

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

June 29th 2008.

Dear Senators,

I thank you for the opportunity to make this submission to your inquiry. As the person responsible for exposing the 1997 – 99 Avgas Contamination cover-up by both CASA and Mobil I have suffered the loss of my business and livelihood at the hands of this corrupt organisation which continues with its vindictiveness against myself and several others to this day. I trust you will consider my comments in the constructive manner in which they are intended.

As a Pilot of some 43 years experience and some 23,500 flying hours without incident and the former employer of 30 aviation personnel, I would like to submit the following as my contribution to this inquiry.

Let me make it clear from the start, I consider CASA to be a dysfunctional organisation subject only to the whims of politicians and big industry, namely the airlines and with a vindictive attitude to the rest of the aviation industry with an emphasis on General Aviation as the easy target. As a regulator it is too prescriptive, it is slow to adapt to international norms and it relies on deplorable staff culture, albeit with some exceptions.

To corroborate these shortcomings of (un)ethical operational conduct, over the past decade various “Codes of Conduct” have been introduced but to date with few exceptions none of the rules have been applied in the manner intended. The respective Ministers have issued “instructions” (the very nature of these implied and corroborated a gross dissatisfaction with the then current methods of operation) as a result of direct Industry input, only to have [them] ignored or repudiated by the Authority (a law unto itself).

CASA as an organisation is regarded by many as a second rate police force akin to a private security agency (bouncers) relying on staff unsuited to the industry they are regulating, staff inadequately trained and variously out to take revenge on an industry which wouldn't employ them. Several of those I have had personal dealings with had been discharged from the NSW Police force as a [result] of the ICAC proceedings (?).

In the light of recent exposure of the AFP and the Vic Police, why should CASA be any different when it comes to “corruption” within the ranks when as a regulator it has similar opportunities and the extra ability to use “safety” as a distraction? Also considering it employs a disproportionate number of ex police in its ranks, could this further explain its relationship with the industry.

Why should CASA be any different from other Australian Regulatory Bodies? The recent survey by Allen Consulting is quite revealing, excerpts quoted below:

Why business distrusts ASIC

Australian companies do not entirely trust the modus operandi of the Australian Securities and Investments Commission (ASIC), according to the results of a stakeholder

survey released by the regulator.

The survey, conducted by the Allen Consulting Group, has formed the basis of a strategic review of ASIC, but the criticisms of the regulator contained in the full stakeholder survey result extend much further than those initially outlined by ASIC.

What the business responses to the survey make clear is that business stakeholders do not believe that the sanctions imposed by ASIC are necessarily proportionate to the misconduct committed or that the enforcement action pursued by the regulator is consistent or fair. There was a view that the regulator tended not to administer the law with a minimum of procedural requirements. Looking at how the regulator deals with people who don't comply with the law, respondents believed it concentrated on easy targets, focused on punishment at the expense of prevention. If ASIC wants to improve its standing with business, it needs to reduce red tape, focus on principles and outcomes rather than the rules and work with companies to solve their problems.

Casa is a lot smarter in approaching a survey, it doesn't survey its "clients" [industry] but goes direct to the flying public, [most of whom erroneously think "Casa = House"]. The result is still surprising with a confidence rate of only 56% that would equate to a "D-" barely a pass. Imagine the result if conducted amongst those who deal with the [authority] as was the ASIC survey

CASA media release - Friday 27 June 2008
Australians More Confident About Air Safety – Survey

Australians are increasingly confident about the safety of aviation in Australia, a new national survey has found. A total of 78 per cent of Australians say they are completely confident or very confident about their safety when flying between Australian capital cities – up four per cent on the same survey done three years ago.

Confidence in the safety of flights in regional Australia has also increased, with 64 per cent of people saying they are highly confident about their safety. [were the relatives of the Lockhart River Accident interviewed??]

The Civil Aviation Safety Authority commissioned the national survey of public attitudes to aviation safety, with 1526 people interviewed by telephone earlier this year. Roy Morgan Research conducted the survey.

The survey found 55 per cent of Australians believe flights between capital cities are safer than similar flights in other leading aviation nations, such as the United States. Only two per cent believe flights are less safe.

The number of people who are concerned about air safety has remained very low, at five per cent – down one per cent on the 2005 survey. Reasons for being worried about safety include psychological factors, mechanical problems with aircraft and human error.

Fifty six per cent of the respondents say CASA is doing either a great or good job. This rating has been steadily improving since the first survey was taken in 2000, when confidence in the regulator was measured at 33 per cent. In the 2005 survey support for CASA was at 53 per cent.

Only four per cent of people say CASA is doing a poor job, another 34 per cent say the regulator is doing a reasonable job. Sixty one per cent would like CASA to supervise the major airlines “more closely” to some degree, while 29 per cent feel no change is needed.

The survey found 92 per cent of Australians have flown during their lives and about half have flown in the last 12 months. Males are more likely to have traveled recently than women and, not surprisingly, wealthier people are more likely to have flown recently.

CASA acting chief executive officer, Shane Carmody, says the increasing confidence in air safety is extremely pleasing. “This shows that the hard work put in by the aviation industry and CASA to maintain and improve safety standards and performance is recognised and valued,” Mr Carmody says. “However, the results are no reason for the aviation industry or CASA to be complacent. We must continue to identify and manage risks if Australia’s high safety standards are to be maintained.”
Find out more at: <http://www.casa.gov.au/oar/download/ctaf/CTAFstudy.pdf>

An effective method of SELF PROMOTION on the eve of a Senate Committee enquiry and an Industry review?

TO ASSESS THE EFFECTIVENESS OF ADMINISTRATIVE REFORMS UNDERTAKEN BY CASA’S MANAGEMENT SINCE 2003:

In addressing the first “term of reference” of this inquiry, one has to consider the background to such “reform”. In the days of a “CASA Board” it was predominantly the respective Chairmen influencing the organisation. The Dick Smith era identified the “unyielding” culture within the organisation. Almost all changes Dick initiated were negated by the recalcitrance of the establishment, In Dick’s words, “..like hitting a brick wall”. The industry continually hits the other side of this “brick” wall !!

American Leroy Keith was appointed as Director of Air Safety, but couldn’t get out fast enough after tasting the CASA culture, serving less than 12 months, to be replaced by the incompetent Mick Toller whose former employer and colleagues were glad to be rid of him.

Toller operated under two Chairmen, Scully-Powers and “bully” [union buster] Ted Anson, more suited to the wharves than dealing with staff not to mention his run-ins with “clients”. Toller during this period was ably assisted by Laurie Foley, most likely responsible for the imminent “STASI” style which still continues.

It cannot be denied that “administrative reform” has taken place but with any organism the “rot” should be repaired before implementing reform. In building there is no point in a new coat of paint on a unit infested with “termites” and lacking sound foundations, or a kinder comparison would be a building riddled with “asbestos”.

We have seen 20 years of promised streamlining of the regulations, with 3 name changes [for the regulations] alone, yet not one genuine improvement. Under Bruce Byron several “heads” have rolled but this has left behind an embedded bureaucratic culture in the hands of “underlings” chosen for their suitability as “underlings” but generally not having the character for the required changes to be either recognised or implemented as intended. A prime example being the Office of Legal Council now Legal Services Group. Under

the leadership of P. Illyck the OLC became the most vindictive unit of CASA.. Now under a new [name] any attempt to obtain information under F.O.I. is met with negative results as still serving bureaucrats could now be implicated in their support of previous illegitimate actions. The fear of litigation is paramount and contrary to the professed exercise of “conscionable” conduct, the fear of exposure results in subjugation – and what better opportunity!

The exposure of CASA during the AvGas contamination “cover-up” saw the organisation turning on the industry to hide not only its own incompetence but to deny its very complicity with the Oil Industry [Incidentally, the suppliers of the “commodity” most vital to flight safety are the only industry participant still subject to self regulation] a trusted commercial entity who in the case of Exxon Mobil added a known banned substance (refer the ATSM & ATSB report 2002) to their product for a period of at least 2 years and then denied any knowledge. In this case I was privy to the nature of the additive within days of the grounding of 7,000 light aircraft, this simply through asking an ex-employee of the refinery. I immediately advised Toller and was duly threatened. It took a further 6 weeks before CASA came up with the answer! What competence in cover-ups?

Under both a “moral obligation”, a sense of “Duty of Care” and under the Australian Aviation Act 1988 – Compulsory [confidential] Reporting obligation ,I made a disclosure which exposed CASA’s 2 year involvement in an illegal Act. As a result my life was threatened, vehicles damaged and it was suggested by CASA staff to third parties that I keep my “mouth shut”. [This last remark was made by a CASA inspector, one of the ex NSW police officers] Names of officers identified as involved in the cover-up were released to Toller whose re-action was to threaten me personally with retaliation which he successfully implemented over the ensuing years.

The 2001 ATSB report into the AvGas contamination, rightly accused CASA of its dereliction of duty. The ATSB suggesting an independent “Fuel testing” regime be put in place as in other Countries. In 2006 CASA [under Byron] finally responded, advising [ATSB] that it would not be acting on this advice. CASA of course has the situation “covered” by making the pilot (not a chemist) responsible for the quality of fuel, how convenient for prosecution. How responsible for THE WORLD’S GREATEST SAFETY REGULATOR !

Again the period 1999 – 2006 = 6+ years which places CASA beyond the “statute of limitations” for successful litigation [except in the case of a criminal act], DPP please note.

During the Toller reign several operators were put out of business through spurious claims by CASA of unsafe operations. Eg. Ord Air Charter [run by a Female!, the widow of the founder], Whyalla Airlines [a fatal accident due to component failure – a condition known to CASA but not disclosed to Industry at that time], Yanda Airlines [a pilot approved and tested by CASA was involved in an incident] and my own organisation Schutt Aviation [exonerated by the AAT but CASA continued with its reprisals through the courts until the company went into liquidation] True to Toller’s threats.

Although the post 2003 period is indicated, Administrative reforms undertaken should have included responsibility and action for the earlier “failings” of the organisation. Especially as a Government Corporate entity all responsibilities, akin those of a Public Corporation under ASIC rules, are borne by the Minister. Either “criminal” proceedings

should be instigated against the respective Ministers and staff of the Corporation or the current Minister take all responsibility.

In the case of the AvGas Contamination the ACCC should have been asked by the CASA to get involved. Industry representation to the ACCC achieved a negative result to be told that, only the relevant Government Authority (CASA) could make such a request. This is similar to the CDPP only getting involved at the request of an outside body. Again it is only in June 2008 that the ACCC has shown any desire to take on the “powerful” again another Government Corporate entity [we] can be proud of.

CASA as a Commercial (yes it charges for its services) aviation organisation is larger than any of the G.A. operators it oversees, yet its own pilots lack the essential recency/competence in flying demanded of those it regulates. As an organisation it does not hold an “Air operators certificate” it doesn’t have an “Air operations Manual” a “Chief Pilot” nor a “Check and Training organisation”, all deemed so essential (by CASA) for flying safety. Neither is there an “independent” Safety audit judged so essential for the industry it “administers”. This is in no way denying that some of the requirements [selectively] imposed on the industry are not beneficial. It is the manner of prescription.

At every opportunity CASA uses the excuse that it has to comply with International Norms and/or hides behind the “safety” banner. Yet in most cases its application is self serving and anti-competitive. In CASA’s eyes Australia sees itself as a leader in Air Safety but when considered by International standards given our “benign” flying weather and ideal topography we are probably below average. Safety is implemented by the individual and no amount of regulating will impose same.

An example; USA or European Flying Instructors may teach flying as an individual without the onerous requirements of having a Flying School Air Operators Certificate, approved Premises and an Operations Manual, as do Australian Flying Instructors. To become an Australian Flying instructor requires completion of a 50 hour course which then allows the “junior” instructor to train under the auspices of a Flying School. The European or USA equivalent takes 30 hours training with an Instructor and allows the New Instructor to exercise the privileges of his “rating” as an independent trainer.(refer the HREOC) The implication here is that an “Australian” is less capable of learning and conducting him/herself professionally in such a position. [refer also to over-regulation]

Strangely though the CASA must accept pilots who gained their licence under such an “inferior” system for an Australian equivalent licence or Rating. [discrimination] In the case of Flying Instructors no matter what experience they have, CASA requires them to start at the bottom thereby complying with the ICAO rule of accepting qualifications. No wonder we have a “Skills” shortage. Strangely foreign Medical Doctors are welcome, a sector responsible for more deaths than any other in this country.

Discrimination: A highly regarded [by CASA] Flying College in Melbourne suffered 7 student fatalities in 3 years and has regular ongoing safety incidents without the slightest “interference” from CASA. Its owner holds an advisory position on a CASA – Industry advisory committee! – so much for the professionalism.

TO EXAMINE THE EFFECTIVENESS OF CASA'S GOVERNANCE STRUCTURE:

Regardless of the Governance Structure, performance is dependant on the right people to make it work. When Government Business Units start operating as Corporations the focus becomes one of financial return. As a monopoly CASA has introduced “fee for service” it was able to and certainly did, introduce a myriad of “services” under the “safety” banner and charge for these without consideration for the necessity of same. Charges for “administrative” Aviation Medical services have been made whilst the obligations are ever more onerous when compared to those required by similar authorities also working to the ICAO standard?

TO CONSIDER WAYS TO STRENGTHEN CASA’S RELATIONS WITH INDUSTRY AND ENSURE CASA MEETS COMMUNITY EXPECTATIONS OF A FIRM SAFETY REGULATOR:

CASA is regarded by the industry much in the way as the public regard “parking inspectors” and “speed camera” operators. Its ”culture” developed/fine tuned over several decades is so entrenched that even the most well meaning professional will soon be discouraged. An example is the incumbent CEO, a [previously] respected industry professional who despite making some early headway has succumbed to “political” pressure when it comes to Qantas. I say this from personal experience in the way incidents by this airline are handled, having been [again] obliged [by Law] to report a proven matter which was dismissed under influence from Toller, to be taken up again by Byron at my insistence and yet due to the time taken (7 years) and the loss of evidence was dismissed in May 08 by the Supreme Court in Hobart. The incident involved as per the charges “ a serious and imminent risk to safety” and had it involved any other operator would have resulted in immediate grounding and loss of licences. [as it should have in either instance]

CASA requires the implementation of an external system of audit by an independent regulatory organisation.

SUMMARY:

TO ASSESS THE EFFECTIVENESS OF ADMINISTRATIVE REFORMS UNDERTAKEN BY CASA’S MANAGEMENT SINCE 2003:

Bruce Byron inherited an almost impossible task of cleaning up a systemically corrupt and broken organisation. He had the task of identifying and eradicating the deficiencies and appointing new trustworthy personnel. Cost recovery meant either a leaner operation or charging for superfluous services under the banner of “safety”. The statistics in terms of the reduction of flying activity in times of National Growth speak for themselves. The industry was decimated by the “STASI” element within CASA. At the current pace without a regulatory improvement this decline will continue in the commercial sector with the only growth continuing in Recreational flying, an area not under direct CASA control.

TO EXAMINE THE EFFECTIVENESS OF CASA's GOVERNANCE STRUCTURE:

The present governance structure is suitable provided the CEO is a trustworthy and capable individual. A Board structure would not achieve any direct benefits as previous Boards have shown, it depends on the integrity of its composition. Only a Minister for Aviation can impose the desired direct governance control.

TO CONSIDER WAYS TO STRENGTHEN CASA'S RELATIONS WITH INDUSTRY AND ENSURE CASA MEETS COMMUNITY EXPECTATIONS OF A FIRM SAFETY REGULATOR:

How to restore trust? The old DCA system worked whereby the regulator was responsible for promoting the industry. Many of the then participants in the 50s and 60s had wartime flying experience and had a dedication, enthusiasm and respect for flying. Today CASA is just another Police force (refer to all the countrywide enquiries) but it has an undesirable controlling culture of distrust in its sworn enemy. Unfortunately experience has shown that there will always be a small element of irresponsible conduct and no amount of regulation will eradicate this.

If as is claimed Australia has an "unenviable safety record" this is solely due to responsible action by the industry participants, not the regulator. Few pilots are suicidal and the majority are responsible. This is an industry which will operate safely with minimal oversight. Provided training is kept at a sound level, responsibility should be passed on to industry leaders with minimal interference. Let "duty of Care" and "conscionable" conduct rule the day. Not the "STASI" mentality!

Signed Stan van de Wiel

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