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11 July 2007

Secretary
Senate Standing Committee on Rural and Regional Affairs and Transport
PO BOX 6100
Parliament House
Canberra ACT 2600

Dear Ms Radcliffe

Re: Aviation Legislation Amendment (2007 Measures No. 1) Bill 2007

I refer to the above.

The Liquor Hospitality and Miscellaneous Union (known as the LHMU) have significant membership in aviation security personnel particularly security screeners at airports.

The LHMU has members who are security screeners at every international and domestic airport in Australia and they screen baggage and passengers for prohibited travel items and randomly test passengers for explosive trace elements. Security screeners undertake operational and supervisory roles as well as customer service.

In relation to the Bill and particularly **Part IV – Drug Alcohol Management Plans and Testing amendment to the Civil Aviation Act 1988**, the LHMU makes the following comments:

1. The detail for the proposed random drug testing appears to be in the proposed regulations that are not found within the Bill and have not been the subject of the Committee's deliberation. I would direct the Committee to proposed sections 34, 35 and 36 of the Bill. These sections all refer to the regulations which presumably will contain a degree of specificity, not found in the Bill or Explanatory Memorandum. I would note that the use of regulations as an executive law making tool has considerably increased in recent times under the current federal government. The LHMU would request consultation with the federal government for the purposes of working through the detail of the proposed regulations.
2. The June 2004 ACTU submission to Department of Transport and Regional Services and Civil Aviation Safety Authority Review of the Safety Benefits of Introducing Drug and Alcohol Testing for Safety Sensitive Personnel in the Aviation Industry is a prescient submission for the purposes of this Bill. I would direct the Committee to review pages 8-10 of that document for the purposes of understanding the LHMU's broad concerns regarding random drug and alcohol testing.

3. This Bill is ambiguous and vague. The LHMU directs the Committee to proposed sub-section 33(1) and (2) and the extent to which safety-sensitive aviation activities *actually* applies at airports. For instance the definition of safety sensitive aviation activities says in part:

“safety-sensitive aviation activities means activities that impact directly or indirectly on the Safety of: (a) civil air operations in Australia territory.....”

This definition is neither prescriptive nor helpful in understanding the limits of its application. The definition is broad and conceivably lends itself to subjective interpretation by CASA and others.

4. The LHMU has been involved in bargaining for new agreements in this industry for decades. As an industry stakeholder, we believe that the LHMU and our membership should have had an opportunity to participate in a collaborative fashion in the formulation of this Bill and the Regulations much earlier in the process.

In essence, the LHMU cannot give support to a Bill that leaves most of the details to the regulations that are not subject to comment, submission or put forward for review in any real sense in this process.

The LHMU seeks to work in a cooperative and meaningful manner with the federal government over the details of the regulations and we would submit that this needs to happen for there to be genuine consultation.

In relation to the other aspects of the Bill involving the *Aviation Transport Security Act 2004* newly created class of *eligible customs officers*, the LHMU expresses concerns over the length of time the federal government has taken to effectively implement the Wheeler Report. Particularly given that the Rt Hon Sir John Wheeler DL made the following recommendation on page 18 of his report:

“all police, AFPPS and Customs officers deployed to an airport be given clear and unambiguous powers, including to stop, search, detain and arrest where necessary within the airport and adjacent roads and parking areas..”

It has almost been two years since the Wheeler Report was handed down. The LHMU expresses concern over the amount of time taken by the federal government to implement aviation security measures.

If you have any queries, please contact Simon O’Hara.

Regards



Jeff Lawrence
National Secretary
LHMU