

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

6 March 2020

To whom it may concern

RE: Australia's general aviation industry

Please accept this response to the Committee's request for submissions regarding the operation and effectiveness of the Civil Aviation Safety Authority (CASA) in regional and rural Australia.

I am a middle-aged Australian, I hold a scientific degree and have worked for many years as a public servant administering technical regulations (unrelated to aviation). I commenced studying and training for my Private Pilot Licence three years ago at a regional aerodrome; I attained the licence in 2018. It was during this time that I was introduced to the Australian civil aviation regulatory regime.

As a trainee pilot, I got to hear much talk around the aerodrome of the regulator; very little being of a positive nature. I was determined to not let this influence my opinion of the regulator, and proceeded to train under CASA's regulatory regime with an open mind. After several years of exposure to CASA's regulatory regime, I fear I have become rather negative about the agency also. I have documented a few issues below. I have made no reference to the responsible Minister – however it is clear that they have been misled by CASA over many years regarding work priorities and timelines (or the Ministers have been asleep at the yoke).

I apologise for submitting this response anonymously; as many have demonstrated over the years, it is not in the interests of one's flying career to put one's name to criticism of CASA.

Sincere regards

Anon

Problem: CASA fails to set clear and concise aviation safety standards.

I suspect that the Committee will be aware of CASA's Aviation Regulation Reform Program. This program has taken greater than 30 years and is still unfinished(!). The time and public money that this program has consumed, frankly, disgusts me. I understand that regulatory change may take substantial time and expenditure, and could possibly even accept that if the desired outcomes are achieved (greater net safety benefits to general aviation and the public). However, this ongoing regulatory reform has resulted in little or no aviation safety benefits. The public not only expects more than this from public entities, but is *entitled* to more. (As an example of a proactive safety initiative, some of the cost of this reform program would have been better spent on subsidising the cost to owners of fitting ADS-B equipment to all VFR aircraft, reducing risk of collision in uncontrolled airspace. I have further simple suggestions that would increase general aviation safety in a tangible manner, however it is not my role to introduce aviation safety standards).

Many regional flying schools (mine included) are encountering difficulties transitioning to CASA's Part 141 and 142 flight training requirements. The time, money and efforts required to comply with the staggering amount of new regulations is significant (and does not result in improved safety). Due to the difficulties of the transition, my flying school cannot currently deliver any training; all 5 instructors have had to move on. A once flourishing regional aviation business has unfortunately been disbanded.

Section 9(1)(c) of the *Civil Aviation Act 1988* requires that CASA develop "*appropriate, clear and concise aviation safety standards*". They are anything but. The standards are so unclear, so unconcise, so conflicting and so ambiguous in nature that it could be (easily) argued that CASA has not delivered its function under S.9 of the Act. (I note that CASA is currently drafting a plain English guide to some legislation - is this not an admission of not meeting its function under S.9?).

Aside from being neither clear nor concise, the sheer number of pages of legislative requirements is overwhelming (I have seen estimates of the entire size at 1600 pages, I don't believe any person can know the exact number). Aviation in Australia is not uniquely different to that of other developed nations. For clarity, I suggest the Committee compares the physical size of Australian general aviation legislation with that of New Zealand or the United States of America. I believe at this late stage in this very considerable legislative mess, it would *still* be more cost effective to simply discard all Australian aviation legislation *right now* and adopt the much clearer New Zealand equivalent.

CASA's approach to constructing legislation is at odds with Government mandates to reduce red tape and administrative burden on regulated entities. I note also that the legislation does not take a contemporary, risk-based approach to achieving its objectives, and instead is reliant on outdated prescriptive prose.

Solution: Organisational change is required to account for this legislative disgrace; the agency is clearly incompetent, from the top down. Sack the Chairman, Board and executive staff (note: I am not suggesting a 'restructure' of the agency). Prior to the drafting of any new legislation, CASA should consider implementing that already operating efficiently in other jurisdictions (or consider adopting it in full).

Problem: CASA's structure fails to promote fairness and transparency.

One could argue that CASA's failure to set clear and concise aviation safety legislation would not be such a concern, if the ramifications of legislative breaches were not so serious. Many breaches of the legislation are offences of strict liability, potentially resulting in criminal convictions. This penalty system does not encourage compliance, particularly regarding raising potential compliance issues with aircraft owners, aircraft maintainers or the regulator.

In my dealings with CASA staff I have often encountered conflicting legislative interpretations (no surprise given the unclear standards). Well-intentioned pilots receiving incorrect regulatory information are put in a most difficult position, and can potentially be severely penalised for following this information. Persons who believe they have been unfairly treated by CASA can approach the CASA Industry Complaints Commissioner (ICC). CASA states that the ICC *"does not sit within CASA's organisational structure to ensure independence and impartiality"*; the ICC reports to the CASA Board - this arrangement is akin to being the judge and the jury.

There is no need for the ICC. When the public feels aggrieved at government officials' decisions, they have a right of review in the Administrative Appeals Tribunal (AAT). The AAT currently requests that complainants firstly try to decide matters with the CASA ICC. In my opinion, complainants are discouraged from approaching the ICC due to its relationship within CASA. If CASA is serious about the impartial nature of the ICC, the ICC should be required to publish all cases and decisions publically. I suspect these are not published as it may show that the ICC is ineffective. It should be a simple matter to determine the effectiveness of the ICC: for those complainants that proceed from the ICC to lodge their grievance with the AAT, determine the rate of ICC decisions that are overturned by the AAT.

In my short time involved with general aviation I have heard of corrupt and unlawful behaviour of CASA personnel. CASA previously had an internal Ethics and Conduct Committee, who investigated fraud and illegal activity with the agency (Picture 1). This was disbanded in 2016. To gain insight into the internal culture and behaviours of CASA, it may be beneficial for the Committee to investigate the matters that the Ethics and Conduct Committee were dealing with (along with the outcomes of any internal workplace surveys).

Solution: Remove strict liability offences from all but the most serious breaches of legislation. Determine the effectiveness of the CASA Industry Complaints Commissioner – if found to be effective, make publically available all complaints and decisions; if found to be ineffective, abolish the function.

Picture 1: Contents of CASA's *Industry Complaints Commissioner Governance Arrangements* showing CASA Ethics and Conduct Committee. Downloaded from <https://www.casa.gov.au/publications-and-resources/publication/industry-complaints-commissioner-governance-arrangements> (accessed 6 March 2020).



Australian Government
Civil Aviation Safety Authority

**Industry Complaints Commissioner
Governance Arrangements**

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