



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

STANDING COMMITTEE ON RURAL AND REGIONAL AFFAIRS
AND TRANSPORT

Reference: Administration of the Civil Aviation Safety Authority

WEDNESDAY, 2 JULY 2008

CANBERRA

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**SENATE STANDING COMMITTEE ON
RURAL AND REGIONAL AFFAIRS AND TRANSPORT**

Wednesday, 2 July 2008

Members: Senator Sterle (*Chair*), Senator Siewert (*Deputy Chair*), and Senators Heffernan, Hutchins, Hurley, McGauran, Nash and O'Brien

Participating members: Senators Abetz, Adams, Allison, Barnett, Bernardi, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, George Campbell, Chapman, Colbeck, Collins, Coonan, Cormann, Crossin, Eggleston, Ellison, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Hogg, Humphries, Johnston, Joyce, Kemp, Kirk, Lightfoot, Lundy, Ian Macdonald, Sandy Macdonald, McEwen, McLucas, Marshall, Mason, Milne, Minchin, Moore, Murray, Nettle, Parry, Patterson, Payne, Polley, Ronaldson, Scullion, Stephens, Troeth, Trood, Watson, Webber and Wortley

Senators in attendance: Senators Fisher, Heffernan, Nash, O'Brien, Siewert and Sterle

Terms of reference for the inquiry:

To inquire into and report on:

The administration of CASA and related matters:

- to assess the effectiveness of administrative reforms undertaken by CASA's management since 2003;
- to examine the effectiveness of CASA's governance structure; and
- to consider ways to strengthen CASA's relations with industry and ensure CASA meets community expectations of a firm safety regulator.

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Committee met at 9.03 am

CHAIR (Senator Sterle)—I declare open this public hearing of the Senate Standing Committee on Rural and Regional Affairs and Transport and welcome everyone here today. The committee is hearing evidence for the committee's inquiry into the Civil Aviation Safety Authority and related matters. This is a public hearing, and a *Hansard* transcript of the proceedings is being made.

Before the committee starts taking evidence, I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee.

The committee prefers that all evidence be given in public, but under the Senate's resolutions witnesses have the right to ask to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

On behalf of the committee, I thank all those who have made submissions and sent representatives here today for their cooperation in this inquiry. I now welcome representatives from the Australian Licensed Aircraft Engineers Association.

[9.04 am]

NORRIS, Mr Gary, Senior Industrial Officer, Australian Licensed Aircraft Engineers Association

RE, Mr Stephen, Trustee, Technical Committee Representative, Australian Licensed Aircraft Engineers Association

CHAIR—Do you have any comments to make on the capacity in which you appear?

Mr Re—I am appearing on behalf of the federal secretary and the federal president of the association as they cannot be here today because they are involved in high-level EBA discussions with Qantas. I am representing them in my capacity as a member of the technical committee and also as a senior official.

CHAIR—I invite both of you to make a brief opening statement before we go to questions.

Mr Re—I would like to outline the Australian Licensed Aircraft Engineers Association's role in the aviation industry in Australia. The ALAEA is an employee organisation founded in 1960 to advance the professional, technical and industrial interests of aircraft engineers in Australia. These engineers are licensed pursuant to the Civil Aviation Act to certify maintenance work performed on aircraft within Australia.

Currently the ALAEA has about 3½ thousand members employed in all sections of the aviation industry. The motto of the ALAEA is: 'To undertake, supervise and certify for the safety of all who fly'. We currently have coverage of around 80 per cent of licensed aircraft engineers in Australia, and it is important to be cognisant of the fact that the ALAEA is a professional representative body as well as a union, somewhat similar to the Australian Medical Association. Unfortunately, sometimes administrations such as CASA do not understand the nature of the association as such; hence, such perceptions cloud the assessment of whether associations should be consulted and allowed to participate or not.

Briefly, the role of licensed aircraft maintenance engineers—LAMEs—in Australia, pursuant to their statutory duties under the act, is at the forefront of inspection, repair, maintenance and certification that an aircraft is safe to fly with regard to the maintenance of aircraft. In effect, the LAMEs are the front line of statutory enforcement of maintenance standards in aviation. They are the linchpin in the safety assurance regime that ensures aircraft are safe to fly for passengers, aircrew and pilots. Without their competence and diligence, the trust and faith that that metal and plastic container will get to a destination safely through the air becomes nonexistent.

The importance of the role of the LAME in ensuring statutory maintenance obligations are met and the value of their contribution to the safety of Australian air travel for the public and aircrews, in our view, has been intentionally downplayed or ignored by the recent CASA administration.

Senator HEFFERNAN—Are either of you gentlemen a licensed engineer?

Mr Re—I am, yes.

Senator HEFFERNAN—What are you, Mr Norris?

Mr Norris—I am an industrial advocate.

Senator HEFFERNAN—So you are a half-baked lawyer?

Mr Norris—You could say that.

Senator HEFFERNAN—Generally, I think, Australians think they have got pretty safe planes, and Qantas has a wonderful record of air safety. A lot of that goes back to the good work that you fellows do. Could you explain to me what the journey in life is to become a licensed engineer? Do you start out as an apprentice? How long does that take? What tests do you have to pass to become a licensed engineer?

Mr Re—Certainly. There are a number of pathways you can go through. You can start off doing a traditional trade in the aviation maintenance field, which currently is a four-year apprenticeship. From that four-year apprenticeship, you then work within the industry, gathering and documenting practical experience that you gain on aircraft. You then do a series of examinations for the Civil Aviation Safety Authority called CASA basics, which are pursuant to your trade and which demonstrate to CASA that you have the knowledge of aircraft maintenance and systems.

Senator HEFFERNAN—Who supervises those exams?

Mr Re—That is run by CASA. You self-study for those exams or you can use the assistance of a training organisation. But, generally, you self-study for those exams and sit an examination that is held by CASA.

Senator HEFFERNAN—And then there would be a certificate as you pass each exam?

Mr Re—Yes, you are issued with a pass or fail and with a certificate following successful completion.

Senator HEFFERNAN—Which would be recorded in a database and then you would have a copy to hang on your wall at home.

Mr Re—Yes. Once you have completed those basic exams you are then eligible to sit for what is called an aircraft type licence, which is a course teaching you the systems on a specific aeroplane, and sometimes those courses go up to three or four months in duration. You then must pass examinations, supply the results of those to CASA and supply evidence of sufficient experience on the aeroplane, for CASA to then grant you a licence.

Senator HEFFERNAN—Where do you sit for those exams?

Mr Re—There are a number of private organisations that run those exams. Qantas runs a technical training school where the majority of its engineers—

Senator HEFFERNAN—But CASA does not supervise those exams?

Mr Re—No, CASA does not supervise those exams. I think they have auditory oversight of those schools, those training organisations, but the exams and the courses are run by independent bodies and they supply the results of the courses to CASA.

Mr Norris—They are accredited training organisations through CASA. They get an approval to be a training organisation.

Senator HEFFERNAN—And do they give you a certificate?

Mr Re—Yes, they give you a certificate of completion at the end.

Mr Norris—To get a handle on the hours involved, you not only have the hours of your trade, a four-year trade; you also have the hours to study for your basics. In the case of mechanical engineers the basics amount to approximately 20 basics. In the case of avionics there are about 26 basics. Each basic contains an exam. Depending on the individual, that can take up to years to do. With regard to the licence type courses, for example, an A330 type course runs for approximately 13 weeks full-time and the hours are approximately 800 hours. Within that, the licensed aircraft engineer may do 20 or 30 exams. So the qualifications are quite onerous. On top of that, they have to have the knowledge of the act is well.

Senator HEFFERNAN—So a licensed engineer does a trade—an apprenticeship—then practical work and eventually a series of tests and becomes a licensed engineer. Then he goes further and gets a type licence. It is like a pilots licence.

Mr Re—To obtain your licence you need to complete that type course so that you are issued with a first licence.

Senator HEFFERNAN—And all the way through there is a paper trail?

Mr Re—Yes.

CHAIR—Do we have a shortage of LAMEs in Australia?

Mr Re—Yes, I believe there is a shortage of LAMEs in Australia.

Senator O'BRIEN—The licence is issued by CASA. Could you tell us, from your organisation's point of view or your personal point of view, how CASA, the regulator, has been performing and whether you have noticed any changes in the level of performance in the last five years?

Mr Re—CASA used to run the individual licence assessments from individual state offices. Over the last few years, there have been delays because they have moved the licence issuing to a central point in Canberra, so it goes to Canberra then comes back to the state office. There have been some complaints and mutterings that there has been an extra amount of time in getting back licence applications.

There has also been the increase in cost over the last few years with the cost recovery of renewing licences or sitting exams. The cost has now gone out to the LAME at the end of the line instead of being picked up by the administration within CASA. They are the major grumbles that we have heard, but we do not have people beating down our door about the actual licensing structure as such.

Senator O'BRIEN—What knowledge does your organisation or you as an individual have of CASA's general performance as a regulator?

Mr Re—On their general performance as a regulator, since my involvement with the regulatory side of CASA—

Senator O'BRIEN—And how long has that been?

Mr Re—That has been two years now—coming up to two years now—of dealing with the working groups and the consultation side of CASA. Having a larger involvement with the association, I am well placed to express some of the frustrations and the problems that we see with CASA's consultation process. We also see problems with CASA's regulatory oversight of maintenance facilities.

Senator O'BRIEN—Such as?

Mr Re—For example, the problems that have been made public about overseas maintenance facilities and the quality of the maintenance that is coming out of them. That is even up until last week; there are still problems.

Senator O'BRIEN—What sort of problems?

Mr Re—Just the general quality of the work and the quality of the facilities that Australian aircraft are being maintained in due to the lack of facilities in Australia now to carry out that work.

Mr Norris—A case in point is an aircraft that has come back from overseas in the last week. Even though the airline has put in place a customer inspection requirement in its commercial contract as a result of negotiations and recommendations by the ALAEA, that aircraft has come back with over 60 defects, effectively, in the system. That aircraft has had faults such as earth wires not being connected, which causes an electric shock to flight attendants in the galley. Upon further investigation, we were advised by our members—though we have not had the documentation to verify it—that effectively the securing bolts for the actual galley assembly may not have been secured. We are looking at a mass of approximately 300 kilos in the aircraft that has not been secured properly. The work has been signed off as being done. This is a major concern. The paper system that the airlines rely on to ensure the work is done is not making the link to the practical application of that paperwork—in other words, the check that the work has been done. This is one of the faults in the CASA system of auditing as well.

Senator O'BRIEN—Is CASA auditing the work overseas?

Mr Re—From what we have seen, CASA's role at the start is to grant approval to an overseas facility to allow maintenance of Australian aircraft there. If I may go back, about 12 to 18 months ago, a facility in Singapore was granted an approval to work on Australian aircraft. You might remember those aircraft; they were made very public with the 'staplegate' affair. Escape lighting was found stapled together, hence the release of an internal audit report by the AMWU to the *Australian* newspaper, which made it public. That exposed some of the very, very poor maintenance standards that were evident in that facility. These were problems that were picked up by internal reporting of the company involved. There was a series of very negative reports on this facility. It leads us to question how that facility ever got approval in the first place.

Senator HEFFERNAN—So who is the villain?

Mr Re—I think the villain in the first place is that that facility is allowed to be approved under the Australian system. Oversight—looking at that facility in motion and working with real people doing real jobs—does not seem to be taken into account when doing a desktop audit of whether a facility meets the regulations.

Senator HEFFERNAN—Does the paper trail that we talked about earlier—to get you to where you are—exist for those people over there in those facilities?

Mr Re—It would exist under their own system. I believe they would have to demonstrate to CASA in a desktop audit that their personnel meet certain requirements.

Senator HEFFERNAN—Desktop audits can be pretty scary experiences.

Mr Re—But the point we would like to make is that, if a facility obviously passed the desktop audit to be ticked off as an approved facility but, whilst the facility is actually working with real people doing the jobs and the quality that they produce is well below the allowable standard in the Australian regulations, there must be something wrong in the system that does not identify that, or there is no process for the aviation authority to go and look at an aeroplane being worked on prior—

Senator HEFFERNAN—So there is no requirement for an Australian qualified person to be the foreman of the task over in the foreign facility?

Mr Re—I do not believe there is actually a requirement for that. I believe an airline could put an aeroplane into a facility and say it is a CAR 30 approved organisation. When they give us the paperwork back that says the maintenance on that aeroplane is complete, we accept that because they have been approved by the regulator.

Senator HEFFERNAN—So you just track the villain. If I am an airliner from Boofhead Airlines and I have a 737 or whatever and I am going to get it serviced overseas, I take it that the international qualifications—which are approved by CASA, are they?

Mr Re—Within that facility, yes. If it has been given—

Senator HEFFERNAN—So I take in good faith the fact that when my Boofhead Airlines aeroplane goes into that facility for a service it should be fixed up to the standards I would expect anywhere else.

Mr Re—Yes, that is exactly right.

Senator NASH—How often do CASA actually go into that facility on the ground to make sure that what they have agreed to, that the level of maintenance that is ticked off on paper, is happening in practice?

Mr Re—I cannot answer that for you. We have actually asked CASA that question ourselves and for their audit schedule and results for facilities overseas, but they will not release those to us.

Mr Norris—There is actually a freedom of information matter before the Administrative Appeals Tribunal in regard to that.

Senator O'BRIEN—In terms of the approval of these facilities versus Australian facilities, presumably CASA has a role in approving or accrediting Australian maintenance facilities. That is my understanding.

Mr Re—Yes.

Senator O'BRIEN—To your knowledge, is that role the same or different for facilities based in other countries?

Mr Re—It appears there may be some difference. Maybe it is the distance factor. But obviously if you have personnel and you can put four or five people into a nearby facility to inspect it—

Senator O'BRIEN—There are a great many maintenance facilities around the world and different aircraft types. Some are conducted by major organisations and major airlines, as with Qantas performing tasks for other airlines. How much control should and can the Australian regulator have of these overseas based facilities, on the one hand for aircraft that operate exclusively within our domestic system and, on the other hand, for aircraft that operate in the international trade?

Mr Norris—The approval system for maintenance works basically by an airline, an AAC holder or a person who wants to become an approved maintenance organisation making an application and producing a system of maintenance. That system of maintenance is effectively what is approved. Overseas organisations work within their own regulatory regimes and the boundaries of international law are, as we know, very fuzzy. So, in effect, the obligation to comply with Australian standards arises in two ways: either by the CASA approval and their inspection saying, 'We approve your facility and we believe it meets the requirements,' or under commercial contract. Obviously with a commercial contract there is all sorts of toing and froing with the influences that that may have.

But effectively where the regulatory regime rests is with the system of maintenance. If the act required an overseas organisation to comply with Australian systems of maintenance and standards when that aircraft was overseas—and, in particular, the appropriate numbers of people to make sure that the work is supervised and done—then that might go some way to alleviating the problem. The difficulty we have with that is that, if that were so, then more of these overseas facilities being approved would mean a greater increase in the import of labour. Virgin have recently announced that they have imported \$90 million worth of maintenance from overseas by sending aircraft overseas to be done.

Senator O'BRIEN—This is for a particular check.

Mr Norris—Yes. This is for a series of checks. This is a two-, three- or four-year contract.

Senator O'BRIEN—But it is done on aircraft after a certain number of hours of flying.

Mr Norris—Yes, that is right.

Senator HEFFERNAN—Is it a grease and oil change type of thing?

Mr Norris—No. These are heavy, major maintenance checks. We were advised yesterday that, in the current situation, Qantas are sending some of their two- or three-day checks to Hong Kong. They are now sending some to Malaysia, which is basically unheard of. The outsourcing issue for us is that, if the regime were put in place where the regulator in Australia could set that standard, you would end up with more of these overseas organisations, fewer jobs in Australia and basically the whole aircraft industry in Australia under threat. We have seen an increase in outsourcing in Qantas, for instance, going from two per cent in 2002 to over 20 per cent this year.

Senator HEFFERNAN—Is that related to labour costs?

Mr Norris—It is basically related to a shortage of labour. In talks with us Qantas have acknowledged that they are sending aircraft overseas not because of facilities, lines of maintenance, hangars or space but because of the shortage of workers.

Senator HEFFERNAN—Could you not interpret that to be a sovereign issue of international interest? If there were some sort of global meltdown and we did not have the capacity here to maintain our planes in the air and had to rely on somewhere over there and you could not get over there for some reason, we would be stuffed.

Mr Norris—Exactly. While the ALAEA are probably seen to complain a lot about this—I suppose because we do enthusiastically—the continual preaching about it tends to fall on deaf ears. The actual public interest involved here is massive. We are talking about significant high-technology—

Senator O'BRIEN—We have a very short space of time, so I want to talk about the role of the regulator, because that is what this is about. You have the commercial interests of the airline. Qantas and Virgin are two Australian based airlines, both of which will soon be operating internationally—I suppose Pacific Blue is now. What do you say should be the role of the

Australian regulator in terms of Australian based companies operating aircraft domestically and internationally? What should the regulator be doing about the maintenance?

Mr Norris—On overseas aircraft operating domestically and internationally?

Senator O'BRIEN—Yes.

Mr Norris—Other countries, such as the United States, require the maintenance to be performed in the United States. For instance, Qantas has had to set up a maintenance base in Los Angeles to inspect and service its aircraft in Los Angeles. The majority of the labour there is overseen by a small number of Qantas people but 99 per cent of the labour is American based and employed. That creates jobs in the United States and leaves the skill base in the States. If airlines in America were to be granted access to our routes in Australia, they should be required to have a system of maintenance under the act here and they should be required to perform some of that maintenance in Australia. For instance, most aircraft coming from overseas spend eight to 12 hours on the ground here. That is time that can be utilised. But instead of flying engineers from overseas in and out again, which does not do anything for Australia, if there were requirements within the regulations that an aircraft arriving in Australia had to have inspections in Australia to meet Australian standards or whatever then effectively that would create the base within the overseas airlines and a wider base for labour across the board, which would preserve the skill base.

Senator HEFFERNAN—So this is a situation of being between a rock and a hard place. We have not got enough people for the present arrangement; we certainly would not have enough people if we had to do that. There is a bloke shaking his head at the back there. You say that a lot of the work is going overseas because we have not got the skill set here, the people to do it. If we had those engineering requirements for that 12-hour stay here, we would need another set of licensed engineers, would we? I still cannot work out who the villain is.

Mr Norris—The villain effectively is chasing lower costs. It is cheaper to do maintenance overseas.

Senator HEFFERNAN—But earlier you said that that was not the driver; it was really that there was not—

Mr Re—I think there are two parts to it. One is that one of the key reasons there is now a desperate shortage of qualified licensed engineers in Australia is that a large amount of them were actually made redundant from the industry about two years ago, and those people do not want to re-enter the industry.

Senator HEFFERNAN—They don't?

Mr Re—No. So when you say there is a shortage, there is a shortage of people with qualifications who wish to be part of the industry. However, if, as Gary said, it were airlines on a servicing basis, I believe there would be a sufficient pool to man airports and lure people back in.

Senator HEFFERNAN—But we have a shortage of doctors and we generally do not send the patients overseas; we bring the doctors in.

Senator O'BRIEN—It is a bit harder. Actually, we do send some.

CHAIR—I remind the committee that we are on a very tight time schedule today. Thank you, Mr Re and Mr Norris. I do thank you for your assistance to the committee.

Mr Re—I would just like to mention that we prepared a submission for today that involved a lot of consultation problems that we have had with CASA. I would like to table that for the committee to read, please.

CHAIR—Yes; thank you. The secretariat staff will get that from you.

[9.32 am]

KLEIN, Mr David Athol, Private capacity

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Klein—I am here as a recently retired airworthiness inspector from CASA. The basis of my submission is some concerns I have with the oversight of Qantas.

CHAIR—Thank you. Would you like to make a brief opening statement?

Mr Klein—I think the submission is fairly specific, so I will just leave it at that.

CHAIR—We will go to questions.

Senator O'BRIEN—The nub of your concern is that CASA is not applying the resources it should be to the airline that you used to work for in terms of its regulatory role?

Mr Klein—Yes, that is part of the concern. I think the other part is the fact that the audit regime that has been put in for Qantas is not realistic. It is nowhere near enough—

Senator O'BRIEN—Has that changed in the last five years?

Mr Klein—No. The SPM has not changed in that regard in the last five years, and that is the bible; that is the document you work to.

Senator HEFFERNAN—What is the SPM?

Mr Klein—That is the surveillance procedures manual. It calls for one audit per year for Qantas.

Senator HEFFERNAN—Per plane?

Mr Klein—Per year for Qantas—one organisation. It has as many technical staff as the rest of the certificate approval holders combined. It probably has about a third of the LAMEs, and it is in the same bracket for an audit as an organisation with over 50 staff.

Senator HEFFERNAN—The same time is put into the audit as would be put in for Rex airlines or the like?

Mr Klein—Not the time. It just calls for the audit for airline aircraft with certain levels of staff. In the case of Qantas it does not even get a specific requirement. It just says 'organisations over 50 staff, one audit per year'.

Senator HEFFERNAN—By the way, are you a licensed engineer?

Mr Klein—Yes.

Senator HEFFERNAN—Right. What does that audit involve? What are they looking for?

Mr Klein—The regime of audits has got to be constructed. In 10 years of oversighting Qantas I constructed quite a lot of them, and they vary. The focus was mainly systems based rather than product based. The previous regime of audits had a mix of a once-a-year systems based audit and a cyclic, product based audit, which I helped develop—I was on the project team for that. When this concept was produced and the development team for the SPM came around, as the senior Qantas airworthiness person I challenged it straightaway and said: ‘There is no way. I don’t care if you put 50 people in one audit; you’re not going to cover anything the scale and size of Qantas to any effect.’

Senator HEFFERNAN—But I still do not quite get it—I mean, it was £4.10 an hour when I learnt to fly. With the two systems, can you just say what they are rather than describing them—can you put a name to them? What are the two systems?

Mr Klein—With the predecessor of the existing system, you had a number of cyclic audits.

Senator HEFFERNAN—What is a cyclic audit?

Mr Klein—So many audits to cover off certain elements that you wanted to look at: management responsibility, facilities, structure, licensing, training, all those different things.

Senator O’BRIEN—They were separately audited?

Mr Klein—Yes. It is just a breakdown. You go in to do a major audit of the systems, on the management control aspects—

Senator HEFFERNAN—That is an administrative audit.

Mr Klein—Yes, and then following audits you would go in and do ramp checks. You go and look workshops, you go and look at different things—and that gave you a presence factor across the organisation. With the change to a systems based audit, focusing on the systems, the management philosophy, it has come away from a product based audit and it is nearly all focused on the top level.

Senator HEFFERNAN—So does the systems audit—as opposed to the product audit—mean that, rather than look at the workshop, if you look at the bloke who is the supervisor of that particular workshop and think, ‘Well, he’s qualified to look at the workshop,’ you will give him a tick?

Mr Klein—It is almost getting to that. 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 outcome basically became a secondary consideration.

Senator NASH—So in layman's terms it is hands-on checking?

Mr Klein—Yes, going on to the hangar floor.

Senator NASH—Yes, hands-on stuff.

Mr Klein—A heavy check. Still, even with this new system, with the one check per year, I have put a little bit of my own interpretation on that. The last one I did—I remember well, in October in Brisbane—I went in on a heavy check, and that is where you can get some results. You have just got to go up to the guys working on the aircraft and ask, 'Where's your data? What are your qualifications? Do you consider these sufficient?' That sort of drilling down is what is necessary to get the result.

Senator HEFFERNAN—And that doesn't happen now?

Mr Klein—That happens now, right, but the main focus is still on the top level, on management responsibility and the systems in place. But I had to fudge a little bit to do what I want to do; that is what I am saying.

Senator HEFFERNAN—So you rely more on the paper trail rather than the practical?

Mr Klein—Yes, that is right.

Senator HEFFERNAN—So, if the paper trail was run by someone who like me had become worn out, or someone had got bad social habits or something and came to work with a hangover et cetera, the systems would fail.

Mr Klein—Yes. Another big focus, of course, is on internal auditing. If the internal audit is okay—and that is the way it is heading in the future, I think—and they set up the systems management approach, make sure they have got their own risk analysis, make sure they have got all these things in place, then you can draw back on your own inspection criteria.

If you look at Qantas right now, basically, it has massive resources in that area. It has its own human factors people, it has its own safety department, it has the risk department with lots and lots people there already, which will basically almost give them a tick in the box for the new way forward—and yet, even with that, you can still go in and find issues.

Senator FISHER—So, Mr Klein, are you saying there is no examination of the outcomes—there is a focus on systems and process to the exclusion of outcomes achieved?

Mr Klein—No.

Senator FISHER—So can you break it up percentage wise?

Mr Klein—I have been going in and getting findings. You act on your findings. I guess a lot of the action we have had to take with Qantas is not from our findings from audits as much as from triggers that have come in from other aspects. But we have had some findings from audits which have led to certain actions having to be taken.

Senator FISHER—Sorry; I should perhaps have clarified my question. To the extent that you are saying there is a focus on processes and systems rather than, in Senator Heffernan's terms, on the practical, layman, hands-on-deck stuff, I have translated that as not looking at the outcomes that need to be achieved. So are you saying that, when the audit is done, there is no regard to safety outcomes but rather there is total regard to systems and processes? Or are you saying there is some regard to outcomes but it is insufficient?

Mr Klein—There is still regard to outcomes.

Senator FISHER—Do you want to indicate to what extent you think there is a regard, and then why you think that extent is insufficient?

Mr Klein—I am not saying that the regard to outcomes or the actual process and procedures are not appropriate. What I am saying is: the number of times we have a presence in the organisation, the number of times we would look at them, regardless of what is put in place—whether it is a systems based or a product based audit—is not enough.

Senator HEFFERNAN—Are you implying, though, that because some of the auditing is internal, as it were—so, for instance, would it not be in the interests of Billy Bloggs Airlines, an international carrier, that the internal certification and inspections were up to standard to keep their good flying record intact?

Mr Klein—Yes. Like I say, they put a lot of resources into that. I think they have 40 or 40-plus staff in their quality risk department; about half of those are internal auditors and they continually do a cyclic audit. Yet you could still go in and find problems which they do not find.

Senator HEFFERNAN—Can I ask a pretty dumb question? We had the earlier witnesses saying that a lot of this is outsourced overseas and that the planes come back with faults.

Mr Klein—Yes.

Senator HEFFERNAN—In your experience, when a plane goes through the same process in Australia, do they still come out and find some faults?

Mr Klein—Yes. In fact, some of the interest we have had—or I should say, I used to have—was particularly in Avalon. There is a lot of heavy maintenance in Avalon. And there have been a lot of human factors problems et cetera down there which have led to a lot of mistakes.

CHAIR—Would you find serious faults, such as the bolts not being properly done up in the galley?

Mr Klein—I would say equivalent to that, yes, for sure—if not worse.

Senator O'BRIEN—So, from your experience of the two different audit systems, you clearly believe that the current audit system does not reveal shortcomings that might exist in the process—is that what you are saying?

Mr Klein—I am saying that you can make the current system, the way it is now, work, to get product audit into it. It will work, but you need more of it. Take the case of Qantas. You are talking about three major heavy maintenance facilities; at least 40 or 50 component workshops; about 12 or 13 line stations around Australia, and a lot of those are international and domestic; and about 24 ports that they have maintenance conducted at, and at about half of those, I think, they have got Qantas engineers. You are looking at that spread, plus you have authorised persons who have their own delegations, and the delegates themselves, like us. They are supposed to be audited as well. But in the time that I have been trying to rationalise it all and get some means of at least getting a realistic sample—and that is what it is about—those people have virtually had very little audit. So it is the scale of the organisation.

Look at the Sydney office, for example. When the Sydney office was first put together many years ago, it was designed for Qantas as an international operator only. There was no domestic. When they took over Australian Airlines, it basically more than doubled in size and responsibility. How big did the Sydney office get? It probably had about the same level of inspectors as it has today—it has not developed. It has all been catered for, to my mind, by the audit frequency being reduced to meet the resources rather than the other way around. Why else would you put one audit a year in for Qantas? It just does not make any sense.

Senator HEFFERNAN—If you were in charge, what would you do?

Mr Klein—If I were in charge, I would make the audit regime—even the existing one, as it stands—meet a three-year cycle, so that every maintenance facility that Qantas has would get at least one visit from a team of auditors in a three-year cycle. In some areas you might ramp that up to a two-year or one-year cycle. Over a three-year cycle there should not be anywhere that Qantas conducts maintenance that CASA has not visited.

Senator HEFFERNAN—Does that also apply to Virgin or whoever else?

Mr Klein—Yes. Virgin have outsourced most of their's—there is no comparison with Qantas. It is just mega.

Senator HEFFERNAN—Chair, perhaps I should declare an interest at this stage. I have a daughter who works for Qantas and I learnt to fly in 1965 at the Wagga flying school, which later became Kendall Airlines, which became Rex Airlines. Maybe I am conflicted, but I think this committee knows that I was in the previous government and if I had needed to give them a hard time I did, regardless of the fact that I was part of them.

Senator O'BRIEN—I think everyone at this table and many in this room have a vested interest in aviation safety. That is probably a given for everyone sitting around this table. The extent of your concern about CASA is that you believe they do not adequately perform their safety regulation function of Qantas because their audit system is inadequate in your experience.

Mr Klein—I would not say the audit system; I would say the audit frequency. There is no way you can make one size fit all and that is what they are trying to do. You have to have a discrete regime of audit for Qantas.

Senator O'BRIEN—The staff who conduct the audits—

Senator FISHER—Sorry, Senator O'Brien. Mr Klein, in terms of frequency or content of the audit? I am not convinced we have the final answer.

Mr Klein—What I said before was that because we had a cyclic system we had more of a presence. We can use the existing system but we need to do it more often to get the presence.

Senator FISHER—So you are saying that the difference for Qantas should simply be more often.

Mr Klein—More often.

Senator O'BRIEN—And drilling down to different sites, I think you are saying.

Mr Klein—To drill down, yes.

Senator O'BRIEN—You were talking about a three-year rotation, drilling down to all of the sites where the maintenance was conducted, so that there is a presence and understanding of the operation and scrutiny everywhere that the maintenance was performed.

Mr Klein—That is correct. Overseas, as I said, there is very little other than Singapore, Los Angeles and Hong Kong that have had any CASA presence at all.

Senator O'BRIEN—Do you know how that would compare to the scrutiny of airlines in other parts of the world?

Mr Klein—Yes. Wherever there is a N-registered aircraft, FAA will sight it. Qantas have what they call contracting state arrangements, say, in Mumbai in India. If you turn up at Mumbai, Air France will be turning their aircraft around. Air France might have one or two Air France specialists there and the rest will be from the local area.

Senator HEFFERNAN—What would you do if you were in charge in Mumbai? Would you have Australian people there supervising them?

Mr Klein—They still work to the Qantas system of maintenance, but that is the key issue: somebody should be going over there. I talked to the internal audit people at Qantas recently about how many times they go in because we are not going in. I cannot remember, but it was not very often. I said, 'What did you think of Mumbai?' because that concerns me, you know. I think they pick the grottier areas and try to look at those and see how they shape up. The response I got was not that impressive. You need to be there and say: 'That is Qantas's regime of audit. How do you people interpret this? You are the contractor'—they have the agreement. 'When you do your turnaround inspections, what levels of supervision do you have? How do you coordinate your technical data? How do you get the information back to Qantas?' You have to ask all those sorts of things just to make sure you have a foothold on it and you can do a baseline of risk. For years, when I kept complaining about not seeing enough of the organisation, they kept saying, 'We're going to do a risk model and do it all by risk model.' They came up with some risk model that was never going to meet Qantas's requirements. Even now, the last report I read on the Transport Canada introduction of the safety management system, which is the new way forward for CASA, was not very impressive at all.

Senator HEFFERNAN—Have you retired?

Mr Klein—Yes, I retired at the end of February.

CHAIR—That is in Mr Klein's submission.

Mr Klein—I keep saying 'we' because I still think I am working for CASA.

Senator O'BRIEN—After a while it would be second nature that you would say that. I am interested in your reflections on the Canadian experience of the similar system. What do you know about that?

Mr Klein—I can give you a copy of the quotations that I have said that I have.

Senator O'BRIEN—Where from?

Mr Klein—I am not sure. It came through the net from somebody, but I am not sure. It was one of those things that appeared on my screen one day. It indicates the implementation was done and the Canadian auditor general went in, after three years I think it was, and it got the worst rap I have ever seen.

Senator O'BRIEN—So presumably that is in the Canadian system. Their auditor general audited the system, which was called what?

Mr Klein—It is the safety management system approach. You set up a safety management system within an organisation. Like I said before, Qantas has got just enough to give a tick in every box on that. You set it up and, in theory, the authority, once it is set up and they can do their own risk base assessments, can step back.

Senator O'BRIEN—So that system was put in place in Canada. After its operation for three years, to your knowledge, the auditor general in that country reviewed it and found serious shortcomings with the system?

Mr Klein—Yes, very much so.

Senator O'BRIEN—And that is the system that CASA applies to Qantas?

Mr Klein—That safety management system is the philosophy that is being pushed now as the panacea to fix our system. I think a lot of it is resource focused. CASA talks about limited resources so we can deal with the industry and let them become responsible for their own risk assessment, but the report I read indicated it was almost a quasi-self-regulation. Transport Canada pulled back too far, to the point they lost a business aircraft or something, which could almost be attributed to it.

Senator HEFFERNAN—But do you think in time, by erosion, it will be less safe to fly under what we are doing? I am wondering if it is not in the airlines' interests to keep up the standards, even if CASA has not as much input.

Mr Klein—My main focus to come here today was Qantas. I do not want to diverge into general aviation, please.

Senator HEFFERNAN—You stick with what you want to stick with.

Mr Klein—As far as a safety culture goes, you cannot get much better than Qantas. The safety culture is there and they throw a lot of money at it. They have huge resources pumped into safety culture, but you have human factors impacting on that. Right at this point in time, to my mind, you have a morale problem.

Senator O'BRIEN—With Qantas or CASA?

Mr Klein—Qantas—very much so.

Senator HEFFERNAN—They can come and join us farmers.

Mr Klein—LAMEs are under threat, as you know. They shut down Sydney heavy maintenance and they put the threat over their head that, if they do not produce, they are going to look at the rest. So there is low morale and, at the same time, there is the introduction of the A380—coming in in August—involving a massive amount of training requirements and a lot of people tied up in that project. I used to be the coordinator for that project before I retired. Another aspect is commercial pressure.

Senator HEFFERNAN—They might call you back.

Mr Klein—After today, I will not be called back. When you look at heavy maintenance, the commercial pressure aspects are quite interesting. A heavy check on a 747 involves 45,000 or 50,000 man-hours, and that is projected out over about six weeks. As they get to the sharp end of it, invariably they have made commitments for that aircraft that, in most cases, it is not going to come out before the six weeks—it is going to be a little bit over that. With a lot of my heavy maintenance—well, not a lot; I did not have that many—I deliberately planned at least one aircraft towards the end of its check, so I could see how much commercial pressure was involved.

Senator NASH—Mr Klein, can you outline for me as a layman what a heavy inspection actually entails?

Mr Klein—It can vary, but in most cases you have to strip the aircraft right out and remove all the panels. There is normally a significant inspection for corrosion and inspection of a lot of areas that you normally cannot access at other times. It is mainly based on calendar time and not hours—or pressure cycles. In most cases with Qantas, their heavy check comes up every 18 months. A lot of them end up in that calendar cycle so tight, and that is the reason that they are now looking at offshore to get them out of the commitments they have—because they tend to bunch up.

Senator NASH—On average—as I am sure it varies—how long does the actual inspection itself take?

Mr Klein—Between 45,000 to 55,000 man-hours over about six weeks.

Senator NASH—How many people would work on that?

Mr Klein—They rotate shifts around the clock, but with most shifts you are looking at about 40.

Senator NASH—You were saying before that you would tend to come in towards the end of that period.

Mr Klein—I tried to look at the heavy maintenance schedule and see what aircraft were going through. Normally, in Qantas, they would have a couple in the one hangar. I would try to get at least one of those that was towards the end.

Senator NASH—As an inspector, how long would you spend on site doing your job?

Mr Klein—I used to plan it so that I was on the floor for at least a full day. I would try to cover off one full shift and then look at a transition of a shift coming in the other way to see what the shift changeover was like. So there was one full day on the floor for at least each aircraft that was in the hangar. I also spent a lot of time in the supervisors area, where they have all the planning documents and the sign-off documents. I would then look at the full trail from there.

Senator NASH—You mentioned earlier that you had to fudge.

Mr Klein—The surveillance procedures manual has a hybrid section in it for airlines and there are all these elements that you can choose from. For instance, you will not find one element that says ‘ramp inspection’. It will say ‘continuing airworthiness’. So I made ‘continuing airworthiness’ fit a ramp inspection. That is the sort of thing that I am talking about. You do not necessarily find what I consider is needed to do a proper drill-down audit the way I would want to do it.

Senator NASH—Would you say that you felt that you were limited by what your job description actually was, compared to what you really thought needed to be done?

Mr Klein—Yes, I would say that to some degree.

Senator NASH—Going on from that, what specific things did you see that were not in your job description that would have benefited the process had you been able to do them?

Mr Klein—I guess, from a job description point of view, it was mainly the flexibility to be able to look a bit further, past the systems element, and go more into the product element side of the audit. That was mainly it. I would like to be able to look at that. A lot of the triggers came from the other end. You will not find a better set of documents around than the Qantas procedures manuals. They are massive, and they cover just about everything, but it does not mean that the guy at the other end understands or follows them. In most cases, when we had findings it was that issue—failing to follow their own procedures. At the top end, you are looking at documentation that is great—it is fantastic. They have risk assessment. Everything at

the top end is there. But when you get down and check the process at the other end that is where you make the finding.

Senator NASH—On that follow-through, surely if that process is not appropriate all the way through then it does not matter how good the systems are at the top. I think you mentioned human error before. They are human beings and, if there is not a check on what the human beings are doing at the end, it does not matter how much good stuff you have at the top. It is the delivery that has to be checked as well.

Mr Klein—Yes, the delivery as well, and it is the attitude. That is why I am saying the—

Senator HEFFERNAN—Would it be fair to say, finally, that if you have whatever it is—what is the plane that is coming in?

Mr Klein—The A380.

Senator HEFFERNAN—Righto. We live in a global environment. Would you like to see a global standard to look after an A380?

Mr Klein—The A380 is an interesting one because, I believe, Qantas will be able to do all the maintenance themselves anyway, but they obviously want to try and be able to do maintenance overseas. If you are looking at overseas maintenance—I did not want to divert to that because of the previous one—doing it becomes very complex. It is a separate regulation set that you work to.

Senator HEFFERNAN—Thank you very much.

CHAIR—Thank you, Mr Klein, for your assistance to the committee.

[10.02 am]

SOMERVILLE, Mr Peter Thomas Harold, General Manager, Australian and International Pilots Association

WOODS, Captain Ian, President, Australian and International Pilots Association

CHAIR—I welcome representatives from the Australian and International Pilots Association. I invite you to make a brief opening statement before we go to questions.

Capt. Woods—I would like to start by thanking the committee for inviting us here to make our presentation this morning and by commending the government for having the foresight to call this inquiry at a very timely point in the development of Australia's and the world's aviation. I will start by saying a little bit about AIPA. It is the representative organisation for Qantas Group pilots. That includes all Qantas international and domestic pilots as well as some members in Qantas Jetstar and in QantasLink. That gives us a breadth of representation from regional operations to international operations and ultralong-range operations.

Personally, I started flying with the Royal Australian Air Force in 1970. I enjoyed a 21-year career there, including 14 years in the Air Force Reserve flying concurrently for Qantas and the Air Force. The Air Force was an interesting organisation, and it is relevant, I believe, to what we are talking about today. I started with a squadron where maintenance was integrated in the squadron itself. As a pilot, I often worked alongside engineers in doing relatively large maintenance tasks such as changing engines and propellers, so that gave me a foundation in what I believe the maintenance practices were in the Air Force at that time and what the maintenance practices were at airlines like TAA and Qantas. I went to TAA, where we had depot level maintenance, so the association with the maintenance part of the company was not there. Of course, we found ourselves in Qantas, where I have been for nearly 30 years now and where we are looking down the barrel of globalisation.

With me today is our general manager, Peter Somerville. While Peter is not a pilot, he does have extensive risk management experience in representing doctors. Believe it or not there are a lot of similarities between airline safety and hospital safety. Interestingly, there are more fatalities in respect of hospital safety than there are with airline safety. There is a lot to be learned from what has gone wrong with the hospitals. Peter has been there at the coalface and will make a genuine contribution to this inquiry.

Why we are here is to try to put to the committee where we have been, what we have observed and what we see unfolding in the future. If we look back on aviation in Australia, we have had some of the best aviation standards in the globe. That is attributable—and I have heard this said by many eminent people—to the fact that we have airlines grounded on government largesse and military standards. As James Strong said, when TAA and Qantas were merged and privatised, 'The challenge in the future is to turn a great airline into a good business.' And that is the dilemma that faces the industry, the nation and the globe going forward: where do we strike the balance between commercial pressures and operational safety?

At the present time in Australia, CASA is moving to outcomes based audit results rather than in-depth regulatory oversight. I note what was said by the previous participant here and I concur with much of the sentiment expressed there. At the same time, we have the deregulation of the global industry, which will surely impact on Australia. The advantage of being a Qantas pilot is that you interact with the world's pilots, whether they be in Canada, the US or the UK, and much of what is going on in Australia was unleashed by Jimmy Carter in the US in the late 1970s—the deregulation of the industry, the move to oversight provisions by the regulator. They had their trials and tribulations, and I believe they tightened up significantly on the way the FAA carried out its maintenance obligations. So, with that in mind, that is the basis of the submission we have put to the committee. I will hand over now to Peter to give some more detail on that general oversight, and I will then make myself available for questions from the committee.

Mr Somerville—I will be brief as the committee has only just received that submission. The overview, as Captain Woods just said, is this tension between economic liberalisation of aviation and, at the same time, CASA's moving to an outcomes based system of regulation. Operators naturally have commercial interests, which is proper, and it is in the interests of pilots to see an expanding industry, because it means more and better jobs. That, essentially, is the tension that runs its way through our submission. We have then turned to address the terms of reference, in particular the first issue about the management structure of CASA. In short, the transition from what was prior to CASA a Public Service department to a statutory authority—and then, since 2003, having a sole CEO—has made CASA more responsive in many ways but, in our view, often that responsiveness has been to commercial operators. It is now time—and it is one of our recommendations—for a board to be reintroduced for CASA, made up of a small number of people, possibly five, who can be and are respected across a cross-section of the aviation industry, including pilots.

The second term of reference deals with an examination of the effectiveness of CASA's governance structure. Our submission has gone to two elements we have picked out as good and strong items of proper corporate governance: integrity, and the integrity with which CASA deals with its stakeholders, including pilots and the difficulties they have faced. We have given examples in the submission but two examples in particular are CASA's dealings with recent issues of the multicrew pilot licence and flight deck duty time.

We have, to be honest, struggled at times with the processes that CASA has used, particularly with regard to the multicrew pilot licence, which has been the subject of some discussion before this committee previously, particularly in regard to the way that AIPA and the International Federation of Air Line Pilots Associations have found it difficult to try and get sensible results regarding a new concept. It involves essentially synthetic training—moving away from the traditional training based in aircraft and on to simulator based training.

Senator HEFFERNAN—Hear, hear!

Mr Somerville—That has been difficult for us. The second element that we wanted to go to with regard to governance dealt with the transparency of CASA's processes and, in particular, the difficulty pilots have had with consultation. The examples we raised there were regarding the disallowable instruments process, where, although this dealt with cabin crew numbers on several aircraft, CASA moved to allow the operators a concession in that regard. The consultation they did was with the operators and excluded not only the pilots but also the cabin crew. That was

simply announced. In their recent advice to the current minister, CASA advised that they believed that that level of consultation was, to use their words, 'appropriate'. That is another example of the difficulties we have had.

The last thing that I wanted to go to, and which just touches on some of the recommendations, was with regard to the alcohol and other drugs project and the introduction of mandatory testing by CASA, which many senators would be aware of. In fact, when I think about it now, AIPA was excluded from the project team. The largest representative of airline pilots in the country was excluded from the project team developing this project. CASA's reasoning was that there were other representatives of flight crew, meaning cabin crew representatives. In our view, that was petty and retributive treatment of the pilots association. Subsequently, I have to say—and I am proud to say—that AIPA participated as an observer. From my perspective, we made the most significant contribution to that project team. The important thing from the pilots' point of view is that we were able to contribute that expertise, but it just demonstrates some of the difficulties we have had in the relationship with CASA.

CHAIR—Have you been invited onto the project team since then?

Mr Somerville—No, the project is almost—

Senator HEFFERNAN—This is the drug—

Mr Somerville—Mandatory drug and alcohol testing.

Senator HEFFERNAN—You do not oppose that, surely?

Mr Somerville—Not at all, but we wanted to be part of developing the regulatory framework. For instance, there has never been an accident involving a regular public transport service in which an airline pilot's use of drugs has been identified as a causal factor. That is our position. It is not an issue for us. We understand that, and we were not seeking exclusions at all. We understand that pilots have a role to play in these things and need to be part of it.

Senator HEFFERNAN—I assume that, like bankers, there are plenty of pilots who take recreational drugs.

CHAIR—Mr Somerville, thank you for your opening statement. Have you finished your brief opening statement?

Mr Somerville—The last two points were just to deal very briefly with a couple of the recommendations. Recommendation 2, which is on page 14 of the submission, goes to the board. We emphasise the fact that, if a board were to be constructed or reintroduced, it should have board members who are widely respected by a cross-section of aviation stakeholders. The last point we would like to make in this opening statement concerns recommendation 3. We talk about the CASA industry complaints commissioner being established as a separate statutory office and given powers to investigate and report to the CASA board and to the minister. We would like to emphasise that we regard that as an important confidence-building measure to deal with CASA going forward. Our experience with the current complaints commissioner is very

positive; it is just that he lacks any enforcement powers or ability. I refer senators to the issue regarding flight-deck duty time, which is set out in the submission.

CHAIR—Thank you very much, Mr Somerville and Captain Woods. We received your submission some five minutes before the completion of the previous witness's evidence. I am just briefly going over the opening. There are some scathing comments, and I am sure it will generate some questions.

Senator O'BRIEN—Your covering letter, Captain Woods, says: 'AIPA has focused attention on CASA's independence from the industry it regulates and the effectiveness of compliance enforcement systems. Unfortunately, AIPA believes that CASA has not met the required standards in these critical areas and is unable to act as a necessary counterweight to balance shifting economic and regulatory frameworks.' Does that mean that you think CASA is too close to the industry?

Capt. Woods—I put this back to the role that I understand the previous government had CASA do, which was to attempt to balance its regulatory obligations with commercial realities. From the pilots' perspective, that has resulted in some confusion of CASA's role. Some people would say that it is never possible for the one organisation to balance safety regulation with commercial necessity and they should be separated. That is the basis for that. A number of occurrences I have personally witnessed lead me to conclude that CASA gave due consideration to its obligations there and at times confused those obligations and was not clear and definitive enough in standing up for safety regulation.

Mr Somerville—From our perspective, yes. The example to go to in the submission is flight-deck duty time. We have consistently over a period of three years brought this issue to the attention of the regulator—

CHAIR—How many times, Mr Somerville? Just off the top of your head.

Mr Somerville—Three, four, five, including interviews with the deputy CEO and elsewhere. We have brought it to their attention and they have failed to act, on the basis that they say there is another system to be introduced shortly. That other system to be introduced shortly—a fatigue risk management system—has been 'shortly to be introduced' for the last three years. We cannot understand that. The only people that failure to enforce benefits are the operators, who would have to have additional crew on those rostered flights. The flight-deck duty time provisions currently do not allow them to go beyond certain hours.

Senator O'BRIEN—So you are saying that CASA has specifically declined to enforce a regulation and justified that inaction by saying, 'We're going to change the system imminently.'

Mr Somerville—That is correct, yes.

Senator O'BRIEN—And they have been saying that for how long?

Mr Somerville—Three years.

Senator HEFFERNAN—What risks does that create for the flying public?

Senator O'BRIEN—Fatigued pilots.

Mr Somerville—Correct; fatigued pilots.

Capt. Woods—I will comment on that because I can see the worrying look in your eyes, Senator. Whilst the flight-time duty limits may not appear to be overly onerous on their face value—

Senator HEFFERNAN—What are they, by the way?

Capt. Woods—They can be up to 16 hours, depending on the number of crew, and they may be as short as nine hours. When that is taken in conjunction with splitting them and giving pilots flying back of the clock with daylight rest, that is fine. If everything goes fine and the weather is good on the other side of the nation or the world, the chances of getting a bullseye are low. But it is when the weather is poor and that is coupled with a mechanical abnormality—and Qantas had one very recently in Frankfurt; it was a poor performance by the pilot. Some of that comes back to fatigue. If you push the envelope of fatigue and things stack up against you at the other end, you are beyond what the level of accepted safety is. From my personal experience and our perspective it is not adequate to say that this looks okay, it looks reasonable. It is reasonable most of the time but aviation safety is not just about adequate, reasonable standards; it is about public confidence in a system which has stood close scrutiny.

Senator HEFFERNAN—What is the solution? If I have had a 21st birthday party for my daughter over the weekend and I have to fly to London and when I get halfway to London I am buggered, what is the solution?

Capt. Woods—The solution is to ensure that the crewing on board the aeroplane—the number of pilots to provide in-flight relief—is adequate, that the amount of rest—

Senator HEFFERNAN—And is that not the case now?

Capt. Woods—That is the debate here. It is by and large the case, but on this occasion where we have pointed out to CASA that the flight-time duty limits exceed what is in the legislation we say that it is there for a very good reason. It has not been scientifically shown—

Senator HEFFERNAN—And do they exceed the—

Capt. Woods—Yes, they do.

Senator HEFFERNAN—Is that putting lives at risk?

Capt. Woods—Anything that exceeds the regulations puts a life at risk. It is the whole debate as to how—

Senator HEFFERNAN—Can you give me a touch and feel example of how they exceed the limit? What is the limit? Are you allowed to fly eight hours—

CHAIR—Sorry, Senator Heffernan. We did extensively cover flight-deck duty time in Senate estimates. I will forward the *Hansard* to you, only because I am mindful of the time we have. I am also mindful that we will be asking CASA the same damn questions we asked them in Senate estimates and it will be coming back.

Senator O'BRIEN—In essence, after repeated requests, you have had no response. That is one example. I think you are suggesting to us in your recommendations, particularly your fourth recommendation, that the government take some action to change CASA's approach to its compliance and enforcement systems. I will not use your language. I have truncated your passage in that way because I think that is the nub of what you are saying, is it not?

Mr Somerville—It is, but it is against the background that we acknowledge that CASA has a difficult job but we think they are not doing it well. We know it is a difficult job and one of the problems is with regard to not only their internal processes for compliance and dealing with the operators but the next step on from that as well, which we have not gone into—that is, comparing them to the FAA in the United States and their ability to find operators and do those sorts of things. The current compliance regime that CASA has available to it can be difficult, complex, costly and litigious. They need, in our view, what looks like some shorthand measures to get stuck into operators.

Senator O'BRIEN—Are you saying that CASA is operating at a level below the FAA in terms of their enforcement and compliance actions?

Capt. Woods—I think it would be fair to say that the amount of resourcing the FAA has is significantly more. The standards that the FAA seeks to enforce are higher and the penalties for noncompliance are significantly higher.

Mr Somerville—We cannot remember an occasion when CASA has fined an operator. It is not a regular occurrence for the FAA either, but we know that they do. They talk in the millions when they issue fines. These are the sorts of things we are concerned about, put against the background of our experience when we have brought matters to CASA.

Senator O'BRIEN—I understand the FAA was the subject of a bit of a jolt from their legislature recently because of the way they related to their industry. Nevertheless, you say, if I understand your answers, that our regulator is applying a less rigorous level of regulation to the industry than the FAA.

Capt. Woods—To be fair, the most serious concern is the real potential going forward with the way CASA is set up to operate shortly, which is self-monitoring by the airlines. When that is combined with global deregulation, the American experience has shown that that kind of system falls short of the current high standards that the travelling public has come to accept as normal.

Senator O'BRIEN—Do you believe that in the current environment of rising fuel costs the challenge for the regulator is greater and that there is more likelihood of corners being cut by operators?

Mr Somerville—That is essentially the theme of our submission, Senator, which is that economic liberalisation is increasing competitive pressures between operators in the

circumstances of introduction of outcome based regulation by CASA. Inevitably, that means operators will look to shave, look for efficiencies. We do not say that that should not happen, but in the context of outcome based regulation and a regulator who we say lacks the will to take these people on, we have a problem.

Senator HEFFERNAN—Is the fantasy in all of this, though, really that everyone wants something for less? The customer wants to fly cheaper and at some point we all have to pull up and say: ‘We can’t do this anymore. If you want to do that, you have to pay more.’ Just like the food in the fridges, we are getting to that point. There must be a point when, at the balance you talk about, we say: ‘I’m sorry, but you can’t fly to Port Douglas for \$100. You’ve got to pay the real cost.’

Capt. Woods—I think that is a very honest understanding.

Mr Somerville—We have never had that explicit debate in this country. Low-cost airlines are low cost for a reason. There are different standards between the different airlines. None of them go below Australian minimum standards so far as we can tell, but some have higher margins and standards than others.

Senator O’BRIEN—I suggest to you that the travelling public believes that low-cost airlines are providing a lower level of service, not a lower level of safety.

Capt. Woods—That is what the public believes, but I would say that the global experience does not support that.

Senator HEFFERNAN—You can say that again.

Capt. Woods—If you look at the number of incidents, I say that the global experience of the safety records of low-cost airlines is not as good as that of established-legacy carriers. If you look at the incidents that have taken place in Thailand and in Greece, they are inevitably low-cost carriers. The rate of accident occurrence, anecdotally, is that they are well below, in the outcome, established carriers, but they are still acceptable nonetheless.

CHAIR—Senator O’Brien certainly was not suggesting that.

Senator NASH—I want to talk briefly about your recommendation of the establishment of a board. The intrinsic question there is: what is it about establishing a board for CASA that would improve the process?

Capt. Woods—Being a president of a union, I think I can say that, 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. In essence, a board provides an ability to operate independently, with confidence and in the public interest.

Senator NASH—Do you think one person currently has too much autonomy?

Capt. Woods—One person has too much burden, too much responsibility.

Senator NASH—So it is very much from that burden of responsibility perspective that you are speaking.

Mr Somerville—The other point is that, as we have said, we see a small board, possibly five in number, which would have at least some board members who have experience in the industry. Some may have experience from another industry. But, from our perspective, we want to restore some confidence and apparent confidence in CASA, and we see the introduction of a board as assisting in that, as well as providing some additional expertise and support to the CEO.

Senator NASH—So this is really to assist with the burden of deliberation and decision?

Capt. Woods—Yes.

Senator HEFFERNAN—So would the board's role be to set the parameters of policy and the CEO's job be to implement them, as we have in local government now?

Capt. Woods—I think it would be very similar to local government but, nonetheless, the board is responsible for providing the will—Peter mentioned that word—for the CEO to act according to the charter of the organisation. Once the government clarifies the role of CASA, the CEO still needs to have the will to act, and my experience is that a board provides that support, ensures that will to comply with the charter and will be helpful to the safety standards of aviation.

Senator HEFFERNAN—Regarding your comments on the drug thing, the last time I talked about it at this committee, I said I would be quite happy for everyone who walks into this building to be randomly drug-tested at the door. I think we should apply that to judges and lawyers, as well. I have no trouble with any of that. You say that there has not been an accident related to drugs in the aviation industry—

Mr Somerville—Regular public transport.

Senator HEFFERNAN—Regular public transport—except perhaps alcohol and a few bus drivers being at work drunk.

Mr Somerville—Sorry; regular aviation.

Senator HEFFERNAN—Okay. But surely this is a pretty tricky social question, because there would be plenty of people in this building and plenty of people in your industry who are regular recreational drug users.

CHAIR—That is a far-ranging accusation, Senator Heffernan. If you have a question to put to the Australian and International Pilots Association, please ask it.

Senator HEFFERNAN—Do you think we should clean out the drugs at the point of work?

Capt. Woods—Senator, if I can address your question, which I think is a reasonable one: aviation safety has benefited enormously from the support of the pilots in self-reporting and self-criticising. It leads the world. One of the reasons that aviation safety has the enormously high standard that it does is that pilots are self-reporting and self-criticising. Why we wanted to be involved in that was to ensure that the regulatory framework set up was not from a punitive point of view. I take your point that there will certainly be a transgressor in there—and, if there has not been one, there will be one—but we do not want to ruin a culture which has encouraged pilots to work with the regulators to drag the aviation industry up to the highest standard of safety in the world, by pushing them back under the carpet. If people who are not pilots, who do not understand that the pilots are very proud to have a very safe record, go under the carpet, we are going backwards.

Senator HEFFERNAN—I applaud that perspective. I have to say that, in a touch and feel sense, there are no water restrictions at Broken Hill. The reason there are no water restrictions at Broken Hill is that they know they are such an independent bunch out there that if they imposed them they will waste water and if they do not impose them they will not waste water. But do you think that there would be anything wrong with drug testing?

Capt. Woods—We had no objection to it. We just wanted the framework done in a way that was supported by Australia's pilots and not rejected; that was all.

CHAIR—In my previous life I negotiated many a drug and alcohol policy, and I would not in my wildest dreams not include those who are affected by it. It is just decency and common humanity to bring everyone around the table, and I think it is appalling that you were not invited.

Capt. Woods—Thank you for those supporting words, Chair.

Senator HEFFERNAN—In support of the pilots, I think what is good for the goose is good for the gander. We had a judge recently in South Australia who died of a drug event overnight. I think it is good for everyone. If it is good enough for you blokes, we all ought to be subject to some sort of speed-camera effect.

Capt. Woods—We do not disagree with that; we just want it done in a way that keeps the system's safety standard where it is.

CHAIR—I thank you both for your time and your assistance to the committee.

Proceedings suspended from 10.32 am to 10.45 am

BLATCH, Mr Tim, Chief Executive Officer, Aircraft Owners and Pilots Association of Australia

RODGERS, Mr Col, President, Aircraft Owners and Pilots Association of Australia

CHAIR—Welcome. I invite you to make a brief opening statement before we go to questions.

Mr Rodgers—Our recommendation is on behalf of our 3,000-odd members. We have made a number of recommendations to the inquiry. They include:

1. Re-establish a CASA Board to create improved governance—

I will allude to that later—

2. Provide a mix of safety and industry aviation expertise at Board level—

and we would like a cross-section of people on that board—

3. Board to oversight the CASA Industry Complaints Commissioner.

We find the complaints commissioner is in-house and is reportable to the deputy and chief CEO. We find that is not unbiased reporting. We also recommend:

4. Set firm deadlines to complete the CASA Regulatory Reform program.

5. Reduce CASA involvement in the ‘non-fare paying’ sector.

We are different to the previous gentlemen. They are in the fare paying sector; we are in the non-fare-paying, private GA sector. This is mainly made up of aircraft owners who are flying for their own private reasons. We also recommend:

6. Establish a Decision Review Tribunal reporting to the CEO and/or Board.

The board would be a cross-section of people with experience in aviation matters who would formulate that sort of program to the CEO. We have found over many years that CA have become very introverted in their thinking, reactive and not proactive. They react to things: they are not out there leading in the formulation of proper decisions in the industry. That probably has a lot to do with the burden, as my friend said previously, on the CEO. They have probably become reluctant to be out there making submissions on behalf of people like ourselves who have 3,000-odd members. We expect a response and we do not get responses.

Mr Blatch—Perhaps I could say at the outset that our submission may seem to be negative, but there are many CASA staff that we deal with who are knowledgeable and helpful, only needing direction and leadership—that is probably the thrust of our submission.

Senator O'BRIEN—So your last comment, Mr Blatch, is a criticism of the management.

Mr Blatch—Yes, it would be.

Senator O'BRIEN—Can you elaborate on that?

Mr Blatch—Probably in the sense 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.

Senator HEFFERNAN—Could you give us an example of that?

Mr Blatch—Yes, I could. For example, we have had a long-running query with CASA about its airworthiness directive on the Piper 32, on the wing spar. Our initial inquiry was in August 2006. We still have not had a response to date, and it has gone to the Industry Complaints Commissioner. We are waiting for a response to that. We have asked four questions and we keep getting put off by the acting chief executive officer. The four points we want answered are: did Piper test a wing at CASA's request; is it correct that the wing did not fail; was the CASA subsequent finding on the airworthiness directive based on an analysis of a non-Piper wing; and does evidence exist of wing fatigue accident to Piper 32 aircraft in those countries that have not mandated compliance with this airworthiness directive? The short answer we have so far is, if we wish this to be investigated, we can apply and pay for it at about 40 hours of CASA time.

Senator HEFFERNAN—What is the Piper thing? Is it a high-wing aircraft?

Mr Blatch—No, it is a low-wing aircraft.

Senator HEFFERNAN—Like a Cherokee?

Mr Blatch—It is a Chieftain, I believe—a twin-engine.

Senator HEFFERNAN—Do you know the answer re the Chieftain?

Mr Rodgers—Yes, the bolt-in section of the Chieftain has a cross-through section bolt. There is a point of contention of failure, and that failure needed to be investigated. All we asked was that it go back to the manufacturer to test and make a recommendation. That is all we have been asking CASA to supply us with, and that has been going on for two years.

Senator HEFFERNAN—I accept what you say there but, if I had a Chieftain—and there must be a supplier or agency out here somewhere in Australia—wouldn't you ring them up and say, 'Son, can you ring up the mob over there that make these things and give us an answer on this?'

Mr Rodgers—It all has to go through CASA. They are the people who have to sign off on it. In your own interests you would do that, but then the AD is in place. It is very much like the media hype about the 3,000 grounded aircraft—which is, by the way, the workforce of GA in Australia.

Senator HEFFERNAN—Have Chieftains been grounded as a result?

Mr Rodgers—Chieftains got grounded and most of the aircraft had the same fuel servo. That was a heavy-handed approach. We tried for 24 hours to have that lifted because all of our members had aircraft out in remote areas of Australia. They are the workhorse into the mines and the outback stations. They are 10-seater aircraft. Most aircraft, all of a sudden, were grounded overnight by a heavy-handed approach. There was no industry consultation at all. All it needed was someone with some common sense to look at the fuel servo underneath that had a bolt. If the pilot did not have enough brains to look at that bolt, he should not be flying an aircraft. It lacks practicality.

Senator HEFFERNAN—But is that one of the problems today: that the pilot does not have that experience in a lot of cases?

Mr Rodgers—If he is pointed to the problem that has been identified as a failure, where—as has happened in America—it may have caused a fatality, that pilot could be looking on his own particular aircraft. He is the person who has to do the check. I am a pilot of 50 years—in private operations, but I certainly know how to look at plugs and any other point that is there. That could have been a simple thing to allow that aircraft to be uplifted from where it has been stopped to the nearest LAME—licensed aeronautical mechanical engineer—to check, but that is the heavy-handed approach that we object to.

CHAIR—Senator O'Brien does have the call but, before I go back to him, how much would it cost for 40 hours of CASA's time?

Mr Rodgers—The normal charge-out rate for a LAME would be about \$100 an hour.

CHAIR—I am asking you to answer regarding your request to CASA in writing for the last two years—the four questions whereby, if you wanted to pursue, it was going to cost 40 hours of CASA's time. That is what you said, but do you have a dollar figure alongside that 40 hours?

Mr Blatch—The minimum CASA rate at the moment is \$130 an hour.

CHAIR—We are in the wrong game!

Senator O'BRIEN—I do not know about that, Mr Chairman. The introduction of your submission talks about the climate in terms of financial pressures upon the sector and the nature of the different carriers in the sector. Do you think that the regulatory framework as administered by CASA is adequate to these times?

Mr Rodgers—I would have to say no.

Senator O'BRIEN—Can you elaborate as to what is needed compared to what exists now?

Mr Rodgers—I think what needs to happen now is a whole change to their focus and the way they do business with the general public. It is a user-pays system. In the early days of the Department of Civil Aviation, there was no user and no-one was paying. Today we pay for a service but we do not get it. A lot of people would not mind paying for a service if they got it.

But all the complaints we get through the industry—from the LAMEs and all the other people—is that they are too slow to react; they are burdened by the way they themselves are functioning. I would give this analogy. Say you go to an RTA registry to re-register your car or truck. You know if you are re-registering a truck, it has to go through heavy haulage checking and you know within that time frame that certain things are going to happen. But CASA seem to be a law unto themselves and, as the years have gone on, they have become very reactive—they won't deal; they are very vexatious.

I will give you an example of their being vexatious. With half of our 3,000-odd members I have certain issues that I have to bring up with the CEO. I made points on what these issues were in correspondence. And I got the reply that I was being vexatious and he had referred it to the complaints committee. I offered to sit down with him and give him actual examples of the complaints we have.

Senator HEFFERNAN—Could you table that letter?

Mr Rodgers—Yes.

Senator HEFFERNAN—And the response?

Mr Rodgers—Yes. We have the response here. I feel that we are just not working in harmony as a consultative group that should be interacting with the public. I heard what the previous gentleman said. We are experiencing the same problems. They are fare-paying and looking after their union, their airline. But we are the same; we are looking after all the private industries throughout the country. And this country will not get anywhere without private GA because of the workhorses that must go into these remote areas—the aerial ambulance services and the Royal Flying Doctor Service, for example. They are becoming a very heavy-handed organisation; they are bogging themselves down with their own inefficiencies.

Senator O'BRIEN—You are representing the charter sector?

Mr Rodgers—No. We represent GA, general aviation, and general aviation is charter—

Senator O'BRIEN—It includes charter.

Mr Rodgers—and private.

Senator O'BRIEN—You surely are not saying that the regulator should moderate its obligation to enforce and ensure safety to meet the wishes of participants in the industry?

Mr Rodgers—No, I am not saying that. Safety is and has always been paramount in our thinking. But safety goes hand in hand with proper efficiency and proper oversight and, at the moment, we are not getting proper oversight.

Senator O'BRIEN—And the nature of your complaint about the grounding was that it was done in such a way, without notice, as to impose unnecessary costs—is that what you are saying?

Mr Rodgers—Unnecessary costs. And in such haste that it was not thought through.

Senator HEFFERNAN—So that was not balanced by erring on the side of caution?

Mr Rodgers—Well, I can err on the side of caution by leaving my car in the garage and so never being hit by a bus.

Senator HEFFERNAN—And never getting out of bed.

Mr Rodgers—Yes. These aircraft were all over the country, in remote areas, and I was getting complaints 24 hours a day on my phone, and so was Mr Blatch. People were saying: ‘I am out here; it is going to cost me \$5,000 or \$6,000 to get someone out to check this bolt.’

Senator HEFFERNAN—So, if you had been running the show, what would you have done?

Mr Rodgers—I would have immediately found the problem out and looked at it, which we did, and then I would have called a conference with my staff and said: ‘Right. For those aircraft: make sure every pilot who is flying an aircraft now stops and identifies the problem. If it is leaking at the bolt position, it can’t go any further.’

Senator HEFFERNAN—This was the fuel bowl, was it?

Mr Rodgers—It was a fuel-flow server, which is like a fuel injection system. If it is leaking, it stops the fuel injection going to the heads and it leaks out the bottom. And any basic pilot would know what that meant by looking at it.

Senator HEFFERNAN—So I suppose if they could contact the pilot to ground the plane, they could contact the pilot to check the leak, couldn’t they?

Mr Rodgers—Exactly.

Senator NASH—Obviously, with that particular incident it is not just a matter of cost but of inconvenience, hardship, and goodness knows what else—with all those planes that are, as you say, workhorses, working out in regional and rural areas. It is not only the cost of being grounded; it is what they cannot do while they are on the ground.

Mr Rodgers—That is so, Senator. The complaint I was getting all the time was, ‘Can we do something about it?’ If I am accused of being vexatious by CASA, well, I am doing my job, because I was then asked to do something. We had our vice-president get straight on to the CEO; they did nothing. And then we went to the media about it.

Senator HEFFERNAN—So how long were they grounded for?

Mr Rodgers—We had them uplifted within 24 hours to get that aircraft taken to the nearest LAME, wherever we operated from, to get them checked.

Senator NASH—If you had not made a song and dance about it, how long do you reckon—and obviously this is subjective—they would have been on the ground?

Mr Rodgers—Depending on where the aircraft was, if it was out in the field, for example, that could have taken up to three, four or five days because that particular LAME might have had to look at other aircraft, and that aircraft would have been grounded.

Senator O'BRIEN—In this case, were CASA acting on a recommendation from the manufacturer or were they making their own response to a circumstance of which they had been advised?

Mr Blatch—I can answer that. They were acting in response to an FAA airworthiness directive that had been issued.

Senator O'BRIEN—What was the FAA directive?

Mr Blatch—Essentially, the same.

Senator O'BRIEN—To ground the aircraft?

Mr Blatch—Ground the aircraft. But the FAA does not have the same problem, we believe, that we do, where the aircraft are spread far and wide with very few LAMEs. In the USA, most of those aircraft would have been at a field where there would have been at least an AMP to look at the aircraft for them. Here, the aircraft would be at fields where there was no-one. And that was the thrust of our argument to CASA, which they eventually adopted: to point out the problem to the pilot and let the pilot look at it; if there was a problem with that particular plug, yes, the aircraft remained grounded; if there was not a problem with the plug, get it up and get it to a LAME where the full checks could be made. That was implemented later that day, after our pressure.

Senator O'BRIEN—So, presumably, that would not be conducting any commercial activity, that the flight between—

Mr Blatch—The relocation would not be commercial, no.

Senator O'BRIEN—With no passengers.

Mr Blatch—No passengers, just a repositioning of the aircraft.

Senator HEFFERNAN—Do you think everyone learnt a lesson out of that?

Mr Blatch—I would actually say they did, because subsequent to that we are now informed by CASA airworthiness staff when they are proposing to introduce an airworthiness directive, and we are actually being consulted. So I think we have all learnt from that.

Mr Rodgers—But there is a certain member of our board who is persona non grata with CASA.

CHAIR—Why?

Mr Rodgers—Because we have brought up certain issues over the years, like the spar problem with the Cessna, and the instructions to their lower level staff have been to not deal with that particular person.

Senator HEFFERNAN—But I do not see anything wrong or unusual about being a pain in the arse to people. I am a pain in the arse to half of Australia, it would seem. It does not worry me.

Mr Rodgers—If I could expand on that: there was an exchange of emails on those technical matters between our vice-president and the relevant CASA personnel and, towards the end of the day, Brian Hannan wrote an email saying: ‘Greg, you’ve probably had a mongrel day. It may be an opportunity to reflect on it, because it was preventable, and there’s worse to come if I have my way.’ That was taken personally and as a direct threat by the CASA staff, and subsequently the acting CEO dictated that no CASA staff were to correspond directly with our vice-president—which has somewhat hampered technical issues between our two organisations.

Senator HEFFERNAN—What did he say again?

Mr Blatch—Our VP?

Senator HEFFERNAN—Yes.

Mr Blatch—‘You’ve probably had a mongrel day. It may be an opportunity to reflect on it, because it was preventable, but there’s worse to come if I have my way.’ It went on to say: ‘AOPA is trying to deal in harmony but not if this keeps up. There will be an ABC crew knocking on yours or B1’s door weekly.’

CHAIR—So, has worse come?

Mr Blatch—Not yet, but we are not giving up. Where we find issues, we will keep publicising them.

Mr Rodgers—I think, Chair, too, if you go back to one of the other things, that I was accused of being vexatious, all we are looking to do is address the problems facing GA in this country. CASA seem to spend an inordinate amount of time with their prosecution section. You heard from the previous gentleman, from the airlines, the fare-paying people, that there have not been prosecutions launched against them for many years. But in private enterprise, in private GA, prosecutions are rampant. CASA’s prosecution section is out of control. I heard the previous speaker talk about the self-reporting: self-reporting is immune from prosecution by the fact that you own up to the fact that you may have made a mistake. I know of two instances where they have self-reported, and I have now been subpoenaed to appear in the Magistrates Court in Melbourne on those very matters.

Senator HEFFERNAN—So are these prosecutions done with in-house lawyers?

Mr Rodgers—Yes.

Senator HEFFERNAN—They have probably got to get work for the lawyers.

Mr Rodgers—Well, I would say they are trying to create a lot of work for them. A lot of the prosecutions will easily be defended, but that is a cost factor that costs everyone in industry. I have been subpoenaed by the particular person—

Senator HEFFERNAN—I would get rid of two out of three lawyers if I were in charge, mind you. Can I put it to you though that there is a tricky position here. I know a lot of blokes who are private aircraft owners and who do a lot of stuff themselves to save costs. I can think of someone, who I will not name, who has an airline at Narrandera who did things himself. So there is a sort of balance in all of this.

Mr Rodgers—I think there is a balance, but on the basis of people trying to earn a living out of, say, running a flying school—I will give you a classic example without mentioning names, because this case is pending. This particular operator operates a flying school in Victoria. He sacked his chief flying instructor. Guess where he went? He went and got a job at CASA. Then it became payback time. This particular individual filmed with a video camera at 5 o'clock in the morning, supposedly showing that the aircraft was on a charter flight and had taken off in fog. I have been flying for long enough to know that the pilot is the only one who can determine if you have 1.8 forward visibility through the cockpit to take off. This particular individual filmed him taking off and said it was done in fog conditions.

Senator HEFFERNAN—Anyhow, that is pending.

Mr Rodgers—That is pending, yes.

Senator HEFFERNAN—We should not progress that. I have to say that the other thing was a bit sooky. That would not have even lightly offended me.

Mr Rodgers—We need to move the industry forward overall and in service delivery. I would like to refer to the service delivery charter. When the CEO became CEO, he produced this fabulous document where everything was under a service delivery, you knew where you stood and there was a time frame. We have gone through that document. They have not lived up to that charter in any shape or form. We have had correspondence that is not answered or that is answered two years later or six months later. They are lacking in service delivery and I believe they are lacking in consultation with industry. They are a reactive organisation, not proactive.

Senator HEFFERNAN—So does what you tabled earlier have a two-year response time? Could we have an example of a two-year response time, if we have got one. Take it on notice.

Senator O'BRIEN—Going back to your submission, I want to ask you about the regulatory reform program. You say that CASA has missed deadlines. You say:

... a consequence of complexity and difficulty of revising the overly prescriptive interweaved regulations (and exemptions) into plain language. Effort spent rewriting regulations is resource not directed to safety coaching and/or audit of passenger operators ...

So are you saying that there has been a waste of money by CASA in this regulatory reform program, without outcomes and with significant cost in financial terms and in terms of safety regulation?

Mr Rodgers—Yes.

Senator O'BRIEN—At any time has CASA discussed your view in that regard with you?

Mr Rodgers—No. All our staff and all our directors are there on a voluntary basis. We attend to most consultative groups, with even the RPT traffic and their groups and the defence group with respect to airspace and military airspace with civil aviation operations. In respect of the rewriting and reformulating of their regulations, we find it is overbearing. Some of it is contradictory. It is heavy-handed in the extreme for general aviation operation. I understand that RPT operations operate in a very restrictive formula. They operate under worldwide conditions, where that aircraft goes out of Australia, goes to the United States or Great Britain and operates within the same regulatory framework. Most of our GA operate within this country; we do not need that overbearing regulatory framework. We would hope to move towards self-administration for private GA. I think private GA can be better done with private administration.

Senator HEFFERNAN—Should there be another level of licence and operation that is based on the continent, rather than—

Mr Rodgers—Yes. Within the ICAO requirements, we could have a split licence to say that, if you do not want to fly overseas, you can operate within a self-administration environment and a regulatory environment under the audit provisions of CASA, very much as the recreational flying people do. They have their own self-administration but they do have an audit provision overseen by CASA.

CHAIR—Mr Rodgers, Senator O'Brien was asking questions in terms of your reference.

Senator O'BRIEN—From what you say about self-regulation, I guess it is a matter of opinion as to whether or not that is effective. What I was interested in pursuing with you is your suggestion that the regulator applies more effort to your sector than it does to the RPT sector.

Mr Rodgers—Undoubtedly.

Senator O'BRIEN—That is the impression that your organisation has. Could you give us something to substantiate that.

Mr Rodgers—Yes.

Mr Blatch—On page 6 of our submission under term of reference (3), our belief is that:

... CASA must shift focus more toward fare paying passengers, particularly areas of known risk (smaller Regular Public Transport/charter operations)—

rather than private operations. To that end, on page 3, at the bottom we have posted three questions which we believe this inquiry could well dig into because we cannot get the information now:

- How many successful prosecutions and enforceable voluntary undertakings have occurred since 2003 in the two segments—airline/charter and 'other'?
- ... what are the relative percentages dedicated to airline/charter and to 'other'?

- How many staff are dedicated to airline/charter audit at field level—

in those operations. If we go back to the AIPA people before us, as I said, there are no prosecutions at airline level but they are constant and rampant at private level. That is an indicator of where the resources are being used. We believe it should be focused the other way around.

CHAIR—Are these meaningful prosecutions or just time-wasting prosecutions? We have to establish the difference.

Mr Rodgers—Time wasting, 80 per cent of them.

Senator SIEWERT—On what basis do you make that assertion?

Mr Rodgers—By the success rating of getting prosecutions up. Most of them are based on assumptions, not on legal fact. They are very easily defended. I am going down this month on two matters and it is time wasting. I am not a lawyer but I think they will fail on their actions.

Senator NASH—Do you have concerns about the integrity of the Industry Complaints Commissioner? How do you see that that process can be improved?

Mr Rodgers—No, I do not. I think the structure is wrong there. The Industry Complaints Commissioner reports to the CEO. I feel it would be better if a board were in place that covered all sections of the industry and the commissioner reported to the board. I think a lot of the streamlining effect and the focus on where the resources would be better spent would happen better with a board because the CEO would be accountable to the board and the board would have input.

Senator NASH—With the way it works at the moment reporting to the CEO, who is the CEO accountable to in the decisions he makes?

Mr Rodgers—He is accountable to the minister.

Senator NASH—That is as I thought, only the minister. So a board would be a more appropriate way to do it.

Mr Rodgers—Yes, a more appropriate oversight.

Senator HEFFERNAN—Can I go back to meaningless prosecutions. Can you give us a snapshot, on notice, of what you consider to be meaningless. Every now and again I get booked driving. It does me good. Every time I drive past a speed camera I slow down. There would be a certain level of market signalling in prosecution which would be good for everyone, including pilots. I want to get an idea of what you call excessive time wasting.

Mr Rodgers—Without mentioning anything—it is probably past anyway—a particular aircraft landed in the United States on a ferry flight. It was being repositioned before it left Santa Barbara to fly to Australia. This particular aircraft had on board a very experienced pilot, a flying instructor, and it had a student pilot who was his student pilot here in Australia. The aircraft was operating on a VH registration, our national registration. It landed at an airport in the United

States. It would be of no concern whatsoever for CASA for them to involve themselves in that. It came out in a civil matter here in Australia which arose because the particular person who was flying the aircraft never got paid for the ferry flight. The person who was trying to defend himself from having to pay for the ferry flight made a submission to CASA. CASA have launched a prosecution against that particular pilot for having a student pilot land the aircraft from the right-hand seat. The question of whether a pilot is required to assist a student pilot in a ferry flight to Australia is the responsibility of the pilot; it has nothing to do with CASA, but CASA have launched this action against him.

CHAIR—Mr Rodgers, we have gone well over time.

Mr Rodgers—Thank you, Chair and senators.

CHAIR—No, we are not throwing you out quite yet. Senator O'Brien has one very quick question, and then Senator Fisher will put one on notice that you do not have to answer—you can come back. Bear in mind that our reporting date is 9 July, so there is not a lot of time to come back.

Senator O'BRIEN—On the cost recovery process that CASA has undergone, you say in your submission that not only are you encountering that but that certain safety aids that were previously provided free are now subject to charge. Can you tell us what impact that has on aviation safety for your members?

Mr Blatch—The publication we are referring to is the *Visual flight rules guide*, which in its introduction is deemed to be an essential part of every pilot's kit. It used to be handed out free. It is now available free on the internet, but if you wish to have a printed copy you have to pay \$30 for it. Our point is that, if it is so important—and you cannot get internet on an aircraft to have a look at the relevant part while you are flying along—shouldn't you have that in your flight bag? We believe it is very important.

Senator FISHER—Thank you, gentlemen. In the time available I have had a quick look at your submission and listened to your answers. In asking this question on notice, I should place it on the record that my father is an owner-operator of a private light aircraft. I have heard your concerns about the extent to which CASA is involving itself in the non-fare-paying passenger sector of the industry. Can you be clearer in saying what you think should be the alternative to the regulation of the non-fare-paying sector? How should that regulation be resourced, and who should pay for it?

Mr Rodgers—I can answer that.

Senator FISHER—You may wish to take it on notice.

CHAIR—It is actually on notice. I am sorry, Mr Rodgers. We really have gone over time. Please take that on notice.

Mr Rodgers—I am sorry. I can do that.

Senator FISHER—Thank you.

CHAIR—Thank you very much, Mr Rodgers and Mr Blatch, for your assistance to the committee.

[11.19 am]

NORRIS, Ms Fiona, Private capacity

CHAIR—Welcome, Ms Norris. Do you have any comments to make on the capacity in which you appear?

Ms Norris—I am here as the wife of Paul Raymond Norris, who lost his life in the Lockhart River plane crash on 7 May 2005.

CHAIR—Do you wish to make a brief opening statement before we go to questions?

Ms Norris—I will just say that I come here with the capacity to talk about the very human element of how the system failed my husband and the passengers on board that flight that day. I am not a lawyer or an aviation expert. My submission was made with my lawyer, who had some very good recommendations, I believe.

Senator HEFFERNAN—I very gently seek clarification. Was your husband in the right-hand seat or the left-hand seat?

Ms Norris—My husband was a pilot but he was a passenger on that day. He had paid for his fare.

Senator O'BRIEN—Your submission talks about certain regulatory matters to do with trainee pilots or inexperienced pilots. Could you elaborate further on what you are actually seeking as a recommendation?

Ms Norris—Obviously I can only talk from my experience of that particular flight. The copilot had very low time. He had less than 500 hours. My husband, who was a pilot, had around 1,500 hours and he was not in the position of flying a metro—a high-performance aeroplane. My point there is that I believe that there should be some regulation by which a low-time pilot is not allowed to fly under RPT conditions, especially when the operator was known to take money, where pilots were actually able to buy their time on that type of aeroplane.

Senator O'BRIEN—Can you expand upon that?

Ms Norris—I know many pilots who had bought time with Transair.

Senator O'BRIEN—So they were flying an RPT route whilst undergoing training?

Ms Norris—Yes, whilst undergoing training, but actually buying their time—that is, they were not getting paid an income; they were actually buying their time.

Senator O'BRIEN—So it was just to get their hours up?

Ms Norris—That is right.

Senator O'BRIEN—So they would perform the flight without payment simply to increase their number of hours on that aircraft?

Ms Norris—Exactly; and, I might add, in a situation where there probably are not proper checks and training capacity and where it is not in the interests of the airline to really train these pilots. It is simply a money-making scheme for them.

Senator O'BRIEN—How do you know this?

Ms Norris—I know pilots—without mentioning their names—who did this with Transair.

Senator O'BRIEN—Was this raised at the coronial inquiry?

Ms Norris—Yes, it was.

Senator O'BRIEN—There was quite a report, but I do not recall specific reference to it in the report. I am presuming there was.

Ms Norris—Many pilots had come forth and basically voiced this to the Civil Aviation Safety Authority anyway.

Senator O'BRIEN—Was there any way in which the regulator could have known about this practice prior to the crash?

Ms Norris—Without completely knowing the inner workings of an audit that CASA conducts, I believe it should certainly include this. I believe logbooks are looked at. My husband's logbook was certainly looked at when he was working for Aero Tropics prior to the crash. So there should be some way of knowing whether that pilot is qualified to be flying that plane and what his hours are.

Senator HEFFERNAN—My understanding is that he was not endorsed.

Ms Norris—That is correct. He was not endorsed to do that particular instrument approach. On the day that was the captain's decision, and clearly the wrong decision, but the copilot certainly was not endorsed to do it.

Senator O'BRIEN—Hence the flying to increase hours to get the endorsement.

Ms Norris—That is right.

Senator O'BRIEN—I guess we can raise directly with CASA their view on the matter. Do you know whether there are adequate pilots in that region to be employed? Was that the issue?

Ms Norris—I would say that now that could be extremely difficult, given the pilot shortage as well. At the time, I imagine there would have been. I would say, without knowing completely but

from speaking to pilots, that the operator wanted to use his operation as a way of making money out of young copilots who needed to buy their time.

Senator HEFFERNAN—Did you hear yesterday on the wireless reports of, shall I say, the ‘cowboy’ experience in the north that is becoming more prevalent?

Ms Norris—I did not hear that, so I do not know. But obviously there were many statements made about—

Senator HEFFERNAN—This is in the present. They are saying that this is prevalent now.

Ms Norris—I do not know. Can I enlarge on my submission with regard to passenger liability insurance. To date, only two people have received any insurance payout, and it has taken almost three years to receive that. You will note that I made some recommendations about that. That is something that seriously needs to be looked at. Not only are you dealing with a tragedy where you have lost a loved one but then you are faced with over two years of fighting to be compensated in some way.

Senator HEFFERNAN—A legal nightmare.

Ms Norris—An absolute legal nightmare that costs you a good part of the compensation you receive in the end, which is inadequate for a person’s life.

Senator SIEWERT—You were saying that the low hours time should be regulated. Are you suggesting that it should be regulated or not allowed?

Ms Norris—I am suggesting that it should be not allowed—that a pilot should not be allowed to buy his time on a regular public transport route where there are passengers paying for what they believe are qualified pilots flying an aeroplane. Obviously, Lockhart River proved that that was not the case.

Senator SIEWERT—I just wanted to clarify that. I wrote down ‘regulate’ when you were speaking, and I just wanted to check whether you meant regulate it or not allow it.

Ms Norris—Sure.

Senator SIEWERT—Thank you. I just wanted to clarify that.

CHAIR—Ms Norris, you say that you have heard a lot about the buying of time since the crash. Do you know of any conversations about that before the Lockhart River crash?

Ms Norris—Sure. I think it is a known industry fact. I am not suggesting that Transair are the only operator that have been guilty of doing that. I think it is an industry problem that has been prevalent.

CHAIR—Why do you think it is an industry problem that has been prevalent?

Ms Norris—Because I have heard plenty of people talk about doing it. Whether we think it is right or wrong, clearly Lockhart River proves that it is wrong. Yes, the captain did have a lot of experience, but if you have two experienced people it makes a hell of a difference when you are on a regular public transport route, especially when you throw in bad weather and a complicated approach.

CHAIR—Are you aware of anyone in the industry or in the region raising that concern with the relevant authority prior to the crash?

Ms Norris—Yes: pilots.

CHAIR—Can you elaborate on that a bit more?

Ms Norris—It would be difficult for me to elaborate without naming people—

Senator HEFFERNAN—Would you be able to give that evidence in camera?

Ms Norris—I would probably need to speak to the people before I could do that.

CHAIR—But you can say that you were aware of these concerns being raised with the relevant authority.

Ms Norris—Yes.

CHAIR—Do you know how many times?

Ms Norris—I do not know exactly how many. I know one in particular who raised it probably three or four times with CASA.

CHAIR—We will be here until tomorrow lunchtime, so we will leave it you with you.

Senator HEFFERNAN—If you would like to consult those people, we could probably fit you in if you wanted to come back and give us a bit of evidence in camera.

Ms Norris—Okay.

CHAIR—On that, then, Ms Norris, we do thank you very much for your assistance to the committee.

Ms Norris—Thank you.

[11.29 am]

URQUHART, Mr Shane Alan, Private capacity

CHAIR—Welcome, Mr Urquhart. Would you please state the capacity in which you appear today.

Mr Urquhart—I am the father of Constable Sally Urquhart, who also lost her life in the Lockhart River air crash of 7 May 2005.

CHAIR—Thank you. Do you wish to make a brief opening statement before we go to questions?

Mr Urquhart—I do, and if you do not mind I shall read it and add some bits at the end. As a member of the public I am a bit like Fiona here—I am not a pilot, I am not a lawyer and I do not have an intimate knowledge of the aviation industry. But in the past three years I certainly have built up my knowledge on a whole range of issues surrounding not only Lockhart River but the actions of the aviation industry and in particular the regulator. So I do have some knowledge of the aviation industry and I did know what CASA was about beforehand, from the point of view of general knowledge.

Since 7 May 2005, my research has given me a more in-depth understanding and knowledge. It is interesting that almost 100 per cent of the very, very many people who have provided me with information, opinions and evidence have nothing good to say about CASA. By the way, where and when CASA do their job properly—and I am like the gentlemen who have evidence previously—of course CASA have a role to play, and where there is fault they should play that role with gusto. This is what they are supposed to do. But when they are not doing their job properly the evidence is overwhelming.

I would like to make it clear, too, that nothing is going to bring back any of the people who were lost at Lockhart River. However, to uncover the years of gross mismanagement, incompetence, self-indulgence and totally inconsistent application of safety regulations is just appalling. I can give some examples of the flippancy of CASA—and I will hark back to the previous witnesses and their evidence about CASA's vexatious and vindictive ways of operating. The committee was discussing this payment for endorsements. It has come to light in the last year or so that Transair really was nothing more than an endorsement machine. Two to three million dollars was taken endorsing pilots for between \$15,000 and \$20,000 a shot. That money was passed on to the CEO himself, who was also the chief pilot, and to other members of the Transair board. I do not need to refer to that in any other documents except for the *Courier Mail* article about two weeks ago—I do have a reference to that—where the liquidator has outlined that and is now concerned as to where that money has gone and where the money trail is. That also was referred to in the coronial inquest into Lockhart River. There is no trail; that is why it is so difficult for the liquidator to find out where that money has gone. Receipts were never issued, and tax was never claimed through the system. That is just a little bit of an addition to Fiona's evidence.

It is about time that more than just lip-service inquiries or white-washing exercises are undertaken. My hope is that this very brief inquiry will find the grounds for a full and robust inquiry into all past and present CASA operations in the interests of air safety for everyone. Only then can the culpability of CASA in many incidents and crashes be fully exposed. As an aside, we are one of the families currently in dispute with QBE, the insurer. We are not one of the families who have been paid out. As another aside, in my submission I have plenty of references—and you have probably seen those. I prefer to take questions on those on notice if required rather than trying to flick through all my bits and pieces here.

Senator HEFFERNAN—Would you be prepared to give us any evidence in camera? I would be interested in hearing about your dispute with QBE, but I do not want—

Mr Urquhart—I will give that evidence in camera. My flight is at three o'clock tomorrow afternoon.

Senator O'BRIEN—In terms of your reference to the *Courier Mail* article, do you have a copy here?

Mr Urquhart—Yes.

Senator O'BRIEN—If you could supply that we will get a copy for all members of the committee.

Mr Urquhart—Here it is. Unfortunately for my wife, there is also a photo of the crash site. While that copy is going around, I would like to mention that you must realise that the coroner's inquest was based solely on that document, which is the ATSB report into the Lockhart River crash, and there is ample evidence in there, cross-referenced with the coroner's findings, with Senate estimates committees' findings and with transcripts which most of you have been involved with in the last couple of years. I have done a fair bit of cross-referencing between those things, as well, so I am open to questions.

Senator O'BRIEN—You make a number of allegations. You say CASA attempted to cover up its mismanagement of the companies involved in the Lockhart River tragedy. Is that based on any material that is not in the public domain?

Mr Urquhart—I have some documents that would not be in the public domain that were tabled at the inquest—so I guess they would be in the public domain if that were the case.

Senator O'BRIEN—I am interested in knowing whether you are able to add anything to the public record regarding CASA's performance.

Mr Urquhart—I think the public record is very clear and I do not think I have anything to add to that.

Senator O'BRIEN—Part of your submission suggests that, despite its charter to be a model litigant, CASA was not. Why do you say that?

Mr Urquhart—I have got information from people who have been on the receiving end of CASA's litigation and work in court. Once again, I was very interested to hear the gentleman before talk about just that particular point. It is my understanding that, while lawyers and people who are litigants need to be reasonably aggressive and do the job they are paid to do, CASA lawyers go far beyond that. They are vexatious and vindictive. Fiona and I are not too keen to uncover in this forum our sources and say who these people are who have been giving us information and evidence. These people are long-term industry doyens, if you like, who really know what is going on and do not have biased information; they have the information as it is. The reason that they do not necessarily want to be identified is simply because of that vexatious litigation that CASA will do.

I have an example from the end of last year. A company in Cairns, along with several other companies, was taken to court by CASA. Some of you will probably be aware of this. Unfortunately, it blew up in CASA's face and resulted in an internal audit called the Venn report. A company was prosecuted by CASA for whatever because the CEO sacked one of his flight attendants, who happened to be the girlfriend of the local CASA FOI. With some vexation, an action was brought against that particular airline. That is an example of the sort of thing I am talking about.

Senator HEFFERNAN—Do we have the details of that particular vexatious episode?

Mr Urquhart—That is just one.

Senator HEFFERNAN—Would you care to gather up that information for us or put us in touch with the person?

Mr Urquhart—I can gather up that information and put you in touch with that person privately.

Senator HEFFERNAN—Thank you.

Senator O'BRIEN—I am interested in the inquiry into the CASA North Queensland office and the Venn report. What do you know about that?

Mr Urquhart—I know a lot about it. I am hesitant to say too much about it because one of my sources was directly involved in that and actually had his AOC taken off him for, once again, vexatious reasons. It was returned very soon afterwards once it was realised that there was a particular issue between him and the CASA person who took the action against him and that the issue was false.

Senator HEFFERNAN—Do you think that a reasonable person standing at the back of the room witnessing that episode would say that the person whose licence or whatever was taken away was being intimidated?

Mr Urquhart—Yes. I certainly was not there, but who would be standing in the back of the courtroom apart from CASA people?

Senator HEFFERNAN—I am saying an independent person—

Senator O'BRIEN—In theory?

Mr Urquhart—In theory, yes.

Senator HEFFERNAN—The powers being evidenced to this committee say that if you are intimidated in any way, any of you, we can take action which could end up with someone in the can.

Mr Urquhart—Yes.

Senator HEFFERNAN—I would be interested to get the details of that episode as well.

Mr Urquhart—If you look at some of my points, especially my summary points—they are not recommendations; they are what we would like to see happen—you can see that I do mention criminal or civil prosecution for some of these people.

Senator HEFFERNAN—It would be assisting this committee if you, in camera or by some other means, were able to give us some closer information on that.

Mr Urquhart—I must say at this point that it is quite difficult to give precise information when I have so much information to give.

Senator HEFFERNAN—Yes, but we will assist you with that process.

Mr Urquhart—I use the word 'overwhelming'. As a member of the public, of course I have a vested interest but you will find that any public transcripts of anything that my family and the other families have said and anything we are doing is in the interests of safety in Australia. Agreeing with those gentlemen again, we need some sort of world best practice oversight of this particular industry and at the moment that is not the case. I will go a little bit further because I need to say this—I am not going to beat around the bush as some of the other witness have. Not only is it the organisation of CASA but it is the culture of CASA. Unfortunately, that is down to the personalities of the people involved. From 2003 is a rather short period of time, because these endemic problems go right back to 1998 where reform was promised, and reform has not happened. Other people have referred to that several times today in this inquiry. So there is that endemic—I could use the word 'corruption'—problem within the organisation.

Senator NASH—You referred to the long-term disgraceful behaviour of CASA's North Queensland officers. Would you like to expand on that for us?

Mr Urquhart—The North Queensland office of CASA is notorious for two things: turning a blind eye to, as I think Senator Heffernan mentioned before, the cowboys who operate up there and also some pretty ordinary behaviour of the officers themselves. Can I give you an example that came out at the inquest. It is noted on the public record. The CASA FOI based in Cairns who did the audit on Transair in April before the crash was brought before the inquest and asked a couple of things. One of the really interesting things that both counsellors asked was, 'Have you read the report?' I might say as an aside that the whole of the inquest was based on this report. The coroner found that this report was so comprehensive and well done that most of the inquest was based on it.

I go back to my point. This particular FOI was asked whether he had read the report. His answer was, 'No, I haven't read the report. Why should I?' He is adversely mentioned in this report. We would have thought that someone who was adversely mentioned in the report would have read it. He was then questioned about the actual audit that he did on Transair at the time. He evaded most of the questions by giving what I call the 'Nuremberg defence'—that is, 'I was just doing what I was told.' He also talked about lack of resources and when questioned he talked about human resources and time. When he was asked, 'Well, what on earth could you do if you had a lack of time and a lack of human resources?' he said, 'I just reduce the scope of the audit.' It is cold comfort for anybody who is going to be travelling on those airlines if it comes out at an inquest that that is the way the CASA people operate.

CHAIR—Is this guy still an FOI?

Mr Urquhart—No, he has retired. If I could expand on that: most of the people, except those in the high echelons of CASA, who were involved around the time of the Lockhart River accident, particularly those in North Queensland, no longer work for CASA, or are retired or have been moved on. That is another little tactic that CASA uses; it muddies the waters as it goes along. It was also interesting to note in some correspondence just recently that the CEO proudly talks about the reforms that have happened. I have not seen any major reforms that have happened since then. Someone also said that people like myself should not be complaining. What do we need to do? Wait for another accident before CASA needs to act? CASA has not acted before accidents before. It waits until there is an accident or an incident and then it acts.

I can be as cynical as anybody else, but let us be honest: in the last week or so CASA grounded Aero Tropics in Cairns, which was the ticketing company—in that photo on the front of the ATSB report is a plane and it has Aero Tropics on the side of it; that is actually VH-TFU that crashed—after they had been looking at them for almost 12 months. It begs the question: why were they grounded at six o'clock on the Friday afternoon just gone, after hours? Another one is—I am just using this as an example—the new huge building that is going to be built in Brisbane received CASA approval last year. It was not going to get in the way of any flight paths or whatever. Suddenly, last week CASA withdrew that approval and Mr Gibson was on television making the point. When he was questioned that it seemed to be a bit strange that all of a sudden he had made that decision, he had no answer for that. As to CASA's so-called survey of the flying public about their opinions of CASA: there are 20 million people in Australia; they surveyed 1,500 people. Seventy-eight per cent of them thought CASA was doing a great job, so you do the math and work out how many that is. However, that survey was not done in the rural and regional sphere; it was done on major airlines where things are nice, you are on a big bus and everything looks okay. Those are the sorts of things that we, as members of the public and families, find a little bit distasteful.

Senator O'Brien—I am looking at the article you referred to. I cannot find the reference you were talking about—if, indeed, it is there—to the payments that the company received from training pilots.

CHAIR—The \$2 million to \$3 million you mentioned.

Mr Urquhart—Okay, that might not be in there, but it is certainly referred to in the inquest report. I do not have the transcript with me, except on my thumb drive, because it is huge.

Senator O'BRIEN—I do not think we can expect you to bring a coronial inquest transcript to respond to, but do you believe that information was available to CASA?

Mr Urquhart—Definitely! I can give you a source who can give you that information.

Senator O'BRIEN—Are you saying that CASA was aware of that before the crash?

Mr Urquhart—Yes.

CHAIR—Do you have that proof? Can you access that proof?

Mr Urquhart—Yes, I can access that proof.

Senator SIEWERT—That came up at the inquest?

Mr Urquhart—Yes.

Senator HEFFERNAN—So you will want to go in camera to provide us with that.

Mr Urquhart—Yes. I can provide you with the contact for that.

CHAIR—I think we will exhaust our questions here, if the committee can indulge me, but we will go in camera before the lunch break. I think it is important that we utilise this time to get questions on the record now. If there are other questions, I urge senators to ask them.

Senator SIEWERT—Earlier, Mr Urquhart, you were talking about the lack of reform since 1998, but just prior to that you were saying, if I understood you correctly, there are also a lot of personalities involved in this issue. Is it a combination of both: the lack of suitable reform laid on top of those personalities?

Mr Urquhart—Layered on top of that are the concepts of self-interest and self-indulgence within that particular organisation, and I think that flows over into the department of transport. It has become a culture that is so ingrained—not only as a matter policy, but as a matter of everyday operation—that this is what these people do. Once again, those gentlemen alluded to that. If you write them a letter and ask them for a simple answer or some simple assistance, they will turn it around and want to prosecute you or tell their people not to talk to you or whatever. I have never spoken to anyone in CASA because they will not speak to me.

Senator SIEWERT—It seems to me to be a sort of defence culture.

Mr Urquhart—It is a defence culture, and that was very, very plain in the inquest. As a matter of fact, some really interesting things came out of the inquest, and I think some of the senators here can attest to that. In the estimates hearing in February this year, Mr Carmody was questioned about the fact that CASA was instructed to be severely critical of the ATSB and to be adversarial in that particular instance. He denied that, yet it is on record in the coroner's findings, the transcripts of which I have here, that that was not the case. He denied that that was the case. The coroner said yes it was. There were a few other things that he also said. He said that basically CASA agreed with the coroner's findings or vice versa. That is not true either. Sorry—

that is not right. He said that CASA's point of view about the whole issue was the same as the coroner's. That is just not true; it is not correct at all. The coroner's findings and the transcripts there back that up 100 per cent.

Senator SIEWERT—Do you mean CASA's view subsequent to the coroner's findings or prior to the coroner's findings?

Mr Urquhart—Before, during and after.

Senator SIEWERT—Okay. So they have maintained that.

Mr Urquhart—They have maintained that line. That then went across to the government, where any questions by people like us about what was going on, any evidence that we were supplying to the minister of the day, was met fairly quickly with the response: 'There was an inquest. This was the outcome. That's it. No further correspondence.' Unfortunately, we have received a similar response from the present minister.

Senator SIEWERT—I think Senator Nash asked you about the Queensland incident, following comments in your report about the North Queensland office.

Mr Urquhart—Remember, that is just one.

Senator SIEWERT—Yes. Regarding the response that you got from the officer who is no longer there, has that been raised with CASA, raised with the minister and raised with the department?

Mr Urquhart—I cannot speak for that. I would say that of course it was raised in the legal action that was taken, because that legal action included about 11 different companies, people and entities that CASA was litigating against at that particular time.

Senator SIEWERT—But have you raised it in any of your submissions to anyone?

Mr Urquhart—Not that particular one. It only came to my notice about two days ago. I can also refer to another incident, going back before Lockhart River, where a Metro was landed at Holroyd Station on the wrong airstrip and it was bogged. Nothing was ever said or done about that. That plane was towed out by the landowner. CASA denied that that ever happened. The landowner then said, 'Well, that's funny because I towed the plane out. It's interesting to hear that it never happened when I was there and saw it and rescued the plane.' That plane was also flown back to Cairns with the nose wheel down. It was locked and it could not be unlocked. That is an illegal practice.

Senator SIEWERT—You may have gone part way to answering my next question. Let us just use that example. Why would CASA deny that that ever happened? Why is that in its interests?

Mr Urquhart—I cannot speak for CASA. I do not know.

Senator SIEWERT—I suppose you are speculating.

Mr Urquhart—I can only go back to my affirmation that there is too much self-interest from CASA officers, whoever they may be.

Senator SIEWERT—How did you find out about that incident?

Mr Urquhart—That one is on the public record.

Senator SIEWERT—So it is on the public record and yet CASA still denies it?

Mr Urquhart—Yes. I might add that the ATSB denied it as well.

Senator O'BRIEN—I am anxious that we go in camera.

CHAIR—We will have a short suspension and then we will go in camera.

Evidence was then taken in camera but later resumed in public—

[1.42 pm]

ALECK, Dr Jonathan, Head, Legal Services Group, Civil Aviation Safety Authority

BYRON, Mr Bruce, Chief Executive Officer, Civil Aviation Safety Authority

CARMODY, Mr Shane, Deputy Chief Executive Officer, Strategy and Support, Civil Aviation Safety Authority

HART, Mr Michael Anthony, Commissioner, Office of Industry Complaints, Civil Aviation Safety Authority

HARBOR, Mr Gary Francis, Head, Human Resources, Civil Aviation Safety Authority

QUINN, Mr Michael David, Deputy Chief Executive Officer, Operations, Civil Aviation Safety Authority

CHAIR—Welcome. I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for the claim. Do any of you wish to make a brief opening statement?

Mr Byron—I would like to take the opportunity to make an opening statement to complement our inquiry submission, which is essentially a measured and objective stocktake of where and what CASA is today, as per the terms of reference. Today CASA is a vastly different organisation to that which existed when I was appointed in 2003. 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. In assessing the CASA of 2003, I determined that a measured program of change and reform was necessary, starting with broad organisational structure and moving to specifics such as workforce capability. I would emphasise the planned and structured nature of these changes. They have been well thought through and painstakingly implemented. The result is an improved organisation structure, processes and responsiveness to industry.

The first step in the change program was creating the industry sector priority policy, which put the focus on passenger safety as passengers make up the majority of the people in the sky on any given day. In refining this policy, CASA undertook a risk-based approach to determining the priorities to which we must allocate our resources to undertake industry surveillance and other

tasks. The next major step was to define new goals for CASA to give direction and certainty to our organisation. These are: being an effective safety regulator, being efficient, having good relations with industry and being accountable. Part of this involved clarifying the roles of both the safety regulator and industry in delivering safety to encourage industry to take appropriate responsibility for safety outcomes that they deliver. 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. Of course, CASA will continue to provide the tools the industry needs to help manage those risks.

The administrative reforms and other changes that CASA has put in place since 2003 have been undertaken with those goals in mind. From its establishment in 1995 until 2003, CASA's corporate governance framework included a board, which was responsible for ensuring CASA's strategic direction. Day-to-day operations were the responsibility of the Director of Aviation Safety, who was accountable to the board. Those arrangements were changed by amendments to the Civil Aviation Act which took place in 2003. 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.

CASA's financial management has been strengthened through the removal of the finance function from line management, creating a role of chief financial officer, and through the development and implementation of a long-term funding strategy, which has enabled cash reserves to be built up. CASA's financial position is much stronger now than it was four years ago. CASA's actions are now more transparent and accountable, in part through the establishment of the office of the Industry Complaints Commissioner in 2006. The intent was to improve our grievance handling processes, and there has been a pleasing downward trend in complaints received by CASA about CASA since that time, evidencing our improved relationship with industry.

These points indicate that CASA has been subjected to change by legislative amendments and has initiated change through major changes to our structure, geographic locations and the way we do business. The new CASA is a more industry-facing organisation with a clear focus on safety outcomes, with the right people in the right positions and with our safety experts now spending more time in the field and on the tarmac. Our governance processes are robust, transparent and accountable and we have made improvements to our regulatory development processes. The success of CASA's efforts in upholding these changes to enhance safety is absolutely dependent upon the cooperative and contributory efforts of aviation participants from every sector of the industry who genuinely aspire to the achievement of safe skies for all.

In the context of the terms of reference as they relate to the success of administrative and other reforms since 2003, I would like to draw your attention to some of the objective measures and statistics which form part of our written submission. Here are a few examples: a significantly improved public confidence in CASA as a regulator; significant reductions in workers

compensation premiums based on CASA's good results and projected future results; CASA's ranking in the top 17 per cent of Commonwealth agencies in risk management performance. Together with the other points made in our submission, these measures help demonstrate in an objective manner the effectiveness of the reforms CASA has implemented since 2003.

In closing, it is worth noting that CASA has an enthusiastic, professional and committed workforce. Almost 50 per cent of the workforce of CASA has joined the organisation since 2003. Being an aviation regulator is not easy. We must monitor the industry during periods of rapid growth in industry entrants and markets in times of pilot and maintenance shortages, escalating fuel costs and numerous other pressures facing the industry. We have to balance being firm with operators we consider to be operating unsafely, while also being fair—and we must do so in a complex legal environment designed to provide the maximum protection possible to the operators themselves. Most importantly, the safety of the travelling public on passenger aircraft is always the paramount concern of CASA. We as an organisation can never deviate from that priority. That is what we seek to always attain. Mothers, fathers, sons, daughters, brothers and sisters travelling on regular public transport or other passenger carrying operators must always be our No. 1 priority.

Earlier today we heard from the families of victims of the Lockhart River tragedy. Whilst Lockhart River has had our focus today, I have the greatest sympathy for all families who have lost loved ones in aviation accidents. This is the personal side of this sort of work. I must say that no-one here has not been affected by the tragedy of 7 May 2005.

CHAIR—Thank you, Mr Byron. I noticed in your opening statement you talked about genuinely consulting with industry. How do you determine 'genuine'?

Mr Byron—To make sure that the stakeholders that we regulate are adequately consulted when we are making significant changes. I suppose the most visible part of that is when we want to change regulations. 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.

CHAIR—And I would expect nothing less. But you would have heard the witnesses this morning—and quite a few of them were quite scathing against CASA's inability to embrace all representative bodies on a number of issues. One that comes to mind are the pilots when you are developing a drug and alcohol policy. Sorry, Mr Byron, but what I heard I would not call being genuine in consulting all of industry.

Mr Byron—That is obviously a view that they have presented to you today.

CHAIR—That was one of a number.

Mr Byron—Clearly, from my point of view, I would want to make sure that they have the opportunity to have an input in a consultation process. You mentioned the drug and alcohol program. I might ask Mr Carmody to give his view about their involvement in that process.

Mr Carmody—I listened to the discussions on consultation this morning as well. In terms of the drug and alcohol program—and it has been discussed at the committee before—we cover, we think, about 120,000 people in the drug and alcohol program across the industry. The project team, which was decided by the Standards Consultative Committee, is made up of a number of representatives—a CASA representative, a representative from the Australian Airports Association, a representative from Regional Aviation Group, two representatives from Qantas, a representative from Aerospace Aviation, a representative from Flight Training Adelaide and Chris Howell, representing Airservices Australia. The Flight Attendants Association of Australia and the Australian International Pilots Association have had an observer at the five meetings that I have listed here. We have also had Virgin Blue, AOPA and the Australian Federation of Air Pilots at these meetings. The Australian International Pilots Association make the point that they represent pilots, and they do, but I said to them that they represent a couple of thousand pilots.

CHAIR—Are they not significant? Is that what you are saying?

Mr Carmody—With 120,000 people covered in the industry, we are constantly told in consultation that we need to have small working groups, and that is what we endeavour to do.

Senator NASH—What is the total number of pilots then, if the international association represents a couple thousand out of 120,000?

Mr Carmody—There are 37,000 pilots with licences in Australia, and they represent a couple of thousand.

Senator NASH—Out of those that you were mentioning, which of those are the pilot representatives who were actually on the group?

CHAIR—I understand where Senator Nash is coming from, but there is a bit of a difference between one pilot and controlling a plane with one person as opposed to 430 rammed on a jumbo, which she is very aware of.

Senator NASH—Absolutely.

Mr Carmody—If I may, one of the things that we do with all of the project teams and the working groups—

Senator NASH—Can you answer the previous question?

Mr Carmody—That is what I am endeavouring to do. We do not have representatives representing particular interests; we have representatives representing expertise on these working groups. That is what we endeavour to achieve. So we are not looking at having every representative body having a guernsey at every meeting—

CHAIR—No-one suggests that but I would have thought—I have negotiated many drug and alcohol policies, as you would know—that there is a bit of difference between a cleaner falling over a bucket while under the influence of alcohol or drugs compared to a pilot on a rather large passenger aircraft.

Senator NASH—Exactly.

Mr Carmody—I could not agree more.

CHAIR—Well, why were they not at the table if you are saying you are genuinely consulting industry?

Mr Carmody—We are genuinely consulting industry. They were represented at five of the working group meetings.

CHAIR—They were sitting in as—what was the word you used?

Mr Carmody—Observers. They participated very actively.

CHAIR—Did you invite them or did they have to put up their hand to be asked to be observers?

Mr Carmody—They put up their hand to come along. The Standards Consultative Committee, which is the industry body—

Mr Byron—If I might interrupt—I will let Mr Carmody continue in a moment—there is another pilots association that is fairly broad in this country, and I had a personal approach from the executive director of that organisation asking if they could participate. I immediately made sure that they were there.

CHAIR—That is honourable, but one would have thought they would have been invited to the damn table.

Senator NASH—The original question that I asked was which of those groups, of those at the table, were representing pilots?

Mr Carmody—None is representing pilots as such. A number of them are pilots and they are representing aviation expertise.

Senator NASH—I think the chair raises a very good point with the cleaner tripping over the bucket being compared to the pilot. Surely the most important people that the drug and alcohol policy, which we have discussed in previous hearings, is going to target are the pilots, and yet you did not have them at the table.

Mr Carmody—With respect, I am not sure they are the most important people. You have 120,000 people who are going to get picked up—

CHAIR—Tell me that when I am sitting at 33,000 feet, going through bumps, rain, clouds and whatnot.

Senator NASH—I will rephrase that to ‘some of the most important people’, if you like, Mr Carmody.

Senator HEFFERNAN—You could say the air traffic control tower is pretty important. You named the pieces of the industry they came from; could you actually name the people who are at the table?

Mr Carmody—I do not know whether I should; that is all. But they are all there.

Senator HEFFERNAN—Righto, if there is sensitivity. As far as I am concerned, we can all be tested for drugs. I am pretty bloody aggro on it. I think they ought to test all of us blokes as we come in this building occasionally, as well as the people in the gallery, judges, lawyers and Indian chiefs. It would change the culture of the country a bit.

Mr Carmody—Five years ago, before the organisational changes in CASA, we had a standards division where we wrote the regulations, and then we put them out for consultations. In the last few years, we have established under the Standards Consultative Committee representative working groups such as these to pick up as many industry interests as we can, and the regulations are developed and written in those working groups in consultation. This is a significant improvement over what occurred in the past.

We are constantly being reminded that these things are not going quickly enough. One might argue that if we were able to just sit down and write them ourselves they could probably go more quickly. It is a very extensive consultative mechanism, and lots of people are involved in the process. If I look at the attendance of Australian International Pilots Association—they are a small organisation in terms of management—at the Standards Consultative Committee meetings over the last 18 months, they have been formally involved in meetings 23 times, more than one a month, on various issues, and it is normally the same representatives who are involved. So, from my point of view, to say we are not consulting with them is incorrect; they are consulted.

CHAIR—What I challenge is Mr Byron’s words ‘genuinely consulting’ all stakeholders. From what we have heard this morning, I do not think that is genuinely consultative. That is my view.

Mr Carmody—Senator, I understand your view.

CHAIR—And, from what I have heard so far, your answers do not bring warmth to me that you are genuinely consulting. And that is not just from the pilots.

Mr Byron—Chair, Mr Quinn wishes to make a comment.

Mr Quinn—If I may, I should add, knowing their involvement from an operational perspective, that what the International Pilots Association did contribute was considered some of the most effective contributory material to that. Putting aside the point about who was invited

when, their contribution was important, it was constructive and my understanding is that it was taken on within CASA as a result.

Senator NASH—So what would have happened if they had not offered to come? You would have missed out on what was obviously very good advice, as you say.

Mr Quinn—Well, they were there, Senator, so I cannot comment as to what would have happened if they were not there. They were involved in the process. As for the point that you make about whether or not they were invited, I think I can only go on Mr Carmody's comments.

Senator HEFFERNAN—Just to clarify: when this process began, did a circular go out?

Mr Byron—The Standards Consultative Committee?

Senator HEFFERNAN—Yes. Did people generally know there was a process underway, to say if you were interested—

Mr Byron—Absolutely, yes. It would have been very, very widely advertised throughout CASA's website. It is very widely known and recognised. I went along to one of the initial meetings in 2004, and it was very widely represented, so it must have got the message out pretty well.

CHAIR—To the best of your knowledge, was everyone invited at the same time after you formed the consultative committee? Or were there any other people ringing up and asking about it?

Mr Carmody—To the best of my knowledge, the Standards Consultative Committee decided, as the committee does, who was going to be represented. My understanding is that AIPA then came to the committee and said, 'We would like to be represented.' The Standards Consultative Committee reviewed who was on the subcommittee and determined that the subcommittee was adequate. That is my understanding of the Standards Consultative Committee. As Mr Byron said, there are 38 plus another eight members—about 46 industry representatives. And, when these issues are discussed at the Standards Consultative Committee, AIPA are actually in the forum, in the committee.

CHAIR—They are now.

Mr Carmody—In the Standards Consultative Committee, they have always been there, Senator. They have been there all along. As I said, they have been at 23 formal meetings over the last 18 months, not including all of the things that are on the website or the telephone calls, emails and meetings. I have had meetings with them. I think that, given the other things that we have to do, we have consulted with that organisation quite extensively.

CHAIR—We covered that in estimates.

Mr Carmody—You did.

CHAIR—And I think you told us at the time that it was 60.

Mr Carmody—I thought it was. I have got the actual numbers here.

CHAIR—Whether it was 50 or 60, it does not matter; I fully understand that. But it still baffles me. But let us not focus just on the pilots. There was also a bit of a pissing coming to CASA from other witnesses today about not being consulted either. This is just one that I am highlighting for you.

Mr Carmody—Would you like me to deal with the others, Senator?

CHAIR—Yes, I would be more than happy.

Mr Carmody—We have had the discussion on the pilots. If I look at the other consultation mechanisms, if I may, the Licensed Aircraft Engineers Association attends the Standards Consultative Committee and a subcommittee. They have formally been in committee meetings 12 times in the past 18 months.

CHAIR—Sorry, Mr Carmody; I do understand. We are not arguing about the Standards Consultative Committee. When we talk about consultation, we mean that there are other forms of consultation or other areas of consultation where one would question how genuinely consultative CASA have been.

Mr Carmody—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.

CHAIR—But, if we are talking about safety regulation, you would not just limit yourself to those who are licensed; you would certainly take briefs from all and sundry, would you not?

Mr Carmody—Yes, to the extent that we can. In the development of regulations we are being criticised for going slowly. Everybody wants a small consultative team; it is just that they all want to be on it. Somebody has to make a decision, and it is actually made by the Standards Consultative Committee, which has an external chair.

Senator HEFFERNAN—I realise that you have a lot of critics, but I would not be too worried about that because I think I have more critics than you have. Are any of the people already on this consultative committee members of that pilots organisation—without being there as the official representative of the pilots organisation?

Mr Carmody—I would say so. I am just going to look through—

Senator HEFFERNAN—You can take it on notice.

Mr Quinn—I am not sure who the Qantas representatives were and whether they were Qantas management representatives or actually from the pilots community of Qantas.

Senator HEFFERNAN—That was the reason I asked earlier about who formed the actual make-up of the thing. You might have well and truly represented the interests of the pilots through individual members. Is Mr Hart about?

Mr Byron—Yes.

Senator HEFFERNAN—Is he in the room?

Mr Byron—Yes, he is.

Senator HEFFERNAN—Which is he? Put up your hand, Mr Hart. We will come to you in a minute.

Senator O'BRIEN—Mr Carmody, I believe you are disappointed that this inquiry is taking place.

Mr Carmody—I was, certainly. I was disappointed that the inquiry was taking place. After we had given our evidence at the last estimates, the inquiry was announced and certainly I was disappointed.

Senator O'BRIEN—Because you felt that whatever you needed to tell the Senate you had already told the Senate?

Mr Carmody—There are a couple of reasons. A number of these issues have been ventilated quite a lot and there is also management time and effort. We as an organisation have an enormous amount on our plate. As you know—and I am sure we will get to it—we have issues with regional airlines and have issues with oversight and Qantas maintenance. We have a lot to do. Therefore, essentially going through another estimates process and preparing for another estimates process—preparing witnesses and putting in a submission—involves a lot of work. So, yes, I am disappointed.

Senator O'BRIEN—How many witnesses have you prepared?

Mr Carmody—All of the general management team are here.

Senator O'BRIEN—How have you prepared witnesses?

Mr Carmody—At the end of the day, in the same way that we normally do Senate estimates preparation—and 'preparation' is probably too strong a word—we, like all departments and organisations, look at issues that may come up and we prepare briefs and make sure that we have an understanding of the issues. So managers are distracted from what they would normally do by going back and reviewing the issues. That is the preparation that I meant.

Senator O'BRIEN—Surely these are matters that Mr Byron is reporting to the minister on a regular basis.

Mr Byron—I do report some of these issues to the minister, depending on the topicality of it and the questions the minister asks.

Senator O'BRIEN—So he has to ask the right questions to get a—

Mr Byron—No, I provide issues to the minister. In fact, at the last two meetings I have had with the minister he very kindly said, 'Well, what are the issues you want to raise?' and I have put those issues in front of him. I think the point that is being made here is that, when we come before the committee for either estimates or something like this—which obviously can be called at any time; we certainly understand that and we have a duty to be here—

Senator O'BRIEN—But you were not at estimates, other than for a very short period. Your presence was quite constrained because of other arrangements you had made.

Mr Byron—That is correct on the day, yes.

Senator O'BRIEN—How long before the estimates had you been aware of the timetabling of the estimates?

Mr Byron—I made arrangements over 12 months ago for leave for personal reasons and, when I got the parliamentary calendar earlier this year, I moved my departure date back as far as I possibly could to satisfy my fairly important family personal commitment. I advised Senator Sterle by mail, I believe, some weeks before the committee that I would be unavailable for the first three days and I sought indulgence. I understand the committee has other priorities. As it turned out, on the day I was not available for a long period of time; I acknowledge that. The point I am making is: we ask that there be an awareness that, when we come before the committee, we want to be as prepared as we possibly can be to answer questions on any topic.

Senator O'BRIEN—Indeed, and you would accept that parliamentary scrutiny is one of the givens—

Mr Byron—Without question.

Senator O'BRIEN—When was the last time there was a general inquiry into the administration of CASA?

Mr Byron—I do not know.

Senator O'BRIEN—It was before your time.

Mr Byron—We had an inquiry into the Airspace Bill, which canvassed a range of issues, but that—

Senator O'BRIEN—Legislation inquiries are a regular thing, given the process of the Senate. On many occasions legislation is referred to this committee or its predecessors for the purposes of examining legislation, and, where CASA is the principal under the legislation, being the regulator, obviously CASA would be involved.

Mr Byron—Of course. We would not, under any circumstances, question the right of the Senate to ask us to attend whenever they want.

Senator O'BRIEN—But it is a bit of a strain, if I take Mr Carmody's evidence about all the work you need to do to do that.

Mr Byron—All we are asking—and the point Mr Carmody is making—is that it be acknowledged that a lot of work goes into preparing for a hearing; that is all.

Mr Quinn—If I can add something there: being out in the industry in the last few weeks and consulting with various groups, the point has been made very clear to me—and it is also a point that is very clear in CASA—that the most important aspect of this inquiry is to come up with some sort of constructive outcome in the interests of aviation safety in this country. We certainly acknowledge that, I certainly acknowledge that and so does the industry. The point that is being made here is that, whilst this is going on, it takes some significant work to prepare ourselves when other significant work is going on—and there is a lot on our plate currently. We recognise the importance of this process to get to where we want to get.

Senator O'BRIEN—That is why I asked the questions about what was involved in preparing witnesses. The answer did not seem to indicate that it was a highly complex set of preparations given. I take it from the answer given that they were essentially the preparations for estimates which have only recently occurred.

Mr Carmody—If I may add—given that the question led with my disappointment—there still is work to go back and review any other issues that are around and in place. It is not for us—and nor would I think you expect it to be for witnesses—to take a blase approach to appearing before committees. We review our material very carefully, as we should, and we put a lot of effort into doing so. So there is individual preparation by managers to make sure that they are across all elements of their brief, or as many as they can be. The other side of the disappointment aspect—because I did not conclude that—is that there have been a lot of references to CASA over the last couple of years. One element of my disappointment—and I think it is covered eloquently in our submission—is that there has been a lot of change in CASA in the last five years. I am not sure that that is as broadly recognised in the community as it could be, and that is a disappointment.

Senator O'BRIEN—Here is your chance to make the case.

Mr Carmody—That is what we did in our submission.

Senator O'BRIEN—So it is actually an opportunity rather than a disappointment?

Mr Carmody—I think I said that in the all-staff announcement. I said that it is an opportunity to show what we have done. I do not have it in front of me but I can find it.

Senator O'BRIEN—No. You started with the disappointed, and you finally got to that; I will concede that.

Mr Carmody—Thank you, Senator.

Senator HEFFERNAN—That not only involved a big turnover in personnel but also—

Mr Carmody—Certainly, Senator; with almost a 50 per cent turnover in staff, a number of people have moved on of their own volition and a number have left the organisation because we have no longer had a place for them.

CHAIR—Any other reasons for leaving?

Mr Carmody—I do not—

CHAIR—No, it is a serious question. Any redundancies?

Mr Carmody—If a position has been abolished and we no longer have a place and cannot or do not wish to redeploy the person internally, we will offer them a redundancy. We have offered quite a number of those.

CHAIR—How many?

Mr Carmody—I think, 134. I could be corrected on that figure but it would be close.

Mr Byron—Could I just respond briefly to the point Senator Heffernan made about culture and turnover. 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.’

Senator NASH—What do you mean by ‘the culture in the organisation’? What was wrong with it before?

Mr Byron—I will give you my view, and I have been involved in this in another organisation in the private sector before. People talk about ‘culture’ without, quite often, defining what that means.

Senator NASH—That is why I asked the question.

Mr Byron—In my view, culture is behaviours. 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.

Senator HEFFERNAN—So do you think that many of the people who have come into the organisation from the private sector have come in with an axe to grind on the private sector? Have you identified any of that? We have had hearsay evidence of that.

Mr Byron—I know of one case. I think it is still under investigation, but it was an allegation. I set the Industry Complaints Commissioner on the job, and it ended up with an individual being stood down. There was that allegation.

Senator HEFFERNAN—Could I just seek a clarification. From evidence we got this morning, there seems to be some conflict in the minds of people about Transair and their AOC. Are you familiar with Transair's AOC?

Mr Byron—Certainly.

Senator HEFFERNAN—Did they hand it in or did CASA take it off them?

Mr Carmody—They surrendered their AOC. We took 'serious and imminent' action against them on the basis of information that was provided to us. We tried to obtain that information from Transair, but Transair were unwilling to provide the information. We took 'serious and imminent' action, which meant that we had to appear in the Federal Court within five days. They handed in their AOC before the five days were up. Is there anything, Jonathan, you want to add?

Dr Aleck—I would only add that, at the time we issued the serious and imminent risk suspension, we had already taken a decision under the conventional process to cancel their AOC, and that decision had been stayed under the provisions in the law that automatically stays decisions to CASA.

Senator HEFFERNAN—But they would have been aware of the fact that you had taken the decision, so they surrendered before you went out and got it.

Dr Aleck—The legislation explicitly says that you may take serious and imminent risk action if it is necessary, irrespective of whether an automatic stay is in place. So, given that we had taken a decision to cancel their AOC and then taken a subsequent decision based on some new information to take serious and imminent risk action to suspend it with a view to cancellation of what was already cancelled, they would well have understood that our intention was to remove their AOC. I would have no doubt about that.

Senator HEFFERNAN—Chair, I would like to clear up a few things from this morning.

CHAIR—There is plenty of time.

Senator HEFFERNAN—One of the questions that I pondered after this morning's evidence was on overseas servicing of aircraft. There were complaints this morning about the CASA oversight of that. I asked a question about the planes that come back from an overseas service, because they found all sorts of fundamental things wrong with them, allegedly. They did say that with planes that are serviced here you often find things that have gone wrong and that have been missed in the service. Does CASA audit the mobs overseas that do the servicing for Australian planes?

Mr Quinn—Yes, we do. It is our policy to audit all of the CAR 30 organisations annually. We have done that. The organisations that currently are being utilised by Qantas have all been audited in the last six months.

Senator HEFFERNAN—Do you do that randomly, without notice? Or do you ring them up and say, ‘We’ll be there in six weeks, boys’?

Mr Quinn—That can be done in any way we wish. The organisation has to pay for our service.

Senator HEFFERNAN—That is not my question. If you were going to pay me a visit at my flat here in Canberra, I would probably get the broom out and put some fresh flowers in a vase.

Mr Quinn—I see your point. To answer that, typically there is advice because it is quite a detailed, lengthy process. Turning up on the doorstep of a foreign organisation in a foreign country is not that simple.

Senator HEFFERNAN—So they get plenty of notice.

Mr Quinn—Yes. But I should add that the purpose of that is a systems audit, if you like, of the organisation. 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.

Senator HEFFERNAN—This committee covers everything that grows, flows and flies. It has had a bit of experience with foot-and-mouth and the OIE certification, which was a desktop arrangement. Do you actually test the credentials of the people who are certified to do the inspections overseas or do you just say, ‘They’ve been given a tick’?

Mr Quinn—We do both. We do the systems audit but occasionally we do operational specific surveillances of regulations, and there are some going on at the moment. So it is not just a tick box exercise.

Senator HEFFERNAN—If I am in Hong Kong and I am allegedly an engineer licensed to do something on a Qantas plane or a Bullamakanka airlines plane, do you satisfy yourselves that I am indeed licensed to do that work?

Mr Quinn—That is part of the process, yes. We check that you are type rated and certified to conduct that activity. I should add that the CAR 30 organisations that we approve ex-Australia also have either FAA 145 certification or EASA certification. So we are not out there on our own; these are internationally recognised workstations. In the case of Qantas I can add that when they send an aircraft to an overseas destination for maintenance, which they have been doing for some of the heavy D checks which used to be done in Sydney, that may be in line with some of the debate that was going on this morning about economic liberalisation. Is it legal? Yes. We really cannot stop that. At the moment, some of the lighter checks are going on offshore because of the current industrial situation.

I should add that, when Qantas send an aircraft to an offshore destination, they actually send a team of Australian LAMEs with it to oversee and plan the activity there. That includes both people from the maintenance control area and staff from the quality assurance process, and check flights are typically done by senior checking training captains. There is a lot of local, Australian oversight on that product. So I think it is unfair to simply say that it is being done overseas and it is being brought back with lots of problems.

Senator HEFFERNAN—So you do not think that there is a lesser standard because it is done overseas?

Mr Quinn—Senator, it is legal.

Senator HEFFERNAN—But that is not the question.

Mr Quinn—It is compliant.

Senator HEFFERNAN—I think one of the best brands on the planet is Qantas. So you do not think they are getting a lesser service? I had an uncle in Butterworth in Malaysia years ago who was in the air force. One of the things that he used to tell me is that the American blokes used to come down to the Australians to find out how to do things because their system was that, if something went wrong, you shifted the whole bit out and did not try to fix it—you put a new component in rather than fix it. So you are satisfied that the standards in the workshops over there are the same as ours?

Mr Quinn—I cannot comment on the specifics of each individual place, but I think it is fair to say that CASA have a standard and we apply that standard. It is internationally recognised.

Senator HEFFERNAN—It would be very comforting to know that you have a set of standards and you can go over there and audit them and say, ‘Yes, that’s what would have happened at Mascot or Avalon’.

Mr Quinn—I think it is indicative of the fact that the organisation has a vested interest in this, in keeping up the standards—

Senator HEFFERNAN—It does indeed.

Mr Quinn—that it actually sends a significant team with it to ensure that it comes back in that condition. I know that there was a comment this morning regarding an aircraft that has come back recently with a significant number of defects. I was made aware of this last night, and the number of defects certainly was not in the order of what was mentioned this morning. What I was made aware of when I checked with Qantas maintenance last night was that most of the items that were on that were not immediate flight safety issues. However, I should say that part of that information had come through our service difficulty reporting. We will conduct an investigation into the activities of that.

CHAIR—So the work involving the bolts that were loose in the galley was overseen by an Australian crew? Is that what you are saying?

Mr Quinn—There was an Australian crew as part of that team that came out of that maintenance facility, yes.

CHAIR—So we should not jump to any conclusions regarding foreigners working on the planes on their own sites because Australians oversaw that?

Mr Quinn—There certainly would have been foreigners working on the aircraft, but part of the sign-off process and release of the aircraft back into serviceability involves oversight by the organisation's own team. I should add my own experience. I used to be an employee of Qantas Airways many years ago.

Senator HEFFERNAN—What did you do?

Mr Quinn—I was the manager of air safety investigation at Qantas Airways.

Senator HEFFERNAN—You look more like a handsome pilot than a cop.

Mr Quinn—Thank you, Senator. I was formerly a pilot, actually. I should say that the experience there was that, with heavy maintenance checks that were conducted in Australia, there were always issues, particularly with heavy maintenance and D checks where you are doing a significant amount of work to the aircraft. I believe you heard this morning about the man-hours involved and the time taken. There are always going to be problems that come out of these things, and there are processes to monitor and fix those.

That used to happen with maintenance that was being done here, too. I have seen some horrific examples—in my own experience working for that organisation—of work that was done that would raise the eyebrows of the organisation, and the organisation took effective management of it. I think the results of where they were then compared to where they are now are largely based around a significant increase in the culture in that organisation in terms of developing better quality assurance processes, internal audit processes and group safety oversight of what goes on in this activity. I think they have a better control on it now than they did 10 years ago.

Senator HEFFERNAN—Can I just take you to the extrapolation of what we heard this morning about the reason that some of these planes are being serviced overseas. Some people thought it was a combination of cost and labour—that there are not enough people to do the work here. Do you have an interpretation of why there is a tendency to go overseas now?

Mr Quinn—It is actually not up to me to really interpret why it is going overseas; it is just to make sure that it is approved as appropriate and it is up to a standard.

Senator HEFFERNAN—All right, we will not get you to interpret that. The thing about this that exercises my mind is that everyone wants cheap travel. The customer wants a \$100 fare to Port Douglas or somewhere like that, they want to use their frequent flyer points and they want good service on the plane against the background of increasing fuel costs, increasing staffing costs and increasing capital costs. Will there come a point when in the bid to keep an airline profitable—there have been plenty of airlines going bust and no-one in their right mind, in my book, would want that; poor old Don Kendall died with a broken heart, I can tell you, when he

sold his business to Ansett and it went bust—the public, CASA and the operators generally recognise that you cannot just keep trimming the fat off the industry without endangering the industry? It is like with farmers. We are sick of, as I once said here, getting it up the back passage with costs all the time. At some stage of the game we want to be paid more for what we are doing. Do you think the point will come, as a combination of sending these planes over to cheaper labour markets for lower costs et cetera, when the industry and consumers are going to have to face up to the fact that, if you want to travel, you may have to pay a fair bit more for it, what with climate change and everything else?

Mr Quinn—I have no doubt that that is the case.

Senator HEFFERNAN—Are you modelling that sort of proposition?

Mr Quinn—I think I can put it best by saying that regulations are one way of determining the level of safety of an organisation or the industry, but the outcomes of what is going on under that regime are also important and are monitored by CASA. If a certain regulatory-compliant product was producing the wrong outcomes, of course CASA would quickly take action. I think that is the basis of where we are moving with the risk based approach to what we are doing.

Mr Byron—In our submission we referred to an emerging risk study. Has the committee seen the emerging risk study?

CHAIR—We have not even seen your submission because, with the greatest of respect, it came in at the last minute. You are entitled to do that but—this is not the committee's view; it is my view—I was not impressed by the late arrival of the submission because this committee has been flat out on another inquiry. To answer you, I have not seen that and I have not even read your submission, sadly.

Mr Byron—With your indulgence, Chair, would it be acceptable—although this document is only referred to in the submission—to provide copies of the emerging risk study to the committee tomorrow for your deliberations?

CHAIR—You can table that.

Mr Byron—The only reason I mention it is that it has become clear to us in doing our work that we have got to start to look over the horizon a bit more at the sorts of things that Senator Heffernan is talking about. This industry is changing significantly and although there is nothing to compel us to do anything other than what is in front of us and work within the act and the regulations—I think it comes under the terms of reference of you assessing whether this is an effective regulator and what it needs to do to become more effective—you have to look over the horizon when things are changing so fast. What we have done in a small research group is go out to industry, including the Australian & International Pilots Association and other interested organisations, and canvass them about what they think the emerging risks are that we as the regulator and the industry should be worried about. That document distils that initial piece of work, which brings it down to a range of things that we have already identified we need to be thinking about, such as the already identified concern we have about regional airline operations, the increasing use of regional airline aircraft in operating to non-towered aerodromes, the increasing amount of non-aviation infrastructure at airports that is being built, the skills shortage

that is affecting a range of areas, including the engineering area—which might impact on the sort of thing you are talking about, Senator Heffernan. We will be working with people in the industry, certificate holders, but including the associations Senator Sterle has been mentioning, to form a number of working groups over the next few months to say, ‘Where are we heading? Have we got all these potential risks covered?’

CHAIR—That is good, Mr Byron, and I look forward to the November estimates.

Senator HEFFERNAN—I am a wool classer and a welder; I am not a financial wizard. In international travel these days everyone wants a cheap fare. It is cheaper to go to New Zealand to ski than it is to go down here—although there is not much snow down here so there is not much point going down here at the moment. It seems to me that, if airlines play the game that is being played, they may—and this may be in your over-the-horizon risk analysis—in planning to avoid a financial crash have a physical crash. Do you know what I mean? They could trim their operation to financially keep themselves in the air to the point that actually physically has the planes falling out of the air.

Mr Byron—Theoretically, I see the logic of what you are saying. Certainly that is what I suppose a risk based approach seeks to do—look at where things are being trimmed. Although they might well be compliant—or above a minimum regulatory standard and then reach the minimum regulatory standard—we try to provide more focus on operators like that to make sure they do not fall below that.

Senator HEFFERNAN—Without mentioning any personalities, I happen to know of a couple of individuals who put themselves into the ground because they were doing their own maintenance on their planes to save costs.

Mr Byron—While they were not qualified for it?

Senator HEFFERNAN—Yes. This is going back some 20 years. They were small charter operations where they were doing their own fiddling.

Mr Quinn—I want to make another point regarding compliance and problems that are on the horizon for the industry. Fuel prices were mentioned. They are a significant problem for aspects of the industry, both general aviation in the regional area and airlines at the bigger end of town. The margins are narrow and they are getting narrower and narrower. 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 you alluded to that could cause a catastrophic accident or some sort of failure in the system. That necessarily is not correct. 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, which Mr Byron was talking about before, 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.

Senator HEFFERNAN—Senator Sterle spoke earlier this morning about \$8 lunches on the plane. You can only save so much money before you have to compromise other parts of your

operation. It troubles me that they might compete themselves out of the air. I would not like to fly on some of the airlines I hear about in Asia. I prefer to use a Malvern Star.

Going back to the culture, when someone tells me to go and get well and truly—I will not use the word I would use out in the paddock—whether it is in written form or on the phone—and I got one in a phone message this morning from my good friend out at Goolgowi on a wheat matter—I always take the trouble to ring them and say, ‘I’m so pleased you have had the opportunity to tell me to go and get well and truly. It is therapeutic to get it off your chest,’ et cetera. And then I ask, ‘What can I do to help you?’ I just wonder whether in changing the culture of CASA we need to apply a bit of that to CASA because you can be full of your own importance, on a witch-hunt, out for payback or a sook. With that in mind, I thought I might invite Mr Hart to come to the table. I think he might be a sook—

CHAIR—I do not think so, Senator.

Senator HEFFERNAN—We are about to find out. Not necessarily a ‘sook’—that might have been overdoing it—but displaying signs of—

Mr Byron—Before you ask Mr Hart any questions, Senator, I will add something. In trying to identify residual problems of culture, which I know Senator Nash was interested in, I have seen the provision, hopefully, of a trustworthy complaints process that people can have confidence in as the first step.

Senator HEFFERNAN—I agree with you 100 per cent. We had evidence this morning from Mr Rodgers. Mr Hart, are you a lawyer? What is your background?

Mr Hart—My background is both the law and aviation.

Senator HEFFERNAN—Are you a lawyer?

Mr Hart—No, I am not a practising lawyer.

Senator HEFFERNAN—So why do you say the law? What bit of the law are you in—bush law? Or are you an articled clerk?

Mr Hart—No. I studied initially in the bush and at the University of New England.

Senator HEFFERNAN—You did not complete your exams?

Mr Hart—I have not completed them, no. I was the chief analyst at the New South Wales ICAC when it was established.

Senator HEFFERNAN—We will not go into that. The more you know about that stuff the worse you feel about it, I can assure you. You are on a winner already, because I think we have too many lawyers; but you are not a lawyer, so I do not have to consider getting rid of you. You are saved. People wrote to you with a list of alleged complaints. I can understand—bloody hell, people write and get stuck into me about something every day. It is all part of the fun. I take it quite seriously and for that reason I get a lot of complaints. In a letter dated 14 April you wrote

back and said, 'Yes, we'll look at these issues,' and then, because they did not respond, you wrote back on 19 June. Do you recall that?

Mr Hart—I do.

Senator HEFFERNAN—Did you talk on the phone in the meantime to Mr—

Mr Hart—Mr Blatch?

Senator HEFFERNAN—This is signed by Mr Rodgers. Did you have a yarn to him?

Mr Hart—No, I have not had a personal conversation with Mr Rodgers.

Senator HEFFERNAN—Can I tell you, it is very therapeutic to find the time to ring people. Much more effective than emails and letters is ringing them up and saying, 'What the bloody hell did you bellyache about, mate?' They are very distressed about this—and you would have heard the evidence if you were about this morning. You wrote back, saying: 'I note your letter of 19 June. As yet I have received no response, nor have you or your officers provided me with any material,' blah, blah, blah, 'I have on that basis decided that the matters you raised with me were vexatious and on that basis I intend to take no further action.' You told him to bugger off. Don't you think you should have had a yarn to him? You are not a lawyer; you are just ordinary, one of us. I am a wool classer and a welder—not a very good one—but communications are very important. I am talking about culture. What is wrong with ringing him up before you write a letter like that?

Mr Hart—If I could just say, Senator, that I have had numerous pieces of correspondence and contacts with members of AOPA about a number of things over the time that I have been there. Mr Rodgers wrote to the CEO making a complaint, listing a number of quite serious issues that he wished to complain about and have addressed. They were very general in the context in which the information was provided. In that context I went back to Mr Rodgers, asked him if he could provide me with specific details and said that I would look at that information.

Senator HEFFERNAN—That is fair enough. I thought you wrote a very polite letter.

Mr Hart—Yes. In the interim, two months went past and there was absolutely no contact or advice from Mr Rodgers in response to my invitation to talk to me with regard to those issues.

Senator HEFFERNAN—With great respect, Mr Hart—there are a lot of Harts around Junee, by the way; you might be a relative—the point is he may have had all sorts of other catastrophes going on in his personal life that you did not know about. I do not know and you do not know. I get people who ring me up and are really angry, and they really do not expect you to ring back and say, 'G'day; it's me.' Don't you reckon it would have been worth a try? How many of these things do you get? Do you get 300 a week or two a week?

Mr Hart—I would get probably one or two a day from members of the industry on various topics. In respect of AOPA, I have to say that I had already spent probably a good part of last year dealing with a number of issues and members of the board. I made trips to Sydney to deal with other issues where they had sought my assistance and intervention in things with absolutely

no result. There was no information provided—and in one they alleged extremely serious criminal activities.

Senator HEFFERNAN—In this letter?

Mr Hart—No, these are different issues altogether. So I am dealing with a history where an organisation continually come to me with complaints and then, when I ask them to provide that evidence to me and to assist me to uncover the issues that they talk about, have not been able to deliver.

Senator HEFFERNAN—This letter that they have written to you that your letter refers to is, I accept, pretty general, and you determine it—and you do not have any more qualifications than I or anyone else in the room has to determine it—to be vexatious. In other words, they are just pulling your leg just for the sake of filling in time. I reckon you ought to ring them up and have a yarn to them, because it might not be vexatious. We took evidence in camera this morning which was very concerning, and it was evidence that no-one was listening to. I would not just write them off and close the file, as you have said in here, with a three-paragraph letter.

Mr Hart—I do not close them off altogether. What I am saying is with regard to the complaint they—

Senator HEFFERNAN—It says: ‘I now regard the matter closed and have advised the CEO accordingly.’

Mr Hart—That is in respect of those complaints. I have other matters going with AOPA at the moment where I am sure they would be quite happy to say that they think they are getting the response and assistance from me that they require.

Senator HEFFERNAN—I suppose it is none of my business, but I think it is just a bit sooky.

Mr Byron—If I may, I am aware that, in the work that Mr Hart does, he does spend a lot of time with a lot of complaints on the phone to people. He provides me with statistics of the response time. He is under the gun to make sure that he provides stats that show he has responded, and I would say not getting a reply has probably compounded that a little bit.

Senator HEFFERNAN—I accept that there is good intent, but—

Mr Hart—Could I just say one thing, if I may. You asked me about my background. When I made the transition from criminal law enforcement, I actually used to be the general manager of AOPA, so there is no slight intended and I have no malice towards the organisation whatsoever.

Senator HEFFERNAN—But you could theorise that you might have been grinding the axe. ICAC—we will not go there because, as you know, the courts are really about the law and not necessarily about the truth. If I were in charge I would get rid of two out of three lawyers because there are too many bloody lawyers.

CHAIR—I was afraid you were going to let lawyers off again, Senator!

Mr Carmody—There is one other point I would like to make, if I may. On the date that that letter was sent by AOPA to Mr Byron, AOPA published an open letter to Mr Byron in their very widely circulated magazine making all of the same allegations. I thought they were extremely keen to resolve them. Of course, that was another issue, in reality. The letter went in the magazine before it came to us.

Senator HEFFERNAN—I appreciate there is probably a whole lot of politics, especially if you used to work for them. There may be some things that we do not want to discuss here. God knows what that could mean, but I appreciate there is often more than meets the eye. It is just that I reckon a phone call does a lot of good.

CHAIR—Before we go to Senator O'Brien, Mr Quinn, I want to come back to that incident where an aircraft was serviced overseas under the watchful eye of Australian LAMEs and then came back. Were there any incidents in the report that raised your eyebrow as a regulator?

Mr Quinn—One aspect of it, yes, which we are investigating. The aspect was the galley fitment, which I think was referred to by the ALAEA today. As a result of that I have directed the Sydney office field staff to conduct an appropriate and thorough investigation to determine what was the cause of that, how it got through the check process and how it arrived here in that condition. There is a lot of hearsay at the moment. We assume this is the case: a flight attendant actually received what we believe was some sort of electric shock due to the earthing of the galley floor and the fasteners not being correctly fastened. We think it was an electric shock; it could have been a static shock—we are not sure. I should add that the first I was aware of this was last night, so it is a bit early in the piece for me to be commenting at the moment. But we certainly will be following it up.

Senator O'BRIEN—There have been a few problems with electrics in aircraft.

Mr Quinn—And also galleys. It is a topical issue at the moment. So that is one we would be looking at. But whether it would be coming out of a CAR 30 overseas organisation or out of a Qantas shop, we would be taking the same approach.

CHAIR—So there have been a couple of similar situations here in Australia—of shocks coming out of the galleys?

Mr Quinn—Not that I am aware of, no. I cannot comment; I am not aware of that. There were multiple incidents involving aircraft in heavy maintenance certainly that I was not only familiar with but involved in the investigation of.

CHAIR—Why would the ALAEA know before you would know?

Mr Quinn—This was raised, I believe, through the service defect reporting scheme. One of their members may have advised the ALAEA of the SDR. I cannot really comment—I am only speculating. The first I knew about it was last night.

CHAIR—Does anyone in CASA know when that plane arrived back in Australia and the faults were found?

Mr Quinn—I believe the Sydney field office were advised of it last week, but I cannot give you the particulars of the actual time.

CHAIR—So we have probably got a week before it came to your attention, Mr Quinn. Was anyone else in CASA aware of it prior to you?

Mr Quinn—Sydney field office, definitely; I spoke to them last night.

CHAIR—Oh, Sydney field office? Sorry.

Mr Quinn—And also this morning CASA were aware of the defect and are following it up actively.

CHAIR—So they jumped on it straightaway? And that is normal practice, to go through the field office?

Mr Quinn—Correct.

Senator HEFFERNAN—This goes to the perception—and I appreciate it is a bloody difficult task. This morning we received evidence about a plane that flew onto an airstrip and landed on the wrong strip—I think this was in North Queensland—and got bogged. It got towed back out of the bog by the landowner. Whatever happened to it, the nose wheel got locked down—I do not know what sort of plane it was—and it flew back to Brisbane with the wheel locked down. We were told that CASA denied it happened. Do you know anything about it?

Mr Byron—We heard of that, and we were ferreting around trying to find out what we knew about it during the lunchbreak.

Senator HEFFERNAN—You might take that on notice. It would be useful to get an explanation of what that was all about, because they were fairly emphatic that it happened and the bloke was there and pulled it out of the bog. I do not know what the implications are, mind you.

Mr Carmody—I think there has been a bit of confusion about that. It was raised this morning but with no detailed indication of the aircraft registration or any of those sorts of things. There is one issue of a similar nature that relates to Aero Tropics—the organisation that is currently grounded—but the type of aircraft seems to be different. So we are trying to at the moment work out the truth of this matter, because one of those has been responded to extensively on questions on notice to Senator McLucas in the past. So we do not know; we are checking.

Senator HEFFERNAN—Anyhow, from the way it was put to us I just thought we should ask the question. Thanks very much.

Senator O'BRIEN—I understand ICAO conducted an audit of our aviation circumstances earlier this year involving, obviously, CASA as the regulator. And I have seen a story which suggests that deficiencies in air safety in Australia have been uncovered in that audit. Is that so?

Mr Byron—I am not aware of deficiencies in air safety. Certainly, the write-up of the audit process is ongoing, and I might have to defer to Mr Carmody, who handles this part of the organisation, just to give the latest update. But from my recollection of the debriefing, naturally there were some issues that we need to attend to. The only one that was of significant note that I really need to think about is the ongoing training of our largely new workforce. A lot of them come to us qualified; we need to continue our efforts to give them technical training, and we are working on a workforce capability program for that now. But my understanding is that, in terms of the key elements of the audit that related to legislation, oversight and airworthiness directives, we scored quite high in the draft stages.

Mr Carmody—Senator, I can respond in a little more detail if you wish.

Senator O'BRIEN—Yes, please.

Mr Carmody—The final report is not out yet; it is not out till the end of the year.

Senator O'BRIEN—And there is a draft between now and then as well, isn't there?

Mr Carmody—Yes, there is a draft. In fact, we go back and forth and talk about the draft and those sorts of things with ICAO. We have reviewed our score against the critical elements in the ICAO standard and we think we have come out of it quite well—very well, in fact. There is one area we did not come out particularly well. I think we were still above the global average, but we are not as far ahead as we would like to be. In all other areas, we did quite well

Senator O'BRIEN—So which area were you not satisfied with?

Mr Carmody—The area we are not satisfied with is technical personnel qualification and training. 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. That is my understanding, Senator, and I think we are working very hard on that now. We are also looking at some technical training aspects that came out of that. But, as I said, I think we were still equal to or above the global average on that score, and we were well above on the rest.

Senator O'BRIEN—Where does the global average sit? What sorts of nations are you talking about being at the average level, given that we have a fairly high standard, I would have thought?

Mr Carmody—I could find some data, but, off the cuff, for example, we are ahead of New Zealand in a range of areas. I do not know about the United States, I am sorry. We are ahead of Canada in some areas. Our ratings were between eight and nine out of 10 on the critical elements and five out of 10 on the training personnel element. So, overall, we think we have done quite well—and the global average was low on that training personnel qualification area. That is clearly a focus for ICAO to build on as they go around the world, so they are pressing everybody on exactly the same points.

CHAIR—Does Dr Aleck have any additional information on that?

Mr Carmody—No, he does not. There is a chart that I do not have with me that I would like get hold of. I might be able to get hold of it and come back with a more detailed response later, to make sure those numbers are exactly right.

Senator O'BRIEN—So were they talking about training within CASA or training generally?

Mr Carmody—Training within CASA. It lists technical training of qualified personnel and how much technical training we are doing, and as I indicated we are not as far ahead as we would like to be.

Senator O'BRIEN—So, in the context of a major staff turnover, we now find ourselves with a training deficiency. Is that how I should understand the circumstances?

Mr Carmody—I think that some of the things we were not able to demonstrate were, for example, our diploma in aviation safety, which had not started—it starts this year. There are actually a range of things that we were not actually in a position to demonstrate because they were not in play, but, certainly, we did not come out as well as we would like to. I would not characterise it quite as seriously as you have, Senator, but it is important.

Senator O'BRIEN—Have these criteria been applied in the past?

Mr Carmody—I am presuming—

Senator O'BRIEN—Sorry, you were not there.

Mr Carmody—that ICAO uses the same methodology. I do not know.

Senator O'BRIEN—Who was there? Who knows whether there is some continuity in this score?

Mr Byron—We will get someone to answer that for you, Senator, but I will just add one point on the issues of the staff turnover and technical training. What ICAO are naturally looking for is a plan, and an implementation of the plan, for ongoing technical training for each technical officer in the organisation. A lot of the people who would have had a local plan but not one implemented centrally, which is part of the problem, have come to the organisation with appropriate technical qualifications. What we are really looking at here, and what ICAO are looking at, is the ability for this organisation to maintain their technical competence as they stay within CASA for a fairly long period of time. From where I sit, 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.

Mr Quinn—As Mr Byron said, what we are talking about here really is twofold. There is the system's ability to track this, monitor it and improve it. There are also the basic technical skills themselves. I think that, as Mr Byron alluded to, we have not been able to really demonstrate well what technical training program and plans we have in place, and the development and implementation of our human resources management system will assist in that—not only in the technical skills but also, as mentioned, with the diploma in aviation safety, which is important. It

is important for CASA as a regulator to have people in this organisation who have the right technical background, whether it be in airworthiness—

Senator O'BRIEN—That is why you would engage them, isn't it? You would be engaging people because they had that training and technical background.

Mr Quinn—Exactly—airworthiness inspectors, flight operations inspectors, system safety specialists, air transport inspectors and a variety of categories of staff. It is also critical for them to be trained formally and monitored as to their skill base for being a regulator, which is what the aviation safety regulation diploma development has been about.

Senator O'BRIEN—So we should be taking note of ICAO's concerns, should we?

Mr Quinn—I think we have taken note.

Senator O'BRIEN—You have. I am saying: should we be taking note of ICAO's concerns in that regard?

Mr Quinn—I think the best way to explain it is that, 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.

Senator O'BRIEN—I am sure you will do everything you can to massage ICAO's view. My concern is that they may come to a preliminary view that you are a bare pass, if that, on that score, knowing how these things work.

Mr Quinn—I think it is fair to say that—

Senator O'BRIEN—You would have put your best foot forward at the start, wouldn't you? You would have done all you could to convince ICAO that there were no problems, I would have thought.

Mr Quinn—That is correct. I think it is worth while stating that we are not the only—

Senator O'BRIEN—No, we are not inquiring into anyone else.

Mr Quinn—Yes, but I know that we are not on our own here. It is related to the skills shortage in the world. We are not alone in this, and it is a problem that many other developed countries are struggling. I think the most important point is to recognise first that, yes, we have taken that on board and that, yes, there are significant developments in place so that I hope we are going to have most of this sorted by the time the final report is released.

Senator O'BRIEN—Does this mean that CASA had not recognised that deficiency prior to ICAO's identifying it? The alternative view that one could come to is that

Senator HEFFERNAN—Given some of the events in Asia and other places, have there been seriously adverse findings?

Mr Carmody—I do not know all of the findings; I just understand that they do publish them if the countries allow it.

Senator HEFFERNAN—It would sort of be a commentary on the system though if they do not find some things that are seriously wrong. There is always human failure wherever you go. There is human failure at this table. I am a good example of it. It would be a funny system that did not have some adverse findings, wouldn't it?

Mr Carmody—I think so. I would expect there would be. I will go on to the second question, if I may. We have completed a number of things since the 'okay' was awarded in February. When they came in February, we told them what we had in train but unless it was delivered it was not considered to be complete, which is not unreasonable. 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.

Senator O'BRIEN—How long has this restructure of CASA been going on? I am taking it, Mr Byron, that since you came on board there has been a series of evolutions and changes and turnover of staff. Fifty per cent of the staff that were there before are no longer there and presumably 50 per cent of the staff that are there now have not been there very long. How long has that been happening? What is the period of time—

Mr Byron—It really started after I had been at the organisation about a year. 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 an enormous amount of resistance to some of those changes. It took a little while to get things moving. To answer your question, things really have not been moving apace in terms of the reforms since probably late 2004. The big structural changes involved focusing as many people as we could on the front line, because I came to the view that we had too many people doing back-of-house functions who could have been employed in surveillance. I came to the view, as you know, that the organisation, for its amount of resources, did not do enough surveillance of the aviation industry, particularly of the air transport sector. The big changes that assisted that were of course the structural changes, focusing on the fare paying passenger as a policy and what that actually meant to the managers. Not a lot of them picked up the ball and ran with that initially. The moving of our staff more towards the field offices was completed in mid-2007. I suppose the big changes were pretty well delivered by mid-2007 and what we have been seeing in the 12 months since then is just business as usual turnover. I think we have had a turnover in the last year of somewhere between 14 and 15 per cent, which is a little bit above the ideal but not uncommon in a pretty dynamic environment.

The big changes were probably delivered in mid-2007, but the workforce capability issues which flow from such a big restructure I had to give a reasonable amount of time to be done and they are due for completion by the end of this calendar year.

Senator O'BRIEN—We have had this process running for approaching four years.

Mr Byron—Yes.

Senator O'BRIEN—When was the training strategy developed to cope with the changes that were coming out of the process?

Mr Byron—Initially, because not a lot of the people existing at the front line were directly affected, it was not an issue that we raised as a concern. But as we moved other people to the front line who now require ongoing training, the workforce capability project, when it was initiated 12 months ago, recognised the need for that.

Senator O'BRIEN—So that was not envisaged from the start? I thought you were saying that was what your plan was.

Mr Byron—I knew that training was an issue that had to be adapted. That is why I started the process in 2004 of an aviation regulation diploma course, which was unheard of previously, as a means of providing a solid base for this stuff. I think it would be unfair to say that we did not consider it. It was recognised that there would be a gap until a reasonable time down the track. To my view, that is largely offset by the fact that a lot of people whom we have brought into the organisation are already technically competent. What we are talking about is satisfying their ongoing regular training needs. We have hired people from the airlines who have current technical competencies. We need to make sure that we have a program that is visible to Mr Quinn where they get X training every six months or whatever.

Senator O'BRIEN—You could not convince ICAO that you had people with the necessary competencies to do the task. They have apparently only given you five out of 10.

Mr Byron—They have a fairly prescriptive approach. As Mr Carmody has said, certain things that were in train to be developed were not—

Senator O'BRIEN—Regulators are pretty used to prescriptive approaches, I would have thought.

Mr Byron—Okay. Point taken. I think 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.

Senator O'BRIEN—What else has gotten in the way of progress, if I can put it that way, over the last four years?

Mr Byron—In the early days there was quite a bit of resistance to change. That was pretty difficult.

Senator O'BRIEN—You did not expect that?

Mr Byron—I expected it. I probably did not expect the degree of resistance at management level. You are considering in your deliberations the future governance issues of CASA. I have some views on that if you want to explore them at some point. It was not easy in the early days. I think I said to some people that it was a bit of a shag on a rock job.

Senator O'BRIEN—But you won out because you are the decision maker and the driver of change.

Mr Byron—Yes. I hope the minister will not mind my quoting him, but he said, 'You have to consult with yourself,' when I was discussing the exercise of managing it. There was a lot of resistance. To be quite honest, sometimes you can say, 'This is the outcome that I want and I want you to get on with it,' but, unless managers, particularly senior managers and then their subordinates, are prepared to pick up the ball and run with it, it does not happen. Certainly, from my point of view, it was a slow start. As we started to build a new management team, we really started to pick up the pace from there.

Senator O'BRIEN—How much of the management team has changed?

Mr Byron—One hundred per cent of the senior management team. I was once told by someone that in any organisation when you embark on a change program—and I have done it once before but not to this scale—if you find resistance at a very senior level of management, if you look at the next layer down you will find people who are willing to come on board. That is certainly what I found in a number of cases.

It was not always the case; sometimes the resistance went to significant depths. A lot of people had to be convinced that this was a good thing to change—for example, increasing the surveillance of the air transport sector was something that I wanted in the very early days. It did not actually start to happen until I got some extra drivers in there. I remember asking a senior manager who looked after that part of the business, 'Where do you think most of our people who manage this should be?' The answer I got was 'Canberra', because that is where they then were. But, to me, that was totally the wrong answer. We have implemented a change there.

Senator O'BRIEN—So you always envisaged this outposting of management and structures away from Canberra?

Mr Byron—Intuitively I did, but at the end of the day I have responsibilities as the sole director of the organisation—my responsibilities under the CAC Act—which weigh very heavily on the financial aspects of the organisation, and I had to make sure that we could afford it and that we could do it before I went out there on a white charger and said, 'This is what we are going to do tomorrow.'

Senator O'BRIEN—Did the task become much larger than you originally envisaged?

Mr Byron—It was a big task.

Senator O'BRIEN—That is not an answer to my question.

Mr Byron—Probably the answer to that is, ‘Yes, but not significantly.’ It was not double the task that I thought it would be. I knew it was going to be a bit of a tough road, but it was probably a little bit tougher. It would be a subjective wording, I suppose, that I would use. Really that came down to the resistance issues. Some of that was a bit surprising.

Senator O’Brien—You had never undertaken a change task of this magnitude before, I think you said earlier.

Mr Byron—Yes. This is an organisation of 700 people. I had undertaken a change program that affected about 400 people in an organisation, so this was a bit bigger.

Senator O’Brien—Was this the most complex organisation you had had to do this in?

Mr Byron—It is CASA. Yes.

Senator O’Brien—So it is bigger and more complex.

Mr Byron—And with a lot of stakeholders.

Senator O’Brien—And a very critical outcome.

Mr Byron—Definitely. But from my point of view, there was then and there is now absolutely no question that this was the right way to go, and I am very proud of the management team that have come on board to assist with implementing it, particularly the final stages. As I say in my submission, you will never finish changing an organisation—there has to be constant evolution—but in the last 18 months or so the pace on the issues further down the list had really picked up because of the efforts of the management group. I joined the organisation getting on for five years ago for a five-year term to do a particular job. CASA is not perfect—it will not be perfect—but in my view we are a much better organisation. We are starting to—we have done this for a while now—focus ourselves far better. I think that the benefits of that will be seen in the safety performance of the industry in what are very challenging times, and I take quite a bit of pride in that.

Senator O’Brien—I guess we will come back to the times, because they are very challenging and the task of the regulator will be critical given the pressures on industry.

Mr Byron—Without question.

Senator O’Brien—We will come back to that. This is a process that has taken 80 per cent of your term, and you think that in the last six months it is starting to come together.

Mr Byron—I think it was starting to come together over 12 months ago. The final piecing together of all the pieces of the jigsaw has come together very nicely over the last 18 months or so, but the big ticket items were happening, certainly, 18 months ago.

Senator O’Brien—So you are now where you wanted to be. Is that what you are telling us?

Mr Byron—I would always like to push myself to be a little bit further ahead, but I am talking about six months. I do not think you should ever rest on the actual performance. During that period, of course, I was faced with an organisation that had certain responsibilities under the Civil Aviation Act—in late 2003 and 2004, when I was looking at the big picture—but, of course, since then we have also been given significant additional tasks.

Issuing the ASICs was a major drama. That was seen by industry, quite rightly, as a significant service delivery issue, and CASA was not structured, and did not have the culture, to be a service provider. We put a lot of effort into that. It took a lot of management effort and it took a lot of technical effort to do that.

We have taken on the regulation of airspace, and I have found myself, certainly in the last eight months, spending a fair bit of time on airspace related matters—not necessarily implementing them but looking to the future—and that is going to continue to be an issue for CASA to deal with. And there have been a few other things, like alcohol and drug testing, that the government has asked CASA to do. So, on top of a fairly significant change program, we have taken on additional tasks.

Senator O'BRIEN—So do I take it that the task you approached at the commencement of this change project was one that you had discussed with the minister and that had been approved by the minister—that there was some understanding that that was the way the government saw the regulator going?

Mr Byron—As you are aware, I got a charter letter when I started. It covered a number of issues, and, over the first six months, I formulated my view about the more operational changes that were necessary and I informed the minister and successive ministers of what I was going to do before I did it.

Senator O'BRIEN—Okay. You have made a number of statements in your time as CEO, Mr Byron, about the sort of regulator you think CASA should be. In the 2006 annual report, I think, you said, 'The modern aviation industry does not need a heavy-handed and prescriptive regulator.' Is that what you saw CASA as, prior to taking the helm?

Mr Byron—Certainly, the industry saw CASA as that, and I was briefed on that when I took up the appointment—that CASA was seen as an excessively prescriptive regulator and heavy handed in the wrong areas. I think we have had this discussion before, that there are circumstances where a regulator needs to be heavy handed, and I have exhorted my managers, as we have increased our surveillance of the industry, particularly over the last three years, and as more information has started to flow through, that we are heavy handed when circumstances dictate. The 'prescriptive' issue is that there was a lot of criticism from industry five years ago, and I think it was justified, that CASA tended to formulate new regulations without a lot of consultation—I think it has been mentioned already, perhaps by Mr Carmody—without taking on board the good ideas that industry could afford. There was a view that CASA paid lip-service to consultation, that CASA would write its rules regardless of the views of technical people in the industry. We have turned that around so that industry's views are taken on.

I am the final decision maker in CASA as to what is put forward to the minister for consideration by the parliament in terms of regulations, but we have taken the approach, which

is an international approach, that, given the dynamic nature of the aviation industry, a safety outcome approach is a better way to do business unless there is a clear, demonstrated, black-and-white need for prescription on a particular issue—and there are lots of those. My view certainly has not changed on that.

Senator O'BRIEN—The passage I quoted was from the annual report from less than two years ago, so that was well into your term. You said we did not need a 'heavy-handed and prescriptive regulator', but you just said that the regulator has to be heavy handed in some cases. It is a revision of that passage in a way.

Mr Byron—Yes, I suppose. What I have been trying to do in some communications is explain the changes. A new direction, something new, does not necessarily mean you throw all the bathwater out; you keep certain elements. I would like to think that in that document, certainly in most documents that I have written and authorised, where it does say a 'flexible, outcome based or fair regulator', in there somewhere will be the statement 'but at times we have to be firm'.

Senator O'BRIEN—What is a 'nanny regulator'?

Mr Byron—It is quite a widely-used term, actually. I was speaking to some people who work in the food health regulation area, about two years ago, and they were saying that, even in that industry, the term 'nanny regulator' is fairly common, where the regulator tells the industry what they have to do every step of the way and hold their hand. With the aviation industry, the variables and the risks in aviation are so great and so varied that a regulator could not keep up with all that. The concept that industry delivers safety on the day and industry must manage its risks is, in my view, implicit in the Civil Aviation Act. It is certainly an international concept. If you wish to explore that further, Mr Quinn has a lot of experience in the international fora; he might want to go a bit further on that. But it is certainly, from my point of view, a term that explains an environment where you have a regulator telling the industry what to do every step of the way. You have to allow a bit of flexibility.

Senator O'BRIEN—Is that what you thought CASA was prior to your taking over?

Mr Byron—I did see elements of that before I took over, yes. I recall being in operations and having inspectors from the regulator attempting to manage aspects of an operation, which was unnecessary, and they could have been doing other things.

Senator O'BRIEN—In what way? I am trying to understand what you are saying, and thinking how that might transpose practically—but perhaps you can tell us.

Mr Byron—I saw inspectors coming into an organisation and trying to advise the management about which pilots should take which appointments and that sort of thing. I saw examples of the inspectors probably talking to flight operations managers about how they should detail the training of their staff. These people were quite competent to do it themselves. I just felt that was unnecessary. It is probably one example of the term 'nanny regulator' where a regulator sort of gets into the organisation and is doing a lot of the work for the organisation. We just do not have the manpower—we did not then and we do not now—to do that and, at the same time, stand back and look at the big picture.

Senator O'BRIEN—Yes. I imagine with training you would be approving training manuals and the like, checking that they had them, and seeing that they were adequate—that is not being a nanny regulator, is it?

Mr Byron—Ensuring the training processes—

Senator O'BRIEN—Ensuring that they had a training manual and they were implementing it and that it was appropriate.

Mr Byron—No. There is a standard there which they should be checking is being complied with.

Senator O'BRIEN—So, to the extent that the regulator does that, that is not being a nanny regulator?

Mr Byron—It would depend on the detail.

Mr Quinn—If I could just add something to that: I think a good example of that used to exist in this country in the predecessor of CASA, the CAA, whereby the CAA flight operations inspectors conducted surveillance on Qantas flight operations in terms of occupying control seats as pilots and flying as part of the operating crews to ensure that this operation was operating as per its manuals, and to inspect—an inspectorate mentality. One of the problems with that approach was, of course, that these flight ops inspectors did not do this very often and, therefore, one would question their competency and their ability to do this up to the speed of a normal operating crew who were doing this day in and day out. We have moved away from that approach, seeing that it was not producing the right examples—and, again, I know it was not producing the right examples because I was there at the time—of what we wanted to see the regulator doing.

The faith and the belief that the operator has probably the best insight into what risks they are facing and how they should manage them is the best role for the operator, particularly in a technical area like that. There were incidents of note during those times where the flight operations inspectors—and I am not having a shot at those guys, because they were doing their best—were involved in incidents which were basically around proficiency in the handling of the aircraft. They just were not proficient at it. So, therefore, what is the whole exercise actually proving in terms of satisfaction of regulations, satisfaction of compliance, or generic safety health of the organisation? That is a nanny regulator.

Senator O'BRIEN—You made a statement that I will come back to you on after the break; I have just had a whisper in my ear that we taking a break.

CHAIR—Thank you, Senator O'Brien. It is now 3.30 pm. We will take a 15-minute break.

Proceedings suspended from 3.30 pm to 3.45 pm

CHAIR—We will get stuck back into it. We were with Senator O'Brien; Senator O'Brien, in continuation.

Senator O'BRIEN—Mr Quinn, on the question that arose from your last statement—if you can recall your last statement—about having to have faith in operators to some extent, in terms of their safety obligations: what do you do about operators like Transair who you may have had faith in, until you found out you shouldn't? How does your new system cope with that phenomenon?

Mr Quinn—Good question, Senator. I will not comment on Transair because I was not around then and I do not know the detail of it. But I can use an example of what you are talking about to exemplify how I think it shall work in the future. What is faith? It is not, as a regulator, sitting back, crossing your fingers and hoping for the best, and listening to a few war stories about what our intent is. It is about demonstrating that, through procedure, process, structure, systems and organisational control of the way in which a business goes about conducting its business, followed up by a sample of audit, a systems audit, but also the occasional operational surveillance, to check that what the intent of the system is to produce is actually working. And getting that balance right is where I see the new regime of regulation going.

Senator O'BRIEN—So does that mean you will go around and have a bit of a dig from time to time to see if they are observing the regulations?

Mr Quinn—Correct. And we currently do that. As to some of the comments that were made by Mr Klein, a former CASA colleague, this morning regarding Sydney: I understand his position and his statements. Is that the one-size-fits-all? Is that the way we should be doing it? Well, one size does not fit all, and the process that we would apply to that organisation is significantly different from the process that we would apply to a smaller operation with less complexity, with less capability in terms of consequence in risk, and we would be looking at an organisation like that much more on a systems based approach. I think it is unrealistic to expect that an organisation or a regulator like CASA can man itself up to the state where it actually has so much control of an organisation it is possibly getting in the way of the way in which the organisation operates. I have received that feedback—that the interaction of CASA sometimes actually gets in the way of the organisation's capability to operate safely because they spend all their time responding to CASA as a so-called nanny regulator. Of course, it is not easy being a regulator—you are damned if you do and you are damned if you don't. We hear that on a daily basis. It is getting that balance right—that confidence in the industry.

Senator HEFFERNAN—But it is nice to see a little display of passion like he displayed in terms of his occupation. He would still like to see it right, as he sees it. Even if you have got to have parameters around what someone like that says, it seemed pretty genuine that he was passionate about what he was on about.

Mr Quinn—He has been brought up operating in a certain regime and has been in that all his life. I do not know the gentlemen. I do not really know his background. But he has been there most of his life. I think Mr Byron made the comment that there was some resistance to change to this regime. There still is. There is some significant commentary about it around the world. There are different ways of doing it. Some aspects of other industries have actually already done it.

Senator O'BRIEN—But, you see, the regime seems to be changing a bit. Mr Byron said in 2006 in a speech:

In short, CASA will not be knocking on your door armed with the regulations and a plan to dig around until breaches are found.

In part, that is what you are saying the system is—that part of your regulatory approach will be to test not just the safety systems but actually to audit to see if compliance is actually taking place.

Mr Quinn—Correct. I think it would be reckless to let go all at once. There would be certain risks—

Senator O'BRIEN—Let go all at once?

Mr Quinn—To transition from a very prescriptive regime of regulation to one of 'Hands off; let the operator control' would be a dangerous operation for any regulator to do that. It is getting the balancing act right. That is important. One of the key aspects of outcome based regulation—and I know there has been some discussion about this—is that there are several key areas that need to be considered carefully before any decision is made as to whether that form of regulation would be appropriate to the certain activity. The key areas revolve around the following. Firstly, the complexity of the activity itself: is it actually really suited to utilising and implementing a form of outcome based regulation? Secondly, the competence of the operator that you are dealing with. Thirdly, the competence and skill set of the regulator, to be able to understand exactly what the issue is that you are going to be dealing with. Fourthly, mutual trust within the community of the regulator and all the operators, and that may include associations and unions. It will also include the environment—the environmental scan of what the industry works on, and understanding the stability of the environment that this activity is going to be taking place in and how much change is taking place. For example, we discussed the environmental risks at the moment. I think we presented a paper that Mr Byron has recently put out. How stable is the environment? Well, at the moment it is not very stable. And, therefore, there will be probably certain aspects of—

Senator O'BRIEN—You see, I recall that one of the tests that would be applied, particularly in regional aviation, if you were auditing an operation was their financial stability, because a lack of financial stability heightens the dangers of cutting corners, breaching regulations and having unsafe practices. So, in an environment where those pressures, according to reports from the head of Qantas, are reaching right through the aviation industry worldwide at the moment, that is going to be one of the biggest challenges that the regulator faces.

Mr Quinn—I agree. There are three key areas of focus that should be taken into consideration—and I mentioned five broad sort of aspects of it—and which I believe we, as the regulator, should be focusing on. And we are focusing on them in this transition into what we are doing. Those three key areas are: the organisation's competency, its systems and its capacity. And its capacity has a financial angle to it. These are the sorts of things that I think need to be on our radar when we are analysing the organisational health and the organisational skill of the operation to deliver a safe operation.

Senator O'BRIEN—So, Mr Byron, do you still think that CASA needs to be apart from or with industry?

Mr Byron—In context, Senator. We are in this together with industry.

Senator O'BRIEN—Well, if there is no industry there is no regulator—I suppose that is true, but—

Mr Byron—Exactly. So in that sense—

Senator O'BRIEN—that is hardly a partnership.

Mr Byron—The activities of both the industry and the regulator hopefully will deliver a safe outcome. The sort of language that I have used is to try and indicate to the industry that we are moving from a purely nanny type regulator to looking at things, for those that are prepared to adapt, in a bigger picture. But it is a mixture of both.

To the question you asked Mr Quinn—his answer to which I totally support—my answer is: no, we are never going to get rid of looking at compliance with the minimum regulatory requirements, and I have said that on a number of occasions. But for some operators, if they are prepared to take a far more mature approach and develop a safety management system approach, then, as part of our oversight mix, in addition to checking compliance with the regulations we will also have a look at how effective their oversight program is, using a mix of both. So the language that I have tried to use over the last few years is to indicate that CASA is going to move, and there will be a range of ways in which we will do business—it will not just be one way. Where there have been questions raised about that, I have tried to clarify that.

Senator O'BRIEN—With respect, you did not quite answer my question. Do you still believe this concept of partnership that you have spoken about? I can draw your attention to a quote where you say:

In some senses the relationship is a 'partnership', with both parties, the regulator and the industry, having a common safety goal, and in a position of mutual dependence in the achievement of that goal. It only becomes a real partnership if the regulator and the industry can work together in an atmosphere of professionalism and mutual respect, and not as protagonists.

Mr Byron—As I say there, in some sense. But that is not the only way we do business. I can see where you are going with that, and I understand—

Senator O'BRIEN—I am just asking you: do you still hold those views?

Mr Byron—I still hold the view that the best safety outcome will be achieved with some operators if they can come with us on the journey and take a serious approach to aviation safety. In that sense, for some operators that would be a partnership. We are still the regulator and we are still checking their compliance, but they are doing more to effect their safety outcomes.

Senator O'BRIEN—So it is no longer a partnership with the industry; it is a partnership with some operators. Is that how it should be?

Mr Byron—It will always be that way, because not all operators are going to take that approach.

Senator O'BRIEN—So you have changed your position from that which you espoused in 2005?

Mr Byron—I have not really changed my position. It is probably just the way in which it was presented there. The ideal, the utopia, is that all operators would take that approach. That would be the ideal. I do not for one moment think that they will.

Senator O'BRIEN—Are you saying that this partnership concept is somewhat utopian?

Mr Byron—In terms of covering all operators, probably. I do not lose faith, but there are some operators that certainly want to take a partnership approach to it—there is no question about it.

Senator O'BRIEN—I am sure, if that benefits them, they would take that approach. Some would want to take that approach because they thought it might be an easier ride in terms of working with the regulator, and some might take that approach because they thought they could hide things better.

Mr Byron—Certainly when I talk to the CEOs of most of the airlines, they realise that they are the biggest sufferers if they have safety issues and they are prepared to come on board with that.

Senator O'BRIEN—But that is the theory behind deregulation, in a sense, isn't it? The industry has so much to lose from getting things wrong that you do not need to regulate them. Their financial interests will regulate them for us. You do not have that view, do you?

Mr Byron—I am not that naive to believe that everyone is going to be like that. We have quite clearly pointed out in our emerging risk study that the sector of the industry that concerns us the most is the regional airline sector, and there are probably going to be operators in that area that do not want to come on the journey. As we have done recently, we have to take a fairly tough approach.

Senator O'BRIEN—So taking a tough approach means, obviously, directives—

Mr Byron—Probably not in partnership with those ones.

Senator HEFFERNAN—So are you conscious of the possibility of a person from that section of the industry that you just spoke about getting a job in CASA and then looking after that section, as it were, with a gentler touch?

Mr Byron—That has certainly been alleged in the past and I think the work that Mr Hart has done has indicated that there have probably been a few examples of that—potentially taking an approach where they know the people or they were anti the operation because they came from it, which was the recent example that we had. So we have to be very careful in our selection processes—there is no question about that.

Mr Quinn—I think I can add to that. Moving away from the selection process and the individuals, we are implementing a much more strategic approach corporately into how we

oversight sectors of the industry. We operate under a delegate management system and do not give all power to the delegates in a specific field office who may have a certain issue or relationship with an operator. The delegate management system is still in place but we remove some of the control from the delegates in terms of having much more strategic approaches to what the risk profile of a particular sector of the industry is or what the risk profile of a certain operator might be and therefore how we corporately we are going to address that, rather than relying on the individual opinion and skill set of a particular individual in a certain field office. I think that is significant in terms of the development of where we are going, and this strategic approach is actually being implemented as we speak.

Senator HEFFERNAN—In the reporting process of a fault discovery or a misdemeanour, there is a paper stream with it all the time? You do not just make a phone call and say, ‘Harry, mate, you should have put the fuel cap on,’ or whatever? It is always in written and reportable format?

Mr Quinn—There are requirements for reporting defects and deficiencies, incidents et cetera that exist in the industry.

Senator HEFFERNAN—And are they recorded or is any of it by word of mouth?

Mr Quinn—There are formal requirements for reporting all the sorts of activities you are talking about. Putting into context what you are talking about, in the past, the regulatory response to one of these types of reports would typically be up to a particular individual. What we are trying to do now is gain more data so that we can understand what this really means in the big picture—is this a trending issue; is this something we should be monitoring; therefore, what sort of regulatory approach do we take?

By doing that, I think we are providing a safer outcome. But one of the most important things in terms of stakeholder relationships, which has always been an issue for CASA and its predecessors and is for every regulator—no-one likes a regulator, typically—is to start providing some consistency to the product and to our engagement within industry by taking on this type of approach.

Senator HEFFERNAN—We recently discovered in a meat inquiry that there were some complaints—

CHAIR—We will not talk about that.

Senator HEFFERNAN—by telephone, and there was no record of it. It is just bloody stupid.

Senator O’BRIEN—I am interested in continuing the matter of how CASA perceives itself and how it wants to project itself to the industry. Does CASA still say things like, ‘CASA works to be a valued partner with the aviation industry’ in any of its public presentations, job applications or mission statements?

Mr Byron—We would need to check that. I do not recall using that precise term in the last year or so.

Senator O'BRIEN—Okay. I am not saying that you have used it, but it may be that it has been used relatively recently in job ads, descriptions on websites—

Mr Byron—You are saying it has been?

Senator O'BRIEN—Yes.

Mr Byron—Right.

Senator O'BRIEN—That terminology is: 'CASA works to be a valued partner with the aviation industry.' Given the connotations of that and what is happening in other parts of the world, I think it is an important matter that we need answered. If that is what CASA is telling the world, why should we not take it that that is CASA's philosophy?

Mr Byron—As a standalone comment on a job ad or something like that, if that is the case then I will certainly take a careful look at that. The term was originally used in the context of a larger change program, which also included the fact that we are still a regulator that needs to check compliance with regulations. That is certainly our agreed approach with what we are doing at the moment with the oversight project. But, certainly, in terms of the image that we project, I will take a careful look at that right now.

Senator O'BRIEN—CASA would be well aware of what has been happening in the Northern Hemisphere with organisations that have had what they would have described as a cooperative approach with industry to try to get the safety outcomes that were desired. You would be aware that the congress has been conducting hearings into the FAA and that, in Canada, their Auditor-General has made some not-too-flattering comments about Transport Canada in the regulation of the industry there.

Mr Byron—Yes, I am aware of that. In fact, Mr Quinn has recently had some discussions with the Americans. I might ask him to give his view on that.

Mr Quinn—Let me start with the Canadian system. 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.

From our perspective, I see that as a free safety and regulatory lesson on the areas that we should be careful about if we are going down this path and we are going to entertain this type of transition and regulatory approach. Whether we go down this path next year—as it has been mandated by ICAO—initially, I was concerned that we would possibly be filing a difference with ICAO if we did not get our act together in terms of moving to this transition. I am more concerned now, having seen some of the northern examples that you mentioned, about not rushing it—we will file a difference if we have to—and about getting it right, rather than repeating or making the mistakes that have been made elsewhere.

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. Bear in mind, there is one other significant—

Senator O’BRIEN—So they were going down a similar path to the path that has been proposed for CASA, as I understand it.

Mr Quinn—That is correct—Transport Canada certainly much more so, and it is certainly much more advanced in that approach than the FAA. The FAA, typically, has a much more inspectorate, prescriptive approach compared to Transport Canada or to EASA, the European Aviation Safety Agency.

Senator O’BRIEN—I know the FAA has been the subject of criticism for being too close to industry. If they are more prescriptive, I do not know where you put yourself between FAA and Transport Canada.

Mr Quinn—The FAA approach has not got to do with that comfort zone, with the regulatory model they are using—it is the engagement with the industry. For example, the FAA uses a much more prescriptive model than Transport Canada has implemented—a significantly different model.

Senator O’BRIEN—Where is CASA between the two? Is it somewhere in between?

Mr Quinn—I think CASA is somewhere between the two and I think it will continue to evolve. I do not think we will ever have a platform of, ‘This is the way we are going to regulate’—horses for courses. One of the other aspects that has not been discussed here and has not been brought up—and I think is significant in terms of the regulatory and the industry scene in Australia—is that the context of aviation in this country is significantly different than it is in the United States or Canada. Canada is probably close to what we have here, due to the geographic spread. It is certainly different to the European experience. Given that context, it should be taken into consideration with how we do things.

I know that my colleagues from AOPA made comments this morning about the application of an FAA airworthiness directive and what that meant in Australia compared to what that meant in the US. Unfortunately, we are not in a position to be able to make those calls immediately—I would like to be able to do that, but it takes time. That context needs to be considered in terms of our regulatory profile and in terms of our regulatory approach to how we do things. Our industry is completely different than what it is in Europe and also in the US. Our airline industry is very concentrated. Our regional operators are reasonably concentrated. Our general aviation industry is spread throughout. This type of approach does not necessarily fit all those categories of operation.

At the big end of town our mainstream airlines—Qantas, Virgin, Jetstar et cetera—have already invested millions of dollars in developing safety management systems. They are not

required to at the moment, because the regulation has not gone through. They have invested in their best interests. They see that this is the way this is heading.

I mentioned the three key areas before: systems, capacity and competency. I would certainly not expect that a regional airline is going to have the systems and capacity to do what Qantas is doing. Therefore, that approach may not fit that particular profile or that particular sector. It is the same situation with GA. The poor old GA crowd are getting clouted at the moment with ageing aircraft issues and rising fuel costs. They just do not have the systems or the financial ability to come out and start developing safety management systems, and I do not expect that. So I do not think the one-size-fits-all approach—particularly with reference to some of the other countries that have been discussed and an IASA, to a certain extent—would work here. We have to be cognisant of the context in which we are moving.

Senator O'BRIEN—So hasten slowly?

Mr Quinn—Yes.

Dr Aleck—I followed the developments in Canada and the United States very closely. There are slightly different issues, but they are interrelated. The Canadian Auditor General's report, as Mr Quinn said, was focusing on risks of transition, although there is some interesting legislation in the parliament in Canada just now that is moving forward and having these same discussions about the degree to which flexibility can be introduced into the industry while retaining regulatory control. The developments in the congressional hearings in the US, as well as the oversight of the Inspector General of the US Department of Transportation, had to do with what appeared to be, primarily in one office, the abuse of a reporting system which was designed to encourage operators to report to the FAA on a voluntary basis on the understanding that, if they did so, enforcement action would be less likely if not altogether unlikely to occur. The suggestion was and the evidence seems to suggest, at least in relation to one of those offices, is that that scheme was abused. It was a focused issue and I think the FAA took action to remove the people who were directly involved. Quite properly, the concern of the inspector general was that, to the extent that this may more widespread, it is something that needs to be looked at. I agree that both of these developments have been salutary. It is very important for Australia to look at them. When they first arose, we made a point of discussing them and monitoring them with a view to ensuring that those kinds of problems did not arise in this environment.

Senator O'BRIEN—Do I interpret what you are saying, Mr Quinn and Dr Aleck—and no-one else has contradicted you, so I am taking it your evidence is the CASA position—that these instances are in part a case for a very careful consideration and reconsideration of the steps you are taking in changing the system of managing safety?

Dr Aleck—I think the issues that bear on the way we proceed, the issues that have arisen out of these developments that bear on our progress, are being taken into account. I do not want to oversimplify it, but it is a question of freedom and responsibility. If you develop a scheme, whether it involves safety management or something under a different term, that devolves upon industry a considerable level of flexibility which enables them to take care of the kinds of things they can do best, that is a good result. The recognition of the regulator has to be that there is always the potential that those kinds of schemes can be abused. One of the things the Canadians have done, to their credit—and this is more in the legislative development than in this particular

matter that the Auditor General was looking at—is that, in conjunction with introducing a considerable measure of freedom and flexibility for industry, they made it very clear in the legislation that the consequences of abusing that will be severe. It was those kinds of introductions that brought around some of the critics of that legislation in Canada. I made a point of discussing this both with people at Transport Canada and with the industry that benefited initially, namely the Canadian Business Aviation Association, which was the first cab off the rank to benefit from that scheme. In the same way, in discussing developments with the people at the FAA I made a point of discussing it with the US Government Accountability Office, GAO, which was highly critical of some of those things. That was in order to bring back to our authority a balance of views on these issues. It is critical that we do it, and my feeling is that we are.

Senator O'BRIEN—In the FAA case, the news reports say things like:

The result of inspection failures and enforcement failure has meant that aircraft have flown unsafe, un-airworthy and at risk of lives ...

... ..

The FAA inspectors wrote that the airline knew it was in violation of safety rules by continuing to fly the uninspected 737s. At least one of the FAA inspectors wrote that he had been complaining about increasing problems like these for years at the Southwest regional FAA office, which oversees Southwest Airlines.

Those sorts of passages certainly would ring alarm bells to anyone looking at our regulatory system and wondering if we were going down a similar path.

Dr Aleck—It is absolutely chilling, but the point I would make is that no system is immune from the kinds of problems that arose in that situation. Some systems are more conducive to those kinds of abuses if the monitoring systems that a responsible regulator puts in place are not effective to deal with them. The best system in the world will fall down if and when individuals fall down, whether it is at the field office level or at the highest level, and I am heartened by the fact that the approach to developing safety management systems, introducing them and permitting industry to take more and more responsibility for their own activities has been coupled with a cognisance and a responsiveness to the need to ensure that they are monitored on that basis.

I think, if that message is conveyed on a regular basis—and my feeling is that it has been—we will get the balance that Mr Quinn spoke about. Will we ever achieve a perfect balance from which there is never any deviation? Not in this life cycle. But I think we can come a lot closer to it than other people may think.

Senator O'BRIEN—So what you are telling us is that this safety management system is the subject of intense legislative scrutiny in Canada.

Dr Aleck—Aspects of it are, yes. It is a safety management system in broad scope which says to an operator, without necessarily specifying particular processes and particular mechanisms, 'You know best what your risks are. We'll provide you with the flexibility to identify those risks and deal with them in a responsible way, and we'll create a legislative regime that allows you to

do that and spend less time being overly concerned with meeting what may in some cases be fairly prescriptive and not necessarily constructive regulatory requirements.’

To a responsible operator, that is a great thing, and I have no doubt that there are many responsible operators who will respond to that in the appropriate way. In respect of the irresponsible operator who exists everywhere and in relation to whose activities there was quite a bit of testimony before parliament in Canada, they will take this as a get out of jail free card. That is the human condition; that is not unique to safety management systems or particular regulatory systems.

Our obligation, as we move into this modern, progressive, very constructive approach to managing safety, is not to lose sight of the fact that we have to have a correspondingly modern approach to regulating and, where necessary, enforcing requirements in that environment. It is a hard row to hoe, it is ground that has not been trodden before and it is one of the things that makes this job interesting because that is what we are trying to achieve. I think we are moving in that direction.

Senator O’BRIEN—Mr Quinn, you were suggesting, if I understood you correctly, that the US was having a rethink about how much of that system they wanted to embrace.

Mr Quinn—My comment was based not so much around how much of the system but rather the timing of the delivery in terms of the ICAO 2009 implementation plan. That was shared with me earlier this year in a formal meeting with the FAA. Of course, there could be other states internationally doing the same thing.

Senator O’BRIEN—Is that before or after congress?

Mr Quinn—It was just before, actually. I believe there are other states that are in the same position. I should add that, whilst this might be a new move for the aviation industry, it is not particularly new for many other industries. Many other industries have successfully transitioned to this type of approach—I think that was highlighted in the Auditor-General’s report—and also made significant safety improvements by using this approach. My experience with this—in actually implementing SMS and using SMS from an operational perspective—is indicative of the fact that significant gains in safety can be made.

From an operational point of view, it is quite a significant investment to do this, to move away from a plateau of safety outcomes, whether that be through incident rate, accident rate or any sort of occurrence rate. It has tried to arrest that plateau by using a straight ‘compliance equals safety’ approach. The industry has plateaued for a long time. The international air transport statistics on wide-body hull losses, for example, have plateaued for the last few years—actually, they are on the increase due to accidents in some of our neighbouring countries. Systems have not changed significantly. Whilst there is some new technology in terms of introduction of composites et cetera, even with the new aircraft types that we are seeing introduced onto the register at the moment, primarily the Boeing 787 and the A380, there are not a lot of new systems being introduced that are really going to have an immediate impact on safety, except for the fact that they are brand new aircraft and, therefore, should be much more airworthy. The point I am making is that you have to get some improvement. I have had the personal experience

of managing safety both in terms of minimum compliance and also in analysis of risk at an organisational level to target specific areas and monitor outcomes.

Senator O'BRIEN—We had specific evidence this morning about complaints being raised with CASA about the amount of time pilots spend on duty. There was a suggestion that that was a safety issue but that CASA would not act. That seems to fly in the face of what you are saying about responding to the challenges. We have an environment where, even with newer aircraft, we are having more incidents and accidents yet, according to that evidence, over a period of three years we have had repeated claims that the regulations for crew rest times are not being met, with no action being taken. According to the evidence, there has been a suggestion that when the regulations change this will all change. I am not sure whether that is a completely accurate reflection of the evidence; that is my immediate recollection of it. How do we align the sort of concern that is being expressed to us with the position you are putting to us now about CASA's position, Mr Quinn?

Senator HEFFERNAN—I will clarify that a little bit, Senator O'Brien. You probably heard that this morning. They said, 'When everything is hunky dory—the weather is fine and everything is all right—there is not the same issue as when there is bad weather, when there are storms or added pressures on the pilots.' That was part of it, wasn't it, Senator O'Brien?

Senator O'BRIEN—I think the suggestion was that, in the wrong circumstances, fatigue could be very dangerous—I think that is a summary of the way the evidence was put—and that, despite the matter being raised with CASA and it being not in accordance with the regulations, CASA refused to act.

Mr Quinn—Let me make a couple of comments about that. I actually had discussions with the international pilots association briefly and rather informally last week, as a matter of introduction. I have not had much to do with them at this stage, but the topic did come up. I am aware that it is a question on notice topic from the previous Senate estimates, and we are looking into and preparing our response to that at the moment.

CHAIR—Do you have any comment on that at this stage?

Mr Quinn—I am aware that the issues are to do with Civil Aviation Orders part 48 and the hierarchical structure of those orders. There is a difference of opinion in the interpretation of what it actually means. This Civil Aviation Order was implemented in 1990, and I believe it has become the subject of disagreement over the last few years. I cannot comment any more than that at the moment, except to say that we will look at how CASA arrived at its position in allowing interpretation of the regulation and that if we need to fix it we will. As part of the—

CHAIR—You do not need to fix it, Mr Quinn; you need to enforce it. You are the regulator.

Mr Quinn—Point taken.

CHAIR—You are not enforcing it. Mr Carmody is very well aware of the line of questioning from estimates. I appreciate you may not be. Do you wish to add anything, Mr Carmody?

Mr Carmody—I can talk a little bit about CAO 48. We are investigating the matter in anticipation of the response for Senate estimates, but I will add a couple of points because I think they are probably relevant. There has been a lot of consultation with the Australian and International Pilots Association on CAO 48. Following on from the discussions that we had earlier, they are in the working group and they have been in the working group each time that it has met, so they are well aware of the fatigue risk management process.

CHAIR—Sorry, what working group?

Mr Carmody—There is a fatigue risk management working group as part of the standards subcommittee which is reviewing CAO 48. I did mention that last time.

CHAIR—They should have nothing to do with enforcement.

Mr Carmody—As I said, there are a couple of issues.

CHAIR—No, I want you to answer that, Mr Carmody. That consultative committee is not the regulating body. You guys are.

Mr Carmody—The consultative committee is not the regulating body. That is correct. CASA is the regulator. CAO 48 is a very prescriptive regulation. Quite a number of exemptions from CAO 48 have been issued for various operators. There is a lot of work going on in trying to resolve this matter.

CHAIR—You said that last time, but are you enforcing it?

Mr Carmody—We will be answering that in—

CHAIR—It is either yes or no, Mr Carmody. This is not a new question. It was in estimates. Are you still enforcing it?

Mr Carmody—Correct, Senator. We will be providing an answer in our answers to questions on notice.

CHAIR—I do not think it is that hard a question. Either you are enforcing it or you are not.

Mr Carmody—We have enforced it on occasion—I do know that—but I would like to make sure that we investigate fully how much and whether we have enforced it on all occasions.

Mr Quinn—I will just make the point here that I left this country about 10 years ago and worked overseas for some considerable time, and this was then a subject of significant debate that had been going on for a long time. I am astounded that it is still going on, and I look forward to the introduction of the new parts in your new regulations which will address this. But, getting back to your issue, I have been briefed so far about the CASA interpretation. I am not sure if we are talking about black and white enforcement. A lot of these civil aviation orders, particularly, are quite detailed. There are ways and means by which you can determine or interpret what it actually means. I take it upon us, as per the question on notice, to come up with a satisfactory answer both to the Senate committee—or to the Senate—and to the industry and AIPA.

Senator O'BRIEN—You do not find out what it means legally if there is a dispute unless you take it to court.

Mr Quinn—I would like to think that we could resolve this without doing that.

Senator O'BRIEN—Three years of not doing it—apparently, on the evidence we had this morning—tells me that you are not doing it and that it probably would have been better if you had taken a case and found out what the thing meant, if there is a dispute about what it does mean. You have lawyers; the airlines involved have lawyers; the organisation raising the issue has lawyers. I am sure they could work it all out if CASA has some concerns about what it means.

Mr Quinn—Point taken.

Senator HEFFERNAN—I will just ask a question to inform myself. How onerous are the guidelines on flying? If I am a Qantas pilot, fit and healthy, and I jump in in Sydney, what is the restriction on how many hours I can fly—as with a truck driver, as you would know, Senator Sterle? What are the restrictions that they were arguing about?

Mr Quinn—It is complex, to start with.

Senator HEFFERNAN—I do not doubt that for a minute.

Mr Quinn—It is not a simple model, and it was built a long time before the—

Senator HEFFERNAN—Modern technology?

Mr Quinn—Well, the model that we are operating in now, particularly with the advent of ultralong-haul operations. These prescriptive regulations were born well before that was even conceived, and therefore the process of constantly trying to—

Senator HEFFERNAN—Could I assist myself, Senator O'Brien, in this matter. Some years ago we switched from steam engines to diesel engines in trains. For about 10 or 12 years after we got rid of the steam engines, on the diesel trains we still had firemen because that was the way it worked. There was no fire—it was a diesel engine—but you still had a fireman. Is that the sort of thing we are up against here—that we are using old-model planning and management for new technology?

Mr Quinn—Certainly the regulations do not fit the current look of the industry.

Dr Aleck—Could I speak to that. Part 48 is probably 30 years old, if not more—and I would suspect it is more. I will not try to repeat what is in the order now, but it is basically so many hours per day, so many hours per week and so many hours per month of flight time and duty time. There is so much duty time, if you are working for an employer, that counts against the amount of time you can fly. Besides being prescriptive, it is a very clumsy way of measuring things, if for no other reason than an hour's flying time in horrendous weather conditions is undoubtedly more fatiguing than three hours flying in wonderful conditions. For 20 years or more, this issue of flight and duty time—across the world, I might say—has been a vexed issue.

How do you determine how much time a person can fly—and we are talking about commercial pilots now—and how much time they are permitted to fly after they have been doing other things that do not involve necessarily piloting an aircraft but are duty related? That could include time spent in the aircraft, on the flight deck, but not flying. There are always going to be industrial issues around this as well, but there are clearly safety issues. One of the things that became apparent as the scientific assessment of these things progressed was that there are much more sophisticated ways of determining how much a person is physically capable of doing, under what circumstances, before their ability to safely fly an aeroplane degrades.

Senator HEFFERNAN—So the vagary that we are faced with now is that the rules were set around 30 years ago.

Dr Aleck—That is right.

CHAIR—The vagaries are, Senator Heffernan, because there is a rule there that is not being enforced. Right, wrong or indifferent, you can put all the codswallop around it that you like, but whether you are sitting on an apple crate or a sheepskin seat cover, for Christ's sake, there is a rule and you are not enforcing it. Put all the words around it that you like. That is the truth of the matter.

Dr Aleck—The rule itself encapsulates a provision that says, 'Exceptions to this rule are available.'

CHAIR—I understand. There is a rule there that CASA is not enforcing. How many years do you have to work on it? I might be able to chuck more Crownies down my throat than you, Dr Aleck, but it does not make any difference—.05 is .05.

Senator HEFFERNAN—Chair, I realise you are very passionate about this, but my question, with great respect, is: are the regulations that we are arguing about relevant to today's technology?

Senator O'BRIEN—Undoubtedly they are relevant.

Senator HEFFERNAN—It took them about 15 years to figure out how to get rid of the fireman out of a diesel engine, and they eventually took the guard out because there was no guards van. It can all be controlled from a dunny down the hallway now on all the railway lines from here to Melbourne. Is that the sort of stuff we are up against, with regulations that are out of date?

Senator O'BRIEN—No. There are still pilots. You have created a straw man, Senator Heffernan, about positions that no longer exist because of changing technology. If we are talking about whether there are still pilots in planes, as far as I know that is still the case. And this regulation is about the duty time of pilots. It is not about firemen; it is not about guards.

Senator HEFFERNAN—I entirely accept that, but when I learned to fly there were no satellites and you had to figure out the wind with one of those aluminium things. It was a lot different. Now when you fly somewhere internationally the pilot will come for a walk down the

plane and you think, 'I wonder how he's staying awake up the front there. I'm buggered.' You are lying down sleeping and the plane is on auto.

Senator O'BRIEN—And of course the range of aircraft and the amount of time they can fly for, in the main, has increased.

Senator HEFFERNAN—So the question is: when is the regulation going to catch up with the technology?

Mr Carmody—I can partly answer that. I have mentioned the fatigue risk management work that is going on and the involvement of a range of people on the Standards Consultative Committee. There is sleep research which is going on. We have a number of people working with us who are on the ICAO fatigue risk management panel. ICAO are soon to release their draft standards and recommended practices on fatigue risk management. We currently have four scientific experts reviewing the Australian proposal to amend CAO 48 and create an FMRS. So it is a lot closer than it was. The people who are speaking about it are involved well and truly in that process. I would like to ask Dr Aleck to mention the issue of discretion, because Senator Sterle raised that very clearly, and that is one that we will deal with also in our response to the questions on notice.

Dr Aleck—I will preface that by saying that, Chair, your question was: is it being enforced? If there is a rule in place today and a different rule may be in place tomorrow, what are we doing today? And that is a fair question. The answer to that is, in fact—and I do not want to pre-empt what we put in response to the question on notice—that enforcement action has been taken against pilots and against operators in relation to contravention of the flight and duty time rules. You will get that information when our answer to the question on notice comes in. At the last estimates the question of whether there was discretion to enforce the rule was raised, and I think the answer to that question from a couple of people from CASA was: 'Well, no, there is no discretion; we must enforce the rule.' I think what was intended by that was that as a regulatory authority CASA's responsibility was in part to enforce the rules. As for any regulatory authority, as a general rule there is no discretion about that. That is a key, core function in section 9 of the act and there is no question about it, and I would be the last one to suggest it is otherwise. But like any regulatory authority we cannot and do not enforce, in the formal sense of that term, every single contravention of a requirement that comes to our attention, in the same way that a police officer does not issue traffic violation tickets to every car that is a kilometre over the speed limit.

What we do do is assess the nature and seriousness of the contravention and the circumstances in which it has arisen. It is a responsibility of the operational areas to make these judgements in the first instance, and if they form the view that it is a matter that ought to be dealt with then it is dealt with through some form of enforcement, whether it is administrative action involving an air operators certificate or a pilots licence, or whether it is enforcement action involving an infringement notice and, in some cases, prosecutions. I am not going to pick out any particular examples, because I have no particular ones in my head, but, if somebody is one hour or 15 minutes over their duty, that is probably not the kind of thing that is going to result in a full-flowing enforcement response. But, if there is evidence of systematic under-recording of flight time or, certainly, evidence of manipulation of an existing exemption for the purposes of

allowing more hours to be flown than should be, those are the kinds of things that genuinely do need to be looked at and, as a matter of enforcement, they most certainly should be.

I suspect that you will find in our response to the question on notice that, in addition to the prosecution action and in some cases infringement notice action that has been mounted, although gathering these data will be challenging, I personally have seen any number of show-cause notices that have been served on operators that have included, amongst a number of other facts and circumstances, allegations of noncompliance with applicable flight and duty requirements, whether it is part 48 or an exemption to that.

Senator HEFFERNAN—I wanted to go to the question of the criteria in your trials, or whatever they are, for fatigue management. One of the scary things that you come across on the highway is people driving on cruise control. If you have had a big feed and it is two o'clock in the afternoon and the sun is beaming in, you can nod off to sleep—and it scares the hell out of me with some of these big trucks that are on cruise control, because the drivers can go to bloody sleep at the wheel. If you go to question time here in parliament, you will see people who nod off every day. Some people, because they probably eat too much bacon and eggs and do not do enough exercise, are more readily fatigued—or it may well be through no fault of their own; they may be diabetic, for instance. The pattern of fatigue is as vague as any vagary. How the hell do you have a regulation that says, 'That's a reasonable length of time for fatigue but not for this bugger over here, because he is bit of overweight'? How do you figure that?

Mr Carmody—I do not know the answer. I know there has been a scientific sleep research approach; it is being dealt with by a number of experts in the field. If there is an answer to be created that is not specific and prescriptive, that is the answer that they are aiming for.

Senator HEFFERNAN—But surely some blokes are bugged after eight hours, while some blokes are still going after 18 hours—it is just their metabolism.

Dr Aleck—The legislation accounts for that; you are quite right. Although the legislation says you can fly for eight hours, it is quite conceivable that after four hours somebody is no longer capable of flying for one reason or another. The legislation also includes a provision that says, whatever the time specifications may be, it is unlawful to pilot an aircraft if your physical condition makes that a danger. That is something that, under the current regime, in the simplest situation, the individual pilot comes to terms with; but, even in the more complex situations, where you have a large organisation making assessments about fatigue, in the absence of the benefit of new legislation, they say: 'Hang on, what's with this guy's medical condition? What do we know about this individual?' But, when you are making a rule that is going to apply universally, it is going to be impossible to come up with a number that is going to be right for everyone.

Senator HEFFERNAN—That is my point.

Dr Aleck—By the same token, I suspect—I do not want to be out of line here in terms of the scientific technology—that the most sophisticated FMRS system in the world is still going to have to generalise to some extent. Where operators are going to be expected, I suspect, to take on more responsibility is in utilising those systems taking into account what they know about

their individual pilots. I think we will come closer to more appropriate regimes if that kind of scientific approach is taken than we will by arbitrarily saying so many hours.

CHAIR—No-one is going to argue with that. I am up to here with fatigue management over the years. All I seemed to get tied up with in the last 10 years of my previous life was ranting on about fatigue management. I understand it is different for every individual—I fully understand that. But we have gone around in circles for the last 10 minutes, and I am not going to rabbit on anymore. There is a law there and you are not enforcing it. As far as the new FMRS is going, all parties are working together happily, I understand that, which is commendable—fantastic—and they have been for the last three years. I wait with bated breath for the answers on notice.

Senator HEFFERNAN—Can I go to couple of new issues?

CHAIR—Right.

Senator HEFFERNAN—This is along the same lines. Where are we up to with the prospect of simulated training and then straight into the right-hand seat?

Mr Byron—The MPL issue?

Senator HEFFERNAN—Yes.

Mr Byron—The MPL trial has been progressing with quite a lot of input from industry, and I believe it has been modified along the way. I will get our experts to talk more about the detail in a moment, but we are certainly not looking at a situation where someone is trained exclusively on a simulator, with no flight training time in an aeroplane, and then gets into a control seat in the plane. Certainly from the initial discussions on that I knew we would never end up with that situation.

Senator HEFFERNAN—I have, with the indulgence of the chair, some evidence here from Senator Judith Adams which we will put to the committee and which has only come this afternoon—I will come to that shortly. Kids learn to ride a little pushbike and then a little Pee Wee 80 motorbike before they get on a Honda 900 or that sort of thing. Will there be a time when people will just get straight on the Honda 900, as it were, in aviation in the future?

Mr Byron—I do not think it is the size of the machine that counts; it is the way in which the aircraft is operating from a crew point of view. We have quite a bit of expertise here to talk about how the trial is progressing.

Senator HEFFERNAN—While you are gathering up the expertise, this morning we were told about a Chieftain, I think it was. They were grounded and it was something to do with leakage. The guy suggested, ‘Well, you could have just got out to see that it was not leaking and then flown somewhere.’ There are a lot of people today driving cars who would have no idea how to change a tyre and no idea, probably, what is under the bonnet. Are there pilots around who have no idea what is outside the cockpit?

Mr Byron—Are we talking about the airworthiness directive for the fuel servo?

Senator HEFFERNAN—Yes.

Mr Byron—I heard the evidence from, I think, AOPA this morning concerning the way in which that was released. Your question relates to the technicality of actually getting your hand under the bonnet. That airworthiness directive, when it was released to the industry—I think it was late afternoon and we received it from the Americans in the morning; it required some editorial work before it was released—was considered by our airworthiness people because of its quite serious breadth of effect. I know that created a lot of concern and there was quite a bit of action from our people over the night to sort some of that out. The allegation was made to me by email—the first thing the next morning, I think—that it would have minimal effect on aircraft. I was at a general aviation airport and I think at about nine o'clock that morning I went down to a maintenance organisation randomly and said, 'Have you got any aircraft affected by this airworthiness directive?' The chief engineer said, 'Yep, I've got three that I have to inspect. I inspected the first one at eight o'clock this morning and it was defective. And I've robbed the part from somewhere else and fixed it up, and there it is out there with the engine started and ready to go.'

So I started to look at it. I am a trained pilot, not an engineer. He is a licensed engineer. I asked him to show me, on a couple of different aircraft, where it was located and his opinion about whether or not, if I were operating his aeroplane, he would be happy for me to check it. The answer I got from him was, 'Absolutely no way,' because, although once you know what the component is you can do the test by putting your hand on it—he said when this one was found he just wobbled it and it was very loose, and then he went about the maintenance rectification—if you were operating that aircraft away from base, he would not trust you to check that. That was his opinion. Different people had different opinions. About two weeks later I was at a country airport at another maintenance organisation. They had Chieftains, which are twin-engine aircraft, and I asked if they had any aircraft that they needed to inspect. They had two which they had inspected and I think one of them had been affected. I was pursuing the issue of the competence of me to get under the bonnet.

Senator HEFFERNAN—I take your point, yes.

Mr Byron—I have not spoken to an engineer that would authorise any of his pilots of the organisation to do that, without showing them, very carefully and pictorially, where the component is located, and getting them on the phone and describing it. For the next 24 hours the aircraft that were stranded were handled in the way that the pilots were authorised to do it. We issued the appropriate authorisation. But it was under strict supervision. It actually required photographs of what they were doing. Certainly, from the initial airworthiness directive, I would not have jumped under the bonnet of a Chieftain and done the check if I was going to jump in the thing and fly it back to base. So there was a bit of a difference of opinion.

Senator HEFFERNAN—Going back to where I was on the simulator, were you going to tell us something about the simulator?

Mr Carmody—There is a multicrew pilot licence project team that has been involved in overseeing it. If I heard AIPA's testimony this morning correctly, they said that they were not involved in that, but I think they misspoke. They have been involved in that committee from the start. That multicrew pilot licence is being implemented in accordance with the standard

published and in place from 23 November 2006 by ICAO. We have a comprehensive consultation process, as I said.

The first pilots graduated from a Denmark training academy in September 2007 after completing their final training. It is anticipated that graduation for the first Australian qualified pilots is November-December 2008. ICAO has set a minimum standard of training experience of 240 hours, including 40 hours of flying. Our graduates will have an estimated 468 hours of flight and simulator time when they graduate. It is progressing very well, Senator. They do flying and they do simulator time.

Senator HEFFERNAN—But these guys that are going to step into a commercial airline would not know how to fly a Cessna 150?

Mr Carmody—My understanding is they do some solo time, so therefore they have to, and before they do solo time they have to do time under instruction. So they do get hours up to fly solo.

Senator HEFFERNAN—Do they start off in little trainee aircraft?

Mr Carmody—They do. They get hours of solo time in aircraft.

Senator HEFFERNAN—They get their first 50 hours. They get the sound of the wind, on their own, in a plane.

Mr Carmody—Correct. There is a lot of simulator work. As I said, there is a total of 460 hours of flight time in a simulator.

Senator HEFFERNAN—It is very quiet the first time you go around on your own. The paid-by-trainee endorsements were raised this morning. Could you outline to the committee just what are the restrictions and opportunities. We were told this morning that the airline in the north—

Mr Byron—Transair.

Senator HEFFERNAN—We were told that the bulk of their business really was not flying people around; it was getting paid to have people in the right-hand seat and to give them an endorsement—that they were being paid by the trainees to sit in the seat. What are the restrictions and opportunities around that?

Senator O'BRIEN—You left out 'on an RPT flight'.

Mr Byron—I will separate what I think are the two issues here. One is the endorsement training and the other is flying as a crew member of an RPT flight. It is quite common for people to pay for an endorsement. Most of the major airlines now require their pilots to pay for their endorsement, which is normally simulator based training. I assume that a number of operators, if they are employing pilots to operate aircraft not supported by simulators, would get them to pay for their endorsement in the aircraft, which would not be passenger-revenue flying.

As to the assertion that pilots are actually then paying for flying on an RPT service, if it happens, it is a shocking practice. In my industry time, I have come across situations where copilots in multicrew operations that we were operating did not have enough command hours to be qualified as a captain. They needed to get a minimum of 500, or something like that, and their commercial training did not give them anywhere near that. So they would basically go off moonlighting—as I found out—on single-pilot operations, which they were endorsed to do, to accumulate command hours. I heard of one case where pilots were actually paying an operator so that they could fly the aircraft in command on night operations freight. Where I could I put a stop to first officers who were doing that, and we looked at another way of giving them their ‘in command, under supervision’ training.

As to that actually happening on a revenue flight, first of all, to be on a revenue flight they would have to be endorsed on the aeroplane, either as a copilot endorsement or command endorsement, to crew the aeroplane. Then, if they are trying to accumulate time, they would not be trying to accumulate copilot time—that is not worth anything to them. No-one in their right mind could be talked into paying for that. But, if people were being charged for ‘in command, under supervision’ training at the same time as running a revenue flight, that is an abhorrent practice.

Senator HEFFERNAN—Isn’t that what we were told this morning was happening?

Mr Byron—That is what I assumed. I have asked around my officers—those who are based in Canberra today—and I have not had any indication that we have had reports of operators doing that. I intend to ask further down the line to the front officers. I will probably ask Dr Aleck for a legal opinion on it. But it is certainly an abhorrent practice if that has been going on.

Senator HEFFERNAN—So in the case of the tragedy in the north, my understanding was that there was a difficulty with the right-hand-seat endorsement. Is that not the case?

Senator O’BRIEN—With regard to the instrument approach?

Mr Carmody—That he was not endorsed on the instrument approach?

CHAIR—Dr Aleck, did you want to give an answer to that—

Dr Aleck—I will take that question on notice. I remember that we had a discussion around this issue. There are circumstances, as Mr Byron indicated, where a pilot can accrue command time by virtue of the fact that he or she is under supervision by a more qualified and more experienced pilot and there are circumstances in which that kind of accumulation of additional time can occur on an RPT flight. I do not believe it could happen where they do not actually hold the basic qualification to be—

Senator HEFFERNAN—It would be helpful for us, for other reasons, if you could give us the guidelines on paying for your time, as it were, and the restrictions.

Senator O’BRIEN—And the forms of training on RPT flights and charter flights.

Mr Carmody—Understood.

Senator HEFFERNAN—We were given some evidence this morning about a Mr Purdie and a Mr Wright. Do you blokes know anything about that?

Mr Byron—Is this the evidence that was given in camera?

Senator HEFFERNAN—No.

Mr Byron—I know who Mr Purdie is.

Senator O'BRIEN—If it was in camera, you are not allowed to ask.

Senator HEFFERNAN—Was it in camera?

CHAIR—No.

Senator HEFFERNAN—Was Mr Purdie a CASA bloke?

Mr Byron—Yes.

Senator HEFFERNAN—He put a certain set of conditions around something that Mr Wright or Mr Wright's operation was supposed to do but it never got enforced. Is that the gist of it?

Senator O'BRIEN—I will have to refresh my memory.

CHAIR—We might come back to that, Senator Heffernan. Just while we are refreshing our memories, Senator Fisher would like to ask some questions.

Senator FISHER—Mr Byron, in your introductory remarks—and I do not think you have clarified this since—you talked about a reduced number of complaints made to CASA. Maybe you were referring to your submission, where the second dot point on page 3 reads:

The Office of the Industry Complaints Commissioner (ICC) was established in February 2006. There has been a consistent downward trend in complaints concerning CASA since the ICC was appointed.

Was it that to which you were referring in your introductory remarks?

Mr Byron—Yes.

Senator FISHER—I think in your introductory remarks you made an observation as a result of the downward trend in complaints. Can you remind me what that was?

Mr Byron—I will refer to my notes.

Senator FISHER—Alternatively, if you wish, you can explain to the committee your view of what the reduced complaints means—the message that CASA takes from the reduced complaints.

Mr Byron—To give you a complete answer, I will tell you what I said and give my brief view of that. Then I might ask the Industry Complaints Commissioner, who is at the table, to give you more detail. I said that CASA's actions are now more transparent and accountable, in part through the establishment of the office of the Industry Complaints Commissioner in 2006. The intent was to improve our grievance handling processes, and there has been a pleasing downward trend in complaints received about CASA since that time, evidencing our improved relationship with industry.

I put a fair bit of emphasis, as have a lot of other managers, on encouraging people to put in a complaint if they have a problem with what we are doing. I have spoken to people in some of the major airlines when they have had difficulty with something. I have told them to put in a complaint because, if it does not go into the system—if we do not accumulate the data—then I have no way of measuring our effectiveness in an area. I suspect that we get quite a few complaints about things that are out there and that you might get but are not reported through the ICC. If I may, I will ask Mr Hart to give you his perspective on how the complaints handling system is working.

Senator FISHER—Thanks, and I may come back to you.

Mr Hart—I will address that remark by saying that, yes, complaints are going down. Do I mean that serious complaints are going down? Yes, I do. On the complaints that I measure—and I measure in terms of a number of areas in which they are occurring—you can see that CASA management's responses have addressed the issue and, in some cases, the source of the complaint disappears altogether. As an example, in testimony earlier today, ASICs and CASA having a problem with dealing with ASICs were mentioned. There was an enormous spike of complaints to the ICC about ASIC issues and the general process and policy. Those have virtually declined to nil. It is the same with flight crew medical licensing and licensing issues. These were process generated problems. It is my view that the processes have been addressed in terms of driving down the complaints.

In terms of where the complaints come from, you will see that I have already made a submission that has gone to Senate estimates that indicates that the complaints come from two specific areas. They come from both the industry and the public. 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. I then pass those on to the relevant area and ask them to address them. I do not forget them. I monitor the outcomes in that process. I still get serious complaints, and I do not underestimate those by any stretch of the imagination. The issues about culture which were referred to earlier are alive and well and are being addressed as we work through some of these more difficult issues. The nature of the change of the organisation is also a source of complaint. The way that change process has worked or not worked, and whether or not it is understood, has also given rise to complaints. Is there any specific area as to the complaints? No, they are fairly well distributed throughout the organisation. Some sections of the industry have no complaints; others are very voluble in their complaints.

In terms of how I measure what is or is not a complaint, I do not regard people whingeing, because they have not got something first up or because something has not happened as quickly as they would like it to—this is from my perspective—as being a complaint. What I am really interested in is this. While I understand those may be sources of annoyance to them, until a service has been denied, poorly done or refused they have no real grievance and they have to deal with the area concerned to address the issue. If they feel that is not going to happen, then occasionally my office intervenes. But there is no doubt that there is a distinct downward trend in what I call basic background complaints from both the industry and the public. The thing that I find most reassuring, and I think the committee should find this too, is that there has been an interesting upward spike in what I call the confidence of stakeholders, particularly members of the public who ring my office on a daily basis to give us information that relates to safety issues.

Senator FISHER—Both Mr Byron’s and Mr Hart’s answers touch on the detail that I want to explore a bit more. Mr Byron was suggesting that the decline in complaints indicates an improved relationship with industry. Mr Byron, I presume that in saying ‘an improved relationship with industry’ you were defining industry as Mr Hart has just defined it. Otherwise, were you including the public in your definition of industry for the purposes of the observation you made?

Mr Byron—I was mainly thinking of the aviation industry. A lot of our complaints relate to service delivery where industry people have to pay for a particular service.

Senator FISHER—So you were meaning industry as per the first category that Mr Hart was referring to?

Mr Byron—Yes.

Senator FISHER—Mr Hart subsequently suggested—and please correct me if I have got it wrong—that complaints from industry had significantly declined and that complaints from the public had slightly declined. Mr Hart made an additional observation that the public’s confidence had spiked upwards. On what basis are you saying that, Mr Hart, given that on the one hand there is a general observation that the decline in notification of complaints means increased confidence in the relationship by industry and yet on the other hand you are speaking of a lesser decline as to members of the public being somehow used to show a spike in public confidence? So how do those relativities work?

Mr Hart—Let me explain that when this office was established, it was established as an avenue for industry to make complaints about CASA and CASA actions. In terms of industry, it was specifically to address the complaints that the chief executive officer got from members of the industry about the way CASA operated. In that process, the office is being publicised by the chief executive officer, and it has also gone onto the website. My office, in that establishment process, picked up what is known as a CASA hotline, which is a 24 hours a day, seven days a week notification service by which members of the public can ring CASA about all sorts of things, no matter what. We have also found that within what I call the increasing ‘web based world’ people now go to the CASA website and see that there is a point for the industry complaints commissioner. This drives an enormous amount of traffic into my office from all around the world. I get stuff from people in India, the United States and New Zealand—from a variety of places. They see the office as a focal point where they can give that information or

make a complaint. Do they make a complaint about CASA? Only insofar as where they have been the user of an aviation service and either they have a safety concern or they have been very unhappy with the service they got. We have to make a distinction between whether it is a complaint—yes, it is—and whether it is a complaint about CASA—no, it is not.

The interesting thing is that, if you look at that in terms of providing people with an avenue where they can talk to people, provide information and raise these issues over the time the office has been established, that sort of information has increased basically day in, day out since the very beginning. We get a lot of positive feedback from people; we assist those people by either telling them where they can go to obtain the information they want or seek the redress that they want. For example, in terms of stakeholders or members of the public who use airspace and area services all the time, I get an enormous number of complaints about the in-flight service that airlines provide—whether it is about having lost their baggage, the way they have delayed their flights or kicked their kids off here, or the person who sat next to them there. These are not issues that CASA can deal with on a normal day-to-day basis, but my office provides them with advice as to who to go to and where to take that complaint to—whether it is consumer affairs, the airline itself or some other similar body. For example, if they feel they have been subject to an unfair trade practice, we refer them to the ACCC. We do not just say, ‘We’re sorry; it is not our problem; we can’t help you.’ We provide them with a point to go on to. But the complaints from industry about CASA have been declining.

Senator FISHER—I understand your view, in part on the basis that the ICC was set up to deal with complaints from industry. Now you are attracting complaints from the public, from which you draw a positive conclusion about the relationship with members of the public. The term of reference under which you have raised this issue is about the effectiveness of administrative reforms to CASA, and there is a term of reference that involves relationships with stakeholders. But ultimately it is about increasing the safety of the travelling public. What I am getting at is the fact that the making of complaints might have gone down. Even if that does indicate a more positive relationship, that on its own does not mean that there is increased safety on aeroplanes. Do you want to comment on that?

Mr Byron—Yes. If you have deduced from our discussion of complaints that we believe that that has had a definite effect on safety, we are not claiming that.

Senator FISHER—Yes. I am accepting that, and I note that you have separate points in your submission upon which you are basing what you say. I just wanted to explore it to confirm, because some readers may infer that from your submission, so I was checking that it was not something that you were expressly stating, and you have said it is not. Would you not agree that, in respect of both complaints from industry and complaints from members of the public—and I think you yourselves have commented to these ends variously, Gentlemen—the fact that you may be receiving fewer complaints from industry could be due to the fact that industry is not complaining to the ICC but is complaining elsewhere? It could be due to whether or not Mr Hart, at the ICC, is comparing apples with apples in terms of what is a complaint today versus what was classified as a complaint yesterday and to whether, indeed, the industry, in particular, may have a view that it is not worth while to lodge a complaint. The fact that complaints themselves are trending down—

CHAIR—It is a long question, Senator.

Senator FISHER—Sorry. That fact does not preclude any of those other factors, does it? I need context, Chair.

Mr Byron—I will answer that. You are quite right. I think we have heard evidence today to indicate that people have complaints that we have not received formally. One of the challenges is trying to encourage people to use the mechanism. In my discussions with industry—my two deputies and I have a three-monthly briefing session with industry at various locations around the country, and I think that once the ICC stood up and talked about things—I have said, on a couple of occasions: ‘We know some of you have got concerns about service standards, but you are not using the system to complain. Will you please use it and ask people to use it.’ As I said before, if we do not get the data then we cannot measure it more accurately or effectively. So I accept—it is true—that there are people who have complaints who do not always use the ICC system, but I do not think it is lack of faith in the system, because no-one has expressed that to me. There may be one or two like that, but maybe it is just that they like to use other mechanisms.

Senator FISHER—I guess that is open to speculation.

Mr Byron—Yes.

Senator FISHER—Thank you.

CHAIR—Senator O’Brien.

Senator FISHER—Chair, Mr Hart had one further comment, I think.

Mr Hart—The senator asked a very long question, trying to—

Senator FISHER—A good question, nonetheless.

Senator O’BRIEN—Check the *Hansard*.

Mr Hart—I would also like to explain that, while we count complaints, my office does not just sit there and act as a post office box through which the problems come. We also investigate—just as an internal ombudsman would—in depth, in detail and very specifically matters that relate to the policy direction of the organisation and those issues that would be very high on an air safety basis. The issue and the problem is that my reports—and there have been a considerable number of them—go to the CEO, and we do not publicise that aspect. In other words, it is an unpublished, unpublicised aspect of the work, but it goes on nonetheless. But I can tell you that in the past 12 months there have been, probably, 26 formal reports that have gone to the chief executive officer, and then to the minister if the minister is interested in that sort of thing, with recommendations for change to the way CASA does its business, for the way the regulations have been applied and, in some cases, for disciplinary action for staff.

Senator FISHER—Did you provide those statistics as part of the estimates hearings?

Mr Hart—I am not sure. I would have to check that.

Senator FISHER—If you did not, could you take provision of those statistics, breaking up the 24 or so in terms of the nature of the complaint, as a question on notice.

Mr Hart—As best I can. The only thing is that, with the people who complain to me, we also try and maintain their confidentiality by not broadcasting the fact. As you would appreciate, I have had complaints from one of the major airlines.

Senator FISHER—Are you suggesting that providing the indication of the nature of the complaint would lead to identification of the complainant?

Mr Hart—No, not necessarily, but it is why we do not publicise the outcome, if you like. In other words, the action happens—things happen—but the information is there. I would be happy to give it to the Senate in camera at any time.

Senator FISHER—Are you able to provide that data in answer to a question on notice?

Mr Hart—Yes, I am.

Senator FISHER—Thank you.

Mr Carmody—Could I seek the chair's indulgence to raise one matter that has just come to our attention which I thought might be of interest to the committee and relates to some of the evidence this morning.

CHAIR—Please do.

Mr Carmody—It cuts to evidence about and some of the discussion about a firmer regulator. It also cuts to some discussion about the timing of our action against an operator in North Queensland, where we grounded that operator last Friday, if you recall.

CHAIR—That would be Aero Tropics.

Mr Carmody—Yes, Aero Tropics. We have been investigating Aero Tropics for 10 months and, on 20 March, we issued them a show cause against their chief pilot, their check pilot, their certificate and also a former check pilot. We got a very poor response to the show cause—and, particularly in relation to the chief pilot and the check pilot, virtually no response. On 2 June we cancelled the chief pilot and the check pilot, which essentially grounded the airline because without a chief pilot the airline cannot fly.

CHAIR—So it was a month ago?

Mr Carmody—Yes. On 5 June the airline took us to the Federal Court, and that decision was effectively stayed for 24 hours. On 6 June in the AAT that decision on the chief pilot and the check pilot was stayed until 21 July. We continued our investigations and last week we used the strongest powers we have, which are the powers of serious and imminent risk to aviation safety—again, we have been investigating this for 10 months—and we grounded the airline. The airline took us to the Federal Court today. Once again, the Federal Court overturned the decision on our using our most serious powers, and the airline will be back in the air almost immediately.

So, in terms of the firm regulator, Senator, and the powers that we have available to us, in this case we have explored every power that is possible, as we did in the case of Transair, and we are in the situation where the operator, despite the fact that we consider them not to be safe, is fine.

CHAIR—So what happens if there is a drama? Does the judge say, ‘Oops! I made a mistake. I am sorry.’

Mr Carmody—The decision was made by the Federal Court, Senator. I do not know.

CHAIR—It is a throwaway line, but I wanted to get that on record. Thank you, Mr Carmody.

Mr Carmody—Thank you.

Senator HEFFERNAN—So, in the professional judgement of CASA, this airline is running a public risk in its operations.

Mr Carmody—And it should not be flying.

Senator HEFFERNAN—I will bet you a pound to 1,000 peanuts that the person who put it back in the air would not know one end of an aeroplane from the other. And there will be a whole lot of bloody lawyers involved.

Mr Byron—Chair, our submission covers the issue of the legislation and the difficulties that we have had the few times we have tried to exercise this—

Senator O’BRIEN—Other evidence today was that 80 per cent of your prosecutions end up being unsuccessful. Is that fair evidence?

Dr Aleck—Sorry, Senator?

Senator O’BRIEN—Other evidence we took today suggested that 80 per cent of your prosecutions are unsuccessful.

Dr Aleck—That is manifestly incorrect.

Senator O’BRIEN—So what is the true percentage?

Mr Byron—While Dr Aleck is researching that, could I respectfully ask that the committee at least consider the current legislation and whether you think it is appropriate or whether there should be changes to the Civil Aviation Act.

CHAIR—We will take that on notice.

Senator HEFFERNAN—Can I put some questions on notice with regard to Polair? I recall that we have discussed that over the years. I have a few simple questions about corrective action, a CASA inspection officer, accountability and CASA officers issuing air operations certificates with conditions attached. Would it be all right to give them on notice? It would save time. My

understanding is, by the way, Mr Byron, that that matter got resolved. There was a personality clash, if my memory serves me right, between an officer and the operator, and they almost came to blows.

Mr Byron—Certainly it was the subject of quite a few questions, through estimates, that we had from you. Senator O'Brien also asked us quite a number of questions. This is going back three years or so, but I remember taking a fairly careful look at it. The resolution that we finally got to involved some changes of personnel on our side and some changes of personnel on the operator side.

Senator HEFFERNAN—Chair, I have to say that we have not admitted as evidence the submission that has come today. We should deal with that later. Could I now move to Mr Urquhart's evidence this morning. It was submission 7A. On page 4, it deals with Mr Purdie. It says:

- CEO of Transair, Les Wright's "get out of jail free" ticket, when he assured Mr Richard Purdie of the Brisbane Field Office that he would comply with certain directions to ensure he kept his AOC. He did not comply and CASA did not follow up.

That refers to evidence in the ATSB report, on pages 26 to 28. In part it says:

There was no indication on CASA files that Transair had responded to any of the audit observations raised by CASA since it started systems-based audits of the operator in December 1999.

My question is not really a judgement on that. My question is: if that happened, are there now systems in place to make sure that it does not happen again? Would you prefer to take that on notice as well? It seems that I have caught you with the paperwork.

Mr Byron—I think we would prefer to take it on notice, because we want to make sure that we give you an assurance of our current systems.

Senator HEFFERNAN—We will do that. Obviously these are pretty deep and emotional issues for the people involved. I think they are quite courageous to step up to the plate.

Mr Byron—Yes.

Senator HEFFERNAN—I would like to think that, with the wisdom of everyone involved in this matter, all of us are filled with regret. If there has been some sort of failure of the system, as indicated on pages 26 to 28, we would like to think that the outcome will be that it will not happen again.

Mr Byron—I understand.

Mr Carmody—We will certainly take that on notice. May I say that we have a much better developed coordinated enforcement strategy within the organisation than existed a few years ago, and one of the things that is designed to do is to achieve that outcome. But we can answer the question in more detail.

Senator HEFFERNAN—Thanks very much. Senator Judith Adams has sent a letter to me saying, 'These comments may be of use to you at the CASA inquiry.' I will table them to the

inquiry. They go to the terms of reference and some particular issues. I want to get this on the record. In this commentary it says:

Currently, globally, there is a shortage of trained pilots and as a consequence airline companies are offering exceptional employment terms and conditions for suitably qualified flight crew. This situation has severely eroded the experience levels of Australian aviation organisations—

and I presume that means that the bigger operations can pay you more money, so you go on your way—

and CASA is not immune to this erosion.

Then there is some other blurb, which I will not read out. This person is talking in his capacity as an aviation consultant. He says:

Unfortunately, the offer of higher salaries is not sufficient incentive to curb the migration. It seems that life style and the offer of attractive aircraft endorsements are the major factor for the attrition rates.

The CASA Flying Operations Inspector ... job description is a less attractive career path for most flight crew, than that of an airline pilot, particularly with regard to flight efficiency retention and therefore when the opportunity arises FOI's elect to move to a flying career. The loss of expertise and the cost of re-training have had a large effect on the regulatory service and until the attrition rate of suitably qualified personnel is addressed expertise related inefficiencies are destined to remain.

Have you got any comment on that so far?

Mr Byron—One point I have in relation to CASA is that, with the demand for pilots within the industry, domestically and internationally, and our need to retain or attract appropriately qualified people, as we mention in our emerging risk study, which I have tabled, we are not immune from it either. We used the same language that is used there. From our point of view, we need to be aware of that, which we are, and we have to develop some strategies to make sure we do not get too adversely affected. But in those sorts of jobs we are in the same market as the airlines. Would you like any more detailed comment about the pilot issue for the airlines themselves?

Senator HEFFERNAN—Yes.

Mr Quinn—I can add a couple of things. The life of a flight operations inspector and the life of an airline pilot are two radically different things and there are certain benefits of each particular role. Some people choose the role of an FOI because it provides different challenges. It also provides them with more time in base—that is, more family time, which an airline pilot certainly does not get these days. So there are pros and cons to both. We have discussed fatigue before. In constant travel, fatigue is an issue within every airline pilot's life. These are all issues that need to be considered and balanced.

One of the key issues here is that this industry, particularly the airline industry, is so cyclical. It is boom and bust. We have been talking about the skills shortage and the pilot shortage for a while now. It is listed in our emerging risks paper. If you look at what is over the horizon with

the financial implications of what could happen here, the pilot shortage could be something that is over rather quickly. We could be seeing the end of it shortly with the current threat of a couple of larger airlines in the US apparently on the brink of just basic survival. That cyclical pattern that this industry has will have an effect on the demand for pilots and therefore an effect on CASA. But we are certainly aware of the effect that it has had with some of the flight operations inspectors that we have lost, and we have struggled to find not only the right mix of pilot skills but a person who is suitable to the regulator role.

Senator HEFFERNAN—Yes. Generally nature has a way of sorting it out. They sorted the grapes out there a couple of years ago. We had a glut of grapes, and that soon got fixed up. I will just read on:

The Civil Aviation Act 1988 (Act) part III, Division 2, section 28 describes the conditions required before an Air Operator's Certificate (AOC) can be issued. The Air Operator Certification manual incorporates numerous check lists designed to assist FOI's during initial AOC assessment. These include an assessment of the past culture of the key personnel.

With this in mind it is unlikely that an AOC would be issued to an apparent discreditable organisation. However, as an aviation auditor I regularly encounter aviation operations which have a safety culture with less substance than is acceptable by my clients. The majority of these organisations have a Check and Training organisation which conducts the minimum training and checking specified by the regulations however the general safety culture is being determined by economics not by standards.

Would you like to comment on that? I will read the final bit—I will not read everything in between; it will be available through the committee. It says:

CASA appears to be suffering a brain-drain and therefore expertise retention strategies must be adopted—

which is what Mr Byron said a while ago.

CHAIR—You are tabling that, Senator Heffernan?

Senator HEFFERNAN—Yes, I am.

CHAIR—Did you wish to answer that last question, Mr Byron or any other officer?

Mr Byron—No, we do not have anything.

Senator O'BRIEN—Given we were having a discussion earlier about regulations, I wanted to go to CASA rule making. I think back in 2003, Mr Byron, we were being told that the regulatory reform program was going to be implemented. Older civil aviation regulations were gradually to be replaced by new rules. According to a CASA media release:

The timetable shows that 24 Parts under the Civil Aviation Safety Regulations are scheduled to be made effective by the end of 2003.

A further 14 Parts are scheduled to be effective by the end of 2005, with the timetable for four other Parts yet to be determined.

But, over a period of time, the timetable appears to have been extended and extended. Is it fair to say that we have made no progress in promulgating rules?

Mr Byron—It is not fair to say that we have made no progress, but I accept that progress has been very slow. Certainly, when that was published, which would have been before my time, there was a plan to get them done fairly quickly. I have to accept a degree of responsibility in that, when I came to this job, as far as the regulatory reform program was concerned I believed that there was inadequate consultation with industry about the development of the regulations, so we have since then embarked on a greater consultation process, a slightly different model for getting together teams to write new regulations. That particular topic was the subject of a lot of discussion at the Aviation Regulation Review Taskforce chaired by Dr Hawke last year, and I understand our minister has released the output of that. Also the minister's issues paper for the coming white paper-green paper process talks about CASA getting on with the regulation program.

Senator O'BRIEN—But it has been running for five years.

Mr Byron—Yes.

Senator O'BRIEN—And there is nothing to show for it, is there?

Mr Byron—There is something to show for it—

Senator O'BRIEN—I am sorry; there is probably one thing to show for it.

Mr Byron—and I will ask Mr Carmody to give the detail. The only point I would like to make before passing to him for the detail is that one of the impediments that we have had over the last three years is the legal drafting process. It effectively stalled the program for some time, because legal drafting is not allowed to be done inside CASA. It has got to be done externally, and the legal drafters have just not been available. We have a plan to provide drafting instructions for the majority of the high-priority remaining parts, I believe, by the end of this year, which is putting the pressure on, but we have got the capability to do that. Mr Carmody, would you like to give a bit more detail?

Mr Carmody—Yes, thank you, I will. There are approximately 60 CASA parts made, planned or under consideration. Of those 60, 32 have been made, 12 are in the Office of Legislative Drafting and Publishing, in that backlog that Mr Byron was referring to, and 16 additional CASA parts are under development. We are working with the OLDP to find ways to accelerate the legal drafting process. For example, whilst drafting is their function—that is what they do—we have funded, with the department, extra drafters that we are paying for ourselves to try to remove the drafting backlog. So, arguably, we are paying twice. I will say that, in the last couple of months, some of our drafting has slipped because the drafters in the Office of Legislative Drafting and Publishing are doing other drafting tasks that are of a higher priority. The regulation review task force that Mr Byron mentioned agreed that we would get drafting instructions for the outstanding parts to the OLDP by the end of 2008, and that is the target we are working towards. In terms of our current metrics, the point that I am starting to work towards is, once we have issued drafting instructions to OLDP, as far as we are concerned that is almost

as far as we can go; we cannot control the process from there. But we have made progress, Senator, even if it is nowhere near the progress that was foreshadowed.

Senator O'BRIEN—So when was the progress made? When did we actually get the parts that have been promulgated?

Mr Carmody—When will we?

Senator O'BRIEN—When did we. You said you had done them.

Mr Carmody—Thirty-two out of the 60 have been made.

Senator O'BRIEN—When where they made?

Mr Carmody—I do not have the dates. I can probably find them for you. They would have been made at various times over the last couple of years. If you would like one, I am sure we can find a list of when each of the 32 parts were made.

Senator O'BRIEN—It should not be too hard.

Mr Carmody—It should not be. I have not got it with me now but I am sure it can be found. As I have said, 12 of them are already with OLDP and have been for some time in various iterations. Sixteen are left. Would you like me to provide the information on the 32?

Senator O'BRIEN—Yes, I would. Thank you. You talked about the cost of that process and paying twice; presumably you keep some sort of running total on the cost of the process, given the importance of it to your budget.

Mr Carmody—What I was referring to I think was paying twice in the sense that we have got to fund other drafters who are working in another organisation when it is, in fact, their function to draft. So, when I say we are paying twice, that is their *raison d'être*. We are paying for additional resources to achieve their mission. That was my intent.

Senator O'BRIEN—This has been a longstanding regulatory reform program which, as you say, was commented on by Dr Hawke in his report last year. I am interested in knowing how much of CASA's resources have been committed to that over that period? Has any assessment been made?

Mr Carmody—I am sure we could find a number for you.

Mr Byron—We would have very clear detail of how many people we have involved in that process. The model that we are using, and have been using for a couple of years, requires participation by industry people, as well. That works fairly well in that that is a minimal cost to us. We certainly have adequate project officers and subject matter experts to support the plan for the rest of this year. We have certainly got the message—

Senator O'BRIEN—What is the budget for the rest of this year?

Mr Byron—We would have to check for the regulatory reform program budget.

Mr Carmody—Looking under the outputs in our annual reporting, under the standards section we list the costs in the annual report from years 2002-03 through until now. The costs include provision for all overheads, corporate costs, legal, finance, human resources and all pro rata allocations. I am rounding, but it was \$20 million in 2002-03, \$25 million in 2003-04, \$26 million in 2004-05, \$24 million in 2005-06, \$23 million in 2006-07 and there is an estimate in the PBS of \$24 million for 2007-08. They are listed against the outputs.

Senator O'BRIEN—Including the estimate, that is \$122 million for that process. Have you got value for money? Let's say we have so far got, if you count the ones that you have sent to the draftsman without a promulgation, three-quarters completed as far as you are concerned.

Mr Byron—That is over a five- or six-year period.

Senator O'BRIEN—Yes.

Mr Byron—In terms of value for money, the objective is to get out clear, concise regulations that are easier for the industry to use and that cover the requirements that are changing in the industry. In my view, I think it is value for money over that period of time. It is a fairly massive project and, when I look at the effort that anecdotally I have been told has happened overseas, such as in Canada, I would imagine that those figures are probably about the same as or a bit less than what other people have invested over that sort of period of time. At the end of the day, we want good regulations. We now have a clearer idea of when we are going to be able to deliver them out of CASA, and that has got to be value for aviation safety.

Senator O'BRIEN—What did Dr Hawke have to say about the costs of the exercise?

Mr Byron—I do not recall a specific discussion on that. I would have to check to see if there is any detail on that in the report. I was a member of the task force, but I do not recall a significant discussion on that. The focus was mainly on getting them out.

Mr Carmody—And reducing costs to industry.

Mr Byron—Mr Carmody has pointed out that one of the pressure points on CASA arising from the task force, particularly from industry members, is that the industry is looking for reduced costs for industry to comply with regulation.

Senator O'BRIEN—That is a nice aim, but the idea is to get regulations that people understand, that can be implemented and that do the job, isn't it?

Mr Byron—Exactly.

Senator O'BRIEN—The cost to industry may be a spin-off, but it is hardly the primary issue.

Mr Byron—This has been an area of considerable pressure from the industry on CASA for many, many years. One of the drivers for the industry has been that we want to make compliance with regulations easy to achieve and less costly. That certainly was discussed at the task force.

All I can do is make sure that we do that in an appropriately balanced way with our other activities, and we are certainly moving in that direction—and I will be pleased to see it finished.

Senator O'BRIEN—Basically the progress has been in the last two years, in 2007 and 2008. Is it fair to say that?

Mr Byron—Yes, approximately. There has been more progress in the last two years than there was in the two years prior to that.

Senator O'BRIEN—I have underestimated the cost. My adding up has not been too good. About \$100 million was spent before the last two years and another \$40-odd million after that.

Mr Carmody—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.

Senator O'BRIEN—That is assuming it gets done by then.

Mr Carmody—Yes. That is our plan.

Senator O'BRIEN—One might say the plan has until recently not been performing too well, but hopefully you can meet that particular deadline, subject to drafting instructions. Are there any difficult issues that may intervene to make that timetable unachievable? Are there any regulations that you have not drafted instructions for yet?

Mr Carmody—I think 16 are currently under development. I do not think I am in a position to say how difficult or otherwise they are. One of my colleagues might be able to provide some advice on that, but I am sure that some of them are very difficult.

CHAIR—Would you be able to tell us what they are?

Mr Carmody—Am I able to tell you what the regulations are?

Senator O'BRIEN—Which areas are you developing?

Mr Carmody—I have not got a list in front of me but I am sure I can get a list without too much effort. I do not have it in my documents.

Senator O'BRIEN—Will that be available tomorrow?

Mr Carmody—I am sure we can make it available by then.

CHAIR—Does that include the 12 under the OLDLP?

Mr Carmody—I can tell you the 32 that have been done, the 12 that have left us and the 16 that are waiting in the wings.

Senator O'BRIEN—How would you describe the morale of staff generally at the moment, Mr Byron?

Mr Byron—Generally, it is good. There are always pockets where there are—

Senator O'BRIEN—How often do you actually interact with staff out in the field?

Mr Byron—Personally? I would be at an office probably once a month. It is interesting. I do not seem to get a lot of feedback about morale; it is more about technical issues. I visited the Brisbane office a couple of months ago and was immediately collared by some inspectors about interpretation of maintenance control issues, which was interesting and good. When we flagged the change program in the organisation there was certainly concern. That affected morale, but since the main structural changes have taken effect it is my assessment that morale has settled down. The objective measures that we use, such as absenteeism, have certainly stabilised.

Senator O'BRIEN—I think you said earlier that you have had a 15 per cent staff change.

Mr Byron—Turnover.

Senator O'BRIEN—I did not know whether 'turnover' was the right word, so I did not use it.

Mr Byron—That was an estimate that I made.

CHAIR—You said 14 or 15.

Mr Byron—Would you like Mr Harbor to give you a bit more detail?

Senator O'BRIEN—Certainly.

Mr Harbor—In terms of your queries regarding a couple of staff measures in respect of turnover: as Mr Byron has indicated, our turnover level is around 15 per cent.

Senator O'BRIEN—Is that for the current financial year?

Mr Harbor—Over the last four quarters it is showing at 14.48 per cent in terms of voluntary turnover. Looking at the previous year, 2006-07: as we reported in the annual report, it was 21.24. When you take away the redundancies from that number, it reduces to just under 12 per cent—11.44 per cent. For the previous year, 2005-06, the number was 16.76. That is reported in CASA's annual report. The voluntary turnover, rather than the retirements and redundancies included in that figure, was 14.59. Comparing those numbers with some of the publicly available data, PM&C for 2006-07 was around the 26 per cent mark and for 2005-06 it was around the 21 per cent mark. Austrade, a similar sized organisation, has moved to FMA in the last 12 months or so. Their number for 2006-07, from their annual report, was 13.4, from 14.7 the year before. So, in real terms, our numbers are not out of whack with what is happening generally within the Public Service. With the general situation with the aviation industry, with the demand for labour being pretty high, I think our numbers track pretty well.

Senator O'BRIEN—CASA's submission says that to get turnover aggregated over three years, more than half of the staff positions have had a turnover of occupant. There may be some positions that have turned over more than once—that is, half of the staff or more are now occupying positions that are different from those that were there three years ago.

Mr Harbor—The figures since 2003 have been reported in the submission.

Senator O'BRIEN—Is that true across the range of occupational groups? You have obviously had some priorities in certain areas.

Mr Harbor—I do not have the raw data here in terms of areas but my recollection of the data is that there is greater turnover in Canberra than there is in the field offices. The numbers of inspectorate that we have currently—given that the mix has changed with the introduction of new classifications such as safety assistant specialists and air transport inspectors—is basically static, save for the customary turnover of labour. It is in the corporate services area, the administrative staff, where we have had more churn. I think that is pretty reflective of the Canberra labour market, where unemployment here is tracking at about 2.4 per cent compared with the national average of around four per cent.

Senator O'BRIEN—Where are the training issues that ICAO are talking about intersecting with the staff?

Mr Harbor—In the ICAO audit report, they were really looking at our technical staff. Some of the issues, as alluded to earlier on, went to their ability to observe plans that we had in train. As Mr Carmody mentioned, there is the diploma of aviation safety and there is also a certificate IV program linked to that. That has been in development for a couple of years through internal program development activities in conjunction with Swinburne. That was released to the organisation in February—at the time that ICAO were here. So, in terms of us being able to demonstrate that the diploma was active in the field, we could say, 'Here's our involvement and here's our intent,' but we were not able to demonstrate any enrolments at that stage. As I think we have indicated in our submission, we currently have 57 people enrolled in the program. I think there are 42 or 35 in the diploma itself and a dozen in the certificate program—which reflects about 10 per cent of our permanent, ongoing employee base.

Senator O'BRIEN—In terms of the voluntary departures in 2005-06 and 2006-07, how many of those positions are filled by people who need this training?

Mr Harbor—I would need to confirm those numbers. There were a range of roles, as you will recall from previous estimates sessions, that were created in Brisbane with the operational headquarters up there. In total over the period since 1 July 2005, something of the order of 130-odd positions have been abolished, with 90-odd redundancies during that period and a number of people being redeployed within the organisation and so forth. But in terms of the technical impact—which would really be the ICAO question, because the ICAO audit did not really go to administrative staff in real terms; it was more operational and technical staff—I would need to confirm the figures.

Senator O'BRIEN—You have new premises in Brisbane, do you not?

Mr Harbor—That is correct.

Senator O'BRIEN—Have you needed to make changes to that to cope with changes in staff needs in that area?

Mr Harbor—In what sense?

Senator O'BRIEN—The fit-out of the building, the layout, floor space et cetera.

Mr Harbor—It is a new facility. I think we have been in the facility for two weeks now. It has brought employees from three separate locations into one. It is a completely new fit-out. Organisational groups were pretty much as they were.

Senator O'BRIEN—What does all that cost?

Mr Harbor—I am advised that the cost of the full fit-out was \$5.4 million, with a lease incentive of \$1.7 million off that.

Senator O'BRIEN—Again in relation to one of the issues that arose from evidence earlier today, has CASA conducted a review of the staffing of its North Queensland office?

Mr Byron—There have been a number of reviews and investigations. At the moment the North Queensland general aviation office—which is a combined Townsville-Cairns location—has had 50 per cent changeover, which is equal to the corporate average, in the last four years. Are you interested in specific reviews of individuals in the office? Is that the sort of stuff you are interested in?

Senator O'BRIEN—I am interested in the performance and practices of that office, given your worst aviation accident occurred under the watch of that office in Brisbane.

Mr Byron—No, the North Queensland office had no oversight responsibilities for the Transair operation. But 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.

Senator O'BRIEN—Who did that?

Mr Byron—A company with an individual named, I believe, Mr Venn, who provided a report. The task that I gave him was to do a specific investigation of the allegations made by an individual pilot who believed that he had been unfairly handled. In fact, I met that individual at

Cairns when I was doing a walk-around of the general aviation offices, and I think he actually made the formal complaint after meeting me. I am pretty sure that is how it went. I initiated the investigation. 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.

Senator O'BRIEN—Given that we are not at estimates but in another inquiry, we can take evidence in camera. Is it possible to receive copies of those reports confidentially?

Mr Byron—Yes. I can give you the full picture.

Senator O'BRIEN—I would appreciate that. We have, I think, about a minute and a quarter. Mr Hart, can you add anything on that matter in a minute and a quarter?

Mr Hart—I can, for your edification, Senator. I concur with what Mr Byron said. Issues at the North Queensland office, that behaviour of staff and CASA's actions up there caused me serious concern. I noted the public concern at the time. I note the concerns in the investigations. I have obtained all the reports referred to—the one by Mr Skehill and the one by Mr Venn. I also have a substantial amount of additional material provided to me by other people in the industry. I would be happy to discuss that in camera at another stage. I have commenced, if you like, a review and preliminary investigations into the whole of North Queensland. I have made contact with people in North Queensland, some of whom have been complainers before and some of whom have not been, to start to put together a picture that gives, if you like, a full and proper account of what did or did not occur in North Queensland.

As I explained to the CEO when these matters first came to me, 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.

The other perspective that I am still to deal with is the question of whether there was criminal conduct by CASA officers. A number of people have made those allegations to me. 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. As I said, I think there was a degree of industry capture up in North Queensland that causes me serious concern. I have seen that in other organisations and other places, and it makes for very poor public outcomes in terms of policy directions or public good. I am quite happy to discuss this in more detail if you require.

CHAIR—Senator O'Brien, do you wish to quickly follow up with one more question or are you happy to reconvene?

Senator O'BRIEN—I am happy to reconvene.

Dr Aleck—I have the figures. Assuming the witness was actually asking about prosecutions—he said that 80 per cent of the prosecutions went away—first of all, CASA does not actually prosecute cases; we investigate cases and refer them to the DPP and they conduct any prosecutions. The DPP, on their own initiative, did a review in 2005 of all prosecutions under the civil aviation legislation of offences between 2001 and 2005, and a 93 per cent conviction or guilty rate was one of the highest results for any Commonwealth regulatory authority. In 2006-07, we had 100 per cent conviction of the matters that were referred to the DPP and then prosecuted. In 2007-08—the year is not over yet—we have six convictions or findings of guilt and three acquittals or dismissals. Three of these matters are on appeal. I can get you the specific figures, but the DPP have been very clear in their satisfaction with the matters we refer to them. We do not refer matters that are not sustainable, and there has been 93 per cent success.

Senator O'BRIEN—How many cases is 93 per cent?

Dr Aleck—I can give you those figures. They are not great numbers of cases but, over many years, the percentage is the percentage!

CHAIR—It is not 80 per cent of failures. Thank you very much. The committee appreciates your assistance.

Committee adjourned at 6.03 pm