



Aviation Industry Association of NZ (Inc)

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The Docket Clerk,
Civil Aviation Authority,
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31 January 2013

To: The Docket Clerk

Re: NPRM 09-02, CAA Docket 4/CAR/4

Submission on behalf of the Aviation Industry Association of New Zealand

This submission should be read in conjunction with submissions made by the NZAAA, NZHA and the Flight Training Division of the Aviation Industry Association. The Association supports the substantive comments made by the respective divisions, referred to above, in respect to specific issues of concern. However, our primary submission is that the proposed rule making should not proceed at the present time. We are not saying that the proposed rule making should not proceed at all but rather there are a number of factors which should be taken into account before a rule of this nature proceeds.

NPRM – a product of early 2000’s thinking

The proposed NPRM is essentially a product of consultations conducted in the early 2000 and was part of a trilogy of rules relating to pilot training. Of the trilogy only Part One – administrative rule change - has proceeded with amendments to CAR 141 being rejected.

Draft NPRM not tested in terms of current practice i.e. lacks safety case and a cost-benefit analysis

We are concerned that the grounds for rejecting CAR 141 apply equally to this rule. While we were not and are not specifically privy

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to the grounds as to why CAR 141 did not proceed, we suspect it was the fundamental principle that the benefits did not outweigh costs and thus the safety case was unproven. We accept that this test (cost- benefit test) has not been applied to the proposed rule changes and would have to be undertaken if the rule were to proceed. However, our experience is that the more preferable course is to address the costs and benefits before the draft rule changes proceed to the Ministry of Transport.

The problem that the draft NPRM is attempting to address is not clearly defined

In reading the draft rule it is not at all clear as to exactly what the problem(s) are that we trying to remedy. The safety case is not stated. We think this is most likely because the rule was essentially written in the early 2000's and has not been contextualised into the present operating environment. For example, night vision goggles were a new and emerging technology within the context of mainly military operations whereas today they are utilised in the New Zealand civil context by highly experienced practitioners. Training regimes have been developed and to our knowledge there have been no known instances where a highly controlled authorisation regime would have delivered superior safety benefits above and beyond those of our experiences today. So we pose the question again, what is the problem we are trying to address?

Where draft rule change reduces compliance costs this should be affected through other tools at disposal of CAA

It is accepted that some of the proposed changes reduce compliance costs, for example, the changes to the Agricultural Chemical rating. However, we ask the question of why can't the changes which reduce compliance costs be affected either via the omnibus administrative rule change that we understand CAA is in the process of drafting; or via a general exemption until such time when the CAR 61 can be modernised and put in the context of a sector which must concurrently deliver compliance with international safety standards as well as an internationally competitive regime for New Zealand's flight training community.

Draft rule change must take account of international competitiveness of the New Zealand industry

Again we suggest that the rule was developed with a focus purely on New Zealand's industry performance standards i.e. it was quite introvertly focused. In today's context and of that going forward, must be quite different – not only do rules have to assist in creating a "safe" operating environment within New Zealand but they must also be written in a way that we can compete in global markets.

Delinking changes to CAR 61 from CAR 141 not most appropriate strategy when considering future rule making

We understand that the changes contained in draft CAR 61 were de-linked from draft proposed changes to CAR 141 some years ago and this was for pragmatic reasons. However we do not think this may be the most appropriate strategy for the future. We would favour a reconsideration of whether the two parts of the package should be advanced as one. It may be that this reconsideration could result in a very different approach than is presently the case.

Risk management practice and its application to industry is now more developed

Risk management practice across the industry is far more developed and integrated as a way of doing business than when the draft rule was written in the early 2000's. Our understanding and practice of good risk management practice has advanced. Concurrent with this of course is that the operating rules associated with CAR 119 have become embedded in the commercial sector. These operating rules place a much greater degree of prescription on participants in the commercial air passenger market than was the case in the lead up to the development of the draft NPRM. We should be capturing this knowledge and benefiting from this hindsight.

Regulator and Industry working collaboratively on developing sector profiles – these will define and highlight problems where they exist



The Regulator and Industry are taking the next step in developing more robust thinking around risk management by undertaking risk profiling on the Agricultural Aviation, Adventure Aviation and Flight Training sectors. It is our submission that progressing the draft NPRM is premature at this stage and a preferred approach would be to apply the findings from the sector risk profiles, where relevant, as a sense test against the draft NPRM as it presently stands.

TAIC Review into Flight Training must also have a role

We also have the review by the Transport Accident Investigation Commission into Flight Training and this should be integrated into any proposed rule change too where relevant.

Recommendation - Park, rework, refresh and revitalise

We are not suggesting that the work undertaken in 2000 should be dismissed but rather the draft NPRM should not proceed without further work and modernisation both in terms of context i.e. "less regulation, better regulation"; the emergence of much more sophisticated risk management practice and the need for our industry to be concurrently safe and highly competitive in both the domestic and international markets.

As a way forward we would suggest that the present draft NPRM be defined in terms of the problem we are attempting to remedy and that problem(s) will be identified through the sector risk profiles and the analysis of safety information and investigations conducted both on shore and globally. This redefinition should occur within the context of best risk management practice i.e. open consultation, sharing of knowledge and information, and integrated within the international context. There needs also to be an element of future proofing and understanding what the requirements are and likely to be for future pilot licensing.

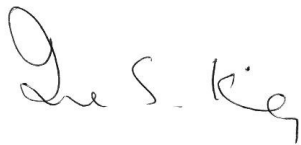
This Association, whose members are probably most greatly impacted by the proposed changes, offers its assistance to the CAA to refresh and revitalise the matter of pilot training both in respect of CAR 61 and 141.



Thank you for your consideration of our comments.

We would be pleased to meet with the Civil Aviation Authority and discuss this submission further.

Yours sincerely

A handwritten signature in black ink that reads "Irene King". The signature is written in a cursive style with a large initial 'I' and a distinct 'K'.

Irene King

Chief Executive

Aviation Industry Association



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