



FLIGHT ATTENDANTS' ASSOCIATION OF AUSTRALIA

Domestic/Regional Division

18/538 Gardeners Road, Alexandria NSW 2015 Ph: (02) 9669 5366, Fax: (02) 9669 5388

Email: info@faadomestic.org.au

28 August 2007

The Hon Mark Vaile MP
Deputy Prime Minister and Minister for Transport and Regional Services
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

COPY

Dear Minister,

Re: CASA Disallowable Instrument approvals 321/06, 172/07 and 222/07

I am writing to you regarding recent approvals given to Australian operators by the Civil Aviation Safety Authority (**CASA**), which permit a reduction of the number of cabin crew members on board certain Australian airline transport category aircraft.

As the professional Association representing Australian cabin crew, the FAAA believes this issue to be a matter of considerable importance that clearly has the potential to impact upon the safety of the fare paying travelling public and their confidence in the appropriate regulatory oversight. As a consequence, we wish to bring to your urgent attention grave concerns this Association holds in relation to both the basis upon which these approvals have been provided and the legislative process CASA has utilised in granting them.

In regard to the first matter (the unsound technical basis of these approvals) you will recall that the issue of crew numbers was fully examined in 2002 - 2003 as part of Notice of Proposed Rule Making (**NPRM**) 0211 OS. At that time the no safety case was provided to support changing the current Australian ratio of 1 (one) cabin crew member per each 36 passengers to the lower international minimum standard of 1 (one) crew member per each 50 passenger seats. This change from Australia's world's-best-practice to a global minimum standard was apparently being sought by some operators on the basis of efficiency gains and commercial considerations.

NPRM 0211 OS recognised the importance of the cabin crew as members of an integrated operational safety team and the subsequent reliance of flight crew upon them to conduct numerous safety critical tasks. NPRM 0211 OS therefore proposed to significantly increase many of the regulatory requirements of cabin crew emergency training and associated operational requirements, and conducted a full safety analysis

of the appropriate crew ratio for inclusion within the new Civil Aviation Safety Regulation (CASR) Part 121A.

At that time those seeking to have the international minimum crewing standard adopted criticised the higher Australian requirement as having been initially adopted on the basis of an uncritical acceptance of an early aircraft configuration. While this may indeed have been so, this argument is beside the point; the safety case supporting the Australian cabin crew standard is centred on almost 50 years of demonstrated safety outcomes. The safety of the crew regulation has been proved—how it was first determined is irrelevant. Nevertheless, this anecdotal criticism continues to be the main basis upon which the [commercially motivated] reduction of Australian cabin crew numbers is proposed.

In submissions to NPRM 0211 OS, the FAA and other stakeholders provided detailed evidence of the higher levels of demonstrated safety of the existing Australian regulation in critical areas such as crew member redundancy, security oversight and emergency evacuation efficiency. This evidence included research conducted by the Greenwich University's School of Numerical Processing (Fire Safety Research Group) confirming that higher crew numbers provided for safer emergency evacuations. Ongoing research since conducted by the university's Fire Safety Research Group, utilising a more advanced database, continues to support this conclusion.

As a consequence of the NPRM 0211 OS analysis and review, Minister Anderson advised Parliament on 2 June 2003 that the Australian cabin crew ratio regulations would not be changed. This declaration was firmly supported by the Opposition and Minor Parties. It was clearly the will of Parliament that the safer Australian cabin crew to passenger ratio be retained.

However, despite the NPRM 0211 OS safety review, and parliament's subsequent decision to retain the Australian cabin crew ratio, CASA appears to have recently bowed to commercial pressure and approved operations utilising less crew members (on particular aircraft) than the law requires. As the aircraft types covered by these approvals (Boeing B737-800 & Airbus A320) constitute a large portion of Australia's airline fleet, this regulatory action by CASA has significantly undermined both the decision of the parliament and the maintenance of the higher Australian standard. It is difficult to see how the uncritical basis of this approval cannot be exploited to demand that it flow on to all other Australian airline transport category aircraft.

Considering the public importance of this issue, the FAA is alarmed that CASA's consideration these approvals was conducted in absolute secrecy [between the applicant and CASA,] with no consultation with any stakeholders such as the FAA or the CASA/Industry Standard Consultative Committee (SCC). At no time was CASA's consideration of this matter notified on the CASA website or in any way flagged publicly. Due to this secrecy the FAA had no reasonable prospect of becoming aware of that CASA was considering reducing crew numbers or, subsequently, that approval 321/06 had been placed before parliament as a disallowable instrument. As a consequence,

Likewise, the CASA approvals do not mention (or appear to have considered) the critical security functions of crew members. Reducing security oversight of an aircraft by reducing crew numbers is in fundamental contradiction of the general security policy of the Australian [and international] governments and will have serious implications for aircraft safety. As was seen in the Launceston incident, the ability of the crew to

Another technical factor of the CASA approvals which is of grave concern to the FAAA is that they do not refer to (or appear to have considered) the vital issue of crew member redundancy. The Greenwch University study cited above found that crew members are likely to be incapacitated in as many as 44% of aircraft accidents and therefore to play no role in the subsequent evacuation. In addressing this factor the Australian crew ratio was demonstrated by this study as providing a higher level of crew member redundancy and therefore a correspondingly higher level of safety.

The approvals granted by CASA acknowledge, and attempt to retain, this critical human safety element by [the approval's requirement for] mandatory co-option of passengers to conduct trained crew member functions at overwing aircraft exits. This forced reliance/co-option of passengers is manifestly inappropriate. CASA apparently believes that simply providing a 30 second briefing to a passenger on how to open an emergency exit will provide an equivalent level of safety to having sufficient numbers of trained crew members present to control exits and manage the evacuation. This could not be further from the truth and actually reduces rather than enhances safety—the critical requirement is not when/how to open an exit but rather when NOT to open an exit. Opening an exit into fire will kill all passengers in that location; this critical assessment can only be reliably made in an emergency situation by a trained professional crew member.

As a consequence of their being no external specialist input, the FAAA believes that these approvals have been granted on an unsound basis that places efficiency gains for airlines and commercial imperatives ahead of public safety. The FAAA highlights that it is human system operators such as cabin crew that are fundamentally the most valuable and flexible safety components of any complex socio-technical system such as aviation. As the aviation industry seeks to minimize cost by the introduction of minimum standards in many operational areas, critical safety and security oversight by professional crew members must not also be simultaneously reduced.

This inappropriate secrecy and complete lack of transparency was purposely utilised by CASA despite the regulator being well aware of the contentious nature of this issue, its importance and the very high level of debate that occurred during the NPRM 0211 OS review of crew numbers. This reflects very poorly on CASA (and subsequently, if not addressed, upon the government) and should be considered unacceptable regulatory action in an advanced democracy such as Australia.

the public (including this Association) was only advised of this matter once it had completed the parliamentary disallowance process and was subsequently published on the CASA website. Unfortunately, the horse had already bolted.

maintain control of an aircraft is critical to the safety and survival of the passengers. The relationship between the crew provide security oversight and the US 9/11 events needs no explanation. Why has CASA not considered this factor?

Had CASA conducted appropriate consultation with such specialist stakeholders as the FAA, technical issues such as evacuation efficiency, crew member redundancy and effective security oversight would have been highlighted, resulting in a higher quality decision that was more in the public interest. The regulator would then not have exposed itself (and the government) to the perception of commercial bias and inappropriate regulatory action. As you will be aware, this is a charge that is being increasingly levelled at CASA.

However, the technical and commercial biases of CASA's actions are not this Association's only reservation. The FAA also has grave concerns regarding CASA's compliance with its obligations under the Legislative Instruments Act (LSA) 2003. Part 3 of the LSA also requires CASA to consult on the use of Disallowable Instruments, however, as noted above, CASA did not seek the submission of the FAA as required under Section 3 (17) (3) of the Act and therefore has not met this important legislative obligation. Similarly, none of the provisions of Section 3 (18) (2) of the Act, detailing when consultation is unnecessary or inappropriate, exist to obviate the need for CASA to have consulted in relation to these approvals.

Additionally, the first approval (CASA 321/06) has not included a Consultation Statement as required by Part 3 of the Act or detailed why consultation was considered not necessary. Subsequent approvals (CASA 172/07 & CASA 222/07), which are currently still before the parliament for disallowance, do contain Consultation Statements; however, there are several significant errors. The Consultation Statements for CASA 172/07 and 222/07 state that consultation was not required as they are based on a previous similar approval (i.e. the initial Virgin approval 321/06). This approval, which does not itself meet the requirements of the LSA, is therefore being utilised as the basis for avoiding consultation on all subsequent approvals. The FAA considers this to be inappropriate [legislative] action by CASA.

The consultation statements included within Instruments CASA 172/07 and CASA 222/07 make the incorrect statement that the issue of crew numbers has not been reviewed for 47 years, indicating that this was a contributory factor in supporting the granting of the approvals. As indicated above in the discussion of NPRM 0211 OS, this is a false statement and provides no basis for supporting the CASA approval decision.

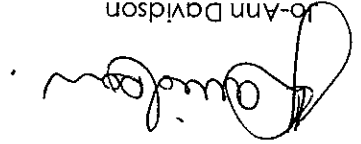
Parliament considers the issue of Regulators consulting on the development of Disallowable Instruments to be so significant that the Senate Standing Committee on Regulations and Ordinances has recently produced a report specifically on this issue. The FAA has reviewed this report (Interim Report 113) carefully and brings to your attention that the Committee was highly critical of regulators not acting in accordance with the consultation requirements of the Act [and in a manner exactly as CASA has acted in relation to these instruments]. The FAA will be bringing the actions of CASA to

the attention of the Committee and requesting that it reviews the appropriateness of CASA's actions with respect to these instruments.

The FAA believes that CASA's actions in regard to these approvals and disallowable instruments has significantly undermined the intentions of parliament, the sustainable basis for continuing Australia's current world's-best-practice crew ratio regulations and have not complied with the regulator's obligations under the Legislative Instruments Act. Considering these facts we therefore request that you review the appropriateness of Instruments CASA 321/06, CASA 172/07 and CASA 222/07, and CASA's actions relating thereto, as a matter of urgency.

The FAA makes this request based on our strong concern that the inappropriate regulatory and legislative actions of CASA have, potentially, placed the safety of fare paying passengers at risk and undermined confidence in the government's regulatory and legislative actions.

Yours Sincerely,



Jo-Ann Davidson
Secretary, FAAA Domestic/Regional Division