12 September 2012

The Submissions Clerk
Civil Aviation Authority
PO Box 3555
Wellington 6140

Advisory Circular AC 00-4 31 May 2012 submission on behalf of the Aviation Industry Association of New Zealand

Introductory Comment

First, please accept our apology for the lateness of this submission. We are vitally interested and concerned with the subject matter – safety management systems and their introduction, but it is quite simply a matter of other pressing priorities (conference week), Board papers, Industry meetings and the like that has precluded us from making a comment earlier.

In delaying this response, we have also had the benefit of reading and considering a number of submissions made by key players in the Industry. This has given us the opportunity to reflect on the issues they have raised. We support the comments made by Navigatus, AEANZ and Air New Zealand in respect of section two.

Lastly, we would make the point in our introduction that writing an AC on the subject is a mammoth task and we can observe from the work to date, that there has been considerable thought put into the document, particularly in respect of contexturalising the AC into the New Zealand environment and learning from best practice applied abroad. It is in this context that we make the following observations and comments but would not wish these comments to be viewed as critical of the work undertaken thus far; rather we would appreciate it if they were viewed from the perspective of adding overall value.

Pages 4-11 to bullet point two.

Getting this section correct is critical as it will either create a "light bulb" moment or lead to confusion. Some aspects of this section lead to confusion and we have reflected on why this might be.

As a first step we need to be very clear as to whether we apply definitions first and foremost from the New Zealand statutes and in particular the Civil Aviation Act. Where there are alternative useful definitions from other New Zealand statutes then we have to make a decision to incorporate them or select alternative the definitions from the ICAO SMS manual. This is critical as we all need to be on the same page when it comes to application of the SMS tools.

Secondly, we have to be very clear about the New Zealand context. While the nature and shape of the New Zealand Industry has been considered (we will comment further on this point later), what the paper does not do is provide the historical context of regulating aviation in this country. The following points add clarity:

- The CAA Act 1990 is the starting point. This introduced the concepts of :
  - Management systems Part Two Section 4 (a), (b), (c) of the Act; and
  - Risk/hazard management Sections 29-37
- A new suite of rules were introduced across critical areas of the civil aviation system requiring the introduction of quality control systems – this is important because many countries did not introduce such a requirement. However, New Zealand introduced this requirement in 119 and its operating rules 121,125 and 135; 139 plus 145 and the ATC and Met operating rules.
- The Director of Civil Aviation at thte time wrote to the Industry in the late 1990's seeking clarity around what level of risk assessment and hazard management companies were undertaking
- AS/NZS 3460 relating to risk assessment processes and practices were introduced across the Industry in the early 2000 and today we have contexturalised and formalised training in respect of such matters. This places us in a position of differentiation to the rest of the world.
- In 2005, the Health and Safety in Employment legislation was extended to Aircrew. This Act introduced the concept of Safety Management Systems but in a non prescriptive way. It did not detail the major components but made it a "duty of care" not to harm persons in the air or on the ground

- General Aviation was introduced to risk management tools through the AIRCARE programme and this programme today has introduced a voluntary SMS regime for all accredited members.
- CAA in the late nineties did excellent work on the concept of "just culture" and many New Zealand companies have adopted this philosophy.
- CAA has invested considerable money in the training of personnel in modern risk management and safety management system concepts

The point is that the gap from where we are today and that required by ICAO is not as great as it is in some jurisdictions and it is also not as great as starting from the point of implementing ICAO's component parts from a zero base.

It would be very beneficial if the AC could include commentary on the component parts that are missing to ensure compliance with ICAO.

Our feeling is if such a commentary was included then the Industry would not see this as a "mission" but rather as a natural evolution of a system which had been pointing in the direction of SMS for many years.

The other part that is not clear in all of this commentary is the obligations of the State to develop a State Safety plan and how that links into the Industry.

Specific comments Pages 4-11

Acceptable Level of Safety – this concept is not widely understood. Our question is this concept is more relevant to the State Safety plan. In New Zealand statute the test of an "acceptable level" is found in the Health and Safety section of the Employment Act. It is almost a requirement for zero harm but not stated as such.

Hazard – this definition needs to be aligned with New Zealand statute, probably the HSE Act.

1.2.1 The table??? small, medium and large needs to be aligned with the Civil Aviation Act if these criteria are to be used. We would have thought the issue is more to do with complexity and change rather than the size of an operation, although we do acknowledge that size does clearly impact on complexity.

Describing SMS – this is impossible without a clear statement of context as to what the New Zealand system presently has and what it doesn't have. The first point of the description is to get something that everyone understands and can relate too. The words submitted by Navigatus sum up SMS and we would favour their words being used.

1.4.2 Characteristics of an SMS – we think the whole issue of communication and education should be added to the list. SMS is very orientated around communication and sharing of information. The communicating of "war stories" is intensive and this is what makes SMS different from the QMS reactive systems we have operated in for many years.

1.6 SMS – this should be the context statement. There is also the need to leave the reader with a clear understanding of the various responsibilities of all of the parties. There is very little commentary, for example, on the State Safety Plan. However, this must be incorporated as the Industry needs to understand the State's obligations as well as their own.

1.7 One of the real benefits of SMS in the New Zealand context is that it should address the silos created by the Rules. Our rules do not address third party risk. In fact they generally ignore this risk altogether. However, for most operators it is the third party that can create all nature of unexpected complexity and risk. This risk has generally thought to be uncontrollable but SMS gives the opportunity to enter into dialogue from a data rich base and get problems identified and resolved.

1.9 SMS Integration with other management systems

Only QMS is mentioned whereas in reality the HSE legislation requires far more than QMS and is the more comprehensive piece of legislation, albeit non prescriptive, when it comes to preventing accidents and harm to others.

1.10 Length of Document – the AC is too long for most operators to digest. We suggest there be an introductory context piece followed by a piece on SMS – the pillars and then two separate sections relating to large or complex organisations and another relating to small or simple organizations. The operator could then choose the category they fit into and the complexity of the systems they put in place. We find some business which we would consider small are future proofing by adopting comprehensive SMS schemes and this should be at the discretion of the operator.

1.11 Enforceability of document - there are aspects of the AMC proposals which could lead to inappropriate responses or potential perverse outcomes. For example how does a one person organisation comply with many of the AMC's? In our view there is simply not enough lateral thinking at this level in the document and we are concerned the organization may become overwhelmed by paper work. We doubt that it is possible and or practical for many of the smaller less complex organisations to demonstrate the level of compliance required and we think there are other means of delivering the desired safety outcomes

Reference material

We think that the AIRCARE programme operated by AIA should be referenced especially for those who are seeking more than simple safety compliance but also environmental compliance. It is also written by general aviation operators for general aviation operators within the New Zealand context. There is no equivalent document in this country and represents a good start point. All of the material is documented on the AIA website and is available to all irrespective of membership.

Thank you for the opportunity to comment.

Irene King

Chief Executive.