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Aviation Maintenance Repair & Overhaul Business Association inc. Submission

Senate's Inquiry into the Administration of the Civil Aviation Safety Authority (CASA) and related matters

Summary

To say that CASA is a dysfunctional organisation is an irony. Ever since the government, in the mid 1980s, decided to reform aviation regulations, orders and practices of the government's aviation regulator to remove 'red tape' and 'hidden' exemptions and authorisations, the industry has had to operate under legislation that now has more inconsistencies than were in existent in the 1980s. The pace of change has been so slow and has implemented inconsistent legislative requirements, especially on the MRO industry. Changes in 1992 & 1998 still not complete.

Because successive governments have opted to appoint CASA CEOs/Directors straight from industry, the major evolution that has been done by each new CEO is to restructure the safety organisation to the point that many regulatory experts have left the regulator. Over the last few years the restructuring of the beleaguered regulator has reversed the 1980's government's decision to centralise the regulator from Melbourne to Canberra by transferring Canberra jobs to Brisbane. CASA appears determined to return to the problems of the 1980s by shifting the Operations HO to a regional centre - Brisbane (1980s – Melbourne). Every relocation of CASA costs money and reduces their expertise and experience. Today's structure does not resemble a National Aviation Authority.

Until government legislatively creates an organisational structure based on ICAO obligations and other mature NAAs and makes responsible managers accountable, the aviation regulator will not be able to meet its international and domestic obligations. Too much corporate history and regulatory knowledge has been lost to the aviation safety regulator as it struggles to come to terms with its "safety" role.

Recent employment of some senior managers with actual civil aviation managerial experience by CASA appears to be making changes towards being a "safety" regulator but there are many within CASA that still do not understand the role of a 'safety' regulator – most will only ever be a 'regulatory compliance' regulator. CASA, like many other second level regulators, now needs to send its technical staff to a NAA's training school like the CAA(UK), FAA(USA) or TC (Canada) who all teach the relation of ICAO standards and recommendations that underline their regulatory systems. CASA's predecessors once had an internationally recognised aviation regulatory training capability.

Regulatory development has become a career where various CEOs/Directors have favoured 'world's best practice' and harmonising with aviation regulatory systems from other countries even though some of the regulatory systems being followed do not have Parliamentary scrutiny as does Australian legislation. Adoption of ICAO standards should be the basis of harmonisation. During the 1990s the Minister appointed an industry body to overseer regulatory development and that industry advisory panel opted for the US aviation regulatory system that would have reduced costs to aviation in a similar manner as has happened in NZ when they opted for the US system, especially for GA. The current EASA approach will give Australia a confusing system based on a number of systems that are not harmonised.

CASA's changing management continue to measure success on restructuring the safety organisation and not on making regulatory changes that will simplify practices and benefit the industry and community. Unlike ICAO and most other regulatory systems, the current legislation places responsibility for safety on individuals within organisations (operators) who have to hold a multitude of authorisations (licenses) granted by CASA. AMROBA has continually stated that the rule changes must empower business to trade safely.

Though some CASA 'responsible managers' have indicated that reform is happening, industry has seen very little change or reduction in the 'red tape' that existed in the 1980s.

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General Comments

The Governments in the 1980s initiated reform of the aviation regulatory system with the intention of lowering regulatory impost on an over regulated and over serviced aviation industry. Reference to the Parliamentary library will identify the continual uncertainty and faith that many have in CASA and its predecessors. Obviously matters have not been addressed or there would not be another government inquiry. How many more inquiries before government bites the bullet and amends the Act to create a globally recognised regulatory authority requiring minimum standards to be promulgated and met by the aviation industry?
Chronology: http://www.aph.gov.au/library/pubs/chron/2000-01/01chr02.htm

Refer ***Appendix B*** for explanation of minimum ICAO aircraft maintenance standards – not currently legislated.

Anybody that has attended an EASA(JAA)/FAA Harmonisation meeting or been involved with their workshops will understand the fundamental differences that exist between the two regulatory systems and how incompatible they can be. From past experience, we know how different the two systems are and the problems that are associated with mixing regulatory requirements. Many of today's problems are associated with the 'piece meal' approach that has been taken to Australian aviation regulatory development. (20 years and still not completed).

AMROBA supports the need for an internationally and domestically respected CASA that can provide necessary [monopoly] regulatory services in a timely manner so industry can safely expand. CASA has not been able to keep pace with the rate of change in the aviation industry because of their out-of-date practices and processes.

Though senior CASA managers agree with the need for change, they are completely hamstrung by "public service like" processes to make changes in a timely manner – these delays have increased with every organisational change. Industry has witnessed continual organisational changes and relocations, at huge costs to CASA whilst industry has, for survival reasons, been forced to reduce numbers to stay profitable – some have even taken a reduction in salaries.

PRIVATISATION OF AERODROMES

Privatisation of aerodromes has been a major element in the decline of the non airline segment. Unlike the US Department of Transport, the Australian Government did not set appropriate aerodrome owner requirements for private and community owned aerodromes. Nor was there provision of government funds to support the infrastructure of the ground elements (aerodromes) of the highways in the sky. Cheaper than road funds.

This problem cannot be attributed to CASA or its management, nor should 'security' issues concerning the screening of people and cargo being carried on commercially operated aircraft. These matters are not raised in this submission.

RED TAPE AND APPLICATION OF REGULATION

One of the major reasons for reform is the amount of 'red tape', hidden requirements, non standard application and costly practices that CASA and its predecessors have applied to the aviation industry. Though some progress has been made over the last two decades very little has provided regulatory impost relief to the non-airline industry.

Whereas recreational aviation segment has benefited from regulatory reform, the non airline industry still suffers from much of the 'red tape' and regulatory applications of the past. Submissions to CASA to change practices and regulations have been to no avail, as they continue to refer such proposals to regulatory development groups that have had little success in this aviation segment over the last two decades.

AMROBA submitted a paper to deregulate the 'non-airline' segment by applying ICAO standards and practices instead of unique Australian requirements based on the ICAO compliant USA and NZ non-airline segments. This proposal would dramatically reduce costs to CASA and industry and also reduce regulatory impost without any loss in aviation safety. This was proven when NZ made a similar change a decade ago. They benefited, Australia hasn't.

- Refer **Appendix C** for AMROBA proposal to deregulate the non-airline segment.

Another reason that the application of regulations continue to change is that each new CEO/Senior Manager of CASA varies the application of legislation, which can be applied differently because of the need to 'satisfy' CASA or one of its delegated inspectors. Unlike other regulatory systems that set minimum standards to be complied with, much of the differences between industry and CASA can be attributed to changing the 'application' of regulatory requirements to 'satisfy' changing CASA inspectors. It is for that reason that AMROBA lobbied Government to amend the Civil Aviation Act so that regulatory development met minimum safety standards like other NAAs such as the US Act.

- Refer **Appendix D** for proposed amendment to the Civil Aviation Act.

• Regulatory Services

This has been a problem that continues to cause friction since the Bosch Report recommended cost recovery for regulatory services without identifying what is actually a "***regulatory services***". Some regulatory services are seen as "***standard setting***" for an organisation or operator and others are "***authorisations***" that should attract a fee. This is a major problem for CASA as they continue to issue authorisations that micro-manage the approved operator/organisation **instead** of empowering the approved operator/organisation.

Compared to other NAAs, CASA has above average requirements for aviation participants to apply to CASA for regulatory services. This is because of the unique regulatory requirements for CASA to be involved instead of industry participants being made responsible for their functions/activities. Many of these services were created in the two tiering of the maintenance regulations in 1992. Devolvement of these regulatory services to individuals or generically to qualified 'classes of person' would reduce dependence on CASA.

- AMROBA members greatest complaint is that like organisations within the same regional area can have completely different certificate restrictions based on when last amended by an ever changing 'certificate' issue methodology within CASA. Certificates have so many variations and restrictions, that many of our members see the restrictions as restriction on trade.
- In many cases, CASA surveillance inspectors continually direct changes to organisation's manuals that CASA has approved without basing the change on the finding of unsafe practices. This demonstrates that each inspector has a different standard than the previous CASA inspector that approved the manual or directed changes previously. This is a method of self funding because the organisation has to apply to CASA to approve CASA directed amendments. This matter has been raised with CASA but the practice continues. Other NAAs only look at the revisions that the organisation has made to the manual since last visit and the NAA then verifies that the change has been implemented.
- As an example of a system that does not work, an AMROBA member that is a one man organisation could not obtain an approval because CASA demanded a manual that would only apply to a multi level management structure and many employees. He could never meet the requirements of the large organisation manual that CASA was demanding he use. After representation by AMROBA to the senior management common sense returned and the manual, with minor amendments, originally submitted was accepted. Cost to the applicant ran into thousands of dollars. He would be happy to meet with the committee.
- AMROBA submitted a proposal to CASA to issue standard authorisations to maintenance organisations with a condition that the organisation's accountable manager would take responsibility to mange the organisation's capability within the scope of the maintenance activity stated on the CASA issued certificate. This would, for example, make an aircraft maintenance organisation's accountable manager responsible to verify that the organisation had qualified personnel, equipment, tooling, data and the facility was capable of handling the new aircraft type or model before carry out work on the aircraft. CASA senior management has agreed with this approach for 4 years but industry has yet to see it happen. Refer **Appendix E** for details.

There are many examples that could be documented. However what is the greatest concern is CASA's failure to simplify practices, processes and procedures to meet the demand of a changing aviation industry. When will CASA let go of functions that do not value add to safety or puts CASA in a position of being responsible for safety instead of empowering industry and making aviation participants responsible for safety.

• CASA Organisational Structure

Perpetual organisational change over two decades has decimated the skills and experience in this government agency to a level where industry participants question whether they can meet their responsibilities consistent with ICAO standards. As a mature aviation country, Australia needs an internationally respected aviation regulator.

There has been no other Australian government department or agency that has had so many organisational changes than CASA. This continual change has slowly demoralised the employees and that has affected their performance and skills. The experience levels within CASA are at their lowest levels in decades. In addition, CASA senior technical managers do not have international recognition with their counterparts in other mature aviation regulators – needed for international recognition of CASA approved manufactured replacement parts and aircraft and parts maintenance capabilities.

Attached at **Appendix A** is atypical regulatory structure that does not exist in CASA and has not since the introduction of Canberra CEOs and senior managers directly from outside the regulator. This structure is evident in one form or another in most mature aviation regulators that implement a country's ICAO obligations.

Even at this moment CASA has announced another organisational change by moving their Operations Management to Brisbane, after government moved it from Melbourne to Canberra two decades ago, and are creating new jobs to replace jobs in Canberra that will once again become redundant. This process has been going on ever since 1992 when CASA invoked its Review of Resources. Becoming redundant is becoming the norm within CASA and it directly affects the organisation's skill levels and ability to meet treaty obligations.

It gives the appearance to industry that, under the public service system, the management cannot dismiss staff they do not want so they invent organisational change so that they can employ persons that will be more supportive of the CEO management's directions. This continual change has cost government and industry millions of dollars and all it has achieved is loss of CASA skills and experience. Experimental aircraft were introduced in 1992 and CASA has been in experimental organisational structures ever since.

AMROBA has serious concerns that CASA approved parts manufacturers cannot sell their parts in the global aviation markets because CASA engineering management has not been able to obtain any agreement with other regulatory authorities to accept Australian made products – ten years after government changed regulations to fully harmonise with the US Federal Aviation Regulations relating to aircraft and parts certification & manufacture. In the last decade CASA management continues to change and the momentum and capability of obtaining USA acceptance of Australian made, CASA approved parts becomes a dream. Industry has come to realise that they need to directly apply to and have their products approved in other countries if they want to participate in the global aviation market.

Without an appropriate organisation structure that other Aviation Regulatory Authorities recognise, industry does not see CASA developing the international expertise at management levels to negotiate an agreement that will benefit CASA approved Australian replacement parts and maintenance capabilities.

As an ex-employee that held a number of senior management jobs within CASA, I can attest to the fact that, even with proper training that we received from very experienced regulators in the Authority's training school in Melbourne, it still took approximately 5 years experience to come to terms with the role of a CASA field officer. Many CASA field officers do not have the experience or training available at an equivalent standard to their counterparts in, for example, Federal Aviation Administration (FAA), Transport Canada (TC) or CAA(UK). Maybe it is time to send CASA's field staff to training with the CAA(UK) or FAA or TC simply because CASA no longer have staff with the civil aviation experience to provide that regulatory training.

CASA is a crucial element in aviation safety but they are also a crucial element in enabling Australian businesses to access the global aviation market. CASA is the key to Australian businesses accessing aviation markets and more emphasis should be on CASA to achieve international recognition of Australia's aviation business capabilities.

Recommendation: Amend the Civil Aviation Act so that CASA's Director of Aviation Safety will have specific "responsible managers" for at least (1) Aircraft & Product Certification/Manufacture; (2) Continuing Airworthiness & Maintenance; (3) Commercial Passenger Operations; (4) General Aviation Operations; and (5) Aerodromes and Airspace. This would stop the continual organisational change that CASA has endured for the last two decades and stop the changes that seem to be based on management personalities within CASA.

The Act should also make CASA responsible for promoting the Australian aviation industry at international meetings, discussions and consultations – without this commitment there is little chance of international agreements being negotiated by CASA that will ever benefit participants in the Australian aviation industry. Refer **Appendix D**

Regulatory Development

Regulatory reform was initiated by the Government in the 1980s and it was started and stopped a few times until an ex-FAA person became CASA's CEO who supported the Minister's appointed Industry Advisory Panel to harmonise with the FARs. He departs CASA and another CEO decides, half way through the re-write, to harmonise with the EASRs. Interestingly, recent statements by EASA's Deputy Director identified that EASA has radically changed direction as they now intent to adopt the Canadian simplified aviation regulatory system. AMROBA suggests that is what Australia should have done in the first place, harmonise with a country that has recognition from EASA and FAA.

Regulatory development has taken so long that this industry has all but given up hope that it will ever happen. They no longer expect CASA to provide simplification or benefits to the aviation industry and community. Many industry leaders that were the catalyst for regulatory change are no longer active in the aviation industry and new leaders do

not seem to understand. Finishing times move further and further into the future for the making and implementation of proposed new aviation rules that will totally restructure Australian aviation for decades to come. The question is: "Can CASA achieve the right reform considering the loss of corporate knowledge within CASA."

AMROBA and many in industry is frustrated that CASA will not adopt a safe and cost effective non airline aviation segment based on the ICAO compliant FAA system that NZ has already adopted. AMROBA has submitted many papers to CASA suggesting changes to practices, methods and the adoption of the US non-airline segment regulatory system that would enable this segment to expand. AMROBA proposals have not been accepted by CASA simply because it would reduce CASA administrative roles.

What CASA has never done is start from nothing when developing regulations and justify the need for a regulation, let alone the associated supporting paperwork. Compared to the US and NZ, the industry is over-regulated. AMROBA is still of the opinion that CASA creates rules that will keep CASA employees in work. Legislation should make industry participants (individuals and businesses) responsible to comply with requirements and CASA promulgated standards.

Industry has seen CASA and its predecessors continually change direction with regulatory development without understanding the aviation industry it regulates. Australian General Aviation was based on the US GA system until CASA's predecessors moved to Canberra and the original staff resigned and stayed in Melbourne. Since then the experience of CASA regulatory development team have not come from a n experienced regulatory background with civil GA background. Regulatory development is based on amending airline requirements instead of de-regulating the non airline segment.

AMROBA Proposals – Accepted by CASA but no changes not implemented.

- Automatic acceptance of airworthiness directives issued by the NAA that has jurisdiction for the aircraft and product type certificates and approvals – approved but never finalised.
- Issuing organisation/operator authorisations (certificates) with a condition so that the 'accountable' manager can amend the approved business's Capability List, within the CASA approved regulatory activity or activities. E.g. aircraft maintenance organisation activity – 'maintenance of aircraft'. Capability List includes kinds of aircraft that can be maintained. Accepted by senior managers not made available as yet.
- Adoption of the ICAO compliant US non airline aviation segment where responsibility is on individuals instead of businesses (organisations/operators). State business responsibilities (OH&S etc) is all that is needed for the non-airline segment of aviation. NZ adopted such a system more than a decade ago and their GA segment is booming.
- Repeal of regulation provision that makes a LAME responsible for the condition of an aircraft or part inspected until next inspected. The LAME can only certify an aircraft or part was airworthy and serviceable at time of inspection. Agreed by CASA but no regulatory action.
- To authorise an industry 'class of person', being qualified CASA appointed design engineers, for the regulatory purposes to provide approved maintenance instructions where none exist and to vary a manufacturer's maintenance instruction when an enhanced maintenance instruction is available.

All of the above proposals reduce costs to the non-airline segment without reducing safety – we believe they will increase safety as individual responsibility is clarified and utilised. The down side is that CASA would reduce numbers.

HYBRID REGULATIONS

An example of problems with current hybrid regulations is the introduction of FAA aircraft type classifications without introducing the FAA airworthiness, maintenance and operational rules that controlled the in-service aspects of the FAA approved aircraft Type Certificate. For example, the introduced "restricted" category aircraft are supposed to be maintained and operated to specific FAA regulations such as FAR91.313. The same applies to recent amendments to CASR Part 21 to introduce the light sports aircraft. Ever since the introduction of these FAA aircraft and replacement aircraft parts certification standards and the automatic acceptance of aircraft holding FAA Type Certificates, there has not been adoption of supporting regulations relating to the in-service use of these aircraft and parts. Lack of airworthiness, maintenance and operations requirements spelt out in the FARs

Ever since the changes in 1992 that repealed maintenance Civil Aviation Orders, the non-airline MRO industry has been in an ever changing application of regulations because of the deficiencies in regulation clarity and CASA promulgated standards. In many cases, CASA promulgated advisory material is not the standard applied by an individual CASA inspector – satisfying different individuals is not conducive to safe profitable business practice.

ICAO

AMROBA is concerned with CASA and Australia's audit findings because it affects our members' ability to trade in the global aviation market. We have heard that the audit did not show improvements in compliance with ICAO standards since the last audit. When will CASA and Government make public the ICAO Report.

We are concerned that there are basic ICAO airworthiness and maintenance standards that are not in regulations such as:

Annex 8
3.5 Temporary loss of airworthiness
Any failure to maintain an aircraft in an airworthy condition *as defined by the appropriate airworthiness requirements* ***shall render the aircraft ineligible for operation until*** *the aircraft is restored to an airworthy condition.*
4.2.3. The State of Registry shall:
c) develop or adopt requirements to ensure the continuing airworthiness of the aircraft during its service life, including requirements to ensure that the aircraft:
i) continues to comply with the appropriate airworthiness requirements after a modification, a repair or the installation of a replacement part; and
ii) ***is maintained in an airworthy condition*** *and in* ***compliance with the maintenance requirements of Annex 6****, and where applicable, Parts III, IV and V of this Annex;*

Annex 6 – Part I (Airline operations)
[Generally met except no mention in regulations for aircraft to be maintained airworthy. **]**
8.1.1 Operators shall ensure that, in accordance with procedures acceptable to the State of Registry:
a) each aeroplane they operate is maintained in an airworthy condition

Annex 6 – Part II
[Current regulations do not require aircraft to be maintained airworthy]
8.1.1 The owner of an aeroplane, or in the case where it is leased, the lessee, shall ensure that:
a) the aeroplane is ***maintained in an airworthy condition****;*

Annex 6 – Part III
[Current regulations do not require aircraft to be maintained airworthy]
6.1.1 Operators shall ensure that, in accordance with procedures acceptable to the State of Registry:
a) each helicopter they operate is ***maintained in an airworthy condition***;

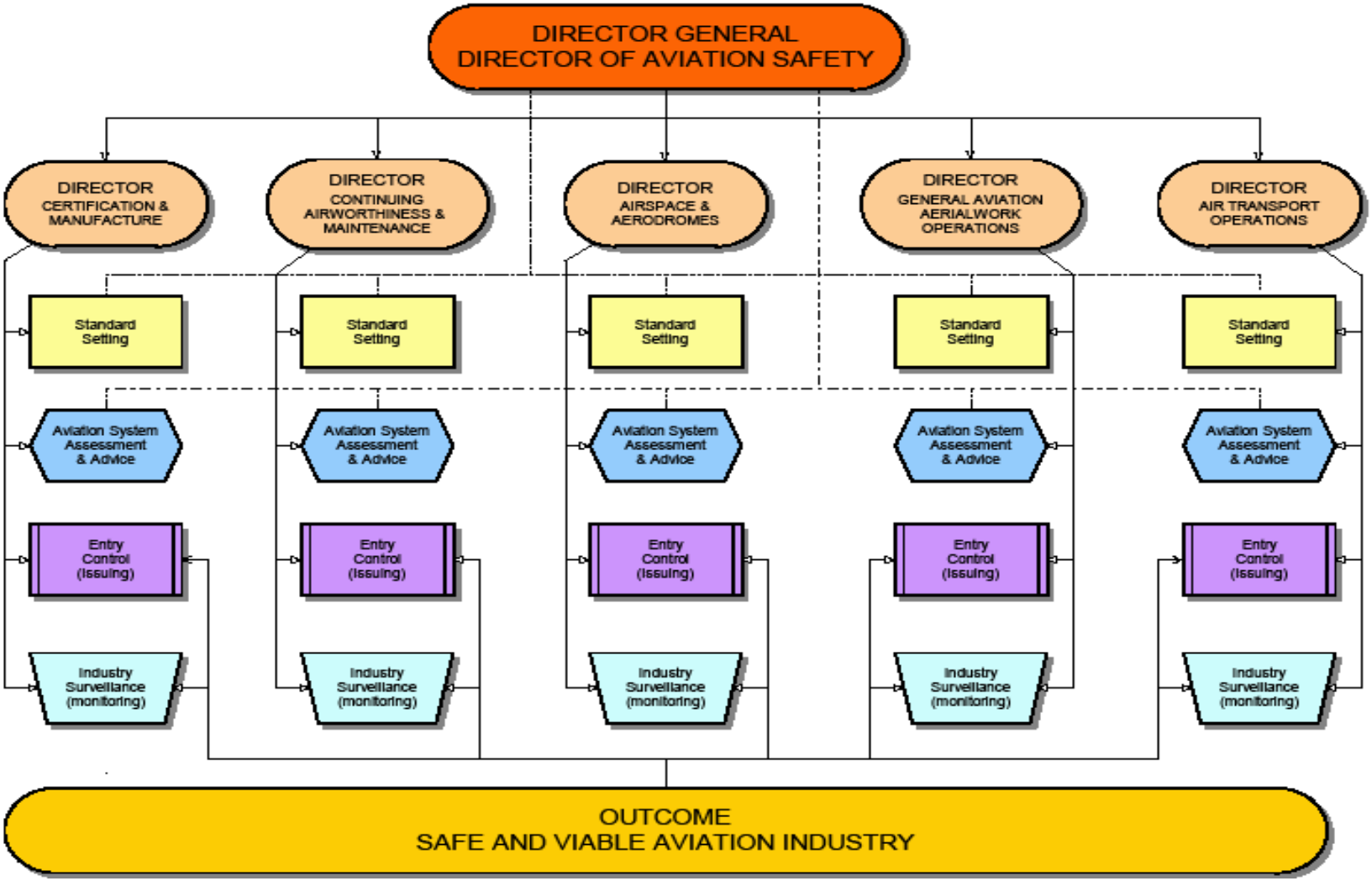
Current regulations only require maintenance to be carried out and certified – unlike other regulatory systems there is no requirement for the owner to maintain the aircraft in an airworthy condition or for the LAME to sign the aircraft or its parts as airworthy. This requirement was removed in the re-write of regulations by CASA in 1992.

The problem is that CASA no longer has in its employ persons with the corporate knowledge of past eras and many in industry have also retired. What have been lost are the concepts that were trying to be achieved when the Government started reform in the 1980s. Many, within CASA and industry, now quote dubious "world's best practices" to reintroduce unique Australian requirements that were one of the main problems identified in the '80s with CASA's predecessor and the legislation at that time.

AMROBA recognises that much has been achieved since 1992 but globally accepted reform is tending to stall because of the loss of corporate knowledge and commitment from both CASA and industry to work together to draft a regulatory framework that will benefit the aviation industry both domestically and internationally. This has to be the commitment from both CASA and industry. No benefit, no rule change.

CASA must dedicate its efforts to reduce governmental (CASA) charges in all of its proposed regulatory changes. Many organisations today have so many overheads that another monetary slug will see a further decline in aviation. General aviation flies less and less hours every year and therefore supports an ever decreasing industry. Industry, however, does not see a corresponding decrease in the size of CASA.

Appendix A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DIRECTOR OF AVIATION SAFETY
DIRECTOR
CERTIFICATION & MANUFACTURE
DIRECTOR
CONTINUING AIRWORTHINESS & MAINTENANCE
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AIRSPACE & AERODROMES
DIRECTOR
GENERAL AVIATION AERIALWORK OPERATIONS
DIRECTOR
AIR TRANSPORT OPERATIONS
Standard Setting
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OUTCOME
SAFE AND VIABLE AVIATION INDUSTRY

Appendix B

AIRCRAFT MINIMUM AIRWORTHINESS & MAINTENANCE STANDARDS.

The basis of Australian aircraft airworthiness standards is ICAO Annex 8, Chapter 8, to the Convention. CASR Part 21, and valid certificate of airworthiness requirements legislation is based on ICAO Annex 8, Chapter 8, paragraph 3.2.1 as the international standard when issuing a certificate of airworthiness. Importantly, the continued validity of aircraft certificates of airworthiness is based on ICAO Annex 8, Chapter 8 paragraph 3.2.3 where the continuing airworthiness is determined by a **predetermined inspection** to ensure that the aircraft continues to comply with the airworthiness requirements for the initial issue of the certificate of airworthiness.

"Continue to comply with the airworthiness requirements" means that the person signing the [ICAO] maintenance release at the completion of the annual inspection must ensure the aircraft complies with the regulations, that is, 'continues to comply with its airworthiness standards' appropriate at the time the certificate of airworthiness was issued.

In addition to inspecting aircraft to verify that aircraft continue to meet its [design standards] certificate of airworthiness, the aircraft has to be maintained airworthy (safe for flight) to meet the requirements of ICAO Annex 6. This is the basis of an appropriate maintenance schedule.

What this means is that all aircraft maintenance schedules/systems must, to remain effective and appropriate, require annual inspection of the aircraft to ensure that it continues to comply with its type design as well as inspecting the aircraft to ensure that the aircraft is safe for flight.

Both Civil Aviation Regulation (CAR) 40 and 42 currently places the responsibility on the registered operator to make changes to the maintenance system or schedules if they are defective or inappropriate. Any aircraft maintenance system or schedule is defective if it does not include a schedule that inspects the aircraft [structure & systems] to verify that it still complies with its Type Certificate Data Sheet and other mandatory airworthiness requirements.

CAR 43 also places the responsibility on the person signing the maintenance release to ensure that all maintenance is complied with to meet the Regulations, it does not require airworthy to be determined. (CASA has never clarified this regulatory provision)

Manufacturers' schedules that include a structural inspection program usually meet the airworthiness design standards inspection but it does not include a check of the maintenance records to ensure airworthiness directives and airworthiness limitations have been incorporated.

For example, a manufacturer's progressive maintenance inspection and other maintenance programs including structural inspections and system inspections also meet this requirement.

Class B aircraft maintenance schedules would need inspections to check that the aircraft continues to meet its design standards, including any modifications and repairs have been certified to data that continues to be applicable to the aircraft. Current rules enables owners to 'elect' the CASA Maintenance Schedule that does not include the design certificate of airworthiness validity inspection schedules.

An annual structural, component and systems inspections/checks that confirms that the aircraft and its systems continue to meet the certificate of airworthiness standards must be part of an aircraft's maintenance schedule or system.

Defective and inappropriate schedules and systems must be amended within seven days of the registered operator becoming aware that their schedule/system is defective.

NB. If effective and appropriate maintenance schedules/systems were in place then ageing aircraft problems would no longer exist. Inspecting the structure annually, or spread over a longer period of time based on controlled maintenance system, would remove ageing aircraft concerns.

Appendix C

Deregulate or Regulate

Non-airline Aviation Segment

Proposal – Regulate to ICAO/FAA standards

To '**deregulate'** the non-airline aviation segment by adopting the United States of America's (USA) regulatory aviation safety requirements, applicable to their non-airline aviation segment, to improve participation level and provide an economic boost to the non-airline work aviation industry. Adopting the USA's International Civil Aviation Organisation (ICAO) compliant safety system will bring notable cost/benefits to the community and a reduction in regulatory costs, especially to small [aviation] businesses with an improvement in safety.

However, to implement such a safe and effective cost/benefit system, a **whole-of-government** approach must be utilised to provide the MRO segment with internationally recognised tradespersons that compare to the trade skills of North America & some European countries that have internationally recognised trade skill levels.

A **whole-of-government** approach to aviation regulatory reform will reduce the regulatory burden to small business especially if it is based on the USA non-airline system — the US aviation non-airline system has 'minimum' aviation safety regulations because their aviation regulatory system does not, unlike the European Safety Regulations, conflict with other US legislation. US aviation regulations form part of the US legislative system and Australia has a similar [small] business regulatory system as used in North America.

A **whole-of-government** approach must be utilised to address the aviation maintenance/repair trade skills to overcome the trade certificate/education qualification disconnect that exists today, since the introduction of competency based training. This trade skill project must be administered by the new Department of Education, Employment and Workplace Relations (DEEWR) to once again provide the aviation industry with internationally recognised aircraft maintenance tradespersons. The project will require input from employers and unions as well as Trade, CASA—as the licensing authority, and other government departments and agencies.

Summary.

The Management of AMROBA and the MRO industry is frustrated that, after more than a decade and numerous CEOs, CASA has been unable to produce a cost effective aviation [operation/maintenance] regulatory system that would bring cost/benefits to the community, with increase participation in the non-airline segment, even though CASA-led regulatory development teams have been directed to do so by the current CASA CEO and government policy.

It is obvious that those persons representing the aviation industry on CASA consultative committees have been '**captured'** by CASA to **create** regulations instead of '**deregulating'** the industry and applying '**safety'** regulations only, as directed by CASA's CEO. The FAA, unlike other NAAs, are directed in their enabling legislation to implement '**minimum safety standards'** so their system is the right foundation for the non-airline segment.

Until CASA-led regulatory teams follow this direction, instead of continually wasting millions of dollars, then the most cost effective and safe, non-airline system will not be proposed to the community. The FAA does not approve all flight training or aircraft/specialised maintenance organisations servicing the non-airline segment.

CASA must completely revisit its AME licensing system and develop a simpler AME licensing system based on an ***internationally recognised AME trade training system*** so that the MRO industry will once again have a mobile and flexible workforce and not a company/business segment trade training system being proposed. AME trade training certificate/education qualifications must, at least, equate to North America and other countries with similar trade certificates (not EASA). This will enable industry to employ similarly qualified foreign tradespersons as well as enabling Australian tradespersons gaining experience/employment overseas.

The Management of AMROBA believes that the current aviation consultative process has failed to produce cost effective regulations that result in cost/benefits to the community and increases aviation participation. It is time that Government and CASA adopted a new approach to aviation regulatory reform.

Background

Aviation regulatory reform was started in the late 1980s when industry became so frustrated with government bureaucratic processes that the Government of the day reacted to the complaints from industry and users of aviation and directed reform of aviation legislation. In addition, another review by Bosch introduced cost recovery for regulatory services provided by the Authority without a review of the need for these regulatory services.

The government also deregulated the two-airline policy and many other services to improve competition but relied on the Authority to 'reform' the three tier legislation to a two tier legislative structure to remove CASA created CAOs. What it didn't state clearly is that the reform should "deregulate" unless safety had to be regulated.

A clear direction to '**deregulate'** is needed excluding legislation required to give effect to the Chicago Convention (Annexes) and any known safety issues unique to Australia. Federal Governments have, for over a decade, been demanding 'deregulation' unless legislation is needed in the best (safety) interest of the community.

This AMROBA document therefore addresses what everybody should be aware of if they are involved in any regulatory rewrite including those people that have been anointed by CASA to represent industry segments.

One of the original reasons for reforming the aviation legislative environment was to remove unnecessary bureaucratic rules, including the need for 'exemptions' and other 'hidden' policies and processes. Provide better cost/benefits to the community (includes industry) whilst removing the multi-tiered legislative system that relied on Authority exemptions, etc. to make the system work. In addition, the system duplicated requirements within Australia and duplicated responsibilities of foreign Authorities for type certified products.

It is becoming apparent that Government guidelines and policy, including CASA's CEO directives, is not the basis for the process that is followed if any regulation is proposed by CASA today.

AMROBA has been, for over three years, lobbying Government & CASA for a **whole-of-government** approach to not only regulatory development but also application of legislation. Any required aviation legislation must be created as part of the Australian legal system and not duplicate or conflict with other regulatory requirements.

The previous Minister, Mark Vaile, had agreed that aviation regulations will not duplicate or conflict with other legislation but we have never seen such a statement from CASA or the Minister's Department.

The new Federal government, pre the election, committed itself to reduce the regulatory regime that small business has to meet and we see this as a strong commitment to '**deregulate'** aviation specific requirements by embracing other Commonwealth & State legislative requirements.

CASA has demonstrated, in the past, a complete **go-it-alone attitude** and an almost complete refusal to work with other government departments and agencies to achieve the same result without creating aviation specific legislation. This regulatory development attitude will increase the regulatory burden and costs to industry.

The Management of AMROBA is highly concerned that industry representatives are being 'captured' by CASA non-airline regulatory team members who are not applying Government policy or processes, let alone CASA CEO Directive 001/2007. The development of [maintenance] regulatory proposals that are being presented to industry is a very disjointed manner without integration with other Government Departments and Agencies.

As has regularly happened in the past, CASA & industry representative members of CASA regulatory development teams feel duty bound to '**create'** rules instead of strictly applying policy and processes that politicians and CASA's CEO continue to publicly state they are applying. This is a natural phenomenon and takes a lot of effort to apply the Productivity Commission's guidance policy to creating rules. It is increasingly difficult when no training is provided to industry members of regulatory development teams.

For instance, the old Department of Civil Aviation (DCA) 'accepted' the Australian trade training system as meeting the technical training needs of a LAME without any further DCA approval of that trade training. This was achievable because DCA provided an examination system, to ensure each State met AME trade standards for licensing. National vocational education standards can now remove the need for CASA examinations.

CASA & Productivity Commission Commitment to Deregulation

CASA's CEO, Mr Bruce Byron stated, in 2003, in his address to the Law Society:
"*In summary, the guiding principles provide for **new regulations** to be:*

- ***Based on known or likely safety risks**, and the contribution the regulation will make to safety.*
- ***Drafted to specify the safety outcome required**, rather than detailed requirements to achieve that outcome.*
- *Within a two tier framework – the Civil Aviation Act, and the Civil Aviation Safety Regulations, supported by advisory and guidance material where appropriate.*
- *Manuals of Standards to be established only where there is a clear safety requirement, containing only standards authorised by a Regulation."*

Since 2003 AMROBA and its members have been expecting CASA to develop **cost/benefit 'options'** for the community (industry and public) to consider — '**options'** that would address safety issues and remove many regulatory requirements that are really a carry-over from the pre 1990s; pre many reviews, and pre government policy to reduce regulatory impost on small business.

The only way CASA led regulatory development teams will produce cost/benefits to the community is when they are instructed to **deregulate** the non-airline industry to be ICAO compliant in a similar manner as the US non-airline segment is regulated. The US FARs, unlike EASRs, are part of a whole-of-government legal system that applies to the whole community. Byron's 2003 statement and his Directive issued last year could be more clearly stated as '**regulate'** only for safety reasons by '**deregulating'** the current regulatory requirements.

AMROBA is fully supportive of CASA's CEO policy to '**deregulate'** and only '**regulate'** on the basis of addressing safety concerns in the **most cost effective manner**.

The delay in **deregulating** the non-airline segment based on ICAO, and the US minimum safety regulated non-airline system, continues to influence hours flown by the non-airline segment.

Privatisation of aerodromes is a fact but community aerodromes need 'infrastructure' financial support.
The survival of aviation as a means of transport depends on access to, and provision of, aerodromes. The US system for community aerodrome funding by the US Federal Government must be considered by the new government if the aviation infrastructure system is to be prepared for the new generation of aircraft becoming available to the industry. It is almost impossible to turn back the clock on privatisation but it may be possible to obtain a better policy for community owned aerodromes.

The adjacent Department chart displays that reform inaction and bureaucratic regulatory application processes, and current legislation, do not generate the greatest net benefit to the community.

This graph also covers the period of regulatory development controlled by CASA and its predecessors and it is obvious that any changes have not yet stopped the slide and reversed the trend.

Deregulation based on ICAO standards, similar to the US, is the only way that this trend will be reversed in private aviation.

Since 1990, CASA's CEOs have changed direction with regulatory development even though the non-airline segment has been lobbying for implementation of the US system, similar to NZ, a decade or more ago. NZ non airline aviation segment has boomed under the US system they implemented.

Australia needs a similar aviation regulatory system plus the Federal Government re-assessing the government's approach to privatisation of aerodrome policy. The US has a policy that requires aerodrome operators to attract aviation businesses to obtain Federal funding. **Many aviation businesses are not FAA approved.**

CASA CEO Directive 001/2007 issued last year states:

"Regulatory policies

- *The aviation safety regulations must take into account CASA's Classification of Civil Aviation Activities policy and the priority given under the policy to passenger-carrying activities.*
- *Aviation safety regulations must be shown to be necessary. They are to be developed on the basis of addressing known or likely safety risks that cannot be addressed adequately by non-regulatory means. Each proposed regulation must be assessed against the contribution it will make to aviation safety.*
- *If a regulation can be justified on safety risk grounds, it must be made in a form that provides for the most efficient allocation of industry and CASA resources. The regulations must not impose unnecessary costs or unnecessarily hinder high levels of participation in aviation and its capacity for growth.*
- *Where appropriate, the aviation safety regulations are to be aligned with the standards and practices of leading aviation countries, unless differences are required to address the Australian aviation environment and these differences can be justified on safety risk grounds. Where the standards and practices of the leading aviation countries vary, CASA will align its regulations with those that effectively* ***address the safety risks in the most cost-effective manner****.*
- *Wherever possible, the aviation safety regulations must be drafted to specify the safety outcome required, unless, in the interests of safety, and to address known or likely aviation safety risks, more prescriptive requirements need to be specified.*
- *The aviation safety regulations must be drafted to be as clear and concise as possible."*

1. **If CASA's CEO directs that the most cost effective manner is to be used, then why won't CASA regulatory development teams provide the US non-airline system as an "option" in any of their consultation documents?; and**
2. **The regulations must not impose unnecessary costs or unnecessary hinder higher levels of participation. (ignored — look at costs that is associated with CAO 100.66 AME licensing); and**
3. **Regulations that cannot be addressed adequately by non-regulatory means. (ignored)**

CASA's EASA maintenance development team, for example, has failed to meet all of the above CEO directions and, once again, are proposing a costly regulatory system that will be unique to Australia. CASA has shaped a "blinkered" team approach **creating** new regulations based on EASRs without any consideration to other '**options'** that can reduce costs to CASA, aircraft owners, and bring cost benefits to the community.

Every person involved with regulatory development must demand that government and CASA processes be followed when identifying which aviation regulations are actually required. Many current regulations are **not** required if a **whole-of-government** approach is taken to **adopting ICAO standards in Australia**.

AMROBA and its members supported CASA CEO Directive as it reinforces Government's policy for good regulatory development that is promulgated by the Productivity Commission's Office of Best Practice Regulation (OBPR) (www.obpr.gov.au/role). OBPR continues to produce guidance to '**deregulate'** and only '**regulate'** where necessary in accordance with six principles for 'good' regulations. AMROBA agrees with the Productivity Commission/OBPR's principles but we have not seen evidence that CASA, as a government agency, actually adopts these principles.

Many in industry, including many AMROBA members, would **prefer no action be taken** to create 'new' rules whilst 'problems' with current Regulations & Orders are not corrected by CASA. Most would like to see current regulations and CAOs amended to remove the 'problems' that have been in existence for over a decade.

Problems that have caused major 'administrative problems' in the application of current regulations and orders. It is frustrating that CASA agrees amendments should be made and then do nothing— except to continue to apply the 'faulty" rules even though they admit they should be changed.

If these regulatory 'problems' were removed then **a major rewrite may not be needed, only a 'restructure' of current requirements** except where changes are needed to obtain "trade" agreements with other countries.

Whole-of-Government Approach Required

Adopting a **whole-of-government** approach to trade skill requirements will enable industry to work with the new Department of Employment, Education and Workplace Relations (DEEWR) to implement a national standard aircraft maintenance personnel training system, based on the US full-time aircraft trade training system. This approach can be achieved without CASA approving recognised education facilities that are currently providing tradespersons without the need for CASA oversight. The old DCA devolved that responsibility based on the once excellent Australian internationally recognised aviation tradespersons. It is **DEEWR's responsibility** to once again obtain this international trade skill capability — not CASA. The national outcome must mean that Immigration, Trade, Foreign Affairs, etc. all utilise the same trade certificates and education qualifications.

Using a **whole-of-government** approach to trade training would remove the need, and costs, for CASA to 'control' trade training. Trade training in Australia is now the responsibility of DEEWR and they need to bring trade certificates and education together. They are the only government department that can return international recognition of our AMEs. DEEWR is responsible for trades and education, **not** CASA. Nobody expects CASA not to have input to DEEWR but their input should be no more than employer and union representatives.

CASA is a **licensing authority** and does not need to start approving national trade education facilities to provide Australian tradespersons. Unlike the US and European system where there is no national trade training/education system, Australia is moving to national trade qualifications to improve mobility & employability of the workforce. AMROBA has been lobbying for government assistance for full time trade training — many States are now implementing full time theory training to various levels up to AQF Certificate IV trade level.

Regulatory reform would have been completed by now if Regulatory Reform was managed as a 'whole-of-government' approach instead of the 'go-it-alone' approach of CASA.

Feasible policy options should include:

1. Adoption of the US system that will enable Australian Registered Businesses to provide flight training and aircraft maintenance services to the non-airline segment, without CASA approval, to reduce regulatory imposts. Major cost/benefits savings to the community, CASA and industry. (See FAR Parts 43, 61, 65 & 91)
2. Full time trade training (used in US for over decades) leading to DEEWR accepted national AME trade skills that are internationally recognised by North America and Europe. This international standard trade qualification, based on a national trade skill education qualification, would be recognised in aviation legislation as meeting employment as a qualified maintenance tradesperson.
3. National maintenance personnel trade skill standards, without CASA approval of training facilities, would enable CASA to issue AME licences after the AME obtained appropriate experience, without further training, on condition that LAME ICAO 'privileges' qualifications have also been obtained in the national education system. Bring AME trade training and qualification into line with other Australian trade training as well as equating to North America and Europe standards.
4. Adoption of a single page organisation authorisation from CASA that empowers the approved business to expand or contract their business by self assessment against CASA promulgated standards — standards based on the Convention and its Annexes standards.

Taking into account the amount of promulgated guidance material that is on the OBPR's website, it is incomprehensible why CASA regulatory development teams do not have a '**deregulate' and whole-of-government** approach to legislative development to reform aviation regulatory requirements.

AMROBA fully supports the principles and policies of CASA's CEO and other Government (e.g. Productivity Commission/OBPR) but it is obvious that CASA regulatory development teams do not follow those directions and prefers a go-it-alone approach that has isolated CASA from other relevant government departments and agencies. CASA is way out of step with the 'problems' confronting the aviation non-airline segment. In 2006, the Federal Government decided that the **OBPR** will play a central role in delivering the Government's best practice regulation requirements by providing a 'one stop shop' to assist departments and agencies.

Productivity Commission "Principles of good regulatory process"

"In 2006, the Government endorsed the following six principles of good regulatory process identified by the Taskforce on Reducing Regulatory Burdens on Business (Regulation Taskforce 2006).

- *Governments should not act to address '**problems**' until a case for action has been clearly established. - This should include establishing the nature of the problem and why actions additional to existing measures are needed, recognising that not all 'problems' will justify (additional) government action.*
- *A range of **feasible policy options** - including self-regulatory and co-regulatory approaches - need to be identified and their benefits and costs, including compliance costs, assessed within an appropriate framework.*
- *Only the option that generates the greatest net benefit for the community, taking into account all the impacts, should be adopted.*
- *Effective guidance should be provided to relevant regulators and regulated parties in order to ensure that the policy intent of the regulation is clear, as well as the expected compliance requirements.*
- *Mechanisms are needed to ensure that regulation remains relevant and effective over time.*

There needs to be effective consultation with regulated parties at all stages of the regulatory cycle."

Productivity Commission—Office of Best Practice Regulation

Excerpt—Chairman Gary Banks (Productivity Commission) from address to the Small Business Coalition, Brassey House, Canberra, 20 March 2003: *"Characteristics of 'good' regulation"*

*"But regulation can be good or bad. To be **'good'**, regulation must not only bring net benefits to society, it must also:*

- *be the **most effective way of addressing an identified problem**; and*
- ***impose the least possible burden on those regulated** and on the broader community.*

To meet these tests, regulation needs to exhibit some important design features:

***Regulation should not be unduly prescriptive.** Where possible, it should be specified in terms of performance goals or outcomes. It should be flexible enough to accommodate different or changing circumstances, and to enable businesses and households to choose the most cost effective ways of complying.*

***Regulation should be clear and concise**. It should also be communicated effectively and be readily accessible to those affected by it. Not only should people be able to find out what regulations apply to them, the regulations themselves must be capable of being readily understood.*

***Regulation should be consistent** with other laws, agreements and international obligations. Inconsistency can create division, confusion and waste.*

***Regulation must be enforceable**. But it should embody incentives or disciplines no greater than are needed for reasonable enforcement, and involve adequate resources for the purpose.*

*Finally, regulation needs to be **administered** by **accountable bodies** in a fair and consistent manner, and it should be **monitored and periodically reviewed** to ensure that it continues to achieve its aims."*

Regulation Impact Statements

Regulation Impact Statements (RISs) are often required for regulation that has an impact on business. But they have wider applicability, as they simply document a sound policy development process, comprising the following elements:

- *identification of the **problem** requiring action and the desired objective or outcome;*
- *setting out the **options** (regulatory and non-regulatory) and their respective **costs and benefits***

across the economy and community;

- ***consultation*** *with those potentially affected; and*
- *a strategy to* ***implement*** *and* ***review*** *the preferred option.*

To quote from the Cabinet-endorsed *A Guide to Regulation*:
The Government has asked the OBPR to ensure that particular effects on small businesses of proposed new and amended legislation and any other regulation are made explicit in the RIS. The RIS should also give full consideration to the Government's objective of ***minimising the paperwork and regulatory burden on small business.***

In assessing costs, 'RISs should include estimates of both one-off and ongoing compliance costs.' In addition 'ways to minimise compliance and paper burden costs should be discussed'.
RISs which fail to meet minimum standards, usually display the following characteristics:

- ***poor definition of problems and objectives****;*
- ***inadequate consideration of alternative options****;*
- ***incomplete cost/benefit assessments; and***
- ***inadequate consultation with those affected****.*

In countries such as the United States, United Kingdom and New Zealand, departments and agencies routinely ***provide considered assessments of regulatory compliance costs in RISs****.*

If NZ can do what the US and UK can do, then it is time CASA also provided detailed cost/benefits.

CASA costs, available from the Department of Infrastructure, Transport, Regional Development and Local Government's website, for aviation standards is $29.8M in one year. Considering that regulatory reform has been underway since 1992, **how many more millions of dollars will CASA waste on developing these 'new' regulations to bring cost/benefits to the community**? **How many millions have already been spent?**

Other Impacts

In addition, there are other 'government' principles and guidelines that also impact on the development of 'aviation' specific regulations that the CASA led regulatory development teams need to take into account. For instance, the Council of Australian Governments (COAG) is the peak intergovernmental forum in Australia. COAG has set principles and guidelines to be met by all government department and agencies.

COAG Principles and Guidelines

"*Since 1995, Ministerial Councils and national standard-setting bodies have had to comply with COAG requirements when making regulations. Apart from subjecting new regulation to more rigorous vetting processes, these enshrine the principles of '****minimum necessary regulation' and performance-based flexibility***".
AMROBA supports the principle of '*minimum necessary regulation'* and '*performance based flexibility'*.

Mutual recognition

"*Australian governments implemented 'mutual recognition' legislation in 1993. This was extended to trade with New Zealand in 1998 with the passage of the Trans Tasman Mutual Recognition legislation.*
Mutual recognition has been a very important initiative. It essentially allows for the side-stepping of regulatory hurdles to trade in goods and services by:

- removing the need for goods sold in one jurisdiction to comply with different regulatory regimes in other jurisdictions; and
- removing the need for persons in regulated occupations having to comply with different occupational entry requirements for other jurisdictions in which they wish to operate."

AMROBA sees that there must be a high priority placed on airworthiness and maintenance international treaties and mutual recognition, however called, to enable Australian small aviation businesses to retain/regain their international capabilities that have been lost. All international agreements need a whole-of-government approach to be successful because of the impact that such agreements may have on other government departments and agencies. DFAT, Trade, Immigration, Workplace Relations, Education, etc.

Both Europe and North America have introduced Bilateral Aviation Safety Agreements & Implementation Agreements that have become nothing but trade agreements between the economic powerbrokers. For the Australian aviation industry to obtain access to these markets it will take a whole-of-government approach to obtain agreements that will benefit Australian aerospace and aviation businesses. The largest market available to our small manufacturers and maintenance businesses is the United States and AMROBA supports concentration on obtaining agreements with the United States and Canada.

It is interesting to note that Canada has been able to obtain agreements both with the US and Europe—maybe Australia should be looking at how Canada has been able to obtain agreements with both major markets even though Canada is the third largest aircraft manufacturing nation.

Lack of Action

In July 1988. with the introduction of the BASI CAIR system, there was widespread claims of poor maintenance and inadequate pilot standards (Australian Financial Review 7/12/88). Almost a decade later, the *Plane Safe* inquiry into aviation safety was tabled in Parliament in May 1996. During that period CAA became CASA and many changes in CASA organisational structures have been witnessed by industry and each change sees further corporate memory depart employment with CASA. Even CASA's CEO admits the expertise now exists in industry — so why won't they listen to the expertise?

CASA, and its predecessor, has **wasted millions of dollars on what should have been a cost effective regulatory** improvement that reduced unnecessary regulations by accepting that the Federal Government has developed many pieces of legislation that impact on small business.

CASA inaction on deregulating the aviation industry, especially for the non-airline segment, by adopting the US system has cost this industry millions of dollars. The US aviation regulations do exactly what CASA CEO Byron has directed to do—implement 'minimum' cost effective safety regulations.

Millions of dollars have been wasted over a decade and half by industry and CASA ($29.8M in one year). The government could reduce costs to non airline businesses thus encouraging growth simply by adopting the US system not just their aviation legislation.

Non airline aviation could be booming in a similar manner to NZ if the US system had been implemented. It would remove proposals to administer non airline aviation by bodies other than the Regulator — another Australian unique approach to aviation brought about because of frustration with CASA's inaction or inability to act.

Appendix D

Civil Aviation Act Recommended Changes

It is time to stop the facade and place the re-write of the aviation rules on hold until the Civil Aviation Act is changed to enable the adoption of FAR or EASA rules and practices. In addition, CASA administrative bureaucratic authorisation processes must be amended to lower costs to industry with a resultant reduction in the number of CASA employees' equivalent to the current size of the industry. Act changes normally take a few years to happen.

Issue 1. AMROBA requested Mr John Anderson, DPM & Minister, Mr Michael Taylor, Secretary of DOTARS, and Mr Bruce Byron, CASA's CEO to take this action on the 8th December 2004 so that Australia can harmonise new regulations. No reply and no action. No matter how the industry and CASA strive to adopt, it will be impossible to properly adopt the rules because the Attorney General drafters will draft to comply with the Act. We became aware late last year that changes to the Act are needed because of the difference between the US Title 49, Subtitle VII, Part A, Subpart iii, that requires the Administrator to make regulations "**that promote safe flight of civil aircraft by prescribing minimum standards**", and the Civil Aviation Act, 20AB that **prevents a person from operating an aircraft or performing maintenance unless permitted by the Regulations**."
(Note the requirement for the FAA rules to promote safe aviation)

FAA = MINIMUM STANDARDS versus CASA = MAXIMUM STANDARDS. ie World's Best Practice

US Title 49

§ 44701. General requirements

Release date: 2003-08-01

(a) **Promoting Safety**.— The Administrator of the Federal Aviation Administration shall **promote safe flight of civil aircraft** in air commerce by prescribing—

(1) **minimum standards** required in the interest of safety for appliances and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers;

(2) **regulations and minimum standards** in the interest of safety for—

(A) inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;

(B) equipment and facilities for, and the timing and manner of, the inspecting, servicing, and overhauling; and

(C) a qualified private person, instead of an officer or employee of the Administration, to examine and report on the inspecting, servicing, and overhauling;

(3) regulations required in the interest of safety for the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, including the reserve supply of fuel and oil carried in flight;

(4) regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers; and

(5) **regulations and minimum standards** for other practices, methods, and procedure the Administrator finds necessary for safety in air commerce and national security.

Civil Aviation Act

20AB Flying aircraft without licence etc.

(1) A person must not perform any duty that is essential to the operation of an Australian aircraft during flight time unless:

(a) the person holds a civil aviation authorisation that is in force and authorises the person to perform **that** duty; or

(b) the person is authorised by or under the regulations to perform that duty without the civil aviation authorisation concerned.

Penalty: Imprisonment for 2 years.

(2) A person must not carry out maintenance on:

(a) an Australian aircraft; or

(b) an aeronautical product in Australian territory; or

(c) an aeronautical product for an Australian aircraft; if the person is not permitted by or under the regulations to carry out **that** maintenance.

Penalty: Imprisonment for 2 years.

(This is interpreted by CASA to cover every operation or maintenance task or duty – if it ain't in the rules you can't do it.)

Based on the difference between the two Implementing Acts, AMROBA proposed changes to S98 of the Civil Aviation Act to the Government, Department and CASA to amend the current paragraph 3(aa) by adding new paragraphs (ab) & (ac) from the US legislation, to read:

> "The Governor-General may [**promote safe flight of civil aircraft in aviation by]** making regulations, not inconsistent with this Act:

(3)(aa**) minimum standards** required in the interest of safety for appliances and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers;

> (ab**) regulations and minimum standards** in the interest of safety for—
>
> (A) inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;
>
> (B) equipment and facilities for, and the timing and manner of, the inspecting, servicing, and overhauling; and
>
> (C) a qualified person, not an officer or employee of CASA, to certify aircraft and aeronautical products as airworthy after inspecting, servicing, and overhauling;
>
> (ac**) regulations and minimum** standards for other practices, methods, and procedure the Parliament finds necessary for safety in air commerce and national security."

20AB would also need to be amended by at least removing the word "**that**" from paragraphs (1) and (2).

Current S98 paragraph *(3) Without limiting the generality of subsections (1) and (2), those subsections include the power to make regulations for or in relation to the following:*

> *(aa) the design and manufacture of aircraft;*
>
> *(a) the registration, marking and airworthiness of aircraft;*
>
> *(b) the manner of applying for AOCs, including the information that may be required, and the conditions to be satisfied, for the issue of AOCs;*
>
> *(c) requiring persons performing specified functions in relation to the operation or maintenance of aircraft and aerodromes to be the holders of licences, permits or certificates of specified kinds, and providing for the grant, issue, cancellation, suspension or variation of such licences, permits and certificates;*

Nowhere does it say in the Civil Aviation Act that the Regulations should **promote SAFE** flight or prescribe **MINIMUM** standards nor does the Act require "**safety**" regulations to be made. The foundation legislation should be laid before building the framework (regulations).

Once the Government is convinced to amend the Act, the regulatory re-write should then be placed into the hands of the industry, with a Government/CASA Secretariat, to develop, draft and finalise the rules just like the FAA utilises the industry ARAC system.

The SCC system controlled by CASA is no more than a talkfest that works against good rule making and should be disbanded. This would not be a major task if CASA could be taken out of the loop until the rule is developed. CASA could then use the new Byron committees to review the rules before recommending them to the Minister.

Appendix E

Simplified Organisation Certificates based on Regulations

AMROBA proposed this change to CASA to simplify CASA's processes and empower approved CAR 30 organisations to control their own capability within the CASA approved activity. The regulations states that CAR 30 certificates should have specified **activities** and we contend that those activities are those that are listed in CAR 30 (2C)(c).

(2C) A certificate of approval is subject to:

*(a) **a condition** that **each activity** the certificate covers must only be carried out at a place where the facilities and equipment necessary for the proper carrying out of the activity are available to the holder of the certificate;*

*(b) **a condition** that **the activities** the certificate covers must be carried out in accordance with a system of quality control that satisfies the requirements of subregulation (2D); and*

*(c) if the certificate **covers some or all** of the following **activities**:*

(i) the design of aircraft;
(ii) the design of aircraft components;
(iii) the design of aircraft materials;
(vii) the maintenance of aircraft;
(viii) the maintenance of aircraft components;
(ix) the maintenance of aircraft materials;
(x) the training of candidates for the examinations referred to in paragraph 31 (4) (e);
(xi) the conducting of the examinations referred to in paragraph 31 (4) (e);

***a condition** that each of **those activities** that is covered by the certificate must be carried out under the control of a person appointed by the applicant to control the activities;*

However, CAR (2D) classifies the 'categories of maintenance' into the 5 licence categories.

(2D) For the purposes of these Regulations, the categories of maintenance are as follows:

(a) maintenance on aircraft airframes;
(b) maintenance on aircraft engines;
(c) maintenance on aircraft radio systems;
(d) maintenance on aircraft electrical systems;
(e) maintenance on aircraft instruments.

In the past, certificates used to simply state "Maintenance of Aircraft" or Maintenance of Aircraft Components".

If any limitation need to be applied it is based on CAR(2D) or by aircraft size because of facility limitation.

The following is a simple procedure to manage the proposed Capability List]

CAPABILITY

1. This is [*Organisation's name*] Capability List of aircraft types and types of aeronautical products capable of being maintained by [*Organisation's name*] within Certificate of Approval No. xxxx issued by the Civil Aviation Safety Authority. The Capability Section consists of an Active Section and Inactive Section.
2. The aircraft and aeronautical products referred to in the Active Section are currently or will have been maintained by [*Organisation's name*] within the previous three years. Where no maintenance has been carried out on an aircraft type or type of aeronautical product within the previous three years or the [*Chief Engineer/Engineering Manager*] determines, the aircraft or product will be removed from the Active Section and inserted into the Inactive Section. Whilst aircraft are in the Inactive Section personnel training, equipment, data, etc are not required to be kept up to date.

3. Prior to an aircraft or aeronautical product being added to the Active Section, the [*Chief Engineer/Engineering Manager*] shall ensure that:

    1. Facilities have been assessed as appropriate for the maintenance;

    2. Equipment has been assessed as available or arrangements are in place for the use of any specialised equipment;

    3. Tooling is adequate and available or arrangements are in place for the use of any specialised tooling;

    4. Personnel are trained, current and qualified to carry out the maintenance;

    5. Appropriately qualified persons are authorised to sign for the completion of the maintenance

    6. Technical publications appropriate to the maintenance has been assessed as current, obtained or arrangements are in place to borrow current data whenever maintenance is being carried out; and

    7. The company records have been annotated by the [*Chief Engineer/Engineering Manager*] that this assessment enables the aircraft type or type of aeronautical product to be added to the Active Section of this Capability List.

    Note: *This Capability List supports the activities covered by the Certificate of Approval and contains the business address of the organization.*

Company Name:
Address line 1:
Address line 2: