

# **Comment for Senate Inquiry into The Administration of the Civil Aviation Authority**

## **Introduction**

The following comments are intended to provide a brief overview of my views of CASA gained over 21 years working within the organisation. Should more detail be required I am prepared to provide it on request. The senate should be aware that while the views expressed in this document are mine alone I believe that many of these views are also held by a number of the experienced technically qualified employees within CASA. However, members of CASA staff are not permitted to express their views in public, and indeed would be punished or dismissed if they did. The senate may consider approaching individual experienced technical staff, not those holding senior management positions, should they really want to know the current state of the Aviation Safety Regulator of Australia.

## **My Qualifications and Experience**

My aviation qualifications and experience are detailed at Attachment 1.

## **What is a Regulator?**

Webster Universal Dictionary defines, in part, a regulator as:  
'One who or that which regulates or adjusts';

Webster also defines, in part, the word regulate thus:  
'To make to conform to a rule or a standard; to put in order, to make to work properly'

The Civil Aviation Act 1988, the empowering legislation for the Civil Aviation Safety Authority (CASA), at section 9 lays out CASA's functions. The first and therefore most important function expressed in subsection 9(1), in part, states; CASA has the function of conducting the safety regulation of the following, in accordance with this Act and the regulations:

- (a) civil air operations in Australian territory;
- (b) the operation of Australian aircraft outside Australian territory;

Section 9 also states the means by which CASA should conduct its aviation safety

regulation, in particular I draw your attention to:  
developing and promulgating appropriate, clear and concise aviation safety standards;  
developing effective enforcement strategies to ensure compliance with aviation safety standards;

It is my contention that CASA is currently not achieving these objectives and indeed places much more importance on complying with the demands made of it by the very organisations it is charged to regulate.

Without entering into too much detail, in relation to the development of clear and concise aviation safety standards the senate should be aware that CASA commenced the overhaul of its aviation safety standards in 1988. Since that time and after the expenditure of countless millions of dollars little or nothing has been achieved. Indeed what new legislation that has emerged makes a poor fit with existing legislation and certainly has had the opposite effect to making clear and concise legislation. In 20 years, four times longer than World War II, CASA has produced a legislative network close to chaos as it continually changes its own goal posts.

Since the last CEO, Bruce Byron has taken the helm it would be correct to say that legislative development has all but ceased as he constantly changes his mind about what direction to take. From my personal perspective the proposed Part 135 upon which I worked for some 5 years was after numerous delays ready for release 6 months after Bruce Byron became the CEO of CASA. To this day it remains gathering dust. My own personal wages over this period would amount to around one half million dollars, essentially wasted by Mr Byron.

In relation to enforcement strategies Mr Byron has been equally negligent. Probably the most important mechanism for ensuring that an operator of aircraft conducting commercial operations is fit and safe to do so is the procedure CASA staff are required to follow in the issuing of an Air Operator's Certificate. This procedure is fully promulgated in a manual known as the Air Operator Certification Manual. I largely project managed the development of this manual with the assistance of some of the most capable flying operations inspectors, airworthiness inspectors and legal drafters in CASA. Since its introduction this manual, which to be effective must be revised constantly to remain relevant in a fast moving aviation industry, has remained almost static. I have never heard Mr Byron make reference to it and indeed I wonder if he knows of its existence, let alone its contents.

I conclude this section by again suggesting that CASA is not fulfilling its regulatory responsibilities, indeed it is using its very existence to ensure the aviation industry is not effectively regulated.

## **Staffing a Regulatory Body**

To be effective, regulating bodies, whether they regulate aviation, finance or anything else, are essentially staffed by poachers who become game-keepers in their specific area of interest. Thus in Aviation it would be fair to say that if only 3 people could be employed by a regulator then they would almost certainly be a pilot, and airworthiness engineer and an aerodrome expert. In the days when aviation regulation was the responsibility of a government department, the ratio of technical staff to other supporting staff was quite high. Since the formation of the CAA and then CASA that ratio has diminished considerably. The senate might consider investigating this phenomenon. My experience tells me that there is no better way to regulate any organisation than to have trained and knowledgeable eyes casting their enquiring gaze where their experience and knowledge directs them. CASA has few of these people still in its employ and most of the technically competent new recruits are usually not adequately trained for their regulatory role.

CASA technical inspectors should be the backbone of the organisation. Such people do not exist in the industry or the services. However, there is no other places to find the raw material that has the aviation experience and knowledge necessary to be an aviation regulator. Theoretical training provided by universities is not anywhere near sufficient. So how does one make a competent aviation regulator?

First you recruit the most knowledgeable, experienced, and administratively competent persons you can. You ensure that they are open minded and that they are interested in, and capable of, being educated in the skills necessary for a regulator. In essence these skills boil down to a comprehensive knowledge of civil aviation law, and the many and varied procedures CASA has to employ in the conduct of its regulatory responsibilities. Added to this is the essential skill of being able to listen to industry and apply the law in a flexible manner while at the same time ensuring compliance with the law.

The regulator specific training needs to be two pronged, consisting of theoretical training in a class room using what educational tools best suit such training, and on the job practical training. It usually takes in excess of 3 years of 'on the job' training before a competent aviator can become a competent aviation regulator. This practical training can only be provided by experienced and competent inspectors. CASA has few of these left and seems keen to dispense with their services because they have a tendency to question much of the trendy new management practices introduced by Bruce Byron. These management practices overlook the prime regulatory role of CASA and positively exclude any feedback that a concerned technical staff may try to provide. To disagree with opinions is a management prerogative but to exclude advice is just bad management.

Many of the Flying Operations Inspectors, who have left CASA because they could not continue under such bad management, have aviation experience equal or greater than that of the CEO Bruce Byron; all had much more regulatory

experience. The senate should ask itself whether it sees such management practices as beneficial for the safety of civil aviation in this country.

### **What Should a Regulator be Trying to Achieve?**

This question has been partly answered under the heading 'What is a Regulator?', above. But that answer was couched in legalistic terms. What of the practical outcome?

In reality a regulator should be similar to the rule makers of a sporting game like rugby union, making and applying the same rules for everyone so that fair competition can take place. Some people call this 'the level playing field'. By keeping a level playing field in civil aviation all operators are made aware of their responsibilities and know that if they do not perform they will be removed from the 'game'. CASA has never been particularly good at that. In the last few years the problem has become greater. What happens when the playing field is not level?

When an operator is permitted to operate using procedures outside the law this encourages other operators to follow. Operators operate outside the law because there is financial gain to be made. Abiding by the law costs money, not doing so makes a saving in the short term. Thus the illegal operator by saving money can charge a lower fee for its services which cannot be matched by the legal operator. In time the legal operator ceases to operate leaving the field to the illegal operator and the level of safety enjoyed by the Australian public is degraded. This is essentially what caused the Lockhart River accident. CASA failed to correct known deficiencies in the operators concerned. Aviation safety problems in remote parts of Australia have been known by CASA to exist for a considerable length of time but little has been done to resolve those problems.

### **Conclusion**

CASA is not an effective regulator of Australian civil aviation. It has become even less so over the last 3 to 5 years. The reasons are many and varied. I have covered some of those above but have left out many others. It is my belief that CASA will not be an effective aviation regulator until its operations and ethos have been comprehensively reviewed, and effective corrective action taken. Even then it will be difficult to rebuild the organisation because of a lack of properly qualified and experienced people.