also say that new definitions may be the inadvertent cause of industry confusion, and that landside security controls at airports must be reassessed. At point 10 they state:

There does not seem to be an adequate legislative process to control or monitor those performing the CTFR—counter-terrorism first response—

---

function. We believe that this role should be fulfilled, and that any auditing as such to be undertaken, by DoTaRS.

Point 11 reads:

It does not seem to take into account that most of the affected airports are privatised and any multi-access authorisation exposes the airport 'authority' to litigious risk—there should be clear guidelines on the issue of 'controls' that are deemed to be sensitive.

Point 12 reads:

Despite the 'current climate' for aviation security, the 'fast-tracking' of this legislation will not necessarily bring about the desired objectives of both the Government and the industry.

Point 14 reads:

There are some AAA members inclined to the view that these particular Bills should become the subject of a Senate inquiry, with terms of reference to embrace the whole spectrum of what constitutes aviation security within the broader community and the impact of any proposed regulatory framework.

That is the flavour of their submission. It is hardly an indication that the aviation industry is on board with this legislation.

**Mr Dolan**—No. It is the first time I have seen anything from the AAA in these sorts of terms. So it is a surprise to me—both the areas of concern and the way in which this is expressed. It is clearly something we will have to take up with the Airports Association. We thought there was a better understanding of both what we were trying to achieve and how we were approaching it than is reflected here.

**Senator O'BRIEN**—I do not think you had any representatives of aviation security workers on the consultative group. Doesn't the government think they are aviation safety participants?

**Mr Dolan**—The arrangement that we have in terms of consultation, which is of long standing, is consultation with those we directly regulate. The structure of the system is such that employees and contractors of aviation operators are the responsibility of those operators in accordance with the standards we set.

**Senator O'BRIEN**—So those people do not have any valid input in the way that people who manage airports and airlines would? The people who actually see the day to day interface with the public on security are not worth talking to? That is the implication of what you are saying.

**Mr Dolan**—No, I am saying that their basic relationship is with the airports and airlines and that is the method we use for consultation with the industry through the operators that we regulate.

**Senator O'BRIEN**—It does not seem that the government has gained much by being selective about the classes of industry participants it wants to talk to. Would you agree with that? It seems self-evident given the response.

**Mr Dolan**—As I say, it is of considerable surprise that the AAA has come out with these sorts of comments on the legislation.

**Senator O'BRIEN**—Let us come to the regulations. I understand the shadow minister was advised that the draft regulations for this bill would be available after the parliamentary recess. Will that occur?

**Ms Lynch**—We will have drafts of regulations within the next two weeks. The first tranche of regulations will be ready, and industry consultations have been set up. I think 20 May is the date for the first set, which will take place in Melbourne, with a further set of industry consultations two weeks after that.

**Senator O'BRIEN**—Who will see those drafts apart from the opposition?

**Ms Lynch**—The aviation industry.

**Senator O'BRIEN**—Both the AAA and the union representing most of the face to face security have expressed interest in seeing the regulations and providing input. What will the process be for that?

**Ms Lynch**—We are setting up industry meetings in Melbourne. The following set, I think, are going to be possibly in Adelaide. We are moving around the country to give people the best opportunity to actually sit down with drafts of the regulations, have a look at them and talk to us about them as they are being developed. We have an industry consultative list of people that we use, which uses the standard industry consultation mechanism list that we always use. We are using that as a basis. We will certainly look at people who have put in submissions and see whether there are any particular areas of interest that they want to be consulted on as well.

**Senator O'BRIEN**—So you have not finalised the list of people you need to consult?

**Ms Lynch**—We have finalised a list of people who we think we need to consult at this stage, yes.

**Senator O'BRIEN**—Could we see a copy of that list?

**Ms Lynch**—Yes, of course.

**Senator O'BRIEN**—An important part of this bill is the requirement for more airports and airlines to have aviation security programs. I understand this is intended to remedy the accountability issue identified by the ANAO. Is that the situation?

**Ms Lynch**—At the moment all airports fall under our regulatory cloak. All participating airports have to have an aviation security program as it is and all operating airlines have to have an aviation security program. So it will not actually pull in many more airports or airlines than are currently covered by the programs. What it does do is seek to extend the use of programs to aviation industry participants. We have broadened out that definition so that we can possibly pick up other groups of people at the moment who may well be delivering security services under somebody else's program. But where we think that they are of sufficient input to the security process and it would be useful for them to have their own program against which they can be held accountable, we are holding out that opportunity for those people to either come to us to have a program put together or for us to work with them to put a program together.

**Senator O'BRIEN**—Does this process for programs go beyond airlines, airports and cargo agents?

**Ms Lynch**—At the moment it does not. I will give you an example. There may well be a large ground handling organisation and a large ground handling business who ground handles for a range of different airlines, for example. At the moment, those ground handlers are sited under the program of each airline, who possibly uses them or contracts to them. If they are a large organisation, it may well be far more appropriate for them to have their own program that details how they are going to deliver against security outcomes. So an opportunity may exist for us to be able to seek those people as a key aviation industry participant to provide a program against which they can be held accountable.

**Senator O'BRIEN**—Clause 12, which relates to who is required to have a program, actually only specifies operators of security controlled airports and operators of prescribed air services—for example, passenger and freight carriers.

**Ms Lynch**—Yes.

**Senator O'BRIEN**—Where in that provision does it specify cargo agents?

**Ms Lynch**—For a participant of that kind prescribed in the regulations, we can then have a look at cargo agents being required to have a security program.

**Senator O'BRIEN**—Why wasn't that included in the legislation? Why is that left for regulation?

**Ms Lynch**—At the moment the cargo industry has a lot of participants—I gather there are around 800—who range from the size of something, for example, like FedEx down to very, very small operators. I think working with that particular section of the industry will be a very big thing. Moving all of those people at the same pace towards them all having agreed security programs will be quite a large task. So we may well look at prescribing in regulations programs required perhaps at a certain level of operation or something like that. We are seeking to make sure that that industry is consulted about and included in the way that their programs are going to work and operate. We want to make sure that we are able to do that.

**Senator O'BRIEN**—So there will be a two-tiered system?

**Ms Lynch**—There could be, yes.

**Senator O'BRIEN**—How is that justified? Is it just too hard and that is why you are setting two tiers, or is there some real security reason why two tiers is acceptable?

**Mr Dolan**—I think that question gets to the overall approach to the security system itself, which is to say that it is based on threat and risk. The level of risk and exposure does vary with different scales of operation, among other things. Rather than just having a two-tiered system on some comparatively arbitrary basis, we would have to take a look at the overall level of threat and see how it applies to the freight industry as a whole and come to a view as to what the appropriate interventions are to get the appropriate level of security.

**Senator O'BRIEN**—Why isn't Airservices specified in clause 12? Their traffic control and navigation systems are just as vulnerable to terrorist attack with dire consequences.

**Ms Lynch**—I am sorry?



**Senator O'BRIEN**—I just wonder why Airservices Australia is not specified in clause 12 because they are just as vulnerable to terrorist attack. They provide air traffic control and navigation systems. That would have major consequences for Australia's aviation safety and Australia's aviation system.

**Ms Lynch**—That is right. Under clause 12, though, we have the flexibility to include Airservices. If it is decided that there is enough risk for them to have a program, then we will include them.

**Senator O'BRIEN**—So at this stage, if I understand your answer, there is not enough risk to require them to have a program?

**Ms Lynch**—I have had preliminary discussions with Airservices about whether or not we can have a look at their having programs at airports.

**Senator O'BRIEN**—Do they not want to be part of this program? Is that what that answer means?

**Ms Lynch**—No, not at all. They currently do not have programs. They have not operated as an industry participant in that way of having programs, so it is a change for them. They certainly were interested in the concept of their having programs and how they would deliver their security outcomes. I do not think it will be an issue for them to have programs at all.

**Senator O'BRIEN**—But the government has decided to not mandate that at this stage.

**Ms Lynch**—Not to mandate specifically, no, but to allow the flexibility so that we are able to do that.

**Mr Dolan**—The government has taken the view to this point, although we are having ongoing discussions with Airservices, that Airservices is a unique organisation that is subject to various forms of direct government control. That would have been the mechanism by which appropriate account would have been taken of the government's security objectives.

**Senator O'BRIEN**—Does the government currently regulate the security of Airservices's functions and facilities?

**Mr Dolan**—No. It is a matter for the organisation.

**Senator O'BRIEN**—Do I assume that Airservices have not been in discussions about this bill?

**Mr Dolan**—We have had some discussions with Airservices. What we are moving towards is a view that takes account of Airservices as an industry participant. Airservices in the future will be part of our overall industry consultative processes and industry consultative meeting. The aim over time, I think, would be to deal with Airservices as an overall part of the aviation industry rather than see them as an organisation that is separate from an integrated approach to aviation security.

**Senator O'BRIEN**—It seems to me from their submission that they want their security regulated. While the capacity to extend the program will be provided, in practice it is only being marginally extended.

**Mr Dolan**—Part of the difficulty is that the nature of a regulatory program for a provider of air traffic services is substantially different to the operators that we are generally dealing with. Coming to a clear understanding of the regulatory framework that would apply to that is the key to this. But that is not an argument against doing it. It is just explaining why at this point we do not have any level of detail about how such an arrangement would work. We are more than happy to move forward to that sort of world.

**Senator ALLISON**—Does that include authorising Airservices to issue aviation security identification cards? Would you consider that, and is it likely?

**Mr Dolan**—There is always a balance in aviation security identification cards between the administrative efficiency of operators and the need to have the smallest number of issuing authorities as possible to ensure appropriate levels of control. So those are the sorts of issues we would be taking into account in answering that question.

**Senator ALLISON**—Does that mean no?

**Mr Dolan**—That means I have not considered that question directly. I am trying to indicate the sorts of things I try to take into account as we work through it.

**Senator O'BRIEN**—We are discovering that a significant part of the industry is not included in this package at this stage. What about contractors and caterers? What is the intention with regard to contractors and caterers in the industry?

**Mr Dolan**—With regard to?

**Senator O'BRIEN**—With regard to being part of this suite of legislation at some time in the future, either by amending the legislation or through regulation.

**Ms Lynch**—At this stage contractors and caterers contract to key aviation industry participants who put the business out there to contractors. We would expect at this stage that they would represent their interests. We have not gone out specifically to consult with everybody who delivers this service to an airport. One of the keys in our consultation is that we know that there are a lot of people who have to work together and be consulted to make an airport work—there are a lot of people who work on an airport. However, I think seeking to consult with every single person who possibly makes a delivery to an airport is just not practical. We have a broad list of industry consultative participants and I do believe that that list will take into account the people who are then contracted to deliver services to those organisations.

**Senator O'BRIEN**—So if someone rolls up to an aircraft with a truck full of food and catering services, it would be up to the airline or airport operator to have made sure that the security needs have been taken into account in giving them access?

**Ms Lynch**—One of the keys to this piece of legislation and one of the benefits that it brings—the Air Navigation Act is not very clear, even though it is a very robust piece of legislation—is that it clarifies the roles and responsibilities of everybody in aviation. Those roles and responsibilities are clarified: from the member of the travelling public and their responsibility, for example, to be screened, through to the biggest form of industry participants, such as one of our largest airlines or airports and the sorts of operations that they have to perform to keep the airport going, and everybody in between. Clarifying those roles and responsibilities will make sure that everybody is clear about what they have to do to achieve a security outcome.

Having said that, airlines are aware that contracting out things like catering services is not just a straight contract such as 'you deliver these things to me and I'll pop them onto the aircraft'. It is about working with the contractors who are delivering services to them to make sure that the services are delivered in a way that complies with the security outcomes that the airline is contracted to achieve. Another way that we are seeking to do that is through the security programs, for example. So it is in those programs that an airline or an airport will detail how it has its arrangements set up with its contractors so that food and catering and those sorts of things are delivered in a way that affords a good security outcome for putting those things on a plane or gaining access to an airport.

The new thing under the program that possibly goes some way to alleviating your concerns is where the people who are named in that program or who are participating in that program have to be aware of their responsibilities under the program and comply with them. Where you possibly have a very large catering firm—I am not sure if this is the case—catering to five of the key major airlines, it may well be appropriate down the track—we have built in flexibility—to work with that catering organisation to develop their own program and their own set of deliverables.

**Senator O'BRIEN**—You do not know what the profile is in that area; the department does not know what the profile is in the catering and contracting sector of the industry. Is that what I should take from your answer?

**Ms Lynch**—No. Certainly I do not know specifically in my head at the moment exactly what the profile of that industry is. But certainly that knowledge is within the department about whether or not we would seek those particular people to have a program. At this stage I would say no; we would look at the main industry participants to make sure that people who contribute to the program make sure that those people deliver security outcomes.

**Mr Dolan**—Clause 16 of the bill, which deals with the content and form of programs, is designed, if you like, on a systems basis. It assumes that the aviation operator controls an overall system, some components of which may be delivered by contractors and others. The program is meant to take account of how those interact. So our starting point was to assume that those who control the overall system are the ones that provide and deliver the program of the security system that relates to it. The element we have been talking about is whether in some cases there are sufficiently large other participants, in addition to the all-embracing security system for a particular operator, who show that as a major participant in the industry, perhaps across several operators, they have an appropriate plan and approach to the overall delivery of their services. We would not want that to take away the overall systems responsibilities for airlines and airports. It is finding that balance that is part of the challenge of a systems approach.

**Senator O'BRIEN**—You would not want them saying, 'We devolve our responsibility to a contractor.' But if the contractors do not have programs, isn't that going to make it more difficult? You might say that the airports and airlines may contractually seek to impose obligations. I can imagine that that is what they would do in terms of their arrangements with contractors and caterers. But why should we rely upon that process?

**Mr Dolan**—What we would expect is that a security program for, say, an airport would show the various participants in the business of the airport and how the airport would apply an appropriate security system to those participants. It is possible, and in a number of cases it is the case currently, that some of those arrangements are enforced contractually. Consultation with industry and other service providers within the industry may show that they see it as more effective in terms of demonstrating the integrity of the overall system that they also have programs. It is leaving that capacity in the system that is really where we are at the moment. But our starting point has been that the operators are responsible for the integrity of their overall security system. This is about leaving the possibility of providing additional ways, other than through contractual relationships, to provide a level of certainty that we would require in assessing the efficacy of a program both when it is presented to us and as it is being implemented.

**Senator O'BRIEN**—There is a great risk in that approach, in that the Senate might describe the approach of this legislation as inadequate. What would be your response to that, other than what you have already said?

**Mr Dolan**—We have seen the key point of systems control in our system as the airlines, the airports and one or two other key operators in the system. They are the most appropriate points for understanding the overall security system for a particular activity and are the most accountable point for demonstrating that. That is the basis of the system as it currently stands. The Audit Office found it to be fundamentally sound. But we tried to build into this legislation the capacity for further enhancements over time.

**Senator O'BRIEN**—I take it that the minister considered these ramifications and endorsed the approach that has been taken?

**Mr Dolan**—Yes.

**Senator O'BRIEN**—Is there a cost issue for the department in these deliberations and in regulating the programs and limiting the programs to the large operators? I could say 'narrowly'; I understand that they are the more significant players. But certainly there are more players that are excluded from the regulatory model at this stage. What are the costs?

**Mr Dolan**—In a sense, the more extensive and detailed a set of security programs are, the more resources it requires to audit them. Obviously there are resource implications. The cost to the Commonwealth of the regulatory systems was not a key consideration in constructing this legislation. It was about the most appropriate approach, in terms of systems and risk, to security in the aviation industry.

**Senator O'BRIEN**—And is this program going to be funded by a passenger movement charge?

**Mr Dolan**—The overall costs of the department's participation in aviation security, including its clearance of programs, its audits and a range of other activities come from the department's own budget and are funded from consolidated revenue.

**Senator O'BRIEN**—I presume that all decisions about the structure of this legislation are made by the minister. The responsibility for it has not been delegated to the department. I would expect that is the case. I am just trying to be clear about it.

**Mr Dolan**—The legislation went through the normal processes of government before it was brought to the parliament.

**Senator O'BRIEN**—And the implications have been fully considered?

**Mr Dolan**—That would be my view, yes.

**Senator O'BRIEN**—Is the department satisfied that this limited change actually does meet the concerns raised by the Audit Office about the accountability of all parties in the aviation community, not just airports and airlines?

**Mr Dolan**—In and of itself, I do not think this legislation does or could fully address that issue. It is the set of issues we have been discussing for the last little while. What it gives is the capacity to enhance as appropriate over time ways of managing that system. To the extent that legislative or regulatory intervention deals with the issues that have been raised by the Audit Office, we think this legislation does address it. The rest of it is down to the sorts of auditing systems and information management systems that we deploy to make sure that what we get from our audits is taken appropriately into account and fed back into the system.

So the legislation fully takes account of what the Audit Office had to say. It gives us the capacity on a legal basis to do what the Audit Office feels is necessary that we do. But, obviously, how it is implemented is going to be the key to responding to the concerns that the Audit Office had.

**Senator O'BRIEN**—Section 22M of division 3 of the Air Navigation Act, which deals with aviation security programs, applies the requirement to have a program for specific air services, international by RPT, international by charter and domestic of more than 38 passengers. This bill just says 'prescribed air services'. Can you tell us why there is the move from the current application? Which air services will be prescribed in the regulations to have a security program? Will it be broader than the current requirements or narrower?

**Mr Dolan**—In terms of the types of service, there will not be much broadening at this point. The types of measures and the standards are where there will be substantial changes. More broadly, the answer to your question, I think, gets to how the security world has changed since the events of September 2001. The Air Navigation Act was designed for an environment where there was gradual change over time to the environment and the capacity for a response to be brought in a measured way in front of the parliament through primary legislation. What the government is proposing to the parliament at this point is to deal with what is a much faster moving and more dynamic environment and that the appropriate measures and standards be dealt with by regulation and, therefore, more expeditiously. That is probably the key to why we have changed that balance between what is in the principal legislation and what is in the regulations.

**Senator O'BRIEN**—One of the difficulties we have had, from the Senate's point of view, is when it comes to regulations, this form would mean that in the absence of regulation or some inadequacy in it—the Senate does not have the same input into regulation as it does legislation—we would either be left with whatever the government proposed or nothing. I understand what you are saying, but there is risk in it. With the requirement for certain organisations to have an aviation security program, why do you not require an approved program? Is that going to rely on regulation?

**Mr Dolan**—We do require an approved program. I think this may get to the point that the AAA has made about changed terminology. The aviation operators must bring to the department, to the secretary or to his delegate a program effectively for approval and they cannot operate unless they have an approved program. That is in the current legislation and that is in this bill.

**Senator O'BRIEN**—Can you withdraw that approval?

**Mr Dolan**—Yes. That is the final sanction, in fact, in terms of the system. There are also prosecutable offences.

**Senator O'BRIEN**—Where will I find that in the legislation?

**Ms Lynch**—It is on page 19 at clause 18 which talks about providing programs for approval and the approval process when it is in force. It also discusses the secretary's direction to be able to vary programs. It says that participants themselves may vary programs, that the secretary can direct programs to be varied and that, to ensure that programs remain current, they have to be revised every five years. That can either be at the instigation of the participants or, if not, it will be at the instigation of the department. But programs can also be cancelled if they are inadequate.

**Senator O'BRIEN**—With regard to the security programs that are put forward and approved, whilst it may be inappropriate to display them publicly, what input or opportunity would the parliament have to understand how those programs work in a way that would not compromise the security of the programs?

**Mr Dolan**—The way we propose to approach that is effectively through our current system. That is to say that the form and content of security programs are specified and available publicly in terms of the information required, but the programs themselves are not. So the parliament is aware of the requirements for what must go into a program and the basis on which it will be assessed. That would be the regulatory rules relating to the program. That is the intention. But we share your concern about not finding an appropriate balance between the confidentiality of security information and the need for public scrutiny. We are trying to find the appropriate mid-point there.

**Senator O'BRIEN**—Where do you think you will find it?

**Mr Dolan**—We think we have got it largely in what is here, which is to say, with the addition of the regulations—

**Senator O'BRIEN**—I thought you said you were hoping to find it.

**Mr Dolan**—I am in the hands of the parliament as to whether it passes this legislation. That is the point I was making there.

**Senator O'BRIEN**—So if we are dissatisfied with what is here, we should look at it.

**Mr Dolan**—In terms of what is here, in addition to what we will be bringing forward in terms of the supporting regulatory framework, yes, that is our proposal for finding the appropriate balance.

**Senator ALLISON**—I would like to begin by asking about the wording in the bill about persons who have a propensity to become involved in politically motivated violence as being those which might be identified by law enforcement or screening agents within airports. Can what defines propensity to be involved in politically motivated violence be spelt out for us? Will we find some greater definition of it in the regulations?

**Mr Dolan**—Not in our regulations. I would have to check, but I think you are referring to the government's announcement as to the basis on which in the future it intends to issue ASICs—aviation security identification cards. How a propensity to politically motivated violence is assessed is not dealt with under our legislation but under the legislation of ASIO. That would be the appropriate authority both to direct that question to and to understand how an assessment would be made.

**Senator ALLISON**—I am sorry. It is not people coming into the airport. It is, as you point out, employees or people engaged in activities at the airport. Nonetheless, ASIO will not be involved in dealing with those who are making the decisions about who gets a security pass, or will they?

**Mr Dolan**—The hesitancy is about what level of detail the government has at this stage made public regarding the future arrangements for assessments for the holding of an ASIC. My recollection is that some elements of that actually are still being dealt with in the budget context in terms of overall processes. To the extent that there were tightened arrangements for the issue of ASICs against a broader range of things than criminal background checking, which is the current arrangement, the intention is that the appropriate character assessments will be made by the Australian Security Intelligence Organisation. There are arrangements set out in the ASIO legislation for undertaking such checking, which is the basis upon which that system will be used.

**Senator ALLISON**—So how will this work? ASIO will take on this check for every employee landside and airside in an airport. Is this correct?

**Mr Dolan**—Everyone who is required to possess and display an ASIC will be subjected to an enhanced system of checking.

**Senator ALLISON**—And ASIO will be given the names of people and then asked to check their records? How will that work?

**Mr Dolan**—I could not comment on the details. Certainly the checking would be done and names would be given. Clearly that would be on an informed basis, as is the current arrangements when these sorts of checks are—

**Senator ALLISON**—On an 'informed basis'?

**Mr Dolan**—It would not be done in secret from the people who are being checked. They would be aware that such a check was required.

**Senator ALLISON**—So if ASIO had no files on this person, is that where it would stop, or would they establish a file on a person working in a coffee shop or a newsagent, or even on a screening agent?

**Mr Dolan**—I am not in a position to comment on the details of how government security agencies go about their work. What we are responsible for is the overall system of issuing ASICs and the requirements that need to be met before an ASIC is issued.

**Senator ALLISON**—Mr Dolan, we have legislation which changes very significantly the system for security passes for people who work at airports. Currently there is a check to make sure that they do not have a criminal record, as I understand it. Can you confirm that?

**Mr Dolan**—Yes.

**Senator ALLISON**—This legislation proposes to change that to something much more broad. Is that correct?

**Mr Dolan**—It certainly makes it broader, yes.

**Senator ALLISON**—Then I think it is reasonable for me to ask you questions about what politically motivated violence might mean in the context of this legislation.

**Mr Dolan**—My understanding, which I will have to confirm for the committee, and which I will chase up as quickly as possible, is that the definitions are in the ASIO legislation.

**Senator ALLISON**—Your department must have had some discussions with ASIO. It is hard to believe that we have switched from one system to another involving another agency and you have had no discussions with that agency about what the implications of this might be.

**Mr Dolan**—I was not saying I had not had discussions.

**Senator ALLISON**—Perhaps you can enlighten us about the discussions you have had with ASIO with regard to this measure.

**Mr Dolan**—We have had discussions with ASIO about the administrative processes that would be applied to such a system namely, how information would be provided and what information would be provided, but the details of how that is dealt with and the view formed by ASIO are matters that we do not have direct information on or control over.

**Senator ALLISON**—Can we start with what information is provided?

**Ms Lynch**—The ASIC application holder will provide the standard information on their background and whether or not they have a criminal history, the sort of personal details that you would expect, such as name and address and employee rank and those sorts of things. That advice will be provided to ASIO. ASIO will provide their advice about whether or not there is a concern in the form of a yes or no answer.

**Senator ALLISON**—ASIO will just say yes or no, ‘There is a concern’ or ‘There isn’t a concern’?

**Ms Lynch**—Exactly.

**Senator ALLISON**—If there is a concern, what are the implications? What then happens if there is a concern?

**Mr Dolan**—Perhaps we should have made clear that there is not a direct provision of this information to ASIO by industry operators because that is not actually legally permitted under the ASIO legislation. It goes through the Australian Federal Police as an organisation. That would be the point at which the yes or no decision was provided.

**Senator ALLISON**—The employee who previously had a security pass based on no criminal convictions and whatever else, could check the criminal record and assess whether it was a fair decision or not. What process is available to employees who might get a no instead of a yes to check and see whether the decision was reasonable?

**Mr Dolan**—My understanding—and again, as I am not responsible for this legislation, I will have to confirm it—is that there are appropriate appeal provisions in the ASIO legislation against an unfavourable assessment. The two key points are that were someone to be given an unfavourable assessment, first, they would know of that and, second, there are provisions in a separate piece of legislation, the ASIO Act, to deal with that if they wish to appeal.

**Senator ALLISON**—And in that appeal process is there access to their file?

**Mr Dolan**—This is territory, as I say, that is not directly my responsibility so I could not comment with reasonable authority on that.

**Senator ALLISON**—Perhaps you could get back to us on some of this, Mr Dolan, since we do not have ASIO before us.

**Mr Dolan**—I am happy to do that. I am just reluctant to make a definitive answer when I do not have the stuff at my fingertips.

**Senator ALLISON**—I was once arrested myself. Some might have described it as political violence. Would I not qualify for an ASIC?

**Mr Dolan**—Neither I nor the officers who work with me are the assessing authority for that, so I am not sure I am in a position to comment. I do not think it would be helpful to speculate.

**Senator ALLISON**—We are dealing with a change. I think it is reasonable we understand what the reasons for it are. What occasions have there been where a person has a security check but not an ASIO check where they have been found to be a security risk at an airport?

**Mr Dolan**—I do not think we couched the question in quite that way. Following the events of September 2001, the government commissioned us to undertake a review of a range of matters relating to security in the

aviation industry, one of which was the effectiveness of the ASIC system. We had fairly extensive consultations with industry and other parties in arriving at a view on this. It was felt at that time that what was at that stage a simple police records check was not sufficient to get an understanding of the potential risk associated with employing people in a sensitive industry. This additional check was seen as the most appropriate way of having sufficient information to make an informed employment decision. That is really the basis for it. As I say, that was the framework within which we considered these issues.

**Senator ALLISON**—The union submission makes the point that difficulties could arise in terms of unfair dismissal laws if someone who is currently in a job then does not survive the ASIO check and is not able to be provided with an ASIC. What arrangements are in place for dealing with unfair dismissal cases? Does this override the unfair dismissal laws and, in that case, how? Secondly, is there compensation for someone who might have lost their job in these circumstances?

**Mr Dolan**—I am not aware, but we will get formal advice to you about whether this legislation overrides unfair dismissal laws and other elements of the legislative framework. That being the case, the current arrangements that relate to unfair dismissal would apply. The compensation arrangements that sometimes are associated with that will continue to apply. But we will get formal confirmation of that.

**Senator ALLISON**—And who would pay the compensation: the employer or the federal government?

**Mr Dolan**—The employment relationship is between an aviation operator and the individual member of staff. So the various requirements of employment legislation would apply to the employer and their employee. The unfair dismissal laws and other elements of legislation are about a relationship between an employer and an employee. So the provisions of that would apply to that relationship. The employer would be responsible for that.

**Senator ALLISON**—But it may not be the operator's fault. The operator might be quite happy with this employee. They might not even agree with ASIO's decision about whether they are suitable or not. It is hardly their fault that they have an employee who does not meet the requirements.

**Mr Dolan**—There are always potential transitional difficulties when you change these arrangements. From the point of view of the Commonwealth in terms of perceived and assessed risk to aviation security, the government is proposing a range of initiatives that relate to the standards we would require for those operating in various elements of the industry. That is the perspective that we are looking at this from. I acknowledge that there may be cases where this might bring various elements of employment legislation into play. That is something that will have to be managed through the transition. I am not sure I can add very much to that.

**Senator ALLISON**—So will the management in the transition phase be spelt out in regulations? How will it be managed?

**Mr Dolan**—We will make clear, as I think we have, in the bill and in the regulations that in various sensitive areas of airports there will be a requirement to hold and display an identification card. There are some prerequisites for holding such a card. That is the framework we are dealing with. The employers as employers will have to take account of that in their deployment of staff and their relationship with staff.

**Senator ALLISON**—Can we just spell out which kind of workers will require this level of security check for the ASIC?

**Ms Lynch**—They will be employees working on the airside.

**Senator ALLISON**—Only on the airside?

**Ms Lynch**—On the airside.

**Senator ALLISON**—So this will not affect currently employed people in coffee shops and newsagents and so on?

**Ms Lynch**—Some coffee shops are, as you would be aware as you move through a screening point, actually in the sterile area, which will be airside. When waiting for your plane in Sydney airport, you find lots of shops. Those people will require ASICs. But there are a number of those shops and outlets which will on the landside as well. So it will be for employees operating on the airside.

**Senator ALLISON**—What is your estimation of the number of employees in that category at the current time?

**Ms Lynch**—Currently, we have on issue in the order of between 60,000 and 70,000 ASICs. We think it will possibly bring it up around 80,000.

**Senator ALLISON**—ASIO will be pretty busy, then. I have a few other questions on a different topic. Are you happy for me to continue?

**Senator O'BRIEN**—From my point of view, we are going to need a considerable amount of additional time with the department on this bill. Given the time we have allocated, we probably need to set aside some time next week. I have made my plans on the basis of the agenda and set timetables. I am not that flexible, I am sorry.

**CHAIR**—So do you want to put some questions on notice?

**Senator COLBECK**—I think we should flag that we are not finished.

**Senator ALLISON**—I want to ask about carrying a weapon through a screening point. There are two different regimes of penalties that apply to what you carry through, be it a weapon or a prohibited item. The regulations will spell out what prohibited items are, or is that understood?

**Ms Lynch**—No. We felt that it was important under the legislation to make clear the difference between weapons and prohibited items. As anybody would know who goes through screening points, a chef who is carrying around his chef's knife is not actually carrying a weapon; he is carrying a tool of his trade or whatever, and he is perfectly legally able to carry that possibly wherever he is. You could also be carrying your knitting needles or whatever it might be. Once you move through a screening point, though, for the purposes of aviation security, it is important that we do not have those things going into a sterile area or onto the cabin of an aircraft. We wanted to recognise that you are actually legally able to carry these things but they are prohibited items beyond that point.

At the moment, we have a weapons schedule which outlines in detail what weapons are. As far as possible, we will identify what prohibited items are as well in regulation. Possibly we may well seek to do that through describing the things that they can do rather than particular items. For example, it is probably not helpful to try to make an exhaustive list because there are always going to be things that can be used as a weapon or used in a way that is not particularly good on a plane. So we will detail what will be outcomes in relation to prohibited items—things that could be used as a weapon that could be for slashing or stabbing or used in that particular way.

**Senator ALLISON**—And how will it differ from the existing arrangements?

**Ms Lynch**—The existing arrangements do not specify the difference between prohibited items and weapons. So it will more clearly say what is determined to be a weapon—there is a range of offences in relation to a weapon—and what is a prohibited item, which is perfectly legal. They are things you may well have in your briefcase anyway, but they are things which we actually do not want to have in the cabin of aircraft.

**Senator ALLISON**—So the current arrangement is that if you have nail scissors in your bag as you go through screening, they are confiscated. Will that change?

**Ms Lynch**—No. That will not change at all.

**Senator ALLISON**—Will you get two years jail for having them in your bag?

**Ms Lynch**—No. Because they are a prohibited item, you will not be put in jail for that.

**Senator ALLISON**—My reading of the bill was that if you were carrying a prohibited item through the screening process there was a penalty of two years.

**Ms Lynch**—The process of screening is threefold. One is going through the screening process and then divesting yourself of prohibited items or weapons or whatever they are. If you knowingly carry something through a screening point and that thing is not detected until later on, then you have actually committed an offence. So yes, you are able to be prosecuted for the carriage of those things through a screening point.

**Senator ALLISON**—So it is not an offence to attempt to carry them through; it is just an offence to carry them through and evade the screening process?

**Ms Lynch**—With a prohibited item, we recognise that people quite often might have something at the bottom of their briefcase where they might not have realised it was there or those sorts of things. We seek at the screening point to try to make that as assessable as possible so that people have an opportunity to put them in their checked bag and it can travel in the hold of the plane or have it divested to somebody else. But if it gets through the screening points, then you have actually committed an offence and there is the opportunity for somebody to be prosecuted for the carriage of that item through the screening point.



**Senator ALLISON**—If they are not detected at the point of screening, where are they likely to be detected with this item?

**Ms Lynch**—I suppose they are likely to be detected either in the sterile area as they wait for the plane or in the cabin of the aircraft.

**Senator ALLISON**—As they are cutting their nails?

**Ms Lynch**—Possibly.

**Senator ALLISON**—When will those definitions of what is a weapon and what is a prohibited item be available?

**Ms Lynch**—Within three weeks we should finalise the regulations.

**Senator ALLISON**—Okay. In one of the submissions, a question is asked about why these arrangements do not apply at regional airports. Is there a simple explanation for this? Is that coming? What is the response?

**Mr Dolan**—The legislation extends to a large range of airports that allow their categorisation into various levels based on threat and risk assessed at any given time. So in that sense, regional airports are part of this overall system. At this point, the assessment has been that there are a range of interventions in place at larger airports that are not necessary at regional airports. It is not that they are outside the system. It is that the system applies differently to them based on the assessed level of risk.

**Senator ALLISON**—I am sorry. I do not understand that. You are saying there is no risk at regional airports and there is at others?

**Mr Dolan**—No. We are saying that continually, based on threat and other information, we assess risks to aviation. We put measures in place that respond to that risk at an appropriate level.

**Senator ALLISON**—I have a question about training for security people. A suggestion made in one of the submissions was that there should be a national system of accreditation for training. The submission says that, in some cases, training for security officers is hopelessly inadequate and there are huge fluctuations between companies about the quality and quantity of training. Do you have any comment to make about that? I notice in the legislation that there is some form of accreditation or the regulations will determine what is required. Is it going to improve on the current situation? Will there be a national accreditation system for security people?

**Ms Lynch**—Under the regulations, for example, looking at training and the accreditation of screening officers, we are very conscious that we want a national level of screening accreditation and we want all of those officers to be accredited at the same level. So the regulations will specify in detail what level that will be. People will have to comply with that.

**Senator ALLISON**—Will it be more stringent than the current arrangements?

**Ms Lynch**—It will certainly detail what is required. That will apply to everybody who conducts screening at an airport.

**Senator ALLISON**—I do not know that you have answered my question.

**Ms Lynch**—At the moment, I think there are a couple of different ways that people can be accredited as a screener. The regulation will be prescriptive about what level of screening accreditation has to be achieved. The screening authorities will have to comply with that.

**Senator ALLISON**—And will it be more stringent than the current arrangements?

**Ms Lynch**—In the current arrangements we do detail the training and accreditation for screening at different levels. It will make it clearer, I think, the accreditation required at the different levels for screeners.

**Mr Dolan**—We have a system of accreditation already. It will be clearer how that applies in the new regulations.

**Senator ALLISON**—It is not clear now how it applies?

**Mr Dolan**—We think it is reasonably clear. It is something that was developed a little while ago. As part of our overall review of bringing this together, we wanted a bit more clarity.

**Senator ALLISON**—Do you agree with the assessment of the level of training of some security people in airports? Is this not a problem now or what?

**Ms Lynch**—I think the issue is that what we have been asking our screening authorities and our screeners individually to do has changed markedly over the last 18 months since September 11. The role of the screener

has changed and enhanced. We want to make sure that the screening accreditation is relevant to that role. So, yes, it will change and be clearer.

**Senator ALLISON**—Do you envisage that it will involve much more training than is currently provided for people who are in these positions?

**Ms Lynch**—Yes, I think it will. What we are asking them to do is more.

**Senator ALLISON**—The same submission suggests that labour hire security employees should be prohibited from airports and contractors should also be prohibited from the subcontracting of security services. Do you agree with that?

**Mr Dolan**—The approach we take to that issue is that we set the standards that need to be met, including the training standards and accreditation standards relating to screening and other activities. It is up to the operators, the employers, to satisfy us that those undertaking those activities are up to that standard. We supplement that with our own assessment of the standard both in terms of what is available in terms of training and how the job is actually performed. That is part of our audit function. That is the system we use to review that.

**Senator ALLISON**—Is there currently a fairly high turnover? Are you getting a lot of casual appointments in these positions at the present time?

**Mr Dolan**—Because there has been a substantially increased requirement for staff to undertake these roles as a result of enhanced screening and other arrangements, certainly there have been some problems, and there is a reasonable level of turnover in terms of staff in the industry, yes.

**Senator ALLISON**—So what will the new arrangements with regard to training do in terms of the availability of people to fill these positions? Will we see airports being short on these workers? I am trying to understand what the level of difference will be and how easy it will be to comply.

**Ms Lynch**—With regard to the screening requirements, the minimum standards that the government has mandated require larger numbers of staff than in the past to actually comply with those standards. The feedback we get from the airports is that, yes, there is a high turnover of staff. We are cognisant of that. We have sought to address issues such as training and those sorts of things to make sure that we are responding to what we are getting from industry as a concern. However, advice to me has not been that there is a problem with filling positions. Our concern, as the regulator is to make sure that the minimum standards are set and that the people filling those positions meet those standards. We audit against them. We make sure that those standards are being met, and we will continue to do that.

**Senator ALLISON**—I think we will hear from you again. I have a couple of other questions.

**CHAIR**—Thank you very much. I will call a respite period. I flag that we will be reconvening the committee on another day to continue. So that the next witness can be heard today, we think we should call it a day for you today. We thank you for your contribution. We will have a 10-minute break for morning tea and other necessities. Thank you very much.

**Proceedings suspended from 10.17 a.m. to 10.32 a.m.**

**DAWSON, Mr Paul, Acting General Manager, Organisation Development Unit, Airservices Australia**

**HOWARD, Mr Michael, Manager, Officer of Security Risk Management Airservices Australia**

**CHAIR**—Welcome. If you would you like to make an opening statement, I would be delighted.

**Mr Dawson**—I would like to make an opening point rather than an opening statement. This is following on from our submission. Airservices Australia believes that the bill needs to clearly recognise the corporation as an aviation industry participant. It is important that Airservices Australia is and is seen to be at arm's length from the aviation security regulator similar to the current relationship between Airservices Australia and the aviation industry security regulator, CASA. Airservices Australia believes that its facilities and structures are critical components of the aviation industry and that the corporation should be held accountable to the industry security regulator in the same way as airline owners and airport owners. Obviously, the issue of Airservices Australia's recognition as an aviation industry participant remains an area for discussion between us and the department at this stage. We are hopeful that the next round of consultations we go through will enable us to be a little more persuasive in our arguments and convince them that that is where we should be sitting.

**Senator O'BRIEN**—Mr Dawson, the key effect of being designated an aviation industry participant appears to me to be to ensure that Airservices Australia is required to have its own security plan distinct from that of the airport. Is that right?

**Mr Howard**—Yes, that is correct. Our current procedures would largely meet those requirements. We believe that by publishing a registered program that is authorised by the department we get wider industry understanding and acceptance in the way we go about our business.

**Senator O'BRIEN**—But as the bill stands, security arrangements would form part of the plan of a specific airport, wouldn't they, for Airservices?

**Mr Dawson**—I am not sure whether there is enough in the bill itself to designate. It is really the regulations that flow behind it.

**Senator O'BRIEN**—To the extent your staff are on an airport, you would be covered by that airport security plan?

**Mr Howard**—To the extent that our staff work on the airside of airports, we currently comply with the airport security programs as they apply. That works well. With the bill here, the transition to landside security zones creates a little bit of uncertainty about where that will head in terms of the regulation for our facilities that are on airport land but may not be on the airside of the airport.

**Senator O'BRIEN**—What about a security plan for the national airways system? As the bill stands, is Airservices required to have a plan for the security of its navigation facilities, technical installations on and off airports and other buildings that may have an operational impact?

**Mr Dawson**—We have a security manual which covers all those issues, I believe.

**Senator O'BRIEN**—You may. I am just asking whether the bill makes any requirements of you in that regard.

**Mr Howard**—No, it does not. CASA regulations 171 and 172 create some obligations on us to have a security program for our air traffic facilities and manned and unmanned communication navigation surveillance aids. We have drafted our manual to meet those requirements. To some extent, this bill overlaps with parts of the CASA bill. If we were to be accepted as an industry participant and were to draft an aviation security manual, we would have to make some changes to our existing manual to meet the full gamut of the bill.

**Senator O'BRIEN**—Is the Alan Woods Building one of the buildings the subject of a requirement under regulation for you to have some sort of security plan?

**Mr Howard**—There would be some operational components in that building that would be need to be covered, yes.

**Senator O'BRIEN**—That is under the civil aviation regulations, is it?

**Mr Howard**—Yes, it would be.

**Senator O'BRIEN**—Can you confirm that for us? You seem not to be certain about that.

**Mr Howard**—I will expand on that. CASA refers to air traffic facilities and manned and unmanned facilities. To the extent that any operational capabilities are based at the Alan Woods Building, at least the way I read CASA 171 and 172, that would be a requirement under that separate regulation.

**Senator O'BRIEN**—I take it from your answers that Airservices Australia have a security plan now.

**Mr Dawson**—That is correct.

**Senator O'BRIEN**—That plan is required to cover all those operational facilities, manned and unmanned?

**Mr Dawson**—That is correct.

**Senator O'BRIEN**—Does it extend beyond those facilities?

**Mr Howard**—The regulations apply to our own facilities and our own—

**Senator O'BRIEN**—Not the regulations but your actual plan.

**Mr Howard**—The actual manual?

**Senator O'BRIEN**—Does it extend those operational facilities?

**Mr Howard**—No.

**Senator O'BRIEN**—Who audits the plan and ensures that it complies with your regulatory requirements?

**Mr Howard**—Under the current Air Navigation Act there is no requirement for us to have an aviation security program. The new CASA security requirements will be regulating us against that. But currently no—

**Mr Dawson**—In recent times, we had our physical security audit done by the ANAO, which audited the physical security on some of our key business facilities, namely the Sydney tower, I think.

**Senator O'BRIEN**—I have not looked at that closely, but how did you stack up, according to the ANAO?

**Mr Dawson**—Pretty good.

**Senator O'BRIEN**—Pretty good?

**Mr Dawson**—Yes.

**Senator O'BRIEN**—They had no problems with the idea about being part of a national aviation security program. What you are saying, I think, is that it wouldn't be a problem for Airservices to join that program.

**Mr Dawson**—The program that has been proposed in the current legislation?

**Senator O'BRIEN**—Yes.

**Mr Dawson**—No. I do not think so.

**Mr Howard**—From the industry's perspective, I think they would like to see us treated in a similar fashion to the rest of the airlines and the airports and to respond to similar pressures that they have.

**Mr Dawson**—In some ways, as you know, we regard air safety as the key component of our business. We see security as a component of safety. Safety is procedural. Technical failure may cause an issue in the system. Security is about a deliberate or unlawful act that will have the same impact. We look at it within that light.

**Senator O'BRIEN**—With respect to the position that Airservices should be designated an aviation industry participant, has Airservices discussed this with the department?

**Mr Dawson**—On a limited basis, yes.

**Senator O'BRIEN**—What was their response?

**Mr Dawson**—They seemed to say that we are a bit of a hybrid, and that is not just in aviation security or aviation industry participation. There are a whole series of issues we are going through at the moment where we are neither in one basket nor the other basket. I think we need to be more persuasive in the arguments. Their initial response was that they were not comfortable with that. But we have not gone any further in that. That is primarily for the reason that we are still seen as part of the portfolio, and that is correct. My own view, and I think the view of Airservices, is that irrespective of what our status is in life, the fact that we have these facilities and infrastructures really requires that we be regulated and at arm's length.

**Senator O'BRIEN**—I take it Airservices was not consulted or involved in the preparation of the bill?

**Mr Dawson**—We have had very limited consultation to this stage. We expect to have greater input in the next round and I think Mr Dolan has referred to that.

**Senator O'BRIEN**—When the regulations come up?

**Mr Dawson**—Yes.

**Senator O'BRIEN**—Airservices is seeking a new power to issue aviation security identification cards. How broadly would you want to be responsible for their issue—just for staff or for visitors or contractors?

**Mr Howard**—The current regulations allow a tenant at an airport to issue passes to visitors or ASIC visitor cards. What we would like to be able to do is issue ASICs to our own staff. Where we have contractors working solely for us and not for other people at the airport, we might issue them. But we would issue them possibly to those contractors. In the first instance, we would like to be able to issue them to our own staff. The reason for that is that we currently have about 1,200 staff who have ASICs issued by different airports. Some of those staff work at a number of those airports. I will use Canberra as an example to describe the situation at the moment. The airport issues ASICs for those who might work at Canberra but also at Sydney, Melbourne, Adelaide and Perth airports. We feel that administratively and for security outcomes we are in a better position to understand where our staff go and where they work. Administratively, it is also simpler for us to issue one card as a company identification card and as an airport access card.

**Senator O'BRIEN**—These passes are only required for airside access, aren't they?

**Mr Howard**—Yes, they are. As I said, we have 1,200 staff. For example, we have about 500 firefighters who work airside and at security categorised airports. Principally, ASICs are for airside access only.

**Senator ALLISON**—What do you think of the requirement for ASIO to check those ID cards?

**Mr Dawson**—I do not think we have a position on that. We can see that there is may be a logical argument for a central agency, be it the department or whoever else, to have control. Our main view is that as long as we are treated the same as everybody else, we will go with that flow.

**Senator ALLISON**—How do you deal with the unfair dismissal question or with compensation if the response came back from ASIO that, no, this person should not be provided with an ASIC? How would you deal with that?

**Mr Dawson**—My view is that we would be seeking reasons for that. We would try to get an understanding of where ASIO is coming from and then we would make a judgment call from there, I guess.

**Senator ALLISON**—But the bill does not allow you to do that. It allows the employee to appeal against the decision, but it does not entitle you to know what it is that was the problem.

**Mr Dawson**—Yes. Again, I guess from our point of view as an employer we would like that right. But it is not something we have thought deeply about, I must admit.

**Senator O'BRIEN**—So with the ASICs that have been issued, you have 1,200 staff. Some are issued multiple cards. Do you have any idea how many card issues that would have involved over the last, say, five years?

**Mr Howard**—All those 1,200 cards would have been issued in the last five years or so. The duration of those cards is, on my understanding, for most of the airports up to five years. Most of those cards would have been issued in the last five years or so.

**Senator O'BRIEN**—Is there a cost factor for these cards for Airservices?

**Mr Howard**—There is. We are required to pay the airport cost. The airports currently issue the cards, so we are required to have staff go to the airport and go through the normal airport administrative procedures and wait to be issued with those cards. For the renewal or reissue of those cards—in some cases, that is as low as about two years, where they are required to go back and get another criminal record check—generally the cost of an individual card and a criminal record check is about \$80. There is some time consumed in queuing and waiting for the cards to be issued.

**Senator O'BRIEN**—Can you give us a rough idea of the annual cost for that sort of service?

**Mr Howard**—I would say it would be about \$10,000.

**Senator ALLISON**—So the \$10,000 covers what?

**Mr Howard**—It is for the annual renewal of the cards that lapse and the reissue of replacement cards for new employees or other employees who are required for work reasons to go to these airports.

**Senator O'BRIEN**—And the airport operator is responsible for pursuing the security checks?

**Mr Howard**—That is right. It is their obligation as the issuing authority for those cards.

**Senator O'BRIEN**—If Airservices were successful in controlling a process for its staff, what security check would it apply to applicants for an ASIC before issuing a card?

**Mr Howard**—We would apply the same requirement for a national police record check. We currently do that for all of our employees anyway prior to them starting. We would be able to use the same criminal record check downstream for the issue of our aviation security identification card. So to some extent it would save us money because we could seamlessly issue an ASIC if we were able to do that rather than having individuals go and apply for a card at the airports.

**Senator O'BRIEN**—What do you think about security checks for contractors? How should that be done?

**Mr Howard**—Well, we do police record checks for contractors anyway. These days, contractors are a way of doing business. We would not be able to survive without them. As long as we have done employment checking of those contractors and police record checks, we work with them productively.

**Senator O'BRIEN**—With regard to the pre-employment checks of staff, do you have a security checking and clearing process in that pre-employment phase? Is that effectively your checking for an ASIC at the same time?

**Mr Howard**—Yes, we do. As I said, we conduct a national criminal check. Where we know a person is going to be a firefighter or work in another job where an ASIC is required, we will do a criminal check to that standard. When they become a fully trained fireman and are working unescorted in an airport, they have jumped the necessary police record check and other pre-employment checks prior to being issued with the card.

**Senator O'BRIEN**—Do you apply the same measures to contractors working, for example, at an attached centre?

**Mr Howard**—On reading the bill, there are some issues in relation to the security of critical infrastructure and critical structures. Because we have not seen the detailed regulations, we are not sure to what extent this landside security zone may end up involving an extension of the ASIC card regulations across to landside zones. At least my understanding from preliminary discussions with the department is that that is where it was going to go. From the industry's perspective, when you put yourself in the seat of an aircraft as a captain; they are obviously quite concerned about the nature of air traffic controllers and who is working there. Some of them at least would like to see the security measures in place for the selection of our staff and who works in the air traffic controller seat as being similar to their own. So from where I was sitting, at least in terms of the draft bill, I was expecting some time downstream to maybe see an extension of the ASIC rules to cover some landside facilities, maybe like ours, such as fuel farms and catering facilities that may be on the landside of airports.

**Senator O'BRIEN**—Your submission says that airports and airlines currently issue their own ASICs. Are you sure about airlines issuing their own? My understanding is that airlines get ASICs for their staff and visitors issued by the airport. I guess what follows from that is that if you knew that airlines had to get their cards from airports, does that change your position? For example, do you think it is reasonable for every other organisation operating at an airport to have their cards issued by the airport except Airservices?

**Mr Howard**—Unless it has changed in the last couple of weeks, I know for a fact that a number of airlines issue their own ASICs.

**Senator O'BRIEN**—Okay.

**Mr Howard**—I worked for Ansett for five years until May last year. We issued our own cards. I know Qantas issued their own cards then. Virgin issues their own cards. I think National Jet, as far as I know, issues their own cards.

**Senator O'BRIEN**—Doesn't having a single point of issue for all ASICs on an airport add more control over who has airside access?

**Mr Howard**—I do not believe so. Currently there are a couple of different types of ASICs. One, for example, is what they call a visitor card, which is technically under the current regulations an ASIC. The airport is not the only issuer of visitor cards. For example, as an operator of fire stations at airports, we have visitor cards given to us by the airport operator, which we issue to our visitors who come to the fire station. In effect, apart from the airport operator knowing that they have some visitor cards on issue, they do not know

who we are issuing those cards to anyway. Another fact involves what they call Australia-wide cards. An airport operator, on application by a suitable person in the conduct of a criminal check, can issue an Australia-wide ASIC, for example, from Sydney airport. Effectively it gives that holder unescorted airside access at any security categorised airport around Australia. There is no requirement that I am aware of in the current regulations that requires that person to advise the airport that that person is on the airport. Certainly the airport operator generally controls most of the access points at the airport. But other operators or other tenants of the airport control access to and from airports. Cargo agents, catering contractors and airlines are examples. So by putting all the controls on the airport, at least with the way the current system operates, I do not believe controls it as well as what it could.

Our view is that we are in the best position to know what our people are doing in terms of which airports they need to go to. If we were allowed to issue our own cards, of course we would issue those cards under the same rules and regulations that airports and airlines and any other issuing authority would issue those cards. For example, in the situation we have at the moment, one of our staff who was issued an Australia-wide ASIC by Sydney airport could be at Perth Airport. If that person were apprehended at the airport and asked what they were doing there and what authority they had to be over there, effectively they would have to ring Sydney airport to ask them. Sydney airport would not know what that person was doing over there. Airservices Australia is probably in the best position to answer that question.

**Senator O'BRIEN**—What is the current practice for Airservices ASIC holders going airside at an airport? Do they have open access at any time?

**Mr Howard**—Yes.

**Senator O'BRIEN**—Are they required to go through physical screening, including their possessions, like someone boarding an aircraft?

**Mr Howard**—Our staff generally would not, apart from when they are travelling as passengers, when they are subjected to the same screening regime as all other passengers. They have no other work related reasons that would really require them to go into the sterile area or onto an aircraft, so they would not be bypassing any normal security procedures at airports.

**Senator O'BRIEN**—If they were not going onto an aircraft, they would not be screened?

**Mr Howard**—If they were going into a sterile area, they would be screened. If they were going into the airside—that is, the tarmacs, fire stations or towers that might be on the airside—they would not be screened, no, and neither is anyone else.

**Senator O'BRIEN**—You have an issue with the definitions in clauses 31 and 32. Can you take us through your concerns.

**Mr Howard**—I want to check. Are clauses 31 and 32 about the landside?

**Senator O'BRIEN**—I think so.

**Senator ALLISON**—You say it could more accurately describe them as airport control facilities and fire stations.

**Senator O'BRIEN**—That is right.

**Senator ALLISON**—It is the last sentence in your submission.

**Mr Howard**—What we were seeking there is some clarity about the extent of facilities. The draft bill describes towers and also navigational aids. We also provide surveillance and communications aids at airports. We also have some major critical facilities adjacent to some airports that are not properly described as control towers. So to be more accurate about the nature of the services that we provide, I guess they could probably be more accurately described as air traffic control facilities or services and firefighting services. The point really was that describing them as towers and navigational aids is just part of the business, not the whole business. You could read into that that the definition of critical facilities and critical structures would cover off all those other things. But we felt that to get some clarity into the bill at the early stage would be good for us.

**Senator O'BRIEN**—Thank you.

**Senator ALLISON**—I have no further questions.

**CHAIR**—We have run out of questions. Thank you very much. I will declare the committee has concluded its deliberations today. We have already flagged that we will be having more hearings at a further convenient time.

**Committee adjourned at 11.00 a.m.**