

Civil Aviation Safety Authority

Submission to the Productivity Commission Inquiry on Review of Cost Recovery by Commonwealth Agencies

Introduction

Section 9 of the Civil Aviation Act 1988, provides as follows:

9. (1) CASA has the function of conducting the safety regulation of the following, in accordance with this Act and the regulations:

- (a) civil air operations in Australian territory;
- (b) the operation of Australian aircraft outside Australian territory;

by means that include the following:

- (c) developing and promulgating appropriate, clear and concise aviation safety standards;
- (d) developing effective enforcement strategies to secure compliance with aviation safety standards;
- (e) issuing certificates, licences, registrations and permits;
- (f) conducting comprehensive aviation industry surveillance, including assessment of safety-related decisions taken by industry management at all levels for their impact on aviation safety;
- (g) conducting regular reviews of the system of civil aviation safety in order to monitor the safety performance of the aviation industry, to identify safety-related trends and risk factors and to promote the development and improvement of the system;
- (h) conducting regular and timely assessment of international safety developments.

(2) CASA also has the following safety-related functions

- (a) encouraging a greater acceptance by the aviation industry of its obligation to maintain high standards of aviation safety, through:
 - i. comprehensive safety education and training programs; and
 - ii. accurate and timely aviation safety advice; and
 - iii. fostering an awareness in industry management, and within the community generally, of the importance of aviation safety and compliance with relevant legislation;
- (b) promoting full and effective consultation and communication with all interested parties on aviation safety issues.

- (3) CASA also has the following safety-related functions:
- (a) co-operating with the Bureau of Air Safety Investigation in relation to the investigation of aircraft accidents and incidents;
 - (b) any functions conferred on CASA under the *Civil Aviation (Carriers' Liability) Act 1959*, or under a corresponding law of a State or Territory;
 - (c) any functions conferred on CASA under the *Air Navigation Act 1920*;
 - (d) any other functions prescribed by the regulations, being functions relating to any matters referred to in this section;
 - (e) promoting the development of Australia's civil aviation safety capabilities, skills and services, for the benefit of the Australian community and for export;
 - (f) providing consultancy and management services relating to any of the matters referred to in this section, both within and outside Australian territory;
 - (g) any functions incidental to any of the functions specified in this section.

History

Attached to this submission, are a number of documents arranged in chronological order that may assist the commission in appreciating how the current cost recovery arrangements have evolved for CASA and the aviation industry. A summary of that history follows.

Cost recovery has been a feature of the provision of aviation regulatory services since 1956. The first in-depth approach to develop a policy for recovery of aviation fees and charges was the 1984 Report of the Independent Inquiry into Aviation Cost Recovery, known as the Bosch report after its Chairman, Mr Henry Bosch. The review considered all Government aviation costs of which the costs generated by the safety regulation function was only a small component. This component was specifically addressed by the review and their conclusions (Chapter 19 of the Bosch Report) are attached (**Attachment 1**). In summary, the Bosch Report recommended that the Government continue to fund the standards setting and compliance functions of the regulator and to increase the level of cost recovery for aviation safety regulatory services, achieving full cost recovery over a ten year period.

By 1988, the aviation safety regulation function was incorporated into the then Civil Aviation Authority (CAA) and the provision of all regulatory services attracted a fee payable by the applicant. The fees charged returned only part of the cost of the service and the balance was made up by Government appropriation. In 1990, Government announced that industry would fund the full cost of safety regulation. Several attempts to implement this policy met with strong industry opposition and were subsequently abandoned.(see **Attachment 2**)

In 1993, the Government amended the policy to one where it was prepared to fund from appropriations, 50% of the costs of standard setting and compliance (capped and indexed), with the industry being required to fund the balance. This policy was to be implemented within two years of July 1993. The CAA then commissioned a major study into costs and identification of cost recovery strategies to achieve this objective. The December 1993 report, Aviation Safety Regulation – Costing & Pricing was produced and accepted by the CAA as a basis for consultation with industry. The report and the proposal as presented to the industry is at **Attachment 3**. Attention is drawn to the fact that this study included a Safety Impact Analysis (Safety Case).

In late 1994, the existing schedule of fees and charges was simplified by the then CAA Board with the result that some services no longer attracted a charge and the level of recovery was not uniform across services. This initiative was not consistent with the strategy proposed in the 1993 Costing & Pricing Report. This schedule of fees was later incorporated into the Civil Aviation (Fees) Regulations 1995.

In 1995, the safety regulation function was separated from the CAA into a new body, the Civil Aviation Safety Authority. In the Explanatory Memorandum for the Civil Aviation Amendment Bill 1995 which gave effect to this change, the Government noted in the Financial Impact Statement:

"The Government proposes to fund that part of the aviation safety regulation that can be identified as being for the public good: for example, standard setting and unplanned surveillance activities. Other aspects of aviation safety regulation, which primarily benefit the travelling public and the aviation industry, will continue to be met by a combination of charges and levies on the aviation industry, including excise on aviation fuels. This is in accordance with a long term funding strategy prepared by the CAA, with the assistance of outside consultants, which was extensively discussed with industry in 1994. Additional costs will be incurred as a result of the inclusion of the safety regulatory function in a separate organisation. These cover additional staff required for safety regulation of Air Services, provision for the CASA Board, additional corporate support staff resulting from diseconomies of scale associated with the split of the CAA, and the one off establishment, primarily accommodation and information technology.

Increases in the duty on aviation fuels will be necessary to fund the industry's and the travelling public's portions of the additional CASA budgetary requirements outlined above. The quantum of these increases will be announced in the 1995 Budget.

CASA will examine its funding arrangements during 1995/96 with the aim of increasing its revenue through direct fees and charges, in particular through the introduction of licence renewal fees from 1996/97. This should impact on the level of duty on aviation fuels".

This funding strategy, set by Government, resulted in CASA receiving the revenue required to undertake its functions from a range of sources comprising appropriations (50% of the costs of standards setting and compliance to a maximum of \$22.8m per annum indexed from 1995/96), with the balance being provided through a dedicated component of aviation fuel excise and fees for services provided to the aviation industry. Those sources of revenue broadly correspond to the beneficiaries of CASA undertaking its statutory obligations and are:

- the general public (Appropriation);
- the travelling public and the aviation industry (an appropriation specifically drawn from duty on aviation fuel consumption); and
- the aviation industry (fee for service).

On the 4 July 1995 the Civil Aviation (Fees) Regulations came into effect. A copy of the Regulations is provided as **Attachment 4**. These regulations prescribe fees for a limited range of regulatory services (principally Section 9(1)(e) of the Act refers) including fees for:

- certificates of airworthiness;
- various forms of approvals;
- manufacture and maintenance approvals;
- aerodrome licences;
- air operator's certificates;
- airworthiness authorities;
- aircraft maintenance engineers examinations and licences;
- flight crew examinations and licences;
- flight manuals; and
- consultancy advice.

The prescribed fees, which were based on the 1994 decision taken by the then CAA Board, have not been amended since 4 July 1995.

In line with the Government's 1996 election commitment to implement a fairer system for recovering CASA's costs, the Minister wrote to the Board of CASA in September 1997 asking CASA to review its regulatory fees. A proposal was developed in the form of a Discussion Paper and circulated to industry on 15 April 1998. The proposal was based on the strategy enunciated in the 1994 Aviation Safety Regulation – Costing & Pricing Report and in essence proposed to increase fees to higher recovery (but not full) levels and reduce fuel excise by a corresponding amount. At that time a number of services provided by CASA had no charges and many users of the regulatory services paid little if any of the costs they incurred. The proposed system was to remove existing inequities in the system and redistribute costs in a more equitable manner.

In October 1998, following public and industry comments on the discussion paper, CASA released a Notice of Proposed Rule Making (NPRM) with comments to be submitted by 16 November 1998- A copy of the NPRM is provided as **Attachment 5**. CASA did not proceed with this strategy at that time. The CASA Board is currently considering cost recovery issues coincident with the drafting of new regulations as referred to in the section of the paper dealing with the "Current Situation".

In order to address CASA's funding requirements, the Government approved an increase in the excise rate on aviation fuel, effective from 12 May 1999.

In the Explanatory Memorandum which accompanied the Excise Tariff Amendment (Aviation Fuel Revenues) Bill 1999, a copy of the Regulation Impact Statement regarding the increase in excise was attached. Information provided in the Statement indicates that the Government, in addressing the long term funding issues, considered other options apart from increasing the rate of duty on aviation fuels. These options were the introduction of a passenger ticket tax and aircraft registration fees. Both options were rejected for the reasons set out in the Statement - a copy of the EM is provided as **Attachment 6**.

Current Situation

CASA's costs continue to be recovered from the beneficiaries of aviation safety regulation under the Government funding strategy described previously. For the 2000/01 financial year funds are to be derived from:

Public Benefit - Appropriation Bill 1	\$ 34.532 million
Aviation Industry and Travelling Public - Special Appropriation - Fuel Excise	\$ 54.0 million
Aviation Industry - Services Fees	\$ 2.6 million

CASA recognises the importance of its role to provide regulatory services to industry in a timely, effective and efficient manner. In late 1999, CASA established a functional Division so that a separate focus could be placed on improving the delivery of regulatory services to industry. The Regulatory Services Division has established a program of consultation with operational staff to simplify processes and to identify those regulatory services which should continue to be provided by CASA and those regulatory services which can be provided safely and effectively by industry with suitable oversight by CASA.

CASA will then consult with industry to :

- develop target response times for services consistent with regulatory requirements; and
- review and establish suitable fee levels for regulatory services, once satisfactory delivery times are achieved.

This work is scheduled to be undertaken during 2000/01 and will provide the basis for CASA to give advice to the Government on proposed future direction for cost recovery for regulatory services.

Since the early 1990s, CASA has made extensive use of external delegates who are authorised to conduct tests and issue permissions on behalf of CASA. The rates charged by these external delegates are either market based or the external delegate is providing the service internally to his own organisation.

CASA has prepared a draft Regulatory Reform Plan for consideration by the Minister. The objective of this Plan is to rewrite the Regulations and Orders with the development of appropriate clear and concise aviation safety regulations which reflect best practice in aviation regulation. This significant programme of development work is currently scheduled for completion in September 2002. The existing Fees Regulations will become obsolete with the advent of the new aviation regulations and a new listing of regulatory services attracting a fee will be developed and identified in the Fees Regulations. This process will take account of the review by the Regulatory Services Division of what regulatory services should be provided by CASA and what the appropriate fees should be.

Civil Aviation Safety Authority
5 December 2000

Attachment Summary

- (1) Extract - Chapter 19 of 1984 Bosch Report
- (2) 1990 Policy Initiatives - Responses by Industry
- (3) Aviation Safety Regulation - Costing and Pricing - Anderson Report
- (4) Civil Aviation (Fees) Regulations 1995
- (5) Notice of Proposed Rule Making - Regulatory Services and Fees.
- (6) Explanatory Memorandum - Excise Tariff Amendment (Civil Aviation Fuel Revenues) Bill 1999