

28 June 2008

By Electronic Submission & Mail

Senator Glenn Sterle
Chair Senate Rural and Regional Affairs and Transport Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Email: rrat.sen@aph.gov.au

Our Ref: G40-0056

Dear Senator Sterle,

Re: AIPA Submission to Senate Inquiry into the Administration of the Civil Aviation Safety Authority (CASA) and related matters

The Australian and International Pilots' Association (**AIPA**) is the professional Association representing pilots and flight engineers employed by Qantas Airways Ltd and its wholly owned subsidiaries ["the Qantas Group"] in airline operations within Australia and around the world. AIPA represents over 2,300 professional airline transport category flight crew and is the largest professional pilot body in Australia.

AIPA appreciates the opportunity to provide the views of flight crew on the Administration of the Civil Aviation Safety Authority (**CASA**) and related matters to the Senate Rural and Regional Affairs and Transport Committee.

The Association encourages the Committee to view flight crew [pilots and flight engineers] as an essential part of a quality control process that ensures safety remains at the centre of aviation decision making—an independent role that AIPA believes to be increasingly important.

The current aviation environment is one of accelerating economic liberalisation, in which operators are exposed to ever stronger competitive and cost based pressures. Simultaneously, Australia is shifting toward an outcome based regulatory model that requires industry participants to assume greater levels of responsibility for regulatory safety compliance. This responsibility is set to sharply increase in the near future as the next phase of Australia's Regulatory Reform Programme is implemented.

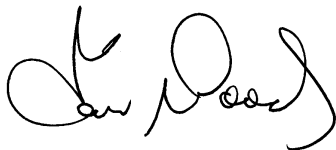
However, unless carefully monitored, pressures created by liberalised aviation markets may be at odds with increased regulatory self-responsibility. This potential conflict highlights the need for a vigilant, effective and impartial safety regulator to ensure proper safety standards are not undermined by commercial pressure.

In response to this challenge, AIPA has focused attention on CASA's independence from the industry it regulates and the effectiveness of compliance enforcement systems. Unfortunately AIPA believes that CASA has not met the required standards in these critical areas, and is unable to act as a necessary counterweight to balance shifting economic and regulatory frameworks.

While such concerns have lead airline pilots to adopt a position critical of CASA performance, AIPA nevertheless acknowledges that the role of the aviation regulator is challenging and complex. AIPA contends that in order to effectively address these structural challenges CASA requires a stronger board based governance structure and a more responsive compliance enforcement system. Additionally, as CASA moves to the next stage of outcome based regulatory reform, it will also require greater vigilance and extra resources for monitoring safety compliance.

Please contact me if I can provide any additional information, clarification or assistance.

Yours sincerely,

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

Captain Ian Woods
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Submission

Introduction

1. Few other stakeholders have worked as collaboratively with the Civil Aviation Safety Authority as airline pilots; or over as long a period. AIPA has been a key consultation partner and member of the Standards Consultative Committee (SCC)—the body under which CASA currently facilitates its consultation obligations under §16 of the *Civil Aviation Act 1988*—since the SCC’s inception, contributing personnel, resources and expertise to regulatory development activities, Sub-Committees and Project Teams. AIPA has always stood ready to assist CASA with the high-level expertise of its members—considered by many to be among the most experienced and respected flight crew in the world.
2. This extensive involvement has required a significant allocation of resources; a fact that underscores the Association’s organisational policy of collaborating with the Government to ensure the appropriate evolution and safety of the Australian air transport system. AIPA believes the Australian public expect this level of input from their nation’s professional flight crew.
3. Unfortunately, however, in recent years a widening gap has developed between airline transport pilots and CASA. While this submission will speak to the detail of the issues that are propagating this divergence it can, in principle, be traced to pilot concerns about the ability of CASA to effectively address the growing tension developing between the economic framework within which aviation services are provided and the simultaneous shift toward an outcome based regulatory model.
4. Airline pilots accept that liberalising aviation economic policy is within the mandate of Government. Similarly, pilots do not oppose outcome based regulatory models *per se*. Rather, AIPA seeks to highlight that within safety sensitive environments, competition policy must be balanced by regulatory vigilance and backed by sufficient resources for safety compliance if existing standards are not to be undermined. The challenge to Government is therefore to demonstrate that economic and trade-in-services policies are wholly consistent with aviation safety and security goals. AIPA believes that strategic economic policy and regulatory oversight harmonisation is imperative; implemented in isolation, each has the potential to seriously undermine the other.
5. Pilots are concerned that CASA is not able to manage the safety implications arising from a contradictory pairing of liberalisation policy with a regulatory model that places increased industry self-responsibility for safety compliance. Quite simply, CASA has not demonstrated that it possesses the necessary independence from industry, compliance enforcement systems or corporate governance standards necessary to meet this challenge.
6. This concern is manifest in CASA’s demonstrated reluctance to conduct enforcement action when breaches of the law are brought to the regulator’s attention, particularly in relation to the most powerful industry segments. Pilot, Licensed Aircraft Maintenance Engineer

and Cabin Crew representatives have all experienced the frustration of bringing regulatory issues to the attention of CASA only to find that action was either not taken, excessively delayed or ineffective.

7. In the case of pilots, since 2005 AIPA has been providing CASA with documentary evidence of breaches to flight crew fatigue legislation and calling for the law to be enforced in the interest of public safety. However, despite the substance of AIPA's complaint being confirmed by the Industry Complaints Commissioner Michael Hart, CASA has consistently refused to act in relation to these breaches.
8. Additionally, AIPA is concerned with CASA's performance in other areas; for example, poor corporate governance, project management and transparency standards in the regulatory development of the Multi-Crew Pilot Licence (**MPL**), inappropriate use of the legislative Disallowable Instrument process and restriction of appropriate stakeholder membership on critical regulatory development Project Teams (such as Alcohol and Other Drugs and CASR 119).

Term of Reference 1

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

9. Aviation is an extremely significant national activity, particularly in a continent as large and remote as Australia. Aviation drives economic growth, social integration and regional development, and supports national defence activities. Aviation services are technically complex and undertaken within fast evolving economic and regulatory environments.
10. The history of the regulation of Australian aviation in the last 15 years has seen powers and functions transferred from an existing public service department into a statutory authority with firstly, a board structure, and since 2003, a chief executive officer alone. While the transition of CASA into a more "responsive" regulator has been facilitated, in recent years, by the structural efficiency of a sole chief executive officer, in AIPA's view, that "responsiveness" has resulted in CASA becoming far too responsive to commercial interests and, in particular, the major operators. Examples of this situation are set out later in the submission but include the issues of non-enforcement of Flight Deck Duty Time rule breaches.
11. While CASA's structure is now more streamlined and there have been significant changes both in corporate attitudes and personnel, the lack of balance in the way CASA relates to stakeholders leads AIPA to conclude that the administrative reforms undertaken by CASA management since 2003 have not been effective. Given this situation and considering the economic and regulatory challenges highlighted above, AIPA considers that a more robust and effective administrative structure is required.

12. Similar to comparable regulators or commercial organisations, AIPA recommends the establishment of a board for CASA. In AIPA's view, a board would improve the balance of the organisation in setting policy, corporate direction and culture. Further detail on this recommendation is provided under Term of Reference 3 below.

Term of Reference 2

To examine the effectiveness of CASA's governance structure

Introduction

While there is no generally agreed definition of 'corporate governance' in the literature, the former Commonwealth Auditor General, Pat Barrett, in a speech given in 2002 stated that it is:

"Understood to encompass how an organisation is managed, it's corporate and other structures, its culture, its policies and strategies, and the ways in which it deals with its various stakeholders.¹"

While public sector corporate governance raises many of the same issues as in the private sector, the legislative framework within which public sector entities, such as CASA, operate is a distinguishing feature.

Pat Barrett went on to identify six main principles that he believed public sector entities should aspire to in order to achieve "better practice governance":

"Three of these elements – leadership, integrity and commitment - relate to personal qualities of those in the organisation. The other three elements – accountability, integration and transparency – are mainly a product of strategies, systems, policies and processes in place. "

This submission focuses on two of these principles – integrity and transparency – and provides examples of CASA's failure to implement them.

Integrity

Barrett identifies integrity as being based on:

¹ Pat Barrett, Auditor General for Australia. *Achieving Better Practice Corporate Governance in the Public Sector*. Australian National Audit Office, Canberra

“honesty and objectivity, as well as on high standards of propriety and probity in the stewardship of public funds and the management of an agency’s affairs. It is dependent on the effectiveness of the control framework and on the personal standards and professionalism of the individuals within the agency. Integrity is reflected in the agency’s decision-making practices and procedures and in the quality and credibility of its performance reporting.”

Multi Crew Pilot Licence (MPL)

13. AIPA submits that CASA has demonstrated a lack of integrity in the way it has dealt with the legislative development of the Multi Crew Pilot Licence (MPL) and, in particular, demonstrated poor standards of project management and corporate governance. Such concerns have been an ongoing feature of the development of the MPL since 2006.
14. In addition to AIPA’s specialist knowledge of flight crew licensing and training systems, these concerns have been informed by the support of the International Federation of Air Line Pilots Associations (IFALPA). IFALPA has significant international experience in MPL development, having been a founding member of the International Civil Aviation Organisation (ICAO) Flight Crew Licensing and Training Panel that developed the MPL concept.
15. Both AIPA and IFALPA were concerned that the MPL concept was not fully understood by CASA, and there was a strong need to educate Australian Flight Training Organisations, airlines and other stakeholders. The MPL philosophy is a new and as yet unproven concept that is a significant departure from existing pilot instruction methodologies. Proper analysis of the MPL on a scientific basis is required to prove that the philosophy is a sound procedure that meets (or exceeds) the current level of safety provided by traditional training methods.
16. Considering these issues, and the haste with which AIPA perceived that CASA was seeking to implement this significant new licensing and training concept, AIPA sought to consult closely with CASA on the development of the MPL. AIPA found this consultation and the associated regulatory development activities to be unnecessarily frustrating and difficult due to inefficiencies, obfuscation and poor project management standards.
17. The following issues arose in relation to CASA’s MPL development programme:
 - a. Documents of significant technical complexity, upon which meetings were based, not provided until the day before Project Team meetings;

- b. Support documents and information necessary to meaningful consideration of meeting issues (widely available in international MPL fora) not provided by CASA despite multiple requests by AIPA;
- c. Exclusion of prominent subject matter experts who had previously been accepted as members of the MPL Industry Panel. This notably included IFALPA (member of the ICAO MPL development panel) and Boeing Alteon Training (the pilot training organisation conducting the then-world's first MPL training course);
- d. Provision of a poor quality draft Notice of Proposed Rule Making (**NPRM**) that AIPA considered fundamentally deficient, grossly subjective and misleading;
- e. The Terms of Reference for the Project Team were not issued (despite constant requests from AIPA) until eight months after the formation of the MPL Project Team (AIPA had proposed Terms of Reference in September 2006 at the Industry Panel meeting that preceded the creation of the Project Team);
- f. Minutes from previous meetings remained outstanding for unacceptably long periods and were then not provided in a standard [CASA/SCC style] format. Additionally, despite continuous requests from AIPA, the minutes regularly omitted significant statements made on the public record at Project Team meetings;
- g. Multiple requests and liaison with the Minister's office and Senate Rural and Regional Affairs and Transport Committee were necessary before CASA required SCC and MPL Project Team members to declare relevant commercial interests. AIPA still does not believe that an effective due diligence process was carried out by CASA in relation to the regulatory development of the MPL;
- h. Throughout the MPL development and drafting process CASA has not managed the project in a manner that has facilitated editing or the tracking of amendments (track changes not used and working documents for amendment provided in PDF format). These minor issues have made the Project Team review inefficient and frustrating;
- i. A last significant issue relates to CASA often not honouring agreements clearly recorded in Project Team minutes. In these cases documents subsequently provided by CASA often did not reflect agreed meeting outcomes or changes were included without Project Team notice or reference. As a consequence, a level of uncertainty and scepticism developed that made it necessary for AIPA to carefully review each separate document for changes or additions that had not been discussed.

- j. As an example, the May 2007 Project Team meeting agreed to remove a provision that CASA had inserted in the Civil Aviation Regulation (**CAR**) 5 amendment drafting instructions². This provision allowed CASA to make future alterations to the Regulations and Civil Aviation Advisory Publication (**CAAP**) without notification. The meeting minutes record this agreed action as '**5.940 (3) Delete provision. Consensus was reached to remove this clause as it does not comply with ICAO.**' However, at the November 2007 Project Team meeting the provision was found to have been re-introduced into the MPL legislative drafting instructions (without any external CASA reference or Project Team notification).
18. This poor level of propriety and project management undermined faith in CASA's integrity, reduced the efficiency (and subsequently the effectiveness) of regulatory development activities and made it necessary for AIPA to struggle with CASA at every step of the process. It would be fair to say that this experience negatively coloured the view of pilots across a range of consultative matters with CASA.

Flight Deck Duty Time

19. AIPA's confidence in CASA's integrity and safety compliance enforcement system has been significantly undermined by their failure to act in regard to an important regulatory breach that the Association first brought to the Regulator's attention in 2005. For more than three years AIPA has been requesting CASA act to enforce the law with respect to the Flight Deck Duty (**FDD**) time fatigue provisions of Civil Aviation Order 48 General Exemption (**CAO48E**):
- a. In July 2005 AIPA wrote to CASA requesting confirmation of the method of determining FDD time. AIPA informed CASA that as members were now operating under CAO48E, the method of measuring FDD time had become an issue requiring *prompt* determination due to airlines using an alternative definition of FDD time to that defined by the legislation;
- b. AIPA highlighted that in order to deliver equivalent safety outcomes to CAO48, the General Exemption required that time spent on the flight deck conducting necessary pre-flight and post-flight activities for each sector must be counted as a component of the overall flight duty limits. Although this was clearly specified within the CAO48E definitions as '*the total time a crew member is on duty on the flight deck in a flight duty period*' some operators were using "blocks time" (i.e. the time an aircraft moves under power until

² CASA MPL Project Team Minutes 020507 8.1.3., '*... CASA would consider alternative means of compliance with the guidelines contained in the CAAP.*'

the time it parks at the completion of a flight) instead. AIPA noted that while it was anticipated that a new Fatigue Risk Management System (**FRMS**) would resolve such issues, the matter required immediate CASA compliance review;

- c. On 12 August 2005 Mr Arthur White of CASA (Acting Group General Manager) replied to AIPA confirming '*time spent on the flight deck conducting necessary pre-flight and post-flight activities for each sector within a flight duty period should be counted as flight deck duty*'. The effect of this confirmation was that flight duty periods being scheduled on the basis of "blocks time" were outside the law;
- d. However, on 31 August Mr White again wrote to AIPA rescinding the previous advice and advising that CASA now considered flight deck duty to only apply to the period when the aircraft was *airborne*. The previously illegal flight schedules we now sanctioned as legal, despite the clear definition of flight deck duty time in CAO48E. Mr White stated CASA would investigate the matter further and seek legal advice.
- e. Given the obvious clarity of the CAO48E definition, AIPA was unable to understand the basis upon which CASA could conclude it applied only to airborne time and immediately requested clarification. After waiting more than 12 months for CASA to investigate and pursue legal advice [multiple telephone requests for action] in September 2006 AIPA wrote to Mr Patrick Murray (Group General Manager Air Transport Operations Group) to request resolution of the outstanding safety matter. Mr Murray responded by assuring AIPA that the matter had been given a high priority and he would soon have the appropriate information;
- f. On 17 October AIPA again wrote to Mr Murray requesting a determination of the method of calculating 'flight deck duty time.' Mr Murray responded that CAO 48 would eventually be replaced by an outcome based rule managing fatigue (i.e. FRMS). However, he informed AIPA that was still some way off and that CASA was in the late stages of re-writing the CAO 48E and this would hopefully resolve this matter. Mr Murray stated that the "new CASA" no longer had a Standards Division and that the redraft, which was being managed by the Personnel Licensing section, would be available soon;
- g. Receiving no further advice from CASA for five months, AIPA raised the issue at the March 2007 meeting of the SCC. AIPA requested that as CAO48E was not providing fatigue risk mitigation (i.e. was being ignored with impunity), the Committee endorse the cancellation of CAO48E and that the proposed

FRMS Industry Panel begin developing alternative FRMS-focused Flight Time Limitation rules. No objection to this request was made;³

- h. On 6 August 2007 (following inability to gain an outcome after more than two years of direct CASA and SCC representation) AIPA wrote to Industry Complaints Commissioner Michael Hart requesting he review the matter;
- i. On 10 August 2007 Commissioner Hart replied to AIPA stating the Flight Deck Duty Time definition (within the CAO 48 General Exemption) is '*clear and unambiguous*' and that '*it is not within the lawful prerogative of any operator to place or invent any other interpretation with respect to the meaning of those words.*' However, the Commissioner concludes that he finds no evidence that any operator is using alternative definitions to that required by the law;
- j. On 23 August 2007 AIPA provides the CASA Complaints Commissioner with relevant extracts from the Qantas and Jetstar flight manuals detailing use of an alternative Flight Deck Duty time definition based on "blocks time" and thereby operating outside the law. AIPA notes that the CASA approval of the operators' Air Operator's Certificates is based upon the inclusion of these [illegal] definitions;
- k. On 31 August 2007 the CASA Complaints Commissioner again replies to AIPA agreeing that the law is not being complied with and advising that he will seek a response from the CASA Group General Manager Air Transport Operations (Patrick Murray);
- l. On 3 September 2007 AIPA writes to CASA Group General Manager Air Transport Operations Group, Patrick Murray, outlining Commissioner Hart's finding and requesting CASA take regulatory enforcement action directing Flight Deck Duty Time compliance;
- m. On 4 September 2007 AIPA writes to the [then] Transport Minister Vaile requesting he impress upon CASA the necessity of non-discretionary enforcement of the law;
- n. On 5 November 2007 DoTaRS' Executive Director Aviation and Airports Division, John Doherty replies to AIPA on behalf of Minister Vaile. The DoTaRS letter ignores the evidence provided by AIPA and CASA's existing non-enforcement of this public safety issue, repeating CASA's oft repeated justification that new fatigue rules will be developed in future. The letter

³ SCC Operations Sub-Committee Meeting notes (final), Action Item 1/2007., Page 4, Section 4 CAO 48 Standard Exemptions.

concludes by encouraging AIPA to provide any breaches of regulations to CASA for investigation!

- o.* On 20 December 2007 Deputy CASA CEO Carmody responds to AIPA on behalf of CASA Group General Manager Air Transport Operations Group, Patrick Murray, stating that CASA is aware that Qantas and Jetstar are using alternative definition to those required by the regulations, but that the *'practical effect of this difference is minor.'* CASA do not propose to enforce the FDD law and cite at length the development of proposed new FDD laws. The development of new regulations is implied to be the basis for CASA not enforcing the current law;
- p.* No further official correspondence from Commissioner Hart or CASA is received; Lacking independent statutory powers, Commissioner Hart is obviously unable to influence or force CASA to act on this matter;
- q.* At the 28 May 2008 Estimates Hearings, the Senate Rural and Regional Affairs and Transport Committee Chair Senator Glenn Sterle raised the issue with CASA. CASA Deputy CEO Carmody was unable to articulate why CASA has not acted in relation to the CAO48E breach reported by AIPA. Mr Carmody took many of the questions relating to why CASA had not acted on notice to report back to the Committee at a subsequent Hearing. AIPA awaits these answers with interest. However, Mr Carmody did state he believed that CASA's duty to apply law was non-discretionary:

 - **CHAIR**—... *Does CASA believe it has discretion enforcing compliance with the regulations under its authority?*
 - **Mr Carmody**—*I do not believe we have discretion.*

20. The current position remains as it was three years ago when AIPA first raised this matter with CASA; the law continues to not be enforced with respect to pilot Flight Deck Duty time regulatory compliance.

Transparency

21. Barrett further proposes that better practice corporate governance in the public sector requires transparency and notes that:

"Openness, or equivalent transparency, is about providing stakeholders with complete confidence regarding the decision-making processes and actions of public sector agencies in managing their activities. Being open, through meaningful consultation with stakeholders and communication of complete, accurate and transparent information, leads to effective and timely action,

thus enhancing the processes of scrutiny. Such transparency is also essential to help ensure that public bodies are fully accountable and is therefore central to good governance overall.”

22. AIPA's submits that CASA has failed to be open and transparent with stakeholders and has frequently failed to consult or to meaningfully consult with stakeholders.

Disallowable Instruments

23. Beginning in May 2007 CASA began issuing Disallowable Instrument approvals for Australian operators to reduce cabin crew numbers on Boeing 737 -800, Airbus A320 and Embraer EMB120 aircraft types. Despite the requirements for consultation under the *Legislative Instruments Act 2003*, CASA issued these Instruments, and conducted the associated approval process, in complete and absolute secrecy—without advising or consulting with pilots (AIPA) or the Flight Attendants' Association of Australia (FAAA). Neither was any discussion undertaken with the SCC, any other stakeholder or notified publically by CASA.
24. In June 2007 the Senate Regulation and Ordinances Committee issued Interim Report 113 - *Consultation under the Legislative Instruments Act 2003*, criticising regulators for not abiding by [or being cognizant of] their consultation obligations pursuant to the Act. In AIPA's view CASA had clearly acted in a manner similar to regulators criticised by Report 113, although considering the complete undermining of the existing Australian standard likely to result, CASA's breach appeared far more significant than any cited by the Report.
25. CASA had acted in this manner despite being fully aware that the issue of crew numbers was an extremely contentious one that had generated significant controversy at the previous NPRM review of the Australian crew ratio law (NPRM 02110S). This NPRM had fully examined this matter and had not been able to provide a safety case to support changing Australia's higher crew safety standard, an outcome that had achieved the broad support of Parliament. In spite of this, CASA bypassed its obligations under the LIA and secretly used the Disallowable Instrument process to permit lower crew numbers. Both AIPA and the FAAA believe the approvals, which required passengers to assume trained crew member emergency functions, were technically flawed and lowered safety standards.
26. In addressing subsequent questions in relation to their use of the Disallowable Instrument process, CASA has advised the Minister and the Senate Regulations and Ordinances Committee that reducing crew numbers without any consultation whatsoever, and in particular not talking to the pilot or cabin crew Associations, represented consultation that was “appropriate” and “reasonably practicable.”

27. AIPA find this response unacceptable and is extremely concerned to find that in such important legislative processes, which concern vital matters of public safety, CASA's systems and corporate governance facilitate a complete lack of transparency and failure to consult and commercial prejudice. The result of bypassing specialist input, whether dissenting or not, is the creation of organisational bias toward poor quality regulatory decision making.

Alcohol and Other Drugs Project and CASR 119 Projects

28. As noted above, AIPA has traditionally been a close consultation partner with CASA, and its forebears. On the whole, CASA understood the necessity to seek the views and expertise of the pilots conducting the actual operations regulated. Better and safer regulations have developed as a result, to the benefit of all parties and users of Australia's air transport system. However, since 2003 a trend has been developing wherein consultation has been becoming less inclusive and meaningful, particularly where AIPA views are dissenting or have industry cost implications.

29. AIPA has noted a tendency for CASA to exclude stakeholders from Project Teams or consultation activities based upon the criteria of subject matter expertise. Rather than not possessing particular subject matter expertise, AIPA was excluded from two important Project Teams on the basis that they already contained members with flight crew knowledge/experience; CASA claimed that AIPA representation was therefore not required. As the largest flight crew Association in Australia and the only representative of long haul international flight crew this contention was hotly disputed. While AIPA did not dispute the presence of any other stakeholders on Project Teams, the Association believed its members were clearly stakeholders in the issues under consideration, merited representation and contributed in the safety interests of all.

30. For example, CASA, excluded AIPA in this way from formal membership of the Alcohol and Other Drug (**AOD**) Project Team (provided with observer status) and from the Civil Aviation Safety Regulation (**CASR**) 119 Working Group. While (to the credit of the CASA AOD Project Team Manager) AIPA was able to significantly contribute from the "unofficial" observer position, and subsequently made one of the most detailed contributions to the development of AOD regulations, such exclusion was seen by pilots as petty and retributive. With respect to the CASR 119 working group, considered a foundation regulatory Part that underpins other rule sets critical to pilots, no Project Team membership was permitted. AIPA submits that this exclusion is inappropriate, will lead to the development of a lower quality safety standard and is not in the public interest.

Term of Reference 3

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

In response to the issues raised in this submission, AIPA proposes four recommendations to build confidence in CASA's governance and administration, improve relations with stakeholders and meet community expectations as a firm regulator:

Recommendation 1

Establishment of a board for CASA to deal with policy setting, direction and culture and "provide the 'tone at the top'".

This recommendation was discussed under Term of Reference 1.

Recommendation 2

The board should be small in number – say 5 persons in total – with a significant depth of aviation and critical industry risk related skills, knowledge and experience. The reputation and experience of the board members should be such as to be widely respected by a cross-section of aviation stakeholders.

In order for CASA not to become bogged down in a slow, bureaucratic structure, the board should be small in number, responsive and made up of respected industry or relevantly skilled persons. It is essential that board members be widely respected in the industry and be from a range of backgrounds.

Recommendation 3

That the CASA Industry Complaints Commissioner be established as a separate statutory office and be given powers to investigate and report to the CASA board and Minister on complaints in regard to CASA administration.

At present, CASA stakeholders have very limited means of taking issue with decisions and actions (or non-actions) made by CASA outside of the political or legal processes both of which can be slow, complex, uncertain and, in regard to the latter, costly.

In AIPA's experience, the current CASA Industry Complaints Commissioner (**ICC**) provides a valuable service although one which could be significantly improved. In particular, AIPA dealings with the ICC on the issue of Flight Deck Duty time demonstrate that the ICC lacks a means of implementing or enforcing his decisions. While there is a fine line in such matters, AIPA believes that enforcement powers are not appropriate but that a statutory basis for the office including powers in regard to access to documents and decision-makers and the power to report to the CASA board and Minister would be appropriate.

AIPA believes that the creation of a statutory basis for the ICC would also increase confidence of stakeholders in regard to CASA and provide a balanced mechanism for stakeholders to take issue with operational decisions made by CASA.

Recommendation 4

That the Government investigate a more appropriate and responsive compliance enforcement system for CASA. Such an investigation would be informed by reviewing comparable international regulators and the enforcement compliance mechanisms available to those bodies.

The continuing liberalisation of aviation markets and competition policy, as CASA moves to a system of outcome based regulation, means that CASA must possess the most appropriate and flexible compliance enforcement regime available to it. In this regard, AIPA believes that further investigation should be undertaken to determine which system, or features, should form part of the regime. In particular, information on the compliance enforcement regimes of comparable regulators would be very relevant.

—oOo—