

13 June 2014

Deputy Prime Minister and Minister for Infrastructure and Regional Development  
The Hon Warren Truss MP  
PO Box 6022  
House of Representatives  
Parliament House  
CANBERRA ACT 2600

Our Ref: S05-0013

Dear Minister Truss,

### **CASA Handling of Colour Vision Deficiency (CVD) Debate**

As you are aware, Australia has one of the most enlightened policy positions in world aviation in regard to permitting pilots to fly in commercial service despite having an identified Colour Vision Deficiency (CVD). Our policy position followed on from the Pape (1987) and Denison (1989) decisions of the Administrative Appeals Tribunal (AAT) and has been vindicated by many years and thousands of hours of safe flight by pilots with CVD. However, CASA has now embarked on a set of tactics to unwind that position.

Normally, I would express the concerns of the Australian and International Pilots Association (AIPA) directly with the Director of Aviation Safety, Mr John McCormick, before raising the issue with you. However, it is clear to me from watching Senate Estimates that Mr McCormick is determined to press ahead with his strategy to unwind the Australian CVD policy position, regardless of both the empirical safety evidence and the unnecessary damage that will ensue to the livelihoods of a significant number of Australia's professional aviators.

The letters sent on 05 June 2014 by CASA to affected pilots and their employers, citing unspecified "recent medical research", have been condemned by many industry participants as a blatant form of institutional bullying that not only exacerbates the lack of trust that CASA engenders within the industry, but also underlines the lack of regulatory courage and integrity in the way that CASA is approaching this issue.

In effect, CASA has implied without evidence that the affected pilots and their employers are accepting an unnecessary risk if they continue to operate. Despite years of incident-free operations conducted on the basis of medical certification given by CASA, some operators might now feel compelled to restrict the livelihoods of their employees, simply because CASA may decide that those operators' risk management or operational judgement is somehow deficient, thus placing their business at risk of some future regulatory action. AIPA is concerned that, should employees' livelihoods be adversely affected as a consequence of this implied threat, CASA will not be a party to any Fair Work proceedings and will thus escape any judicial scrutiny, despite their lack of courage or justification to act directly against the medical certification already issued.

I appreciate that you would not normally intervene in matters directly affecting safety. However, AIPA does not believe that there is any evidence to suggest a safety issue in

Australia's current CVD policy – in fact, quite the opposite – and that the approach adopted by CASA is a procedural abuse that must be immediately rescinded, with the protagonists sanctioned appropriately.

In many ways, this cynical attempt by the senior executives of CASA to attack the long-standing CVD policy position of Australia, in concert with their intention to use the AAT to wind that policy back, has dulled some of the glimmer of hope that the industry attributed to your Aviation Safety Regulatory Review (ASRR).

As you know, AIPA is necessarily a champion of procedural fairness and judicial review. We are concerned generally about the industry wide view that CASA will not embrace the Government's Model Litigant policy and that CASA is now using the AAT and the Federal Court processes to financially overwhelm industry applicants seeking independent redress. While AIPA is not in a position to truly assess the validity of that industry view, we do note the lack of positive evidence in the public arena to offset that perspective. The evidence in Senate Estimates of the CASA financial planning for the O'Brien CVD review in the AAT does not help allay any concerns that industry participants may have about the AAT moving further and further beyond the financial reach of many people to seek review of administrative decisions.

Given the path that CASA seems determined to follow in regard to CVD pilots, AIPA strongly recommends that you accept the evidence of many years of safe operations by CVD pilots in Australia that this is not a safety issue and that you consequently intervene to direct a more sensible and less expensive approach to whatever procedural issue that is motivating CASA to further alienate much of the Australian aviation industry.

Yours sincerely,



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