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Board of Airline  
Representatives  
of Australia Inc

Our Ref.: Let.2066

3 February 2014

Mr David Forsyth AM  
Chair  
Aviation Safety Regulation Review

Dear Mr Forsyth,

### **Submission – Aviation Safety Regulation Review**

The Board of Airline Representatives of Australia (BARA) is pleased to provide the following submission to the Aviation Safety Regulation Review (the Review).

BARA is the industry body promoting safe and efficient operations of international airlines serving Australia for the benefit of consumers, businesses and tourism. BARA's members provide 90 per cent of all international passenger flights to and from Australia. There are currently 30 members, including many of the world's largest airlines.

The Review is considered timely, as all regulatory and enforcement regimes need to be subject to formal review on a periodic basis. BARA notes that the 2005 *Taskforce on Reducing the Regulatory Burden on Businesses* found widespread problems with the volume and quality of Australia's regulation, the processes used for making, administering and enforcing it. Effective and efficient safety regulation is essential in promoting safe and commercially viable international aviation in Australia.

The Review's terms of reference is wide ranging, including assessing the roles and performance of the Civil Aviation Safety Authority (CASA) and Australian Transport Safety Bureau (ATSB). BARA's submission provides comment on the current institutional arrangements, processes for developing safety regulations, and service delivery outcomes based on initial input from BARA's international members.

BARA's member airlines may also provide the Review with individual submissions in addition to this industry submission.

## Structure, industry objective statements and accountability

BARA considers that the current basic structure, which separates the roles of regulation development and enforcement (CASA), accident investigation (ATSB) and aviation service providers (e.g. Airservices Australia), to be sensible. The separation is consistent with the structural reforms applied to most infrastructure industries in Australia, such as gas and electricity, where governments have separated regulatory and service delivery functions.

Based on the experience gained from numerous inquiries into the structure and regulation of many industries in Australia, there does appear to be scope to improve the legislative basis of both CASA and the ATSB.

BARA considers that the legislation enabling both CASA and the ATSB should contain a clear overarching objective statement for the industry, with specific objectives for CASA and the ATSB consistent with the industry objective contained in the *Civil Aviation Act 1998* (CA Act) and *Transport Safety Investigation Services Act 1995*, respectively. Presently, these Acts do not contain explicit objective statements. Instead, the Acts contain detail on the establishment and functions of CASA and the ATSB, which in turn implicitly provides the objectives to be pursued. The CA Act does contain a statement on the objective for the Act but without specific reference to CASA.

As a comparison, Australia's electricity industry has the National Electricity Objective, which is:

to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to –

- a. price, quality, safety, reliability, and security of supply of electricity; and
- b. the reliability, safety and security of the national electricity system.

BARA also notes that in its inquiry into *Australia's Urban Water Industry*, the Productivity Commission recommended the following industry objective be established: 'to provide water, wastewater and stormwater services in an economically efficient manner so as to maximise net benefits to the community'.

Australia's aviation safety regulation would also benefit from an overarching industry objective. Aviation safety regulation, like all regulation, involves balancing the costs of designing, implementing and enforcing regulation against the estimated benefits derived by the industry and consumers. Safety remains the highest priority for the industry and Australia has an impressive record on aviation safety. To continue these outcomes, it is critical that the industry continually focusses its efforts in those practices and technologies that provide the greatest net benefit to aviation safety.

The industry objective and specific objectives for CASA and the ATSB need to accurately articulate the outcomes that each organisation should pursue in exercising its powers and responsibilities. One possible industry objective statement could be 'To promote the highest standards of aviation safety consistent with maximising the value of Australia's aviation industry.' Such a statement places aviation safety at the forefront, while recognising that in developing and enforcing regulations judgements must ultimately be made in balancing the cost of regulations against the benefits derived.

Governments are ultimately responsible for monitoring outcomes and holding their regulatory entities accountable for their performance. The principles of good regulatory practice are well established. The challenge for the Australian Government, therefore, is to ensure that it has an ongoing robust framework in place to monitor the performance of CASA and the ATSB. This could involve periodic internal reviews of CASA and the ATSB, with recommended areas for improvement formally incorporated in directions from the Australian Government to the CASA Board and ATSB Commissioners.

### **Aviation safety regulations – development and periodic review**

The development of safety regulations requires a level of consistency and predictability together with effective stakeholder consultation. The first priority, however, should be to ensure that the regulations generate the highest net benefits to the industry. The regulations need to focus on the delivery of good industry outcomes.

A consistent theme of regulatory reviews is the lack of solid evidence underpinning the sound development and implementation of regulations. BARA considers that there is scope to improve on the evidence-based approach to aviation safety regulations in Australia.

One example BARA draws to the Review's attention is the current criteria to establish aviation rescue and firefighting (ARFF) services. Presently, the criteria for establishing a service at an airport is when more than 350,000 passengers passed through on air transport flights during the previous financial year (Manual of Standards Part 139H). Under this fixed criteria together with ongoing growth in passenger numbers, Airservices Australia is required to establish a number of new ARFF services at regional airports in Western Australia and New South Wales.

BARA is unaware of evidence that demonstrates the requirement for ARFF services at these regional locations represents either net benefit to the industry or the highest valued investment in aviation safety. While the criteria for establishing ARFF stations meets the objectives of being consistent and predictable, the highest net benefits test has not been satisfied. It is not in the industry's interest for a series of investments to occur that do not represent the best option for promoting aviation safety at regional airports.

Given the likely extensive investment in ARFF services at regional locations that will occur under the current regulations, BARA considers it is an opportune time to review the aviation safety investment strategy at regional airports. This should involve a robust evaluation of all options, including those that reduce the risk of accidents occurring in addition to ARFF services, so that the industry focuses on those practices and initiatives most likely to deliver the highest net safety benefits at regional airports.

As a general principle, BARA considers that all regulations require formal review about every five years, with structural and governance reviews at least every 10 years. One way often proposed to ensure the timely review of regulations is through 'sunset' clauses in legislation or regulations. Alternatively, the Australian Government could specify an ongoing timetable for the review of aviation safety regulations.

To support robust aviation safety regulations, BARA suggests that one CASA Board member is appointed on the basis of demonstrated experience in the development and implementation of best practice regulatory principles.

**Service delivery**

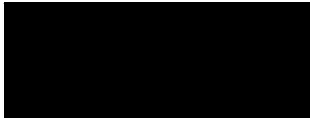
BARA sought input from member carriers on the quality of the working relationship with CASA in addition to issues they would like included in BARA's submission. The initial input from the membership can be summarised as:

- Interactions with CASA staff have been professional, with some airlines highlighting notable improvements in working relationships over the last few years. The international airlines appreciate that there are challenges in CASA needing to interact with airline staff from numerous countries with different cultures and commercial practices.
- There is merit in CASA staff attending more of the aviation forums established to plan and monitor the development of aviation infrastructure in Australia. This could provide opportunities for a more integrated approach to the development of safety regulations and operating procedures.

BARA is still expecting to receive input for other member carriers in the near future. I will provide a follow up submission if additional issues are raised by member carriers.

Please contact the undersigned on 02 9299 9919 if you require any further information on BARA's submission.

Yours sincerely



Barry Abrams  
**Executive Director**