



Australian Government
Civil Aviation Safety Authority



OFFICE OF THE CHIEF EXECUTIVE OFFICER

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Senator Glenn Sterle
Chair
Senate Standing Committee on Rural and Regional Affairs and Transport
Suite SG-62, Senate Building
Parliament House
CANBERRA ACT 2600

Dear Senator Sterle

1. I write regarding a statement I made in response to a question you asked at the Committee's proceedings on 28 May 2008, and the answer provided to the same question by Mr Wight. In so far as my response is concerned, I believe some further clarification is in order to eliminate an unintended ambiguity. In relation to Mr Wight's response, a similar clarification is in order.

2. The relevant excerpt from *Hansard* (page 71) reads as follows:

CHAIR—Does CASA believe it has discretion enforcing compliance with the regulations under its authority?

Mr Carmody—I do not believe we have discretion.

Mr Wight—Not within the current CAO 48.

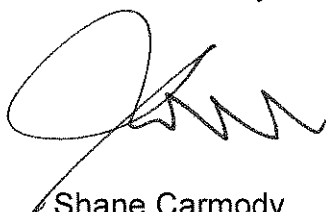
3. In so far as your question was of a general nature, and as asked, it clearly seemed to be, I stand by my response that CASA is generally obliged to enforce compliance with regulations under its authority, when it is necessary and appropriate to do so. Enforcement is a core function under section 9 of the Civil Aviation Act, and I do not believe CASA could, as a matter of discretion, *generally* refrain from performing that function.

4. As a practical matter, however, and in relation to any *particular* situation, like any other regulatory authority, CASA most certainly does have discretion as to whether or not enforcement action should be taken in that instance. Consistent with its obligations under the Civil Aviation Act, and consistent with CASA's enforcement policy (the latter of which is itself consistent with more broadly applicable Commonwealth policies and practices), CASA may quite properly decline to initiate enforcement action, as such, in relation to a particular instance of non-compliance

with a legislative requirement. To that extent, CASA has discretion in respect of the requirements specified in CAO Part 48, as it does in relation to any other provisions of the Civil Aviation Act, the Regulations or the Orders.

5. I trust this clarifies both my own and Mr Wight's response to your question, and I apologise for any confusion our unqualified replies may inadvertently have caused.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Shane Carmody', with a large loop at the start and several smaller loops and strokes extending to the right.

Shane Carmody
Acting Chief Executive Officer