

Additional Comments by Senator Xenophon

1.1 In recent months I have been contacted by dozens of pilots and crew members who are concerned about the lowering of standards and the quality of training and the impact this may have on safety in the skies.

1.2 One pilot said to me: "Better a Senate Inquiry now, than a Royal Commission later", and while that may sound dramatic, that sums up just how serious the concerns are.

1.3 There are very real issues here to do with aviation safety and this Inquiry has been useful to uncover many of these and to recommend crucial reforms.

1.4 Every day, tens of thousands of people put their trust in pilots to get them from 'Point A' to 'Point B' safely in Australia, and with the advent of low-cost carriers it's fair to say more and more people are flying more and more often.

1.5 This shift towards low-cost models has meant that airlines are trying to trim costs wherever they can. We need to ensure that this does not affect safety standards.

1.6 Just because flights are getting cheaper does not mean standards should fall. Safety in the skies is something that cannot be chanced.

1.7 Australia's aviation reputation internationally is an exemplary one. And we need to do whatever it takes to ensure that this remains the case.

1.8 However, the culture within parts of the industry is currently one of fear of retribution for speaking out over safety concerns.

1.9 While this culture exists, and while pilots and crew are afraid to speak out about their concerns because of the repercussions it may have on their job, issues such as the quality of training and safety standards cannot be addressed.

1.10 It was not my intention as mover of the Bill to give blanket immunity for deliberate, reckless or grossly negligent violations of aviation safety standards under Clause 19A(2) of the Bill; rather, the intent is to enforce 'just culture' so that prosecution or punishment will not follow reports of un-premeditated or accidental breaches of regulations.

1.11 It should also be noted that the intention of the Bill is also not to impede or interfere with the taking of genuine safety-related actions.

1.12 Accordingly, Clause 19A(2) should be passed with amendment, such that:

- (a) Ensure legitimate safety actions in all circumstances where a report has been made; and,
- (b) To qualify the protection to exclude deliberate, reckless or grossly negligent conduct.

1.13 Furthermore, in relation to the ATSB's comments that Clause 19A(1) may already be covered under the Criminal Code, there is still some ambiguity under the current Code and the proposed amendment would assist in removing that ambiguity.

Recommendation

The committee recommends that the Transport Safety Investigation Amendment (Incident Reports) Bill 2010 be passed with amendments to remove any ambiguity with regards to deliberate, reckless or grossly negligent violations of aviation safety standards.

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