

21 October 2014

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Dear Bev

Thanks to both yourself and Helen for agreeing to meet with Hallett Griffin and myself on Thursday 16 October. We appreciate the opportunity you gave us, to present to you our views on the opportunity to amend the Civil Aviation Act and how we believe it should be possible to deliver a safer and cost effective regulatory system.

CAA Rule Part 137

Hallett and I both have a view that for agricultural operations conducted in non-populated areas, always over farmland, where there is only ever one pilot on board (unless agricultural flight training is being undertaken under Part 137 operations), the extra cost and burden brought about by certification of 137 operators does not justify any gains, which may be obtained from certification.

As discussed with you, the certification process is expensive and takes a lot of administration time especially during the five yearly re-entry process. The audits, which are carried out at least annually, are pretty much a desktop/paper type of audit with no actual audit or observation of operations undertaken, which we believe is unfortunate. These auditors are in a unique situation whereby they are working with many agricultural Part 137 operators and are able to see the various methodologies of conducting operations. They are in a position where they can suggest to operators safer ways they can conduct their operations to improve safety, which is what we all want to achieve. To do so they ideally need to observe the operator whilst he is working. In summary, more emphasis placed on the operational/safety aspects and less on paperwork.

It was agreed there has been a huge cultural shift, particularly in agricultural aviation in New Zealand. A lot of this has been industry driven, but also the new Worksafe Legislation, which is coming in the near future, has had a positive effect. This is having a significant impact on the way in which people conduct their operations and management's willingness to ensure there is no reputational damage done to a company, which would occur as a result of an accident, let alone injury to staff, who are expensive and difficult to replace.

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Regulation via Policy and AC

We have seen a significant amount of new policy and Advisory Circulars put out by the Regulator, which many of the CAA staff are interpreting and using as Rules and insisting the industry has to abide by. I myself had a meeting with Civil Aviation recently, in relation to my company wanting to dry lease a New Zealand registered aircraft offshore. I was shown a policy document that prescribed in some detail how I was to go about this. While it was very helpful to have the document, all needed to appreciate it was only policy and not legislation. It has an advantage in that the Regulator can change that policy without a prolonged process including consultation. In summary, there are advantages and disadvantages in this for both the Regulator and Industry.

Education and Prosecution

I myself have been involved in a number of cases as an expert witness or as a mentor helping pilots who have got themselves into varying degrees of difficulty with the Aviation Regulator in this country. Many of these are young pilots who are operating on their own remotely, with little or no supervision or overview of their operations. They have not set out to deliberately break a rule or legislation, but have ended up in a situation where unknowing to themselves they have contravened some Rules, usually as a result of rule development, which they are unaware of.

My view is the Regulator has many roles, one of which is education. At times in the past, the Regulator had many people out in the field residing or based in places like Auckland, Wellington or Christchurch. These people interacted closely with the operators and provided guidance to help ensure operators, particularly the smaller one-man bands, were in compliance with the Rules. Where it was observed people had deliberately set about to not operate in accordance with the Rules, then the many options available to the Regulator could be used and would be fully supported by industry.

There are some of us in the industry who have been operating for many years and who are more than happy to mentor these younger pilots. That coupled with more Field Safety Officers would, I believe, have a positive outcome and would be readily accepted by the industry, more so than the CAA prosecution and investigation team, who often cause much heartache for smaller operators trying their best.

Medicals

This is an issue of much concern to many people in the industry, due to the significant cost each pilot has to now incur on at least an annual basis if operating commercially, and in some cases we are required to have six monthly medicals. Not only is there a charge paid to Civil Aviation for the paperwork and assessment they carry out, but also for some of us getting on in age there is an increasing raft of tests, x-rays, profusion scans and stress ECGs, etc, that seem to occur on a frequent basis. These at times can add an extra \$2,000 to the issue of a medical.

There may well be some justification in the case of those who are over sixty and operating commercially carrying fare paying passengers. However, one can't help but question the benefit of all this if they are carrying non-fare paying passengers or none at all. This is a similar situation to a non-commercial person driving a car or a motor home along the highway who does not have to have any medicals whatsoever.

I am aware of a recent case where a pilot in his late fifties or early sixties who did have some event in his life and had his medical suspended, but on having further tests conducted was issued a new Class 2 Medical with a restriction that he could not carry any passengers. The ironical thing about this case is should he obtain a recreational pilot licence he would have nowhere near the checks required for a Class 2 Medical and could simply obtain a Recreational Pilots Licence and Medical and be able to carry himself and one passenger. There does appear to me to be some inconsistency, which is a cause for concern. If we have pilots who may have a condition, but it is stable, more consideration should be given to allowing those pilots to continue to operate. I am aware this is the case for a number of pilots.

There are a number of issues, which crop up from time to time on the medical side, which almost seem to be a dark art, that even if you have a qualification as a Doctor, you hold little chance of convincing the PMO or his advisors of a suitable outcome. I am aware of a number of pilots who have attempted to resolve these issues, but in their view got a less than satisfactory outcome.

As an example I am aware of at least one pilot in this country who found that it was far cheaper and easier to fly his aircraft by having it registered on the American Register and holding an American Pilots Licence and Medical Certificate. He now operates IFR as a private pilot in this country and into the South Pacific with no need to have a New Zealand Medical at all and at reduced cost.

Risk Based Decision Making

As mentioned, this is an area we support. If Rules are written due to a risk based assessment, coupled with a cost benefit analysis, which shows there is a requirement, I personally support that. However, we do note there are a number of interpretations, policies and Advisory Circulars that come out without the benefit of them going through a consultation process.

This leads on to **Safety Management Systems**, which if tailored to each operator's operation, depending on its' size, we believe will have a significant positive outcome for industry. The devil, however, is always in the details and the acceptance of the operator's SMS by CAA staff.

There are many operators in New Zealand who are adopting this system or have had a similar one in place for many years. Some of the NZAAA members have started using a Safety Management System, which was put together by the Aviation New Zealand Management Team.

CAA Management

We are fortunate we have the current Director who has experience in commercial aviation. This often comes to the fore when issues arise, in that he understands the needs of the operator and has been successful in balancing that need against safety. When one looks back over recent years good gains have been made in the GA safety area. Having said that, there is still room for improvement and only by industry and the Authority working together will further gains be made.

We are lucky under the current Director in that he discharges his authority with care. This has not always been the case in the past, which has resulted in industry unrest and occasionally resulted in legal intervention. Some consideration should be given to an appeal process, which does not necessarily involve the legal profession in the first instance, and is simple as well as cost and time effective.

Airports

I am not sure what the answer is with regard to airports, which are commercial operations. There does seem to be a tendency to increase the capital of these airports, re-value them every 12 months and then justify a landing fee increase based on the capital value involved.

Unfortunately I do not have the answer to this, but I do suspect a high level of openness and transparency coupled with proper consultation will help to go a long way towards resolving airport companies building empires. If these companies were required to enter into consultation and seek agreement with stakeholders on capital development, it would reduce the trend by some airport companies to build a large monster, which they don't need and are unable to service financially.

An example of the above is Rotorua, which managed to convince itself that the region needed an International Airport despite having one a little over an hours drive away in Hamilton. I am aware that Air New Zealand and Rotorua Airport have agreed they will be discontinuing their service across the Tasman from the end of April 2015. There has been significant debt incurred for the Rotorua taxpayers to have an international style security fence put around the airport, extra land purchased, the runway extended and also alterations to the terminal for customs and bio security, that will not be required after April 2015.

There needs to be some type of process put in place to stop this development occurring without proper consultation, which the airport companies then try to recover costs from operators by increasing landing charges.

Once again, many thanks for your time on Thursday.

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