

DAS OPENING STATEMENT – 24 February 2014 Estimates

Mr Chairman, thank you for giving me the opportunity to make some brief but important, opening remarks.

In these remarks, I will touch on CASA's international reputation, issues concerning CASA's regulatory costs, CASA's regulatory reform programme, Civil Penalties Scheme and Aviation Medicine.

International recognition

- Internationally, CASA enjoys an exceptional reputation as a leader across many dimensions of aviation safety and safety regulation. Our contributions have long been, and continue to be, highly regarded by the International Civil Aviation Organization (ICAO), other leading aviation States and regional authorities. We work closely with the International Civil Aviation Organization, on the Council of which Australia has continued to maintain its standing as a "Tier 1" member for decades.
- CASA experts are eagerly pursued to participate in ICAO's development of global rules for aviation safety – CASA staff currently serve on 11 ICAO panels and 10 task forces and study groups. I chair the Regional Aviation Safety Group for the 41 nations of the Asia and Pacific Regions, and Mr Farquharson is Australia's representative to ICAO's South East Asia Steering Committee of the Continuing Development of Operational Safety and Continuing Airworthiness Program. Dr Aleck chairs ICAO's Safety Information Protection Task Force, and he was invited to advise the ICAO Safety Management Panel on key aspects of the task force's work. A CASA subject matter expert also chairs the very important ICAO Study Group on unmanned aircraft systems.
- Chair, CASA's leadership in the international fora had received glowing tributes and appreciation from the highest ranks in ICAO and from other leading aviation nations. Letters from the former President of the Council, the Regional Director and many others stand as a testament to our leadership, professionalism and commitment.

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By:

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- In the Asia-Pacific region, CASA is constructively engaged in providing important aviation safety-related assistance to Indonesia, Papua New Guinea and other Pacific Island countries, helping to improve safety aspects of those systems for the benefit of their citizens as well as the many Australians who rely on them.
- We have entered into agreements with a number of other countries to ensure mutual recognition of maintenance, design and certification processes—including, most recently, with Singapore, which, like Australia and a number of other Asian nations, has adopted the European Aviation Safety Agency rules as the basis for their regulations.

CASA regulations and advisory material

- Chair, we are leading the world on many facets of aviation regulations and advisory material, for example, feedback on safety communication products has been very positive. Allow me to quote a recent comment made by the FAA's chief technical and scientific advisor, Dr Bill Johnson describing CASA's Human Factor's training package:

'I have never seen a more professional and comprehensive package than CASA's Safety Behaviours: Human Factors for Engineers. [He said] It is the new international yardstick by which other human factors training programs will be measured'.
- CASA has led the implementation of safety management systems (SMS) – mandating SMSs for airports with international flights in 2005, certified aerodromes in 2007, and high-capacity and low capacity regular public transport in 2009; something not yet achieved in many other leading aviation countries. The United States, for example, is one of the many who are only now moving to implement SMS for the air transport sector. Indeed, in December 2013, the US Government Accountability Office (GAO), the US equivalent of our ANAO, approached CASA for a telephone interview intended to give the GAO insights into CASA's experience of SMS implementation. The topics discussed included, inter alia; 'Australian SMS best practices that may assist other national aviation authorities'.
- This contact also reflects the high international standing that CASA enjoys.

- The new fatigue management regulations for pilots, reflect the latest knowledge on the effects of fatigue, and are in close accord with International Civil Aviation Organization (ICAO) Standards and Recommended Practices. According to the Chairman (Deborah Hersman) of the US National Transportation Safety Board, Australian rules are quite advanced and are based on the scientific research into human performance limitations in ways other leading aviation nations – including her own – would do well to follow.
- The Australian approach to risk-based surveillance, using authorisation management teams and an IT system which captures wide-ranging data, allowing more accurate identification of sector risk factors, and prioritisation of surveillance according to risk, has received widespread international recognition as being regulatory best practice.
- Chair, the high regard in which we are held by the vast majority of participants in the Australian aviation industry—arguably a silent majority—is reflected in the many favourable comments and expressions of gratitude we routinely receive—comments and expressions that, regrettably, don't make the news.

Development and implementation of aviation safety standards

- Chair, let me draw the Committee's especial attention to the regulatory reform program because this represents a very important investment in the modernisation of our regulations.
- CASA is continuously engaged in the processes of meaningfully and constructively updating and reforming aviation safety regulations. Over the last four and a half years CASA has made significant progress toward the accomplishment of the long-standing objective of fundamentally re-aligning and contemporising virtually the entirety of Australia's aviation safety rule set.
- Although CASA is nearing completion of the drafting phase of the regulation reform program, which has involved a huge effort from our staff over the last four years, and with the implementation phase for a number of rule parts to follow, we recognise that the update of Australia's aviation safety regulations is an ongoing task.
- Currently 42 Parts have been made, 13 Parts are in legal drafting at the Office of Parliamentary Counsel (many of these are near

finalisation); and two additional CASR Parts remain under consideration by CASA.

- A more consistent, sophisticated risk-based approach to audit and surveillance, and a correspondingly mature commitment to compliance with outcome-based requirements of the safety legislation, is not always embraced by some organisations and individuals accustomed to a less rigorous approach. Indeed, change of any kind—and especially significant changes in a regulatory regime within which people have operated for many years—can be disconcerting. I recognise and appreciate this, and CASA is working hard to mitigate the sometimes problematic effects of necessary, if sometimes unavoidably challenging, regulatory reform.
- To this end, we are staggering the implementation of the new regulations to give all parties time to absorb and digest the changes entailed.

New Zealand rules

- Chair, let me draw your attention to the recent push by certain members of the aviation community for Australia to adopt New Zealand rules in lieu of the regulations currently being finalised by CASA.
- The New Zealand rules could not simply be adopted in their current form as Australian regulations and enforced as such. Provisions in the New Zealand rules which would need to be enforced as offences under our regulations are not drafted in a manner consistent with Commonwealth drafting standards for framing offences. In addition, some content is not consistent with the definitions, terminology and requirements set out in our Civil Aviation Act and other general and administrative Parts of our regulations.
- To adopt certain Parts of the New Zealand rules could well require a broad reconsideration and revision of the Australian aviation safety legislation in its entirety, including amendments to the Civil Aviation Act, the introduction of non-criminal penalties, the reconsideration of other CASR Parts recently made, and other major changes. This would be a long term undertaking, involving several additional years of legislative re-drafting and industry consultation.

- The New Zealand rules often provide for considerable discretion to be exercised by the New Zealand Director of Civil Aviation, in terms of the intent of the regulation and what are acceptable means of compliance. Adoption of these principles could significantly hinder CASA's efforts to achieve a high level of standardisation in applying and enforcing the aviation safety legislation in Australia. CASA views increased standardisation as a key outcome of its regulatory reform program. In some cases this means less discretion being exercised by CASA officers and more certainty being provided directly in the regulations and standards.
- Based on information published in their AIP, the New Zealand rules for aircraft operations (ICAO Annex 6) contain more ICAO differences than Australia currently registers. CASA is striving to further reduce the number of Annex 6 differences in the re-write of the Operational CASRs. Adopting the NZ rules (at least as regards Annex 6) would appear to result in more ICAO differences than Australia would otherwise have to register if CASA were to proceed with the CASR Operational Parts currently being finalised.
- The New Zealand rules are also, in some areas, less current than the new Australian regulations and/or reflect policies which CASA does not support, in terms of providing adequate levels of safety, or they do not take account of local conditions and considerations.
- In summary, the New Zealand rules could not simply be adopted in their current form as Australian regulations. These rules may appear to some in industry to be simpler and easier to read and understand; they are in some cases out-of-date and less compliant with ICAO requirements than the regulations CASA is implementing through the CASRs. Some CASR parts; however, contain similar language to the New Zealand Rules.
- That said, where principles and practices reflected in the New Zealand rules are seen to be useful and advantageous, CASA is always willing to consider how, and to what extent, beneficial features of that legislation—no less so than the legislation of any other modern aviation jurisdiction—might be usefully adapted for Australian purposes.

CASA's rules – is it unnecessarily voluminous?

- Chair, on another note, some factions within the aviation industry say that CASA's rules are unnecessarily voluminous. The claim is that the new CASRs are much lengthier than comparable foreign rule sets. Such general assertions are not justified. For example,
 - comparing CASR Part 61 to FAR Parts 61/63 – CASR Part 61 has 280 pages whereas FAR Parts 61/63 have 354 pages (adjusted); and our MOS for Part 61 will comprise approximately 900 pages whereas the FAA has published over 2000 pages of standards under FAR Part 61.
 - comparing CASR Part 91 to NZ Rules Part 91, the CASR will have approximately 215 pages, whereas the NZ Rules Part 91 has approximately 240 pages (adjusted).
- Chair, I do not consider such page counts to be an especially useful indicator of the appropriateness or effectiveness of our regulations. However, as is evidenced by these numbers, Australia compares favourably, even on this crude basis. In this connection, too, it is important to note that Australia transparently ensures that offence provisions are clearly identified as such in the regulations providing for those offences. Contravention of the New Zealand rules also constitute offences—but one would not know this by looking at them, since you need to refer to a separate piece of legislation—namely the 200+ page New Zealand Civil Aviation (Penalties) Regulations to find out that the breach of a rule constitutes an offence, and what the penalty for that offence is.

Civil Penalties.

In March 2012, CASA prepared a discussion paper on the possible introduction of a Civil Penalties Scheme, similar to the schemes administered by other Government entities. In September 2012, CASA prepared drafting instructions for the introduction of just such a scheme. This introduction will require amendment to the Civil Aviation Act. To date, we have not had a legislative agenda opportunity to progress the necessary Act amendments.

Cost of regulatory compliance

- Chair, some industry critiques say that increasing regulatory burden, security, fuel, and infrastructure costs combined with a declining rural population, the effects of the ongoing drought, and the introduction of

many government levies contributes to steady decline of the regional aviation industry in Australia.

- Some regional aviation operators claim that CASA is driving them out of business – these claims are simply not true and are not supported by the facts. Analysis done by CASA using publicly available financial data shows that most mid-sized airlines incur around 1 per cent of their flight and operations cost and 2 per cent of their engineering and maintenance cost as compliance with safety regulations.
- For smaller airlines – in absence of publicly available financial data – we assume the compliance cost can be marginally higher due to economies of scale and scope. The compliance cost for airlines becomes an issue when economic conditions decline. (Table regional costs)
- To stress my point further, the AOC Holders Survey Questionnaire (AHSQ) conducted by us in 2013, where AOC holders were requested to nominate the main reasons as to why they did not operate fully or operated partly through a calendar year – the impact of regulations did not figure in the top five reasons. The lack of demand for services and lack of qualified staff surfaced as the two top reasons.

○ Table 1: Reasons for not conducting operations in 2012

Reason for not operating	Percentage of total
Lack of demand	19%
Lack of qualified staff	11%
Availability of suitable aircraft	10%
External factors	10%
Retired or left industry	10%
Operating on another AOC	9%
Main operations other than charter	9%
Selling or sold AOC	8%
Operating costs	5%
Regulator/regulations	4%
No response	3%
New entrant	2%
Competition	1%
N = 93	

- Source: 2013 AHSQ

- While we are on the subject of finances, let me draw your attention to comparing the differences between the cost for various regulatory services (i.e. permissions) in Australia with the costs charged for the same services in the US, Canada, the UK and New Zealand. Again a simple analysis of publicly available information shows that CASA fees in many instances are lower or comparably at the same level with these aviation nations. (Table Document)

Aviation Medicine

- In accordance with Civil Aviation Regulation Part 67, CASA issues medical certificates to pilots and air traffic controllers.
- CASA is looking at options for the reduction of regulatory burdens to the wider aviation community, without compromising safety outcomes.
- In 2013, CASA began to examine the prospect of permitting the Designated Aviation Medical Examiner (DAME) to issue medical certificates as delegates of CASA.
- The first step was to undertake a risk assessment. On 1 November 2013 a risk assessment panel formed consisting CASA staff, DAMEs and AOPA. The risk assessment outcome demonstrated that risks associated with the change to certificate issue, limited to medical certificate Class 2 (Private Pilots), could be safely mitigated.
- In early 2014, the Aviation Medicine branch established mitigation options and developed an implementation plan to establish the necessary method, controls and systems to allow the delegation of Class 2 medical certificate issue to DAMEs to occur. Expressions of interest for the DAME training that is a precursor for this initiative suggests that there are about 220 DAMEs who are interested (and more interest may follow the initial training).
- The DAME Class 2 medical certificate issue process is expected to commence in the first half of 2014.

Closing remarks

In closing, let me reaffirm to this Committee that CASA welcomes the Aviation Safety Regulation Review, with which we have been actively cooperating from the outset. This, of course, is entirely consistent with the attitude and approach CASA has maintained clearly and publicly since my appointment as Director of Aviation Safety. CASA readily embraces the edifying benefits of constructive, informed and critical scrutiny, and eagerly anticipates the instructive lessons we expect to learn from the Review.

Like all responsible organisations, CASA is continually working to lift our performance so it can become the best possible air safety regulator for all Australians. That means making improvements to our systems, processes and very importantly staff training. I am pleased to say our focus in 2014 is clearly directed toward improving the job we do for everyone in all sectors of Australian aviation industry, predicating on the premise that safety is, and remains, the touchstone for everything we do.

I am proud of CASA's current performance. We are one of the leading aviation safety regulators in the world, with high quality staff and fair and appropriate processes. Our commitment, and my commitment, continues to be to better ensuring there are *'safe skies for all'*.

Thank You. I am happy to take questions.

DRAFT