

Chapter 2

Administration of the Civil Aviation Safety Authority and Related Matters

Civil Aviation Authority

2.1 The Civil Aviation Authority (CASA) is a statutory authority established in 1995 under the *Civil Aviation Act 1988* and given the responsibility of regulating Australian aviation safety and Australian aircraft operating overseas. CASA is also required to provide comprehensive safety education and training programs, cooperate with the Australian Transport Safety Bureau and administer certain features of Part IVA of the *Civil Aviation (Carriers' Liability) Act 1959*.

2.2 In 2003 CASA embarked upon an extensive program of reform involving all elements of its organisational and regulatory structure. The committee has followed this program of reform closely through successive Senate Estimates processes and has become increasingly concerned at the slow pace of change within the organisation and the extent to which this appears to have had an impact on CASA's ability to meet its regulatory responsibilities. At the same time, committee members have become aware of growing frustration within some sectors of the aviation industry at the slow pace of regulatory reform within CASA. There has also been a growing perception that the structural changes within CASA have been protracted, piecemeal and chaotic.

Background to the inquiry

2.3 The Standing Committee on Rural Regional Affairs and Transport is charged, among other things, with inquiring into and reporting on the performance of departments and agencies allocated to it.¹ The primary avenues through which the committee discharges this task are its examination of the annual and additional estimates and through its consideration of the annual reports of departments and agencies.² While both avenues have an important role to play in the Senate's examination of the performance of departments and agencies, both have certain limitations which can serve to constrain a committee's ability to gain a clear understanding of the issues before it. In particular, the inability to hear witnesses in-camera during estimates hearings and the limited time available for each agency can limit the scope of a committee's inquiry. A reference inquiry offers a committee the ability to invite public submissions and the opportunity to hear witnesses in-camera where appropriate.

1 Senate Standing Order 25 (2)(b), *Standing Orders and other orders of the Senate*, The Senate, September 2006, p. 24.

2 See Senate Standing Orders 26 (1) and 25(20) respectively, *Standing Orders and other orders of the Senate*, The Senate, September 2006, p. 27.

2.4 During the 2008-09 Budget Estimates hearings, the committee noted the limited availability of CASA's Chief Executive, Mr Bruce Byron, and indicated that it would explore options for further examining CASA's administration at a time when Mr Byron was available. On 29 May 2008, the committee resolved to adopt an inquiry into the administration of CASA and related matters under Standing Order 25(2)(b).

2.5 In adopting this inquiry, the committee is mindful that CASA has recently been the subject of extensive scrutiny in other fora. In particular, the committee notes the reports of the Queensland Coroner in relation to the Lockhart River Aircrash, the ATSB/CASA Review 2007, conducted by Mr Russell Miller AM, and the Aviation Regulation Review Taskforce chaired by Dr Allan Hawke. The committee also notes Minister Albanese's announcement on 10 April 2008 of the Australian Government's commitment to the development of a National Aviation Policy Statement. That policy development process will consider some of the issues identified as part of this inquiry. In particular, it will canvass:

- making the safety of all planes and airports the highest priority for operators and ensuring safety regulations are both robust and efficient; and
- improving the governance arrangements for CASA and AirServices Australia to improve their relationships with industry and the community.

2.6 The committee notes that the Government expects to finalise the National Aviation Policy Statement by mid 2009.

2.7 During this inquiry senior staff within CASA questioned the appropriateness of conducting this inquiry at this time. The view was expressed to the committee that CASA resources would be better directed to matters of safety than to preparation for this inquiry.

2.8 The committee acknowledges that appearing before a Senate committee requires a significant commitment on the part of all witnesses. The committee has not called this inquiry lightly. The committee welcomes Mr Byron's assurance that CASA does not question the legitimacy of this exercise. Mr Byron assured the committee:

We would not, under any circumstances, question the right of the Senate to ask us to attend whenever they want.³

Effectiveness of administrative reforms since 2003

2.9 The committee's first term of reference in this inquiry was to assess the effectiveness of administrative reforms undertaken by CASA's management since 2003.

3 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 63.

2.10 During this inquiry CASA's Chief Executive Officer, Mr Bruce Byron, told the committee that he believed CASA is now a vastly different organisation to that which existed at the time of his appointment in 2003. Mr Byron told the committee:

The nature and extent of the changes in CASA's structure, organisation, operational and corporate processes and general way of doing business have been substantial.

There is still a considerable way to go; I acknowledge that—in fact, I consider that improving CASA's capacity to contribute to the overall enhancement of aviation safety is, of course, an ongoing task.⁴

2.11 Mr Byron emphasised the planned and structured nature of the changes which had been implemented since 2003. He told the committee that he considers the changes have been:

... well thought through and painstakingly implemented. The result is an improved organisation structure, processes and responsiveness to industry.⁵

2.12 Mr Byron told the committee that an important part of the administrative reform of CASA had been the redefinition of CASA's goals to provide direction and certainty. This process of redefinition had involved clarifying the roles of both the safety regulator and industry to encourage industry to take appropriate responsibility for safety outcomes that they deliver. Mr Byron said that as part of its systemic approach to managing safety, CASA continues to actively encourage industry to develop safety management systems to address the risks of their own operations.⁶

2.13 The new goals for CASA are:

- being an effective safety regulator;
- being efficient;
- having good relations with industry; and
- being accountable.⁷

2.14 In its submission to the inquiry CASA provided an overview of the change program which has been implemented since 2003. The key elements in the program have been:

- Management and staffing measures;

4 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 54.

5 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 54.

6 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 55.

7 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 55.

- implementation of a new industry facing organisational structure;
 - appointment of a new senior management team;
 - improved workforce capability based on a Workforce Capability Framework and an Internal Capability Analysis;
 - implementation of staff education and training initiatives, including enhancements to CASA's administrative induction program, the introduction of a specialised operational induction training program and a Diploma in Aviation Safety Regulation; and
 - improved responsiveness to organisational health, safety and welfare issues.
- Regulatory Reform
 - greater industry involvement in policy development through the introduction of joint CASA-industry project teams;
 - focus on ensuring regulations address known or likely safety risks;
 - provision of additional funding to the Attorney-General's Department to secure drafting resources dedicated to CASA regulations; and
 - review of unique Australian Airworthiness Directives for continued applicability.
 - Operational measures:
 - establishment of an operational headquarters at Brisbane Airport;
 - creation of more operational inspector positions under the Air Transport Safety Risk Mitigation New Project Proposal;
 - adoption of a risk based approach to oversight surveillance and entry control;
 - greater focus on passenger carrying operations; and
 - an increased focus on the operation of foreign carriers under the Foreign Aircraft Air Operator's Certificate regime.⁸
 - Industry safety education and training
 - introduction of Aviation Safety Advisors to provide information and advice to industry;
 - introduction of the AvSafety Seminar series targeted at aero clubs and flying schools; and
 - establishment of an industry consultation committee and a national Flight Training and Testing Office to assist in improvement of flying training and testing standards.⁹

8 Submission 37, pp. 6 – 7.

2.15 After five years of extensive change management, the committee was interested to understand the extent to which industry shared CASA's confidence that the structural changes within CASA 'have better aligned the regulator with the industry it regulates, and facilitated better and more efficient management and operations.'¹⁰

2.16 The committee notes that a number of submitters agree that there have been significant improvements within CASA. The committee also notes the observation by some submitters that CASA needs an opportunity to consolidate the changes made to date and the concerns they raised in relation to the impact successive public scrutiny might have on the organisation.¹¹ Despite this level of support, the majority of submissions identified areas of concern and these are discussed below.

Management and staffing measures

Organisational structure

2.17 As noted earlier, since 2003 CASA has made a series of changes to its organisational structure in the interests of creating what CASA describes as a more industry facing organisation. Prior to 2003, CASA's organisational structure was based on three largely functional groupings: Aviation Safety Compliance, Aviation Safety Standards and Aviation Regulatory Services.

2.18 In its submission CASA told the committee that:

This was remodelled to align CASA more closely with the way industry operates via operationally focused groups: Air Transport Operations, General Aviation Operations, Manufacturing, Certification and New Technologies (now Airworthiness Engineering) and Personnel Licensing, Education and Training.¹²

2.19 CASA stated that this structure ensures that people and resources are used most effectively by bringing together technical experts. CASA's submission also outlined a range of other initiatives which it believes have improved its operational capabilities.¹³

2.20 CASA has relocated operational staff closer to key passenger operations, through its establishment of an operational hub at Brisbane Airport. In addition, CASA has increased the number of operational inspector positions and has created and filled 18 system safety specialist positions located in Brisbane, Sydney and Melbourne. CASA has also adopted a risk based approach to oversight surveillance

9 Submission 37, p. 10.

10 Submission 37, p. 4.

11 See for example Submission 13, p. 3; Submission 27, p. 3.

12 Submission 37, p. 4.

13 Submission 37, pp. 6-8.

and entry control which it believes enables it ‘to target high areas of risk, and assess each surveillance and entry control process specifically for each operator rather than taking a ‘one size fits all’ approach.’¹⁴.

2.21 More recently, CASA has completed a workforce capability exercise to ‘identify the right mix of skills and training required to enable optimal job performance’.¹⁵

2.22 A number of submitters commended CASA on this reorganisation. In its submission, Virgin Blue told the committee that as a result of the administrative reforms undertaken since 2003, CASA has become more responsive to the Australian aviation industry and its processes and procedures are more transparent to the industry.¹⁶

2.23 However, the committee notes from some submissions that not all sectors of the industry appear satisfied that the changes have achieved the desired effect. In particular, the committee notes criticisms that the changes lack planning and direction, have been poorly implemented and have had some unintended consequences. For example, Qantas expressed concern that the current governance structure has implemented three additional layers of management between field office managers and the CEO. Qantas stated that, in its experience, this provides greater potential for inconsistency in the application of CASA policy and legislation.¹⁷

2.24 Qantas also expressed concern about the relocation of operational staff from Canberra to Brisbane. Qantas notes that this is part of an overall strategy to base staff closer to where aviation activity is located. However, Qantas told the committee that:

... since the Air Transport Operations Group relocated to Brisbane, there has been a growing perception in industry that senior CASA executives have undertaken little direct consultation with industry.¹⁸

2.25 Virgin Blue also considers that management reforms have not filtered down to frontline staff and argued that further work is required to ‘ensure the industry interface is consistent with management’s intent’.¹⁹

2.26 The committee received evidence that suggested that the structural changes in CASA have led to significant delays in processes and projects. Representatives from the Australian Licensed Engineers Association (ALEA) told the committee that in its opinion, the centralisation of the issue of licences has led to delays in the licensing

14 Submission 37, p. 6.

15 Submission 37, p. 5.

16 Submission 38, 2.

17 Submission 35, p. 3.

18 Submission 35, p. 2.

19 Submission 38, p.2.

process.²⁰ The Association of Professional Engineers, Scientists and Managers Australia (APESMA) also told the committee that it was concerned about the timeliness of decision making within the new structure. APESMA submitted that 'one of the concerning trends accompanying the relocation of staff over the last few years has been the dislocation of senior management from the work groups they manage.'²¹

2.27 Other submitters expressed concern at apparent delays in receiving responses from CASA staff. For example, Mr Greg Norris stated that delays in processing routine applications and requests for minor variations to Air Operators Certificates have imposed additional costs on his operations. At the same time, Mr Norris makes special mention of the commitment shown by CASA Flight Operations Inspectors who, in his opinion, are overworked and underpaid.²²

2.28 The Aircraft Owners and Pilots Association of Australia (AOPAA) also criticised response times and lack of assistance from CASA senior management.²³ At the same time, AOPAA emphasised that there are many knowledgeable and helpful CASA staff. AOPAA told the Committee:

... it takes an inordinate length of time to get a response from CASA senior management and sometimes the responses we get are, shall we say, less than helpful. Whereas, when we deal with staff who are at the coalface, we find them to be very helpful. We get on and we get results.²⁴

2.29 Virgin Blue, while generally satisfied with the changes to date, stated that the management restructure of CASA has had a detrimental effect on the pace of regulatory reform within the organisation. Further industry concerns raised in relation to CASA's progress on this project are discussed below.

2.30 The Australian Maintenance Repair and Overhaul Business Association (AMROBA) was less confident that the structural changes within CASA had been effective. AMROBA appears to characterise the changes to date as superficial and costly and stated that the aviation industry is still waiting for proper reform.²⁵ In AMROBA's view, the relocation of Operations Management to Brisbane is merely a reversal of an earlier decision to relocate operational staff from Melbourne to Canberra.²⁶

20 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 4.

21 Submission 52, pp. 3-4.

22 Submission 17, p. 1.

23 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, pp. 30-31.

24 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 31.

25 Submission 39, p.1.

26 Submission 39, p.4

2.31 The ALEA also considers that the reform process has not delivered in a number of areas, including necessary improvements in oversight of maintenance organisations and measurable safety improvements. ALEA also considers that CASA's current governance structure has prevented the administrative reforms from making a difference to air safety.²⁷

2.32 APESMA, which represents technical professional employees within CASA, stated in its submission that the general view amongst experienced staff is that the changes have been poorly thought out in concept, poorly planned and characterised by a lack of consultation with staff and the organisations that represent them. As a result, APESMA is of the view that the process has required decisions to be made on the run and that overall the process of change within the organisation has been implemented with little guidance for staff or industry about the intended changes and the process for their implementation.²⁸

Operational changes

2.33 The committee also received evidence regarding some of the operational changes within CASA. In particular, the committee received evidence regarding CASA's change in its regulatory approach to the management of operational safety. As noted earlier, CASA has implemented a safety management systems approach (SMS) to the management of safety risks. This approach involves a risk-based approach to determining the priorities to which CASA allocates industry surveillance resources. CASA has emphasised that responsibility for management of safety risks is fundamentally an operator's responsibility. The committee notes the following explanation of CASA's SMS approach on the CASA website:

What CASA does is to make sure the airlines and other air operators have the right systems and procedures in place to manage safety and risks, to achieve the best possible levels of safety. If an airline has the right training and checking systems for their pilots, the flight crew can be expected to perform to the required standards. If an airline has robust systems to control maintenance, work on their aircraft can be expected to meet the correct standards. CASA makes it clear to the aviation industry that safety is not just complying with the rules - it is a commitment individuals and organisations must make to achieving practical outcomes in every-day operations.²⁹

2.34 The website goes on to provide further explanation of CASA's surveillance activities:

CASA conducts surveillance activities to make sure organisations and people are meeting the required safety standards and are operating within

27 Submission 50, p.3.

28 Submission 52, p. 2.

29 Civil Aviation Safety Authority website, Aviation safety explained, <http://www.casa.gov.au/publicinfo/casarole.htm>, accessed 4 September 2008.

the rules. Checks are made on organisations – such as airlines and charter operators – as well as individuals, such as pilots. For airlines there are programs of formal and informal safety checks, which include audits, spot checks and operational observations. Regular audits of airlines involve CASA teams looking in-depth at various aspects of organisations, such as pilot training, aircraft maintenance and flying operations. A major part of this activity is assessing an airline's own safety systems and their approach to risk management. Spot checks are also carried out on aircraft and crews from time-to-time during normal daily operations. CASA inspectors spend considerable 'time on the tarmac' working with operators and observing operations.³⁰

2.35 In its submission CASA told the committee that it is providing support for industry management of safety risks through its new Safety Systems Specialists, whose role is to ensure that operators' SMS are effective and through industry education and training and a range of publications. CASA has also identified emerging strategic risks for the aviation industry through a comprehensive industry survey and has issued a publication: *An assessment of trends and risk factors in passenger air transport*.³¹ CASA told the committee that five working groups are being formed to examine each major risk category identified in the survey and to determine future action.³²

2.36 Both the Australian General Aviation Administration (AGAA) and the Australian Sport Aviation Confederation (ASAC) expressed support for CASA's decision to focus its resources more on the fare-paying passenger industry. The AGAA also supports moves toward delegation of regulation of operations other than passenger and freight operations to accountable, self-administering bodies where feasible. In its submission AGAA stated that it believes:

... that these principles are a sound basis for achieving superior safety outcomes while allowing the aviation industry to innovate and develop both domestically and in global markets. In particular, the practical outcome of these principles is that CASA shall no longer tell a participant how to run his business, but shall provide safety information and shall closely monitor results and require successful outcomes.³³

2.37 ASAC expressed support for the introduction of a risk based approach to CASA audit activities which it says allows CASA to distinguish between those activities which require close attention and those which require a lower level of audit.

30 Civil Aviation Safety Authority website, Aviation safety explained, <http://www.casa.gov.au/publicinfo/casarole.htm>, accessed 4 September 2008.

31 Submission 37, pp. 8, 10 and p. 15.

32 Submission 37, p. 15.

33 Submission 21, p. 1.

ASAC welcomes the less onerous requirement for documentation and external audit for Air Transport and General Aviation without compromising safety outcomes.³⁴

2.38 AGAA expressed concern at opposition to this approach from what it described as sections of the industry that are finding it hard to adapt to a non-prescriptive regulatory system and from CASA staff who 'can think only in terms of the old prescriptive methods.'³⁵

2.39 The committee received a number of submissions from former CASA employees which were critical of CASA's approach to regulation. In the view of one of these individuals, CASA's current enforcement strategies are negligent.³⁶ Mr Peter Ilyk, former General Counsel within CASA, also expressed concern at the devolution of regulatory responsibility to sectors of the industry in the form of self-regulation.³⁷ The committee was also told that there was a lack of executive management support for staff who advocate a more hands-on regulatory approach.³⁸

2.40 AIPA also told the committee that its confidence in CASA's safety compliance enforcement system has been significantly undermined by CASA's failure to enforce industry compliance with safety regulations. AIPA said that it has been requesting CASA to enforce compliance in relation to the Flight Deck Duty Time Fatigue Provisions of Civil Aviation Order 48 General Exemption for more than three years without success.³⁹

2.41 The committee also heard concerns about CASA's audit program. Mr David Klein, a retired CASA airworthiness inspector, expressed concerns about the frequency of CASA's audit program for Qantas. Mr Klein told the committee that he did not think that the audit regime in place for Qantas was realistic, given the size of the organisation. Mr Klein told the committee that the CASA surveillance procedures manual provided for only one audit for Qantas per year.

It has as many technical staff as the rest of the certificate holders combined. It probably has about a third of the LAMEs and it is in the same bracket as an organisation with over 50 staff.⁴⁰

2.42 Mr Klein also expressed concerns about CASA's decision to focus mainly on systems based rather than product based audits. Mr Klein told the committee the previous audit regime had used a mix of once a year systems based audit and a cyclic,

34 Submission 27, p. 3.

35 Submission 21, p. 2.

36 Submission 8, p. 2.

37 Submission 31, p. 30.

38 Submission 10, p. 3.

39 Submission 48, pp. 8-11.

40 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 11.

product based audit. Mr Klein explained the distinction between a systems audit and a product audit:

It is saying ‘Look at their documentation, make sure that procedures and processes are in order and focus on that side of it,’ and the product basically became a secondary consideration.⁴¹

2.43 Mr Klein's evidence has become even more relevant in the context of recent incidents affecting Qantas flights. The recent release of the interim Australian Transport Safety Bureau report on an electrical system failure involving a Boeing 747-400 near Bangkok on 7 January 2008, together with other reported incidents and maintenance issues with the Qantas fleet, prompts the committee to question whether the change to CASA's audit procedure has been a wise change.⁴²

2.44 In this context, the committee also notes the concerns raised by ALEA regarding CASA's oversight of overseas maintenance facilities. ALEA expressed concern about the process by which overseas facilities are approved to carry out work on Australian aircraft and the ongoing audit of such facilities.⁴³

2.45 CASA told the committee that it is CASA policy to audit all of the CAR 30 organisations annually and that the organisations that are currently being utilised by Qantas have all been audited in the last six months.⁴⁴ Mr Quinn explained that the purpose of the audit is a systems audit. He said:

We audit their process, we audit their procedures and we audit the organisation's structure and capability. We do not audit the particular work of, say Qantas. I should add that we are actually doing that with one Australian operator who has a 737 going into maintenance in an overseas CAR 30 organisation at the moment. We planned to do it while that Australian registered aircraft was there.

....

We do the systems audit but occasionally we do operational specific surveillances of regulations, and there are some going on at the moment. It is not just a tick box exercise.⁴⁵

41 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 12.

42 Australian Transport Safety Bureau, Media Release 2008/04, *ATSB Preliminary factual report on Boeing 747 electrical system event*, 19 February 2008.

43 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 6.

44 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 67.

45 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 67.

2.46 Mr Quinn also clarified CASA's systems based approach to compliance with regulation:

If you were to take the purely technical view that compliance with regulation equals safety then you could be missing out on some of the important information ... that could cause a catastrophic accident or some sort of failure in the system. ... We are transitioning to, and trying to implement a more systems based approach, complemented by the technical based approach, so we get a feel for the organisation as to where it is moving, we get a feel for the culture of the organisation ... and we have a vision of the capability of the organisation in all aspects, not just its technical ability and whether it is licensed and legal.⁴⁶

2.47 The committee notes that Transport Canada's implementation of SMS has also been the subject of some criticism within the Canadian aviation industry and has recently been examined by the Canadian Office of the Auditor General (OAG).⁴⁷ The audit report identified a number of shortcomings in Transport Canada's implementation of SMS, including a lack of planning; poor risk management, limited mechanisms for monitoring consistency in oversight activities and weaknesses in human resource planning and training. The report also expressed concern that Transport Canada has moved resources from traditional oversight activities to SMS activities but has not measured the impact of this on the frequency of traditional oversight activities during the transition period.⁴⁸

2.48 The committee also notes that the recent review of the United States Federal Aviation Administration's risk-based oversight system (Air Transportation Oversight System) identified a number of system-wide problems and has recommended that the FAA strengthen its national oversight and accountability.⁴⁹

2.49 Given that there are some similarities between CASA's regulatory approach and that of its North American counterparts, the committee was interested to understand what lessons CASA has drawn from each of these reviews.

2.50 CASA officers told the committee that they had been monitoring each of the reviews and had been in contact with both Transport Canada and the FAA. Mr Quinn told the committee:

46 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 71.

47 Submission 31, pp. 44 - 46.

48 Office of the Auditor General of Canada website, 2008 May Report of Auditor General of Canada, Chapter 3 Oversight of Air Transportation Safety-Transport Canada, http://www.oag-bvg.gc.ca/internet/English/aud_ch_oag_200805_03_e_30699.html, accessed 4 September 2008.

49 US Department of Transportation, Review of FAA's Safety Oversight of Airlines and use of regulatory partnership programs, Federal Aviation Administration, Report Number: AV-2008-057, 30 June 2008.

I am familiar with the Auditor-General's report. CASA has had dialogue with Transport Canada about the report. One of the key points that I would like to make about that particular report is that I do not think it is that critical of the system, or regime, or the manner in which it may work. It is more critical about the way in which it was implemented in that particular case. There were issues of planning, training, transitioning the regulations and how it was done—largely, the regulator walked away for a while.⁵⁰

...

In terms of the United States approach to this, with the Federal Aviation Administration, in recent discussions that I have had with the FAA, I believe that they are planning on filing a difference and deferring this until they can get their heads around it. There are some examples out there, and from a CASA perspective—as I said, I use the term 'free safety lesson'—we are going to make the most of that to ensure that we do not make the same mistakes.⁵¹

Staff turn over and training and development

2.51 The committee notes that as part of this sustained change management program, CASA has experienced a significant turnover in staff. Mr Carmody told the committee that there had been almost a 50% turnover in CASA staff and that of these, 134 staff had been offered a redundancy.⁵² In answers to questions on notice, CASA confirmed that 128 staff had been affected by the CASA restructure and other efficiencies during the period 16 November 2005 to 30 June 2008. Of these, 82 staff had accepted a voluntary redundancy, 16 had separated through resignation and 28 had been successful in winning a position in the new structure. The committee notes that 53 of the officers who had accepted voluntary redundancies were Canberra based staff.⁵³

2.52 The committee also notes that CASA's current senior management team, comprising Group General Managers and Deputy Chief Executive Officers have all been appointed since 2003. In its submission CASA told the committee that these appointments had enhanced the organisation's breadth of management skills, experience and industry knowledge.⁵⁴

50 Mr Quinn, Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 92.

51 Mr Quinn, Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 93.

52 Mr Carmody, Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 65.

53 Answers to questions taken on notice by the Civil Aviation Safety Authority, July 2008, Question 2.

54 Submission 37, p. 5.

2.53 The committee was concerned to understand what impact such a significant turnover in staff has had on CASA's ability to maintain the technical competence of its staff.

2.54 The committee received a number of submissions which expressed concern at the extent to which CASA currently has access to sufficient, adequately trained technical staff to meet its regulatory responsibilities. Some submitters argued that safety standards could be compromised as a result.⁵⁵ Mr Bencke, a former CASA employee, told the committee that CASA has few technical staff still in its employ and that most of the new recruits who are technically competent are often not adequately trained for their regulatory role. He also identified the need for regulator specific training.⁵⁶

2.55 AMROBA also made the point that new staff drawn from the aviation industry need training to assist them in making the transition from regulatory compliance to safety compliance.⁵⁷ This view was also expressed by Mr Peter Ilyk, former General Counsel within CASA, who told the Committee:

What experience do these new specialists have in regulatory matters? What experience have they in compliance and enforcement or in interpreting and applying the aviation safety legislation? They are provided no training in these fundamental regulatory activities and we are expected to believe that somehow they will acquire this experience through osmosis. The problem of course is that those who had this background in the agency have been removed so there is nowhere to get that understanding.⁵⁸

2.56 AMROBA also submitted that perpetual organisational change over the past two decades has decimated the skills and experience in CASA to the point where it is questionable whether CASA can meet its responsibilities consistent with ICAO standards. AMROBA stated that this has had a demoralising effect on CASA staff, and expressed concern about current CASA field officers who do not appear to have a comparable level of experience or training to their counterparts in other jurisdictions.⁵⁹

2.57 APESMA told the committee that the restructure had led to a decrease in staff numbers in key areas. For example, APESMA stated that despite increases in aviation traffic, there has been a decrease in the number of qualified airworthiness inspectors, flight operation inspectors and engineers in CASA. APESMA is concerned that this

55 See for example Submission 8, Submission 17, Submission 39 and Submission 52.

56 Submission 8, p. 3.

57 Submission 39, p. 1.

58 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 21.

59 Submission 39, p. 3

has put pressure on remaining staff and has been compounded by the lack of an implemented technical training program.⁶⁰

2.58 In this context, the committee also notes that the International Civil Aviation Organisation (ICAO) commenced an audit of Australia's overall aviation safety oversight capabilities in February 2008. The audit was conducted under ICAO's Universal Safety Oversight Audit Program. The committee questioned CASA about a press report which suggested that deficiencies in air safety had been uncovered in the audit. Mr Carmody told the committee that CASA had reviewed its score against critical elements in the ICAO standard and considered that it had performed well in all areas except in the area of technical personnel qualification and training. Mr Carmody said:

What we needed to be able to demonstrate more clearly was a linkage between our human resources systems and the training that is undertaken in our field offices, and be able to indicate more clearly than we could to ICAO the qualifications of personnel and some of those things.⁶¹

2.59 The committee was concerned to understand whether this audit result was the product of CASA's major turnover in staff. Mr Quinn explained to the committee that, at the time of the audit, CASA had not been able to demonstrate what technical training programs and plans it had in place. He said that the development and implementation of CASA's human resources management system would assist in that. Mr Quinn told the committee:

... purely from a technical perspective, I am satisfied at the moment with the skill set that we have, largely from an operations point of view, which is the coalface out there in the field. Once we have these programs developed, I will be much more comfortable with our ability to provide much more consistency in delivering a consistent product, and I will also be much more comfortable once I have a program and system in place to be able to ensure that I am able to monitor that and provide the confidence that the government needs to ensure compliance with ICAO and with our own standards.

2.60 Mr Byron also clarified the focus of the ICAO audit by explaining that what ICAO are looking at is CASA's ability to maintain the technical competence of its staff in the longer term. Mr Byron told the committee that:

... this is an issue that I want resolved over the next six months, but it is not an immediately critical issue because a lot of people have actually come from the industry with current technical qualifications which are not necessarily picked up by ICAO in looking at their ongoing training.⁶²

60 Submission 52, pp. 4-5.

61 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 77.

62 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 78.

2.61 Mr Carmody told the committee that since the audit, CASA has completed a number of initiatives which would address the shortcoming identified. He told the committee that:

We have completed CASA's workforce capability and behavioural framework which we started last year. We have done data collection and analysis of all of the capability gaps. We are now recording all of the training records through the human resources system. We developed a technical training matrix to provide guidance in initial skills and upgrades of skills for CASA inspectors. We have commenced the Diploma of Aviation Safety Regulation through Swinburne. Even though it has been three years in development and all the documentation could be seen it was not acceptable because it had not started. That has now commenced. We have developed a training calendar as well. So we have done a lot of things. As Mr Quinn said, we expect that when those things are delivered, and are shown to have been delivered, that will acquit those findings. They saw them in draft but would not accept them until they were final.⁶³

2.62 While the committee notes the progress CASA has made to address technical training needs within the organisation, the committee is concerned that the combination of high staff turnover and an apparently slow response to the development of training initiatives may have left the organisation vulnerable in this regard. Mr Byron assured the committee that:

... the issue of training is something that we are aware of. It is probably the last major part of the change program to really nail down. I reiterate the point that we do have a lot of new people who have current technical qualifications.⁶⁴

Cultural change

2.63 The committee received a number of submissions which were supportive of CASA's change management program to date. The submissions received during this inquiry suggest that cultural change remains a high priority for this organisation and that there are ongoing issues which require attention.

2.64 The committee was concerned to hear that at this advanced stage in the change management process there continues to be a significant difference of opinion between some CASA staff and senior management regarding the appropriate direction of the organisation and the interpretation of policy and regulations. In particular, the committee is concerned at the potential this has to undermine safety objectives.

2.65 The committee was told of an apparent disconnect between CASA senior management and CASA field staff and that this had resulted in a level of

63 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 80.

64 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 81.

inconsistency in how CASA staff operate. Some submitters perceived this as resistance to change from 'old school' CASA staff⁶⁵. The Australian Airports Association stated in its submission that:

Although CASA management has addressed this issue with vigour over recent years, there is still a high degree of inconsistency in the way in which field operatives interpret the rules and regulations. It would appear there are still a lot of 'oldtime' field staff unable to embrace change.⁶⁶

2.66 The Aerial Agricultural Association of Australia (AAAA) also raised concerns about the lack of consistency in the interpretation and application of CASA policy. The committee was told that:

One of the real problems with CASA is that policy is often dictated by the least qualified in the organisation and often without the knowledge of CASA senior management.⁶⁷

For example, the role of FOIs and AWI's varies enormously between individuals and offices, apparently without any coordination from a central manager. Similarly, the outlook of senior management is not shared by many others in the organization, and the perspective of central office to the regions appears worlds apart.⁶⁸

2.67 The AAAA told the committee that it works positively with a range of competent managers within CASA and is heartened by what appears to be a newly emerging culture of cooperation and a focus on real-world positive outcomes for aviation safety. However, this culture is not shared by many at the operational level and the timescale for sweeping aside the 'old' CASA simply does not have the urgency that is essential for the aviation industry to prosper and do so safely.⁶⁹

2.68 Mr Peter Lloyd, Executive Chairman of the 2007 Safeski's International Safety Conference and World President of the Federation of Aeronautique Internationale, told the committee that:

... CASA's present strategy is correct. The steps being taken towards its implementation are effective, and progress is only limited by the skills and degrees of commitment at the lower levels of CASA's management and staff structure.⁷⁰

2.69 The Australian General Aviation Administration also noted that 'certain CASA officials, usually lower in the ranks, [who] can think only in terms of the old

65 See for example Submission 21, p. 2 and Submission 23, pp. 1-2.

66 Submission 13, p. 2.

67 Submission 15, p. 6.

68 Submission 15, p. 4.

69 Submission 15, p. 5.

70 Submission 9, p. 2.

prescriptive methods ... tend to block the transformation of CASA.⁷¹ The AGAA expressed concern that opposition of this kind has slowed the pace of cultural change in CASA and recommended that more resources be applied to change management.⁷²

2.70 In his submission to the inquiry Mr W Hamilton, an aviation management consultant, stated that:

Even though (in its present form CEO Directive 01/07) present senior management of CASA have sought to enforce a modern risk management approach to any recommendations for regulatory change, and the general management of CASA, the 'core culture' has been remarkably effective in waylaying such an approach.⁷³

2.71 Mr Hamilton also observed that the 'core culture' of CASA does not understand the role of the organisation as a regulator and that this 'core culture' views itself as the manager of the Australian aviation industry, rather than as 'the air safety regulator, the auditor of compliance with appropriate air safety (not commercial) legislation.'⁷⁴ In his submission Mr Hamilton cited examples of regulatory interpretations which, in his opinion, have had little to do with air safety and which have resulted in costs and delays to the industry. Mr Hamilton expressed the concern that some regulatory decisions by CASA do not appear to derive from a clear legal head of power and that some appear to be at the personal whim of particular inspectors.⁷⁵

2.72 Mr Byron has provided evidence to the committee over successive estimates hearings regarding his efforts to change the culture of CASA. During this inquiry Mr Byron told the committee:

Certainly there have been a number of drivers for the changes that we have been effecting. But, underneath that, I have always been aware, as an industry person, that—and when I took this job everybody came at me from all angles with this—'You've got to change the culture in the organisation.'⁷⁶

2.73 Mr Byron described for the committee the initial resistance he had experienced in introducing organisational change and the extent to which this had impeded the reform program. Mr Byron told the committee:

I issued a number of directives in my first few months about changes that I wanted—things like risk-based auditing and that sort of stuff—and I struck

71 Submission 21, p. 2.

72 Submission 21, p. 2.

73 Submission 23, p. 2.

74 Submission 23, p. 3.

75 Submission 23, p. 4.

76 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 65.

an enormous amount of resistance to some of those changes. It took a little while to get things moving.⁷⁷

2.74 Mr Byron explained that in his view culture is behaviours. He told the committee:

If people have a particular behaviour of doing things in a certain way—like not following policy, for example, and we have had a few of them, or doing things without consulting management or stakeholders—those are behaviours. Sometimes it was a criticism of the organisation that there were individuals at all levels who had these behaviours that were adversely affecting the culture of the organisation. Certainly in my time here I have come across a number of people who I think have had the wrong attitude, the wrong behaviour. By changing those people, through whatever mechanism, at the time—some have left voluntarily; some have happened to go because we have changed the structure of the organisation—that, hopefully, changes progressively the culture of the organisation. My view is that culture relates to behaviours; the issue of behaviours is a people based issue. If you follow that logic, if you accept that logic, then, through the processes of the organisation changing, if you end up with a larger turnover of people—and we have brought a lot of people in from the aviation industry with technical skills—it is my hope and my desire that we will change the culture of the organisation. But I guess time will tell.

2.75 The committee also received evidence that suggested there is an element of defensiveness in CASA's culture and some submitters provided largely anecdotal evidence to support the contention that on occasion CASA has sought to cover up incidents.⁷⁸ The committee notes the observations of some submitters that CASA does not respond well to investigations and is slow to respond to requests for information from the general public in the context of such investigations. The committee heard that CASA needs to learn to take criticism, learn from its mistakes and live up to its responsibilities.⁷⁹

2.76 One of the more extreme characterisations of CASA's culture was made by the Aerial Agricultural Association in its submission to the inquiry. The AAAA stated that:

Trying to work with CASA is akin to prolonged guerrilla warfare, where success goes to the industry person or organisation that can build an alliance with competent staff within CASA and assist them to defeat the

77 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 81.

78 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, pp. 51 - 52.

79 Submission 22, p. 2, see also Submission 19 and Submission 21.

other retrograde forces at work within CASA to protect turf, retain power, resist change and to stifle industry.⁸⁰

North Queensland Office

2.77 The committee was concerned to hear evidence from a number of operators expressing concern about CASA staff forging unduly close relationships with some members of the industry and pursuing personal agendas against others.⁸¹ In particular, the committee received evidence which was openly critical of CASA's North Queensland office. Witnesses before the committee told the committee of the North Queensland office's reputation for 'turning a blind eye to ... the cowboys who operate up there and also some pretty ordinary behaviour of the offices themselves.'⁸²

2.78 While the committee received very little first hand evidence regarding the North Queensland office, the committee was concerned that there appears to be a widely held perception that staff in CASA's North Queensland office do not deal with all members of the industry fairly and do not apply regulations consistently.

2.79 The committee was keen to discuss this perception with CASA and understand the steps being taken to address it. Mr Byron told the committee that there have been a number of reviews and investigations of the North Queensland office. He said:

... there had been—certainly when I arrived—a number of informal comments and complaints made to me about behaviours in the North Queensland office. The first activity that I formally undertook was a response to a complaint by a number of staff about other staff in the office. That was contracted out to a person in our legal panel, and that was done in 2004. None of the allegations were upheld at the time—which, I must admit, surprised me a bit given the noise and the anecdotal stuff that I was getting. But, interestingly, the individuals concerned, about whom the complaints were made, have left the organisation, and with two of those involved we actually precipitated their departure a couple of years ago. I have since had another formal complaint—I think it was in 2006—from an individual who believes that he was poorly handled by officers in the North Queensland office, so I initiated, again, an external review on the basis of that.⁸³

2.80 The committee was told that this second review had been undertaken with the intention of investigating allegations made by an individual pilot who believed he had

80 Submission 15, p. 3.

81 See for example Submission 2, Submission 7 and 7A, Submission 12, Submission 34 and Submission 58.

82 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 49.

83 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 123.

been unfairly handled by CASA staff. Mr Byron explained that the completion of that investigation coincided with the appointment of a new, permanent Industry Complaints Commissioner and that Mr Byron had decided to refer the matter to the ICC, Mr Michael Hart. Mr Byron said:

It took a while for the investigation report to come through, and by the time it came through I was nearly at the stage of appointing a new and permanent industry complaints commissioner, Mr Hart. There were, I think, some differences of opinion on what was in the report, related not to the particular complaint but to some peripheral issues, from some of our management, who were equally concerned with the issues in the North Queensland office. So I gave it all to Mr Hart for him to work through.

Given that the individuals who had been cited in the 2004 complaint and the 2006 complaint had already left, I wanted to make sure that we took a systematic approach to looking at it. Mr Hart has combined that with a review of the original report, done by the legal person, and also some other information that he received unsolicited—I believe from some journalists. He has given me preliminary views that there were some behavioural problems there—and we knew that, because we had dismissed a couple of staff—but he has yet to complete a full review of all the information that he has. I can ask Mr Hart to give you a bit more information if you wish, but that is the extent of the checks that I have done on the North Queensland office.⁸⁴

2.81 The ICC, Mr Hart told the committee that he had obtained the reports undertaken to date and had also considered a substantial amount of additional material provided to him by other people in the industry. He said that the issues in the North Queensland office had caused him serious concern and that he had recommended to the CEO that:

... there needs to be a proper, rigorous look at what went on there, particularly in respect of a proper, public account of what occurred up there and what CASA did or did not do, so that if the issues arose in the future they could be responded to. Just to give you a quick update of where that stands, CASA took certain actions against certain individuals. I also understand that CASA did or did not do things. My preliminary view is very simple: I believe CASA officers were at the time suffering from a degree of industry capture. I am also of the view that most of the CASA officers involved in the incidences and actions of those areas are no longer employed with CASA.⁸⁵

2.82 In evidence, Mr Hart also stated that a number of people had made allegations of criminal conduct by CASA officers to him. He told the committee that:

84 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 124.

85 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 124.

If I am of the view that that is the case, I will refer that to the appropriate authorities, along with my recommendations to the CEO, in due course. However, they will be thoroughly considered by me. I do have to say in defence of part of the process up there that CASA did have reasonable concerns about some of these operators. Some of the people who have complained—and quite publicly—about their treatment are less than, shall we say, blameless in the activity that occurred.

Regulatory Reform Program

2.83 An issue of particular concern to the committee, and a number of submitters to this inquiry, is CASA's limited progress to date in implementing its Regulatory Reform Program. The program originated in 1996 as the *Regulatory Framework Programme*. At the committee's Additional Estimates hearing on 14 February 2005, the committee was advised that since joining CASA, Mr Byron had refocused the Regulatory Reform Program on producing a quality response rather than a timely completion. The committee was advised at that time that while the review was nearing completion, the Department had decided there was a need to have additional consultation to ensure a careful analysis of all risks and getting the rules right. At that time, Mr Byron expressed his expectation that most of the draft rules would be delivered to the Minister for Transport and Regional Services by early 2006.⁸⁶

2.84 The committee notes that CASA's progress with its Regulatory Reform Program has recently been examined by the Aviation Regulation Review Taskforce. The Taskforce was established in April 2007 by the then Minister for Transport and Regional Services, Mr Mark Vaile, in response to concerns from within industry that the Regulatory Reform Program was 'not achieving its desired outcomes in a reasonable timeframe'.⁸⁷ The Taskforce was chaired by Dr Allan Hawke and comprised Mr Bruce Byron, Mr Rob Graham (aviation industry consultant), Mr Jeff Boyd (CEO Brindabella Airlines), Mr Dick Smith and Mr David Cox (Qantas Executive General Manager, Engineering).

2.85 CASA reported to the Taskforce that as at 30 November 2007, of the 60 Regulatory Parts currently being reviewed, 32 had been implemented, 12 were with the Office of Legislative Drafting and Publishing (OLDP – in the Attorney-General's Department) and 16 were under further development or assessment within CASA. Attachment A details the program's status.⁸⁸ CASA provided an identical status report to the committee for the period to 30 June 2008.

2.86 Submitters to the inquiry expressed concern at the lack of progress of the Regulatory Reform Program and suggested that the aviation industry had begun to

86 RRAT Committee Additional Estimates, Transcript of Evidence, 14 February 2005, p. 125.

87 Aviation Regulation Review Taskforce, Report on Activities and Findings, 17 December 2007, p. 3.

88 Aviation Regulation Review Taskforce, Report on Activities and Findings, 17 December 2007.

lose patience with what one submitter described as the glacial pace of reform.⁸⁹ A number of submitters to the inquiry expressed frustration that the RRP had not yet been completed and called for CASA to prioritise the remaining parts and set firm deadlines for their completion.⁹⁰ Submitters also expressed concern at the cost of the RRP to date. The ALAEA argued that resources have been devoted to the regulatory review at the expense of the effectiveness of CASA's other responsibilities in inspection, audit, compliance and enforcement.⁹¹

2.87 The committee notes calls from the industry for the simplification of the current rules into practical legislation, with a focus on real and urgent aviation safety needs.⁹² The committee also notes concerns within the industry that there continues to be 'costly duplication of requirements' placed on industry. The AAAA cited the example of the requirement in Part 137 for appointment of a Head of Aircraft Airworthiness and Maintenance Control. In AAAA's view this requirement was poorly thought through, imposes a significant additional cost on the industry, with no safety benefit.⁹³

2.88 CASA told the committee that \$144 million had been spent on the RRP project to date:

My estimate is about \$144 million. Our estimate for 2007-08 is \$24 million; the costs for 2006-07 were \$23 million. That equals \$47 million out to the end of the financial year.⁹⁴

2.89 Mr Byron also confirmed that most of the progress in the RRP has been made in the last two years. He said 'there has been more progress in the last two years than there was in the two years prior to that'.⁹⁵

2.90 Mr Peter Ilyk told the committee, however, that:

In the past five years CASA has managed to achieve basically nothing in regulatory development. I urge all members of the committee to carefully read attachment 4 to my submission, which provides a documented history of failure.

...

89 Submission 15, p. 3.

90 See for example Submission 6, Submission 8, Submission 15, Submission 35, and Submission 39.

91 Submission 50, p. 11.

92 See for example Submission 14a and Submission 25.

93 Submission 15, pp. 8 – 9.

94 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 120.

95 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 120.

Just as an example, take the new maintenance suite of regulations. In February 2006 these regulations were promised to be finalised during 2006. This date came and went. In February 2007 a CASA media release announced that the new regulations would be completed by the end of 2007. This was confirmed by the CEO in May 2007. Then in November 2007 the project manager announced that the complete package 'may' be available around March 2008. It is now July 2008 and nothing has been released.⁹⁶

2.91 The committee was concerned to note that of the 32 parts completed to date, the majority of this work appears to have been completed prior to 2005 and the RRP appears to have effectively been stalled for the past three years.⁹⁷ The committee endeavoured to clarify the reasons for this.

2.92 The committee heard that the limited recent progress on the RRP was largely because of delays in the legal drafting process due to the limited availability of drafters with the Office of Legislative Drafting and Publishing (OLDP). CASA has been working with OLDP to solve the difficulty and has agreed to fund two additional drafters to assist with the task.⁹⁸

2.93 The Taskforce report notes several other factors that would make it difficult for CASA to complete the programme by the end of 2008. These include the need for further industry consultation on some parts and the extensive implementation activities required to transition operators to the new regulations. At the request of the Taskforce, CASA has developed a timeframe for completion of the regulatory program based on 'more efficient industry consultation processes and increased drafting resources in OLDP'. That timeframe is reprinted at Appendix 4 to this report.

2.94 The committee notes from the Taskforce report that CASA's expectation is that all policy and regulatory development work will be completed in 2008, implementation of outstanding Parts will commence in mid-2008 and the program will be fully implemented by 2011, subject to OLDP finalising drafting.⁹⁹

Effectiveness of CASA's governance structure

2.95 The committee's second term of reference relates to the effectiveness of CASA's governance structure. While most of the evidence received focused on the desirability of reintroducing a board structure within CASA, the committee also noted

96 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 22.

97 CASR Implementation Status Report, 30 June 2008, tabled 3 July 2008.

98 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 117.

99 Aviation Regulation Review Taskforce, Report on Activities and Findings, 17 December 2007, p. 4.

that many of the issues discussed above reflect on the extent to which CASA is able to exercise effective leadership within its current structure.

2.96 With the abolition of the CASA Board in 2003, sole final decision-making responsibility with CASA now rests with the CEO.

2.97 Mr Byron explained how CASA's governance structure currently operates:

The functions of a board are now performed in other ways. As sole director, I receive a monthly report on CASA activities. I also submit a monthly report and have regular meetings with the minister regarding key issues for CASA and our strategic direction. All high-level policies are located in core documents such as CEO directives and policy notices to ensure that they are applied throughout the organisation. Day-to-day running of the organisation is the responsibility of the deputy chief executive officers and their group senior managers, and the deputy chief executive officer's report to me each month. CASA also continues to maintain an independently chaired audit and risk committee.¹⁰⁰

2.98 In its submission CASA stated that under the current governance structure, each senior manager is personally responsible and accountable to the Executive for decisions made and for conducting appropriate consultations in relation to such decisions.¹⁰¹

2.99 However, the committee received submissions questioning the level and range of responsibilities that currently rests with the CEO. For example, Qantas submitted that the current governance structures are not delivering consistent policy direction and that the current responsibilities of the CEO are too broad. In its submission Qantas noted:

... prior to 1997, CASA field office management, ie Regional Directors, reported directly to the CEO (then Director, Aviation Safety) and were better positioned to identify issues at the coalface, thus providing more effective interaction and outcome between the regulator and industry.

Today there are three additional layers of management between field office managers and the CEO, resulting in greater potential for inconsistency in the application of CASA policy and legislation, which has in our experience been borne out in practice. This is exacerbated by the requirement for the CEO to additionally undertake executive corporate governance and Ministerial responsibilities.¹⁰²

100 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 55.

101 Submission 37, p. 5.

102 Submission 35, p. 3.

2.100 Qantas recommended to the committee that a restructure of the current governance arrangements and a review of the role of the CEO should be early priorities:

A review of the current governance structure should desirably be undertaken to determine the effectiveness and ability of this structure to deliver outcomes to both the Minister and industry. This would enable a comparison with the previous governance structure that included a Board. Options might include devolution of the Minister's broader portfolio governance to a Board of suitable experts, and/or appointment of a junior Minister or Parliamentary Secretary to assist in this area of portfolio responsibility.¹⁰³

2.101 The committee heard evidence from a number of witnesses suggesting the re-establishment of the CASA board would have benefits for the governance of the organisation. AOPA told the committee that it considered the reintroduction of a board would provide a level of accountability for the CASA CEO and senior management. AOPA stated that in its experience CASA is not even handed in its treatment of the industry. In its submission AOPA argued:

[CASA] has formal tools and procedures to assess risk and change but is flexible in their use when local airlines seek dispensation. Issues affecting the National Airspace System (NAS), which is a ministerial dictate in the Australian Airspace Policy, are proposed for alteration at airline behest on grounds that are disclosed by analysis to relate to airline economics altering the safety baseline, not safety itself.¹⁰⁴

2.102 AOPA also suggested that the reintroduction of a board would assist in ensuring adherence by CASA to Government and ICAO policies and conformance with 'genuine safety case and "as low as reasonably practicable" (ALARP) safety guidelines'¹⁰⁵.

2.103 Captain Ian Woods from AIPA told the committee that, in his opinion, the re-establishment of a board would give CASA the ability to operate independently, with confidence, and in the public interest. Captain Woods said:

... when you are a single person charged with making some very complex and difficult decisions and subject to very powerful persuasive forces from both sides, the confidence to stand by a decision which is either tough regulation-wise, such as grounding an airline, or tough commercially, such as making them raise the price of their tickets, will benefit from the support that a well-informed and well-intentioned board, properly grounded with the necessary experience, will provide to the CEO.¹⁰⁶

103 Submission 35, p. 3.

104 Submission 6, p. 5.

105 Submission 6, p. 5.

106 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 27.

2.104 ASAC also supported the reintroduction of the CASA board and offered suggestions on the desirable composition of the board. In ASAC's view '[b]oard members need previous experience as board members and need to both be, and be seen to be, free of sectional interests'. ASAC also suggested that a CASA board and the Director of Aviation Safety would benefit from access to 'current, high level, expert industry input to decision-making.' ASAC believes that it is important that such a panel of experts should not have any decision-making power. ASAC also argued that the CASA board needs to be supported by a body similar to the current Aviation Safety Forum.¹⁰⁷

2.105 In his submission, Mr Peter Lloyd told the committee that he does not consider that CASA's governance structure has functioned as well as might have been hoped since the abolition of the board. Mr Lloyd noted that:

There is always a potential difficulty where a CEO has to wear two hats, one with responsibility for Board-type strategic decision making, and the other the implementation of those strategies and the day-to-day decision-making that senior management is required to do.¹⁰⁸

2.106 Mr Lloyd went on to say that in his opinion:

There are good reasons now for the re-introduction of a Board of Directors. But CASA will fail if such a Board is not constituted with the right people who understand how a Board should work.¹⁰⁹

2.107 Mr Lloyd considers that any government appointed board should have at least two people with public company board experience. Mr Lloyd also stressed that the board Chairman should not have executive responsibilities. In his opinion the role of the Chairman is to run the board and for the board to guide and support the CEO. Mr Lloyd does not consider that it is desirable for the Chairman or the board to involve themselves in the day to day management of the organisation.¹¹⁰

2.108 Virgin Blue Airlines Pty Ltd indicated in its submission that it considers the current governance structure under which CASA and its CEO operate is effective. Virgin Blue believes that the management restructure undertaken by Bruce Byron was necessary and that CASA is now in a period of consolidation.

2.109 Virgin Blue considers that there may be some merit in reintroducing a board in so far as this may ensure that CASA remains focussed on implementing SMS and delivering on RRP. However, Virgin Blue stressed that board members should possess experience and have demonstrated expertise relevant to the stewardship of CASA. Virgin Blue also considers that the Government should ensure that the board is

107 Submission 27, p. 4.

108 Submission 9, p. 3.

109 Submission 9, p. 3.

110 Submission 9, p. 3.

committed to maintaining CASA as an industry facing organisation.¹¹¹ Virgin Blue submitted that any change in the governance arrangements of CASA should not be to the detriment of the RRP or unnecessarily affect the organisational structure of CASA.¹¹²

2.110 While support for the reintroduction of a board was widespread, the committee notes that not all submitters consider this desirable. The Australian Federation of Air Pilots is not in favour of the reintroduction of a board. In its submission AFAP stated:

When the Board did exist it was problematic as it became political and susceptible to nepotism. It is our position that the current structure whilst imperfect is better than the alternative.¹¹³

Strengthening CASA's relations with industry

2.111 The committee received a range of suggestions regarding avenues for strengthening CASA's relationship with the aviation industry. Principal among these was the need for more effective use of consultative mechanisms. Even submitters who felt that the changes to date have been largely positive, identified a need for improvement in the way CASA interacts with stakeholders and the industry. For example, AIPA submitted that:

... while CASA's structure is now more streamlined and there have been significant changes both in corporate attitudes and personnel, the lack of balance in the way CASA relates to stakeholders lead AIPA to conclude that the administrative reforms undertaken by CASA management since 2003 have not been effective.¹¹⁴

Consultation

2.112 It is a statutory requirement that CASA must publicly consult on all proposed legislative changes which will affect business or restrict competition. CASA uses a number of processes to gather opinions during the development of new regulations. These include the Standards Consultative Committee, Regulatory Advisory Panels and the Aviation Safety Forum.

2.113 CASA consults with industry on proposed regulatory changes via the Standards Consultative Committee (SCC). The SCC consists of 200 CASA and industry participants and includes representation for 39 organisations from a range of industry groups. The membership of the SCC are available on the CASA website.¹¹⁵

111 Submission 38, pp. 3 – 4.

112 Submission 38, p. 3.

113 Submission 40, p. 4.

114 Submission 48, p. 4.

115 CASA website, <http://www.casa.gov.au/newrules/scc/>, accessed 20 August 2008.

The SCC operates through six sub-committees which CASA stated are broadly representative of the various functional sectors of the aviation industry. The sub-committees are jointly chaired by CASA and industry. The SCC also establishes working groups to consider issues in detail and report back to sub-committees.¹¹⁶

2.114 CASA consults with the SCC on the development of a regulation, Airworthiness Directive, Civil Aviation Order or standards amendment using a formal process.¹¹⁷ The Committee notes that, flowing from the Taskforce review, CASA has reviewed, simplified and republished this consultation process. The revised process comprises 10 Steps compared to the previous 15 and has been endorsed by the Taskforce and SCC Members. The committee also notes the Taskforce's recommendation that:

CASA monitor the regulation development process using joint CASA/industry project teams and continue to review the role of the SCC in this process, in order to achieve further effectiveness and efficiency gains.

2.115 CASA also uses Regulatory Advisory Panels. CASA revised its RAP process in November 2006 and CEO Directive – 003/2006 requires that RAPs are established for each CASR Part under development. Membership of a RAP includes the Chair of the SCC, an SCC Sub-committee industry co-chair, a member of the ASF, and independent member of the aviation industry (nominated by the CEO), a relevant CASA Project Sponsor, Project manager and Manager, a member of the CASA Legal Services Group, a representative of the Department of Transport, Regional Services and Infrastructure and an adviser from the office of the CEO.

2.116 The role of a RAP is to ensure that 'due process' has been followed when developing a CASR Part and that the aviation community's views have been fully considered.¹¹⁸ The work of a RAP is separate from, and additional to, the existing consultative arrangements, including through the SCC.¹¹⁹ A RAP will convene and report to the CEO prior to submission of a CASR Part to the Minister and publication of the Notice of Final Rule Making in relation to that Part. The committee notes that there are no current RAPs.¹²⁰

116 Submission 37, p. 16.

117 Further detail on CASA's current regulatory development process is provided at http://www.casa.gov.au/newrules/scc/consult_process.htm

118 The RAP is to review whether the development of the particular CASR Part was consistent with the Guiding Principles for Regulatory Framework set out in CEO Directive 1/2007, and that the regulatory impact, costs and benefits have been adequately considered and are consistent with CASA policy and the Government's regulatory best practice for reviewing and reforming legislation. For further information on RAPs see <http://www.casa.gov.au/newrules/parts/rap.asp>

119 CEO Directives – 003/2006, 11 November 2006.

120 CASA Website, <http://www.casa.gov.au/newrules/parts/rap.asp>, accessed on 20 August 2008.

2.117 In its submission, CASA told the committee that it has introduced a new approach to engaging industry and other stakeholders in the development of regulatory policy and new regulations. CASA argued that this new approach means that most regulatory project work is undertaken by joint CASA–industry project teams. CASA stated that this approach ensures that issues of concern to the industry are identified early in the policy development process.¹²¹

2.118 Mr Byron clarified CASA's formal consultation processes:

We have a consultative process, called the Standards Consultative Committee, with about 50 participants from representative organisations and staff associations who form part of that committee and part of the subgroups. From my point of view, as long as we maintain that process, I believe we are genuinely consulting with the key players in the industry.

In addition to that, people who actually hold certificates that we regulate always put themselves forward as people who want to have a say in various things. I try to make sure that, through our processes—particularly the SCC and industry briefings that we conduct—the major aviation organisations and associations representing those organisations have an opportunity to have a say.¹²²

2.119 Some submitters noted improvements in CASA's relationship with industry. The Australian Federation of Air Pilots (AFAP) considers that CASA's consultative and communication processes have improved. AFAP makes particular note of CASA's effective use of the internet to signal rule changes, exemptions and safety notices and of CASA's active approach to education programs and seminars.

2.120 However, AFAP also highlighted a need for improvement in CASA's less formal, day-to-day communication with industry, and told the committee that:

At a more basic (day to day) level however, we have had cause to question CASA's commitment to communicate with its 'customers'. As an example, we have been trying to get a response to an important technical submission we made over twelve months ago – a state of affairs that continues to be unresolved despite repeated attempts to get the problem acknowledged, let alone addressed.¹²³

2.121 Virgin Blue also considers that since the changes in the governance arrangements of the organisation, CASA has progressively improved its relationship with industry. However, Virgin Blue also suggested that CASA could further improve

121 Submission 37, p. 9.

122 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 56.

123 Submission 40, pp. 2-3.

its relations with industry by holding 'regular briefing sessions between industry executives and CASA executives',¹²⁴ and observed that:

... ultimately the interaction between CASA and industry is primarily based around the regulatory and subsequently operational issues. Therefore Virgin Blue believes that the relationship between CASA and industry will be further significantly enhanced once the RRP is finally completed.¹²⁵

2.122 Qantas also suggested the desirability of greater industry access to the CEO and senior CASA executives. As noted earlier, in Qantas' view, the relocation of operational staff from Canberra to CASA's newly established headquarters in Brisbane has led to a perception within the industry that senior CASA executives have undertaken little direct consultation with industry. 'Qantas believes CASA needs to address this, and that the CEO and senior CASA executives should be more visible to the industry'.¹²⁶ Qantas went on to note that:

Previous 'heavy industry' meetings were seen as successful but in our view require the presence of the CASA CEO. Meaningful and regular forums to allow dialogue between CASA and the major passenger carrying operators (ie. The six largest airlines which account for 93% of all passengers) should be regularly scheduled.¹²⁷

2.123 Not all submitters, however, expressed satisfaction with the current relationship between CASA and the industry. For example, in its submission, AIPA made note of a widening gap developing between airline transport pilots and CASA. AIPA stated that CASA has failed to display integrity and transparency in its handling of the legislative development of the Multi Crew Pilot Licence (MPL). AIPA also suggests that CASA has failed to act in regard to regulatory breaches in relation to Flight deck Duty time fatigue provisions of Civil Aviation Order 48 General Exemption.¹²⁸

2.124 AIPA told the committee that it found the consultation and the associated regulatory development activities associated with the development of the MPL to be unnecessarily frustrating and difficult due to inefficiencies, obfuscation and poor project management standards.¹²⁹ In its submission, AIPA listed a number of shortcomings that it perceived in the consultation process for the development of the MPL. These included:

- key support documents and documents of a significant technical complexity either not provided or not provided in a timely manner;

124 Submission 38, p. 4.

125 Submission 38, p. 4.

126 Submission 35, p. 2.

127 Submission 35, p. 3.

128 Submission 48, p. 3.

129 Submission 48, pp. 6-8.

- the exclusion of prominent subject matter experts who had previously been accepted as members of the MPL Industry Panel;
- late circulation of Terms of Reference for the Project Team;
- a poor standard of minute taking and failure of documents to reflect agreed meeting outcomes; and
- changes or additions made to documents without reference to the Project team.¹³⁰

2.125 AIPA argued that such poor project management had the capacity to undermine confidence in the consultation process. In its submission, AIPA told the committee:

This poor level of propriety and project management undermined faith in CASA's integrity, reduced the efficiency (and subsequently the effectiveness) of regulatory development activities and made it necessary for AIPA to struggle with CASA at every step of the process. It would be fair to say that this experience negatively coloured the view of pilots across a range of consultative matters with CASA.¹³¹

2.126 Given the particular concerns raised by AIPA, the ALAEA and AOPA with regard to consultation, the committee explored the extent of CASA's consultation with these organisations further during this inquiry. CASA told the committee that it considered that it has consulted extensively with such organisations, and that they are involved in the deliberations of the SCC and its working groups.¹³²

I think that, with these organisations and with others that I will go through, there is genuine consultation. I will make the point that they are not certificate holders. They are interest groups and representative groups, but we do not have a regulatory relationship with any of these groups. We have regulatory relationships with approximately 2,000 certificate holders in the country. That does not include, for example, AIPA, the ALAEA and it does not include AOPA. So we are consulting.¹³³

2.127 AFAP considers that improving CASA's relations with industry and meeting community expectations are conflicting concepts. AFAP considers that industry's interests are better served by CASA maximising self regulation, whereas the community expects CASA to be alert and active in the interests of safety.¹³⁴

130 Submission 48, pp. 6 - 8.

131 Submission 48, p. 8.

132 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 3 July 2008, pp. 60-61.

133 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 3 July 2008, p. 61.

134 Submission 40, p. 5.

2.128 Some submitters considered the extent to which CASA officers may have developed too close a relationship with industry. Mr Peter Lloyd expressed confidence that CASA is currently addressing cases involving individual officers and particular operators within the industry.¹³⁵ However, Mr Peter Ilyk questioned CASA's efforts to work in partnership with the industry and argued that such an approach leads to a loss of regulatory independence and ultimately industry capture on a broader scale.¹³⁶

2.129 On a more positive note, some submitters suggested that there were benefits in CASA officers developing a good understanding of the needs of specific industry sectors. AAAA stated that CASA appears not to have a standardised process for handling industry interaction. AAAA told the committee that CASA tends to treat its interactions with the industry 'as individual problems left to individual officers to develop an individual answer for each occasion'.¹³⁷ AAAA suggested that CASA would significantly reduce costs to industry if it were to develop systems that simplify and standardise frequent industry interactions. AAAA sees value in the establishment of liaison officers or units to manage CASA's interaction with individual industry sectors.¹³⁸

2.130 AOPA has also suggested that the introduction of industry relationship managers, as employed by Airservices Australia, may assist in more focussed consultation processes and more productive relationships with industry.¹³⁹

CASA as a partner with industry

2.131 The committee also received a range of submissions in relation to CASA's move to become a partner with industry rather than continuing with a more traditional regulatory approach. The committee notes that this shift in emphasis and priority has led to strong differences of opinion within CASA and similarly polarised views within the wider aviation industry.

2.132 The committee is familiar with CASA's decision to redefine its relationship with industry by encouraging industry to share the responsibility for safety outcomes. In introducing the changes, Mr Byron said that:

... in the past there has been a mindset, both within CASA and some people in the industry, that safety was primarily the concern of the regulator and the regulations. For some years safety and operational professionals have recognised that this mindset is flawed and naive.

135 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 3 July 2008, p. 45.

136 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 3 July 2008, p.22.

137 Submission 15, p. 8.

138 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 3 July 2008, p. 9.

139 Submission 6, p. 6.

...

This blinkered view grew up in the early days of aviation when the regulator did indeed hold-the-hand of industry whenever safety issues had to be addressed.¹⁴⁰

2.133 The committee notes that CASA believes that this is no longer a viable approach to safety and that the risks faced by the aviation industry must be managed through a focus on safety outcomes not safety processes. During this inquiry Mr Byron told the committee:

As part of our systemic approach to managing safety, CASA continues to actively encourage industry to develop safety management systems that help address the risks of their own operations, as the aviation industry must take responsibility for day-to-day safety risks.¹⁴¹

2.134 The committee notes the concerns raised by some witnesses that CASA's 'partnership' approach is based on models in other jurisdictions which have been found to be flawed.¹⁴² In particular, the committee was referred to a review undertaken earlier this year by the US Department of Transportation. In its report, the Department found that an FAA office had developed an overly collaborative relationship with an air carrier. The Department concluded that the overly collaborative relationship had occurred because of shortcomings in FAA management controls over its partnership program.¹⁴³

2.135 The committee's attention was also drawn to press reports that the Chairman of the House Transportation and Infrastructure Committee observed that the flurry of maintenance problems in the United States was partially a result of 'a cozy relationship between the FAA and airlines and a lack of an enforcement mind-set' by regulators.¹⁴⁴

2.136 The seriousness of concerns regarding the FAA's partnership program is reflected in legislation currently before the US Senate. The Aviation Safety Enhancement Act of 2008 which was unanimously passed by the United States House of Representatives in July, makes it clear that air carriers are not the FAA's customers. Further, the legislation makes it abundantly clear that the FAA 'shall ensure that safety is given a higher priority than preventing the dissatisfaction of an air carrier or other entity regulated by the [FAA] ...'.¹⁴⁵

140 Submission 31 p. 47.

141 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 2 July 2008, p. 55.

142 See for example Mr Klein, Hansard 2 July 2008, p. 17.

143 US Department of Transportation, Review of FAA's Safety Oversight of Airlines and Use of Regulatory Partnership Programs, Report Number: AV-2008-057, 30 June 2008.

144 Submission 31, p. 41.

145 See Aviation Safety Enhancement Act of 2008.

2.137 The committee considers that these findings are particularly relevant given Mr Byron's frequent reference to this concept of partnership with the industry in his staff communications and public statements in the first three and a half years following his appointment as CASA's Chief Executive Officer.¹⁴⁶ Given many comparisons made between the Australian and US airspace and regulatory models by Mr Byron and other CASA officers in that time and previously, the committee has little doubt that the FAA 'partnership' model has had some influence on Mr Byron views on CASA's role.

2.138 However, it is clear that operators would like to see greater devolution of responsibility to industry. Qantas told the committee that it believes CASA's role should be to tell industry what to do, but not how to actually do it. Qantas believes it is important to leave the 'how' to industry to allow for business flexibility and adaptability and that the role of the regulator should be to provide guidance material to assist in this, particularly for those operators with limited resources.¹⁴⁷

2.139 AMROBA (Aviation Maintenance Repair and Overhaul Business Association Inc) would also like to see greater deregulation, particularly in the non-airline aviation segment. AMROBA argued that the current regulatory regime is not cost effective and recommended that CASA follow the lead of its overseas counterparts in applying minimum safety standards on this sector.¹⁴⁸

2.140 The committee notes the observation of Aviation Safety Foundation Australasia that the regulator has to balance competing priorities in the aviation industry. ASFA stated that:

In particular, the General Aviation (GA) sector at times struggles for commercial viability and regulation can be seen as an additional and unnecessary burden. On the other hand the Australian public, media and Parliament have shown a very low tolerance to aviation accidents involving multiple fatalities, i.e. Monarch Airlines, Seaview Air and Transair (Lockhart River) accidents.¹⁴⁹

2.141 The committee notes that the expectations of private individuals who made submissions to the inquiry is that CASA should adopt a stronger regulatory stance, particularly in relation to the enforcement of safety and maintenance standards.

Industry Complaints Commissioner

2.142 Mr Byron told the committee of the contribution that the Industry Complaints Commissioner (ICC) was making to improving CASA's relationship with industry. He said that he considered having a trustworthy complaints process, that people can have

146 See for example Submission 31, pp. 47 – 49.

147 Submission 35, p. 4.

148 Submission 39, p. 9.

149 Submission 45, p. 1.

confidence in as a vital step in identifying residual problems in CASA's culture.¹⁵⁰ The role of the ICC is:

- To be the central co-ordinating point for all complaints, and to ensure that they are examined and responded to expeditiously by the most appropriate area.
- To offer people in the aviation industry and the public an easily accessible, timely, and effective means of having actions reviewed and to make recommendations on the findings.
- Where necessary or appropriate recommend to the CEO corrections to CASA's processes and procedures to prevent recurrence of problems of the kind that gave rise to one or more complaints.

2.143 Mr Byron told the committee that the establishment of the ICC has contributed to greater transparency and accountability within CASA. He said that since the establishment of the ICC, there has been a downward trend in the number of complaints received and that this was evidence of CASA's improved relationship with industry.¹⁵¹ The current Industry Complaints Commissioner, Mr Michael Hart, told the committee that:

What we are seeing is that complaints from industry are on the decline and complaints from the public are slightly on the decline. In contrast, and I think this speaks very highly of the work that is being done to be responsive to stakeholder interests and stakeholder views about aviation safety, my office deals more and more with contact by members of the public who feel confident about bringing matters to my attention—a complaint about CASA or safety issues.¹⁵²

2.144 In this context, the committee notes that a number of submitters advocated the establishment of a more independent complaints mechanism. AIPA has suggested that the establishment of the ICC as a separate statutory office with powers to investigate and report to the CASA board and to the Minister would be an important confidence-building measure.¹⁵³ The Aircraft Owners and Pilots Association of Australia also suggested that industry may have more confidence in the ICC if it were oversighted by

150 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 3 July 2008, p. 72.

151 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 3 July 2008, p. 108.

152 Rural and Regional Affairs and Transport Committee, Transcript of Evidence, Canberra, 3 July 2008, p. 109.

153 Rural and Regional Affairs and Transport Committee, transcript of Evidence, Canberra, 3 July 2008, p. 23.

a CASA board.¹⁵⁴ Other submitters advocated the establishment of a transport or aviation ombudsman, independent of CASA and responsible to the Parliament.¹⁵⁵

2.145 Given recent legislation passed in the United States in response to concern over similar problems in the FAA, which some witnesses have compared to the performance of CASA, the committee is of the view that the suggestion that Australia create such a statutorily independent office has some merit.

Committee view

Effectiveness of administrative reforms since 2003

2.146 The committee recognises that in 2003 CASA embarked on comprehensive organisational and regulatory change. This has involved all aspects of CASA's operations. While the committee does not doubt the commitment of senior management within CASA to refocus the organisation, the committee notes from the evidence it has received in this inquiry that implementation of many aspects of this process of organisational change has been poorly perceived within the industry and the community. While there are many who welcome the changes to date, most submitters expressed some level of frustration with the pace and direction in which key changes have progressed. The committee notes that despite assurances from CASA management that the reforms have been carefully planned and implemented, the perception more widely is that the changes have been piecemeal and have had unintended consequences in a number of key areas.

2.147 In particular, the committee notes the concerns raised during this inquiry with regard to staff turnover, redeployment of staff and the availability of adequate and appropriately trained technical staff. The committee notes that CASA has recently moved to address staffing issues through the completion of a workforce capability and behavioural framework and the development of technical training initiatives. However, the committee is concerned that CASA appears to have embarked on such a widespread cultural, organisational and staff change without a plan for managing the training needs occasioned by such change.

2.148 The committee has some concerns about how effectively CASA senior management has communicated with CASA staff and the industry during this sustained period of change. The committee considers that many of the complaints levelled at CASA throughout the course of this inquiry can be attributed, in part at least, to poor communication about the change process. The committee notes that implementing a different regulatory philosophy, and achieving the necessary cultural change within the organisation and the industry to support it, is a long term undertaking. However, the committee is concerned at the apparent extent of resistance

154 Rural and Regional Affairs and Transport Committee, transcript of Evidence, Canberra, 3 July 2008, p. 30.

155 See for example Submission 7A, p. 9, Submission 14, p. 3 and Submission 19

that remains within the organisation after five years of change management and such a significant turnover of staff.

2.149 The committee also notes the evidence it received which suggests that this has translated into a level of confusion and uncertainty within CASA and the industry. The committee believes that CASA must carefully examine its internal and external communications in the interests of providing clearer direction and leadership to both its staff and the industry it regulates.

2.150 The committee notes that this latter point was considered by the Aviation Regulation Review Taskforce and concurs with the Taskforce recommendation that 'accessible progress reports are provided to industry' in relation to regulatory changes.¹⁵⁶ The committee is also aware that submitters to this inquiry would like to see a greater degree of communication from CASA about the implementation of organisational and operational changes and would prefer a more active engagement of stakeholders as part of this process.

2.151 The committee notes the frustration among submitters in relation to the very slow progress with the Regulatory Review Program (RRP) to date. The committee also notes the criticism of many submitters that there has been only limited progress in this key area in recent years. The committee understands that more recently the limited availability of drafting resources has compounded the problem, but also acknowledges the view put by some submitters that the execution of large scale organisational change within CASA has had the unintended consequence of compromising progress on key projects like the RRP. The committee notes that most of the work completed to date on RRP has been undertaken prior to 2005.

2.152 The committee concurs with the findings of the Aviation Regulation Review Taskforce and concurs with its recommendation that the Minister and CASA commit to achieving completion of the development of the priority Regulatory Parts by submitting all drafting instructions to OLDP by the end of 2008 and work toward full implementation of these Parts by 2011.

Effectiveness of CASA's governance structure

2.153 Evidence presented to the committee suggests that there is some concern within CASA regarding the current management of CASA. Certainly the committee received submissions from former staff critical of the current management and direction of the organisation. This is perhaps not entirely unexpected for an organisation that has undergone such a significant change management exercise as is the case with CASA.

2.154 The committee accepts that on occasion criticisms from former staff members, particularly in the context of sometimes acrimonious departures by those

156 Aviation Regulation Review Taskforce, Report on Activities and Findings, 17 December 2007, Recommendation 7, p. 14.

staff members, are tinged with bitterness and may not be safely relied upon. However, when a former high level member of the executive team presents compelling evidence to the committee, the committee must consider that evidence carefully. Mr Peter Ilyk was such a witness.

2.155 The committee has had the opportunity of observing Mr Ilyk's performance before Senate Estimates and other Senate inquiries. The committee is also aware that, in February 2006, Mr Byron described Mr Ilyk in the following terms in support of his nomination as the Australian Representative on the Council of ICAO:

I regard Peter as an astute and experienced senior executive who exhibits high standards of integrity and professionalism. He is a clear thinker with a rational and reasoned approach to complex issues.....

...

He has consistently shown himself to be fully committed to the interests of CASA.....

...

He is an active contributor to internal corporate planning strategic sessions and I have come to respect his judgement on matters of strategy and issue analysis.....

...

My confidence in Peter's integrity and understanding of corporate governance principles is perhaps best illustrated by the fact that in addition to his line management responsibilities in Legal Services. He has been my senior adviser on matters of governance.....

...

Peter's long experience at senior levels in CASA and its predecessor have given him a comprehensive understanding of the issues, politics and complexities of the Australian aviation industry.¹⁵⁷

2.156 The committee has also had the opportunity of observing Mr Ilyk's performance before Senate Estimates and other Senate inquiries. The committee finds his criticisms of CASA under Mr Byron's leadership quite disturbing. The committee concludes that his concerns cannot be dismissed. The committee notes that Mr Ilyk did seek to point out shortcomings in the reform of CASA under Mr Byron and that Mr Byron appears to have declined to seriously consider those concerns. The committee concludes that, despite warnings that the reform program was ignoring the lessons of the findings of the Coronial Inquiry into the crash of Monarch Airlines VH-NDU, the Seaview Air Royal Commission and the findings of this Senate committee in its inquiry into the administration of CASA and matters related to ARCAS Airways inquiry,¹⁵⁸ the reform program continued regardless. The committee is not satisfied

157 Submission 31B, Mr Peter Ilyk, pp. 1-3.

158 Senate Rural and Regional Affairs and Transport Legislation Committee, Administration of the Civil Aviation Safety Authority Matters Related to ARCAS Airways, October 2000.

that CASA has properly considered all the possible consequences of its current reform program. In this context, the committee notes submissions during this inquiry that the establishment of a board within CASA would strengthen CASA's strategic direction and decision making and would ensure that future reforms are accompanied by rigorous evaluation of the risks and benefits.

2.157 The committee considers that many of the complaints levelled at CASA throughout the course of this inquiry suggest that it is timely for the government to be considering avenues for improving CASA's governance structures. The committee makes particular note of calls for the reintroduction of a board structure within CASA and concurs with suggestions that a board would enhance CASA's governance and accountability. The board should reflect a diverse range of experience and knowledge relevant to the management of Australia's aviation safety regulator.

Strengthening CASA's relations with industry

2.158 The committee acknowledges the steps CASA has taken to date to enhance its consultation processes and considers that CASA should continue to strive for more effective engagement with all sectors of the industry, not just those who represent certificate holders. In particular, the committee notes the recommendations of the Aviation Regulation Review Taskforce that:

- the government's aviation agencies review and enhance existing consultation arrangements and implement new procedures where warranted to ensure transparency and adequate industry awareness of new initiatives; and
- CASA should monitor the regulation development process using joint CASA/industry teams and continue to review the role of the Standards Consultative Committee in the process, in order to achieve further effectiveness and efficiency gains.¹⁵⁹

2.159 The committee notes CASA has taken steps to investigate serious allegations relating to its North Queensland office. The committee hopes that, in the interests of achieving regulatory consistency, CASA will extend this investigation to other offices that have been the subject of complaints regarding uneven and inappropriate dealings with industry.

2.160 The committee has noted the concerns raised in relation to CASA's implementation of its safety management systems approach and its use of risk management in the deployment of resources. The committee also notes the concerns raised in relation to CASA's decision to operate as a partner with the aviation industry. The committee considers that the recent reviews of CASA's North American counterparts should sound a timely note of caution in this regard.

159 Aviation Regulation Review Taskforce, Report on Activities and Findings, 17 December 2007, Recommendations 4 and 6, p. 14.

2.161 While the committee notes CASA's assurances regarding its approach to the implementation of SMS and risk based regulation, the committee remains concerned that CASA appears to be falling short of achieving an appropriate balance between systems audit and specific operational surveillance. In particular, CASA's recent response to the increased incidence of maintenance issues at Qantas causes the committee some concern. The committee considers that recent statements by CASA executives are indicative of a somewhat blasé approach to this spate of maintenance issues. Mr Quinn, Deputy Chief Executive Officer of Operations at CASA said at a recent press conference:

An engine shutdown on a four engine aircraft is not a really significant safety event. Qantas have a safety management system that is able to manage these sort of things. The pilots are trained, of course, primarily in handling these sort of emergencies such as Manilla, a very normal situation there. So I'm not overly concerned about these sort of things.¹⁶⁰

2.162 The committee notes that while CASA's audit of Qantas' operations did not find any evidence that this recent spate of incidents are the result of systemic failure, CASA does not appear satisfied with its current surveillance of Qantas. CASA now proposes to undertake a health check of the airline. The committee notes that this health check will '... go from the documentation, as to how the maintenance program works on these aircraft, how its being implemented and how the documentation process exists in the organisation to the nuts and bolts type aspect of actually reviewing the aircraft and going through the process of confirming that the programs that are directed in the documents are actually in place on the aircraft.'¹⁶¹

2.163 CASA states that this 'health check' will guarantee CASA's confidence and the confidence of the travelling public. The committee considers this approach as a reactive rather than a proactive approach to the discharge of the regulator's responsibility. The committee would have greater confidence if the regulator were more in touch with the maintenance processes of major airlines than it clearly is. The committee notes CASA's concession that the industry is under enormous strain due to the increased fuel prices, and recent industrial activity.¹⁶² The committee also notes that CASA believes that Qantas may need to address questions of accountability and responsibility in relation to its maintenance program. The committee considers that a more prudent regulator would satisfy itself that clear lines of accountability and responsibility exist prior to the delegation of responsibility rather than wait for obvious evidence of failure of self regulation before embarking on a more hands on regulatory role.

160 Mr Michael Quinn, Media Monitoring Transcript, Press Conference, Summary ID: M00031924919, 1.30 pm, 1 September 2008, p.7.

161 Mr Michael Quinn, Media Monitoring Transcript, Press Conference, Summary ID: M00031924919, 1.30 pm, 1 September 2008, pp.4-5.

162 Mr Michael Quinn, Media Monitoring Transcript, Press Conference, Summary ID: M00031924919, 1.30 pm, 1 September 2008, p.7.

2.164 Finally, the committee notes that one of the recurring themes in the evidence received during this inquiry is that CASA is aware of the problems raised and has initiated steps to address them. Without wanting to appear unduly cynical, this is a response that this committee is all too familiar with, particularly through its Senate estimates hearings. However, against the back drop of the Government's Aviation White Paper, the committee has every expectation that key changes will be addressed in the short to medium term and to the benefit of the Australian flying public. The committee will continue to monitor CASA's progress in each of these areas in forthcoming estimates hearings.

Recommendation 1

The committee recommends the Australian Government strengthen CASA's governance framework and administrative capability by:

- **introducing a small board of up to five members to provide enhanced oversight and strategic direction for CASA; and**
- **undertaking a review of CASA's funding arrangements to ensure CASA is equipped to deal with new regulatory challenges.**

Recommendation 2

The committee recommends, in accordance with the findings of the Hawke Taskforce, that CASA's Regulatory Reform Program be brought to a conclusion as quickly as possible to provide certainty to industry and to ensure CASA and industry are ready to address future safety challenges.

Recommendation 3

2.165 The committee recommends that the Australian National Audit Office audit CASA's implementation and administration of its Safety Management Systems approach.

**Senator Glenn Sterle
Chair**