



Chair of the Senate CASA Review

November 2020

CASA and the regulatory base which it controls is harming General Aviation in Australia

I am writing as a business owner and long-time General Aviation industry stakeholder to give you a direct report from the front line. The headline may sound dramatic - and is certainly something you will have heard before - but the situation is reaching a critical impasse.

We are currently – and have historically – used all available means to engage with CASA to try and produce outcomes which meet regulatory requirements as well as allow the industry generally, and our company in particular, to carry out safe and profitable aviation operations. At all times we have tried to take a constructive approach to engagement with individuals and the CASA organisation as a whole. We recognise many of the constraints that apply to CASA as a Govt organisation but we see no sign of this being reciprocated. The relationship between CASA and the GA industry is at best apathetic and at worst – toxic. On the evidence of reg changes, reg interpretations, “change” implementation and the formal interactions with the GA sector, CASA neither understands nor has much interest in a robust and viable GA sector.

In order to expand from a small agriculture and horticulture operation in the 1980s to what is now a \$100m global company carrying out aerial work and air transport (non-RPT), McDermott Aviation has traditionally had to manage CASA as a compliance risk to our business. Because the operation is largely not capital city based, carries relatively few passengers and has very few incidents, we have avoided the CASA radar for much of the company’s expansion. The company’s growth has included an increasing amount of international work which is where we initially hit the limits of the CASA regs.

We obtained US FAA certification for a range of activities to facilitate short term offshore work. The reg changes – particularly to pilot and engineer training and licensing (Parts 61, 141/142 and 66 and now to operations - part 91, 119 and 138) and the increasingly inflexible approach to interactions between the US, European and Australian regulatory environments has now become a major impediment to the further development of our business.

Our fleet of 38 helicopters and 7 fixed wing aircraft are all derived from North America and Europe and we operate for discrete periods of time in N America, S. Europe, SE Asia and the Pacific where it is essential that we can fly and maintain aircraft seamlessly across countries. We may be one of few Australian companies that does this but the domestic (CASA) approach to GA certainly does not encourage other companies to grow big and diversify in this way. Most GA companies do not have the benefit of working under different regulatory systems and are unaware of how much more straightforward regulatory compliance can be.

CASA is now our most significant business risk. The industry has been told – over an extended period – that the changes to regulations will bring us into alignment with the large international regulatory systems. This has not happened and – at least for GA – the systems

are as far apart as they have ever been. This not in itself unusual - other than we have been told that significant resources have been applied to integration and alignment!

The primary trigger for CASA becoming a dominant risk to our business is that where we have been used to intermittent issues requiring specialised attention, we are now finding that most contacts with CASA require multiple, extended and administratively complex transactional overheads with no guarantee of a positive result. We currently have 12 different individual requests sitting in CASA requiring attention – some of which have their origins in early 2019. These are spread across: pilot licensing, engineer licensing, AOC and instrument renewal, pilot training, engineer training, aircraft registration, manual approvals, exemption requests and interpretational rulings. Very few things go straight from application to result in a single pass and most require some months of lead time to resolve. Many require convoluted work arounds which often cause knock on effects in other parts of CASA. The worst of it is that these have mostly no bearing on safety or are tenuously linked to safety outcomes.

Why is it so?

Like all complex issues there is no single cause and no silver bullet which will miraculously solve everyone's problems. We have identified 7 fundamental underlying issues which we believe must be addressed to make CASA work for the GA industry, the general public and Australian taxpayers.

1. Organisational Direction

Separating safety out from other aviation (transport) regulatory and industry support functions of Govt has focussed an extreme risk averse approach on all industry operations to the ultimate detriment of commercial GA operational realities, innovation, sustainability and - ironically - to safety as well. Operators must burn scarce cash and skills on onerous and prescriptive compliance requirements which do not necessarily produce safer outcomes.

They certainly have an impact on commercial viability and the financial security required to innovate and improve operations. There is a need to temper the safety objectives of CASA with practical and commercial objectives to free up some headroom for the industry to prosper.

The CASA regulatory philosophy (CASA website dated 29 June 2019) reads well but is often at odds with what is visible on the ground.

2. The Regulations

The regulations are impenetrable to the average (or even above average) industry employee. Some reg changes have been 15yrs+ in development (eg 138) and the general revision process has taken 30+ years and has still not completed one cycle. In spite of this (because of?) the regs are still written in the same obtuse way which guarantees a surfeit of explanatory materials, manuals of standards, AC's as well as company documentation, are required to try and make them useable. They are often so prescriptive that they address redundant or superfluous risks, stifle innovation and alternative means of compliance (in a

safety sense). And given the length of time for the review process- the inability to relate to new technology or new types of operations is a massive drawback caused by the level of prescriptive content. Regs are not subject to economic impact studies to work out cost benefit of implementation (either to industry, the public - as industry customers, or to tax-payers).

Either the way the regs are drafted must be changed; the status of the regs in the Act (for amendment and approval) are changed (even if that means the Act must be amended); OR the drafting instructions must be simplified to develop a more transparent and workable reg set. This latter is supposed to be assisted by the various Manuals of Standards (MOS) documents but they often take the level of prescription in the Reg to an even more complicated level.

The training and licensing regs (61, 66, 141/142, 147) are an active impediment to the regeneration of GA industry skills – even the large RPT corporates are taking their training and maintenance work offshore – and without urgent action these alone will eventually stifle GA.

3. Corporate culture

Having a difficult reg set with which to work is undoubtedly a handicap for CASA staff but the corporate culture is to close ranks and defend a sub-standard position – often in the face of overwhelming evidence (eg via industry consultation - part 61, 66, 138). Individuals at the coalface and management level will express frustration in private conversations but this does not translate to corporate action or public recognition of the issues.

The regs themselves allow for the regs to be relaxed or exempted or – to a lesser extent – re-interpreted in order to cover unexpected circumstances. This is required to cover shortcomings in the re-drafted regs, and yet is becoming more difficult to use in this regard.

As the skills base in CASA declines and the inability to accept any measure of liability for decisions/interpretations is enforced by the corporate lawyers – exemptions and re-interpretations require a more tortuous pathway through the organisation for approval. The patchiness of the skills base results in differing interpretations of the regs between regions and operations types. It is not unusual for multiple CASA staff to disagree on outcomes and pathways within the same office.

Either CASA is accountable when it approves operations and accepts liability or it takes a flexible approach and the industry accepts liability. At the moment the industry has all the liability but is not in control of the means to obtain operational approval.

The small remaining pockets of GA industry sympathisers within CASA are declining and being replaced by Inspectors with large airline (fixed-wing) experience or call centre firewalls charged with making strict and inflexible responses to tortuous formulaic applications (ref – CASA form 1049a-g).

The US FAA regs are not perfect but they are able to function successfully because the primary focus of the regulator (FAA) is to keep the industry flying - in conjunction with managing safety - which makes a huge difference to how the regs are applied and balanced.

4. Loss of staff skills and experience

Expanding on point 3, CASA has, and will continue to face, a significant brain drain of experienced and skilled staff with GA background capable of understanding how the GA industry works. Those that have not already been chased away by the inflexibility of approach (and being the meat in the sandwich between the regs and the industry), are attracted to corporate aviation safety and its applied focus, or they are reaching retirement age. The new generation are bureaucrats shackled by lack of commercial experience (especially in GA) and by administrative systems that respond to that inexperience by reducing the leeway of response.

This has resulted in less field surveillance, less getting alongside the industry to understand how and why things are done and more office bound, insulated "desk analysis" of what works and what doesn't. It also results in a "one-size-fits-all" approach using call centres and corporate firewalls to sort and deliver approvals.

Communication and consultation is big on CASA delivering its agenda, complete with pens and fridge magnets, but light on understanding how and why the GA industry functions and the commercial environment within which it operates. This is reflected in the abysmal ratings of casa functions in industry surveys.

5. The failed push for international alignment

We have been told over an extended period that much of what has occurred with re-writing the regs in CASA has been an attempt to align with either EASA or FAA but unfortunately the evidence is that, not only don't CASA recognise much from either of those jurisdictions, but those jurisdictions don't recognise any of the qualifications or organisational certifications issued by CASA. EASA are not interested in GA and FAA don't see the need to define aerial work. We've spent a fortune to remain unique. Given pretty much all the aircraft used in Australia come from the US or Europe, it should be relatively straightforward to align fundamental industry functions – especially in engineering and maintenance with those jurisdictions.

The bilateral agreements with the US and EU in particular have limited useability for GA – crazy given the aircraft types used in common. Expanding these to the benefit of the industry with cross recognition of skills training, maintenance standards and manufacturing could have major industry benefits but has unfortunately not been a CASA priority.

We have US FAA certified operations and maintenance organisations with FAA recognised mechanics and maintenance functions (a broader spectrum of allowable activities than QANTAS – which also has FAA certification) in order to overcome the chronic lack of interoperability between systems at the GA level. Export opportunities (for skills and materials) are being squandered in our expensive bid for "alignment". The skills and

manufacturing technology transfer from defence procurement agreements is hamstrung by the lack of actual cross recognition of licensing and certification standards.

6. Conflict of accountability between customers and stakeholders

There appears to be no clear direction for who CASA is working for. The industry (particularly GA) are not treated as customers and barely meet stakeholder status (based on the consultation processes). The general GA-using public are not benefiting from any additional safety and tax-payers are not getting value for money for the \$186m invested. So - who is the customer, who is working on the value proposition being offered to the customer, and what is it?

7. Conflict between accountability and liability

In addition to points 3 and 4, CASA have a rapidly reducing appetite for risk of any kind and the associated liability that goes with it. This is resulting in more complex and opaque rules, less willingness to step outside the box in approving anything – regardless of the safety case - and a more formulaic response to industry requirements. GA in particular and by its nature, is extremely diverse and difficult to pigeonhole into “standard responses”.

The regs have (on the surface) excluded the application of professional discretion and application of practical experience by inspectors over the legalese used to manage GA based on the lowest common denominator. Large corporate GA users (like oil and gas, mining and energy) have done more to improve GA industry safety standards in this country than CASA – and they pay for the results.

Why is general aviation worth saving from the current CASA approach?

McDermott Aviation's GA contribution comprises:

- Medevac,
- Fire fighting,
- Disaster relief (cyclones, floods, ship salvage, spill clean-up),
- Search and Rescue,
- Servicing remote communities with essential supplies,
- Biosecurity control (mosquitoes, fire ants, crazy ants, feral plants L. Howe Is),
- Surf life-saving patrols and surveillance,
- National park infrastructure maintenance in sensitive areas,
- Oil, gas and mining industry support in a range of areas

There are additional benefits of export income, local/regional employment with its multipliers and skills development. We take the skills development very seriously – we have our own academy for pre-apprenticeship training, the largest intake of apprentice engineers and a commitment to take young pilots through to senior roles. These latter actions to try

and secure the long terms skills demand from the industry are particularly sensitive to poorly written and executed training and licensing regulations.

This is only our cross section of activities, other sections of the industry deliver many other services which are critical to the running of the country. The services provided by GA cannot be provided from other sources and it is in no ones interest to bury the GA sector in bureaucratic red tape and artificial (contrived) safety constraints.

This country has a strong tradition of innovation in the GA sector – between the wars we pioneered the use of aircraft to increase productivity over a large and relatively unpopulated continent. QANTAS is a direct link to that distant GA pioneering history. The potential for innovation can still be seen (aerial mustering, aerial fire fighting, life saving patrols, and so on) but the ability to innovate and – more importantly – compete with subsidised innovation from other countries is being hampered by a stodgy set of regulations and a regulator with no incentive to sustain the industry.

Where to from here?

The progression of CEOs over the years has not changed the direction of CASA or its ability to deliver a viable and sustainable framework for GA industry development. Arguably the current state of CASA makes it an unattractive target for innovative and energetic CEO candidates. I see the appointment of a new CEO - on its own - as of limited value in addressing the current issues facing CASA and GA. At the very least that appointee must – if they don't have actual GA experience (preferred) - be willing to dig into the GA sector to understand the breadth of skills involved and the competitive pressures applied. CASA must be prepared to undertake significant (wholesale?) changes to critical regs (at least 61, 66, 141/142) and completely change the way in which it interacts with GA. A strong partnership will generate many benefits including a safe AND sustainable industry.

Recent replies by the outgoing CEO actually demonstrates how little understanding CASA and its staff have of our GA industry. Carmody's response to questioning at the Senate committee was nothing short of dismissive and arrogant and unfortunately that attitude flows all the way down!

Case studies/examples of difficulties with the Organisation and/or the Regulations

The following are our company examples -

Pilot licensing and training –

- Dealing with the addition of ratings and endorsements to pilots licenses is fraught with errors of commission and omission - very few (if any) license re-issues are completed in a single pass, ratings and endorsements disappear or re-appear, wrong qualifications are issued or removed. Goes back to the change over to Part 61 Lic
- CAR 217 living alongside 141/142 with no clear transition pathway

- Pilot training -141/142 training endorsements, syllabus docs

Engineers lic – similar to Pilots Lic issue except the Part 66 ratings system is even more opaque than Part 61. Engineers with lic under the previous system struggle to add new ratings(Ben Davis). The process to convert foreign licenses is diabolical (Dominic), the pathway via apprenticeship is tortured and lengthy turning people away from the industry

CAO 104 engine/airframe training, AS355, CJ525 -

Renewals - instruments, AOCs, FAOC

Aircraft rego transfer(PUY) - de-registration breach because we are expected to stay grounded for 2 weeks (min) between de-registration and registration on VH

Ops manual – 2.5 yrs to review Ops Manual – still haven't covered content only headings – and its totally compliant with CAAP215

SMS – 10 yrs in operation, passed by other regulators and 3rd party commercial aviation auditors and can't be used for 142 without an implementation plan (since rescinded but the CASA requirements are so prescriptive that something which is compliant with a myriad of other standards cannot be accepted into the CASA system.

Exemptions (ST training, FDR 142,) – Part 61 specifies that examination can only be done on someone that has come through Australian Part 141/142 training – makes sense that in order to be given a Part 61 lic you should have to pass a Part 61 test but to allow this test to be carried out ONLY on someone that has received 141/142 training seems illogical. Why - not equivalency??

We have one particular Senior helicopter type specialist engineer, who has migrated to Australia from Canada at our request. He is fully qualified aircraft maintenance engineer of 25 years experience, whose speciality is the Airbus AS365 Dauphin series of helicopters. He is 'type rated' in Canada, USA and Asia. In Asia he was actually Airbus Technical expert for all of Asia for the Dauphin series helicopters. CASA P66 has treated him with complete contempt and have basically advised him to become Australian 'qualified' he has to undergo 13 exams - including 'basic helicopter theory of flight'. This is the equivalent of telling Einstein to go and redo elementary science!

We have brought all these problems to the attention of Carmody and through his staff of miss informed 'yes men' we have been told 'now our problem'. I did have a one on one with Carmody following a maintenance engineers talk i presented. He asked me how to fix CASA's problem and i advised him to take up the USA FAA system of license and engineering. But of course, nothing has happened, nor is it about to anytime soon?

We could go on for a very long time about the negative effects this has on our business but that is not our intention. Every time we have broached problems/obstacles with regulations

etc, we have also provided logical and workable solutions to the problems. In some instances after much push back, CASA have even accepted or taken up our ideas but it's a hard slog and made harder by people who don't see why they should.

As i explained to Carmody, GA has a very good safety record, despite CASA and also that GA can and would survive without CASA, but CASA cannot survive without an aviation industry

Thank you for taking the time to read

Your sincerely

John McDermott
Owner/chief pilot
McDermott Aviation