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AVIATION MAINTENANCE REPAIR & OVERHAUL BUSINESS ASSOCIATION, INC
ADVOCATE OF THE AVIATION MRO INDUSTRY

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When will Government/Department/Agency move the Civil Aviation regulatory system from the 19th to the 20th century?

19th	20th	21st

Regulatory Reform/Development Has No End Date

We are 1/5th into the 20th century and civil aviation is still operating to un-competitive, dated civil aviation regulations failing to keep Australia aligned with world standards and practices or supporting global aviation trade participation.

Private and commercial aviation, manufacturing, maintenance and training are still in the past instead of benefitting from 20th century competitive requirements.

Civil aviation regulatory reform started 30 years ago to prepare for the 20th century and still not completed. A political and public service embarrassment still implementing non-competitive, restrictive regulations **in defiance** to CAOG's ***Competition Principles Agreement*** between all governments to review regulations and remove anti-competitive regulations. In fact, CASA has introduced new regulations that are anti-competitive regulations for no safety reason.

COAG**: "The guiding principle is that legislation **should not restrict competition"

The purpose of COAG's ***Competition Principles Agreement*** is, for civil aviation, to ensure there are "parallel pathways" for like operations for those that don't want to participate under one restrictive sector. The standards that CASA enables under Part 149, for example, must also be available to VH registered aircraft if these Competition Principles are applied. There can be no safety case to do otherwise.

Global Recognition – Convention Compliance

Convention Annexes compliance is years behind meeting Article 37 of the Convention (treaty) obligations, especially the major changes that were supposed to be adopted in 2020. The failure to adopt, and stay compliant, affects Australian civil aviation organisations international recognition and acceptance of organisations capabilities and services. Many "Standards" are less bureaucratic than CA(S)Rs.

Australia once proudly supported ICAO reviews and amendments of the Convention Annexes and were one of the first nations to adopt and implement into our regulatory system. Today, there is a tendency to list differences telling the rest of the world we don't meet the Convention Annex Standards. An embarrassment to skilled industry.

To get to the 20th century, we need to adopt Annex Standards.

Each sector of civil aviation naturally lobby for monopoly regulations to remove competition. It is up to government, departments and agencies to prevent this from happening. The 'Competition Principles Agreement" must be applied to current and new proposed regulations by the new leaders.

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1. COAG's Competition Principles Agreement – New Leaders.


Minister


Secretary


CEO/DAS


Chair

Minister: Mr Barnaby Joyce
Secretary: Mr Simon Atkinson
CASA Chair: Mr Mark Binskin
CEO/DAS: Ms Pip Spence

NEW LEADERS - NEW COMPETITION & SAFETY REGs?

We need these new Leaders to set a new direction for regulatory reform to re-introduce competition domestically and globally for the benefit of civil aviation as a whole.

Combined, the leaders are who we rely on to harmonise and standardise globally.

But, how do you change the culture in CASA management to implement COAG's ***Competition Principle Agreement*** to their review and development of Civil Aviation Safety Regulations from now and into the future?

The Minister could direct the Board of CASA to do so, the Secretary could also oversee all proposed regulations from CASA to prevent anti-competitive regulations being made, or the Chair could direct the DAS and/or the DAS could direct her managers. To be permanent, reference to this Agreement should be included in the Act.

Competitive regulations does not mean variable safety Standards as is applied today.

To really produce competitive aviation safety regulations, there needs a complete mindset change of CASA's regulatory reform project managers and legal oversight.

Section 5 of the ***Competition Principle Agreement*** deals specifically with regulations review for anti-competition provisions. Should be done every 10 years on current regulations. Many CASRs fail these standards – they create monopolies without competition. The complete opposite of the ***Competition Principles.***

There are many in industry that could identify the anti-competition rules.

1. Look at CASR Part 61 where the rated flight instructor is prevented from providing flight instruction UNLESS employed by a Part 141/142 organisation.
   a. US FAR Part 61 flight instructor independently provide flight instruction under Part 61 and provide most of new pilots in the US. (around 70%)
2. Look at CASR Part 149 and the monopoly Self Administration Organisation for recreational aircraft with different standards than that are applied to the same aircraft, flight crew and maintainers when the same aircraft type is VH registered.
   a. This economic protective regulation is an example of restrictive anti-competition regulation the Agreement wants repealed.
   b. CASA once had a "parallel pathway" policy, to implement the Agreement Principles, when developing regulations which has been ignored since 2003.
3. The same applies to the Airport regulations and many operational and maintenance regulations.

   Examples:

a. Airport regulations implements a monopoly that does not provide the benefits of the restriction to the [aviation] community as a whole nor do they meet the objectives of the legislation. Adding considerable costs to aviation users.

b. CASR Part 66, based on EASR Part 66, does not have the same ratings or pathways that EASR Part 66, from where it was adopted, thus forcing all students to use CASA approved training organisations.

4. The unique application of the dated CASR Part 21 on the Australian industry is preventing our organisations competing in the global aviation market.

a. FAR Part 21 was upgraded in 2009, after Australia adopted it in 1998, to clarify responsibilities and to improve international trade. Time to update.

b. CASR Part 21 also underpins Australia's Bilateral Aviation Safety Agreement with the USA.

COAG's Competition Principles Agreement

AMROBA notes the Competition Agreement's review has not been achieved, by CASA, in relation to current or proposed CASRs. Compared our regulations to FARs competitive regulations. Under the FARs, economic decisions are made by industry participants, not the FARs. Read the Agreement.

COAGs Competition Principles Agreements

"Legislation Review

5.(1) *The guiding principle is that legislation (including Acts, enactments, Ordinances or regulations)* ***should not restrict competition*** *etc, etc, etc.*

Note: The Council of Australian Governments at its meeting on ***3 November 2000 agreed to the following amendment to this Agreement to provide further guidance to the Council on how to assess whether jurisdictions have met their legislative review commitments.***

In assessing whether the threshold requirement of clause 5 has been achieved, the Council should consider whether the conclusion reached in the report is within a range of outcomes that could reasonably be reached based on the information available ***to a properly constituted review process****. Within the range of outcomes that could reasonably be reached, it is a matter for Government to determine what policy is in the public interest."*

The guiding principle is that legislation ***should not restrict competition.***

CASA's regulatory reform project managers have obviously been left in the dark regarding the Agreement and have been "captured" by individual sectors resulting in non-competitive regulations that economically protect one sector to the detriment of other sectors.

Neither government, department or agency have implemented a properly constituted (Competition Agreement) review process over the last 20 years nor do they have senior management committed to the Competition Review process.

For those that have been around for a while, they will remember the Hilmer Report recommendations that the *COAG Competition Agreement* is based on. CASA's reform agenda, since 2003, is not consistent with COAG's agreements for conducting reviews and implementing reforms. It is why there is so much discontent in industry today.

With new leaders now in charge, we hope that they adhere to COAGs review and reforms processes to underpin any future development of aviation safety regulations.

It needs new committed managers within the Department and CASA.

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2. *Why Adopting Annexes' SARPs benefit Australia?*

The Convention was brought about so all Contracting States adopt the Standards promulgated under the Annexes to standardise and harmonise the aviation regulatory systems worldwide. We need to participate in the global aviation market to grow.

> "**Standard:** Any specification for physical characteristics, configuration, material, performance, personnel or procedure, the **uniform application** of which is recognised as necessary for the safety or regularity of international air navigation and to **which Contracting States will conform in accordance with the Convention**, in the **event of impossibility of compliance**, notification to the Council is compulsory under Article 38.
>
> It is to be noted that some Standards in an Annex incorporate, by reference, other specifications having the status of Recommended Practices. In such cases the **text of the Recommended Practice becomes part of the Standard**."

Australia is a mature aviation country that should not find it '*impossible to comply with the Standards*' specified in the Annexes, most are less bureaucratic than CA(S)Rs.

Aviation is a truly global aviation industry so it is important that we are part of it and we can only achieve that if we are in compliance with the Annexes Standards.

You can list a difference but that informs all other Contracting States that we find it **impossible to implement a Standard**. Failed standardisation and/or harmonisation.

ICAO promulgates guides and documents for Contracting States, like our MoS, that should implement the Standards in the same manner in each Contracting State. There is no reason for being unique and out of step with other Contracting States.

Many Annexes were amended in 2020 to meet global changes and imposed conditions on each Contracting States to comply.

Clarity: A "Contracting State" is a State which **has consented to be bound by the treaty** and for which the treaty is in force. Australia is an early member.

> **Convention: "**Therefore, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly transport and economically;"
> **Article 12 middle paragraph states:** "Each Contracting State undertakes to keep its own regulations in these respects uniform, **to the greatest possible extent,** with those established from time to time under this Convention."

A very basic reason to be harmonised is aircraft, aircraft parts and maintenance services. Parts can be imported and exported if we are part of the global aviation design, manufacturing and maintenance market.

Annex 1: Personnel Licencing includes the AME trade skills required and in 2020, competency-based training standards have been included. Time to adopt by the NVET.

Annex 8: Specifies design, manufacturing and maintenance standards. Last year, these standards have all been changed in the interest of global trading.

ICAO Standards are, in a lot of cases, less bureaucratic than our regulatory requirements. We need a concentrated effort by government to adopt and harmonise.

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3. Annex 8 Certification Standards – Engineering Aspects

This Annex is the basis of design, manufacture and maintenance globally and is crucial for Australia's capabilities. Government must comply with the Annex to gain international recognition and acceptance of Australia's engineering capabilities.

We notice that ICAO makes many references to their Airworthiness Manual on how the Standard is applied, or should be applied by Contracting States. Similar to our 'minimum regulations" and MoS except the Airworthiness Manual costs.

AMROBA purchased the ICAO Airworthiness Manual so we can understand how CASA is supposed to implement the Annex 8 Standards and Recommended Practices.

Maintenance

The latest amendment has consolidated the maintenance standards into Annex 8 instead of being scattered in the three Parts of Annex 6 operations standards.

It promulgates a new global maintenance organisation certificate that should have been adopted last year along with re-issue of all Australian maintenance organisations certificates into the global certificate standard to assist with global recognition.

Small aircraft definition change – no lower limit

A new section has been added: ***Part VB – Aeroplanes not exceeding 5700Kg for which application for certification was submitted on or after 7 March 2021.***

This section supersedes: ***Part VA – Aeroplanes over 750Kg but not exceeding 5700Kg for which an application for certification was submitted on or after 13 December 2007 BUT before 7 March 2021.***

> ***Note 2*** *– For* ***Part VB aeroplanes****, guidance material concerning the appropriate airworthiness safety levels commensurate with acceptable risk levels is contained in the Airworthiness Manual (Doc 9760).*

The 570Kg lower limit has been removed from the definition of "small aeroplanes". This virtually terminates Contracting State's individual, below 750Kg aeroplane, standards as of 7 March 2021 unless they are determined to meet the levels in the Airworthiness Manual which means some "ultralights" could meet ***Part VB*** small aircraft certification standards or classified as "Other kind of aircraft, e.g. LSAs".

To comply, CASA promulgated ultralight standards should have a terminating date of 7 March 2021. Future development of some "ultralight" aeroplanes may comply with the ***new Annex 8 Part VB*** standards for small aeroplanes or be listed under "Other".

Q. Are CASA's certification specialists trained and qualified to implement the new **Annex 8 Part VB** standards prescribed in the ICAO Airworthiness Manual (Doc 9760)?

Annex 8 & ICAO Airworthiness Manual, 4th Edition (Doc 9760)

"The fourth edition includes additional and enhanced guidance delivered by the AIRP as part of the Air Navigation Commission (ANC) work programme for airworthiness. These include guidance on the **approval of approved maintenance** organization (AMO) to facilitate the harmonization and global recognition of AMO approvals. Also included is enhanced guidance on various States' responsibilities when a type certificate is suspended or revoked, and **new guidance on the type certification and production approvals of small aeroplanes** using a **risk-based approach**. The AIRP has also provided **enhanced guidance** on the use, recognition and acceptance of electronic aircraft continuing airworthiness records including electronic maintenance records for aircraft in anticipation to changes in the SARPs involving these records."

We need Government/CASA to maintain global harmonisation and **lead our industr**y through the changes that have been made to Annex 8.

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