



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE

**Reference: Civil Aviation Legislation Amendment (Mutual Recognition with
New Zealand) Bill 2005**

MONDAY, 29 AUGUST 2005

CANBERRA

BY AUTHORITY OF THE SENATE

INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to:
<http://parlinfoweb.aph.gov.au>

SENATE
RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION
COMMITTEE

Monday, 29 August 2005

Members: Senator Heffernan (*Chair*), Senators Ferris, McEwen, McGauran, Milne and Sterle

Participating members: Senators Abetz, Adams, Allison, Bartlett, Mark Bishop, Boswell, Brown, George Campbell, Carr, Chapman, Coonan, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Fielding, Hogg, Hutchins, Lightfoot, Ludwig, Lundy, Sandy Macdonald, Mason, McLucas, Nash, Nettle, O'Brien, Payne, Robert Ray, Santoro, Stephens, Trood, Watson and Webber

Senators in attendance: Senators Ferris, Heffernan, McEwen, McGauran, O'Brien and Sterle

Terms of reference for the inquiry:

Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand) Bill 2005

WITNESSES

BARTLETT, Mr John Raymond, General Manager Safety Systems, Virgin Blue Airlines Pty Ltd.....	19
CHILVERS, Mrs Merrilyn, General Manager, Aviation Operations, Aviation and Airports Business Division, Department of Transport and Regional Services	40
HINDER, Ms Nicola Allison, Acting General Manager, Corporate Relations, Civil Aviation Safety Authority	40
LAM, Ms Wancy, Senior Lawyer, Department of Transport and Regional Services.....	40
MACLEAN, Mr Guy, Government and Regulatory Affairs Adviser, Flight Attendants Association of Australia.....	2
O'CALLAGHAN, Mr John Jerome, Government Relations Adviser, Virgin Blue Airlines Pty Ltd.....	19
O'CONNELL, Mr Terry, Executive Director, Australian Federation of Air Pilots.....	33
REED, Mr Steven, President, Flight Attendants Association of Australia.....	2
WHITE, Mr Arthur, Acting Group General Manager, Air Transport Operations Group, Civil Aviation Safety Authority	40

Committee met at 9.14 am

CHAIR (Senator Heffernan)—I declare open this public hearing of the Senate Rural and Regional Affairs and Transport Legislation Committee. The committee is hearing evidence on the committee's inquiry into the Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand) Bill 2005. I welcome everyone here. This is a public hearing, and a *Hansard* transcript of the proceedings is being made. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the order of the Senate of 23 August 1990 concerning the broadcasting of committee proceedings.

Before the committee starts taking evidence, I place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee and evidence given. I remind witnesses that parliamentary privilege does not extend to statements repeated outside the committee's proceedings. Any act by any person which may disadvantage a witness on account of evidence given by him or her before the Senate or a Senate committee is a breach of privilege. While the committee prefers to hear all evidence in public, the committee may agree to take evidence confidentially. If the committee takes confidential evidence, it may still publish or present all or part of that evidence to the Senate at a later date. The Senate also has the power to order the production and/or publication of confidential evidence. The committee would consult the person whose evidence the committee is considering publishing before taking such action.

I also draw to your attention the continuing resolution relating to claims of commercial confidentiality. Under the resolution, a claim to withhold information on the basis that it is commercial-in-confidence can only be made by a minister and must include a statement setting out the basis for the claim, including a statement of any commercial harm that might result from the disclosure of that information.

[9.16 am]

MACLEAN, Mr Guy, Government and Regulatory Affairs Adviser, Flight Attendants Association of Australia

REED, Mr Steven, President, Flight Attendants Association of Australia

CHAIR—I welcome today's first witnesses. Would you like to make an opening statement?

Mr Reed—Thank you. You may recall that both of us appeared before the committee on Wednesday, 12 May last year. We thank the committee for hearing from us today as well.

At the outset, we would like to preface our remarks in relation to the mutual recognition bill by saying that the concept of a closer economic relationship with New Zealand is not something that the FAAA has any opposition to per se. In fact, in some cases, there is much benefit that can be derived from a closer economic relationship with New Zealand and we applaud the government for the stand that it has taken in relation to this. In a strange way, we oppose some of the elements of the bill, not because we assert that there will just be a lowering of safety standards by the adoption of some of the mutual recognition principles but in fact because there is actually some economic detriment to Australian operators in some cases. I am happy to expand on those matters if you would like to go into that with us.

Principally, we say that there is no evidence that there is an equivalence between Australian and New Zealand safety systems. We have not seen anything to indicate that there is an equivalence, because the methodology used to assess safety equivalence we say is largely invalid. Mr Maclean will happily expand on our view in relation to that. We say that the safety assessment that has been used to make the assumptions has not been made public for scrutiny and we believe that it will be appropriate for organisations such as ourselves to have a look at those reports so that we can have a more detailed examination of them. It is our view that the bill should not proceed until the assumptions underpinning them have been scrutinised and indeed tested.

We are not here to be critical of New Zealand per se. However, it is our view that the system requires a lower level of risk mitigation, which is essentially a resource issue in New Zealand. We have a significantly higher standard in Australia. We recognise that there are benefits in the concept of international process equivalents. However, it must be viewed in the context that Australia has the highest standards in the world and we as an organisation representing the largest group of safety professionals have some grave concerns about any aspect of legislation that has the potential to actually lower standards.

We are sure that the committee will recognise that CASA and the one to 36 issue, which is essentially one that we have brought to prominence in our discussions with the committee and which refers to the crew to passenger ratio, has been raised on several occasions. CASA has seen fit to maintain the higher Australian standard on each of the occasions that it has reviewed it. Our principal concern in mutual recognition is that the previous recommendations and work of CASA in relation to the one to 36 crew ratio can be undermined and its safety benefits lost to the Australian travelling public. In the recent

successful evacuations with Air France and indeed Qantas, most recently in Osaka, which I am sure you would be aware of, the actual crew to passenger ratios were in the vicinity of one to 25 in relation to Air France and almost one to 20, which Qantas had on that particular aircraft, which clearly illustrates the positive safety benefits of lower ratios. The principal reason that we are here is mainly as flight attendants on that aspect of the mutual recognition and the dangers.

Senator O'BRIEN—We had some evidence at previous hearings of this committee. Is it fair to say that your primary concern when last before the committee was related to safety and security, and that that is still the case?

Mr Reed—Yes.

Mr Maclean—Indeed.

Senator O'BRIEN—What is the primary role of the cabin attendant? Most paying passengers see the role as making sure people are comfortable and fed, depending on the airline you travel on.

Mr Reed—It is an interesting question. If you ask me, as the President of the Flight Attendants Association, which is a professional organisation representing the flight attendant community, and Mr Maclean, who deals with the more technical aspects of regulation, we would say that we are there principally in the event of in-flight emergencies. As safety professionals we provide the ability for passengers to feel safe on board the aircraft. We are trained recurrently to operate every aspect of the safety equipment on board the aircraft, to evacuate aircraft in the event of emergencies, to fight fires and to provide medical care to passengers. We are taught particular skills in aviation medicine and, principally, we are trained to CASA standards in Australia to comply with all the legislative requirements of the role. As the president of the organisation representing perhaps the largest group of safety professionals in aviation in Australia, I would say that we are particularly proud of the work that CASA has done in Australia in maintaining what we believe are the highest standards in the world in relation to that.

Senator O'BRIEN—Can you update us about the current crew to passenger ratios in Australian and New Zealand aircraft?

Mr Reed—I will defer to Mr Maclean in relation to that.

Mr Maclean—I would like to highlight the fundamental difference that is not often well understood in relation to the crew to passenger ratio in this country. Our ratio is a passenger standard; it refers to one crew member per 36 passengers. The American, European and New Zealand ratios are passenger seat standards. They refer to one to 50 passenger seats. They are like apples and oranges; they cannot be directly compared but they generally are. What you get is an invalid comparison between the number 36 and the number 50, which makes us look artificially low and automatically makes us look as if we are on a great wicket here with an extremely advantageous crew ratio. In the European, US and New Zealand standards, because there is a passenger seat ratio, even if there are two people on the aeroplane there must be the crew ratio of one to 50; in the Australian ratio that could vary at times and the crew numbers could be reduced.

CHAIR—So they drop crew off if the planes are not full?

Mr Maclean—They do not tend to do it as a matter of course because it is operationally very difficult.

CHAIR—I would have thought so.

Mr Maclean—If you leave Australia with fewer crew members and arrive up line you may find it difficult to suddenly increase the crew if the passenger load increases, which it does invariably. But there is the availability to do that.

CHAIR—But for all intents and purposes it is a per seat ratio even though it is per passenger.

Mr Maclean—If I can use the example of Qantas, they have recently published operational safety notices that give them flexibility to operate the aeroplane out of up-line ports, where no crew are available, with a reduced variable number. Under the New Zealand, European or American regulations they could not do that.

CHAIR—But until this point, for all intents and purposes, crewing has really been based on seating.

Mr Maclean—That has been the case in day to day operations; however, Qantas and other operators are starting more and more to adopt the flexibility that the Australian crew ratio provides in being a passenger ratio rather than a passenger seat ratio.

Senator O'BRIEN—Are there different arrangements in place in New Zealand domestically as opposed to internationally?

Mr Maclean—The New Zealanders are permitted under their regulations to operate aircraft with less than one crew member per main floor level exit. That has traditionally not been allowed and has never been done in Australia, although recently we are seeing that the operators are wishing to operate single-aisle aircraft with less than one crew member per main exit, and that would obviously entail less than one crew member in command of a raft, for example, or operating a raft in a ditching. They are now looking for the flexibility to have, in what they refer to as 'exceptional circumstances', less than a crew member per door—so, for example, one crew member on a 737 at the forward end responsible for two doors. We have never done that in this country. It is just starting to arise.

Senator O'BRIEN—So that is the current New Zealand situation?

Mr Maclean—That is the current New Zealand situation, and also it is starting to be discussed and applied in the Australian context. The Australian rules do provide that flexibility.

CHAIR—Do you think that that could tempt anyone to custom-order planes with fewer exits? I have a suspicious mind, you see. That would be the solution, wouldn't it? 'We will fix that—we will have fewer exits.'

Mr Maclean—That has been tried, and in fact a certification requirement for building an aircraft is the 60-foot rule: there must be an exit every 60 feet. Airbus, in fact, did previously try to extend the distance between exits so they could leave out the over-wing exit; that was fought very vigorously by international cabin crew associations through the leadership of the

International Transport Workers Federation, and they did not do that. So I would differentiate between certification requirements when you build an aircraft and operational requirements when you actually operate one—they are two different sets of requirements. So, no, you could not do that under an operational requirement; you would have to change the certification requirement.

Senator O'BRIEN—Internationally, is there a difference between cabin crew as to what their main role is?

Mr Maclean—I would highlight to the committee that the Australian cabin crew are, in my view, the best cabin crew in the world. It is an interesting feature of Australia that Australians, for some reason, are very good at operating complex socio-technical aviation systems. Our pilots are highly professional; our licensed maintenance engineers are second to none; our cabin crew, in that same vein, are also amongst the most professional in the world. We are as good as anyone else, and our standards are as high as anyone else's. However, in an environment of increasing levels of deregulation and self-regulation, those kinds of standards come under pressure, and this is an issue with the mutual recognition bill—that it applies pressure to those kinds of standards.

Senator FERRIS—Can I just clarify one point in regard to your comments about the passenger-attendant ratio in relation to Qantas. What about Virgin Blue and Jetstar? Or is it across the board?

Mr Maclean—I was just using Qantas as an example.

Senator FERRIS—What about the others?

Mr Maclean—It is across the board. It applies to any Australian-registered aircraft. If it is a VH-registered aircraft, it must meet the same requirement.

Senator O'BRIEN—But what about aircraft operating in Australia—international flights that come in and out of Australia? They operate under their laws.

Mr Maclean—This is where we have concerns; these are the safety implications: under this bill, a New Zealand-registered aircraft, for example, could operate in Australia solely under the requirements and oversight—indeed, this is what this bill is about—of the New Zealand civil aviation safety authority. They do not oversee safety to the same standard as we do in Australia. It is not that they cannot do it or that they are no good at it—they just do not do it. For example—and I think it is a good example—I am not aware that the New Zealand civil aviation authority has any cabin safety auditors who are specialist cabin safety operators. CASA has a team of safety compliance officers—

CHAIR—Can I take you back to June 2004—sorry to interrupt, Senator O'Brien—

Senator O'BRIEN—You're just too impatient.

CHAIR—We were given evidence in which it appears that the New Zealand ratio reflects the majority practice around the world, and Virgin Blue would certainly be of the view that a move to the New Zealand ratio would be considered, as long as issues such as minimum crew per exit were considered. Do you have anything to say about that?

Mr Maclean—Indeed, I do. I would say primarily that our ratio has been demonstrated, time and time again, to be superior to the American, European and New Zealand ratio, which is, in effect, the majority that you referred to. Research conducted by the University of Greenwich shows a clear empirical correlation between higher numbers of crew members and safer, more efficient evacuations. If in any other state they wish to operate their system in a less safe mode, I would say that is their business.

CHAIR—So the bottom line is: are there planes coming in, or planes that Australians fly on, that do not have a crew member to cover each exit?

Mr Maclean—Planes coming in to Australia operating internationally are required to operate under the International Civil Aviation Organisation's requirements and the annexes to the Convention on International Civil Aviation. They must meet that minimum benchmark standard or be given dispensation, which they generally would not be. However, it has been clearly demonstrated that aircraft operating under the foreign crew ratios, such as the American, European and New Zealand ratios, have had significant disadvantages in evacuations. I refer to a growing dimension of the cabin crew role—that of security requirements. The cockpit door is now locked. If there is any incident, no-one is coming to provide any assistance to the crew; the crew are completely responsible for security actions on board the aircraft.

During the incident referred to as 'the shoe bombing incident', that aircraft was operated under a one to 50 passenger seat ratio. It has been considered that, whilst the aeroplane was diverting to land, the crew on board that day felt there was insufficient crew numbers to maintain positive security oversight of the aircraft during the emergency diversion after someone had tried to blow it up and very nearly destroyed the aircraft. They had to co-opt passengers to assist crew members in that function.

CHAIR—That would not surprise me. What was the per passenger ratio that day?

Mr Maclean—That aircraft was operated under a one to 50 passenger seat ratio.

CHAIR—No, I mean per passenger rather than per seat. What was the per passenger ratio?

Mr Maclean—My understanding is that the per passenger ratio was quite similar. I would have to take that question on notice.

Senator STERLE—Can I make a statement referring to the same document. We talk about what the ratios were, but a statement from the Australian and International Pilots Association reads:

New Zealand's aviation safety system may well comply with the standards required by ICAO and still offer a lesser standard of aviation safety than Australia's system. Compliance with ICAO standards represents the minimum level of aviation safety, not the desirable level.

Senator O'BRIEN—Can I ask you about the Air France incident in Canada a few weeks ago and also the Qantas service incident in Japan recently. I noted that you were able to tell us what the precise crew to passenger ratio was on each of those flights. Can you give us an idea of what the crew would have done in each of those incidents?

Mr Maclean—Yes, indeed I can. Firstly, I will preface my remarks by saying that both of those incidents are still under investigation, so I will not refer to any causes or draw

conclusions. However, I can say that the Air France accident is a very interesting case. We have nowadays, due to the incorporation of fire retardant cabin materials and safety initiatives such as 16g aircraft seating, a far higher number of passengers surviving initial impact. I have heard it suggested that had the Air France aircraft been an older technology aircraft, such as a 707, for example, a large majority of those passengers would have been disabled in the accident impact sequence.

What we are finding is that, because of enhancements, larger numbers of passengers are alive and not disabled after an accident. However, the requirement to evacuate the aircraft within 90 seconds still exists and has not changed. You may survive the initial impact but the aeroplanes will still burn. Therefore, cabin crew members, who are the primary agents responsible for evacuating the aircraft within a survival window of opportunity, are having to deal with potentially larger numbers of passengers. That is why the crew ratio is so important, because (a) it facilitates that more efficiently and (b) it, very importantly, covers redundancy. We know through careful scientific analysis that 20 per cent of cabin crews may be incapacitated in an accident. If you set a minimum standard at a one to 50 ratio—which is considered a minimum safe standard—that is fine, as long as you have one to 50. In the majority of accidents, or in a large portion of accidents, when the accident sequence finishes you will not have one to 50; you will have one to 70. However, in our ratio, we have some ability to consider the issues of cabin crew redundancy and still have a suitable availability of trained emergency management techniques.

I would highlight that one of the most important functions of a crew member is not to know how to open a door. We have passengers sitting at exits who are briefed to open over-wing exits. One of the most important requirements is when not to open an exit. That is a very significant difference. If you open an exit into fire in training you will immediately fail. The fire will enter the aircraft through the open exit and you will kill everyone in that aircraft, or certainly in that section of the aircraft. I would like to impress that on the committee. Opening an exit is a relatively straightforward operation, but you must be trained to check that it is safe to open that exit. If you open an exit in an unsafe circumstance in a fire, you are going to have a lot of people killed. Those are the kinds of differences. A trained crew member is trained repeatedly and recurrently to make those kinds of decisions under pressure.

Mr Reed—On that point that Mr Maclean has raised, we could talk about the New Zealand system, where they have one flight attendant to operate two doors. You cannot monitor two doors at the same time. It is a physical impossibility. If you are in the process of checking that a door is safe to open on one side of the aircraft and the other door of the aircraft is not manned by another crew member because of crew to passenger ratio issues, you have the likelihood that a passenger will open that door. Where a door is not monitored, having a passenger who is not trained or in a panic situation opening a door into a fire will negate any other safety features that have been inbuilt such as safety training of the crew, safety features, recurrent training and the number of crew on board the aircraft. That is why from our perspective it is absolutely essential that there is a trained person at every door in every circumstance.

Mr Maclean has raised the issue of potentially having a flight attendant injured in the event of a crash sequence. In Qantas we have what we call crew members that are assist crew

members. On many of our aircraft, because of our crew to passenger ratio, we have additional crew members sitting next to the door primary or at other doors primary. In the event of incapacity of a door primary flight attendant there is a flight attendant who can assume the duties of a door primary, conduct that evacuation and do all of the safety related checks that are required in the conduct of that evacuation. Where you have, in a worst case scenario, no flight attendant at an exit, there is inherent danger built into it. Where you do not have even the likelihood of an assist flight attendant being available somewhere else on the aircraft to assist an incapacitated door primary, that is just another hole in the system—in the Swiss cheese model.

Mr Maclean—The committee might be interested in the fact that there was recently an uncommanded evacuation in Miami in the US. A 767 aircraft being pushed back on the apron had a surge in the left engine and a large flame appeared out of the rear of the engine. The passenger sitting at the over-wing exit, who had been briefed according to US and Australian law, said, ‘I remember the instructions—there is a fire—I pull that handle.’ They opened the exit and evacuated the aircraft. The crew members were unable to stop it. The passengers whipped themselves up into such a panic that they evacuated that aircraft.

CHAIR—I seem to recall, having sat with Senator O’Brien in the exit lane a few times, that the most important message is, ‘Don’t do it until we tell you to.’

Mr Maclean—Correct.

CHAIR—As far as I know I have never seen—

Mr Maclean—You would be very surprised at the level of aggression that you would encounter from a crew member at that exit. The person who was smiling very nicely at you five minutes before would be screaming into your face, ‘Don’t touch that door,’ and they would try to control the exit themselves. But it would be very difficult because the passengers are briefed on how to open it. There is a giant arrow on the exit saying, ‘Pull this handle.’ The instructions are there. Without a crew member there, in a worst case scenario they need to be able to open it themselves.

Mr Reed—In terms of training, the flight attendant turns from being a caring, friendly, nurturing sort of person on board the aircraft to almost an SAS soldier in the event of an emergency. You are trained to snap into being a totally different person.

In response to Senator O’Brien’s question about what a flight attendant would do: a flight attendant would snap into that completely focused safety mode. After months, years—or whatever the case may be—of recurrent training, and would act on everything that they have been trained to do in a rote fashion, without question. You do what you have been trained to do; you snap into that mode. Passengers who have seen that side of a flight attendant quite often write letters about it.

Mr Maclean—They always comment on it.

Mr Reed—They always comment—they say, ‘But they were so rude; they screamed at us.’

CHAIR—We get a demonstration of that every day with the voiceovers about fastening your seatbelts and what not. They must train those people who give those messages in the

plane because, when they get outside, it is a ‘How are you, mate’ sort of thing—they use a different language.

Mr Reed—Absolutely.

Mr Maclean—Indeed. Both Steven and I are customer service managers who make those PA announcements.

CHAIR—So you are old, worn-out flight attendants.

Mr Reed—Completely.

CHAIR—I am an old, worn-out farmer.

Mr Maclean—Senator O’Brien, you asked about the Air France incident. We had a wide discussion there. Can I make a final point in relation to that. That was an extraordinary evacuation—297 people were evacuated from an aircraft that went off a runway, off a cliff and into a gully. No-one was killed. The crew members’ actions were the absolutely pivotal reason that large numbers of people were not burnt to death. The options that we are talking about here are appalling. An aeroplane that is on fire in an accident situation burns at thousands of degrees. We are talking about the most dire set of circumstances: you have to get off that aeroplane immediately. The fact that they were able to evacuate the aircraft in 90 seconds, with apparently half the exits unavailable—I won’t quote exact figures, because I don’t know the reports on that yet—shows the extraordinary level of professionalism and the efficiency of having enough crew members on that aeroplane to get those people off.

Mr Reed—The point that we would make to the committee in relation to mutual recognition is that we do not actually believe that the government is committed to a program of lowering safety standards per se. What we are concerned about is a by-product of mutual recognition.

Mr Maclean—The unintended consequences.

Mr Reed—It has unintended consequences. What we seek is that the committee makes recommendations on those specific incidents and quarantines those particular issues of safety and the potential for the lowering of safety standards that might arise from any changes to the proposed legislation.

Senator O’BRIEN—Do you see any difference under the proposed mutual recognition regime between low-cost carriers and premium services?

Mr Maclean—It is a possible outcome of the bill that we could institutionalise two separate levels of safety in this country. If a foreign operator that is operating to what is nominally a lower regulatory standard is able to therefore access lower safety costs, that will in turn drive a commercial consequence. That will be a commercial advantage for them or a disadvantage to those who are operating to higher safety standards. One would assume that the immediate pressure would be to reduce the safety standards of the higher operators—for instance, Australian operators—or drive them out of the market. What we could have in the interim, and I think in the long term, is an institutionalised system with one level of safety for lower cost foreign operators operating within our country. I would see that as being in conflict with the requirements of the Civil Aviation Act. Secondly, you would have a higher level of safety if you chose to fly with a main line Australian carrier operating to Australian standards.

Mr Reed—On that note, you would find generally that the crew-to-passenger ratio on a full-service premium carrier would be higher because of the service requirement. The commercial considerations of a premium product would generally result in a higher crew ratio because of the service component on board the aircraft. I think the point Mr Maclean is making is that, where you have lower service standards and you are running at a lower cost, there is a natural—

Mr Maclean—The unofficial mechanism that regulates crew numbers, because of service requirements, would obviously disappear and that would—

Mr Reed—That is potentially an unintended consequence.

Senator O'BRIEN—How would the provisions of this bill impact on flight attendants in Australia? Do the same training, occupational health and safety, super, workers comp and tax obligations as in Australia exist in New Zealand?

Mr Maclean—It would begin as pressure to change Australia's regulatory standards. There would immediately be huge commercial pressure for Australian standards to be lowered. Imagine a situation where you have two aircraft side by side, one has to operate under Australian regulations, with four crew members and one is able to operate under New Zealand regulations, with three crew members. They are both going to Melbourne, and I am sure the committee understands well the pressure there. No doubt your various offices would be inundated with airline operating management who would be demanding access to that same cost space. These are the kinds of unintended consequences.

Senator O'BRIEN—I suppose the alternative is that there would be pressure to move subsidiaries to the other jurisdiction.

Mr Reed—There is already evidence of that, because of the cost benefit of operating in New Zealand—through lower rates of pay and lower conditions in a whole range of areas.

Senator O'BRIEN—What is that evidence?

Mr Reed—The airlines now have started employing overseas. Qantas has a base in New Zealand of international flight attendants who operate under vastly lower conditions than their Australian counterparts. They have set up subsidiary airlines in New Zealand, such as Jetconnect, and there is evidence that jobs that would normally have gone to young Australians are now moving overseas, in particular to New Zealand. I think that one of the more sinister aspects of mutual recognition—safety aside—is that this could see more jobs from Australia going to New Zealand.

Senator O'BRIEN—What consultation did the department or CASA have with your organisation about this legislation in the lead-up to the legislation coming forward?

Mr Maclean—As we have made clear on a number of occasions, the representatives of Australian cabin crew are generally not considered worthy of consultation. We are the largest group in this industry in this country. There are 11,000 or 12,000 cabin crew—and, by the way, just about every single one of them is a member of one of our two organisations. The government and the department of transport have no cabin safety expertise on their staff that I am aware of, and they continuously make regulations, provisions and recommendations to government without any formal consultation with the association or cabin crew members.

The Aviation Safety Forum is the body that advises the CASA chief executive officer, and it does not have a member with cabin safety experience. CASA, up until very recently—and we have been pushing for this for years—had no member with cabin safety experience in the standards division, which makes the rules. Back in 1950, pilots made these decisions on behalf of cabin crew. It is a different world now; it is a different job. The responsibilities involved in being members of an integrated operational safety team have expanded beyond recognition, because of—as I was saying before—higher numbers of passengers surviving initial impact because now we have locked cockpit doors and the crew are directly responsible for safety and security actions in an aircraft.

CHAIR—In that regard, are there some minimal physical standards they have got to meet if, as you say, their primary role is grabbing hold of people?

Mr Maclean—Yes, they do.

Mr Reed—Interestingly, those things are generally regulated by the operators rather than in a prescriptive way. One of the things that Mr Maclean has been working on for a number of years is the licensing of cabin crew and the efficacy of that in terms of standards. The exams we do every year in terms of safety training are regulated by CASA, and the airline operators have delegated authority to do it, but there is actually no licensing per se by the regulator.

CHAIR—I am sure that crews have got to maintain the safety of the passengers, but if I were a six-foot-nine bloke who was proficient in everything to do with warfare and I were up against someone who is five foot three, do you ever think about that sort of thing and what the likely outcome would be?

Mr Reed—You would have two inches on that.

Mr Maclean—As an operational crew member of 22 years experience, I have met that fellow several times.

CHAIR—Do they teach you to kick him in a strategic place, or what?

Senator FERRIS—Please!

Mr Maclean—Following the passage of the aviation transport security legislation, we are now given specific training in security issues. That training is quite good and it was well overdue. That six-foot person would not generally face an individual crew member; they would face a trained, professional team. We have mechanisms and a lot of experience in dealing with them. They will face a system and set of protocols that they do not know exist, and we will deal with them fairly efficiently. That, again, is a function—

Mr Reed—Hence the importance of the numbers.

Senator FERRIS—Who determines the crew ratio for international aircraft flying into Australia? Is it determined by the country in which the aircraft is registered or, when they arrive in, say, Perth or Darwin, do they have to increase their crew ratio to fit our standards?

Mr Maclean—No, they do not. There are two separate areas of operation. There are wholly domestic operations, which we are talking about under this bill, and international operations. International operations must comply with the requirements of the annexes to the Convention on International Civil Aviation. That is accepted as a benchmark standard. ICAO

have no power; they cannot force anybody to do anything. They say: 'This is the appropriate standard. You must have one crew per 50 passenger seats'. And there is a whole range of other fuel requirements and operational requirements. Every country that is a signatory to the convention—nearly every country—has to notify ICAO if they have any differences to that standard. ICAO then notify every other country. If one country notifies ICAO that it is going to operate with a reduced fuel requirement, Australia would be told about that and would deny that country authority to operate their aeroplane in our airspace. That is how it works. It is regulated by the ICAO Convention on International Civil Aviation. Australia is made aware that all aircraft flying into this country meet the minimum benchmark standard and we approve their international operations in and out of Australia on that basis.

Our national standard is slightly higher—though I have to make the point that it is often thought that operators in Australia are disadvantaged by having a crew to passenger ratio of one to 36. When we look at the crew numbers on board the majority of the aircraft that operate internationally, there are almost no airlines in the world that have as low a number of crew as Australian airlines. For example, an Australian 747 will generally have 13 or 14 crew, a Singaporean aircraft of the same type would probably have roughly 18, a Thai aircraft would have 20 and even the Americans would have roughly 18. So we do not see ourselves as being constrained by our regulations. In fact, the minimum crew number is very seldom an issue, because the one to 36 requirement is usually artificially regulated by the requirements for service: they need to have enough people on board to conduct the commercial operations that they wish to conduct. I wanted to make that point to the committee.

Senator O'BRIEN—On a full-service aircraft on an international route?

Mr Maclean—On a full-service aircraft. If we move to a low-cost carrier dominant industry, as you suggested, that artificial regulation would be removed.

Senator O'BRIEN—So what happens on the low-cost carriers in Europe? Do you have any information about that?

Mr Maclean—The low-cost carriers in Europe operate at what we would consider to be a lower standard than the Australian standard. They routinely operate with one crew member and multiple doors. It is interesting because, in some areas, the European requirements are superior to ours, especially in the area of cabin crew regulation. There are fatigue and rest requirements in Europe, and also in New Zealand, that we do not have. Even though Australia is a signatory to the Convention on International Civil Aviation, which requires strategic fatigue management of cabin crew operations, we do not have any. We are not regulated. CAA48 and its exemptions applies to the pilots. I understand that it also applies to issues related to maintenance engineers. It does not apply to cabin crew in this country. It does in the majority of other countries.

Senator O'BRIEN—You are saying that in Europe, in some circumstances, low-cost carrier aircraft would be flying without a crew member for every exit door?

Mr Maclean—That is correct.

Senator O'BRIEN—Is that ever the case in Australia?

Mr Maclean—That has never happened in Australia. We're just starting to see pressure at the moment for that to happen in exceptional circumstances and we're making our view known about that. Our regulations are, in that respect, a little ambiguous. They would appear to provide for that to happen, although we would argue that the spirit and intent of the Australian regulations do not provide for that to happen. But there is discussion going on at the moment as to whether in exceptional circumstances they can operate, say, a single aisle aircraft. It would only be a single aisle aircraft because in a dual aisle aircraft or a wide body it is specifically prohibited for that to happen. There must be, for a wide body aircraft, one crew member for 36 passengers, or—the important point is—one crew member per every floor level exit. That requirement for every floor level exit does not exist in the American regulations, the European regulations or the New Zealand regulations. That, for a wide body twin aisle aircraft, is the real requirement that underpins the higher Australian standard.

Senator FERRIS—I know statistics can be misleading, but can you give us some idea of the number of incidents that might have occurred, not perhaps just the evacuations and so on, but what about incidents on aircraft that do require special skills? Is that statistic increasing?

Mr Maclean—I would be reluctant to define it as increasing or decreasing, although I would say that we have higher participation rates in aviation and more people are travelling and more aircraft are flying. So I would assume, anecdotally, that it is increasing. What I can tell you—and Mr Reed will probably expand on this a little—is that the number of incidents that nobody is aware of that happen on a daily basis in a large international air transport operation is mind-boggling. Things happen every day, from people trying to open exits in flight through to security issues and risks from drunk passengers. An aeroplane can have 450 people on it. That is a decent sized small town. That town would have a fire brigade, a police force and probably a mental hospital as well. The crew fulfil all those functions. They are the firemen. They are the medical officers. Steven and I are both trained to utilise defibrillators. If you are going to have a heart attack, have it on one of our aeroplanes because your survival rate is massively higher—in the order of hundreds of times higher—than if you have it on the street outside the front of Parliament House. It is common for us to conduct mouth-to-mouth resuscitation. I have addressed issues of people with strokes—the entire range of medical cases, the entire range of security requirements. People on an aeroplane form the most diverse demographic group. You have two people sitting next to each other—one who has just won the lottery, and the other who is going to their mother's funeral. The range of situations you have to deal with is just extraordinary.

CHAIR—You talk about quarantining safety issues. Do you want safety and security issues excluded from the bill?

Mr Maclean—The bill specifically requires that New Zealand operators meet Australian environmental standards, air traffic control standards and security standards. Mr Reed said in his opening statement that who the government decides to authorise to fly around in this country is a matter for the government; we accept that. We would only say that, if the government is going to authorise foreigners to operate within our country, firstly, they not have a negative impact on our safety standards and, secondly, those operators be required therefore to meet our safety standards.

Senator McEWEN—This bill is about mutual recognition with New Zealand. You talk about foreign operators. If this bill were passed in its current form, would it set a precedent for operators from other countries putting the wood on the Australian government to get the same deal?

Mr Maclean—There is certainly potential for that. I can only put myself in their position and, if there were some standard that was perhaps lower than the ICAO standard that they had to reach, I would imagine that there would be trade pressure through various bilateral agreements or whatever to have the same standards as other competitors have.

Senator McEWEN—Talking about free trade agreements, have you given any thought to which countries might be the first cabs off the rank if this went through?

Mr Reed—You would certainly think that the Singaporeans would have to consider that. There is already enormous pressure on the government to have an open skies policy in relation to Singapore Airlines. I make no comment in relation to that other than to mention its potential effect on Australian employment, but were there to be some lowering of safety standards for New Zealand I would suggest that there would be enormous pressure on the government to have some sort of equivalency for the Singapore operators.

Senator McEWEN—Perhaps you could answer this using what you know through the ITF: are the flight attendants in Singapore and Indonesia organised in the way that you are, to enable input into government decision making? Do they provide commentary about occupational health and safety and security and so on to their governments?

Mr Reed—In my experience, and probably more so in Mr Maclean's, the delegates to ITF conferences from airlines around the world are envious—that is the only word I can use—of the standards that we have in Australia. In fact, in Australia the government itself—rather than the people at the ITF—has championed many of the standards that we have. I think the government and the opposition should be proud of what they have achieved over many years in terms of aviation safety. The role our organisation plays is one of complementing the work that government has done by itself. It is in no small way the result of work of successive governments that we have the safest skies in the world and the safest aviation policy in the world. Most of the people that we deal with at ITF and various conferences around the world are envious of the role that government has played.

I and some of my colleagues deal with people in some Asian countries where trade unionism is an anathema, trying to get them out of jail and even giving them the ability to write. Even in countries as enlightened as Singapore, it is very difficult for people to have an alternative view that is seen to be contrary to the government's. Indeed, opposition leaders in Singapore have been jailed for having opposing views.

Mr Maclean—We see our role in these matters as—and we talk to you today from the safety perspective—primarily a quality control mechanism.

CHAIR—When you come to work, do you have things such as drug testing and breath testing?

Mr Maclean—Drug testing is currently being discussed. There is no requirement currently for drug testing of operational staff.

CHAIR—In your life experience, are there many drug users in the crew?

Mr Maclean—In my experience, no. My experience is that the culture of professionalism and recognition of the obligations of safety sensitive workers are taken very seriously. The requirements we are talking about were not just thought up recently in response to industrial pressure. These are systems that have evolved over years and years of some of the highest levels of operational experience in the world.

CHAIR—If there were someone using drugs, would peer pressure be brought to bear?

Mr Maclean—Pilots, cabin crew and aviation safety professionals very seldom operate in isolation. In terms of cabin crew, which I will confine my remarks to, you would sign on and begin your duty in the company of a whole range of people. There would be multiple opportunities for any incapacity or impairment that you were displaying to be picked up, and it would be picked up. In my experience it is very rare and people do accept their responsibilities as safety and security sensitive personnel. Its incidence is actually a lot lower, in our view, than in the general community.

Mr Reed—Our organisation is a signatory to a drug and alcohol policy with Qantas that goes back to the mid-nineties. We jointly signed with Qantas, in particular, a drug and alcohol policy that is one of complete intolerance to the use of drugs or alcohol that would in any way impair capacity.

Mr Maclean—We have just made a submission—yesterday, as coincidence would have it—to the drug and alcohol testing review that the department of transport is conducting. Our opening statement is that we accept completely that there is no place in any workplace for an impaired worker, especially within a safety sensitive aviation workplace.

Mr Reed—Our organisation has joined with Qantas in show-cause testing. If somebody turns up to work and you have reasonable suspicion that they are impaired, then we accept that the company has an obligation—

CHAIR—I have to say I have never had an experience where I thought other than they were impeccable. I always thought the Qantas people looked and acted the part.

Senator McEWEN—Unlike some of the customers!

CHAIR—Would you like your submission to the previous hearing to be your submission to this hearing?

Mr Maclean—Yes. There are two previous submissions—one done by me as a consultant. I would like the committee to consider that to be the domestic and regional division FAAA submission. However, the international division submission that you already have is a joint submission. So, yes, please consider that to be the submission to this hearing. We will be providing an updated submission as well.

Senator STERLE—Mr Maclean, I really want to home in on the comment you made about other in-flight incidents. I fully understand that there was a fire, everyone was trying to get out that one door in a hurry and the importance of having someone who is trained, and I know you cannot comment more about what happened in Japan, but is there any form of record kept of in-flight incidents, from heart attacks to biff-ups to drunkenness to anything?

Mr Maclean—Yes. These issues are generally reported through a range of statutory reporting mechanisms, if it is a safety observation report, or they can be reported via the Civil Aviation Safety Authority.

CHAIR—Do you think it would assist us if we got them?

Senator STERLE—That was my next question.

Mr Maclean—Qantas does keep a safety database which logs all those things—the airline operators keep a safety database. In fact, I would imagine that under the terms of the AOC they are required to have access to those issues and be able to identify trends. For example, there may be a change in mobile phone policy that may engender a spike in issues relating to mobile phone rage, which can be significant.

Senator STERLE—Can we get access to that information?

Mr Reed—It is not something that we could provide for you. You would need to contact the operators themselves. There would be reports in the form of internal documents that their safety and security departments would deal with on a daily basis. They would probably go through the head of safety at Qantas.

Mr Maclean—It is the safety database.

Mr Reed—Which is the safety database. There would be reports that would go to cabin crew management on matters that may not be seen as safety incidents per se but merely issues of conflicts with passengers. Then, of course, there is mandatory reporting under the new security laws of certain incidents. It is required that they be reported to either the AFP or the regulator in terms of specific threats against the airline.

Senator McEWEN—Who writes those reports? When you have finished a flight and there has been an incident, is it up to the flight attendant to write the report?

Mr Reed—Generally speaking, there are a number of reports that we write. We do a number of safety observation reports on every flight, which are more to do with processes and procedures in safety systems and where the crew are following more occupational health and safety issues. There are also safety reports we can write that deal with actual incidents. Then there is a thing called an ICAN, which used to be called a voyage report many years ago. It is basically a trip report of any incident or event that occurred on the plane. Those are all submitted through our cabin crew management and find their way into the various safety forums at Qantas.

Senator McEWEN—Are they required to be written—

Mr Reed—Mandatory.

Senator McEWEN—or is that a Qantas policy?

Mr Reed—It is Qantas policy.

Senator McEWEN—But not federal government regulation?

Mr Reed—There is federal government regulation on reportable incidents, where we have to take witness statements. Those things generally relate to threats against the aircraft, passengers or crew, acts of violence, intoxication—

Mr Maclean—Occupational health and safety.

Senator McEWEN—So some are required to be reported and some are internal airline policy. Do you think that with a reduction in crew numbers there would also be pressure to not report some of those incidents because there just is not time to do it?

Mr Maclean—The majority are informal internal reports—in fact, the vast majority are. Yes, I believe there would be that pressure. It may reasonably be foreseen that that could be a—

Mr Reed—Senator McEwen, as an operational manager we are encouraged—it is actually mandatory in terms of our own key performance indicators as managers—to report any abnormal incident. Your guess is as good as mine as to what happens to those reports after we write them, though. We do not often get feedback about them. A lot of them just become internal documents for the purposes of statistics or internal review. But the mandatory ones we quite often get through CAI—civil aviation incident—reports, which are forms that go directly to the civil aviation department.

Senator STERLE—Does that also cover incidents where someone has been sick, babies have been sick or someone has fainted? Does it take account of things like that?

Mr Reed—Every incident is required to be reported by the manager. One of the things I notice as the President of the FAAA is that time constraints and minimum crewing affect the ability of people to actually write those reports. So many crew and managers are now more and more hands on in terms of the service on board the aircraft. Whereas their role was perhaps more managerial in terms of the report writing and that sort of thing, because crew numbers have been reduced significantly as a cost-cutting measure, the managers are now hands on in the service. So their ability to write the reports when the incident is fresh in their mind has decreased, and we are seeing an increase in some of those reports slipping through the net. That is of concern to us.

Senator STERLE—So crews have been cut. What was the ratio before?

Mr Reed—A lot of the ratio before was predicated on service. The higher the standard of product that you are offering the passengers generally, the more crew you need to do that. As a result of cost-cutting measures in the 17 years that I have been in the business, there have been significant reductions in crew and rationalisations of service. Service standards are probably high, but they are benchmarked against competitors.

Senator STERLE—I have a bit of concern there too, Mr Reed. Where that leads to is that the data that we have of in-flight incidents still might not be a true reflection of what is actually happening on the aircraft.

Mr Maclean—There is acknowledged to be a significant amount of underreporting in relation to these incidents. I mention a reporting component which we have not discussed: reporting directly to our associations. Among our crew members there may be a reasonable scepticism or healthy scepticism about the operators at present. We get a lot of reporting that comes directly to us. People are concerned about issues that they believe will not be taken seriously. We do collect a significant amount of information as well.

Senator STERLE—And that would be available to this committee?

Mr Maclean—It would be.

CHAIR—I have just been told that Alitalia airlines have a ‘help yourself’ sort of a deal in the cabin. For example, if you want a feed, you go and get a carry pack. Is that true?

Mr Reed—I could not comment on what—

CHAIR—I just wonder what the crew do or what the crewing levels are if they—

Mr Reed—The only thing I can say about Alitalia is—

Senator FERRIS—That is the case on some American airlines. You get a paper bag at the door and carry it on.

Mr Reed—Yes. I think that you will find, as part of the cost-cutting regime I was talking about, that if you are only handing out a paper bag or something with a refreshment, you need far less crew than you do if you are providing a full meal service.

CHAIR—So you cannot reflect for the committee on what their crewing is. Do they have fewer crew members?

Mr Reed—I do not have that information.

Mr Maclean—Alitalia would be required to come under the JAR-OPS European requirement, which is one to 50 passenger seats. But they would, as in all major carriers, have more than that minimum requirement. As we always have more than the one to 36, they always have more than the one to 50 passenger seat requirement in general.

CHAIR—Thanks very much.

Proceedings suspended from 10.14 am to 10.24 am

BARTLETT, Mr John Raymond, General Manager Safety Systems, Virgin Blue Airlines Pty Ltd

O'CALLAGHAN, Mr John Jerome, Government Relations Adviser, Virgin Blue Airlines Pty Ltd

CHAIR—Welcome. I invite you to make an opening statement and then we will endeavour to ask you some deep and meaningful questions.

Mr O'Callaghan—I apologise that the other government relations adviser for Virgin Blue, Stephen Carney, is not here today. He knows you well and sends his regards. We would like to make an opening statement in two parts. I will start and then defer to my colleague to provide a bit more information. For the benefit of new senators on the committee, I thought that we might give a quick snapshot of Virgin Blue—who we are and how we have grown.

Virgin Blue has fifty 737 aircraft, either 700 or 800 series. It has grown to operate 300 flights per day within Australia. It operates to 23 destinations within Australia and also operates into the Pacific and across the Tasman to New Zealand. It employs nearly 4,000 people directly as well as additional subcontractors—and I am one. It has been operating for nearly five years. By comparison with the quality airline that Ansett was at the time, when Ansett was operating it was the best business airline in the world. It operated 55 jet aircraft, as I understand it, and employed around 13,500 personnel or staff.

Virgin Blue is a low-cost airline, which principally means that you pay as you go and we keep costs low. When you operate a brand-new fleet of aircraft you have the benefit of being able to run the aircraft reasonably hard, which means in effect that your maintenance costs would be lower than for a traditional type of airline. For those who have had the benefit of flying on Virgin Blue, you would know that if you wish to purchase a cup of coffee, for example, you need to pay for it. So in that sense it is pay as you go. That model seems to work pretty well.

Virgin Blue operates 21 flights per day between Sydney and Brisbane and Sydney and Melbourne. It is generally thought of as being a leisure airline but, in fact, the profile of travellers on Virgin Blue is as follows: around 40 per cent of people who travel on Virgin Blue are travelling for business—obviously the profile of those travelling into Far North Queensland would be slightly different—about 40 per cent are leisure travellers or tourists and around 20 per cent of people are travelling for family reunion. Since Virgin Blue commenced nearly five years ago the average cost of air fares has been reduced by between 40 and 50 per cent.

CHAIR—Great work.

Mr O'Callaghan—Ten years ago, 29 million people were travelling domestically in Australia per annum. There are now 38 million people travelling per annum. In the last 12 months, Virgin Blue has carried 12 million passengers—about one million passengers per month. Many of those people had never travelled on an aircraft before. We held our inaugural flight from Sydney to Hervey Bay recently. If you bear with me I will tell you a bit about that because it is an important issue for us. We were asked by the local community in Hervey Bay

to give consideration to flying into Hervey Bay. At the time—this was about 18 months ago—the Hervey Bay airport was not capable of taking a 737 aircraft. We became involved in extensive negotiations with the local council, the local business community, the tourism association and the Queensland government to extend the runway to allow 737 operations. In fact, on the day on which we had our first flight Jetstar also had its first flight from Sydney to Hervey Bay.

Senator O'BRIEN—Funny about that.

Mr O'Callaghan—That is right. The point I wanted to make in the context of this activity is that Virgin Blue is responding to a demand by regional Australia to improve the scheduling and affordability of services. If you fly from Armadale to Sydney now you pay about \$500 return. Since Virgin Blue commenced operations into Coffs Harbour nearly three years ago the average cost of a return air fare between Sydney and Coffs Harbour is about half of what you would pay to travel from Armadale to Sydney. It is quite a significant saving. If you have the benefit of having access to the web site, you can surf the web any day of the week and find some terrific fares. It does not matter whether you are travelling for business or for pleasure, by comparison with five years ago, the cost of air travel is now much lower. I would like to think that Virgin Blue has played a significant part in providing this opportunity.

Without further ado, I will invite Mr Bartlett to make some comments with regard to the bill before the Senate. I should say that we are pleased to be able to present today and we are happy to take any questions from you. In fact, if you or any of your colleagues wish at any time to observe or be part of the Virgin Blue activity we would be more than happy to brief you in our Brisbane office and show you our facilities at Brisbane airport, for example.

Mr Bartlett—Good morning. I too am new to this forum and would like to take just a moment to give the committee a couple of ideas as to my background. After nearly 30 years flying I hold both Australian and New Zealand heavy metal licences and I have spent 20 of those years in operational management, including technical management of flight attendant affairs, both with the Air New Zealand and Ansett groups, and in-flight standards. I retired from flying in 2000 and joined the New Zealand Civil Aviation Authority as their general manager of airlines. I was there for three years before joining the Virgin group, reporting directly to the board as their general manager of safety systems. I hope that is helpful.

This is the opening statement that adds to our submission at the last inquiry. Virgin Blue has carefully considered the record of proceedings of the 2004 inquiry and now welcomes the opportunity to further assist the committee in its examination of the civil aviation amendment bill, with particular regard to the mutual recognition of aviation related safety certification with New Zealand. We reiterate that we are not opposed in principle to the bill, again noting that it will enable a number of efficiency improvements in the industry. We have also signalled that there are some differences that, if harmonised, might improve the prospect of realising those efficiencies. We recognise that this bill seeks to avoid the complexity of full harmonisation and we are comfortable with that, providing those differences that present potentially unfair advantage to operators certified in either jurisdiction are recognised and, if possible, dealt with.

We have noted the comment from other submitters that traverses the notion that New Zealand regulatory system represents a lower standard than that presented by the Australian regime. We do not agree. Virgin Blue's wholly owned subsidiary Pacific Blue is certified by the New Zealand authorities to standards that we are proud of. Pacific Blue, along with every other international airline operating to and from Australia, holds an Australian foreign airline operating certificate issued by CASA. That recognises acceptance of those airline safety standards and, more importantly, recognises that the state of certification—in this case New Zealand—has an effective and acceptable regulatory aviation safety oversight capability. In this regard, the acceptability of equivalence of safety outcomes between Australia and New Zealand is already established and in operation. This bill simply recognises that and furthers the development of the desired single aviation market by removing duplication, complexity and financial burden on operators engaging in air commerce. It is important, however, that the bill also avoids unintended distortions in the competitive environment that it seeks to enable.

The various submissions seeking to challenge the longstanding acceptance of equivalence in respect of individual rules or regulations are simply not sustainable. Individual rules in either jurisdiction do not stand alone; they are parts of a wider regulatory framework that must be seen in totality. There has been a good example of this principle, and it is to be found in the discussion on cabin crew ratios that this committee has now dealt with in both of its inquiries. A number of submissions have advanced the proposition that the greater number of flight attendants present on flights the greater the prospect of ensuring the safety of passengers. This is a simplistic assertion at best that fails to recognise that safety is an outcome of the processes and behaviours employed to achieve that end, and not just compliance with an arbitrary standard. The safety of passengers in any phase of flight is a product or, if you like, an outcome of several factors, including: aircraft design, which has been canvassed today; aircraft certification; approved airline procedures, with the emphasis on 'approved'; training; and, most importantly, the consistent application of those standard operating procedures. I will deal briefly with the aircraft design and certification aspects.

The design of air transport aircraft in respect of passenger safety has seen many advances in recent years that have markedly improved survivability in the event of an incident or accident. Examples include the development of advanced structures, fire resistance, passenger restraint systems, floor level lighting and automatically deployed rapid exit systems, just to name a few. These design standards are considered during the initial certification of the aircraft type, during which the minimum crew requirement in evacuation situations is determined. That test requires a demonstration that the aircraft capacity can be evacuated using one half of the available exits in less than 90 seconds. The ratio of cabin crew numbers to passengers is not considered in isolation. Virgin Blue was required to conduct and has conducted evacuation exercises to satisfy CASA that its approved procedures meet this standard. I am pleased to say that they do.

Let us talk for a moment about the airline's approved procedures. The management of cabin safety is underpinned by standard operating procedures approved by CASA. Virgin Blue's approved procedures dealing with in-flight emergencies and evacuations are predicated on the availability of four flight attendants on all of its aircraft. The presence of extra flight

attendants carried to meet the required ratio of one to 36 is not considered from a safety perspective.

I will briefly talk about training and, in particular, the consistent application of the procedures that are to be taught. Cabin crew procedures are the subject of exhaustive training and retraining, as has been mentioned already today. These procedures also interact with the standard operating procedures of the flight deck and ground operations, and with the management of risk in flight and on the ground.

Let us talk for a moment about the management of risk. I have talked about safety being an outcome. Safety is in fact an abstract notion; it is what you get if you do not have things—accidents and incidents. You cannot manage what you do not have, so you have to find something you can manage, and that is risk. Visibility of risk comes from reporting—also mentioned today—experience, best practice, all of those things. These procedures are designed to mitigate the risks to ensure a safe outcome. You simply cannot manage safety; it is not a thing. It is what you get, if you do things well. It is proactive. It is the culmination of the processes, standards and behaviours that will determine whether or not, consistently, you get safe outcomes. If we had to rely on the tactical intervention of any one individual within the safety system then I would not go flying on an aeroplane, because everybody has a bad day. We are talking here from a management perspective about ensuring that everybody, including our flight attendants, is armed with the procedures, the documentation, the training and the skill sets to ensure that safe outcomes are predicated. We cannot just see whether it happens. It is the consistent application of these procedures that ensures safe outcomes for our passengers, and not the prescription of any one in particular—for example, the ratio of cabin crew to passengers.

These considerations firmly and empirically, we believe, establish the standards to be met in establishing a regime that ensures safe outcomes for passengers. In New Zealand—and it happens to be the internationally accepted standard—the standard of one to 50 clearly meets the criteria. Australia holds with a ratio of one to 36. Whatever the genesis of this ratio is, there is clearly no safety case to be made to support the proposition. That said, the existence of different ratios in Australia and New Zealand does result, potentially, in a less than level playing field in both countries, with operators certified in Australia exposed to a significant cost penalty over those certified in New Zealand. As indicated in our original submission, Virgin Blue does not support a mutual recognition regime that might give a potential competitor an unfair advantage. We would like to reiterate that in general we support the principle of the bill. We thank the committee for receiving this further submission and confirm our availability to give further evidence.

CHAIR—What is the difference between one to 36 passengers and one to 50 seats, in real terms not in theory? What generally does that mean? Could it be a plane with one less crew on it?

Mr Bartlett—It could be many things. We have heard some comments today about the New Zealand system dealing only with capacity. It is not quite true. There are two rules in New Zealand. The pre-eminent one, if you like, is that an operator cannot operate at less than one to 50 in terms of its design capacity, regardless of the number of passengers on board. There is, however, a further rule in part 121 that ensures that the ratio does not fall below

certain requirements. I cannot recall the detail of that, but there is a duopoly there. So there is a recognition in both systems that numbers of passengers matter.

CHAIR—Could you make that detail available?

Mr Bartlett—Yes, we will gladly do so.

Senator O'BRIEN—So could a 737 operate with three crew?

Mr Bartlett—Depending on its design seating capacity, that is true.

Senator O'BRIEN—With 144, say?

Mr Bartlett—Yes, it could. It is unlikely to do so.

Senator O'BRIEN—I use that example because you have 50 of them.

Mr O'Callaghan—Just to clarify, we have 737-700s at 144 and 737-800s—

Senator O'BRIEN—What is the capacity of those?

Mr Bartlett—180.

CHAIR—You say—and this may well be a good point—that you do not necessarily have to man every exit because you have umpteen capacity to get the people out in a few seconds.

Mr Bartlett—The design standards and the certification criteria for a new aeroplane, both in the state of manufacture and in Australia, are that you need to be able to demonstrate that you can get the capacity of the aeroplane out of the aeroplane in 90 seconds using one-half of the available exits.

CHAIR—Would that assume that in a real situation perhaps some of the doors won't open, anyhow?

Mr Bartlett—And it is more likely to be the case—

CHAIR—Obviously there might be a fire at one door and something going wrong at another.

Mr Bartlett—Indeed.

CHAIR—So how do you figure that out in the event? If you do not have enough crew and—I do not know how many exits there are—if you have eight exits and six crew, on the way down, as you are getting ready to crash, do you say, 'We won't open that door but we'll open that one; we've only got six'? How do you do it? Or when you have actually crashed do you say, 'Oh'?

Mr Bartlett—There is a bit of both. Let me draw on my experience as a commander of jet aeroplanes. Typically, the first line of an evacuation is that it is commanded from the flight deck. What might happen is that you have landed, you have blown a tyre, the wheel is set alight and that side is not really good; it is a bit hot. Typically, the pilot would attempt to swing the aeroplane into a wind position that minimised the effect of that. I am not familiar with Qantas's or even Virgin Blue's specific requirements in this regard, but when he commanded the evacuation he would say, 'Evacuate, evacuate; do not use' or 'only use'—some use the negative imperative; some use the positive—'those exits.' It is only if there is no command from the flight deck, typically, that an uncommanded evacuation would occur from

the cabin. The judgment then about which exits to open and not open—and we are generally now dealing with a catastrophic situation because the crew are disabled—is made by observation. If it is burning outside, the exit on that side would not be opened.

CHAIR—This is my last question before handing over to Senator O'Brien: who do you barrack for at the footy—New Zealand or Australia? You don't have to answer that!

Mr Bartlett—It's not a good week to ask me that question, Mr Chairman!

Senator O'BRIEN—It depends on the game you are talking about—and New Zealand does not play the game that the majority of Australian states play, so it is probably not germane. There is soccer, of course.

Mr Bartlett—I defer to your knowledge on the matter.

Senator O'BRIEN—Basically you have two types of 737—one has about 144 seats and one has about 180?

Mr Bartlett—Yes, one has 144, with four floor-level exits and two over-wing exits. The Boeing 737-800, with a seating capacity of 180, has the same number of floor-level exits—two at the front, two at the back—but it has four over-wing exits which are typically briefed for and manned by passengers, anyway.

Senator O'BRIEN—Under the New Zealand regulation, what would the required cabin crew manning be, assuming a full aircraft?

Mr Bartlett—For a 737-800, it would be four; here in Australia it is five. For a 737-700, it could be three, theoretically—I don't know anybody that operates with three.

Senator O'BRIEN—I am just asking what the regulation provides for, not practice. Practice can change. Practice is at the discretion of the operator of the system.

Mr Bartlett—I agree.

Senator O'BRIEN—I think what you are saying to us is that, although the regulation might allow for three for the 737-700, in fact the practice is for four in New Zealand. Is that what you are saying?

Mr Bartlett—Yes.

Senator O'BRIEN—And although the regulation would allow four for the 737-800 the practice would be five or more. Is that what you are saying?

Mr Bartlett—No. Perhaps I could give you a real-life example. Both Pacific Blue, our New Zealand wholly owned subsidiary, which is certified in New Zealand, and Virgin Blue operate 737-800s. Across the Tasman, on the longer sectors, Pacific Blue operates with four, which exceeds the New Zealand ratio. Virgin Blue operates with five, and they use exactly the same flight attendant procedures—identical.

Senator O'BRIEN—So Pacific Blue, operating out of New Zealand now, uses four, and Virgin Blue, operating out of Australia now, uses five for the same aircraft.

Mr Bartlett—It uses five. But, for example, a 737-800 with 180 passengers is required to be used with four flight attendants, we have to off-load because it is at passenger ratio here in

Australia. The certification of the aeroplane does not change. The exits are still the same. We have to off-load the extra passengers to operate with the lower ratio.

Senator O'BRIEN—Or put an extra crew member on.

Mr Bartlett—Yes.

Senator O'BRIEN—What do you do in practice?

Mr Bartlett—It depends where you are. If you are at a base where you can find an extra crew member, you put the crew member on; if you are at a base where you cannot—for example, if a flight attendant has become injured or something—you have to off-load.

Senator O'BRIEN—If this bill comes into force in its current form, do you see significant operational changes for Virgin Blue? For example, would there be an increased incentive to operate aircraft under a New Zealand AOC?

Mr Bartlett—I would need to take advice before answering that with any detail. I think it is fair that, if most of what you do is in one state, that would become the state of certification.

Senator O'BRIEN—That is the interesting thing. Virgin has an operation here and an operation in New Zealand at the moment, and we hear Qantas is in a similar situation. The question has increased significance because you are already operating under both regimes. If there is a financial advantage—and the commercial pressures are certainly strong on Virgin at the moment—wouldn't it be fair to assume that there would be thought about whether there was a significant advantage in operating aircraft under New Zealand AOCs as against Australian AOCs?

Mr Bartlett—I imagine a determination in that regard would be made simply on cost if, in fact, the playing field was relatively level—I am not saying harmonised. There would be no impetus to do that.

Senator O'BRIEN—So whatever was the cheapest would be opted for?

Mr Bartlett—I think whatever is established is probably optimal, bearing in mind that 45 of those aeroplanes operate domestically in Australia, as John said, which is some 350 sectors a day. To shift the weight of the management and control required under the bill to an offshore jurisdiction would be a fair task.

Mr O'Callaghan—It is probably also useful to keep it all in perspective. For example, 12 months ago we started operations through Pacific Blue to Vanuatu. We stimulated the tourism market there by nearly 30 per cent in 12 months. Operating Pacific Blue aircraft with the crew that applies to that aircraft operation is principally carrying Australians out of Australia. I have travelled that route a number of times now, and I do not see the service that applies with that crew number and the assurance about the safety of operation being any different to the operations that we would normally handle with an 800 series here, frankly.

Senator O'BRIEN—The Pacific Blue operation is the New Zealand based operation, isn't it?

Mr O'Callaghan—That is correct.

Senator O'BRIEN—So, principally, it is now carrying Australians overseas operating with one fewer cabin crew staff member than Virgin Blue would with the same or similarly configured aircraft.

Mr Bartlett—They are identical. I hasten to say that Virgin Blue has not contemplated changing anything that it does. Just the availability of that ratio would not necessarily translate—

Senator O'BRIEN—With respect, one hears every time there is a takeover that the new management is not contemplating a change, yet it almost certainly happens within the next three months.

Mr Bartlett—That is true.

Senator O'BRIEN—Do you have any difference with the evidence given on the role and function of cabin crew as presented by the Flight Attendants Association witnesses earlier?

Mr Bartlett—No, I just think our perspective is slightly different. I agree with everything that was said this morning—that the professional application of well-trained procedures in the cabin is in fact a very important part of an integrated safety management approach. It is not, however, the be-all and end-all. It comes from procedures that were designed outside of that process.

Senator O'BRIEN—You have got to keep the aircraft in the sky as much as possible; that is fundamental!

Mr Bartlett—Yes.

Senator O'BRIEN—I think you have to accept the evidence in the context that it was about the behaviour of passengers in the cabin and dealing with not just incidents in the cabin but also the evacuation process in the very occasional instances that it is warranted. Do you have any query with the evidence about the higher standard of survivability of crashes, due to what were described I think as 9g seats and other measures designed to improve cabin safety?

Mr Bartlett—Yes, I mentioned four or five things that have been improvements in both aircraft design and certification, and certainly they have contributed to the survivability of accidents, thankfully.

Senator O'BRIEN—Do you have any comment to make about the evidence with regard to the Air France crash and the role of cabin attendants in the evacuation?

Mr Bartlett—I am not familiar with just how many people were on that aeroplane or even how the aeroplane finally came to grief. It would be very difficult to generalise. I think certainly the fact that it was—

Senator O'BRIEN—We all saw pictures of this—

Mr Bartlett—Everybody survived.

Senator O'BRIEN—burnt cabin; the wings apparently survived. The cabin was extensively damaged by fire—

Mr Bartlett—After everybody left, thankfully.

Senator O'BRIEN—after everybody had left. We saw the statistics in the paper. I think it said there were 13 crew and 290-something passengers, so it seemed remarkable to me, given the state of the aircraft when the photos were taken, that there were no fatalities or indeed serious injuries.

Mr Bartlett—I did read some comment in the professional press that said that was as much due to the design standard, improved management processes and just the general improvements in the way aviation safety is managed. Certainly, that demonstrated a remarkable result.

Senator O'BRIEN—No-one was expecting the calamity—there were no fire crew standing ready to put the flames out—so what happened was down to the survivability of that incident in the fuselage.

Mr Bartlett—Yes. It sounds like everybody did a great job.

Senator O'BRIEN—Yes. In your company's submission last year, we were provided with some suggestions that mutual recognition did not go far enough. Note was made of some differences in safety standards between Australia and New Zealand, notably in the areas of low-oxygen warnings, which is pretty timely, I would have thought, after the Helios experience; low-visibility operations and ETOPS approvals; and flight and duty times. It seemed to be Virgin Blue's view that Australia should amend its standards in these areas to match New Zealand's. What is the company's current thinking on those matters?

Mr Bartlett—I think the current thinking of the company is that they are just examples of differences. One could take a semantic view that either you are for mutual recognition with the differences or you are for harmonisation, but we do think there is middle ground. I do not think we would want to press detail beyond giving examples of things that might be looked at. Those particular examples were pre my involvement and I would not be in a position to answer specifically on the technical matters, but we are happy to take that on notice and go and do some work on it.

Senator O'BRIEN—I took your submission earlier as saying you were adding to the previous submission, which is the reason I raised matters that were raised in the previous submission. So you are not in a position to deal with those now?

Mr Bartlett—I think this submission perhaps ameliorates our concerns. For example, one of the concerns we raised was that we did not have a clear view of the application of related legislation as to security. We are now satisfied that that is dealt with adequately in the bill, for example, so that part of our submission no longer causes us concern. I think the differences, other than those, might potentially cause a distortion in the competitive environment that this bill seeks to enable. This is, after all, about the enabling of air commerce, not the restriction of it, and I re-emphasise that we generally support that principle.

Senator O'BRIEN—Since the last hearings has Virgin Blue had any discussions with the department or CASA in relation to addressing what was described by Virgin as a level playing field between the two jurisdictions before the bill should be passed? Mr O'Callaghan probably knows more about this.

Mr O'Callaghan—In the context of specifics, no. Partly that has been due to the fact that the previous bill expired at the time that the parliament was prorogued, or dissolved. In effect, we were waiting to see the government's intention with regard to the reintroduction of the bill. But it would be fair to say that, in the context of our day-to-day discussions with the department of transport and CASA, we deal with a whole raft of issues but not specifically those issues which were canvassed in that bill in the period since the committee reported previously. That is correct.

Senator O'BRIEN—So you have not raised it with the department or CASA and they have not raised the matter with you?

Mr O'Callaghan—Not specifically in that context since the previous report of the committee, to the best of my knowledge, but I will take that on notice to the extent that I will double-check with my colleagues in Brisbane and come back to the committee on that.

Senator O'BRIEN—Is there any ongoing consultative mechanism in relation to operational and regulatory policy in the aviation sector when those matters are raised as a matter of course?

Mr O'Callaghan—Generally, the process that we follow from a Virgin Blue perspective is in terms of directly meeting with key department of transport and CASA officials. We do that on a regular basis. In fact, the working relationship, I would say, is good. It is a lot better now than it was four or five years ago. So it is principally a work in progress and is very much part of the day-to-day discussions that we have with officials at all levels.

Senator O'BRIEN—So there is no formal mechanism; it is just an informal approach by—

Mr O'Callaghan—There are a number of committees which are chaired by the department of transport and in which Virgin Blue participates. They mainly apply in the area of aviation security, I would have to say, including, for example, the high-level group on aviation security policy, which was an initiative of the department of transport about two years ago. That is an entity which is chaired by a deputy secretary of the department of transport, with representatives of the airports, the airlines and others. That is in fact a good template for the sorts of entities that could perhaps be even duplicated in other areas. Perhaps this is one area where that could occur. If I could re-emphasise it, I think that in the context, for example, of the development of bills like this, there has been a fair degree of discussion over a period of time between Virgin Blue people, the department of transport and CASA personnel, and we think that is principally about right.

Senator O'BRIEN—Is passenger misbehaviour on the increase, or has it been relatively static over recent times?

Mr O'Callaghan—I do not have to hand the data in terms of the number of instances, for example. It would be fair to say that, in the context of the increased concern by the general population about potential terrorist activity, the number of reports of potential incidents—or the number of reports of concerns that people have—has gone up exponentially.

With regard to issues of behaviour or misbehaviour, I think it would be fair to say that on each of the occasions that I have flown into some of the leisure centres in Queensland in

recent times, the level of misbehaviour has probably been higher on some of those flights than on some of others. You certainly do not see it on the extensive network of activity between, say, Sydney and Melbourne and between Sydney and Brisbane. I do not want to give a generalist response here. I would like to take that question on notice and come back with a considered response.

Senator O'BRIEN—If this bill came into force in its current form, would Virgin see significant operational changes for Virgin Blue? For example, would there be an increased incentive to operate under a New Zealand AOC and potentially move jobs offshore to New Zealand? If so, from what areas of the organisation's operation would those jobs come from? Maintenance, flight attendants, catering?

Mr Bartlett—We have made no determinations in that area.

Mr O'Callaghan—As a general point of disposition, the first thing I would say is that Virgin Blue is a majority owned Australian company. Patrick Holdings own 62 per cent of its share base. The Virgin Group owns 25 per cent. We are in fact a majority Australian owned entity with a desire to support Australians and Australians having Australian jobs.

Senator O'BRIEN—But there is a lot of speculation about what the structure might be with the current takeover. Far be it from me to speculate, but some people suggest that it might ultimately become majority British owned again. I am not sure; we are all speculating on what the future is in that regard. I do not think we can make judgments or what the future will be, based on the shareholding.

Mr O'Callaghan—Let me just add to that. I acknowledge that as well. Of course, you will appreciate that we are not really in a position to be providing a running commentary on what may or may not happen, and nor will we be. But, having said that, the position is principally this: we have got a strong Australian work force which is customer focused and young and energetic. We would, frankly, like to keep it that way.

ACTING CHAIR (Senator McGauran)—I would just ask the committee to be mindful of the time. We are 15 minutes over at the moment and Senator Sterle is looking to ask some questions too.

Senator O'BRIEN—I will just ask other question, if I may. How is the trans Tasman route going for Virgin Blue at the moment?

Mr O'Callaghan—It is probably worth making the point that the trans Tasman route is in fact the most competitive route in the whole of the world. That is principally because a number of international carriers in recent times have entered that route. Those Australians, New Zealanders and others fortunate enough to travel on that route now get the enormous benefit of a massive reduction in the cost of airfares. I would have to say that that is not a fine example of good public policy outcome because principally it is not sustainable. Not just Virgin Blue and Pacific Blue but all carriers on that route are looking very carefully at it at this point in time because it is a very tough route. Having said that, Australians are travelling by the bushel to New Zealand and New Zealanders are travelling by the bushel to Australia—and not just to watch rugby.

Senator O'BRIEN—There would only be a few flights a year, if that were the case.

Mr O'Callaghan—In fact, quite a few people travel just for rugby, to pick up on a point that was raised by the chair earlier. They are not all Brumbies supporters though; some are even Canterbury Crusaders supporters, like Mr Bartlett.

CHAIR—There will be a bit of that going on!

Mr O'Callaghan—Perhaps just briefly I will add three other points that I would like to make in the context of our presentation today. The first one follows the point that was raised by Senator O'Brien—that is, that the aviation market at the moment is a very tough market. Fuel charges have risen by more than 70 per cent in the last 12 months and there is no sign that they are going down. A rough order of measure is that the cost of fuel is around 20 per cent of the operating costs of the airline. So that is a tough call. That is putting enormous pressure not just on our airline but on others as well.

Secondly, airport charges have gone up by 40 per cent in the last 12 months. We find that not only disappointing but incredibly frustrating. We would call upon the public policy makers to have a careful look at this. We think, for example, that the ACCC ought to have a stronger role in keeping a careful eye on particularly the behaviour of some of the major airports. Those unfortunate enough to travel through Sydney airport, for example, on any day of the week are paying a premium for their plastic cup of coffee, their visit to the car parking station et cetera. We think that there is strong requirement to do more there.

Finally, Chair, we would like to call upon you and your colleagues to do a little better on the subject of government travel. Two years ago Virgin Blue went to the Premier of Queensland and asked him, 'Do you realise that only five per cent of your public servants travel on Virgin Blue, despite the fact that we have an extensive network within Queensland and despite the fact that you expended a considerable amount of effort to encourage Virgin Blue to base its operations in Brisbane?' He was somewhat alarmed about this, and directed his ministers and the heads of his departments to seek 'best fare of the day' for their travel requirements. Today, Virgin Blue has nearly 60 per cent of the Queensland government market, which is worth \$20-odd million per year. In the last two years, the savings to the Queensland budget have been 30 per cent or thereabouts.

CHAIR—Is this a paid ad, by the way? It is certainly not in the terms of reference.

Mr O'Callaghan—I was seeking a bit of license, just to finalise.

CHAIR—You've got it.

Mr O'Callaghan—By comparison, the federal government and its agencies spend nearly \$300 million per year on travel, of which the Department of Defence spends nearly \$150 million. Virgin Blue has been operating for nearly five years and offering very competitive rates which are attractive to business of Australia. Forty per cent of people who travel on Virgin Blue, particularly on the eastern seaboard, are business travellers. They are particularly small and medium sized enterprise business travellers from regional Australia. Virgin Blue has five per cent of the Commonwealth government's travel market. We think that is far too low. We would like you to encourage your colleagues to do a little better. To use the Queensland model as an example: if they can save 30 per cent in two years on their budget, and federal government outlays on travel are around \$300 million a year, a rough order of measure would be a saving of about \$100 million a year, for starters. I encourage you to have

a look at that. I appreciate that it is not strictly within the terms of this bill, but we would very much appreciate that.

CHAIR—That is what you call an advertorial.

Senator McGAURAN—Is the \$100 million saving if 60 per cent of the government took up—

Mr O’Callaghan—No. The bottom line is that if all the public servants in Canberra, Melbourne, Brisbane, Sydney, Perth and Adelaide sought the ‘best fare of the day’ to meet their business requirements, the sort of saving I am suggesting that the Commonwealth would make per annum would be in the order of \$100 million. You would see around 50 per cent of travel by public servants on Virgin Blue, Jetstar or Qantas. There would be roughly 50 per cent on Virgin Blue and 50 per cent on Qantas. When Ansett collapsed, the travel management companies that were responsible for booking travel by public servants, in particular, were entities owned either by Ansett or by Qantas. When Ansett collapsed, Qantas Business Travel—to its credit—acquired most of the travel management contracts of each of the departments and agencies including, for example, the Department of Defence. What that meant, in effect, is that—

CHAIR—We are going to have to end this here, because we have some questions that actually relate to the terms of reference we are here for today. So do you mind, Senator McGauran, if you have this conversation a bit later?

Senator STERLE—I am a public servant. I would rather see everyone buy Holdens and support the 1,400 unemployed workers in Adelaide.

CHAIR—There’s another advertorial.

Senator STERLE—Okay, it is one all. I am getting a bit confused when we talk about safety. Mr Bartlett, your presentation is all about when the plane is heading to earth at a greater rate of knots than what we want it to be. I also see security as safety. I think we are not getting the full story in terms of numbers on what can happen with in-flight security and incidents that happen on the aircraft. I will ask you a question and if you want to, you can take it on notice. We spoke to the FAAA earlier about in-flight incidents. Does your company keep a record of in-flight incidents?

Mr Bartlett—Yes, it does. We have an extensive reporting system and culture. We operate what is called a ‘just culture’ reporting system, which basically says to anybody, ‘You tell us and we will not hang you for it even if you have been the perpetrator.’ As a result, we gather many hundreds of reports a week, which are trended and analysed. They go through our aviation quality database and we are able to report to management online the state of what is actually going on out there as far as we can tell from the reporting. Security is no different. We track all of those and they are categorised from 1 to 4. Categories 3 and 4 are looked at from a desktop perspective. Category 2s, which are real incidents—somebody has whacked someone or something—are the subject of a full investigation and we look at them systemically, not just at what happened on the day but at what allowed it to happen. In that regard, security is no different to safety, OHS&E or any other environmental consideration. The manner of behaviour of staff and the application of process and procedure is generally designed to stop this stuff happening. There are always exceptions. The best X-ray machine

cannot detect somebody who is mentally deranged. When those things happen, in general, it is left to the crew to deal with it and often with the assistance of passengers as they see fit. It is rare, however—very rare. In general, the security environment is managed in exactly the same way as the safety environment—by the application of good process, policy, procedures and safety systems.

Senator STERLE—Do you take into account pastoral care, such as people fainting? Does that get reported as well?

Mr Bartlett—Absolutely.

Senator STERLE—Would it be possible for this committee to have access to those figures?

Mr Bartlett—Yes, I believe it is.

CHAIR—Thank you very much.

[11.12 am]

O'CONNELL, Mr Terry, Executive Director, Australian Federation of Air Pilots

CHAIR—Welcome. I invite you to make an opening statement.

Mr O'Connell—Thank you. I am the executive director of the Australian Federation of Air Pilots, which in effect means that I am the most senior staff member for that union both in age and hierarchically.

CHAIR—You are not an old, worn-out pilot though.

Mr O'Connell—I am just old and worn out, forget about the pilot part. The Australian Federation of Air Pilots represents over 2000 pilots in Australia engaged in operations extending from, at the top end, Virgin Blue operations down to, at the bottom end, ag pilots, flight instructors, the Royal Flying Doctor Service, and in the middle—

CHAIR—Why are they at the bottom end?

Mr O'Connell—They are at the bottom end of the market in terms of the size of the equipment they are flying. They are not necessarily in terms of wages, I might add, thanks to the generosity of some farmers around the country. The federation made a written submission earlier in the piece. We have seen that there are some amendments that have addressed some of our earlier concerns, particularly in relation to the temporary stop notices and variations to the AOC after the issue of the initial privilege that is proposed by this bill.

We do still have some concerns. In brief there are four points that I wish to address. The first one is recognition versus harmonisation, that argument. The second one is surveillance. The federation represents civil aviation flying operations inspectors as well, so we do have some membership and there has been some concern expressed there. The third one is the definition of 'majority operations'. Clause 28B has addressed that a little in terms of the proposed bill, but there are still some concerns that we see emanating from that. The fourth one is potential industrial implications. I know that we concentrated fairly heavily on that in our initial submission. There has been some discussion across the table today in relation to Pacific Blue. Pacific Blue seems, in our mind, to be a clear example of where things may go in the future if this bill is passed.

One of the major areas we operate in is with the Dash 8. The Dash 8 100/200 can operate with up to 37 or 38 seats. Normally it operates with 36 because of our regulation on one crew member to 36 passengers. The Dash 8 300 has 50 passengers and under Australian regulations has two flight attendants, whereas operators in New Zealand could operate with a single flight attendant. That is at the lower end of the passenger RPT operations which, depending upon how this bill fleshes itself out, could be an issue that we face in Australia and, down the track, in New Zealand.

The argument for mutual recognition that is proposed in this legislation is flawed in relation to providing an aviation safety framework. We argue that harmonisation aimed at achieving the best safety outcome regulation by regulation is the preferred approach and one that we should be considering here in this forum. DOTARS has indicated that a comparison has been completed but we are yet to sight that. We are assuming it will be a comprehensive

comparison. We believe that it should be available to all and we should look at the devil in the detail of this proposal, regulation by regulation.

Using ICAO to establish and justify a safety position is, in our argument, merely a convenient approach. ICAO provides a minimum position—in effect, the lowest common safety benchmark on a global basis. Aviation safety in Australia traditionally has been about establishing and maintaining margins of safety over and above the minimum standards. Should there ever be a major accident in Australia involving an aircraft covered by this proposed legislation, the lawyers would have a field day in dissecting, clause by clause, the respective legislation, regulation and orders in Australia and New Zealand. We believe it is incumbent on us all to sight and analyse this comparison and see exactly what we are getting ourselves into.

Our second point is that the ability of the respective countries to issue temporary stop notices clearly implies two things: (1) surveillance will be carried out by the respective authorities on the non-home based AOC, for want of a better expression; and (2) regulatory resources will be used in surveillance of home based and non-home based AOC holders. This means that there will be additional costs which the industry in its broader sense will have to pay for in achieving the efficiencies that this bill attempts to achieve. We see the potential for regulatory duplication and/or regulatory confusion emanating from this proposal.

Our third point is that, whilst 28B, in its amended form, does provide more guidance on what constitutes majority operations, it still concentrates on the management of the operation, not on the nature of the operation sought to be regulated. We are still at a loss to establish exactly what a majority operation means—whether it is flying hours, sectors or having your flight operations department based in Australia or in New Zealand does not really clearly outline what is a majority operation. Proposed new section 28B(1)(d) addresses management of the safety systems in senior management but does not necessarily tell us what a majority operation is. If we assume the same applies in the New Zealand situation, Air New Zealand could very well meet all of these requirements but still be able to swamp Australia with flying, even to the extent that the majority of its hours flown as an operation could be in Australia.

Finally, whilst it is not directly related to safety—and the federation has spent quite a bit of time in relation to the industrial implications in its earlier submission—we see that there are significant employment ramifications for existing employment arrangements and for further employment opportunities for Australians.

Under this proposed legislation, the comparative sizes of the two economies clearly provide opportunities for scales of economy for New Zealand operators that are not currently available. Add to that Australia's currency advantage, which is obviously now somewhat diminished, and also our enlightened income retirement policy, and we are at a cost disadvantage throughout. There was some discussion earlier in the piece—and, yes, in negotiations, pressure has been placed on the Virgin Blue pilots in relation to amending their flight and duty limitations as a result of the Pacific Blue operation, and we can see more and more of this occurring if the legislation's proposed form comes to pass. That ends my brief opening statement.

Senator O'BRIEN—How would that work; how would this legislation lead to more pressure on Virgin Blue pilots?

Mr O'Connell—With a Pacific Blue operation, assuming a New Zealand AOC with ANZA privileges, they would be able to operate a significant amount within the Australian domestic scene and, with their lower cost structure, put increasing pressure on Virgin Blue pilots' conditions and employment opportunities in the future.

CHAIR—Yes, but you really have not answered the question. Are they going to be made to fly more hours or eat less tucker?

Mr O'Connell—They will certainly be required to fly more hours on a comparative cost basis, which Mr Bartlett talked about earlier.

CHAIR—So what is the difference in hours for Pacific Blue pilots?

Mr O'Connell—It varies from sector to sector, but in a general sense it is 100 hours per year stick time, effectively. It does not sound like much across the table, but when you are actually flying those hours it is significant when you add in all your down time and overnights.

CHAIR—So it is an extra two hours a week?

Mr O'Connell—Effectively, in round terms.

CHAIR—Simply put.

Mr O'Connell—But remember that 900 hours is the maximum under our existing Civil Aviation Order 48; 1,000 hours is the exemption that applies in both Australia and New Zealand, I believe. The Qantas short-haul pilots, for example, fly to 1,000 hours, which is the exemption, not CAO 48. The Virgin Blue pilots choose to still fly to the 900 hours under the CAO 48 flight duty limitations.

CHAIR—In the Dash 8 operation in New Zealand where you say there is one flight attendant for 50-odd passengers or whatever it is, what is the difference? What is different about what happens during the flight over there—anything different to here? Does the one person get to dish out 50 feeds?

Mr O'Connell—All I am commenting on is the ability for one versus two in terms of the regulatory framework that we are addressing here. In relation to levels of service, I am not sure. In relation to levels of safety, we would certainly argue that it is a diminished safety position.

Senator O'BRIEN—How many emergency exits are there on the 300?

Mr O'Connell—I believe there are two on the 300.

Senator O'BRIEN—Just the two up the front—none on the wings?

Mr O'Connell—I have just been advised there are four. I will bow to their greater knowledge of the operation.

Senator O'BRIEN—You have referred to proposed new section 28B(1)(d) of the legislation. Is that the principal area where the determination about whether the Australian or the New Zealand regulations will apply is made?

Mr O'Connell—That appears to us to be the clarification of what a majority operation is. In those terms it defines, effectively, that an Australian operation has to have its safety system in Australia and its senior management in Australia. But it does not say anything about what hours, sectors or whatever other considerations may be in place.

Senator O'BRIEN—You made a point about the surveillance regime which suggests it is your view that CASA will need to be across the New Zealand regulations as much as the Australian ones and the Civil Aviation Authority of New Zealand will be in a similar situation in relation to the Australian regulations. Is that what you mean?

Mr O'Connell—I do not know whether I went that far. I was saying that it was envisaged that a New Zealand operator would be over here potentially flying domestic operations—which are not currently available—which would require more surveillance from CASA inspectors and which would clearly imply that they would have to be more familiar with the New Zealand style of operating.

Senator O'BRIEN—Let us make a dramatic assumption that Pacific Blue decides to fly domestically in Australia. How do you think the surveillance of Pacific Blue would work, assuming that it was deemed to be a New Zealand operator and covered by the New Zealand Civil Aviation Authority?

Mr O'Connell—As it is still hypothetical, I am not sure, but I would imagine that Pacific Blue would have to meet Australia's regulations to satisfy the CASA inspectors. In relation to those inspectors having to have an intimate knowledge of the New Zealand regulations and orders, I am not sure how that would pan out. But, as I said, it does provide for CASA inspectors the potential for confusion as to what they are actually regulating.

CHAIR—So this is about Pacific Blue flying or whoever flying in New Zealand with one crew and 50 passengers and that, if they should decide for some strange reason to fly to Wagga, they will do it with one crew instead of two in the same plane.

Mr O'Connell—They could, yes.

Senator O'BRIEN—When you provided evidence to this committee in relation to the previous bill, you indicated that there were three areas of potential ambiguity, which you paraphrased by saying that CASA must have regard to four matters when determining whether it is able to effectively regulate operations covered by ANZA privileges. You were concerned that the list did not include whether the majority of flying operations were undertaken from or within Australian territory, the fluid nature of the aviation industry and the ability of their lines to create complex, creative corporate structures to influence the AOC jurisdiction that they would fall under. Are they still your main areas of concern in relation to this bill?

Mr O'Connell—Yes, I believe that they are still the same. I think that experience has shown us within aviation and the airline structure that a lot of entrepreneurial structuring is going on. We see that continuing into the future—possibly even gaining pace with issues such as increased fuel. That puts pressures on all management.

CHAIR—We have heard that fuel is roughly 20 per cent of fixed overheads. What percentage of fixed overheads is crew and pilots?

Mr O'Connell—They would be below five per cent now. It is hard to answer that exactly because of the increasing cost of fuel. It is certainly below five per cent in a flight crew area. I cannot really comment on others.

CHAIR—That is the pilot and the cabin crew?

Mr O'Connell—I am talking about pilots. I would prefer to take that on notice because of the current—

CHAIR—You might include the crew while you are at it.

Mr O'Connell—I will see what I can do. I am not sure whether I will be able to—

Senator O'BRIEN—I am not sure you are the witness to give us that breakdown of airlines' costs. We could ask Mr O'Callaghan if he would assist us.

CHAIR—No doubt he will.

Senator O'BRIEN—I was assuming that your concern about corporate structures related to an airline's potential ability to operate from the cheapest or lowest tax jurisdiction, effectively creating a sort of flag of convenience in the aviation sector. Is that a fair way of putting it?

Mr O'Connell—That is a correct summation. From our point of view, Pacific Blue is a difficult operation because we originally believed that that flying was to be ours. We had an industrial agreement with Virgin Blue that we would be doing that flying. For their own purposes they established their own company within New Zealand. Pacific Blue does not employ pilots other than the chief pilot and one or two check and training pilots. It engages its pilots through a contractor—a pilot-providing employment agency—at a substantially lower rate of pay than the Virgin Blue pilots receive. That was obviously one of the factors in the consideration of Virgin Blue management when they established Pacific Blue as a separate entity.

CHAIR—To give a bit of colour and movement to what you just said, what does 'substantially less' mean?

Mr O'Connell—I am not exactly sure of the current rates of pay for the Pacific Blue pilots. It was around \$NZ110,000. That may have gone up slightly with increases in CPI. They are individual agreements, so it is very hard to access them, from the union point of view.

CHAIR—Versus what?

Mr O'Connell—Versus \$A150,000 plus super plus other benefits. It is \$NZ110,000 basic. For example, they have to provide for their own loss of licence out of that. When you consider that you also have to pay for your own endorsements before you get the job, it is tough going in such operations.

Senator STERLE—How much are the endorsements?

Mr O'Connell—Around \$A25,000 to \$A30,000. Virgin Blue pilots also have to pay for their own endorsements to enter, so they are both in the same ballpark there.

Senator O'BRIEN—Do you believe the provisions of this bill will achieve significant streamlining of costs and/or of the regulatory regime?

Mr O'Connell—No. Our argument is still that the savings are yet to be identified. People are talking about them. We are yet to see any hard facts that show that there are substantial savings in relation to this proposal. Even in relation to the regulatory regime, as we have said, there is confusion as to who in the end is going to prevail in the case of what we see as maybe a major accident.

Senator O'BRIEN—Is there any benefit to the travelling public from this legislation?

Mr O'Connell—No. I do not think there is as much benefit to be gained as there is through us and the companies working together on effective industrial agreements.

CHAIR—At the end of the day, does this mean that the domestic flying market will be greatly falling behind the cost of the global flying market? If there happened to be an 'open skies' policy, what would happen to us? We would be priced out of it, would we?

Mr O'Connell—Potentially, the working conditions enjoyed by Australians could be undermined.

CHAIR—That did not really answer the question, though, did it?

Mr O'Connell—It did not, but it went close enough, I think, Senator.

CHAIR—This is the same argument as the one about the potato chips at McDonald's.

Senator O'BRIEN—Obviously your area of specialisation is the pilot factor. What can you tell us about the training, occupational health and safety, superannuation, workers compensation and taxation obligations in existence in New Zealand as opposed to those in Australia—I imagine there are variations—in a general sense?

Mr O'Connell—I cannot comment in detail on all of those aspects. As I said, I do know in relation to the flight and duty limits of Pacific Blue versus Virgin Blue. There is that difference I mentioned earlier: 100 hours. There is no requirement under the individual contracts of the Pacific Blue pilots for superannuation, so there is another nine per cent cost differential. I can take the rest of it on notice, but I would not like to go into it now. I think occupational health and safety would be much of a muchness.

Senator O'BRIEN—What about tax obligations?

Mr O'Connell—I am not sure of the respective tax regimes.

Senator McEWEN—So are the pilots for Pacific Blue employed by labour hire or are they contractors?

Mr O'Connell—They are employed by a labour hire firm and are provided as contractors to Pacific Blue.

Senator O'BRIEN—I want to ask about your view of the security and safety implications of this bill. Have you any concerns about the different cabin crew to passenger ratios that would potentially apply?

Mr O'Connell—In relation to that, we would support the flight attendants' argument put before the committee.

Senator O'BRIEN—What is your view on the issue of sky marshals? Does your association have concerns at the prohibition of sky marshals on aircraft operating under New Zealand AOCs?

Mr O'Connell—The federation does not hold a strong position in relation to air marshals. We have accepted that they have been introduced into Australian operations. They do exist within Australia, as we all know. Our position is that there should have been more consultation, but we are satisfied now with the operation of the sky marshals. Obviously, anything that adds to security we are prepared to accept. Our position is that we would prefer to see sky marshals now than not see them.

Senator O'BRIEN—Does your organisation have any view on whether there would be a differing maintenance standard applying to aircraft operated under a New Zealand AOC as compared to the one in Australia?

Mr O'Connell—Our position on maintenance is that we want the best that is available and to the best standards that are available. If they are the Australian ones then they are the ones we want. We believe they are.

Senator O'BRIEN—But what impact do you say this bill might have on that?

Mr O'Connell—It has the potential for servicing to be done under supervision from New Zealand and with more New Zealand aircraft flying in Australia to New Zealand standards, which we do not believe are as good as the Australian standards.

Senator O'BRIEN—Has your organisation been consulted by the department or CASA in relation to the issues that you raised at the previous hearing or in any way in relation to this bill?

Mr O'Connell—Not in relation to this bill, no. There is a standards consultative committee that meets every quarter. That is organised by CASA. It does involve the industry, including DOTARS. We are briefed by DOTARS at that meeting on a number of issues. I have not been to every one of those committee meetings, but, to the best of my knowledge, there has been no recent consultation or advice on the mutual recognition bill. There has been on other issues such as security and drug and alcohol testing.

CHAIR—Thank you.

[11.37 am]

HINDER, Ms Nicola Allison, Acting General Manager, Corporate Relations, Civil Aviation Safety Authority

WHITE, Mr Arthur, Acting Group General Manager, Air Transport Operations Group, Civil Aviation Safety Authority

CHILVERS, Mrs Merrilyn, General Manager, Aviation Operations, Aviation and Airports Business Division, Department of Transport and Regional Services

LAM, Ms Wancy, Senior Lawyer, Department of Transport and Regional Services

CHAIR—Welcome. You may choose to make an opening statement if you like. We will see what happens after that.

Mrs Chilvers—I will keep my opening comments very brief.

CHAIR—You will hedge your bets?

Mrs Chilvers—If that is the way you choose to interpret it! I think the issues have been well discussed by the previous witnesses. Essentially, we lodged the same submission with a covering note because we felt that the issues had not changed. We note that the committee in the previous parliament inquired into this bill and made recommendations to the government. The government adopted the recommendations of the majority report. The bill has been amended to take into account the recommendation that any extension of mutual recognition beyond that relating to AOCs should be done through primary legislation. There were amendments to make it quite clear that that was the way that future extensions and perhaps certificates of authority would be made. The government has agreed that there will be an assessment of the safety outcomes one year after the legislation comes into effect and that there will be a report to the parliament. CASA is currently working with the CAA in New Zealand to devise terms of reference for that inquiry.

CHAIR—To answer an earlier question, and I may be well away from the money here, if someone in New Zealand operating a 50-seat Dash 8 with one crew decided, for whatever reason, to fly Wagga-Sydney, could they do it with one crew instead of two, which they would have to have here? It is obviously an anomaly if that is the case.

Mr White—The basic answer is: yes. The Dash 8 carries about 50 seats. If the New Zealanders are still working on their one to 50, then they could operate with one cabin attendant.

CHAIR—Do you think that would be a reasonable thing? Wouldn't that be some sort of anomaly in the market?

Mr White—We have looked at this. The requirement from ICAO is simply that you should have sufficient cabin attendants to do the business.

CHAIR—That is a very bureaucratic answer. In terms of how an ordinary Australian would look at it, we have coming in from New Zealand some people who are going to fly the same plane yet are allowed to legitimately fly in the same market with one less crew.

Mr White—They could see it that way.

CHAIR—One other thing that has been brought to my attention is that some international flights board domestic passengers—such as an international flight coming in to Darwin and then going on domestically. Do you know about that?

Mr White—Under the present system we have, international flights have a foreign aircraft air operator certificate which simply permits them to fly into and out of the country. They cannot pick up and set down passengers within the country. The certificate does not permit that. What can happen is that, if we have an aircraft coming into Sydney—

CHAIR—This was specifically into Darwin.

Mr White—If they come into Darwin and then, for example, go on to Sydney, they may set down passengers at Darwin who have come in on the international flight. They could pick up passengers who are going out of the country, but they could not pick up passengers who were going from Darwin to Sydney.

CHAIR—This morning I spoke to someone who got on in Darwin and went to Sydney.

Mr White—I could not comment on that.

CHAIR—In any event, that is not my point. I am told—and you may take this on notice or do whatever you like with it; you can tell me to go to hell if you like—that this person put their luggage on and, as they were in the domestic terminal, it did not have to go through Customs, and then at the other end when they got off the plane—I had better not identify where—all the international and domestic luggage came out on the one belt. So, if you were a smarty and you wanted to avoid Customs somewhere, you could perhaps do it by switching cases.

Mr White—That is not really my area.

CHAIR—That is all right. I am just flagging it.

Mr White—But, if I may comment, the baggage still goes through security at the final destination airport.

CHAIR—But not through Customs?

Mr White—Yes, it does.

CHAIR—So, if you board domestically in Darwin, by chance, accident or design, and fly a domestic leg with an international flight, when you get to the other end your luggage is treated as if it came from London or somewhere?

Mr White—I believe so, but I do not know whether the department could comment.

CHAIR—You might confirm that.

Senator O'BRIEN—Thank you for appearing today. It is useful to have an update on any progress on the issues that were part of the last committee's inquiry into this bill. The first key recommendation that the committee made in June last year was:

... that 12 months after the commencement of the mutual recognition of AOCs, CASA conduct a comparative assessment of the safety records of airlines operating in Australia under both Australian

and New Zealand AOCs and report the findings to the Commonwealth Parliament within 18 months after the commencement of the operation of the mutual recognition of the ACOs.

The second key recommendation was:

... that the bill be amended by omitting item 35 from Schedule 1.

They were provisions allowing for an extension of mutual recognition by regulation. Can you provide an outline for the committee on how both of the recommendations have been responded to?

Mrs Chilvers—Ms Hinder might like to talk about the work that CASA is doing in preparing for the assessment of the safety records of the airlines. That is work that is not complete yet, but there is certainly preliminary work being done on it.

Ms Hinder—This is something which CASA are actively focused on as part of the government's response to the committee's report. We did undertake to do the comparative safety assessment, and work is under way within CASA to establish the groundwork by which the safety assessment would be undertaken. That is work which is being coordinated through my office in conjunction with a strategic research associate within the office of the CEO within CASA. As well, as part of that planning process, we are going to undertake extensive consultation with the New Zealand CAA so that we can fulfil the committee's recommendations.

Senator O'BRIEN—So that is subject to agreement with the New Zealand CAA?

Ms Hinder—It would not actually be subject to agreement with the New Zealand CAA but we will be consulting extensively with them because it does form a comparative safety assessment.

Senator O'BRIEN—What has happened about item 35 from schedule 1?

Mrs Chilvers—That item was omitted from the schedule. In addition, to make it a bit of a belts and braces approach, we also put in another item, item 38, so that it will now read:

Despite the ANZA mutual recognition agreements, the regulations cannot allow for the mutual recognition of ANZA safety certifications (other than AOCs) between Australia and New Zealand.

So we have put that extra clause in to make it absolutely clear what the committee's intent had been. Our legal advice was that merely by omitting item 35 there would still have been a backdoor way to do it. We did not think that was appropriate, so we took the committee's recommendation in the spirit in which we believe it was intended.

Senator O'BRIEN—The committee's inquiry also raised concerns about empirical evidence supporting arguments that mutual recognition of AOCs will reduce administration costs, crew ratios and safety issues, costs to CASA, safety records, sky marshals and the harmonisation of Australian and New Zealand regimes. What action has the department taken in relation to these concerns?

Mrs Chilvers—That was quite a list. Could you bear with me and take them one by one?

Senator O'BRIEN—We were concerned about the empirical evidence, or lack of it, supporting arguments that mutual recognition of AOCs will reduce administration costs; the concerns about crew ratios and associated safety issues; the costs to CASA in administering

the regime; the maintenance of safety records under the new regime; the impact on the use of sky marshals, given that New Zealand AOCed aircraft do not carry sky marshals, as I understand it; and how we would proceed to harmonise the two regimes.

Mrs Chilvers—Perhaps I will start at the bottom of that list. With the harmonisation, as we said earlier, and the position is the same, there is no intent underlying this mutual recognition to move towards harmonisation. There are two approaches. You can either harmonise, go through all your regulations and line them up, or else you can agree that you will recognise the safety outcomes through a mutual recognition approach. The government's approach was that it would be a mutual recognition rather than a harmonisation. It may be that through the process, and through the years, the regulations get closer and may in fact in some cases end up the same, but that is not what is driving this process. We will not be—

CHAIR—If you do not harmonise, who would be mug enough in Australia not to go offshore? If you are flying the route to Wagga—it does not go to Junee, unfortunately—and you can do it with one less crew, I do not know what the savings will be but you would be a mug if you did not. Isn't this sending a message that we are going to go to the lowest common denominator rather than some harmonised agreed position?

Mrs Chilvers—This is probably a question more for the airlines than the department.

CHAIR—I know that I am pre-empting the thinking of the airlines—it is tough enough now; aviation is not something I would be a wild investor in—but it would be stating the bleeding obvious. If someone can fly that route with one less crew—I do not know what other savings are in the business; it may be 100 hours, or a year, of extra flying and you would not have to have superannuation and all that—then they would.

Mrs Chilvers—There has been a lot of focus on the fact that, in some circumstances, there can be fewer flight attendants, but I think there are a lot of other costs that an airline has to take into account.

CHAIR—I appreciate that.

Mrs Chilvers—So, in this instance, I do not think I can really answer that question.

CHAIR—I will answer it for you. If you can crew a plane to fly from Wagga to Sydney with one less crew, with no superannuation obligation and a whole lot of other things, it would be unreasonable to expect that that will not happen.

Mrs Chilvers—You would need to look at the whole business structure of an airline and their whole commercial strategy.

Senator O'BRIEN—Have you looked at that? It is an issue that has been raised. My question invites some information from the department as to what, if anything, you have done to redress those issues.

Ms Lam—I am not sure whether this will answer your concern but, as discussed earlier at this hearing, there are requirements under the bill that limit the ability of operators to pick and choose which regulatory system they want to operate under. In particular, under proposed section 28B, under the Australian system we think the operators would have to base the majority of their resources in Australia and CASA would have to be able to effectively regulate the operator. So, if a particular operator intends to operate mostly within Australia,

domestically, there would be something to trigger the transfer of the operator from the New Zealand system to Australia. So I suppose that limits the possibility that a New Zealand operator would operate mostly in Australia but still be subject to New Zealand law.

Senator O'BRIEN—How would it work if I were an Australian ticket seller but contracted to an airline with a New Zealand AOC? You would have one operation selling the tickets and doing the marketing—there are plenty of examples of this—but the aircraft and crew being provided by another company. Which operation would own the AOC? How would the law apply there? Would it be the same principle—that is, where the majority of their operation was?

Mr White—The country where the majority of the operation is situated would be the host country and they would issued with the AOC.

CHAIR—On what basis have you made the determinations on flight crew and passenger ratios? What determined that it should be one to 36?

Mr White—That would be historical.

CHAIR—So no science is applied—we just do it because that is what we used to do?

Mr White—It has been in for a long time. I cannot comment on exactly how CASA arrived at one to 36. As you are probably aware, generally most of the world uses one to 50. A lot of the demonstration evacuations from aircraft are based on one to 50. We selected one to 36. I cannot give the background at the moment, because it was long before my time.

CHAIR—So you are saying, in code, to Australian air travellers that that is not important?

Mr White—We are saying that both countries can achieve the emergency evacuation of that aircraft with the number of cabin crew they have.

CHAIR—What you are saying is that there is no additional risk in the added ratio?

Mr White—We happen to think the one to 36 provides a better ratio. It will still achieve the requirements.

CHAIR—But is it any less safe with one to 50?

Mr White—I could not comment, Senator. Whilst we have invited airlines and other groups to provide us with a safety case to demonstrate that one to 50 will be any better—

CHAIR—If whatever airline does this Wagga route with one to 50, wouldn't you have to rethink the original CASA recommendation? Wouldn't it be unfair not to?

Mr White—As I say, that is correct, because we have invited airlines to give us a safety case to do that. Nobody to date has done it.

CHAIR—I am sure the market will take care of it for you.

Senator O'BRIEN—I take it the department has not done the work on crew ratios and safety issues since the last hearing?

Mrs Chilvers—No.

Senator O'BRIEN—What about the cost to CASA? Has anyone done any work on the costs to CASA of administering the new regime?

Ms Hinder—While I am unable to actually give you some specifics in regard to cost, it is important that we go back to what this bill is aiming to introduce. That is basically that the oversight of the airline is going to be undertaken by the aviation authority which issued the AOC. So in terms of costs to CASA, there really is no dramatic change as to the costs that we currently have in accordance with the costs that we will have in the future, in the same way that CASA issues AOCs for Australian airlines operating in New Zealand. We do undertake surveillance tasks et cetera of those airlines that operate there and those costs are already within our budget. So in that respect there will not be a dramatic change as far as CASA's costings are concerned. There will also be the ability, though, if this bill goes through, to have the New Zealand CAA undertake specific surveillance tasks for CASA upon request. That is not routine surveillance, though. They are specific tasks. So, depending on the volume, it may represent a saving but, on the whole, I do not believe what is being proposed will make CASA incur significant additional costs.

Senator O'BRIEN—Let me run this past you to see whether my understanding is correct. I do not wish to single out a particular airline, but this one is obviously an existing example that might be useful. If Virgin Blue contract with Pacific Blue to provide an aircraft which may fly Auckland-Brisbane, and then fly Brisbane-Melbourne, Melbourne-Sydney, Sydney-Brisbane, and back to Auckland in a leg, that would be a New Zealand regulated series of flights, wouldn't it?

Ms Hinder—Yes.

Senator O'BRIEN—So CASA would not have any role in regulating those flights unless requested by the New Zealand CAA.

Ms Hinder—Yes, I believe so.

Mr White—Even though it would remain New Zealand's responsibility we do have the option, if we wish, to carry out inspections on these aircraft. That is just standard policy.

Senator O'BRIEN—That would be at the cost of the Civil Aviation Safety Authority, not the New Zealand Civil Aviation Authority.

Mr White—That is correct. We already do those sorts of inspections on foreign aircraft.

Senator O'BRIEN—I guess it depends on the level of inspections that you would carry out normally and what impact that would have on frequency.

Mr White—That is correct.

Senator O'BRIEN—I suppose you could argue that in some circumstances there would be less work for CASA because there would be more New Zealand based aircraft.

Mr White—That is probably correct. I cannot anticipate the future.

Senator O'BRIEN—The dissenting report to the committee inquiry last year recommended a full comparative assessment of the safety regimes, a full regulatory analysis of the two systems and a detailed analysis of the costs and benefits of the proposed regime. Has the department done any work in any of these areas?

Mrs Chilvers—The government chose not to adopt the recommendations of the dissenting report, so we have not done any further work of those issues.

Senator O'BRIEN—So the state of knowledge on those areas is no more advanced?

Mrs Chilvers—That is correct.

Senator O'BRIEN—We have heard evidence this morning from witnesses who are still concerned about the practical application of the provisions of this bill, particularly in relation to safety and security. Is it the view of the department and/or the Civil Aviation Safety Authority that safety regulatory regimes in New Zealand and Australia are of the same standard and that they achieve comparable outcomes?

Mr White—We have no reason to believe they are not the same. All our observations are that we achieve the same safety outcomes, albeit perhaps by different means.

Senator O'BRIEN—And the basis of those observations is what—number of accidents or incidents?

Mr White—If we wanted to go back to the basics, we have quoted in the past that each country has been audited by ICAO and found to be suitable in the operations it does. We also worked closely with the CAA in New Zealand and we observe a lot of its practices.

Senator O'BRIEN—What role does ICAO play in assessing the relative safety regimes?

Mrs Chilvers—I do not think it is fair to say that ICAO comments on relative safety. It has a program of safety audits, which it does on a systematic basis, where it audits each country's compliance with annexes under the Chicago convention, noting whether or not a country complies and whether differences have been lodged. But it would not say that one country is safer than another. It is a matter of compliance with the annexes.

Senator O'BRIEN—In light of recent incidents involving international aircraft where crew have been able to evacuate aircraft with minimal injury—I am talking about the Air France incident in Canada and the Qantas incident in Japan—is it acknowledged that safety benefits accrue from a high crew to passenger ratio?

Mr White—I do not think we could really comment there. We have not seen the results of the accident investigation in either of those incidents or indeed whether the number of cabin crew had any bearing on them.

Senator O'BRIEN—I am given to understand that the Air France incident involved an actual ratio of one to 24, which provided a major ability for all passengers and crew to be evacuated successfully before fire destroyed a substantial part of the cabin. That is based on 297 passengers and 12 cabin crew on the aircraft. With a number of evacuation points not functioning properly, successful evacuation was achieved in 90 seconds with the survival of all persons on board. Are you saying that there has been no consideration of those factors in relation to what might lead to a change in the crew to passenger ratio on aircraft operating in Australia?

Mr White—I think we would have to have a full report on the accident. I was not aware of the 1:24 ratio. As far as I know, the European ratio is 1:50—I could be wrong there. The additional crew could simply be for the cabin service, as was mentioned earlier.

Senator O'BRIEN—They may be in excess of requirements.

Mr White—They may well be in excess of requirements.

Senator O'BRIEN—The point is that it seems to be double the requirement of staff. It was a significant incident where the fuselage was lost to fire but no-one was killed or critically injured in the evacuation. Everyone was evacuated.

Mr White—I agree with you, but I think we have to wait for the results so we can assess it properly. At the moment Australia has one of the lowest, if not the lowest, cabin crew ratios.

Senator O'BRIEN—At least as regulated. We did hear the evidence of the difference between Pacific Blue and Virgin Blue where there is one fewer cabin crew member on identical aircraft operated by related companies across the Tasman. I think it is a fair assumption that the impact will be a reduction in cabin crew. That is a fair assumption based on the evidence, isn't it?

Mr White—I would not say that there would be a reduction in safety. We just happen to believe it is more efficient and we could achieve the result better, but both will get the number of passengers out in the required time.

Senator O'BRIEN—Has CASA conducted research into this matter of passenger crew ratios since the hearings on this bill last year?

Mr White—No, we have not. The last consultation we had was to put out a discussion paper back in about 2000 where there were a couple of options, one of which was to go to a ratio one to 50 seats rather than passengers. That subsequently became a notice of proposed rule making in about 2002. Again, we invited comment. The comment we received pretty well said they wanted to stay at one to 36. That was from the cabin attendants associations mainly. The airlines have not put in any safety case to change it.

Senator O'BRIEN—So the Australian airlines have been happy with the current arrangements?

Mr White—I would not say that, but they have not put the safety cases to us—

Senator O'BRIEN—But they have not pursued any change?

Mr White—Not formally at this time.

Senator O'BRIEN—What do you mean? Have they done it informally?

Mr White—They have not written to us and said they wanted to make a change, and they have not produced a safety case.

Ms Hinder—We have received word from the airlines that at some time they will be looking to come to CASA with a safety case to demonstrate whether changes are required. CASA has responded by saying that, while at this stage we have not made any moves to change the 1:36 ratio, we will look at safety cases if they are presented to us. We remain open to making changes, but they must be supported by an appropriate safety case to support the changes.

Senator O'BRIEN—That seems to flagging that you are expecting a proposal from the airlines to change the current flight cabin crew to passenger ratio.

Ms Hinder—I would not say that we were flagging it; it is certainly something which has been raised with us, but the onus would be on the airline operators to come to CASA with a defensible safety case to make the change.

Senator O'BRIEN—But you have already made the assumption that there is no difference in the safety outcome with the New Zealand ratio. You are already telling the airlines that they can come and ask for the same, aren't you?

Ms Hinder—The main driver to make the changes from the airline point of view would be a safety case to demonstrate that the change would not detriment safety.

Senator O'BRIEN—So how do you assess the New Zealand situation if you have not conducted a safety case? Or are you presuming that there is an acceptable level and the Australian standard at the moment is above an acceptable level?

Mr White—I think the latter. We have agreed that 1:50 is an acceptable level, because it has been demonstrated. We believe ours is better.

Senator O'BRIEN—So the airlines can simply come and ask, and they will get that as the regulation for Australia.

Ms Hinder—I would not say that that would be an expected outcome. The expected outcome would be that the airlines could come to CASA and, provided there was a demonstrable safety case or a reason for CASA to consider it, then it would be considered. It would not necessarily be a *fait accompli*.

Senator O'BRIEN—I am utterly confused. I do not know how you can say that the New Zealand standard is an acceptable standard without saying that you would accept a safety case which proposed that as acceptable for Australia. I do not understand; please explain.

Mrs Chilvers—I think Ms Hinder is saying that they would look at a safety case. I do not think she is saying that they would just say, 'Thank you very much, Airline; we will adopt exactly what you say.' Then there would also be a requirement on CASA. The government has always required CASA to consult on regulatory proposals for change so there would be a broader consultation process than merely assessing and accepting the safety case put forward by the airlines.

Senator O'BRIEN—I understand what you are saying but I am trying to align that with clear statements made today that the New Zealand situation with regard to cabin crew to passenger ratio is an acceptable safety standard. I am trying to align those two statements to see how you could then reject an application from the airlines and a safety case that says that is an acceptable standard and that should be the regulation. How would you manage to do that in those circumstances?

Mr White—I think that the difference is that at the moment we are not harmonising the regulations. If we were harmonising the regulations, we would have a different outcome.

Senator O'BRIEN—I do not think the question of harmonising comes into it. We have just heard that there is some discussion about how airlines with Australian AOCs—with CASA AOCs—might pursue a changed regulatory standard with regard to the cabin crew to passenger ratio. At the same time we are hearing from the officers that would have some role in assessing such an application were it made that the New Zealand standard provides an acceptable level of safety. On what basis would an application seeking a parallel regulation here be rejected in those circumstances?

Mr White—What we have to look at is whether it would be any worse than what we presently have. We prefer—and believe—it is better to have 1:36. If they could demonstrate that there would be no degradation, then we would consider it.

Senator O'BRIEN—So you accept that the Australian standard now is better than the New Zealand standard?

Mr White—I think it is a preferable standard but that does not necessarily mean it is any less safe. It would be up to the airlines to demonstrate that.

Senator O'BRIEN—You have not actually done any work on the safety implications of those differing cabin crew standards?

Mr White—Not to my knowledge—not to that extent, no.

Senator O'BRIEN—So we are accepting the New Zealand standard because others accept it as well as—

Mr White—We are accepting it because it has been demonstrated that it will meet the requirements of evacuating the aircraft.

Senator O'BRIEN—With regard to the heightened focus in Australia on transport security, including aviation security, does the department recognise that any increase in passenger-crew ratio will have an impact on security?

Mrs Chilvers—The Australian and New Zealand situations are different in respect of security because in New Zealand the security is administered by the civil aviation authority whereas here it is administered by the Office of Transport Security within the department. The issue of an AOC by New Zealand does not cover off the security requirements, so any New Zealand operator wishing to operate here with the ANZA privileges would be required to have an aviation security program approved by the Office of Transport Security. What the Office of Transport Security would be looking at would be the capacity of the cabin crew to deal with incidents, so they would be looking at the outcome rather than setting down specific numbers.

Senator O'BRIEN—How is the sky marshal regime going to be affected by this legislation? Will New Zealand AOC aircraft flying in Australia be excluded from the sky marshal regime?

Mrs Chilvers—I am not 100 per cent sure on that. Can I take it on notice and get back to you?

Senator O'BRIEN—I would appreciate having the answer within 24 hours. We really need the answer within that time, given the committee has to report by next month.

Mrs Chilvers—I can do that. I just do not have the specific answer. I will get back to the committee most probably today.

Senator O'BRIEN—It has been put to me that the different operating conditions in domestic aviation of the two respective countries—that is, more long haul routes in Australia as opposed to shorter distances in New Zealand—support the need to maintain different safety regimes, particularly in relation to crew ratios. Has the department any information which might assist the committee in that regard?

Mr White—I do not think so. The areas that we have looked at as special areas include survival in Australia over long distances and remote areas and, conversely in New Zealand, some of the more difficult airfields, such as Queenstown. That is where we looked at the differences.

Senator O'BRIEN—Do the same maintenance standards apply in New Zealand as apply in Australia?

Mr White—I would hesitate to say they are the same, but once again we look at outcomes as to whether they achieve a safe operation, and we believe they do. Once again, we may do the maintenance slightly differently but, if anything, maintenance is much closer than is just operating the aircraft; it is very similar.

Senator O'BRIEN—Do you know if the New Zealand maintenance regime has been audited by ICAO?

Mr White—I do not believe it has. I think we only did the annex 6 ICAO, which is flying operations.

Senator O'BRIEN—Do we see a situation where Australian carriers look to have maintenance undertaken in New Zealand as a cost saving measure?

Mr White—Some Australian carriers already do have maintenance carried out in New Zealand. Those New Zealand maintenance companies would be licensed to do that. We would issue them with a certificate.

Senator O'BRIEN—CASA certifies New Zealand maintenance operators?

Mr White—Yes.

Senator O'BRIEN—Which other countries do?

Mr White—Quite a number—certainly Singapore and Papua New Guinea. Quite a number have certificates to do maintenance.

Senator O'BRIEN—How do you regulate them?

Mr White—We visit quite regularly. We are required, usually once a year, to visit operators who have a certificate of approval for conducting maintenance.

Senator O'BRIEN—Is it possible that under the arrangements proposed in this bill some airlines could manipulate the new rules by servicing Australian domestic routes while operating under New Zealand regulations with lower cost structures? Is this a de facto flag of convenience arrangement for the aviation sector?

Mrs Chilvers—I think the provisions in the bill—28B—which have already been referred to, are designed to prevent that shopping around for a regulator. At any time it is open to the regulatory authority, whether it be in New Zealand or Australia, to decide that perhaps the centre of gravity of the operations has shifted to the extent that it is no longer possible for them to effectively carry out surveillance, and in that case there would be a conversation between the two regulators and arrangements would be made. Certainly the regulator has to be satisfied that they can effectively carry out that surveillance. If it is not, I think it would look to cancel the AOC with ANZA privileges and have them transferred back to their home regulator.

Mr White—That is basically correct. The bill mentions certain things that have to be looked at, such as where the training and checking are carried out, where the main headquarters are situated. If there is a major transfer of those sorts of operations to the other country we would say, ‘That’s enough; your real operation is in that other country and you must get the certificate.’

Senator O’BRIEN—How would that work in practice? Who would make that decision? How would CASA go about contemplating such a matter? Would the minister’s office be involved in any way?

Mr White—I think the department and the ministry across the Tasman make that sort of distinction.

Mrs Chilvers—Under the air services agreement it is up to the department to decide whether or not they are eligible operators in the first place. This is not for every airline; under the air services agreement they have to be a SAM airline. A decision on their ability to effectively carry out the surveillance—the regulatory oversight—would be one the regulatory authorities would make. I imagine that they would be keeping the department, and probably the minister’s office, informed if there were such a move.

Senator O’BRIEN—Do you mean that CASA would make that decision for Australia? Would CASA and the New Zealand CAA have to agree?

Mrs Chilvers—Yes.

Senator O’BRIEN—What would happen in the absence of an agreement?

Mrs Chilvers—There is an arrangement between the two countries that will have dispute resolution provisions in it.

Senator O’BRIEN—Where is that?

Mrs Chilvers—That is a separate arrangement—I always get confused about whether it is an arrangement or an agreement—which has yet to be signed. It is in draft form.

Senator O’BRIEN—So we do not have it yet? It is not an agreement or arrangement until it is signed, is it?

Mrs Chilvers—That is correct.

Senator O’BRIEN—So, at the moment, we do not have that dispute resolution mechanism?

Mrs Chilvers—But there is no legislation either.

Senator O’BRIEN—There is a bill before us, which, I understand, the government is intent on passing in the next fortnight.

Mrs Chilvers—It would be the intention that the arrangement would be signed before the bill came into effect—if the bill were to come into effect.

Ms Lam—There are obligations on CASA to consult with the New Zealand CAA in accordance with the ANZA mutual recognition agreements, and that would include the agreements that Mrs Chilvers has just referred to. The intention is that, by the time the bill

come into force, the agreements will be in place to set out the dispute resolution arrangements.

Senator O'BRIEN—Let us get back to my original question. Where in the process would a reconsideration of where an airline was based commence? Would it be in the department, or would it be in CASA?

Mrs Chilvers—It would be in the regulatory authority.

Senator O'BRIEN—So it would be in CASA?

Mr White—I would like to comment on some of the aspects we would look at and whether they would be changing. An example is that an airline's supervision of safety systems must be in its home country. For example, if Australian brand X is operating in New Zealand their safety system must be in Australia, the training and supervision of employees involved in all the systems must be based in Australia, the majority of resources used must be in Australia and the person who controls the operations must spend the majority of their time in Australia. If any of those factors changed, we would consider whether it was really still an Australian operation. Conversely, from the New Zealand point of view, if they had one small operator who was almost permanently based in Port Hedland, for example, they would find it quite expensive to do surveillance on that. They may well say: 'We can't cost-effectively do surveillance. We are no longer going to approve this.' But that would be a New Zealand decision, obviously.

Senator O'BRIEN—Yes. The question I have been asking—and I am not satisfied that I have got an answer yet—is: if 'New Zealand Flight Operations Ltd' is a contractor to an Australian airline and provides the aircraft and all the crew flying in Australia, and most of their operations are effectively here, is CASA the organisation that would have to decide that you need to look again at whether that operation needed an Australian AOC?

Mr White—We would bring it to the attention of the New Zealand CAA at that stage and say, 'We believe this company has effectively transferred its operations to Australia,' and we would discuss it with them. I am quite sure they would agree that it would be time to hand over and make sure they got an Australian certificate.

Senator O'BRIEN—How are you sure of that?

Mr White—As we were discussing earlier, for any dispute resolution there is a system of doing that.

Senator O'BRIEN—That is not in place yet. You are expecting that there will be one?

Mr White—A dispute?

Senator O'BRIEN—A dispute resolution agreement.

Mrs Chilvers—Certainly through the negotiations with New Zealand in developing the legislation and working out the arrangements it has always been understood and agreed between parties that there would need to be that shift if the operations clearly became one country and not the other. And I believe that we have been negotiating in good faith.

Senator O'BRIEN—So we are talking about an operational agreement between the two countries?

Mrs Chilvers—There will actually be two agreements: an arrangement that will be between countries but that will be of lower than treaty status, not a treaty; and then an operational agreement between the two regulatory authorities that will spell out the day-to-day details.

Senator O'BRIEN—What will be in the operational agreement?

Mr White—Obviously the topic we have just been discussing, resolution of differences, is certainly in there, as well as general responsibility, how we go about the issue and amendment of AOCs, temporary stop notices, consultation on safety issues—those sorts of matters.

Senator O'BRIEN—Okay. When is it expected it will be finalised?

Mrs Chilvers—I understand from the New Zealand officials that this may now not be signed until after the election there on 17 September. They may not be able to get it signed by the government before then. There has been text agreed between officials.

Senator O'BRIEN—Who are the officials—departmental or from the civil aviation authority?

Mrs Chilvers—There have been joint working parties on both sides, so there has been a combination from the New Zealand ministry of transport and their Civil Aviation Authority and, from here, from DOTARS and CASA.

Senator O'BRIEN—Do I understand your evidence to be that in the absence of such an agreement the legislation will not come into effect?

Mrs Chilvers—Certainly the legislation calls up those arrangements, so I think it would not have effect.

Ms Lam—It is probably fair to say that unless the arrangements are actually in place some of the provisions are in effect inoperative, because CASA is required to exercise certain powers in accordance with the agreements.

Senator O'BRIEN—Yes, but does that mean the government will not implement the legislation until the agreement is in effect, or will it do so concurrently?

Mrs Chilvers—I would have to take that on notice.

Senator O'BRIEN—Again, we have a very short time line, so can we get that answer in 24 hours?

Mrs Chilvers—Yes.

Senator O'BRIEN—I think you have already answered the question about the operational costs for CASA: you do not expect any additional operational costs for CASA arising for this legislation.

Ms Hinder—To the best of my understanding, no. But, of course, with any operational arrangements that we go through there are funding considerations to be made.

Senator O'BRIEN—Are there any limitations that would apply to New Zealand operators wanting to operate on Australian domestic routes following the implementation of this legislation?

Mrs Chilvers—Any limitations?

Senator O'BRIEN—Do they have the right to fly any route once this legislation is given effect?

Mrs Chilvers—As with any AOC, they would have to obtain regulatory approval from their regulator. So the New Zealand CAA would have to be satisfied that they had sufficient systems in place to be able to fly those routes safely.

Senator O'BRIEN—Okay. So they would simply have to apply to the New Zealand regulator to fly Sydney-Melbourne, Sydney-Perth or whatever.

Mrs Chilvers—Yes.

Senator O'BRIEN—There would be no requirement to deal with CASA or the department?

Mrs Chilvers—No.

Mr White—Certainly not CASA.

Senator O'BRIEN—Since the last committee report on this legislation, what has been the consultation process that the department and CASA have undertaken with regard to this proposed new legislative regime within Australia?

Mrs Chilvers—We have not undertaken any further consultation on this, in that we were implementing the committee's recommendations. The government chose to adopt that recommendation and we have not undertaken formal consultations.

Senator McEWEN—So who will you consult as part of the comparative assessment of safety records? We have heard evidence that there are different kinds of safety records kept.

Mrs Chilvers—As I actually went through before, we are in the process of getting the framework together to be able to do the comparative safety assessment. It is dependent, of course, on the introduction of this legislation. We will be working in consultation with the Civil Aviation Authority of New Zealand because we are looking at a high-level comparative safety assessment. In terms of consultation I believe that we will be doing that directly with the New Zealand CAA, but whether or not any additional consultation et cetera is required will be identified as part of the framework for developing the principles by which we are going to go forward.

Senator McEWEN—For instance, would you consult with the pilots associations and the flight attendants associations, because they also retain information about safety incidents?

Mrs Chilvers—It would be something that we would certainly consider.

Senator O'BRIEN—Is there any intention for this mutual recognition model to be applied to other countries?

Mrs Chilvers—I am not aware of any government intention to extend it at this stage. It was under the single aviation market agreement, and similar provisions are not in any of the air services agreements with other countries. I am not aware of it being on the negotiating table with anyone.

Senator O'BRIEN—Do any free trade agreements have implications for the extension of this mutual recognition regime?

Mrs Chilvers—No.

CHAIR—Can you confirm that the issue of air marshals is a security matter and therefore covered by rules of the air and not AOCs?

Mrs Chilvers—It is not covered by the rules of the air; it is covered by the transport security legislation. The rules of the air are the rules that—

CHAIR—In other words, no-one—it does not matter who they are in Australia—can avoid meeting the obligations that we set for air marshals in Australia?

Mrs Chilvers—To the best of my knowledge, but I do want to just clarify that with—

CHAIR—We had better have it better than ‘to the best of your knowledge’; that would be a sneaky way out, wouldn’t it?

Mrs Chilvers—It would. I have undertaken to clarify that issue with my OTS colleagues.

CHAIR—Finally, in July—I just want to put this to you, because I have the details now—there was a Qantas flight 82, which was a Singapore-Darwin-Adelaide flight, that departed at 5.35 and arrived at 9.35. It was an Airbus A300, to the best knowledge of the person on it. This may all be quite harmless, but these people boarded in Darwin and they got access to the international passengers by having an air ticket and a photo ID; they were let into the lounge with the other passengers who had come from Singapore. When they got to Adelaide, they picked up their luggage from the rack and avoided Customs by going through and showing a photo ID that said they were domestic travellers. Didn’t you say earlier that you cannot board a domestic—

Mr White—May I clarify that.

CHAIR—That is what we need.

Mr White—Now that we know it was a Qantas flight and not a foreign operator, the Qantas flight obviously can pick up domestic operations. I think the question you are asking is with regard to the baggage, not so much the—

CHAIR—I am unaware of what the set-up is, wherever they might come from, but if I wanted to get a bag onto an international flight on Qantas and avoid Customs in Australia, my mate could get on in Darwin with a similar bag—with a tag or whatever—and he could just pick his up and away he goes. That would not be a bad way to avoid Customs, would it?

Mr White—I think we would have to have a look at that one.

CHAIR—I think you had better. That is doable.

Mrs Chilvers—I am glad you are on the good side, Senator.

Mr White—My earlier comments reference picking up and setting down domestic passengers referred to foreign aircraft.

CHAIR—All I am saying is that these people never steal a car with a steering lock on it; they take the one next door. That is a soft entry point.

Committee adjourned at 12.36 pm