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NEWSLETTER

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1. Making the CASA Board Responsible for Aviation.

At the Tamworth Aviation Rally on May 6, it was highlighted that the CASA Board does not have full responsibility for aviation safety, progress and harmonisation with global standards so industry can provide many jobs. Until the Board has the power, Ministers will be held responsible for the state of this industry.

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It is time for the CASA Board to be fully responsible for aviation not the DAS who becomes a CEO implementing Boards

2. Adoption of the USA GA Aviation Regulatory System.

The Rally left no doubt in the minds of DPM **Barnaby Joyce**, Minister **Darren Chester** and CASA Chairman **Jeff Boyd** that the GA community wants the whole GA regulatory system repealed and replaced by the US GA aviation regulatory system. Industry unanimously made it known to the Ministers that CASA cannot provide a sensible regulatory system that encourages growth in GA.

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Aviation problems that need to change must be the responsibility of the CASA Board. The DAS becomes the CEO to run CASA

3. Harmonisation with the USA Aviation System for GA.

CASA will argue that you cannot adopt the FARs into the CASRs but that is not what is required. Industry wants the FARs to be promulgated, with minimum change agreed with industry, as Civil Aviation Act Sec. 9(1)(c) **AVIATION SAFETY STANDARDS**. Regulations can come later to require the use of those standards. There is no excuse, after 20 years, not to comply with the Act.

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This industry does not want ICAO/FAR standards to be regulations, it wants them as standards.

4. Simplified Process to Finish Regulatory Reform in 2 years

The Morris Report changed the Civil Aviation Act in 1995, the Act provided a simplified process to deliver a rule of law three tier systems under the Civil Aviation Act. No Manual of Standards are required, they should all be repealed once the FARs are adopted as Aviation Safety Standards.

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Only government can direct policy that will remove regulations and red tape not in the FAA system for GA

1. *Making the CASA Board Responsible for Aviation.*

At the Tamworth Aviation Rally on May 6, it was highlighted that the CASA Board does not have full responsibility for aviation safety, progress and harmonisation with international standards so industry can provide jobs. Until the Board has the power, Ministers will be held responsible for the state of this industry.

Why would Ministers not empower the CASA Board to be fully responsible? It is so politically sensible that any smart politician will support an Act change to enable CASA's Board to meet the conditions of the Corporation Act.

A properly constituted Board would take over the responsibilities of the Director of Safety and the DAS would become the CEO with responsibilities determined by the Board.

Therefore, the answer for the politicians is simple, shift the DAS responsibilities to the Board and retitle the DAS as CEO. The responsibilities of CASA's CEO would then be set by the CASA's board of directors.

If this is done, the **Minister will hold the Board accountable** and the **Board would hold the CEO accountable**. An industry benefit is that this Board is aware what needs to be done. Adoption of the USA GA aviation regulatory system, as Aviation Safety Standards, would be a Board determination, not individuals within CASA, some that have recently departed.

Department of Infrastructure definitions: *General aviation commonly refers to that part of the aviation industry that engages in activity other than scheduled commercial airline activity. This may include charter operators, aeromedical operators, agricultural aviation businesses, aviation-based fire-fighting services, training and aerial work such as aerial photography and surveying. It also includes private, business, recreational and sports aviation activity and supporting businesses such as maintenance providers.*

US GAMA Definition: *General Aviation includes fixed-wing airplanes, helicopters (rotorcraft), balloons, dirigibles, and gliders. GA activities include the manufacture and operation of aircraft equipped with turbine engines (turbojet, turbofan, or turboprop) or piston engines, and of non-powered aircraft. GA includes flights related to business or corporate transportation of people or cargo, personal transportation (e.g., visiting family), air ambulance, flight training, and many purposes such as fire spotting and suppression and pipeline patrol. GA operations are not determined by the ownership of the aircraft; GA aircraft may be wholly-owned, jointly-owned, rented, chartered, or leased. GA operations are not defined by the airman certificate of the pilot operating the aircraft. The pilot of a GA aircraft may hold a student, private, commercial, or air transport pilot certificate, depending on the purpose of the flight and the number of pilots required to operate it by the manufacturer.*

In other words, all operations but large air transport operators. US GAMA Quote: *“General Aviation is an important element of economic growth in part because it fulfils transportation needs which cannot otherwise be met. Only about 350 U.S. communities have scheduled air service; for the remainder, GA is the only option for the movement of persons or cargo by air. Moreover, GA provides specialized air services, such as air ambulance and traffic patrol, to communities that do have scheduled air service.”*

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2. Adoption of the USA Aviation Regulatory System.

The industry, around 300 at the Rally, left no doubt in the minds of DPM **Barnaby Joyce**, Minister **Darren Chester** and CASA Chairman **Jeff Boyd** that the GA community demands the current GA regulatory system be repealed and replaced by the US GA aviation regulatory system.

This is the same request GA has been making to CASA and its predecessors for 30-40 years. Industry unanimously made it known to these Ministers that CASA cannot and has not provided a sensible regulatory system that encourages safety and maintains growth in GA. The experiment has failed. The experiment has destroyed a prosperous safe industry.

CASA has fought against adopting the FARs for far too long because they want to rewrite the FAA safety standards (FARs) as criminal regulations. There is absolutely no need for CASA legal to be involved with adopting the FARs as Aviation Safety Standards under the Act. The Act's third tier is not being used. Promulgating the US GA regulatory system under the third tier in the Act will maintain a "rule of law" system.

ICAO: Adapting or adopting regulations from other States

*"To meet their requirements for **regulations**, Contracting States always have the option of adopting another Contracting State's regulations. Even though the unilateral adoption of another Contracting State's regulations may have some advantages, such as enhanced exchange of operating crew and aircraft, it should be done only after ensuring that the regulations have been updated to include all ICAO Standards."*

*"Note. — The term "**regulations**" is used in a generic sense to include but is not limited to instructions, rules, edits, directives, sets of laws, requirements, policies, and orders."*

"Each contracting State undertakes to adopt measures to insure that every aircraft flying or manoeuvring within its territory and that every aircraft carrying its registration mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and manoeuvre of aircraft there in force. [rules + Aviation Safety Standards]

Each contracting State undertakes to keep its own regulations in these respect uniform, to the greatest possible extent, with those established from time to time under this Convention.

Further, the Article states that: "Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable." &

"A better alternative would be to adapt the regulations to meet the aviation environment while still maintaining harmony with other States."

ICAO: The safe and orderly development of international civil aviation requires that all civil operations be conducted under internationally accepted minimum operating standards, procedures and practices. That States must collaborate to the highest degree to achieve standardization and harmonisation in regulations, rules, standards, procedures and practices is thus a requirement of the Convention (Articles 12 and 37.)

Implementation of International Standards and Recommended Practices by an ICAO Contracting State must normally be effected under the "rule of law" promulgated in that State. Thus, as a first step towards discharging its obligations and responsibilities, a State will require an enactment of a legislative framework referred to as the primary aviation legislation.

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3. Harmonisation with the USA Aviation System for GA.

CASA will argue that you cannot adopt the FARs into the CASRs but that is not what is required. Industry wants the FARs to be promulgated, with minimum change agreed with industry, as Civil Aviation Act Sec. 9(1)(c) ***AVIATION SAFETY STANDARDS***. Regulations can come later to require the use of those standards. There is no excuse, after 20 years, not to comply with the Act.

The main difference is that the FARs are mainly outcome based standards that place the responsibility with approved individuals.

Therefore there is no impediments to adopting the FAR standards as Aviation Safety Standards. The applicable industry committee could spend a day or so with CASA personnel and oversight any changes to remove US links, etc. to ensure standardisation is retained. Nobody trusts CASA to copy without change.

For example: Adoption of FAR Part 61 as ***Aviation Safety Standard Part 61*** would return ***independent flight instructors*** etc. The loss of the ***independent flight instructor*** started the decline in general aviation. The following links is just 2 days work to initially convert FAR Part 61 to ***Aviation Safety Standard Part 61*** under the Act.

[Initial Conversion of FAR Part 61 to Aviation Safety Standard Part 61](#)

The same would apply by adopting FAR Part 43 as ***Aviation Safety Standard Part 43***

[Initial Conversion of FAR Part 43 to Aviation Safety Standard Part 43](#)

If these can be initially done in less than 2 days for each, then finalising each Part cannot take more than a week or two before promulgating as an ***Aviation Safety Standards***.

The whole general aviation FAR Parts could be promulgated within 2 to 3 months even though the government is in caretaker mode. Post the election, CASA could then propose amendments to the CAR/CASRs, just like the Canadian system, to require people to meet and continue to comply with the Aviation Safety Standards. Any offences identified would be spelt out in the regulations NOT the Aviation Safety Standards.

Publishing as Aviation Safety Standards does not require them to be used until the regulations are amended but it does allow an extended period for discussion. The best example of the use of Civil ***Aviation Safety Standards*** is the Canadian Regulations and **Standards**.

CANADIAN AVIATION STANDARDS EXAMPLES

- [421 - Flight Crew Permits, Licences and Ratings](#)
- [422 - Air Traffic Controller Licences and Ratings](#)
- [424 - Medical Requirements](#)
- [425 - Flight Training](#)
- [426 - Flight Training Units](#)
- [428 - Conduct of Flight Tests](#)

Adopting the FARs as Civil Aviation Safety Regulations should use the Canadian regulation approach to empower the use of the FARs adopted as Aviation Safety Standards.

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4. Simplified Process to Finish Regulatory Reform in 2 years

The Morris Report changed the Civil Aviation Act in 1995, the Act provided a simplified process to provide a ‘rule of law’ with a three tier system under the Civil Aviation Act. **No Manual of Standards** under the Regulations are required, they should all be repealed once the FARs are adopted as ***Aviation Safety Standards under the Act***.

We are basically at a stage where **we need to save aviation** – saving more sectors than just GA. A more simplified system is also needed for the major airlines to reduce costs.

GA also covers the engineering aspects (design, manufacture and maintenance). Adoption of the FARs as Aviation Safety Standards would also save the engineering sectors.

This simplified regulatory reform process, compliant with the current Civil Aviation Act, should have been implemented from 1995. If it had been used since 1995, GA would not have to be saved and would be in better shape today. The 5 stage three tier process:

1. Create Aviation Safety Standards (ASS)

- a. Take each FAR Part associated with GA and promulgate as an **ASS**.
 - i. Act 9(1)(c) provides for the third tier – ASRR recommendation.
 - ii. No change to the converted FAR unless supported by industry.
 - iii. Harmonise totally US GA aviation system.
 - iv. FARs meets ICAO Standards, even with minor difference.
 - v. Minimum differences with NZ.
 - vi. Outcome be cost effective as well as clear and concise.

Timeline: Complete by December 2016

2. Consultation of proposed Aviation Safety Standards (ASS)

- a. As each FAR is converted into **ASS**, it is promulgated on the CASA website.
 - i. Placing each **ASS** Part on the web enables each Part access for public consultation.
 - ii. At the completion of three months on the web, the applicable industry committee meets with CASA and agree or reject each submission and to document reasons.
 - iii. **ASS** will only be amended if it removes confusion and integration into the Australian legal framework.
 - iv. Promulgate finalised ***Aviation Safety Standards***.

Timeline: Complete by mid 2017

3. Amend regulations to adopt Aviation Safety Standards

- a. Starting at the end of the 1st quarter 2017, progressively amend the regulations.
 - i. Base the regulation on the Canadian regulatory style.
 - ii. The regulation would be the “head of power” for each **ASS** Part.
 - iii. Use Canadian regulations, minimal regulations referring to **ASS** to comply with ASRR recommendation.
 - iv. The regulation would be minimal – refer ASRR Report.

Timeline: Complete all regulatory changes by completion of 2017

4. Enforcement of 'criminal' offences

- a. Proper criminal offences should be identified before applying an offence.
 - i. USA CFR Title 49 includes real aviation criminal offences:
 1. Title 49 offences should be in the Civil Aviation Act or criminal code.
 2. The criminal code covers offences like fraud, etc.
 - ii. Breaches of standards is not a criminal offence unless done deliberately.
 - iii. Breaches of standards can be controlled by administrative actions when refusal to comply with a standard.

Timeline: Complete by end of 2018

5. Transition post regulations being made

- a. The most important process is not to lose one aviation participant.
 - i. When a regulation is made, it needs a 5 year transition period.
 - ii. The commencement date should be at least 6 months post making.
- b. Conversion training by well-trained CASA staff
 - i. CASA staff must be well educated in the US system
 - ii. Field office staff should have assigned operators and organisations so they can work with them to understand the adopted US system.
- c. Responsibility is on pilots, LAMEs and others in GA that current responsibilities are placed on operators and organisations.
 - i. US GA has an FBO system that must also be adopted.
 - ii. There may be differences re aircraft spraying.
 1. USA utilises FBO system.
 2. CASA has environment responsibilities under the Act.
 3. May need to retain the AOC system.
- d. Transition should totally remove the restrictions in the current system.
 - i. Higher personnel responsibilities.
 - ii. Performance standards.
 - iii. Safer industry – less regulations.
 - iv. Less CASA documentation to support
 - v. Cross reference to FAA support documentation.

Timeline: Complete transition by end of 2023

This 5 stage process should be seamless to the operation of aviation. It will provide reductions in overall costs.

The other important aspect is the regulatory saving provisions that must save all entities until at least 10 years post the completion of the transition period to enable CASA to pick up any that were left behind.

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