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By Electronic Transmission

Air Vice Marshal (Ret'd) Skidmore
Director of Aviation Safety
Civil Aviation Safety Authority
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Our Ref: G40-0058

Dear Air Vice Marshal Skidmore,

SCC WORKING GROUP ADVICE TO DAS ON THE FUTURE CASA INDUSTRY CONSULTATION SYSTEM – 27 JULY 2015

Recently, AusALPA was alerted to the advice provided to you by the Working Group formed in light of the recommendations of the ASRR to review the Standards Consultative Committee (SCC) as a consultative mechanism. Procedurally, the Working Group advice to you was neither reviewed nor ratified by the SCC Plenary and therefore must be viewed as the advice of the individuals selected by the Chair rather than the advice of the SCC. We note that, to a surprising extent, it is blatantly self-serving in regard to the influence of the Working Group members and, consequently, contains some fundamental flaws.

In particular, AusALPA is concerned that the proposed DAS Advisory Panel represents a particularly unbalanced concentration of advice.

We strongly recommend that you include our Association as a full member of your chosen advisory mechanism, noting that full membership appropriately reflects both our consistent safety and technical contributions and the true characteristics of membership of both the recommended ASTRA and FAA advisory models.

Given the wider publication of the Working Group advice, AusALPA believes that it is important to correct some key factual errors and selective research, as well as to note the unjustified but apparently philosophical bias against workforce representative associations demonstrated by a number of the Working Group members.

Firstly, the level of research conducted by the Working Group apparently failed to unearth the almost universal inclusion of workforce representatives in the committee structure used by the US Government in general and particularly within the DoT and

the FAA, despite recommending a small portion of the FAA consultative framework as the appropriate model for you to adopt. The FAA Order that sets out the Aviation Rulemaking Advisory Committee charter (FAA Order 1110.119P) very clearly states at subparagraph 12b that "Voting members represent organizations directly and indirectly impacted by FAA regulations (e.g., aircraft owners and operators, airmen and flight crewmembers, organizations representing airports, maintenance providers, manufacturers, public citizen and passenger groups, and training providers)...". We understand that our equivalent Member Association, US ALPA, has been involved in the ARAC since it began in 1991.

Secondly, it is not clear from the Working Group's advice to you the extent to which they actually researched the FAA use of committees before settling on the ARAC model. ARAC is neither small nor nimble: at inception in May 1991, ARAC had 56 member organizations, an Executive Committee, 9 Issue Groups and 14 Working Groups and, at its peak in 2001, ARAC had 75 member organizations, 11 Issue Groups and up to 75 Working Groups. While it currently has fewer members and a much lower level of activity, it is a bureaucratic product of a system of government that far exceeds that of Australia in its quest for open and transparent government – in accordance with the requirements of the Federal Advisory Committee Act, the Administrative Procedures Act, the The Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act and a plethora of Executive Orders, the meetings of ARAC are gazetted, open to the public and all correspondence and documents are published under the Federal Docket Management System.

Even though ARAC working groups are closed to the public and not required to be officially minuted, it appears that the FAA prefers the flexibility of the Aviation Rulemaking Committees (ARCs), as they are intra-agency committees exempt from many of the obligations of the ARAC. Again, US ALPA has participated in a significant number of ARCs. The FAA policy for both ARAC and ARCs emphasises the need for balance in viewpoints, interests, and knowledge – an essential element that the SCC Working Group has clearly ignored. It also appears from the current version of the FAA Office of Rulemaking Committee Manual (ARM-001-015) that the SCC Working Group's advice about the characteristics of the ARAC and the "no "chairs" are required" statement are self-evidently wrong.

Thirdly, we are concerned that the advice contains a serious misrepresentation of the membership of the ASTRA Council. The ASTRA website is unfortunately misleading in that it reflects the Charter and membership arrangements that existed in 2011. However, that situation is well known to ASTRA Council members as it was identified at the end of 2013 when the Council agreed to amend the Charter and elected AusALPA to full Council membership without preconditions. Those decisions are reflected in the Action Items appendix to every set of Council minutes since 2013.

That misrepresentation may indeed have been deliberate, since most of the organisations represented by the Working Group members also attend (or at least have standing invitations to attend) ASTRA meetings. Critically, when challenged in the SCC Plenary about the accuracy of the advice, Bob Hall acknowledged the true membership status of AusALPA but then compounded the problem by making a further misrepresentation. He asserted that AusALPA had to make some sort of formally undertaking in regard to industrial activities before being granted full membership of the ASRA Council.

The speciousness of this assertion is glaringly obvious: ASTRA, like the SCC, is not an industrial forum and AusALPA has no standing or role in any Federal or State industrial framework. Ironically, CASA, Airservices, Qantas and Virgin each have industrial

standing as employers yet none of the workforce representative bodies have viewed that direct industrial role as somehow affecting how those bodies participate in what are strictly safety and technical forums.

Overall, the procedural handling of this advice to you is problematic.

We expected that the Working Group, as a subordinate entity of the SCC, would present at the SCC Plenary their analysis and reasoning for their advice and engage with the scrutiny of the broader SCC membership. Disappointingly, that was not the case. What transpired was a discussion limited by the Chair to working groups as a generalised approach to task management rather than any broad discussion of the advice *per se*. It was abundantly clear to our SCC Delegates that the review was a “done deal” and not subject to broader oversight – ironically demonstrating the most common complaint about the failings of the consultative process.

We therefore ask you to reconsider both the quality of the advice and any decisions you might make in reliance upon that advice.

Excluding workforce representative associations from full membership and “firmly” insisting that only observer status should be made available is a nonsense at best and, in relying upon the erroneous views of ASTRA Council membership rules and AusALPA’s status, is entirely fallacious. Importantly, we think it is critical that you recognise that the proposed membership of your advisory group are all representatives with vested commercial and economic interests whose safety activities are rarely characterised as timely, let alone proactive, and therefore lacks balance. In particular, you should be very alert to the fact that management representatives of operators do not, and cannot, represent the views of their pilot workforces – that is the very reason that both IATA and IFALPA co-exist.

Apart from the poorly researched choice of organisational models, some of the Working Groups analysis of the current SCC process is useful in that it highlights a range of expectations that may or may not be consistent with the original purpose of the SCC. However, it appears that the Working Group is now seeking an element of regulatory control rather than just consultation, which is not a prospect we support.

In summary, AusALPA is concerned that the proposed DAS Advisory Panel represents a particularly unbalanced concentration of advice. We therefore strongly recommend that you include AusALPA as a full member of your chosen advisory mechanism, as an appropriate reflection both our consistent safety and technical contributions and the reality of both the recommended ASTRA and FAA advisory models.

Yours sincerely,



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