



**Australian Government**  
**Civil Aviation Safety Authority**

OFFICE OF THE CHIEF EXECUTIVE OFFICER

30 June 2008

The Secretary  
Senate Standing Committee on Rural and Regional  
Affairs and Transport  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Secretary

Please find attached the Civil Aviation Safety Authority's (CASA) submission to the Inquiry into the Administration of CASA and related matters.

I trust the submission addresses the Inquiry's Terms of Reference:

- to assess the effectiveness of administrative reforms undertaken by CASA's management since 2003;
- to examine the effectiveness of CASA's governance structure; and
- to consider ways to strengthen CASA's relations with industry and ensure CASA meets community expectations of a firm safety regulator.

I look forward to the opportunity to address the Committee later this week.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bruce Byron', written in a cursive style.

Bruce Byron AM  
Chief Executive Officer

# **CASA SUBMISSION TO SENATE STANDING COMMITTEE ON RURAL AND REGIONAL AFFAIRS AND TRANSPORT INQUIRY INTO THE ADMINISTRATION OF CASA AND RELATED MATTERS**

## **INTRODUCTION**

On 29 May 2008, the Senate Standing Committee on Rural and Regional Affairs and Transport resolved, under Standing Order 25 (2) (b), to conduct a formal inquiry into the administration of the Civil Aviation Safety Authority (CASA) and related matters.

Noting the Government's announced intention to release a National Aviation Policy Green Paper in the latter half of 2008 and the importance of maintaining Australia's strong aviation safety record, the Committee has issued the following Terms of Reference:

- to assess the effectiveness of administrative reforms undertaken by CASA's management since 2003;
- to examine the effectiveness of CASA's governance structure; and
- to consider ways to strengthen CASA's relations with industry and ensure CASA meets community expectations of a firm safety regulator.

This submission responds directly to the Terms of Reference.

### **Background**

CASA is a statutory authority operating under the *Commonwealth Authorities and Companies Act 1997* (CAC Act) within the Infrastructure, Transport, Regional Development and Local Government portfolio.

CASA was established in 1995 by amendments to the *Civil Aviation Act 1988* (the CA Act), which sets out its role, functions and powers. The Director of Aviation Safety, CASA's Chief Executive Officer, reports to the Minister for Infrastructure, Transport, Regional Development and Local Government.

CASA is responsible for regulating aviation safety in Australia, the safety of Australian aircraft overseas and for regulating and administering Australia's airspace. This is provided for through the Civil Aviation Regulations 1988 (CARs), the Civil Aviation Safety Regulations 1988 (CASRs) both made under the authority of the CA Act, and through the *Airspace Act 2007* and the regulations made under that Act. There are also Civil Aviation Orders (CAO), which set out the technical detail of the directions and instructions specified in the CA Act and the CARs. Manuals of Standards serve a similar purpose in relation to the CASRs. The CASRs are progressively replacing the CARs.

### **CASA's Environment**

The aviation environment in Australia is dynamic and increasingly complex, involving:

- the introduction of new domestic and international carriers;

- the introduction of new aircraft types (i.e. the new Embraer jets and Airbus A380 aircraft);
- an ageing Australian aircraft fleet;
- an increasing number of aircraft on the Australian aircraft register;
- an increase in airport movement statistics at key airports;
- a shortage of suitably qualified and experienced personnel i.e. pilots, aircraft maintenance engineers and air traffic controllers; and
- an increase in activity in the flying training industry, particularly the establishment of numerous foreign airline training schools in Australia.

## SUBMISSION

### Term of Reference

**To assess the effectiveness of administrative reforms undertaken by CASA's management since 2003.**

1. CASA has developed and implemented numerous administrative reforms since 2003. These reforms have had a major impact on the way CASA operates and on industry perceptions of CASA's activities. CASA continues to progress a successful reform program:
  - CASA has reinvigorated its workforce. Approximately half of CASA's staff has joined the organisation since 2003.
  - The Office of the Industry Complaints Commissioner (ICC) was established in February 2006. There has been a consistent downward trend in complaints concerning CASA since the ICC was appointed.
  - For the 2007/2008 year, CASA's workers' compensation premium was reduced by around 33%. This is based on CASA's improved claims performance since 2003/2004. CASA's current premium rate of 1.11% of payroll is well below the Commonwealth average of 1.55%.<sup>1</sup>
  - A recent public survey undertaken by CASA has found that the percentage of people who think CASA is doing a good or great job has improved from 36% in 2002 to 53% in 2005 and 56% in 2008.<sup>2</sup>
  - The percentage of people who think CASA is doing a poor or bad job has declined from 13% in 2002 to 4% in 2008.<sup>3</sup>
  - CASA achieved an above average result in the International Civil Aviation Organization (ICAO) audit of Australia's overall safety oversight capabilities, conducted in February 2008.
  - In each of the last four years (including this year's interim results) the Australian National Audit Office (ANAO) has provided an unqualified report on CASA's financial statements. The ANAO has reported that CASA's internal controls are operating effectively and has assessed the risk of material misstatement in the 2007-08 financial statements as low.
  - Over the last three years CASA has progressively improved its risk management performance rating measured through the annual Comcover Risk Management Benchmarking Survey and is now in the top quartile of all Commonwealth agencies.

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<sup>1</sup> Workers' compensation premiums are calculated on the previous 4 years' claims experience, including likely future costs for claims

<sup>2</sup> CASA has surveyed the general public about aviation safety matters on four separate occasions: during 2000, 2002, 2005 and in February 2008. All four surveys were conducted by Roy Morgan Research using comparable methodologies

<sup>3</sup>ibid

## **Administrative Reforms**

2. Changes to the CA Act on 21 October 2003 **dissolved** the previous **CASA Board**. The intent of these changes was to retain CASA as an independent statutory authority, to give the Minister stronger and more direct control over CASA's governance and accountability, and to designate the Director of Aviation Safety as the sole Director of CASA. The changes also provided for the introduction of new enforcement arrangements including a demerit points scheme, enforceable voluntary undertakings (EVUs), automatic stay (of certain reviewable decisions) provisions and the concept of 'serious and imminent' risk as the basis for suspending Air Operator's Certificates (AOCs) and other CASA authorisations.
3. In the five years since these reforms commenced, CASA has managed a **significant and effective change program**. During the same period the industry has also seen many changes, with the introduction of new aircraft types, new operators and low cost carriers. The changes to CASA's structure have better aligned the regulator with the industry it regulates, and facilitated better and more efficient management and operations.
4. The key administrative reforms implemented by CASA since 2003 can be broadly grouped into the following five categories and each will be covered in detail.
  - Management and staffing;
  - Operational measures;
  - Regulatory reform;
  - Industry safety education and training; and
  - New directions.

## MANAGEMENT AND STAFFING MEASURES

5. CASA has made extensive changes to its management, staffing and organisational structure. Since 2003 CASA has:
  - implemented a new industry facing organisational structure;
  - progressively appointed a new senior management team;
  - improved workforce capability to ensure the right people are in the right roles;
  - implemented staff education and training initiatives, including the introduction of a Diploma in Aviation Safety Regulation; and
  - improved its responsiveness to organisational health, safety and welfare issues.

## **Structural changes**

6. Until 2003, CASA's high level **organisational structure** was based largely on functional groupings of Aviation Safety Compliance, Aviation Safety Standards and Aviation Regulatory Services. This was **remodelled** to align CASA more closely with the way industry operates via operationally focused groups: Air Transport Operations, General Aviation Operations, Manufacturing, Certification and New Technologies (now Airworthiness Engineering) and Personnel Licensing, Education and Training. This structure brings together technical experts into groups which ensure people and resources are used most effectively. These changes coincided with a move away from

the previous management committee **decision making structure** to one in which each senior manager is personally responsible and accountable to the Executive for the decisions they make and for conducting appropriate consultations in relation to these decisions.

7. Today CASA has a decision-making process with clear lines of accountability and responsibility, supported by robust communication and information sharing to provide a high degree of transparency. Over the last five years CASA has initiated a major re-focussing of its operational resources through increased deployment of staff to regional offices, closer to industry.
8. In 2005 we conducted a market testing exercise of CASA's corporate activities (including Legal, Finance, Information Technology, Human Resources, Internal Audit and Property) to benchmark these functions against best practice across the public and private sectors. As a consequence, we further refined these elements of our organisation to ensure these functions operate as efficiently as possible.

### **People Changes**

9. The current CASA senior management team (Group General Manager level) and both Deputy Chief Executive Officers (DCEO) have all been appointed since 2003. These appointments have enhanced the organisation's breadth of management skills, experience and industry knowledge. CASA has implemented an extensive change program – known as 'Building a New CASA' - the aim of which has been to reinvigorate CASA, to change entrenched behaviour patterns and to develop CASA as a modern regulator and an employer of choice. This has been highly successful, with most of the change initiatives completed or close to finalisation, and has led to a rejuvenation of CASA. Approximately 49 per cent of CASA's current employees have joined the organisation since December 2003.
10. Improved workforce capability was the subject of a specific CASA project, completed in June 2008, which set out to identify the right mix of skills and training required to enable optimal job performance, and ensure that we have the **right people in the right roles**. The project deliverables include a Workforce Capability Framework and an Internal Capability Analysis, both of which position CASA to better define and put in place the skills required to deliver current and future operational and support functions.
11. CASA has developed **new system safety specialist functions**: Air Transport Inspectors, Safety Systems Specialists, and Aviation Safety Advisors to meet the demands of regulating a changing industry and has targeted recruitment to these newly identified specialist roles. More detail on these can be found under the 'Operational Measures' heading.
12. Since 2003, CASA has enhanced its **administrative induction program** for all new staff. In addition, a specialised **operational induction training** program has been developed for new operational staff which focuses on CASA's regulatory processes and responsibilities. CASA has also developed and implemented, in conjunction with Swinburne University of Technology, a Diploma of Aviation Safety Regulation for technical staff to develop and enhance their regulatory skills and knowledge. The first intake commenced in 2008 and it is envisaged that eventually all of our inspectorate will have attained this qualification. A Certificate level 4 qualification has also been

developed for corporate services and administrative staff. The programs currently have 57 people enrolled, representing around 10% of our permanent workforce. This will not only enhance the quality of training available to CASA officers, but it will also promote a greater standardisation of training and aid consistency of application of regulations and dissemination of safety information.

13. Safety, rehabilitation and compensation indicators provide a **snapshot of organisational health** and wellbeing and give insight into CASA's capacity to anticipate and respond to organisational health, safety and welfare issues. Improvements to these indicators are a direct reflection of management action and the introduction of new practices and programs which are working to minimise the incidence and duration (costs) of compensable claims.
14. A key indicator is lower workers' compensation insurance premium costs and CASA's favourable comparison to other public sector organisations. CASA's premium rate of 1.11% of payroll is below the Commonwealth average of 1.55%.

#### OPERATIONAL MEASURES

15. CASA has made improvements to its operational capabilities via a range of measures and initiatives. These include:
  - new operational headquarters in Brisbane;
  - additional inspector positions;
  - risk based oversight and surveillance;
  - a focus on passenger carrying operations; and
  - an increased focus on the operation of foreign carriers.
16. CASA has established an **operational headquarters**, incorporating the Air Transport Operations Group (ATOG) and General Aviation Operations Group (GAOG) at Brisbane Airport, a major aviation hub. The intent was to locate CASA operational staff closer to a key centre of passenger carrying operations.
17. CASA received increased government funding in the 2007/08 budget for more operational inspector positions under the Air Transport Safety Risk Mitigation New Project Proposal. Funding was approved for the recruitment of additional staff with specialist **systems safety skills**. Despite the tight labour market for these highly specialised skills, we now have a total of 18 of these specialists on staff. These new positions are located in Brisbane, Sydney and Melbourne.
18. CASA is actively adopting a **risk based approach** to oversight surveillance and entry control, enabling CASA to target high areas of risk, and assess each surveillance and entry control process specifically for each operator rather than taking a 'one size fits all' approach. For example, CASA separately assessed the risk levels associated with 13 of the busiest Low Capacity Regular Public Transport (LCRPT) operators and concluded that future surveillance of these operators would be best provided by ATOG, because of that group's specialist skills and experience in the oversight of passenger carrying operations. These operators were therefore transitioned from GAOG. This is in line with the CASA industry sector priority policy which has as its principal focus the

protection of passenger carrying operations, and allocation of the necessary resources to achieve this.

19. The 2008 survey of the general public on aviation safety matters undertaken by Roy Morgan research indicated strong public support for CASA's passenger priority policy, with most respondents wanting the majority of CASA's resources to be allocated to improving the safety of passenger carrying flights.
20. In 2008, CASA received a score of 8.1 out of 10 in the Comcover risk management benchmarking survey, with an overall rating of 'advanced', placing it in the top 17% of all Commonwealth agencies and indicating that CASA is assessed as soundly managing its risks. This is substantially above the average of 5.8 for all participating agencies, and will result in an 8.1% percent discount on CASA's insurance premium.
21. In 2007 CASA established the **Accident Investigation Report Review Board** (AIRRB). The AIRRB is chaired by the DCEO Operations. It is designed to review material released by the Australian Transport Safety Bureau (ATSB) and utilise CASA's aviation expertise by providing expert commentary on draft reports, and contribute to the ATSB's process of developing practical recommendations which ensure a continuous improvement in safety standards.
22. The **Aviation Safety Oversight Program** exemplifies CASA's progressive attitude to industry oversight. The first step of the project involved creating an oversight philosophy and framework, to set the picture for how CASA will conduct oversight in the future. The project has now moved to implementation by CASA's operational groups, including development of the information technology support tools needed to implement the new oversight processes. This includes tools and information technology solutions for workflow management, safety risk assessment and management, data management and migration of data.
23. CASA has enhanced its focus on the **oversight of foreign aircraft operations** into and out of Australia under the Foreign Aircraft Air Operator's Certificate (FAAOC) regime. CASA is working with the Department of Infrastructure, Transport, Regional Development, and Local Government (DITRD LG) which issues International Airline Licences (IAL), to identify solutions and reduce complexity in the administration and policies associated with the issue of IALs and FAAOCs.
24. Part of the enhanced oversight of foreign operators involves closer surveillance of individual operators where risk based analysis indicates this is required. For example, CASA continues to closely monitor Garuda Indonesia's safety performance by conducting regular, 'no-notice' ramp inspections of its operations into and out of Australia. CASA has also initiated an unprecedented level of flight deck surveillance and has kept a tighter rein on the operator by issuing FAAOCs with a shorter than usual validity period. In the past 3 months CASA has conducted 40 ramp inspections on scheduled international operators.
25. In February 2008, Australia's aviation agencies were audited by ICAO as part of the Universal Safety Oversight Audit Program. **ICAO auditors** visited CASA offices in Canberra, Melbourne and Brisbane and also visited a number of industry organisations to assess how effectively CASA conducts its safety oversight of aviation. The auditors were



particularly impressed by CASA's airworthiness directives and defect reporting system, the risk based surveillance approach and the high quality industry education products. The auditors also praised the high level of professionalism amongst the subject matter experts they met during the audit.

26. Australia was found to have 80% or greater effective implementation in six of the eight critical elements of a safety system. At the time of the audit, Australia was on the global average<sup>4</sup> for technical personnel training and qualification at 51%. This issue is being addressed by projects underway in CASA at the time such as the workforce capability project.
27. Earlier this year the European Aviation Safety Agency (EASA) undertook a review of CASA management and control of the Australian design and production sectors. This was done with a view to set up cooperation in relation to the oversight by CASA of maintenance and training organisations (Part 145 and 147 organisations) approved by EASA and located in Australia. The visit was very successful in that EASA determined the CASA internal procedures were aligned to those of EASA and therefore feasible to progress a working arrangement which will significantly reduce costs to industry.
28. Australia signed a Bilateral Aviation Safety Agreement (BASA) with the United States (U.S) on 21 June 2005 which came into force in November 2006. CASA is currently negotiating amendments to the BASA to incorporate acceptance of Australian Parts Manufacturer Approvals (APMA). This will enable Australian industry to be more internationally competitive, as APMA will be accepted by the U.S., reducing the certification processes for Australian manufacturers exporting to the U.S.
29. CASA intends to remain dynamically responsive to an evolving and changing industry and the introduction of Systems Safety Specialists gives practical effect to CASA's **systems safety approach** to aviation safety. The Safety Management Systems (SMS) concept has been broadened from its earliest applications, including in aerodrome regulation, to be formally incorporated into CASA's processes fostering a systematic approach to the management of safety risks. As CASA emphasises that the responsibility for the management of risk is fundamentally an operator's responsibility, we must also ensure that operators' SMS are effective. This is the role of the new specialists. This comprehensive and extended approach to oversight enhances aviation safety and allows existing technical specialists in flying operations and airworthiness to concentrate on their areas of expertise.

## REGULATORY REFORM

30. CASA's regulatory reform program has new direction and purpose and an enhanced focus on positive safety and industry outcomes. Initiatives include:
  - greater industry involvement in policy development;
  - focus on ensuring regulations address known or likely safety risks;
  - striving to accelerate the pace of regulatory reform which has not been as fast as industry (or CASA) would like;
  - additional funding provided to the Attorney-General's Department to secure drafting resources dedicated to CASA regulations; and

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<sup>4</sup> The global average varies depending on which countries' audit results are included in the calculation

- reviewing unique Australian Airworthiness Directives for continued applicability.
31. CASA has introduced a new approach to **engaging industry and other stakeholders** in the development of regulatory policy and new regulations. Most regulatory project work is undertaken by joint CASA-industry project teams thereby ensuring that issues of concern to the industry are identified as early as possible in the policy development process. The Standards Consultative Committee and its sub-committees, as well as Regulatory Advisory Panels, provide further opportunities for industry to participate in this process and are detailed under the third Term of Reference. Whilst we have not yet achieved our goal of completing the regulatory reform program, CASA continues to take seriously its obligations to consult all industry stakeholders in the rulemaking process.
  32. CASA has also introduced **new guiding principles for regulatory development**. The new regulations focus on safety risks and safety outcomes, and will be supported by acceptable means of compliance and guidance material. Outcome-based legislation specifies what safety outcome is to be achieved, rather than dictating how that outcome is to be achieved. While the preference is for outcome-based requirements, prescriptive regulations will still be adopted where prescription is necessary in the interests of safety.
  33. The **Aviation Regulation Review Taskforce** (ARRT) was established in April 2007 by the then Minister to assist CASA to set key directions and priorities for aviation regulatory reform for the next five years. The Taskforce was created in response to concerns from some members of the industry that CASA's regulatory reform program was taking too long, and regulations were still too prescriptive and were not obtaining the best safety and lowest cost outcomes for the aviation industry. The ARRT report was made public on 26 June 2008.
  34. CASA intends to submit drafting instructions for outstanding priority CASR Parts to the Office of Legislative Drafting and Publishing (OLDP) by the end of 2008, as per recommendation 1 of the ARRT Report. As has been acknowledged by industry stakeholders, the **availability of legal drafting services** has been a significant factor in delaying the finalisation of some outstanding regulatory Parts. OLDP drafting services are a shared resource and the ability of OLDP to work on CASA regulations is subject to other Government drafting priorities. CASA and the DITRDLG have provided funding to engage additional drafting resources in OLDP to work exclusively on CASA regulations. Additional and more substantive measures are being considered by CASA to speed up the legal drafting process, including options for CASA to conduct significant aspects of its legal drafting in-house.
  35. CASA will be carefully considering the Taskforce's recommendations, against the background of the Minister's indication of his acceptance of the broad thrust of the recommendations, noting that several of the recommendations are for CASA to continue with or make improvements to various aspects of its current processes.
  36. CASA initiated a project in 2007 to review all **unique Australian Airworthiness Directives** (ADs) to determine whether they are still necessary to address unsafe conditions. So far the project has identified over 3,600 unique Australian ADs, reviewed 1230 of these and cancelled 748. It is expected that the review will be completed by June 2009. The benefits to industry are substantial as each AD requires compliance and sign-off in the aircraft log book before the maintenance organisation can release the aircraft to service. These costs can be significant depending on the requirements of the AD.

## INDUSTRY SAFETY EDUCATION AND TRAINING

37. Industry education is one of the best ways of improving aviation safety and CASA accords it a high priority. Key achievements include:
- new Aviation Safety Advisors;
  - AvSafety seminars; and
  - focus on flying training standards.
38. CASA's **Aviation Safety Advisors** are a critical part of our industry education strategy for various industry sectors including, importantly, the flying training industry. Aviation Safety Advisors provide safety information and advice to industry on topical safety issues separate from CASA's surveillance operations, via the AvSafety Seminar series - previously known as evening safety seminars. The target groups for these seminars are aero clubs and flying schools. Over 3,000 industry participants attended these seminars during 2007-08. The Advisors also directly assist aviation organisations with safety related initiatives such as safety management, either through informal visits or targeted education. The Aviation Safety Advisor team now numbers 11 and conducted a total of 992 individual visits to operators during 2007-08. CASA also prepares and distributes a large quantity and variety of educational material and publications, including *Flight Safety Australia* magazine with an industry readership of over 85,000.
39. CASA has established an **industry consultation committee** to ensure direct industry input into the development of a flight testing and Approved Testing Officer (ATO) program, with a **National Flight Training and Testing Office** established within GAOG. The Office is responsible for improving aviation safety through the improvement of flying training and testing standards, and by increasing standardisation in the conduct of flight tests. Key outcomes include CASA conducting flight tests for licence and rating issue, centralised oversight of ATOs and the introduction of a professional development program for ATOs. The first of these professional development programs- a two week training course for ATOs- took place in June 2008.

## NEW DIRECTIONS

40. CASA has been given new responsibilities, and has also initiated changes as a consequence of successful reform activity. Some of these new directions include:
- regulating airspace;
  - developing a testing regime for alcohol and other drugs;
  - issuing Aviation Security Identification Cards;
  - new licensing arrangements such as Multi-crew Pilot Licences and categories of Maintenance Personnel Licences;
  - enhancing oversight of industry growth sectors; and
  - service delivery initiatives.
41. With the passage of the *Airspace Act 2007*, as of 1 July 2007 CASA assumed responsibility for **regulating and administering Australia's airspace**, previously the responsibility of Airservices Australia. The Office of Airspace Regulation (OAR) was set up to carry out this function and was in place as of 14 June 2007 to enable a smooth transition. The

OAR has now been incorporated into the Airspace and Aerodrome Regulation Group (AARG).

42. The Australian Airspace Policy Statement (AAPS), issued by the previous Government, was developed to address issues raised by a number of airspace users. CASA is working collaboratively with the DITRDLG to develop a revised AAPS.
43. CASA has been tasked with the introduction of the Government's **alcohol and other drugs testing program** including random drug testing by CASA authorised testers, and the introduction of Drug and Alcohol Management Plans for operators who employ people in safety-sensitive aviation roles. Towards the end of 2006, CASA completed 34 national workshops, highlighting to industry the safety benefits of the regime and the basics on how it might work. Regulations have been developed setting out how the scheme will operate and are expected to be made soon.
44. Amendments to the CA Act to include security requirements have led to CASA becoming an issuing body for **Aviation Security Identification Cards (ASICs)**. Delays, largely outside the control of CASA, initially occurred in relation to security checking. CASA has taken steps to improve ASIC delivery including business process re-engineering, structural changes and engaging sub-contractors. CASA has reduced the average time for processing an ASIC application from 106 days in January 2006, to 28 days in May 2008.
45. Australia is one of the first countries to trial the **Multi-Crew Pilot Licence (MPL)**. The MPL was introduced by ICAO to facilitate a means of better training co-pilots; emphasising use of simulators; and enhancing and adopting human factors, teamwork and threat and error management concepts. The MPL represents an evolution in pilot training. A trial MPL program is being run by Alteon, Boeing Corporation's training division, in conjunction with an ab-initio training provider. A Notice of Proposed Rule Making with draft rules and guidance material related to the MPL will soon be published for industry comment.
46. As part of its regulatory reform initiatives, CASA is developing new regulations for **maintenance personnel licensing**. These new regulations are modelled in the main on the scheme administered by the European Aviation Safety Agency (EASA). Early voluntary introduction of the maintenance training and licensing outcomes based on the EASA category licences, which are becoming the globally accepted standard for licensing, was achieved by the introduction of Civil Aviation Order 100.66 in February 2007.
47. CASA is establishing a **National Helicopter Office**, a move away from regionally focused allocation and management of CASA's helicopter surveillance and oversight resources. This is a direct response to the unprecedented growth in this sector, the increasingly complex helicopter types being brought on line and the related demand for helicopter specific regulatory service tasks.
48. CASA also has plans to establish a national office to oversight **unmanned aircraft systems (UAS)**, which includes unmanned aerial vehicles, recognising the need for a strategic approach to be taken for the continuing development of the UAS sector within Australia.

49. The **night vision goggles** (NVG) project demonstrates CASA's potential for safety innovation by positive engagement with industry. The project led to the amendment of the relevant Civil Aviation Order allowing holders of Air Operator's Certificates to apply for approval to use NVGs for helicopter operations in categories such as search and rescue and fire fighting. CASA is a world leader in the establishment of regulations and procedures on the use of NVG.
  
50. The development of our **client relationship management** is moving from decentralised, paper-based interactions towards a centralised, on-line system. Technology solutions such as Cyber-exams (which allows delivery of exams at a greatly increased number of venues, and on demand), the Aviation Industry Regulatory System (AIRS) (which contains records of all aviation industry personnel, organisations and registered aircraft) and the first phase of the Self Service Portal (where industry personnel and organisations can update their details on-line, using AIRS) have aided this progress. This approach continues to enable efficiencies and standardisation to occur in service delivery.
  
51. Service standards for CASA's operational groups were implemented in 2006. These are published so that industry is informed about the extent to which CASA is meeting the **service delivery standards** it has set. In addition, CASA established the CASA Licensing and Registration Centre (CLARC) in 2005 which effectively provides a 'one-stop-shop' for pilots, engineers, aircraft owners and others in the aviation industry. For the 12 months to March 2008 CLARC handled over 324,000 inquiries and transactions including 46,000 phone calls and 30,000 aviation medicine-related inquiries. CASA has also implemented improvements to the function of the CASA Service Centre to further enhance service provision.

## Term of Reference

### To examine the effectiveness of CASA's governance structure

52. The key provisions of CASA's internal governance structure are as follows:
- A Chief Executive Officer (CEO) who is also the Director of Aviation Safety; and is also the sole director under the provisions of the CAC Act;
  - Two DCEOs and a number of individually accountable senior managers;
  - An independently chaired Audit and Risk Committee which operates under a Charter, meets at least quarterly, and consists of a majority of independent members;
  - An accountable Chief Financial Officer; and
  - An Industry Complaints Commissioner independent of line management.
53. The CEO provides a **monthly written report** to the Minister for Infrastructure, Transport, Regional Development and Local Government. This report is supplemented by regular meetings between the Minister and the CEO.
54. The two DCEOs account to the CEO for the operations of CASA at a formal monthly meeting. This replicates as closely as possible what used to be the **CASA Board meeting**. These meetings are supplemented by formal monthly meetings where all Group General Managers (GGMs) report to the DCEOs. There are of course a range of ad hoc and special purpose meetings between the CEO, the DCEOs, and the GGMs.
55. CASA continues to maintain an **Audit and Risk Committee**. The committee reports to the CEO, has an external chair and members, has access to internal and external auditors and relevant CASA staff, and oversees a robust internal audit program. CASA has also adopted a Common Risk Management Framework – together with Airservices Australia, the Department of Defence and the Department of Infrastructure, Transport, Regional Development and Local Government (DITRD LG), which ensures a whole-of-government, holistic approach is taken to risk management.
56. Strategic safety is managed through the **CASA Quarterly Safety Review**, which is a regular meeting chaired by the CEO, and attended by the DCEOs and senior managers, to consider strategic aviation safety issues as well as specific operational safety matters. Decisions and recommendations made at the meeting then go to the relevant operational group for implementation.
57. Information on CASA's technical, administrative and operational policy decisions is communicated to staff through **CEO Directives, Policy Notices** and other guidance material including senior management instructions to enhance organisation-wide understanding and application of our functions and priorities.
58. Fraud investigation is handled through the Human Resources group.

## Financial management

59. There are few examples of agencies subject to the CAC Act which do not have a Board structure, but instead have a CEO accountable for the organisation and responsible directly to the Minister. Similarly, there are few examples of *Financial Management and Accountability Act 1997* (FMA Act) Agencies with a governing Board structure.
60. Although not an FMA Agency, whilst operating under the CAC Act, CASA also operates, as far as possible, in accordance with published best practice guidelines such as the principles of the FMA Act, Public Service values and the Commonwealth procurement guidelines.
61. A long term funding strategy (LTFS) was developed and approved in 2004-05 to guide the management of CASA's finances. CASA has been funded for additional regulatory responsibilities (e.g. airspace regulation, alcohol and other drugs testing) since its LTFS was developed and these need to be considered in any comparison of actual financial performance relative to the LTFS. Nevertheless it is clear that CASA's financial management is sound with CASA making steady progress towards achievement of the goals set out in the LTFS, including financial self sustainability with no additional departmental appropriations (other than funding of new functions) and phased implementation of cost recovery. In addition, CASA has successfully built up its cash reserves to cover programmed capital replacement and accumulated employee entitlements. The reports of the ANAO over the past four years are testament to CASA's effective financial management framework.

## Complaints handling

62. CASA has improved its **transparency and accountability** through the establishment of a comprehensive and well developed complaints handling structure - the Office of the Industry Complaints Commissioner (ICC). Since its inception in 2006, the office has received 579 complaints concerning CASA. There is a positive downward trend in the number of complaints received. In 2006 there were 274 complaints; in 2007 there were 220 complaints, and this year, to date, 82 complaints.

## 'Governance' of CASA's external relations

63. Under Section 9 of the CA Act which sets out CASA's regulatory functions, CASA is required to conduct regular reviews of the system of aviation safety. CASA fulfils this responsibility by:
  - producing targeted publications including 'An Assessment of Trends and Emerging Risk Factors in passenger air transport' and 'Safety and the CEO';
  - educating industry through the AvSafety program, which reached over 3000 participants in 2007-08;
  - consulting with industry via forums such as the Standards Consultative Committee (SCC), Regulatory Advisory Panels (RAPs), the Aviation Safety Forum (ASF) the Airspace Consultative Forum (ACF) and industry briefings;
  - participating in the Aviation Policy Group; and
  - oversight of sport and recreational aviation organisations (self-administering organisations).

64. CASA has been proactive in identifying **emerging strategic risks** which may affect the aviation industry, conducting a comprehensive industry survey and issuing a publication on 'emerging trends and risk factors'. Five working groups are being formed as a result and each will examine a major risk category in greater detail to determine future action.
65. CASA's systems approach to safety oversight is multi-faceted. The importance of operators having a safety management system in place has been communicated clearly with positive industry response. Part of this approach is making clear industry's responsibility for safety, and particular emphasis has been placed on the safety responsibility of operators' senior management. CASA's CEO has produced a '**Safety and the CEO**' booklet which has been widely circulated to CEOs in the aviation industry.
66. CASA is devoting considerably more energy and attention to a wide range of **activities calculated to enhance aviation safety**. Deliberately, these do not focus specifically on 'compliance' with regulatory requirements, as compliance is only one part of achieving a safe aviation system.
67. CASA's Safety Promotion office directly encourages the widespread adoption by the aviation industry of best practice safety principles, practices and standards, through developing and producing a wide range of safety information and education materials based on the **analysis of emerging issues** in the industry domestically and worldwide. Considerable effort has gone into identifying industry and other stakeholders' concerns and needs with respect to safety education and communication. This has included surveying industry on their attitudes to safety and analysing data on safety risks identified during normal operations, and contributes to the generation of topics for the AvSafety seminar series and CASA's aviation publications.
68. **Industry briefing meetings** were instituted to enable industry to hear directly from CASA's senior management and also to provide CASA with high level feedback on the key issues facing industry and how industry is delivering safe systems. These meetings are led by the CEO CASA and DCEOs with senior industry members. Further **consultation** is conducted via the SCC, RAPs, ASF and the ACF and more detail is provided on these under the next term of reference.
69. The **Aviation Policy Group** is a regular high level meeting between the CEO CASA, CEO Airservices Australia, the Secretary of the DITRDLG, and the Chief of the Defence Force to consider strategic issues affecting Australia's aviation industry.
70. In recognition of its Industry Sector Priorities Policy and priority focus on passenger carrying activities, CASA has proposed new rules for the administration of sport and recreational aviation by **recreational aviation administration organisations** to give effect to the concept of "simple rules for simple aircraft". Increased opportunities for industry self-administration in other than passenger carrying operations are being considered.



## Term of Reference

**To consider ways to strengthen CASA's relations with industry and ensure CASA meets community expectations of a firm safety regulator**

71. CASA is active in managing its relationships with industry. It does so through:
- Active surveillance programs and industry visits;
  - Consultation on strategic issues and regulatory development;
  - Safety initiatives, including industry education and sponsorship; and
  - Coordinated enforcement procedures.
72. CASA's operating environment comprises over 42,000 licensed industry personnel (including pilots, Licensed Aircraft Maintenance Engineers (LAME) and Air Traffic Controllers); 13,000 registered aircraft; more than 850 general aviation operators; more than 40 airline operators; over 700 maintenance organisations; more than 170 certified aerodromes, 130 registered aerodromes; and 26 air traffic control (ATC) facilities including major ATC centres in Brisbane and Melbourne. CASA also conducts surveillance on over 70 foreign operators, and oversees 9 self-administering organisations. This means that our operational staff are constantly engaged with all sectors of industry, not only carrying out our core safety regulatory responsibilities including **audit and surveillance** but responding to requests for information and assistance and providing education and training.
73. Communication and interaction with industry is a priority for CASA. CASA staff, from administrative and technical staff to the CASA Executive and senior managers, are in regular dialogue with industry and participate extensively in industry visits and forums. Operational communication and safety education messages, and newer initiatives such as the 'industry briefing' electronic newsletter are targeted attempts to reach as many industry members as possible.
74. CASA is required by law to **consult with all interested parties** on aviation safety issues. Consultation on proposals to introduce new or amended legislation is detailed and extensive. One vehicle for such communication is the **Standards Consultative Committee (SCC)** which consists of approximately 40 Australian industry and governmental bodies, including unions and industry associations. The SCC operates through six sub-committees that are broadly representative of the various functional sectors of the aviation industry. These sub-committees are jointly chaired by CASA and industry, and membership comprises a wide range of industry bodies. There are also working groups which work through the detail and report back to the SCC sub-committees. Extensive use is also made of the SCC internet Forum, which provides open and transparent opportunities for discussions on safety issues between industry groups and between industry and CASA.
- 75 **Regulatory Advisory Panels** also involve industry and provide advice to the CEO on the proposed content of new CASR Parts. These panels also ensure that applicable policies and directives for regulatory development have been followed, and that CASA has given due consideration to stakeholder views. The analysis done by the panels is

separate from and additional to that of the SCC and other existing consultative arrangements.

76. As part of meeting its requirement to produce an annual regulatory plan giving stakeholders an early indication of potential changes, CASA's website provides users with links to information on regulatory development projects underway or completed, consultation being undertaken and project status reports.
77. The **Aviation Safety Forum** (ASF) consists of experienced members of the aviation industry who advise CASA on strategic issues. Currently there are 10 industry members on the forum. The ASF contributes to CASA's strategic direction by providing advice on key issues to the CEO.
78. Further to assuming responsibility for airspace regulation on 1 July 2007, the Airspace and Aerodrome Regulation Group conducts regular meeting with industry through the **Airspace Consultative Forum**. This body comprises a wide variety of representative bodies including: Department of Defence, DITRDLG and aircraft operators such as Qantas and National Jet.
79. CASA also runs **industry briefing meetings** to inform industry of, and seek feedback from, senior industry representatives on CASA's strategic direction.
80. CASA provides sponsorship to industry for the introduction and delivery of safety education programs. In 2006-07 this figure was \$198,000.
81. The maturity of CASA's relationship with industry can be seen not only through developments in our safety oversight systems but also in the move to outcome-based regulation to address identified safety risks. Outcome-based legislation allows greater flexibility for industry, without reducing safety standards.
82. In terms of CASA meeting expectations as a firm safety regulator, the effectiveness of the enforcement structure is obviously important.
83. The essence of CASA's **coordinated approach to enforcement**, developed and introduced since 2003, is cooperation and consultation between staff of the operational groups and CASA's Enforcement Policy and Practice branch to determine whether enforcement action of any kind is necessary and/or appropriate; and if so, to identify which particular enforcement tool (or combination of tools) would be most likely to contribute to the optimal safety outcome. Formal decision-making responsibility for administrative and civil action lies with the operational groups. Formal decision-making responsibility for the referral of matters to the Commonwealth Director of Public Prosecutions (CDPP) and for the issuance of Infringement Notices rests with CASA's Legal Services Group.
84. The table below summarises the types of actions CASA can take in performing its regulatory functions.

Compliance-Related Functions	Enforcement Functions		
<p><b>ASSISTING the industry to comply</b>—through general and more specifically targeted safety promotion and educational activities, and through the advice CASA provides on operational and technical matters to individual pilots, engineers and operators;</p>	Administrative Action	Civil Action	Criminal Action
	<p><b>COMPELLING authorisation holders to comply</b>—through the variation, suspension or cancellation of authorisations, the imposition of conditions on newly- issued authorisations, or the refusal to issue an authorisation for which a person has applied.</p>	<p><b>COMPELLING authorisation holders to comply</b>—by entering into and, where necessary, enforcing the terms of voluntary undertakings.</p>	<p><b>PENALISING AND DETERRING non-compliance</b>—by referring matters for prosecution.</p>
<p><b>ENCOURAGING OR EXHORTING individual authorisation holders to comply</b>—through the counselling process and by recommending remedial training.</p>	<p style="text-align: center;"><b>INFRINGEMENT NOTICES – ADMINISTRATIVE FINES AND DEMERIT POINTS</b></p> <p>Technically, the issuance of Infringement Notices, the payment of associated administrative fines and the incurrence of demerit points do <i>not</i> constitute ‘criminal’ enforcement action.</p> <p>However, the non-payment of the penalties prescribed in relation to an Infringement Notice may result in the referral of the matter to the CDPP for prosecution, and the evidence supporting the issuance of such notices needs to be assessed in the light of a potential (criminal) prosecution.</p>		

85. CASA’s new enforcement tools and evolving procedures have proven to be generally effective, successful and well-received by all segments of the aviation industry and the wider Australian aviation community.
86. CASA has developed the capacity to undertake special ‘targeted enforcement’ exercises, focusing on particular kinds of conduct and/or particularly problematic locations. The intent is to better ensure the effective, proactive deployment of our investigative and enforcement-related resources, with a view to responding quickly and efficiently to identified or anticipated safety problems.
87. For example, this year CASA has conducted two large scale weekend audits of parachute operations at Wilton, NSW and York, WA. CASA is currently carrying out a targeted surveillance and enforcement operation in Northern Australia. Planned in early 2008, this involves spot audits on pilot qualifications, LAME qualifications and aircraft maintenance in order to ensure operators are compliant and safely operating. General Aviation operators in the areas from Cairns through to the top of Queensland, across the Gulf to Arnhem, Darwin and Broome, are being audited. There will also be opportunity for operators to seek advice and guidance on safety issues.
88. CASA aspires to be a firm regulator, but some of the changes to the CA Act introduced in 2003 have had the effect of making it **more difficult for CASA to take firm regulatory action** when such action is necessary in the interests of safety. There are a

number of cases to use as examples, including the airline involved in the Lockhart River tragedy, Transair.

89. One of the most problematic of the new provisions is the **automatic statutory stay** of CASA's decisions to suspend or cancel any civil aviation authorisation, including Air Operator's Certificates (AOCs). Under the existing legislation, most decisions of this kind are automatically stayed for five days, and for a further 90 days thereafter, if the person affected by the decision lodges an application for review in the Administrative Appeals Tribunal (AAT) within the initial five-day period. If the Tribunal is unable to hear and decide the appeal within 90 days, it may, and almost invariably, does extend the stay until it is able to do so.
90. In virtually every case in which CASA has decided to suspend or cancel a licence or an AOC since this new provision was introduced, the persons affected have **lodged applications** for appeal in the AAT, **secured** an automatic stay, and **continued to operate** for several months after CASA has determined that it is not safe for them to do so. In no case since the new legislation was introduced has an appeal been heard within the 90-day period.
91. If, during this period, the pilot or operator is able to operate without accident, this is likely to militate strongly against any decision the AAT might otherwise be inclined to make in support of CASA's initial decision to suspend or cancel. This effectively negates CASA's reasoned and expertly informed decision that an unacceptably unsafe situation existed that required firm responsive action from the safety regulator.
92. One recent example of this involves Transair, the operator involved in the tragic accident at Lockhart River in 2005. Transair continued to operate in the wake of that accident, because there was insufficient evidence to hand at the time to show that it was unsafe to permit them to do so. Subsequently, CASA determined that there were maintenance problems of a significant nature, but not demonstrably sufficient to support action for an immediate suspension under the 'serious and imminent' risk provisions of the CA Act, the only effective alternative remedy available. CASA initiated a show cause process, eventually determining that there were grounds warranting cancellation of Transair's AOC which occurred on 24 October 2006. Transair lodged an application for review in the AAT (which required no showing that they had a sustainable case) and the automatic stay provisions took effect immediately. Transair was operating on the basis of that stay when CASA was provided with additional information not previously available. It was only with this information in hand that CASA was able to initiate action to suspend Transair's AOC on 'serious and imminent risk' grounds. Shortly after this, Transair decided to voluntarily surrender their AOC rather than to contest CASA's decision in the Federal Court.
93. More recently, CASA took action to cancel the licences of a pilot who conducted passenger-carrying operations in a dangerously over-loaded helicopter on a regular basis. In the course of its investigation, CASA uncovered further evidence of serious breaches of safety legislation, an apparently undisclosed medical condition with potentially significant safety implications, and misconduct bearing directly on the pilot's honesty and integrity in connection with his professional aviation-related activities. Within two days of CASA's decision to cancel his licences in December 2007, the pilot lodged an application for review in the AAT. When the automatic 90-day stay was about to expire, he sought and secured a further stay from the AAT, which remains in effect today—

more than six months after CASA's initial decision. In support of the continuation of his stay, the pilot argued that, had he posed a genuine risk to air safety, CASA would have suspended his licences under the 'serious and imminent risk' provisions of the Act (which, of course CASA would have done, had the evidence to hand been sufficient to sustain such an action). On this basis, having further regard to the fact that the pilot had flown, fortunately without incident, for several months after CASA had taken its decision to cancel his licences, and in light of the financial hardship the pilot said he would face were the stay to be lifted, the Tribunal took its decision to continue the stay.

94. Most recently, in December 2007, CASA commenced an investigation of Lip-Air, a small regional airline operating in Northern Queensland. After an extensive investigation, CASA initiated show cause action against the operator (Lip-Air t/as Aerotropics), the Chief Pilot, the Check Pilot and a former check pilot in March 2008. After numerous delays sought by the solicitors for Lip-Air, the company responded to CASA on 9 May 2008. The responses from the Chief Pilot and Check pilot were manifestly inadequate so CASA cancelled their approvals by notices dated 2 June 2008. The Chief and Check Pilots, along with the company (as a party affected by those decisions) sought and secured a stay of CASA's decisions, initially from the Federal Court, on 5 June 2008, pending immediate consideration of their applications by the Administrative Appeals Tribunal (AAT). The AAT considered and granted applications for stays later that same day, and the AAT's stays remain in effect until 21 July 2008.
95. In the face of further information and evidence of concern, and without having taken a decision on the Show Cause Notice CASA had previously served on Lip-Air, CASA took action on 27 June 2008 under the 'serious and imminent' provisions of the Act to immediately suspend Lip-Air's AOC, initially for 5 days. CASA will seek an order from the Federal Court to extend the suspension on Friday, 4 July 2008. On 30 June 2008, Lip-Air made public statements indicating that they will be seeking a stay of CASA's decision in the Federal Court before the 5-day 'serious and imminent' suspension period expires.
96. CASA has conducted a comprehensive review of the operation of the new enforcement provisions. That review, informed by experience, has given rise to a number of proposed improvements to CASA's enforcement regime. These proposals include:
  - Requiring that any extension of an automatic stay beyond five-days must be decided by the AAT on the basis of a hearing in which CASA can, where appropriate, present its safety-based arguments against such an extension;
  - Extending the term of enforceable voluntary undertakings from 6 to 12 months;
  - Making it an offence to negligently carry or consign dangerous goods (in addition to existing offences for doing so intentionally or recklessly);
  - Extending the demerit point scheme to apply to relevant civil aviation authorisations acquired within three years of the date on which those points would otherwise have applied to such an authorisation; and
  - Enhancing CASA's ability to ensure that foreign operators flying into and out of Australia are able and willing to conduct their operations safely, and that the regulatory authorities of the countries with responsibility for overseeing those

operators are similarly able and willing to discharge their pertinent safety oversight obligations effectively.

97. CASA is in the process of developing drafting instructions for amendments to the CA Act to give effect to these proposed changes.

## **CONCLUSION**

98. The 'new CASA' is a more industry facing organisation than its predecessors. It has a clear focus on safety outcomes, with the right people in the right positions and with our safety experts spending more time in the field and on the tarmac. CASA's governance structure and management processes are robust, transparent and accountable. We have made major changes to our structure, our geographic locations and the way we do business, including major efforts to improve our industry relationships and consultation processes. Whilst, as outlined above, we face some impediments to being as firm a regulator as we might like, the reforms CASA has implemented continue to drive improvements to CASA's functionality and towards 'safe skies for all'.

## GLOSSARY

AARG	Airspace and Aerodromes Regulation Group
AAPS	Australian Airspace Policy Statement
AAT	Administrative Appeals Tribunal
ACF	Airspace Consultative Forum
AIRB	Accident Investigation Report Review Board
AD	Airworthiness Directive
AOC	Air Operator's Certificate
ANAO	Australian National Audit Office
ASF	Aviation Safety Forum
ATC	Air Traffic Control
ATIO	Approved Testing Officer
ATOG	Air Transport Operations Group
ATSB	Australian Transport Safety Bureau
APMA	Australian Parts Manufacturer Approval
AIRS	Aviation Industry Regulatory System
ARRT	Aviation Regulation Review Taskforce
ASIC	Aviation Security Identification Card
BASA	Bilateral Aviation Safety Agreement
CAC Act	<i>Commonwealth Authorities and Companies Act 1997</i>
CA Act	<i>Civil Aviation Act 1988</i>
CARs	Civil Aviation Regulations (CARs)
CASRs	Civil Aviation Safety Regulations 1998
CAO	Civil Aviation Orders
CDPP	Commonwealth Director of Public Prosecutions
CEO	Chief Executive Officer
CLARC	CASA Licensing and Registration Centre
DITRDLG	Department of Infrastructure, Transport, Regional Development, and Local Government
DCEO	Deputy Chief Executive Officer
EASA	European Aviation Safety Agency
EVU	Enforceable Voluntary Undertaking
FAAOC	Foreign Aircraft Air Operator's Certificate
FMA Act	<i>Financial Management and Accountability Act 1997</i>
GAOG	General Aviation Operations Group
GGMs	Group General Managers
ICC	Industry Complaints Commissioner
IAL	International Airline Licences
ICAO	International Civil Aviation Organization
LAME	Licensed Aircraft Maintenance Engineers
LCRPT	Low Capacity Regular Public Transport
LTFS	Long Term Funding Strategy

MPL	Multi-Crew Pilot Licence
NVG	Night Vision Goggles
OAR	Office of Airspace Regulation
OLDP	Office of Legislative Drafting and Publishing
RAP	Regulatory Advisory Panels
SCC	Standards Consultative Committee
SMS	Safety Management Systems
UAS	Unmanned Aircraft Systems