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ADVOCATE OF THE AVIATION MRO INDUSTRY

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People Power — Does it Work? Local Area Petitions?

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One of the principles that underpins a democracy is the capability of the citizens to petition the parliament when, in the view of the citizens, the community's views are not being heard in parliament. If your way of life is being threatened by decisions of government, or proposed decisions of government, then the petition is one way of getting the community's views to the parliament.

Of course, if consultation with the community was done honestly, then there would be no need for a community to take such action. There are some very good papers describing what are petitions; the following is some excerpts.

“Perhaps more importantly, petitions foster a sense of unity and purpose within a community which is then publicly demonstrated when the petition is presented to the House. It has been said that petitioners tend to sign for community reasons, rather than for personal gain. In this sense, a petition provides a measure of a community's strength of feeling on an issue, and in turn, provides Members of Parliament with a sounding board for the concerns expressed by the voting public.”

“Parliaments both in Australia and overseas are making very public decisions about the value of petitioning. At one end of the spectrum are those parliaments which have emphasised the interaction of the public with the parliament (as in the case of Scotland), while at the other end, an emphasis has been placed on improving the reasonable expectation of petitioners to influence government policy. Past and current parliamentary inquiries into the petitioning process are indicative of this decision-making process and should be welcomed. Petitioning has historically provided people with a link to their representatives. By not responding to petitions or addressing the matters raised within, we undermine their fascinating history and deny citizens ancient rights.”

The fact that the community does submit a petition usually demonstrates the rights of the community has been ignored by the parliament, government, its department and agencies. Too often, government and government officials, forget the people in the community and start to implement legislative requirements based more on the ideals of government officials than the needs of a community.

In aviation, many have got to the position that they believe that their rights are being totally ignored by the government and its officials and the only avenue left to them is to create multiple petitions from aviation centres throughout Australia and send them to parliament. The more petitions on the same subject the more parliament must come to realise that the aviation community has had enough of regulatory reform that is not making it simpler to operate and want an immediate stop and a rethink of regulatory reform.

Ever since governments have attempted to reform aviation there has been on-going enquiries and reviews that have destabilised what once was a growing industry with a globally respected safety record. The real reason why we have continual enquiries is because the Civil Aviation Act, among others, needs to be totally rewritten in a similar manner as our nearest aviation countries, e.g. New Zealand and Singapore.

AMROBA supports the aviation community frustrations who are sick and tired of their citizen rights and views not being listened to and therefore are using the petition method to get their views to parliament.

When governments and their officials ignore communities, there is only one choice — petition the parliament and vote against the government when it does not listen — this is democracy.

All of this could have been avoided if government agency officials had listened to the aviation community and created proposals where small business could survive and trade in our region of the world.

Civil Aviation Safety

When you read the Minister's Statement of Expectation, you start to realise that the viability of a safe aviation industry is not a concern of this government, so CASA also has no such commitment.

Unlike the New Zealand and Singapore legislative system, too much reliance is made on these kinds of statements, memorandums of understanding and commitment to White Papers instead of a well written Act that specifies CASA responsibilities and how they should do their work.

These "statements/memorandums" change with each new Minister and government — this continual change is why industry participants are the loser in such a system.

If Australia's Civil Aviation Act mirrored the *Singapore Civil Aviation Authority Act* it would properly address CASA's responsibilities so a more stable CASA would then be overseeing this industry. Politicians are responsible for Acts of Parliament — not regulators. It is time politicians took responsibility for the decline in aviation.

We have endured over twenty years of reform and ever decreasing trust between government and the community.

The latest Statement from the Minister reads:

As the Board of CASA, I expect that you:

1. *will ensure CASA acts in accordance with the Act and the Commonwealth Authorities and Companies Act 1997 (CAC Act) as well as other relevant legislation and legal instruments;*
2. *will give a particular focus to the governance of CASA and its performance against the goals identified in the Corporate Plan including improved safety outcomes, with the Director of Aviation Safety discharging the responsibility for regulatory decision making; and*
3. *will ensure that I and the Secretary of the Department of Infrastructure and Transport (the Department) are kept fully informed of CASA's actions in relation to the initiatives and activities stated below, and alerted to events or issues that may impact on the operations of CASA, including through the provision of timely quarterly reports of progress against the Corporate Plan.*

My expectations are that CASA will:

1. perform its functions in a manner that supports Government policy, focussing on the key aviation goal, as outlined in the National Aviation Policy White Paper (White Paper), that aviation safety remains the highest priority.
2. in conjunction with the Department, the Australian Transport Safety Bureau (ATSB), Airservices Australia and the Department of Defence as appropriate, continue to develop and implement policies, programs and other initiatives of the White Paper to facilitate aviation safety, including:
 - a) continuing to develop and implement the strategy and regulatory plan for future air navigation, communication and surveillance initiatives;
 - b) continuing its strong commitment to completing the regulatory reform program in conjunction with the Office of Legislative Drafting and Publishing (OLDP);
 - c) maintaining a strategic workforce plan that addresses CASA's future recruitment, training and skills requirements;
 - d) continuing to implement the Government's policy objectives in the Australian Airspace Policy Statement; and
 - e) managing the commitment to cap aviation regulatory service fees (subject to adjustments in the consumer price index).
3. undertake effective and appropriate stakeholder engagement with the community, industry and Government in the further development and implementation of significant changes to CASA's regulatory operations, including continuing to strengthen industry awareness of its safety obligations and the provision of relevant education programs.
4. continue to adhere to the terms of the Memorandum of Understanding with the ATSB and provide advice to me about significant issues arising from the regular Executive meetings held between the Director of Aviation Safety and the Chief Commissioner.
5. continue to work closely with the Department and other Australian Government agencies, including the ATSB and Airservices Australia to deliver integrated and comprehensive safety regulatory advice to Government and industry.
6. continue to pursue the establishment of appropriate mutual recognition arrangements including appropriate Bilateral Aviation Safety Agreements.
7. continue to support the Government's aviation safety agenda in the Asia/Pacific region including initiatives such as the Indonesian Transport Safety Assistance Package.
8. maintain commitment to the Memorandum of Understanding between CASA, the Department and Airservices Australia regarding the management of Australia's International Civil Aviation Organization (ICAO) responsibilities.
9. continue to support the maintenance of Australia's State Safety Program including the appropriate implementation of Safety Management Systems.
10. adhere to a set of values and a code of conduct that maintain high standards of professionalism, service, probity, reporting, accountability and transparency, consistent with the Government's aim of excellence in the public sector.

ANTHONY ALBANESE

Minister for Infrastructure and Transport

2 May 2011

Can anyone see where there is any concern with maintaining a viable and safe aviation industry?

Can anyone see an Authority that lives up to the 'expectations' of the Minister?

Contract Terminology Specificity

Parties to aviation equipment transactions often require that the aircraft be delivered, returned or maintained in an "airworthy" condition. They insist that engines and other parts be in "serviceable" condition. But what do these words mean when it comes time to test them?

Enforceability demands specificity. This is especially true when dealing with a fundamental aspect of condition. Yet *airworthy* and *serviceable*, words having the potential to swing a deal from profit to loss, are often left in lower-case and undefined for the parties to argue about later. While this could be beneficial strategy for some, it can be a huge and potentially costly trap for the unwary.

The ATA Common Support Dictionary contains no fewer than three definitions for *airworthy*. The U.S. Federal Aviation Regulations (FAR's) define *airworthy* with respect to aircraft as, "...conform[ing] to its original type design and...in a condition for safe operation." Virtually same as Australia. The phrase "safe operation" is not defined. The common thread among most definitions generally available is some concept of conforming to type design and in a condition "fit" or "safe" for flight. What remains unclear is whether "fit" or "safe" is measured at a point in time (at delivery, for example) or for a period beyond that time.

Indeed, *airworthy* does not mean that the aircraft is without defect. We know broken aircraft can fly safely because aviation authorities issue ferry flight permits for them all the time. Aircraft in commercial service fly with engines having undiscovered missing or damaged blades, and continue to do so unless they show abnormal trends. Yet, if the engine were borescoped, the aircraft would be grounded as being "unairworthy" until the "unserviceable" engine were removed and replaced. Corrosion is another example -- if it's not seen, it doesn't exist. But the mere existence of corrosion doesn't mean the aircraft is not "airworthy" or fit for flight -- it's a matter of degree.

Certainly if an aircraft has an airworthiness certificate, it *must* be airworthy, right? Not necessarily. An aircraft in storage may have an airworthiness certificate, even if it has timed out on maintenance or has flat tires. While it may be airworthy in the strictest sense (it conforms to its type certificate), it may not be capable of flight or be safe to fly.

The word "serviceable" is also without clear definition. While the parties might intend it to mean simply that the item works in accordance with its intended function, some might expect more. An APU can start an engine with gusto or chug it to life only with some moderate coaxing. In each case the APU is serviceable, but in the second example, it is barely functional.

Since these terms are so difficult to define and measure, it may be best *not* to use them and instead fashion objectively measurable conditions which can be verified through inspections. Using them also comes with the risk of implied post-delivery liability. If you must use them, why not say what you mean? Rather than leave it to chance, develop effective and objectively measurable definitions that clearly state the parties' intent. For example, the U.S. FAR's definition could be adopted and supplemented to define "airworthy" to mean, "...that the aircraft conforms to its type design and that such aircraft is in a condition for safe operation and certified by the [operator, etc.] for return to service in accordance with aviation authority, manufacturer and maintenance program requirements as the same are applicable to such aircraft." Similarly, "serviceable", with respect to a part, could mean, "...suitable for installation and commercial use on [the aircraft] in accordance with the maintenance program and applicable aviation authority and certifying authority regulations and certified by [the operator, etc.] as being "serviceable" by affixing to the same an CASA Form One, FAA Form 8130-3 or EASA Form One serviceable tag without exceptions or limitations."

These are sample definitions only and still may be too subjective. But, they are undoubtedly a better start than leaving the terms undefined. Aviation isn't Vegas -- why gamble when you can put the odds strongly in your favour and just say what you mean.

Author [Donald B. Mitchell](#)

MEMORANDUM OF UNDERSTANDING ON OPEN SKIES BETWEEN AUSTRALIA AND NEW ZEALAND.

Mutual Recognition of Aviation-Related Certification

9. The Ministers agreed that their respective aviation safety authorities should continue with the adoption of mutual recognition of all aviation-related certification covered by the proposed Air Services Agreement and not covered by the Trans-tasman Mutual Recognition Arrangement, with a view to achieving mutual recognition by December 2003.
- 10.** The Ministers noted that a Memorandum of Cooperation (MoC) between the Civil Aviation Safety Authority Australia and the Civil Aviation Authority of New Zealand was signed in June 1999. Under the MoC, **both authorities are committed to cooperating in the development of an aviation safety regulatory structure that will have minimal national variations.**

Signed by both countries in November 2000 — still current.

Obviously, international Memorandums mean nothing to CASA as it creates ever growing differences in the safety regulatory structures. Australia/CASA was cooperating prior to Byron/McCormick periods of management of CASA.

We really do need a regulatory system with minimal variations to the New Zealand aviation regulations.

Discussion Papers Based on EASA

Discussion Papers are important in the consultation phase of any change but CASA's DPs do not provide the views of the affected parties.

If CASA was an open bureaucracy, then the DPs would have been developed in conjunction with their "industry committee" and would include options that those affected would support.

For instance, CASA could have offered "options" that would have harmonised with regulatory provisions of New Zealand in the interest of meeting the intent of the MoU between Australia and New Zealand to have an aviation regulatory structure as close as possible to NZ.

Therefore, the "option" not considered that has affected parties in GA support is an "option" to adopt the NZ system for the non-airline sector.

Why isn't this "option" offered by CASA in their DPs? Not EASA!!!

So why provide a DP with "options" that are not real "options"?

To provide documentary evidence to other government departments that would not have any idea whether the "options" were supported by those affected by the "options".

It looks good in a Regulatory Impact Statement that there were a few "options" considered before making a decision.

The only problem is that the views were not sought before the DPs were published.

What are the "issues"?

These DPs are based on EASA NPA 2012-17 that generated an *EASA/Industry 'Part-M General Aviation Task Force'* properly representing the diversity of General Aviation sectors. The objective of the task force was to discuss appropriate actions that would reduce the burden on the General Aviation community, differentiating 2 phases:

Phase I: (the objective of this NPA): Covering a first set of alleviations in areas where high costs and no real safety benefits have been identified, and for which an extensive Regulatory Impact Assessment is not required. In particular:

- o* Maintenance Programmes;
- o* Airworthiness Reviews.

Phase II: Covering other areas where further action is needed (rulemaking, standardisation, change management, etc.) but where more technical discussions and an extensive Regulatory Impact Assessment are required.

When deciding on the appropriate composition for this task force, the Agency needed to ensure adequate representation of all aviation sectors linked to General Aviation. As a consequence, the Agency decided that the best way to ensure this was to invite Pan-European associations, being the responsibility of each association to take into account the position of all their members.

Where is CASA's "General Aviation Task Force" consisting of associations whose members participate to General Aviation?

Instead of copying EASA proposals, CASA could have used the expertise of Australian industry associations who would more than likely have come up with different "options" than what a European Task Force has come up with for their GA.

EASA proposals:

o Aircraft Maintenance Programmes:

- Simplify the approval process;
- Allow the description of tasks by reference to particular documents or manuals;
- Introduce in Part-M 'generic' maintenance programmes which could be further customised to each particular aircraft.

o Airworthiness review:

- Review the link between maintenance and airworthiness review;
- Simplify the functioning of the Airworthiness Review Certificate (ARC).

Does "generic" maintenance program mean Schedule 5???

Sounds a lot like the mature regulatory system that is already in CARs. **An expensive experiment.**



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The Aircraft Maintenance Engineers/Technician Creed

Worth Remembering

"UPON MY HONOR I swear that I shall hold in sacred trust the rights and privileges conferred upon me as a qualified aircraft maintenance engineer/technician. Knowing full well that the safety and lives of others are dependent upon my skill and judgment, I shall never knowingly subject others to risks which I would not be willing to assume for myself, or for those dear to me.

IN DISCHARGING this trust, I pledge myself never to undertake work or approve work which I feel to be beyond the limits of my knowledge nor shall I allow any non qualified superior to persuade me to approve aircraft or equipment as airworthy against my better judgment, nor shall I permit my judgment to be influenced by money or other personal gain, nor shall I pass as airworthy aircraft or equipment about which I am in doubt either as a result of direct inspection or uncertainty regarding the ability of others who have worked on it to accomplish their work satisfactorily.

I REALIZE the grave responsibility which is mine as a qualified aircraft maintenance engineer/technician, to exercise my judgment on the airworthiness of aircraft and equipment. I, therefore, pledge unyielding adherence to these precepts for the advancement of aviation and for the dignity of my vocation."