<u>**Notes from ACAG Meeting, Wednesday 25 July 2012, CAA Office, Wellington**</u>

Present: Mike Groome, Mike Caldwell, John Pearce, Mark Stretch, Qwilton Biel, Errol Burtenshaw, Max Stevens, Paul Drake, Ross Gillespie, Derek Edwards

- The meeting noted that very little rules development action had occurred since our last meeting.

- The Part 139 NPRM, and its consultation process were discussed and those who had been involved were collectively expecting either a revised NPRM or at the very least some substantial additional clarifying material to come out before the proposal gets any further through the process.

- It was also noted that the draft Advisory Circular regarding Safety Management Systems had been released for comment, and that the comment period had been extended.

- The remainder of the meeting was devoted to consideration of the discussion document on ACAG as provided to us by CAA ahead of the meeting. Much of this was hypothetical in nature as we didn't have the benefit of an explanation of the rationale for the paper. The consensus from the discussion, to be taken forward to the afternoon CAA/ACAG meeting was:

  o That we should seek a clear explanation from CAA on the reasons for the document and who instigated it.

  o That we need to be mindful of the finding of the Scholten's Report in the area of ensuring consultation is meaningful and can be seen to occur.

  o ACAG must add value to any revised process, if we don't add value then we must be big enough to scrutinize our own existence.

  o The points at which ACAG provides input into any revised process need to be defined so everyone clear on roles and responsibilities.

  o Any significant change to the role of ACAG may need to go back to the aviation community for consideration at the very least and possibly ratification. The election forum was seen as the logical venue for this.

  o The composition of the CAA delegation for the afternoon meeting was regarded as a barometer of the level of organizational support for the proposals in the discussion document.

  o We were mindful that read one way the paper was an attempt to sideline ACAG out of the rules development process, yet read another way it was an attempt to engage more input via ACAG. Establishing the reality was a key goal of the afternoon meeting.

  o All members agreed that we should do a lot of listening and not a lot of talking during the afternoon meeting in order to gain a true understanding of what is proposed.

Copy of **Aviation Community Advisory Group ('ACAG') Discussion Document** attached.

Aviation Community Advisory Group ('ACAG')
Discussion Document

The purpose of this paper is to seek feedback from the Aviation Community Advisory Group ('ACAG') on the future of the group in light of recent government regulatory reform and changes which the CAA is implementing in order to become a more pro-active risk based regulator, a stance supported by the Ministry of Transport's ('MoT'), *'Transport Regulatory Policy Statement'*.

Summary

The CAA's approach to assessment of regulatory interventions has changed. The risk-based approach to regulation currently undertaken requires changes in the issue assessment process. In addition, the Ministry of Transport's Rules Redesign project has shifted emphasis to substantial policy development prior to proceeding with rule making. This work incorporates much of what the ACAG has traditionally been involved with. In order to retain the value of the ACAG, its future role requires consideration.

The CAA values the experience and industry knowledge held by the ACAG and is keen to retain and enhance the value that can be derived from the group. An area where ACAG could be of particular value, therefore, is its capacity to provide timely and relevant advice to the CAA on matters of concern to the aviation industry. Information and dialogue around that information is important to the CAA as it allows the organisation to improve its knowledge base and relationships with industry and be in a better position to make more informed regulatory or non-regulatory decisions.

The CAA is committed to working more effectively with the aviation industry. In accordance with the CAA's Strategic Direction, this process includes, *'more engagement with the sector to understand its different needs, drivers and business models, and making better use of the capability in the sector to assist in the development processes for regulatory interventions like rules.'* The CAA is looking at ways to give effect to this strategy. The ACAG is a forum that represents a cross section of aviation community interests. It is the logical forum to continue to utilise the expertise inherent in the ACAG membership in a way that is not necessarily rules focused but which provides advice and insight to the CAA on industry issues.

Background

The ACAG was formed to incorporate the outcomes of the Scholtens Report (2002), which conducted a review of the participation of interested persons in the development of ordinary Civil Aviation Rules.

The functions of ACAG in the overall rule development process are as follows:

1) Participating in the Rule Programme Development.
2) Monitoring the Rule Development Process.
3) Providing feedback on key documentation.
4) Nominating participants.

These functions are undertaken by the ACAG in joint meetings and regular communication with the CAA.

The ACAG has performed a predominantly monitoring and advisory role throughout the rule development process. It monitors progress of issues through the Issue Assessment Phase, the progress of rules projects and provides advice to the CAA on the operation of the rules process as a whole.

The ACAG facilitates the development of the aviation community views on issues and provides advice and information to the CAA on those issues. The ACAG is one of three groups that participate with the CAA in the rule development process. The ACAG identifies persons suitable for inclusion in the other two groups, Issue Assessment Groups ('IAG's) and Project Working Groups ('PWG's).

The ACAG has provided a high level forum for the consideration of rules related issues and provided the CAA with valuable industry input into the rules development process. The Ministry of Transport's Rules Redesign project has shifted emphasis to substantial policy development prior to proceeding with rule making. Consequently, the CAA is in a position to evaluate the efficiency of the rule development process and identify areas for improvement. In order to move towards the role of a risk-based regulator, in line with the wider government approach in the area, the CAA needs to have a great emphasis on hazard awareness, risk identification and management. A result of this approach is that it is the CAA's role to identify risks throughout the issue assessment process and as such the ACAG will no longer be required to provide input into issues assessments.

New Issue Assessment Process

Issues which require consideration for a possible regulatory or non-regulatory intervention can be raised by any source: members of industry, the public or internally through CAA staff. Once an issue or risk has been identified, the proposed assessment comprises of three main phases:

1) Issue validation and risk analysis
2) Intervention options identification and analysis
3) Intervention option recommendation and selection.
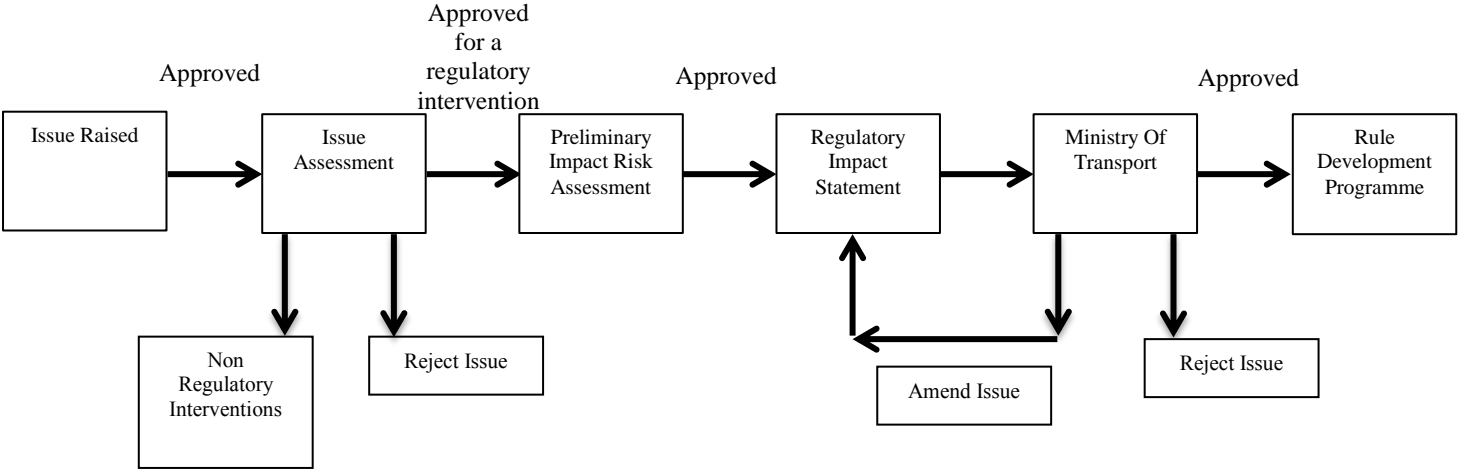
Issue Validation and Risk Analysis

The purpose of the issue validation and risk analysis phase is to ensure that the prime and consequential issues/risks are correctly identified and articulated through the use of basic root cause analysis methodology.

The possible outcomes of this phase are:
1. Reject any issue/risk that is not proven to be valid
2. Progress valid issues/risks to the intervention options identification phase.

Intervention Options Identification and Analysis

The purpose of this phase is to identify and select intervention options for each prime and consequential issue/risk. The intervention options considered include regulatory and non-regulatory approaches, or a combination of approaches. Interventions are then ranked based on: cost implications, time to implement, alignment with the Strategic Direction. The interventions are also evaluated for potential effectiveness.

Intervention Recommendation and Selection

In this phase a formal recommendation, including a preferred option, is developed and presented to the CAA Executive for consideration. The Executive consider the issue and associated intervention options against broader initiatives and strategies and against other issues for prioritisation.

If a rule intervention is required a Preliminary Impact Risk Assessment (PIRA) and Regulatory Impact Statement (RIS) is developed in conjunction with the Ministry of Transport.

At this point, once the problem has been properly identified and analysed, the CAA engages industry on the suitability of the interventions. If necessary an issue can be directed to the previous phase for analysis of any changes resulting from the consultation.

Integral to the above process is the role of the CAA policy and operational teams. The CAA policy team is at the forefront of this new process in providing analytical expertise whilst the operational teams provide specialist, technical advice. The ACAG are not required to provide input into the issue assessment process and as such the IAG and PWG are no longer required.

The ACAG's Future Role

In light of the changes to the issue assessment and rules development processes detailed above, it is important to clarify what future role the ACAG will have so that can continue to add value, and also ensure there is clarity about its role and purpose. The Terms of Reference are therefore in need of review, and possible amendment.

The proposed role of the ACAG, outlined in the Summary, will have a broader scope with the group no longer being required specifically in a rules development capacity, rather having a

wider consultative role. This would allow greater consultation between the CAA and industry, therefore allowing the CAA to obtain more valuable industry insight whilst maintaining a close relationship with the ACAG. The size and composition of the group will also require evaluation to ensure that the group is sufficiently representative to fulfil its proposed new role.

The CAA proposes to redraft the ACAG's Terms of Reference to capture the knowledge and expertise of the ACAG membership and utilise it in a way that adds value to the CAA, and industry, under the new approach to regulatory issues.

Specifically, we propose that the Terms of Reference reflect the following:

- That the ACAG provides timely detail to the CAA on the issues which industry has identified as important and which is, or could be a safety concern. Advice of what is happening within the industry and insights on progress, or barriers, to industry development would be valuable. Utilising industry knowledge in this way allows the CAA to be better informed and helps it implement regulatory and non-regulatory solutions to problems prior to accidents and incidents occurring, a process which supports the CAA's move towards being a risk based regulator. We view this as beneficial to both the CAA and the broader aviation community.

- That the CAA provide timely feedback to the ACAG on issues raised by the ACAG and other issues that the CAA consider valuable to share with the Group. This approach is consistent with the CAA's strategy of promoting a culture of open disclosure.

- Providing feedback to ACAG on the results of CAA policy analysis of issue assessments undertaken.

This approach would allow the CAA to manage risk and allocate resources in a risk-based regulatory environment whilst also actively maintaining the consultation process with industry. The implications of this approach in the issue assessment process will necessitate the abolition of the Issue Assessment Group and the ACAG will no longer advise on the composition of the Project Working Groups. Furthermore, ACAG will no longer receive direct briefs on rule project status or rule development documents during the rules development phase for their review. An update on the rules development process will however be available to ACAG through the CAA's monthly CARRIL reporting and, as detailed above, ACAG will receive results of CAA policy analysis of issue assessments undertaken.

Conclusion

The government is pursuing a programme of regulatory reform and the CAA is actively supporting this approach through the implementation of changes required to become a more pro-active, risk-focused and outcome oriented regulator.

The way in which it has traditionally addressed issue assessment and rules development and consultation with industry is changing to encourage a better flow of information, between the CAA and industry. This is a key ingredient of the CAA's future direction. The role that the ACAG has played in the issue assessment and rules development processes over the past 10

years is, clearly, open to review. The CAA values the ACAG and wishes to utilise it in the best possible way in the future.

The paper outlines an approach that the CAA believes is workable, necessary in order to facilitate the shift of the CAA to a risk-based regulator and is one that we consider will add considerable value to both the CAA and the broader aviation community.

Your views on this discussion paper would be most appreciated. This paper will be discussed at the next ACAG meeting on July 25th.