

# **Australian Pilot Training Alliance**

## **Glen Buckley**

All relevant links and appendices should be throughout. Please advise if any missing.

# Important Acronyms and Definitions

AOC	Air Operators Certificate being the CASA approval that outlines the operations that an organisation can conduct.
APTA	Australian Pilot Training Alliance. A Flight Training organisation with associated authorisations that was set up and operated by me. As a result of the CASA action it was sold in July 2019 at a mutually agreed 5% of its value, due to concerns over its ability to keep operating. Its ARN number is 759217
ARN	Aviation Reference Number. A unique identifier (number) that each pilot and aviation business has issued to them by CASA.
Aviation Ruling	Aviation Rulings are advisory documents setting out CASA policy on a particular issue. <a href="https://www.casa.gov.au/rules-and-regulations/current-rules/aviation-rulings">https://www.casa.gov.au/rules-and-regulations/current-rules/aviation-rulings</a>
BLT	Ballarat Base (Aviation terminology usually uses three letters as an “identifier”)
CAA	or the Act (Civil Aviation Act ) <a href="https://www.legislation.gov.au/Details/C2016C01097">https://www.legislation.gov.au/Details/C2016C01097</a>  This legislative document is the Civil Aviation Act outlines CASA, its establishment, structures etc. This is potentially important as it also stipulates the legal structure of CASA, its functions, structure etc.
CASA	Civil Aviation Safety Authority. The Regulator.
CEO	Chief Executive Officer. In addition to the more “traditional CEO”, this is a CASA mandated position with responsibilities outlined in legislation. This position requires a CASA interview and approval. It is a Key Personnel position.
Charter	This is classified by CASA as a “commercial purpose’ in Civil Aviation Regulation 206. It involves carrying passengers and/or freight between destinations. Flying training is not defined as a commercial purpose in CAR 206. This becomes relevant later when the topic of the “aviation ruling” comes up
CMT	Certificate Management Team. A CMT Team being a CASA overseeing team. Generally, a Certificate Management Team (CMT) will contain a Manager (CTM), Airworthiness Inspectors (AWI), Flight Operations Inspectors (FOI) and a Safety Systems Inspector (SSI). In the CASA Southern Region (predominantly Victoria and Tasmania) there are three of these teams, referred to as CMT 1, CMT, 2, and CMT 3. Each team will have a group of schools that they are responsible for. They are effectively the “face” of CASA, our first point of contact, and a good relationship between a CMT and Industry is crucial to maximising safety and compliance. Understandably different teams will often have a very different reputation in Industry, usually related to their technical competence and professionalism. Originally, we were under CMT 2 which was a highly respected team within Industry, and we were moved to CMT 3, headed up by someone experienced in Airline Cabin Crew operations, but not from a flight training background.

FOI	Flight Operations Inspector- A Subject Matter Expert on Flying School operations, and a senior position within CASA. Of the 900 personnel within CASA, the FOI is the flying school's primary point of contact. It is a reasonable expectation that the position holder should build a relationship of confidence and trust with Industry.
GA	General Aviation (GA) this includes most aspects of the industry with the general exception of airline operations.
HOO	Head of Operations (previously referred to as Chief Flying Instructor CFI) is the most senior instructor in a flying school. It is a CASA mandated position or "Key Personnel" position.
Key Person	<p>A Key Person is a CASA mandated position in a flight training organisation. If that position becomes vacant the business ceases to operate. Currently the industry is experience a critical shortage of these personnel, that has lead to business closures.</p> <p>A Part 141 has two Key Personnel CEO and Head of Operations (HOO), whereas the larger and more complicated Part 142 Organisation requires a Safety Manager (SM) in addition to the other two roles.</p>
LTV	Latrobe Valley Base.
Part 61	Complete legislative overhaul of pilot licencing in Australia.
Part 141	Complete legislative overhaul of "mum and dad" owned flying schools.
Part 142	Introduction of a new type of flying school referred to as a Part 142 School. These were generally to be larger flying schools and would be predominantly foreign owned as result of the legislative requirements, and associated costs of operating.
Region	A CASA region often encompasses a large geographical area. In my case I was in Southern Region which included most of Victoria and Tasmania.
RIS	Regulation Impact Statement. A document CASA was required to prepare outlining the impact on stakeholders of their proposed regulatory change.
Safety Manager	(SM) Safety manager. A key personnel position on a Part 142 Organisation only.
SME	Subject Matter Expert.
Transition Date	The deadline for schools to complete the transition to the new Part 141 or Part 142 requirements. Initially 01/09/17, but postponed till 01/09/18

# A very brief overview on APTA

Think of APTA to the flight training industry, what IGA supermarkets are to the retail industry.

APTA being the IGA head office, and the flying schools operating under APTA, are effectively the individually owned IGA retail schools. The APTA Members included,

- Melbourne Flight Training (this entity belonged to me)
- Ballarat Aero Club,
- Latrobe Valley Aero Club,
- Avia,
- Learn to Fly,
- ARC Aviation
- Simjet,
- Vortex
- Whitestar etc

Unlike the Coles, Woolies model all stores in IGA are individually owned, but operating to the same set of Head Office policies and procedures, scaled to respective store size.

APTA was effectively a co-operative. i.e. pooling resources to provide improved safety, compliance, resources etc.

My flying school of 15 years (MFT) grew and developed into “APTA” after I spent 2 years, working side by side with CASA, attending to over 600 CASA stipulated requirements, and getting CASA approval to operate. This process was initiated out of a requirement for all schools to meet a revised suite of rules. It was initiated by me voluntarily, I was required to meet a new ruleset (Part 141/142).

The organisation completed this revalidation process in April of 2017, in preparation for an entirely new regulatory suite scheduled for implementation On September 1<sup>st</sup>, 2017. (subsequently postponed by CASA to September 1<sup>st</sup>, 2018). This delay alone cost me approximately \$800,000, and was the key determinant in me selling my house to maintain operations. i.e. I was meeting CASA imposed requirements on all flying schools.

CASA initiated their restrictions on my business, approximately 6 weeks after the introduction of their new regulatory suite on the postponed date of September 1<sup>st</sup> 2018. This date is referred to as the “Transition date”

# A very brief overview on the issue (in my words)

A limited number of CASA personnel have acted unlawfully in applying restrictions on my businesses ability to trade, leading to its demise. CASA actions by their own admission are not based on safety concerns. There have been no regulatory breaches. Those restrictions effectively placed on my business were.

- No marketing or promoting
- A limited date of operations imposed on the business



- No new customers could be added
- No new capabilities' could be added
- No capabilities could be renewed as they expired

Importantly, these restrictions remained in place for over 8 months while CASA, "had a look at APTA again."

## An overview

My name is Glen Buckley, I have been involved in the flight training industry for 25 years, with the last 15 as the owner of a flight training organisation originally called Melbourne Flight Training (MFT), more recently name changed to the Australian Pilot Training Alliance (APTA). It was a change in name only of the Company only, not the trading name, ABN, Directors etc. The change was done to more accurately represent the Australia wide capability, rather than Melbourne alone. While not necessarily pertinent, its important to be aware of

In October 2018, CASA made a number of decisions, and placed a number of restrictions on my businesses ability to trade, eventually leading to me losing the business. At no stage was CASA action ever based on any safety concerns. In fact, their actions and decisions demonstrably reduced safety.

There were no safety concerns and there were no regulatory breaches. I am dealing with a "change of opinion".by an individual. The matter has "snowballed" and become an issue.

I believe I am dealing with unlawful conduct i.e. direction to terminate my employment, breaches of administrative law and the direction by CASA to redirect my flying school MFT, to APTA.

I am seeking a claim for damages against the Civil Aviation Safety Authority (CASA) for the loss of two of my businesses, and the impact on my family and on myself. I have been left destitute by this process, and potentially I could be declared bankrupt.

My intention is to make an individual claim for damages caused to me, as that would avoid a potential adverse claim for costs against me, in the event that my claim was unsuccessful. Im not sure if my understanding of this is correct?

Should this matter proceed, I will be seeking litigation funding and have a plan in action although I am requiring an indication that I have a high likelihood of being able to mount a successful action, and that is the purpose of providing you this information for assessment.

The action has affected other businesses, resulting in two of them ceasing operations. Other businesses, employees, management, and suppliers have been affected. There is the potential for a class action on behalf of a number of parties. I have had some "light" discussions on this topic. There would be enough parties to warrant a class action. I would be the lead litigant in such an action.

Whether an individual action or a class action is the appropriate way forward, is best determined by a lawyer, as is a determination as to whether I have a valid basis for a claim.

The class action would include members that had to separate from APTA based on its uncertain future, staff whose jobs have been affected, suppliers who have not been paid due to the restrictions placed on my ability to trade, students whose training has been affected, etc.

The ramifications of CASAs actions are significant, and importantly CASA make no claim to be doing this on the basis of any safety considerations. Similarly, CASA is unable to identify any regulations that have been broken. They have erred, they know it, and they wish this would go away. This matter has been in the PMs Office, and there is Deputy PM (responsible Minister), awareness of the topic.

APTA was one of a very small percentage of Australia's 350 flying schools that met a CASA imposed deadline for a CASA revalidation that had to be completed by the "transition date" on September 1<sup>st</sup> 2017. So few schools met the deadline that CASA was forced into yet another postponement, this time to September 1<sup>st</sup> 2018. Importantly, APTA was one of the 5% of schools that held the required Part 141 and Part 142 by the initial deadline. i.e. we had all the new, more costly, systems and procedures in place, had undergone a full CASA review, and we were CASA approved.

That delay alone cost me approximately \$800,000 and therefore the loss of my family home, which was sold to fund continuing operations during the delay of 12 months, until my implemented systems, procedures and personnel were needed 12 months later.

The revalidation process that I completed in April 2017, ahead of the September 1<sup>st</sup> 2017 deadline was significant. We had to attend to over 600 CASA specified requirements, and have each one assessed by CASA personnel. I have that completed CASA checklist, completed by CASA personnel.

It was an investment running into many hundreds of thousands of dollars and took over two years to complete. This was very much a collaborative project with CASA, and CASA hold substantial files and documents as part of this process.

We got through it well, ahead of schedule, well ahead of the majority of industry, but massively above the anticipated costs. We were commended by CASA, and in fact CASA were recommending APTA to entities.

The entire introduction of the regulatory program was an unmitigated disaster, and CASA will concur

I felt that my evolved business model was operating normally, and had no concerns. It had been designed with CASA personnel, approved by CASA, audited by CASA, and recommended by CASA.

Importantly, when CASA initiated the action in October 2018, with the associated restrictions on my ability to trade, we were operating the same way we did at the initial revalidation in April 2017, and at the level 1 audit in November 2017, and as we had been for 15 years previously. There was no change, so I could not understand the complete overnight reversal of opinion initiated by a CASA person by the name of Brad Lacey. The only change that occurred, was in fact the change of CASA personnel that I was dealing with. I was now dealing with Brad Lacey my new CASA Flight Operations Inspector.

At this stage a review of CASAs regulatory philosophy (appendix g) may be appropriate. This is fundamentally what CASA has clearly breached. Its effectively, CASAs plain English commitment to industry.

This Regulatory philosophy was introduced by CASA as a result of what was referred to as the Forsythe Review. I have attached a link via a legal firm's website that provides an overview, with a link to the document.

<https://www.cgw.com.au/publication/the-forsyth-report-challenging-times-ahead-for-casa-and-the-aviation-industry/>

I am not sure if CASA is bound to its own regulatory philosophy in law, but this is a significant point of failure. Had they complied with their own regulatory philosophy, this entire situation would most

definitely have been avoided. I am hoping that this can be considered, as it is in plain English, and easy to address, and has been totally disregarded by the relevant CASA personnel, in their dealings with me.

## A overview on the history on the issue

I had a business, APTA (previously MFT), that had been operating for 15 years successfully delivering industry leading levels of safety and compliance in the flight training industry. I have no “skeletons in the closet”. CASA will be unable to refute that statement and will not use a “safety” card in any argument. There have been no incidents or accidents that have prompted the CASA action.

Important to this story is the change of CASA “CMT” that I was notified of in Appendix D. The CMT being the small team of CASA personnel that oversights my flight training organisation, and several others. The Victoria and Tasmania region has three of these roving CMTs, with each organisation falling under the oversight of CMT 1,2 or 3.

The new CASA CMT team contained a member called Brad Lacey. Brad has a reputation in the region for being technically incompetent and vindictive. Other operators would be prepared to testify to that effect, and I believe his CASA record is not “unblemished”. Interestingly, I believe his father was a judge or magistrate. Considered as a “passive aggressive”. I do not believe that I had met him previously, but I was aware that I was not on his Christmas card list, although I have no idea why.

On becoming aware that Brad was to take over supervision of my school, I immediately requested a “one on one **on the record** meeting” to convey my concerns to the CASA Regional Manager, Michelle Massey (who later moved on to a different role within CASA). That meeting proceeded, and my concerns were not acted on.

Within 6 months of Brad taking over supervision of my school, and with absolutely no warning at all, I received the initial notification that potentially my entire operation could be closed down at any time after 7 days. On receipt of that CASA issued document on October 23<sup>rd</sup> 2018, more than 1 year ago, my world came crashing down. Brad initiated this action, and it is flagrant disregard of CASAs regulatory philosophy.

The business had been established for 15 years, 18 months prior had gone through an extensive revalidation process in April 2017, had been level 1 audited in November 2017, and in fact member

schools will testify that CASA actually recommended APTA. I had absolutely no inkling at all that a change of opinion had happened in CASA until I received that correspondence.

The CASA line of attack initially took three directions which I will comprehensively address later.

- Contracts argument
- Temporary locations procedure
- Aviation Ruling

At this stage however, I want to be very clear on how this has affected my ability to derive a livelihood.

## An overview on how this has impacted, me, my family,

### Step One.

After 15 years of operations, CASA reversed their position on my business APTA, and placed restrictions on its ability to trade. I immediately and repeatedly notified CASA in writing that those restrictions would cost my business \$10,000 per week. Importantly those restrictions were all placed on my business on a CASA change of opinion only. They have now been “thinking” about it for over one year, with those restrictions in place. The cost to me has been in excess of \$500,000 as I advised CASA it would be.

I was in a predicament, because if my operations were ceased by CASA, the single CASA authorisation (Part 141/142) was held by APTA. Without the approval, all members would also cease to operate.

Eventually with those restrictions on the business, as with any business in any industry, it was on the brink of collapse. With no certainty of operations due to CASA indecision, that business was sold for a contractually pre agreed 5% of its value. i.e. a \$4,000,000 business was sold for \$200,000. That \$200,000 was used entirely to clear debt, and I did not retain anything at all from the sale of my business APTA.

### Step Two

I did retain my flying school called MFT which was effectively one of the IGA stores. CASA then came after that and required that I transfer my pilots, aircraft, and customers to APTA ( the business that I

had just sold under duress). The basis of their argument was something called "direct operational control" which is undefined, and despite my repeated requests CASA have failed to define it, and they are applying this opinion to my business MFT but not others across Australia. I believe this direction by Mr Jason Mc Heyzer, to be unlawful.

I complied with the CASA direction and transferred my "livelihood" into APTA as required. I ceased deriving any revenue as that had to go to APTA on CASA direction. Unfortunately, I continued to be responsible for expenses i.e. car leases, printing leases, phone leases, car leases etc. You will recall that i was required to transfer the revenue streams to APTA but not the liabilities. It is this situation that continues to cause such stress, as my financial obligations continue to mount.

After being forced to sell APTA at a fraction of its value, and then having my flying school MFTs revenues transferred to APTA, I had no income.

### Step Three

I secured employment with the new owners of APTA, but shortly afterward the CASA Regional Manager, Mr Mc Heyzer directed APTA that my position with APTA was untenable, and my employment was terminated. This was on the basis of "comments I was making publicly". Quite simply, no-one in CASA has authority to direct an employer to terminate an employee. I believe this was unlawful, and for me, it was the straw that broke the camels back.

I submitted a complaint to the Industry Complaints commissioner, and the report suggests that his direction was inappropriate, and is included in the unfair dismissal package.

This has effectively left me destitute, with no source of income, and for whatever reason is motivating CASA I have effectively been chased out of the industry.

I am now approaching 55, destitute with dependent children, \$500,000 of debt, no business, and no job. I have no hope of ever getting a home loan, and have been forced to restart my life at 55 years of age, with not one cent in the bank, and mounting debts that I have no way to resolve. I am truly destitute. It is impossible for me to continue in the industry, and I am now seeking to start a new career as a taxi driver in the interim, until you can assess if I have a valid basis for a claim.

The impact has been significant, and I have no doubt at all that after 12 months of this, a less resilient business owner would have potentially "checked out", and I mean that sincerely, and with all respect.

I have been pushed to the limit, I really have. Over the last 12 months, I have lost my home, my businesses, and my job, savings etc. I have been left with nothing

I have utilised the Industry complaints Commissioner (internal CASA office) but was dissatisfied, and many of the investigative undertakings given to me in writing by that office were completely avoided in the final report, as you will see in the applicable file.

I have made multiple appeals to the Board, which fell on deaf ears for 6 months, until I was granted a meeting with the Chair of the Board. To be frank, I am strongly of the opinion that I am hitting a brick wall, and this is the manner that CASA chooses to operate.

## What do I feel I am fairly entitled to?

- |  |                     |
|--|---------------------|
| • Forced sale of APTA valued at;                   | \$4,000,000         |
| • Loss of my flying school;                        | \$2,000,000         |
| • Loss of future income 10 years at \$150,000 p.a. | \$1,500,000         |
| • Stress, reputational damage, etc                 | Not able to assess. |

## What do I feel other businesses entitled to?

- |                 |             |
|-----------------|-------------|
| ○ SIMJET        | \$1,300,000 |
| ○ WHITESTAR     | \$1,300,000 |
| ○ LTV AERO CLUB | \$650,000   |

○ BLT AERO CLUB	\$650,000
○ AVIA AVIATION	\$1,300,000
○ VORTEX	\$1,300,000
○ ARC AVIATION	\$1,300,000
○ LEARN TO FLY	\$1,300,000
○ CHARTAIR	\$500,000

## WHAT DO I REALLY FEEL HAPPENED?

CASA introduced a new regulatory structure that was universally regarded by CASA and industry as a complete failure. It was referred to as Part 61 (pilot licencing), Part 141 (less complex flight training organisations) and Part 142 (more complex flight training organisations).

This legislation was introduced over a decade behind schedule, at a cost blowout of an estimated \$400 million over budget, and a number of postponed starts over the last decade.

The entire industry would universally acknowledge it as an enormous failure, with no safety benefit, but a massive increase in costs of operating. The main criticism being that the rules are incredibly difficult to understand and apply, and it is in fact a failure to achieve clear and concise standards as required of CASA in the Civil Aviation Act that has caused so many problems for industry. This failure to achieve “clear and concise standards” is in fact the root cause of many of the issues confronting me. You will notice in correspondence I use the terminology, “clear and concise” frequently.

During the 10 years before the new rules introduction I had been a fairly vocal critic. I felt it increased costs, would harm rural operators, encourage foreign ownership of our flight training industry, lead to an exodus of skilled personnel, I felt CASA had massively underestimated the size of the project and was under resourced. I felt the relevant preparatory work had not been done, and that CASA personnel had not been adequately trained. I predicted that few operators would meet the deadline, and I believed that the required Regulation Impact Statement was grossly negligent in its inaccuracy.

Many operators are reluctant to criticise CASA as CASA wields enormous power.

I chose to put my name to my concerns, but I did follow my mantra of “highlighting problems but also offering suggestions”. I was not negative for the sake of being negative.

Coming forward to today, the passage of time has shown that my concerns have now all manifested themselves, and I would potentially cause some embarrassment to CASA. The growth of APTa may have caught CASA “off guard”. I feel a co-operative approach was potentially seen as a threat, and therefore CASA decided to frustrate APTA.

After spending hundreds of thousands of dollars getting my organisation ready for the initial deadline of September 1<sup>st</sup> 2017, (I was ready 6 months earlier), CASA announced an extension of 12 months. This would have caused further consternation for CASA.

CASA advised me of a change of CASA oversighting personnel with one individual causing me concern. A Flight Operations Inspector (FOI). I requested a one on one, but NOT, off the record, meeting with my Regional Manager at the time. My legitimate concerns were ignored, he became my oversighting CASA inspector, and the Regional Manager moved to a new role in CASA. I feel confident that Brad Lacey got wind of the fact that I had raised concerns about him, and that prompted him to act vindictively (that is his deserved industry reputation)

Shortly after came was the correspondence I refer to as the initial notification, which would lead to the eventual failure of the business. It was initiated by the very person (Brad Lacey) I had raised complaints about.

I contacted Brads immediate supervisor, and importantly the signatory to the letter, the new Regional Manager, Mr David Jones. Despite being the signatory, he advised that he "wasn't all over it". His complete lack of understanding became even more apparent with the passage of time. I was frustrated and queried him as to why he would put his signature on the correspondence if he "wasn't all over it".

CASA became aware that Mr David Jones was struggling and parachuted Mr Peter White from Canberra down to Melbourne. He was the Executive Manager Regulatory Services and Surveillance. He was highly capable, and well intentioned, but his attempts at resolving the issue were frustrated by Mr Graeme Crawford (the number 2 person within CASA, and Mr Whites direct reporting line),

Once Mr Crawford became involved, there was never going to be a resolution. He has an industry wide reputation as a bully.

CASA had imposed so many restrictions on my ability to trade that the business was doomed. I made a number of appeals to the CASA Board which were ignored for 6 months, and I lodged complaints with the Industry Complaints Commissioner. After waiting many months for the ICC report, it fundamentally failed to address the key points that the ICC undertook to address.

By now the business has been trying to resolve this matter for 8 months and APTA was in a situation where it could not meet the payroll, and was sold at a pre agreed 5% to one of the APTA members (Vortex) who bought it to ensure their own survival which was dependent on APTA surviving.

Forward to today, and CASA has a impending issue on their hands. The members have all been affected, and opposed to the CASA action (mindful that they are also somewhat scared of CASA, and dependent on CASA for some sort of a resolution).



The new owners of APTA have taken APTA away from the co-operative approach that was APTA was designed for, and used that capability to grow their own individual school. Almost the entire APTA team was “moved on” after the new owners took over. They have massively reduced the organisations capability, and each member has either closed, or pursued their own individual Part 141 approval, and forfeited the Part 142 capability, 150 hour integrated CPL, Registered Training Organisation capability, and ironically, they no longer have to have a Safety Department as a Part 141, so there is an argument that CASAs actions have actually reduced safety.

**Please note, I have updated this but due to being computer illiterate (almost), I was unsuccessful in updating page indexing.**

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## Introduction

Despite ongoing efforts by APTA over the last 12 months, the business was sold for a contractually agreed 5% of its value as a result of the CASA restrictions on its ability to trade, and uncertainty, over its future (agreed value \$4.0 million. sold for \$200,000)

If you have read the previous recommended articles and have an interest in the more detailed operational perspective of APTA, refer to Appendix T.

Since October 23<sup>rd</sup>, 2018, CASA has taken an administrative action against this business. That action was never formally supported by any appropriate documentation from CASA. They applied a “Freeze” on the business and placed a finite date on this business’s operations. That action was not taken on any safety concerns, and after more than 1 year, CASA still has been unable to state any breaches, although they have tried repeatedly. It would be fair to say they have thrown everything they have in their arsenal at this Organisation. That has included untruthful verbal and written statements, and those assertions can be clearly supported.

That freeze has continued as CASA grappled to work out what CASA wanted in the contracts between APTA and the Members. APTA remained completely open throughout, to incorporating absolutely anything into the contracts that CASA require.

This issue could have been resolved, it simply needed CASA to tell me what they wanted. In fact, the entire fiasco could have been entirely avoided had CASA chosen to talk to me, rather than send the heavy handed notification (Appendix A). After months with a crippling freeze on my business, we hadn’t moved forward at all.

Consider for a moment what the CASA action did when it imposed the “freeze”, and not on any safety concerns. In conjunction with a reduced approval to operate in accordance with the following time lines.

CASA reduced my operational status as follows:

- On the 23<sup>rd</sup> October 2018, you advised me that it was likely my business only had those 7 days to continue operating.
- From the period 30<sup>th</sup> October until 25<sup>th</sup> January 2019, my business operated literally on a minute by minute approval.
- On 25<sup>th</sup> January 2019 you notified me that my business could continue operating for three months until 25<sup>th</sup> April 2019.
- On 12<sup>th</sup> February 2019 you advised me that my business could continue operating until 13<sup>th</sup> May 2019.
- On 3<sup>rd</sup> May 2019 you advised that my business could continue operating until 1<sup>st</sup> July 2019.
- The matter was not resolved by July 1<sup>st</sup>, and I sold the business under duress with no certainty of future operations, for a nominal value only.

This CASA actions

- Prevented me from marketing my product, as my business has had a potential expiry date placed on it. I would have been misrepresenting the business, which CASA had warned me not to do.
- Anyone considering a course of training to obtain a pilot licence would not join a school for a 12 month course if that school has no surety of operations.
- Prevented me from taking on new member schools as APTA members.
- I could not employ staff and graduating students with no certainty of operations.
- Prevented me entering into long term contractual agreements.
- Prevented me looking after existing customers by not renewing expirations i.e. LTV Sim
- Prevented me adding new capability i.e. Low Level course (LL), Multi Crew Co-operations (MCC) course etc
- Forced two of my Members into closure of their business.
- Prevented me being able to retain and attract staff due no employment certainty.

- Damaged the reputation of APTA and myself personally, and significantly
- Reduced the business value to nothing with continuing doubt over its approval..

If you put any business in Australia in that situation for 9 months, it couldn't survive, irrespective of whether it was BHP, Coles, ANZ or my own Business APTA. The action that CASA took is totally unnecessary. In order to take such action, one would imagine that there is a grave and imminent risk to Aviation Safety. That is not the case in this matter, and in fact in writing, CASA has supported APTA. So one has to question why they would work so diligently to bring it all undone.

In the early days of this situation I sent the following letter to members, which provides an overview;

*"I have made representations to my Members, and potential members that APTA has a certain capability, and you have trusted me, to deliver on the promises that were made.*

*It is important that you appreciate that APTA was actually designed with CASA personnel. The investment ran into many hundreds of thousands of dollars and took a number of years to achieve. CASA records will clearly indicate many documented hours working side by side with CASA as were assessed on over 600-line items as part of our Transition. Every one of those 600-line items had associated procedures written that became the APTA Exposition (suite of Operations manuals). This system was designed from the ground up, in conjunction with CASA to become what we now know as APTA.*

*During the process comments were made by CASA personnel along the following lines;*

*"you are the first person to actually understand what a Part 142 is all about", "this isn't a concept we are unfamiliar with, the Airlines do it all the time" etc. There is no dispute from CASA that they were heavily involved in the Project.*

*Proudly we were amongst the first 5% of Australia's 350 schools to achieve the Part 141 and 142 approval in April 2017, months before the Transition deadline date of September 1<sup>st</sup>, 2017. Prior to us "flicking the switch" and Transitioning, we received assurances from CASA that the Transition date was not going to be extended.*

*Only weeks after we Transitioned, CASA announced a 12 month delay due to the small percentage of schools that were ready by Transition Date. That CASA postponement after assurances that there would be no delay was significant.*

- *It deprived the business of its market for 12 months as there was no requirement for APTA.*
- *It left me with a "White Elephant" for 12 months at a cost running into many hundreds of thousands of dollars.*
- *It significantly diluted the value of the business. On the original scheduled Transition date, I would have had only 12 competitors across Australia. The 12-month delay facilitated a total of over 60 competitors in the market place.*
- *The associated costs associated with the delay as the value of the business is determined on the average last four years profit.*

*Despite this delay, the business did manage to continue on, at great cost for twelve months as we waited for the postponed date of September 1<sup>st</sup>, 2018 to come around.*

*We built up our customer base and worked towards repairing the damage caused by the CASA induced 12 month delay.*

*We continued working professionally with CMT 2 (Certificate Management Team 2) This being a small CASA team of Subject matter Experts. There are three teams in Victoria and Tasmania with each school nominated as falling under one of those teams. We had for many years operated under CMT 2. The CMT is the primary point of contact for a flight training organisation and the FOI (Flight Operations Inspector) would be the primary point of contact.*

*When I was later notified of a change of CMT 2 to CMT 3, I have on record, a requested one on one meeting with my then Regional Manager (RM) to express my concerns. I had concerns about a member of my new team. My concern with the new CMT Team was that I felt a member of that team would have an apprehended bias and would not act impartially.*

*Then without any prior notice at all. I repeat, none at all, I received the notification (Appendix A) that I was to produce contracts and in 7 days CASA would make a determination as to the continuity of operations.*

*This was alarming as on reading that correspondence it made me feel that it was most likely my business would be shut down in 7 days, and CASA was attaching significant liability on myself for engaging those other entities. As I had previously provided Master contracts to CASA on multiple occasions, I had no new information to provide, other than the individually signatures on the contracts. My assumption was that as CASA had held the contracts for over 18 months, and they had been provided on multiple occasions, that they were happy with the content.*

*It only became obvious later in the proceedings that CASA had missed the fact that they held the contracts. Once I was satisfied that the issue was not the contractual content, and CASA wanted the signatures, I supplied them. That did not satisfy CASA as that is where the process began falling apart, and CASA pursued a course of an alternate narrative. Once CASA realised that they did in fact hold the contracts, the lack of ethics and good governance began, and that struggle of constantly changing goal posts began, and continues for now over 7 months. This alternate narrative has been never-ending, and during it, CASA really have thrown absolutely everything at the Organisation that they possibly can. Unfortunately for CASA, nothing stuck.*

*Since that initial and unnecessary bullying and intimidating initial notification I have remained 100% willing to write whatever additional text CASA require of me in the contracts, and despite the journey I have been on, and all the other "tactics" that CASA has used, that view has not changed. I call the initial action, bullying and intimidating in nature because a simple face to face discussion would have sufficed, yet CASA chose to follow a more combative approach, in breach of their own Regulatory Philosophy.*

*I have made several attempts to address the CASA perceived deficiencies at significant legal expense. Those changes do not satisfy CASA. My position throughout this has been simple, and the same message that I drummed into my kids.*

*"in order to determine something is wrong, it is fundamental that you know what right, looks like"*

*If my repeated attempts at writing additional text for the contracts is wrong, then it is incumbent upon CASA to tell me what is right. After 7 months, that is where we are, although CASA assure me that we are "nearly there".*

*To be frank, CASA can play ping pong with me for three years if that is how they want to conduct themselves, but my main issue is the fact that they have simultaneously applied a “freeze” on this business.*

*That “freeze” was initiated on that initial notification which was a simple request for documents. Despite repeated requests, CASA refuse to provide any supporting paperwork in support of such a significant action. The effect of that freeze has cost this business many hundreds of thousands of dollars and most likely substantially more when one considers the stress and damage to reputation of me personally and the APTA brand, and indeed threatens the very continuity of the business. There can be no doubt that significant damage has been inflicted on current and potential customers, and I will be asking those organisations The matters are detailed and complicated, but one only needs to be familiar with CASAs own regulatory philosophy, to recognise that there have been significant breaches.*

*CASAs imposed “freeze” has meant that I*

- Cannot sign up new customers*
- Not market my product*
- Not renew existing capabilities as they expire*
- Not add on new courses*

*It is an impossible situation for any business to be, and for this matter to continue for 7 months is totally unacceptable. The effects of such a drawn-out process by CASA have impacted on every aspect of this business.*

*My Business like many other aviation businesses across Australia, relies heavily on CASA in order to conduct its Business. Provided I conduct my business safely, compliantly and in a well-intentioned manner I have a reasonable expectation that:*

**CASA;**

- Will act with fairness and integrity and hold personnel accountable for their decisions.*
- Will treat all operators equally, and not single me out for requirements not placed on other operators.*
- Will act in accordance with its own published Regulatory Philosophy (Appendix G)*
- Will act in accordance with the Ministers Statement of Expectations (Appendix Y)*
- Will act in accordance with its own Enforcement Manual (Appendix E)*
- Will act in accordance with the Public Governance, Performance, and Accountability Act (Appendix P)*
- Will provide “clear and concise aviation safety standards”, as required of CASA and stated as CASAs function in the Civil Aviation Safety Act (Appendix J)*

- *Will recognise that in instances where CASA has not achieved clear and concise aviation safety standards, that becomes a starting point for well intentioned discussion, not substantial punitive action that is unnecessary and brings harm to a business.*
- *Will demonstrate good governance, and consistency.*
- *Will act proportionally and in accordance with the level of safety risk identified.*
- *Will work professionally to build confidence and trust.*
- *Will act within appropriate timelines.*
- *Will be able to provide evidence in support of their substantive claims when they make them.*
- *Will admit when it has made a mistake, and confront that mistake, rather than try and cover it up so that it compounds.*
- *Will not work diligently to "paint a picture," but will deal only in fact.*
- *Will not act in a passive aggressive manner.*
- *Will not threaten to shut down business, unless on substantial and demonstrable safety grounds.*
- *Will not bring personal opinions to decision making, and will act on safety or regulatory considerations.*
- *Will not demonstrably and deliberately act to take action that simultaneously reduces safety, potentially reduces regulatory compliance, and risks peoples livelihood.*
- *Will act in accordance with its public statements (Please find attached Appendix O)*



## Background

On September 1st, 2014, (after CASA postponed the date from December 2013) the Civil Aviation Safety Authority (CASA) introduced a legislative change referred to as:

- Part 61 (covering pilot licencing, and the rules commencing on that day)
- Part 141 and 142 (covering flying school operations and providing until September 1<sup>st</sup>, 2017 for schools to comply)

The latter legislation i.e. 141/142 would require all of Australia's 350 Flying Training Organisations to undertake a full and comprehensive rewrite of their procedures, and "Transition" to either of the new categories. i.e. Part 141 or Part 142. This process or "transition" was to be completed within 3 years, but no later than September 1<sup>st</sup>, 2017.

The **Part 141** being the simpler structure and more suited to the "Mum and Dad" type business, such as mine.

The **Part 142** being a more complicated and expensive to operate structure, more suited to larger international pilot training colleges, requiring at least three Key Personnel as a minimum, a Safety Manager, a Safety Management System etc.

My business's size, sales, and my personal wishes were that it would suit the new lower Part 141 classification and that was my intention, as much as practical, to continue as I was delivering predominantly the Integrated 150-hour CPL. The CASA consultation process did not make any mention that 141 Schools would lose access to the Integrated 150-hour CPL Course. This was important, as my business, like many other businesses, generated 90% of my revenue from this course. It was the fundamental cornerstone of the business.

The CASA consultation program for this change had commenced in 2002 with a scheduled completion of its implementation in 2005. The task was enormous and there is no doubt that CASA significantly underestimated it. That is evidenced by the fact that CASA was significantly behind schedule, and the actual completion of implementation did not occur until September 2017, (12 years behind schedule), with both Industry and CASA are still dealing with substantial and ongoing issues.

In CASA's own Regulation Impact Statement (RIS) released in 2012 (please find attached Appendix F), they assured industry; *"whilst these represent a deviation from existing standards the changes are relatively minor"*.

With hindsight now, and the program over a decade behind schedule, we can see how fundamentally flawed CASAs Regulation Impact Statement was. Quite simply, the changes were "enormous" rather than "relatively minor". Industry depended on CASA to produce an accurate RIS. To review that RIS now, it can be seen how negligently inaccurate it was. CASA were doomed to fail due to their underestimation of the project size. This failure of the RIS impacted substantially on Industry.

The entire industry would concur that the project was enormous, and the costs associated with the required support structure created by the rules is unsustainable. The transition process alone was an enormous task requiring thousands of hours diverted to the project, and costing businesses many hundreds of thousands of dollars. The ongoing costs have also increased substantially in Industry, particularly related to Internal Training and checking, more complicated change, additional qualification requirements on personnel etc.

It is in fact that gross underestimation of the implementation program, highlighted by the grossly inaccurate RIS that continues to cause so many challenges for CASA and industry. But first I will provide a timeline. The timeline goes back some way in order to provide a background.

The real issues and basis of my legal argument really commence on October 23<sup>rd</sup>, 2018 and corresponded with a change of Regional Manager within CASA and a change of CMT (my CASA overseeing team, and first point of contact with CASA) from CMT 2 to CMT 3. I believe CASA has acted inappropriately and in a bullying and intimidating manner. They have also breached their own

procedures, and regulatory philosophy. They have placed a freeze on my business, effectively limiting any growth, that has cost many hundreds of thousands of dollars, and more importantly significantly and negatively impacted on my businesses, and my own personal and professional reputation. I believe I will demonstrate that CASA have acted for reasons that are not related to safety or regulatory compliance, but of a more "personal" nature. At no stage during this process have CASA ever provided any written notification of that freeze. It is in fact the most substantial action taken against a flying school during my 35 years in the Industry. It is not related to Safety and after 5 months with the "freeze" continuing, CASA cannot tell me what they want, only that they are confused.

I am seeking legal support to initiate a claim on CASA. That claim would extend to the full value of my business, impact on staff, and impact on members. I am not prepared going forward, to seek an out of court settlement. I want this matter taken all the way to a determination. It is about actually having a determination of who is "right" and who is "wrong". I anticipate this claim will extend to a substantial amount and am asking for your consideration to accept my case. The matter could also be reasonably expected to consider the damage done to members as well.

## A Timeline

March 2002	<p>In March 2002 CASA commenced the “Part 142 Project”. It was scheduled for completion of implementation in 2005. There was <b>no mention</b>, that schools such as mine would lose access to the Integrated 150-hour CPL which my Business derived 90% of its income from.</p>
July 2003	<p>CASA released Notice of Proposed Rule Making (NPRM312FS), (please find attached Appendix N). It made <b>no mention</b> that schools such as mine would lose access to the Integrated 150-hour CPL.</p>
January 2006,	<p>I opened my Business, and in accordance with my Business Plan derived 90% of my revenue by delivering the Integrated 150 hour CPL. There had been no suggestion that schools such as mine were to lose access to this course.</p>
March 2006	<p>CASA issues an Aviation Ruling on “franchised AOCs” to address some of their concerns (please find attached Appendix B and Appendix R). Let me provide a background.</p> <p>Prior to my Management Team and I working in conjunction with CASA to design APTA, the Industry had operated under a far “looser” arrangement of “operating under an AOC,” or “franchising” an AOC, with an AOC being CASA’s approval to operate. This occurred when one AOC holder would come to an agreement with another AOC Holder. This was quite common in the Charter Industry.</p> <p>A particularly notable example, among the many, that occurred in a Capital City many years ago.</p> <p>‘Operator X’ was flying charter operations, but their operation was suspended by CASA on the grounds of some airworthiness issues. The company simply popped up the next day by using the AOC of ‘Company Y’. A suitable commercial arrangement was made, and operations continued. The risk associated with this being that ‘Company Y’ is an entirely different company with different systems, procedures, standards, aircraft etc. The two parties are acting independently and not in each other’s interests.</p> <p>CASA responded by producing a document called the Aviation Ruling in 2006. It was intended to address the issue, and it did initially. At the time of its introduction, CASA explained to the Flight Training Industry, that in fact, the Aviation Ruling didn’t apply to flying schools, which made it all the more surprising when that became the basis of CASAs initial claims.</p> <p>Then over the years, the practice crept back into the industry, and CASA accepted it over the next decade. The practice became quite common and in fact many flying schools also adopted the “model,” despite its deficiencies. I don’t have the exact numbers but if called upon, CASA could state how many organisations operated under this arrangement.</p> <p>In fact, one of our APTA members operated under such an arrangement with a third party, immediately prior to joining APTA. They would be able to provide a comprehensive overview of the differences between the earlier more arm’s length arrangement, compared to their current obligations within APTA. They could also address other differences, such as the mentoring, supervision, safety systems, and other changes that APTA offers. That Member will concur that the APTA model offers increased safety and regulatory compliance. CASA accepted our Member operating under the previous agreement with another operator, so I query why the superior APTA model is not acceptable.</p>
December 2011	<p>CASA produced a consultation draft of the upcoming legislation. It <b>made no mention</b> of the loss of the 150-hour CPL to my Business. It dealt entirely with other non-related matters.</p>

December 2012	CASA released the Regulation Impact Statement. It made <b>no mention</b> of the loss of the 150-hour Commercial Pilot Licence course.
December 2013	Scheduled implementation date of Part 61, and commencement of three year transition process for Part 141 and 142 schools.
February 2013	Part 61/141/142 became law and was scheduled to commence on 4 <sup>th</sup> December 2013. This was a complete overhaul of the entire legislative framework, and now identified that my school would lose 90% of its revenue unless it Transitioned to the larger Part 142 Organisation.
March 2013	An enormous project commenced for my business as we began to upgrade towards a Part 142 Organisation. I had no choice as my business would be forced into closure if it were to lose 90% of its revenue. To compound my difficulties, I could not sell the business, as there were no buyers for a business that was to lose 90% of its revenue i.e. the 150-hour Cpl course in a little over 4 years.
April 2013	<p>We identified that the cost structure associated with the Part 142 requirements was prohibitive, and very few Australian owned businesses, including mine, would be able to continue. The costs associated with going from the previously acceptable 1 X "Key Person" to a new requirement for 6 X "Key Personnel", and other required procedures actually added more to the business's costs in one year alone than it made in profit over the previous decade. It was very concerning. CASA by their own admission had no demonstrable safety case to support the changes, and they were opposed by Industry.</p> <p>Fortunately, we were proactive and somewhat ahead of the industry generally. We were seeking a solution that had to meet stringent requirements. It had to reduce CASA costs, and Operator costs, while simultaneously;</p> <ul style="list-style-type: none"> <li>• Increasing Safety.</li> <li>• Increasing Regulatory compliance.</li> <li>• Increasing the quality of training.</li> <li>• Protecting the Australian owned sector of the industry.</li> <li>• Create jobs.</li> <li>• Provide a range of solutions to cater for commercial operators such as my own business, but also have a more altruistic component to protect the less commercial, regional aero clubs.</li> </ul> <p>In conjunction with CASA, impossible to dispute by CASA, and in fact agreed to by CASA, we set about designing the Australian Pilot Training Alliance (APTA). Most simply, an approach similar to that used by IGA supermarkets, where a group of small businesses work collaboratively in a joint venture arrangement. Fundamental to the design is the recognition that there is only one Authorisation Holder and we operate as one organisation.</p>
Early November 2013	Repeated CASA assurances that new legislation was to commence on 4 <sup>th</sup> December 2013, even though it appeared to Industry CASA would not be ready. It appeared to industry that as CASA had not finalised the Manual of Standards (MOS), which was the underpinning and essential document for Flying Schools, a delay must occur. CASA repeatedly assured me the legislation was proceeding. Nevertheless, the investment was made, and my business was prepared.
Mid November 2013	CASA, as predicted by Industry, reversed their decision and announced a delay to Part 61/141/142 until 1 <sup>st</sup> September 2014. This had a cost impact on the business as significant resources had been diverted to the project.
May 2014	Release of Aviation Safety Regulation Review. This addressed CASAs inappropriate engagement with industry among other concerns, and lead to the creation of the CASA Regulatory Philosophy (Please refer Appendix S in the appendices).
September 2014	New legislation finally commenced. The Part 61 Licencing rules commenced, and flying schools had three years, until September 1 <sup>st</sup> , 2017, to transition to what was classified as a Part 141 (lower category) or Part 142 (higher category school).

March 2017	Received assurances from CASA that the new Part 141 and 142 rules were in fact commencing on September 1 <sup>st</sup> , 2017. After that date CASA advised that if a school had not transitioned to a Part 141 or 142 organisation that school could not continue to operate. It appeared to Industry that there must be a delay as most of the schools had not completed the Transition process, and many, if not most, would be shut down.
April 2017	Based on the CASA assurances only a few weeks earlier, APTA completed the Part 142 Transition approximately 4 months ahead of the September deadline. This resulted in APTA operating to the new and far more costly legislative requirements. At the time that CASA approved our Transition we were operating with two fully CASA approved bases. Those bases were my own, MFT and a base at Bacchus Marsh, called TVSA. The fact that the bases were approved provided validation of the APTA concept. At the time of Transition only 5% of schools in Australia had completed the project, we were one of the first.
May 2017	<p>Surely enough, CASA does a complete reversal and in fact announces a further 12-month delay to the deadline. The new Transition date became September 1<sup>st</sup>, 2018. This occurred only weeks after I had received reassurances that it would not happen. The effects of this on me and my business were significant.</p> <ul style="list-style-type: none"> <li>○ I incurred many hundreds of thousands of dollars in additional and unnecessary operating costs, as I was committed to the new expensive structure but had no additional capability.</li> <li>○ My business went from having less than 20 competitors with Part 142 capability on the original date of September 1<sup>st</sup>, 2017, to having over 60 competitors, 12 months later by September 1<sup>st</sup>, 2018.</li> </ul>
November 2017	CASA conducts a week-long level 1 audit of APTA. This being the highest-level audit that CASA conducts. No concerns regarding our model were raised.
May 2018	<p>On May 2018, I received notification that I was to have a change of CMT Team from CMT 2 to CMT 3, this corresponded with a change of Regional Manager.</p> <p>On receiving this notification of a change of team, I brought my concerns to the Regional Manager's attention, initially by an email on 11/05/18 requesting a meeting one on one to provide feedback on my concerns. My concerns were significant, I sent a follow up email on</p> <p><i>"Cheers Michelle, Lets go for 3.30PM on Thursday. I wanted the opportunity for a one on one (but <u>not</u>, off the record) meeting, and if CASA protocol is for someone else to be in attendance, I would be happy for John to participate. I anticipate it will be fairly brief, only about 15 minutes. After that I would be happy to meet Grant. Ideally, I would like to arrange a time, at that meeting, for the new CMT to come to Moorabbin, cheers. Glen"</i></p> <ul style="list-style-type: none"> <li>• CMT 2 had a professional relationship with APTA and the personnel within CMT 2 were regarded by industry as "technically competent". I make no assertion about CMT 3, only that CMT2 was widely perceived as the most "professional and competent" team by Industry.</li> <li>• Peers in industry had provided feedback that a member of CMT 3 may not be supportive of APTA and myself personally. I brought those concerns to the attention of my Regional Manager, and who assured me the relationship would be professional. I still had concerns but felt comfortable that they were at least on record with CASA.</li> </ul> <p>APTA continued, however there was noticeably less contact from CMT 3 than we had experienced previously with CMT 2. In fact, I believe this lack of contact from CMT 3 is a significant contributing factor to the misunderstandings on CASAs behalf that continue to this time. It was also obvious that CMT 3 had most likely not had a "handover" as they should have. This could be verified by CASA records. This lack of "handover" appears to be a contributing factor to the confusion that exists within CASA CMT 3. Quite simply they did not understand APTA and made no attempt to understand APTA.</p>
July 2018	CASA RELEASE- JULY 2018, outlining how supportive of Industry they are. Seriously, who writes that rubbish!!!

Although previously postponed from initial transition date of September 1<sup>st</sup>, 2017 was introduced, Part 142 was finally introduced and enforced. As APTA had completed the process by the previously nominated date, 12 months earlier this was of little consequence to us. Schools that had completed the transition to either a Part 141 or Part 142 school could continue operations. Those that had not, were forced into closure. Although I do not have figures there were a significant number I believe.

**October 23<sup>rd</sup> 2018**

CASA issues notification to APTA, CASA reference F14/9540 (please refer to Appendix A)

Without any prior notification of any sort, after operating my business Melbourne Flight Training (MFT) for over 12 years delivering industry leading levels of safety and compliance and having operated APTA for over 18 months I received correspondence from CASA on 23/10/18.

It notified me that it is more likely than not, that my entire business, and importantly, my Members will be shut down at any time after 7 days. This was a CASA approved business with 13 years operating history, delivering industry leading safety standards and high levels of compliancy, with approximately 50 pilots and staff depending on me.

Simultaneously CASA places a freeze on my business, preventing me from adding any new customers, or adding any new capability. This has now continued on for 5 months, and is yet to be resolved. No business owner can expect that level of punitive action from any Government Department, on such unsubstantiated grounds.

The initial notification was extremely heavy handed and completely unnecessary. There was absolutely no need to take such a bullying and intimidating approach and is contravention of CASAs own Regulatory philosophy. It contained statements such as

1. "APTA would be a party to such contraventions"
2. "not authorised by your certificates"
3. "within 7 days whereupon CASA will make a final determination"

CASA made absolutely no attempt to communicate any concerns at all, or in any manner whatsoever prior to initiating that contact. I cannot understand why CASA chose that approach as it was not proportional and highly inappropriate to say the least. At any time at all, CASA could have finalised this entire matter with one to two hours of well-intentioned face to face discussion. CASA decided to pursue a more aggressive and totally unnecessary approach, which has now continued on for well almost 5 months, and it is likely it will take another couple of months for CASA to finalise this matter. For clarity, that correspondence suggested that;

1. My own business Melbourne Flight Training which had been operating safely and compliantly for 13 years, and was where my family derived their livelihood, would be shut down.
2. My other members, LTF, Avia (who had already been approved under our CASA procedures), ARC, Whitestar Aviation and Simjet would also not be permitted to operate.
3. The two aeroclub members, Ballarat and Latrobe Valley would have to cease operations.
4. It would allow LTF to continue operating but they had to operate from their original inferior base rather than the larger purpose-built facility, which seemed quite absurd, and degrades safety.

I was truly shocked to receive that correspondence. APTA was a fully established and operational business. It had been established in its current format for 18 months. There were no changes of legislation that were the trigger for the CASA action.

- CASA was briefed prior to commencing the design of APTA over four years ago.
- CASA was encouraging of the concept.
- CASA records will indicate many, many hours of CASA personnel working with APTA in the design of APTA

- We adopted many CASA suggested procedures, from their guidance material and suggestions.
- CASA held the Master copy of our contract.
- CASA approved APTA to a Part 141 and 142 Organisation in April 2017 with this structure already operating. We had Melbourne Flight Training (MFT) and TVSA at Bacchus Marsh as bases.
- CASA was provided on multiple occasions with the contracts that we proposed to use with our Members.
- CASA subsequently approved bases under APTA, exactly in accordance with the CASA suggested procedure that we adopted i.e. AVIA and Learn to Fly (LTF).
- CASA audited APTA with a level 1 audit in November 2017. No concerns relating to the “model” were raised. This audit incorporated our previously CASA approved bases at Moorabbin and Bacchus Marsh, as well as auditing two of our operational Temporary locations at LTF and AVIA at Moorabbin.
- CASA allowed APTA to operate for 18 months with no concerns expressed at all.
- CASA endorsed APTA and recommended the concept to other entities.

CMT 3 headed up by Mr Will Nuttall in conjunction with Mr Brad Lacey initiated this action against APTA and its members. They chose the course of action. They could have chosen an alternative course of action such as face to face discussion to raise their concerns. They chose a more passive aggressive approach and initiated a process that would most likely bring my entire operation to a closure. Basic ethics would dictate that face to face, well intentioned discussion is the best way to move forward, and especially in a situation where CASA has failed to achieve clear and concise aviation safety standards. That is further reason for CASA to adopt a more conciliatory approach. When CMT 3 chose their preferred course of action, I believe they acted in breach of the following points in the Regulatory Philosophy (please refer to Appendix G):

- **Maintaining the trust and respect of the aviation community.** How can I reasonably be expected to have trust and respect for my CMT, when they chooses such a totally unnecessary and heavy-handed action? No attempt was made to raise any concerns with me. The initial notification was completely unexpected, there had been absolutely no prior warning.
- **Mindful of the primacy of air safety, CASA takes account of all considerations including cost.** How can I reasonably be expected to believe that my CMT adopts this philosophy, when in fact they chose a course of action that caused the most negative financial impact it possibly could, although there haven't been any claims at all about safety. By CASA's own admission, APTA increases safety. My CMT has applied a “freeze” to my business that has costs me hundreds of thousands of dollars, and damaged my reputation, as well as that of my business. This was totally unnecessary. Had CASA at least spoken to me or aired any concerns this entire matter could have been avoided. Instead CASA has
- **CASA takes risk-based approaches to regulatory action.** Many of my peers in industry have commented that this is the strongest action they have ever seen taken against a flying school. At no stage has my CMT made an attempt to bring my attention to their perceived “risks”. There is no safety risk identified by CASA.
- **CASA performs its functions consistently.** CMT 2, who helped write and approve APTA, sit across the desk in the same office as CMT 3. Policy is applied in opposites within the same office. CMT 3 absolutely did not show consistency in application of policy and procedure.
- **CASA approaches its functions consultatively and collaboratively.** CMT 3 has shown little to no evidence of any consultation or collaboration with our previous CMT. They initiated an action to shut down my business with absolutely no inclination of any concerns. I would absolutely refute that CMT 3 adhered to this point.

- **CASA communicates fully and meaningfully with all stakeholders.** CMT 3 chose a passive aggressive approach, and chose not to communicate with me at all.
- **CASA fairly balances the need for consistency, with the need for flexibility.** Our CMT were aware of the existence and continuing existence of the looser arrangement of “shared AOCs”. APTA was the first attempt in Australia to make a well-intentioned attempt at addressing the deficiencies in industry, increasing safety, and compliance, yet CMT 3 appears to have ‘made an example’ of my businesses as the initial object of the actions. To the best of my knowledge, CMT 3 hasn’t placed a freeze on any other operators. It is fair and reasonable that I would feel somewhat “targeted” by my current CMT.
- **Where reasonable alternative approaches to the fulfilment of a regulatory.... CASA will readily entertain such alternatives where they are proposed and accept them.** CMT 3 totally disregarded this regulatory philosophy item, in their dealings with APTA. Any attempt to understand the APTA concept was negligible.
- **CASA embraces and employs rational ‘just culture’ principles.** CMT 3 has initiated an action that has bought my business to its knees. They have not acted in the interests of safety or compliance, but for other reasons. This point of the philosophy talks of policies being developed to avoid “inappropriate punitive action” . CASA may well have the policies to protect against this, but I feel CMT 3 chose to operate outside of policy.
- **CASA demonstrates proportionality and discretion.** I am strongly of the opinion that taking action that prevents me taking on customers, is not proportional. In fact, it is the most substantial action that I have seen taken against a business. By placing a freeze on my business, seems highly punitive, and inappropriate, particularly considering there are no compromises to safety.

Since CASA initiated the action and freeze on my business, I have made repeated requests to find out where the “trigger” for this action was. Of the 900 personnel working within CASA my very first point of contact is the position of FOI within my CMT. The FOI within the CMT could reasonably be expected to raise any concerns with me, rather than decide on a more substantive course of action. If indeed the trigger for this action was in fact my very own CMT, that would be extremely concerning. As my repeated requests on this matter have been ignored, my assumption, is that in fact it was initiated from within my team. I will leave this to the Industry Complaints Commissioner to investigate, and I anxiously await the result. Even if the action wasn’t initiated by my team, they were obligated to raise any concerns with me.

October 23<sup>rd</sup>, 2018

Established contact with my new Regional Manager Mr David Jones via telephone as he was the signatory to the letter. Disappointingly, on receipt of this initial correspondence CASA records will indicate that I established contact with Mr David Jones and expressed my concern. It was my first ever contact with the new Regional Manager. He explained that he was “new in the position”, wasn’t “all over” the matter and would need to “organise a meeting of his team” in order to get back to me.

Admittedly, I became somewhat agitated at this stage and expressed that frustration as I could not comprehend how a CASA officer would put his signature to such a substantive action against a business without being “all over” the matter. I strongly suggested that next time he hold off signing something until he does have a “handle” on it.

We scheduled a meeting, which he subsequently postponed. The reason for the postponement was that he had to arrange further meetings. This highlighted to me that there was indeed a high level of confusion within CASA, and it reasonably appeared to me as the business owner that “they were buying time to get their stories straight.” When the meeting did proceed, the Regional manager advised that CMT 2 should not have let APTA get that far”. We had been operating for 18 months, so that seemed an usual comment, and to be honest only suggests “bad governance” on CASAs behalf.



October 24 <sup>th</sup> , 2018	Initial response to CASA's letter (F14/9540), please refer to Appendix M. This is a fairly important read at this stage, as it will assist with an understanding.  First notification to CASA of the commercial impact on APTA and members.  First request for supporting CASA documentation in support of their action. No response.
October 29 <sup>th</sup> , 2018	Second notification to CASA of the commercial impact on APTA and members.
November 2 <sup>nd</sup> , 2018	Third notification to CASA of the commercial impact on APTA and members.
November 5 <sup>th</sup> , 2018	First request for change of CMT.
November 7 <sup>th</sup> , 2018	Second request for a change of CMT.  Second request for supporting CASA documentation in support of their action. No response  Fourth notification to CASA of the commercial impact on APTA and Members
November 9 <sup>th</sup> , 2018	Third request for change of CMT.  Third request for supporting CASA documentation in support of their action.  Fourth request for change of CMT.  Fifth notification to CASA of the of the commercial impact on APTA and members.
November 12 <sup>th</sup> , 2018	Sixth notification to CASA of the of the commercial impact on APTA and members.
November 28 <sup>th</sup> , 2018	First request for CASA to provide details on the alleged breaches of CASR 141.310, 142.390 and CASR 117. CASA chose not to respond as the allegations are not correct.
November 29 <sup>th</sup> , 2018	First request by APTA calling on CASA to provide supporting evidence of the false allegations of flight and duty time exceedances.  Second request for CASA to provide details on the alleged breaches of CASR 141.310, 142.390 and CASR 117. CASA chose not to respond as the allegations are not correct, and cannot be substantiated.
November 30 <sup>th</sup> , 2018	Second request by APTA calling on CASA to provide supporting evidence of the false allegations of flight and duty time exceedances.
December 1 <sup>st</sup> , 2018	Third request by APTA calling on CASA to provide supporting evidence of the false allegations of flight and duty time exceedances.
December 4 <sup>th</sup> , 2018	Seventh notification to CASA of the of the commercial impact on APTA and members.
December 5 <sup>th</sup> , 2018	Third request by APTA calling on CASA to provide supporting evidence of the false allegations of flight and duty time exceedances.  Third request for CASA to provide details on the alleged breaches of CASR 141.310, 142.390 and CASR 117. CASA chose not to respond as the allegations are not correct.  Fifth request for change of CMT.  Eighth notification to CASA of the of the commercial impact on APTA and members.
December 5 <sup>th</sup> , 2018	First request to reactivate Ballina.
December 10 <sup>th</sup> , 2018	Fourth request for CASA to provide details on the alleged breaches of CASR 141.310, 142.390 and CASR 117. CASA chose not to respond as the allegations are not correct.
December 12 <sup>th</sup> , 2018	Second request to reactivate Ballina.
December 21 <sup>st</sup> , 2018	Ninth notification to CASA of the of the commercial impact on APTA and members.

January 2 <sup>nd</sup> , 2019	Four attempts to contact the Board. All ignored and not acknowledged.
January 7 <sup>th</sup> , 2019	Third request to reactivate Ballina.  Fourth request for supporting CASA documentation in support of their action. No response.  Sixth request for change of CMT.
January 7 <sup>th</sup> , 2019	Email from David Jones advising "my designated CMT are operating completely within CASA policy and procedures and as such, there is no necessity to have the existing arrangements changed.
January 8 <sup>th</sup> , 2019	Tenth notification to CASA of the of the commercial impact on APTA and members.
January 10 <sup>th</sup> , 2019	First request to lift the freeze
January 14 <sup>th</sup> , 2019	Second request to lift the freeze  Notification from Will Nuttall that processing of Ballina was not proceeding.
January 14 <sup>th</sup> , 2019	The Executive Manager of Regulatory Services and surveillance sends an email containing "My observations and the feedback provided, provides strong support for the APTA model. So why, am I still dealing with this two months later, and almost 5 months after this all started.

It's here that the situation becomes increasingly concerning, and it weaves several different paths, as CASA pursues an alternative narrative. I am strongly of the opinion that CASA made several fundamental errors. Elements within CASA were motivated by reasons that are not related to safety or regulatory compliance. These "other reasons" for their motivation were strong. In fact, so strong that it led to fundamental errors that have impacted significantly on me, my business, my members, my family, and my staff, as well as my personal and business reputation. Significant commercial damage has been bought to me, and of equal importance, my members.

March 4 <sup>th</sup> , 2019	Third request to lift the freeze
March 5 <sup>th</sup> , 2019	Fourth request to lift the freeze
March 13 <sup>th</sup> , 2019	Fifth request to lift the freeze.  Fifth request for supporting CASA documentation in support of their action.  Eleventh notification to CASA of the of the commercial impact on APTA and members.
March 19 <sup>th</sup> , 2019	Sixth request for supporting CASA documentation in support of their action.
March 21 <sup>st</sup> 2019	Seventh request for supporting CASA documentation in support of their action.
March 26 <sup>th</sup> , 2019	Eighth request for supporting CASA documentation in support of their action.  Skynews Interview between Peta Credlin and Ben Morgan of the Australian Pilot Owners Association of Australia. <a href="https://www.skynews.com.au/page/peta-credlin?clip=6018021218001">https://www.skynews.com.au/page/peta-credlin?clip=6018021218001</a>  Formal response to Dr Jonathan Aleck, please refer to Appendix X.
July 1 <sup>st</sup> 2019	APTA sold at 5% of its agreed value to new owners. CASA had not yet resolved their "concerns", and with no future certainty and

You will see how CASA initially pursued a path of using the Aviation Ruling and our Temporary base procedure. As that line of attack failed, they moved to audit results from Latrobe Valley that were proven to be in error. The argument then moved to content of the contracts, then moved to a requirement for signed contracts, and that has now moved on to the content of the contract again.

Let me outline the three "stages" that I have been through with CASA.



# STAGE ONE: Aviation Ruling and Temporary Locations Procedure

I will deal with the issues in Stages, and deal with Stage One first. Stage one deals with the initial CASA notification on October 23<sup>rd</sup> 2018. The CASA notification of the intention to close APTA was based on the following allegations. Importantly, neither of these are a "safety risk" so I question the appropriateness of the heavy-handed action, in fact it conflicts with CASAs own published regulatory philosophy.

1. The Aviation Ruling.
2. Our Temporary locations procedure.

## The Aviation Ruling

Please find attached Appendix B and Appendix R.

When CASA issued the action against my business, they used the Aviation Ruling in support of the CASA case. At that time CASA was of the misunderstanding that we did not have a contract in place with our Members. That is crucial, as had CASA realised, that they in fact held the "master" contract, and had done for many months, they may not have used the Aviation Ruling against me, and in fact none of the last 12 months may have occurred. This was only one of the many CASA misunderstandings within CMT 3, that lead to the confusion within CASA, most likely as a result of the substandard handover from CASA CMT 2 to CASA CMT 3. I suggest that CASA records will indicate no handover was completed, because it was apparent that CMT 3 had very little understanding of APTA.

When the correspondence arrived from CASA, my assumption was that CASA had made their decision based on all of the information available to them. I believed that they were aware that they in fact had the contracts I used between members and APTA. These contracts had been provided previously on multiple occasions.

CASA called on me to provide the contracts within 7 days at which time they would make a determination as to my continuity of operations, I was highly stressed. I felt it was inevitable that I would be shut down, as I had no new information to provide. I thought that CASA had made their decision on all of the information available. I was simply going to be providing the same documentation that they already had so why would CASA reverse their decision. As you will appreciate, I was extremely concerned.

The Aviation Ruling was written for charter organisations, (not flying training organisations) having an "arm's length contractual arrangement", when in fact we had a far more robust procedure and had legally drawn up contracts.

Importantly after discussing this matter with a number of HOOs and business owners that were around at the time, and drawing on my own recollection, we specifically recall CASA going to great lengths to explain to industry that the Aviation Ruling was not intended to impact on flying schools and was intended for the charter industry. These people are prepared to sign a stat declaration if it would assist with bringing clarity to the matter.

When CASA brought up in a meeting with APTA that we did not have contracts, I reminded them that we did in fact have a contract. The CASA personnel present seemed somewhat bewildered. I reminded them that the contracts had been provided on multiple occasions to CASA, and I forwarded evidence of that to CASA the next day. At the next CASA meeting all the personnel had a newly printed contract in front of them. Had CMT 3 chosen the same approach with me as CMT 2. There is absolutely no doubt in mine, or my management teams' minds, that in fact none of our current issues would have occurred had we not changed CMTs.

Now that CASA CMT 3, and the Regional manager were aware they had the contracts, they stated that they now needed to see individual signed contracts. I was initially relieved. CASA was now aware that they had in fact held the contracts for a year, so my assumption was that CASA had previously been satisfied with the content, so the argument must be about signatures, as the individual signed contracts were held by us, not CASA. For clarity, the ONLY new information I had to provide to CASA was the signatures, as they already held the master contract. I reasonably felt that producing the signed contracts would allay CASAs concerns. They had the contract content for almost a year so that could not possibly be the issue. It must be the signatures. Therefore, signed copies were provided to CASA. I felt comfortable that CASA had the content, and now they had the signatures, all would be resolved.

As the topic then moved back to content, it then became obvious that CASA was really moving the goal posts around. It felt very much that they were trying to "catch me out," but every attempt was unsuccessful due to the misunderstandings on CASA's behalf.

After 9 weeks of robust discussion with CASA, CASA conceded that the Aviation Ruling was not relevant in this case and took it "off the table". The Aviation Ruling was not the appropriate document to be using to take such substantive action. I recall the introduction of the Aviation Ruling and the circumstances around its introduction. It was a consequence of Charter Operators having their operations shut down by CASA, and they would "pop" up the next day under a different Operators approval. There was a specific occurrence at Essendon Airport that prompted its release. From initial receipt I made it clear that it was not the appropriate document to be using, as it;

- Does not have a "head of power".
- Was written in 2006 for an entirely different regulatory environment.
- Was written for the Charter Industry or what is referred to as Civil Aviation Regulation 206 (CAR206) operation (please find attached Appendix C). CASA themselves determined that flying training was not a CAR 206 operation in September of 2014 and removed it.
- The terminology refers to personnel positions that are in CAR 206 operations, and do not exist in flying training organisations.
- Was written for an entirely different legislative environment.

A factor that I believe quite significant in this case. For decades many flying schools and charter organisations adopted a practice of sharing an Air Operators Certificate (AOC). i.e. more than one company operating sharing a single approval. In fact my own business looked after a company called TVSA by providing AOC coverage at the time that APTA transitioned to the new format.

Many of these shared AOC arrangements were very loose, and are still in use today. Often the organisations operate independently and there is no oversight, standardisation, auditing etc conducted by the organisation that holds the AOC.

APTA was in fact a direct response to this deficiency and addressed all of the previous deficiencies. It seems unlawful that CASA would chase after APTA, when in fact they turn a blind eye to the looser and less safe options that other operators utilise. i.e. CASA are actually chasing after the good guy.

## Temporary Bases Procedure

At a meeting between CASA and APTA on Tuesday October 30<sup>th</sup>, the confusion within CASA became obvious.

The Regional Manager who signed off on the CASA action, stated that he had "legal advice that the temporary base procedure that CASA wrote was not intended for use in flying schools". Quite simply that demonstrates the lack of technical competence at a Regional Manager level or deceit.

Considering that it was CASA that wrote it, and they themselves put it into the “how to guide” of setting up a flying school, which is a CASA publication, that they encourage us to use, how could it not be intended for use in flying schools. It was ridiculous for the RM to be pursuing that approach, and clearly demonstrated that he was not familiar with the material.

I feel that the Regional Manager was probably not the person to be initiating and managing such a substantial action against APTA. He was;

- An Acting Regional Manager, usually working in a less substantive role
- Was not from a flight training background
- Drew on the CMT 3 SME on Flying Schools, who I believe may not have been acting in the interests of safety or compliance
- Was from a completely different region, had little local knowledge
- By his own admission was underprepared

Nevertheless, it is the aviation industry, and we operate in an environment where we constantly assess threats and weaknesses and address them. He should have realised that he needs to act with care and consideration. He did not do so. If he was in doubt, he was obligated to hold off signing the action against my business. Once he signed that document, he became complicit.

Similarly, a CASA FOI stated to us in that same meeting that we were in breach of our manuals because the Temporary location wasn't an approved procedure. I alerted him to the fact that it was in fact, CASAs own procedure that CMT 2 recommended to us. He obviously didn't believe me and retorted “did you get that in writing”. I didn't need to get it in writing because it was actually CASA's own procedure, and can be found in CASAs guidance material, of which he should be aware. It was this ongoing lack of technical competence that compounded my problems.

The same FOI then brought our attention to the fact that the proposed temporary bases were supposed to be temporary like a farm, and that because of that, we were in breach. This was a topic of discussion amongst the APTA management post meeting. He was correct, in that they were not a farm. In fact, they were substantially safer and better equipped. We were somewhat confused by this attitude as he seemed to be arguing and have a preference for, a less safe option.

The confusion within CASA regarding the temporary base issue was alarming, and I will use this opportunity to state very clearly that;

- It was actually CASA CMT 2 that suggested the procedure to us. It was an existing and approved CASA procedure, that had existed in industry as long as I could remember, but certainly over 20 years.
- CASA suggested this procedure to us because they stated that it would take CASA 6 to 8 weeks to process a base. By adopting this CASA temporary locations procedure, it would facilitate continuing operations, rather than shut the base down while CASA spent 6 to 8 weeks to process the paperwork. It was extremely fortunate that we adopted this procedure, as CASA timelines were extremely long. In fact, one of our first bases, Learn To Fly was quoted by CASA as a 7-hour task for them to attend to. We paid the associated fee to CASA for the 7-hour task, and unfortunately it took them 12 months to process that 7-hour task, including a reimbursement for unused time from the initial quote. If CASA had not recommended the Temporary locations procedure, that business would have remained inactive throughout the 12 months wait for CASA. Without that procedure, and due to the lengthy CASA timelines, it is crucial for industry.
- CASA had guidance material on the procedure to use, so we adopted it, in its entirety, and then overlaid far, far more robust and substantive procedures over the top of that. Those procedures are all well documented, and on CASA file. At the time of CASA initiating their action, they had failed to realise that important point. I will strongly assert that once CASA unravels the confusion they have with the submitted paperwork, they will realise that we have got the most robust procedure of any flying training organisation in Australia with regard to activation of a Temporary location. Had CASA chosen to talk to me, I could have highlighted their knowledge deficiency prior to them initiating such substantive action, had they have chosen a more conciliatory and professional approach in line with their own regulatory philosophy.
- Ironically it was CASA that approved their very own procedure within APTA.

- CASA subsequently approved bases under their own procedure that APTA had adopted.
- CASA then conducted the highest-level audit that can be done, being a Level 1 audit, and absolutely no concerns at all were highlighted, including the audit of two temporary bases (AVIA and Learn to Fly).

To get that notification from CASA on 23<sup>rd</sup> October, that CASA was most likely closing my operation as I had not followed approved procedure. To be provided a procedure by CASA, that is later questioned by the very same organisation raises very large concerns to say the least. To reiterate, it was CASA's own procedure. The stubborn refusal of CASA to acknowledge their mistake and their misunderstanding, only caused the problems to continue and expand, and was in my opinion the reason that they had changed tact and we therefore moved to stage two in the alternating narrative.

## STAGE TWO: The CASA-lead change from Temporary Locations and the Aviation Ruling

I believe that it became increasingly obvious to CASA that their arguments around the temporary locations and aviation ruling were not valid, and in fact quite embarrassing. CASA had now realised that in fact the Aviation Ruling did not apply, and in fact the procedure we used for Temporary locations were in fact, their own procedure. Further to that, we had actually substantially documented and submitted procedures to CASA that far exceeded their requirements of us. The direction then moved off in a different direction, and the previous concerns were "parked" by CASA.

20/11/18 - The line of attack moved to a new topic. Now it was the audit results from the Latrobe Valley audit. This was identified by the Regional Manager Mr David Jones as a Level 2 audit. Let me provide a further chronological timeline;

03/09/18 - CASA conduct the level 2 audit at LTV. CASA conducted an Exit Meeting as they are required to in their own procedures. The verbal Exit Meeting should be followed up by a matching written report, and we were advised of such. There were no safety or regulatory concerns expressed. We acted immediately on the minor points raised and awaited the written report from CASA as promised.

05/09/18 - CASA conducted the level 2 audit at BLT. CASA conducted an Exit Meeting as they are required to in their own procedures. The verbal Exit Meeting is supposed to be followed up by a matching written report, and we were advised of such. There were no safety or regulatory concerns expressed. We acted immediately on the minor points raised and awaited the written report from CASA as promised.

23/10/18 - In fact the next written notification we received from CASA was notification from CASA of intention to bring a cessation to APTA operations (please find attached Appendix A).

18/11/18 Meeting at CASA Regional Office highlighted that CASA had not provided written audit report as advised, and importantly required. They failed to meet their obligations under Administrative Law. CASA made commitment to provide those audit results. At that meeting the Regional Manager confirmed that it was in fact a level 2 audit conducted. The Regional Manager at that meeting, expressed the CASA concern that there were incorrect and outdated Latrobe Valley forms everywhere. Interestingly that was a new topic not raise at the verbal debrief on site at LTV on the day, and that complaint did not resurface in the subsequently produced audit results. It made me feel that he was somewhat clutching at straws, so to speak.

20/11/18 - In the contents of an email, Mr David Jones stated that "the assessment of the Latrobe Valley Aero Club was used as the basis of seeking CASA legal advice..." I question how the audit results can be used by CASA to shut down my operation without me having had the "right of reply".

24/11/18 - CASA provided the audit results. These results differed entirely from the verbal debrief and contained several **new and substantive** allegations that had **not** been raised before. These included breaches of - CASR 141.310, CASR 142.390, and CASR 117 (please refer link to the

regulations below). I had not previously been made aware of these and am strongly of the opinion that this was a breach of administrative law/natural justice/procedural fairness. How could these audit results be used as the basis of legal action if I had not had the opportunity to respond. How could completely new allegations occur? I strongly refute those allegations and have made repeated requests to get the supporting evidence. CASA have consistently and repeatedly ignored all requests for the specifics of the breach. I am strongly of the opinion that they cannot be substantiated, and therefore no matter how many requests I make, they will never be able to address the outstanding allegations.

Also, I point out that I requested the audit results be provided in the standard format that CASA provides to other Operators, as it had been identified as a level 2 audit. In CASAs own procedures they nominate identified issues as either a Safety Alert, Safety Finding, or Safety Observation. On hindsight I appreciate that would not be practical, as I don't believe any concerns raised by CASA have anything to do with safety, therefore CASA is unable to produce their audit in the standard format.

Now CASA alleged breaches of CASR 141.310 (1),(5) and (6) and CASR 142.390 (1),(5), and (6):

[http://www5.austlii.edu.au/au/legis/cth/consol\\_reg/casr1998333/s141.310.html](http://www5.austlii.edu.au/au/legis/cth/consol_reg/casr1998333/s141.310.html)

[http://classic.austlii.edu.au/au/legis/cth/consol\\_reg/casr1998333/s142.390.html](http://classic.austlii.edu.au/au/legis/cth/consol_reg/casr1998333/s142.390.html)

CASA also alleged a breach of CASR 117. That is also a ludicrous statement and frequent requests to have clarification of this have been totally ignored. Regarding this allegation CASA referred to the Latrobe valley Website. I am unable to identify the breach when I go to the website. I have asked CASA to identify the "offending page". This simple 30 second task has not been attended to by CASA despite repeated requests over many months. It is impossible for me to reply to the audit and finalise the matter if CASA steadfastly refuse to provide the supporting evidence, and help me resolve their perceived issues.

28/11/18 David Jones the Regional Manager now raises completely new allegations and substantial allegations that differ to the original allegations made on site at Ballarat and Latrobe, which differed to the allegations made at our meeting, which differed to the allegations made in writing. The new allegations were about flight and duty times, and in an email he stated;

*"These anomalies should be known by Ermin (as the APTA HOO) as there were problems identified with the FSM system and Flight and Duty (F&D) management, in particular associated to the F&D exceedances".*

On receipt of that email I immediately knew that it was a false statement and that it should be known to be untruthful at the time of writing. Despite numerous requests to have those allegations substantiated with any evidence, none will be forthcoming as it was a blatant untruth. My concerns being that once again it appeared the Regional Manager was trying to "paint a picture." He also cast aspersions on my HOO by stating "should be known by Ermin". CASA had not sent any audit results, so how could he possibly know! The deficiency was on CASAs behalf, not ours!

05/12/18 I wrote to Regional Manager David Jones requesting substantiation of false allegations

05/12/18 Out of frustration at my inability to get the original audit results provided to me by CASA I made a request under FOI to try and obtain my audit results. CASA determined that I was not entitled to those and I was provided with a completely redacted statement that was of no value to me at all (please find attached Appendix Z). I subsequently appealed that decision and that appeal was also rejected. Still to date, I have not been able to get access to the audit results and their associated notes from the day of the audit. I have only had access to notes written up **after** it was identified that notes had not been provided.



## STAGE THREE: The change of direction of the audit results back to contractual requirements

After dealing with the Aviation Ruling initially and the Temporary Bases, the line of attack from CASA had moved to the audit results. As the tenuous nature of that approach became increasingly obvious, we have more recently moved back to the contracts, and particularly point 3, being the content of the contracts. My queries regarding the initial audit results remain unanswered, and CASA has been unable to provide any supporting evidence of their allegations. I have submitted complaints to the ICC on these matters and anxiously await the accompanying explanations.

Anyway, we now moved back to the content of the contracts. CASA expressed that they are not satisfied with the contracts but are unable to state what they require. The original contracts were legally drawn up and were reviewed independently by another lawyer.

CASA advised that my contracts were deficient but could not provide guidance on what they wanted. This seemed ludicrous because as I drilled into my kids, "in order to say something is wrong you MUST know what is right." If CASA were telling me my contracts were wrong, it is a reasonable expectation that they would tell me what they want.

I approached my lawyer and embedded changes along the lines of what I thought CASA required, and these changes were later deemed not to be acceptable to CASA.

I relayed my extreme frustration to CASA and have requested a meeting with my Barrister and CASA lawyers. I expect CASA lawyers to clearly and concisely explain their requirements at that meeting.

As of today, my Barrister has provided 6 options that he can facilitate that meeting, and I am expecting a response from CASA to that offer.

### Update 15/03/18.

I have written to CASA yet again calling on them to lift the "Freeze" I have also asked them to support their verbal notification with a formal written notification.

I had the opportunity to meet with Mr Hanton, the Industry Complaints Commissioner on Thursday 15/03. He travelled from Canberra for the meeting. It was a highly productive meeting, and I have asked that my complaints be responded to by April 13<sup>th</sup> 2019.

CASA have replied regarding a meeting scheduled for next week with the CASA lawyers, the intention being to finally bring this matter to a close and finally work out the actual area of CASA's concern. This matter has now dragged on for over 5 months. My reasonable expectation is that CASA must by now have a clear idea of what they are after. At that meeting, they should be able to clearly and concisely outline their expectation.

Previously we have had a legally drawn up contract that fully meets the requirements of APTA and its Members. CASA is wanting to have input into that two-way contract, that effectively makes it a three-way contract. I am of the opinion that CASA should therefore become a signatory, or the CASA contractual requirements placed on us should be clearly stated as CASA requirements. The legislation clearly states the responsibilities of the Authorisation Holder, and the Key Personnel. If CASA identify deficiencies or shortcomings in their current legislation, I am happy to discuss a mutually acceptable resolution.

## Effects of CASA Action

This matter has now extended on for over five months and is still not resolved. The effects of this CASA action have been significant. Importantly, after more than months and constantly changing goalposts, I have no understanding of what CASA is actually trying to achieve, and we have not moved forward at all.

- No business owner in Australia, should have his business potentially shutdown and their livelihood taken away by any Government department, and especially not for reasons that are outside of that Departments stated functions. i.e. safety
- Industry perceive that CASA's action is "personal", because it is not based on safety or any regulatory breach.
- The stress and its associated effects on me, are understandably enormous.
- My personal and professional reputation has been demonstrably and significantly impacted.
- APTAs reputation has been significantly impacted to the point of being decimated.
- The CASA action has demonstrably cost me many hundreds of thousands of dollars in direct costs and imminently risks a multimillion-dollar investment
- It has caused a loss of confidence among my personnel, customers, and suppliers.
- My ability to attract and retain staff has been impacted.
- Lack of future certainty makes it impossible to enter into contracts with staff or suppliers
- Existing customers are now seeking to leave APTA.
- As the CEO I have concerns of "revenge" being bought against me or my organisation at a later date. CASA have created a situation whereby it is impossible for me to continue in the industry. I now have firsthand experience of what it is like to incur the wrath of CASA, and I fear that at a later date this is likely to reoccur.
- I have obligations on me as a Company Director. My business has been operating on a temporary approval that could be removed within 24 hours. It is an impossible situation in which to run a business as this has gone on for 4 months now. The CASA action is continuing to bring enormous harm to my business and placing it under financial duress.

## Effects of CASA “freeze” to date

Simultaneously CASA placed a “freeze” on my business that stopped me, or any of my members adding any capability. This has had a significant commercial impact on many of my members. I have training at several member bases that has completely ground to a halt. From my own experience and feedback from my peers in Industry, this is the harshest punitive action on a flying school that anyone can remember, and its not based on safety concerns. Its not fair, ethical, or appropriate.

- Ballarat Aero Club - Addition of a new simulator. APTA unable to deliver IFR training or IF training as result. A significant investment is sitting idle. There entire future is tied into APTA, so they are extremely concerned. Have been waiting months to activate Lethbridge aerodrome. Members of the aero club have had their training halted due to the delays in having their sim activated. This has also impacted on instructors’ livelihoods.
- Latrobe Valley Aero Club - renewal of existing simulator. APTA unable to deliver IFR training or IF training as result. Waiting addition of important low-level course, which has now been waiting for CASA to attend to for over 6 months. There entire future is tied into APTA, so they are extremely concerned.
- Simjet Brisbane - Addition of a very important Multi Crew Project is not proceeding. They have advised me of a “lack of confidence” which I fully understand. They are making plans to leave APTA and work with Boeing. This is extremely concerning as Simjet was an integral part of APTA, and what we deliver. The Directors of Simjet have advised that the delay is significantly impacting their operation, and they have re-emphasised the importance of CASA bringing this to a resolution.
- Bathurst - An innovative pilot training program for indigenous youth cannot proceed. This program has now been on hold since late 2018. They are awaiting confirmation that CASA
- Whitestar Aviation Ballina - Operation has completely shut down, with 3 pilots not delivering Part 141 and 142 Flight Training, which affects their livelihood. We have made repeated requests to Mr David Jones to resolve this and all requests have been ignored and not responded to. Importantly at our meeting with CASA, the CMT 3 team leader was specifically asked if we could reactivate Ballina, he stated that we could not, and should standby for written notification, which has still not arrived.
- Learn To Fly - This organisation is accelerating plans to move outside of APTA. The impact of this on APTA is substantial.
- Vortex Air Elite Training Academy - Has advised that they will be working towards their own approval in case APTA does not proceed. Waiting to add a full motion 737 sim.
- Rural Aeroclub - Advised that majority of committee voted not to proceed with APTA due to uncertainty about its future, generated by CASA newsletter.
- Melbourne Flight Training - My own business significantly impacted as it tries to fund the loss of revenue caused by the CASA action.
- AVIA Aviation - Reviewing operations
- ARC Aviation - No concerns raised.

The CASA freeze has also prevented us adding new courses and increasing capability or addressing customer requirements. Other consequences of the CASA action are, that is effectively stopped me

1. Marketing my product.
2. Adding new customers.
3. Activating existing customers.
4. Adding new courses.
5. Adding Key Personnel
6. Increasing my capability.

It is totally unacceptable that after more than 4 months with the associated impact, CASA are unable to tell me clearly and concisely what I have done wrong. No Government Department in Australia should have the power to close down a business on such meagre grounds. The Civil Aviation Regulations quote CASAs functions and they are based around safety. CASA confirms that

they do not see any safety risk with APTA. They have identified a “regulatory risk” but are unable to identify the “rule/s” that have been broken. Surely to take such heavy-handed action against a business there must be something akin to grave and imminent risk to aviation safety. My reasonable expectation is that CASA can clearly and concisely identify in writing their concerns.

My frustration extends from the fact that this entire matter could have been resolved to CASAs full satisfaction with two hours of well-intentioned face to face discussion. Instead CASA chose to take a more unnecessarily bullying and intimidating approach that has cost CASA many thousands of dollars, and trashed my business and reputation, and impacted on so many safe and well-intentioned Members.

Importantly, the member of my CMT operating in the role of FOI, is my first point of contact with CASA. Why would that individual make absolutely no approach to me? I am sure that as the facts unravel, we will find that the “trigger” for this action came from within my own CMT. The very people who are supposed to be working with me to improve safety.

## How I have attempted to resolve this amicably and in line with procedures to avoid legal assistance.

1. I have exhausted all attempts to resolve this within CASA at CMT level, Regional Manager, and CEO level, Board level and the Industry complaints commissioner. Nobody that is not on the CASA payroll has reviewed this matter.
2. I have written to the Deputy Prime Minister, Mr McCormack, but that correspondence was not acknowledged as received, and was not responded to. Multiple attempts to contact him have been unsuccessful. I did have an opportunity to meet with Mr Barnaby Joyce, who I found to be exceptional. Although it was a matter outside of his portfolio, Mr Joyce was able to provide some exceptional guidance and I am highly appreciative of his time.
3. I have made four submissions to the CASA Board, and they were totally ignored. I did not receive an acknowledgement from the Board, or a response. The Acting CEO of CASA did write back on 04/01/19 with the following email;  
*"Dear Mr Buckley,  
For clarity, we will not be arranging a meeting with APTA and the CASA Board and whilst I appreciate you may not like that outcome, I kindly request you accept that is CASA's position."*  
On receipt of that email I felt that avenue was exhausted.
4. I submitted complaints to the Industry Complaints Commissioner (ICC). The first complaints were lodged in December 2018, the ICC contacted me one month later asking me to consider putting my complaints on hold. I felt very much that this was CASAs preferred course of action as the responses to the complaints would be quite "telling". While it suited CASA to delay, the ongoing commercial impact of the CASA action on APTA and the Members was too significant, so I was not prepared to comply with CASAs stated preference and notified them of that.

Email from the ICC dated 29/01/19:

*"Hi Glen,*

*I'm emailing further to the complaints you've raised on behalf of APTA with the ICC about CASA's oversight of APTA. I understand that since making the complaints, significant progress has been made in APTA's relationship with CASA following a visit by Peter White to APTA and Ballarat Aero Club on January 11 and 12. I'm emailing to ask if in light of these developments if you'd be willing to place your ICC complaints on hold until such time as a final position is reached? If you remain dissatisfied or feel you have been treated unfairly, I could at that point assess which issues remain live and within ICC jurisdiction and investigate accordingly."*

Approximately one week later the ICC contacted me again and suggested that he would use a "cumulative approach" rather than respond to complaints individually. That alarmed me because on initial phone discussions it was he that expressed his preference for the "individual approach" rather than the "cumulative" approach. I was concerned that he had now done a complete backflip, and felt that CASA may be trying to avoid answering the complaints, or at least "diluting" them.

His email sent to me on the 05/02/19 follows;

*"Hi Glen,*

*Thank you for your email, confirming your position with respect to the 28 complaints you have separately raised with the Industry Complaints Commission (noting I continue to have no record of matters you've labelled 'W' and 'X'). When ICC resourcing permits, I will review the central themes presented in the 28 (or 26) complaints to date that relate to CASA's oversight of APTA. At this stage it's my intention to consider the key issues cumulatively rather than individually — that is by reviewing CASA's oversight and assessing whether it was lawful, fair, reasonable and non-discriminatory. I consider it would be an unreasonable burden on the ICC's resources to provide 28 separate responses given the central issues in each complaint aren't dissimilar. At this stage, ICC resource is directed to complaints that were received before APTA's ICC approach, so I envisage a response being completed in the first quarter of this calendar year. Please give me a call if you have any questions about my proposed approach or indicative timelines. My number is 02 6217 1249. In the event you're unhappy with my proposed approach, I can explain your available review rights which include the Commonwealth Ombudsman or a complaint to CASA's Board"*

I responded on the same day 05/02/19 to the ICC with the following email, I was becoming increasingly concerned about the integrity of the office

*"Thank you for the opportunity to chat on the phone today. I acknowledge your suggestion that the responses be "grouped". For perfect clarity, that would not be acceptable to me. The complaints do not relate to CASAs "oversight". They are more specific in nature, and I need them to be responded to in that manner.*

*A "grouped" response will result in delayed response compared to attending to the matters individually, and as you are aware my business has been placed under significant duress by this process to date. My timelines are critical. My strong preference is to begin receiving "drip fed" responses rather than playing a waiting game over many more months.*

*A "grouped" response will result in more likelihood that individual items are "diluted" or not attended to in the detail that they should be. The result of this would be follow up questions with associated prolonged response times. I feel that attending to items individually will reduce the burden on the ICC's office as it would give the opportunity to attend to matters individually. Individual responses will bring more clarity to the process.*

*My experience to date is that outstanding matters with the ICC are already experiencing protracted timelines, and particularly for matters that were not really complicated. I am reluctant to allow this process to drag on any further. Finally as per our previous phone conversation, the preference expressed by both you and I, and agreed on by both parties was an individual approach, so the changing of goal posts makes me feel that the office could potentially be acting in CASAs interests which would degrade the integrity of the office. Please appreciate that from my perspective, I have been treated unfairly by CASA and I am trying to resolve the matter and "get to the bottom of it". To date, I feel I have been treated unfairly. and understandably I have little trust and confidence. If CASA insist on using their preferred approach rather than mine, it will only further degrade any remaining trust and confidence, and that feeling would extend to the office of the ICC. Can you please advise if CASA insist on using their "grouped" approach, or in fact will CASA act in accordance with the individual approach that both you and I expressed as our preference, on our recent telephone call, and remains my preference."*

Then on 18/02/19 the ICC notified me by email that I was to expect delays, ".....the ICC is currently reviewing complaints received in August and September 2018"....

I continued to feel that CASA was stalling the process, so wrote an email on 27/02/19

*"Dear Mr Hanton, Just to ensure clarity. I am wanting to move forward with all complaints that I have on file. You have advised that your office is dealing chronologically with all matters and that it currently has a backlog of approximately 6 months before attending to matters. This is extremely concerning. If the Board is not aware of those delays, I feel that they should be made aware. You are obviously under resourced and that has significant implications on Industry.*

*My complaints are significant. I have been very clear that the CASA action has caused significant harm to me and my business and threatens the livelihoods of a number of my staff. Unfortunately, I am not in apposition for the ICC to start looking at complaints 6 months after submission.*

*Can you confirm that you do not have the authority to look at my matters earlier based on the significant nature of those complaints. i.e. I am trying to ascertain if you are bound to attend to matters in chronological order, or are you choosing to deal with matters in chronological order.*

*Initially I was under the impression that I could expect a 30-day response time, although that now seems to have increased to approximately 6 months.*

*One of my concerns is that when the ICC finally gets to them, you may make a determination that you cannot deal with them. It is a fair request that you at least review them and identify any matters that fall outside of your jurisdiction. Many complaints have been with your office in excess of two months.*

*Many matters are uncomplicated and should not require an extended process. For example, some are simple requests for a meeting, seeking a resolution. That should be able to be attended to fairly efficiently.*

*CASA has also made allegations of breeches of legislation, and the impact of those errors on CASAs behalf is significant. If CASA has indeed made such serious allegations, they must have the supporting evidence. I have made repeated requests via internal channels and all requests have been ignored. I am merely asking for details to support CASA allegations made in October last year. If CASA has made such substantive allegations, they MUST have the supporting evidence. If it does not exist, why were allegations made. If the evidence does exist, it must be easily accessible and on CASA record. I should be provided*

*that information as part of natural justice and procedural fairness. It is quite ludicrous that I have to go to the ICC to extract information that should already have been provided as part of a fair process.*

*This is not directed at you personally, but just an extreme frustration from the chronic under resourcing within your department. Yours respectfully, Glen Buckley"*

As the ICC did not answer my query regarding their obligations to deal with matters chronologically as opposed to any sense of commercial consideration of the impact on business, I sent a follow up email on 27/02/18

*"Thank you, Mr Hanton, Regarding the prioritising can you confirm that your office is bound to deal with matters chronologically without due consideration for severity and consequences, or is a decision that has been made by your office"*

Once again that second request for clarification was again ignored. I reviewed the ICC Governance Arrangements (please find attached Appendix I) and I believe the ICC could accelerate my complaints if they chose to, but they have chosen the more protracted option.

On 27/02/19 the ICC emailed the following to me;

*"To be fair to those who made complaints before you approached the ICC, as a starting point equity and fairness means they should be reviewed first, and this is a consideration in the triage and allocation of complaints.*

*My understanding is that simultaneous with your approach to the ICC you were and are continuing to engage with Peter White. You've made it clear you consider your interactions with Peter are regulatory and in no way related to the complaints you've made. However, viewing all the circumstances holistically my opinion was the issues you've raised with the ICC and the discussions you have and continue to have with Peter cross over. That you're continuing to have this level of dialogue is also a consideration in the triage and allocation of complaints.*

*As noted earlier, I'll be back in contact soon (late next week or early the week commencing 11 March) with a preliminary view on how I intend to manage complaints that are assessed as falling outside ICC jurisdiction. Thanks Jonathan*

I responded on the same day, 27/02/18

*"Thank you, but I feel I must have this on written record again. I reiterate that the matters I am dealing with, with Mr Peter White are totally and absolutely unrelated. Irrespective of any outcome of my discussions with Peter White, he is absolutely removed from this process, and quite simply, I don't want him dragged in or tarnished. He has nothing at all to do with it. For the ICC to try and justify their delay based on my dealings with Mr Peter White is not fair, not ethical, and further concerns me that the office of the ICC is complicit. Extremely concerning!!!!*

*My complaints will all stand, irrespective of any other matters that Mr White is dealing with. They are totally unrelated, and to try and entangle them only further concerns me. They are complaints about CASAs bullying and intimidating nature, complete fabrication of "evidence", negligent handling of my case, and lack of technical knowledge on behalf of CASA personnel and other matters that all occurred before I even knew about Mr Peter White. The matters are totally independent.*

*The more I communicate with the ICC, the greater my concerns become. This is truly concerning. I will follow the process, but I am so concerned about the integrity of that office. As a minimum, all I seek is fairness.*

*Your office has made a decision not to prioritise my complaints, despite the serious nature, and the ramifications it has on me, my health, and my staff. Unfortunately, I have no influence over your decision, but at least it is very clearly on record that you have made a conscious decision to handle the matter this way, despite me drawing your attention very clearly to the high commercial priority of it, Glen Buckley"*

The current state of play is that the complaints have not been addressed but the Industry Complaints Commissioner will meet with me on Thursday 14<sup>th</sup> March.

## Some considerations for a lawyer

Me personally, and my business have no "skeletons in the closet" that can be used against me. We have had consistent feedback from CASA that our safety record is industry leading.

How can a Government Department have such power, to take such strong action on matters that are outside of its stated functions.

I am not popular with many in CASA. I have been a vocal critic of CASA and their impact on the Industry. When confronted with a critic in CASA, my question is simply, why don't they like me? I can assure you their responses will not have any criticism of safety or compliance. That dislike will be for "other" reasons.

CASA is required in the Civil Aviation Act to provide clear and concise aviation safety standards as one of their core functions (please find attached Appendix J). The root cause of the current issue is the failure by CASA to achieve those clear and concise aviation safety standards. I would very much like to pursue this line if it can be achieved. Something along the lines of "It is CASAs failure to achieve clear and concise aviation safety standards, as is its stated function in the Civil Aviation Act, that has caused the issues that I am now confronted with". A success along these lines may be of benefit to the wider industry, as this is the root cause of Industry's challenges.

Consider that CASA has not and cannot pursue any "safety" argument. My system demonstrably increases safety, and members will attest to that. In fact outside of APTA they won't have a safety department.

I am advised by CASA that there are 350 flight training organisations in Australia. Most of them have a CASA approved procedure to implement Temporary Bases. I would relish the opportunity to call on CASA to produce a more robust procedure in Australia. If ours is not the most thorough in the Country, it WILL be in the top 5%. Why are the other schools' procedures acceptable but not APTAs?

Many of Australia's flying schools operate under a far looser arrangement than APTA. In fact, APTA is the first Organisation to address theses deficiencies. Why would CASA turn a blind eye to all the others, and continue to turn a blind eye? Why is APTA, the first purpose-built response, to the "deficiencies" chosen to be the target.

Of all the organisations sharing AOCs in the flight training area, do CASA hold contracts on all of them, or is it a new and unique requirement placed on APTA. I can assure you they have never required contracts of any other operator.

CASAs own Regulatory philosophy was completely disregarded by CASA in pursuing this action

The Regional Manager signed off on the documentation without having a sufficient understanding of what he was signing, and that was by his own admission on my original telephone call with him

This action appears to be based on matters that are not related to safety or regulatory compliance, in fact I feel CASA personnel abused their positions to bring harm to me and my business.

Operators throughout Australia continue to operate with the looser "shared AOC' arrangement. APTA is the first time a Company in Australia has specifically identified the deficiencies and designed something to address it. Why would CASA choose to come after me first?

CASA require contracts. I assert that CASA will never have required this of anyone before and will have no contracts from any school for any such arrangement on record. The contractual requirement appears to be a new requirement.

CASAs blatant disregard for its own Regulatory philosophy especially points 1,2,3,4,5,6,7,8, and 9 but perhaps not no. 10.

I am not sure what CASAs concern is. The only difference between APTA and any other school is that instructors may draw their salary from different entities. That actually improves safety



because it very clearly separates the operational, safety and compliance (APTA) from the commercial interests of the other entity.

Consider this. A father walks into a flying school with his son who is a newly qualified flight instructor. In order to get his son a start in the industry, the father offers to pay his sons first three months salary instead of the school owner paying it. The flying school owner greedily accepts the offer. Once the son commences at the flying school, he falls under the full operational control of the flyig school (authorisation holder). The father has no operational control over his son, irrespective of the fact that he pays the salary. At the end of the three months, once the father stops paying and the school starts paying, there is no change to operational control. Therrefore, I cannot see CASA concerns regarding who pays the pilots salary. In fact many "QANTAS " pilots flying QANTAS aircraft are in fact paid by other entities. CASAs argument is fundamentally flawed in my opinion.

Importantly CASA have stipulated that all pilots salaries must be paid by APTA (the AOC holder). This must be unlawful because CASA regularly permits this with all other operators in Australia and is applying this requirement uniquely to me.

# List of submitted matters to the ICC

Matter 331	Failure to achieve clear and concise aviation safety standards
Matter 332	Request for reimbursement of expenses
Matter A	Attempts to get the audit results from Latrobe Valley, and the lack of procedural fairness,
Matter B	Trying to ascertain why CASA decided to initiate an action against APTA as the initial target.
Matter C	I believe my own CMT initiated the action against me and chose not to raise any concerns prior to initiating the action. It seems highly unethical, and unfair. I felt my CMT may be working against my organisation. I made multiple requests for a change of CMT. All were ignored.
Matter D	After 4 months CASA cannot clearly and concisely identify the issue that they are trying to address.
Matter E	CASA has obligations in the Public Governance and Performance and Accountability Act. I query how CASA could justify wasting so much money on a problem that could have been easily resolved with a well-intentioned discussion.
Matter F	Addresses CASAs use of the Aviation Ruling
Matter G	Seeking a detailed explanation of how false allegations of flight and duty times could be made by CASA against my organisation.
Matter H	Trying to ascertain why CASA would blatantly disregard its own regulatory philosophy, and particularly "CASA is committed to maintaining the trust and respect of the aviation community"
Matter I	<p>Trying to ascertain why CASA would ignore the second principle of their own regulatory philosophy- "mindful of the primacy of air safety, CASA takes account of all relevant considerations"</p> <p>Considering that the CASA action is not based on safety, has cost CASA many many thousands of dollars and hours, and bought potential multimillion-dollar damages to my business. I am trying to find out why CASA chose this approach when a 2 hour well intentioned discussion would have had the entire matter closed.</p>
Matter J	CASAs own regulatory philosophy requires of CASA that they take a "risk-based approach to regulatory action and decision making. To threaten to close a business in 7 days would indicate that they have ignored their own philosophy.
Matter K	CASA claims in its regulatory philosophy that it will act with consistency. How can completely different policy application generate from the same office
Matter L	CASA claims in its regulatory philosophy to act consultatively and collaboratively. I have to ask, why would my own CMT initiate an action that closes down my business without at least trying to act in a well-intentioned manner and raise their concerns. This is highly unethical a dishonest way in which to act.
Matter M	"CASA claims to communicate fully and meaningfully" This complaint is self-explanatory.

Matter N	CASA incorrectly claimed that we were opening “unapproved” bases. The Ballina base closed, and for many months I have simply been trying to see if Ballina could re-open.
Matter O	This complaint relates to me still trying to get CASA to substantiate their allegations. These requests have been ignored for over three months.
Matter P	This complaint relates to me still trying to get CASA to substantiate their allegations. These requests have been ignored for over three months.
Matter Q	CASAs own regulatory philosophy states that CASA demonstrate “proportionality and discretion”. I strongly, absolutely and totally refute that CASA has acted in this way. On the contrary, a decision has been made to take a different course of action.
Matter R	seeks an explanation as to why CASA decided not to follow procedures outlined in their own Enforcement Manual.
Matter S	Trying to ascertain why CASA would need my Employment contracts
Matter T	Querying why CASA processing times are so long.
Matter U	Seeking an explanation as to why CASA acted as it did
Matter V	Request to meet with CASA.
Matter W	Reserved
Matter X	Reserved
Matter Y	CASA not operating in accordance with the Ministers Statement of Expectations.
Matter Z	Impact of CASA actions on me.
Matter A1	Trying to get someone to explain what is going on.
Matter B1	CASA have chosen not to respond to previous requests regarding activation of bases. Out of desperation I am trying to get an answer through the ICC.

UNCLASSIFIED  
Dear Mr Buckley,

Thank you for your letter of 28 May 2019.

In the first instance it is important that I publicly confirm for you (and for those addressees you have chosen to include) that:

There is no administrative action currently pending against APTA, and

That no adverse decisions have been taken by CASA in relation to APTA's authorisations to conduct flight training.

I will review the various matters you have raised and will respond in due course.

Regards

Shane

Shane Carmody  
CEO and Director of Aviation Safety  
Civil Aviation Safety Authority

p: 02 6217 1001

GPO Box 2005, Canberra ACT 2601  
[www.casa.gov.au](http://www.casa.gov.au)

## Appendices

## Appendix A Initial Notification from CASA (CASA REF F14/9540)



### Australian Government Civil Aviation Safety Authority

Aviation Group

CASA Ref: F14/9540

23 October 2018

Ermin Javier Jr  
Group Head of operations  
Australian Pilot Training Alliance Pty Ltd

By email: [ermin.i@auspta.com.au](mailto:ermin.i@auspta.com.au)

#### NOTICE OF PROPOSAL REFUSAL TO APPROVE SIGNIFICANT CHANGES TO EXPOSITION AND OPERATIONS MANUAL

##### Applications

I refer to the following applications for significant changes to your Parts 141 and 142 operations manual and exposition, respectively:

1. Under cover of a letter dated 21 June 2018, which stated: *Please accept a request for a Significant Change. Nature of change: This request is regarding the addition of the bases listed below under the APTA umbrella. 1. Ballarat Aero Club 2. Latrobe Valley Aero Club* The reason for the change is to respond to requests by the respective Flight Training Organisations to join APTA, you lodged a significant change request form seeking 1. Addition of a new Operating Base, Ballarat Aero Club (Hangar 4, Airport Road, Mitchell Park, VIC, 3355) 2. Addition of a new Operating Base, Latrobe Valley Aero Club (108 Airfield Road, Traralgon, VIC, 3844;
2. By email dated 31 August 2018, you lodged a significant change request form seeking the addition of ancillary bases at Learn to Fly, Moorabin Airport, Victoria and White Star Aviation, Ballina Airport.

APTA's website states:

Accordingly, we would like the opportunity to put to you, and other invited Flight School Owner in Australia to a compelling new Industry proposition to consider joining this new Alliance. It is effectively a very simple but cost effective idea, that we share the Operations Manuals, share our capabilities and share the cost burden of an Industry Leading Team of Key Personnel.

Importantly, you retain complete control over your own business. Your business maintains its identity and individuality. Your administration function and procedures remain completely your own, independent of the Alliance. There is a pooled system of manuals and procedures, directed by a shared high-powered team that will take on the responsibility for the Key Personnel requirements.

It is exactly that, an "alliance" of well-intentioned, likeminded Flight Schools sharing the burden of significantly rising costs, within an ever increasingly complex regulatory

environment. The required Manuals and Key Personnel are shared by the group, as are the associated costs.

Paragraph 7 of the CASA Aviation Ruling *Franchise AOC arrangements* states: *The AOC holder at all times remains responsible for the actions of another person conducting operations under the AOC.* The Ruling does not permit an AOC holder to authorise a third party body corporate to conduct operations under its AOC. That is, an AOC holder cannot 'franchise' another body corporate to operate under its AOC. Section 27(8) of the *Civil Aviation Act 1988* also states an AOC is not transferable. Likewise, a Part 141 certificate holder cannot 'franchise' its certificate to a third party body corporate to use.

From the available information obtained during CASA's assessment of your applications, supported by the above statements on your website, the 'alliance' companies generally:

1. Pay their own operating expenses;
2. Receive income from students directly;
3. Operate their own aircraft using their own personnel that they employ and pay wages for (noting that notionally they use APTA key personnel);
4. Have an arrangement with you to use your AOC or Part 141 certificate; and
5. Are supervised by APTA.

Notwithstanding the arrangement and supervision, on the available information the alliance operators are conducting operations in their own right without their own: (a) AOC in contravention of s.29 of the *Civil Aviation Act 1988*, or (b) Part 141 certificate, in contravention of regulation 141.050 of the *Civil Aviation Safety Regulations 1998*. APTA would be a party to these contravention as it appears to have facilitated them. This position is not altered even if any of the 'alliance' companies:

1. has an affiliation, or common directors or shareholders, with APTA, or
2. uses your procedures, or
3. is or is not paying to you a franchise or other fee, or
4. is supervised by one of your key personnel.

In summary, an AOC or Part 141 certificate holder cannot 'franchise' its certificate to a third party body corporate.

#### **Unauthorised operations**

Your website also lists as members, in addition to those companies mentioned above:

1. Arc Aviation,
2. Flight Standards Aviation,
3. Avia Aircraft,
4. Melbourne Flight Training, and
5. Sim Jet training Systems.

As noted above, if APTA has facilitated these companies operating in contravention of the above provisions, APTA would be a party to such contraventions and may be the subject of enforcement action. You are also invited to comment on these matters within 7 days, whereupon CASA will provide a final determination on them, as well as communicating with the companies concerned. Any response, if APTA contends that it is the operator instead of these companies, should attach copies of all contractual or other agreements with all the 'alliance' companies mentioned above and any of their personnel.

#### **Proposed refusal**

CASA proposes to refuse to approve the significant changes to the exposition and manuals sought by you, on the basis:

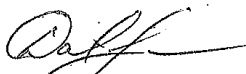
1. The operating bases which the applications relate to are bases that a separate legal entity would be conducting flight training operations at and not APTA;
2. CASA cannot provide an endorsement of what would be an unauthorised operation.

You are invited to respond to the matters raised above within 7 days from the date of this letter. Any response, if APTA contends that it is the operator at the proposed bases, should attach copies of all contractual or other agreements with all the 'alliance' companies mentioned above and any of their personnel.

#### Temporary locations

Your certificates authorise flight training at temporary locations. Assuming the above contentions by CASA are not correct (which is not admitted), none of the other bases could be considered to be a temporary location as they are all locations at which facilities and personnel are based on a permanent basis, hence the fact of your significant change applications. CASA considers that any operations at such locations, if conducted by you, are not authorised by your certificates. You are also invited to comment on these matters within 7 days, whereupon CASA will provide a final determination on them.

Yours sincerely



David Jones  
Regional Manager, Southern  
Regulatory Services and Surveillance  
CASA \ Aviation Group



**Australian Government**  
**Civil Aviation Safety Authority**

AVIATION GROUP

25 January 2019

Mr. Glen Buckley  
Chief Executive Officer  
Australian Pilot Training Alliance Pty Ltd

By email: [glen.b@auspta.com.au](mailto:glen.b@auspta.com.au)

**NOTICE TO PROVIDE INFORMATION AND DOCUMENTS IN RELATION TO  
APPLICATIONS FOR SIGNIFICANT CHANGE APPROVALS OF EXPOSITION AND  
OPERATIONS MANUAL**

I very much appreciated the opportunity to meet with you and your team at your business premises at Moorabbin Airport on Friday 11 January 2019. As mentioned at that meeting, CASA has not yet made a decision relevant to the significant change applications put forward by APTA. This correspondence replaces my earlier correspondence of 21 December 2018.

As per our discussion on 11 January 2019 and following my attendance at Ballarat Aero Club on 12 January 2019, CASA is seeking additional information from APTA regarding, inter alia, operational accountability arrangements between authorisation holders where necessary functions are performed on a 'contractual basis'. CASA understands that APTA, as the authorisation holder, has entered into contractual arrangements with discrete legal entities, under arrangements whereby those entities are responsible for carrying out certain activities and performing certain functions, under the control and authority of the authorisation holder (APTA). In order to preserve the integrity of APTA's necessary operational control, CASA requires evidence (eg: copies of binding contracts) that this arrangement requires:

- the subordinate entities through which necessary organisation functions are performed *contractually relinquish or subordinate what would otherwise be the kind of operational autonomy they might otherwise entertain (as a corporate entity with the potential to perform such functions on their own accord) to the authorisation holder (APTA); and*
- CASA is satisfied that those contractual arrangements are effectively implemented.

If the requisite information/documentary evidence (eg: binding contracts between the parties) is not yet available, CASA could consider interim arrangements to allow the APTA business model to continue in the short term (up to three months). If APTA would like to seek CASA agreement to interim arrangements, APTA should confirm, in writing, the following requirements:

- provide a commitment that existing and prospective authorisation holders will ensure that all operations can safely be maintained under existing arrangements, in accordance with an acceptable exposition and in keeping with acceptable manuals, procedures and processes; and
- that all parties have a sufficient number of appropriately qualified personnel, and necessary facilities, infrastructure and support materials in place at the locations where their operations are conducted.



The information CASA requires (eg: copies of binding legal contracts) is sought pursuant to:

Regulation 11.040 of the *Civil Aviation Regulations 1998* states:

(1) If CASA reasonably needs more information or another document to allow it to consider an application, CASA may by written notice ask the applicant to give to it information, or a copy of a document, specified in ...

(3) CASA asks an applicant:

(a) to provide information or a copy of a document under subregulation (1); or

(b) to provide evidence under subregulation (2);

CASA need not begin to consider, or may stop considering, the application until CASA receives the information, document or evidence.

To demonstrate the efficacy of the APTA model, CASA will also require sufficient evidence that those contractual arrangements are effectively implemented. The evidence observed during the CASA visit to the Ballarat Aero Club on 12 January 2019, and the subsequent correspondence provided to CASA by the Ballarat Aero Club Committee are examples of such evidence.

#### **Requirement to provide documents**

You are required to provide the following documents within three months of the date of this notice:

1. Any agreement or other form of contractual arrangement between APTA (or any natural person associated with APTA) and any entity that APTA provides contracted services to (Part 141 and/or Part 142 contracted services).

#### **Requirement to provide information**

You are also required to provide the following information within three months of the date of this notice, in relation to *each of* Ballarat Aero Club, Latrobe Valley Aero Club, Learn to Fly, White Star Aviation and Arc Aviation:

1. How APTA has ensured each of the above entities is aware of the civil aviation authorisations held by APTA and associated accountabilities to the legislation;
2. How students at each of the entities are made aware of authorisations held by APTA and how the operational accountabilities are vested in APTA;
3. Whether each entity receives income from students directly;
4. Details of how many students the entities have;
5. A list of aircraft the entities use by registration mark;

6. A list of the facilities each entity uses; and
7. A list of the names of the employees or other persons engaged by the entity.

Your earlier response also stated:

*"APTA uses APTA employees on site as required at the locations. We currently have Company employees based at both LTV and Ballarat delivering most of the operations at those locations and drawing a salary from us."*


In this respect, you are required to provide the following information:

1. Which APTA employees provide these services; and
2. What services are they providing (eg instructional work)?

The provision of all the above information and documentation is needed to enable CASA to assess the significant change applications, and, to enable CASA to fully understand the arrangements between APTA and its member entities.

I would appreciate you providing your response to our Southern Region Regional Manager, Mr David Jones ( [david.jones@casa.gov.au](mailto:david.jones@casa.gov.au) )

Yours sincerely,



Peter White  
Executive Manager  
Regulatory Services and Surveillance



**Australian Government**  
**Civil Aviation Safety Authority**

AVIATION GROUP

12 February 2019

Mr. Glen Buckley  
Chief Executive Officer  
Australian Pilot Training Alliance Pty Ltd

By email: [glen.b@auspta.com.au](mailto:glen.b@auspta.com.au)

**INTERIM OPERATIONAL ARRANGEMENTS – AUSTRALIAN PILOT TRAINING ALLIANCE (APTA)**

I write to confirm interim operational arrangements for APTA, following receipt and consideration of your email correspondence dated 6 February 2019.

CASA agrees that APTA can continue operating consistent with the content of the extant APTA exposition, manuals, procedures and processes, for the period up to and including Monday 13 May 2019, providing the following requirements continue to be met:

- APTA ensures a sufficient number of appropriately qualified personnel and necessary facilities, infrastructure and support materials are in place at the locations where APTA operations are conducted; and
- APTA employees and relevant separate entities clearly understand APTA operations are interim until formalised by CASA. In order for CASA to formalise arrangements we require the provision of requisite information/documentary evidence (ie: the binding contracts between the parties previously referred to; and the additional information requested in CASA correspondence of 25 January 2019).

I ask, unless otherwise advised by me, that you provide your response direct ([peter.white@casa.gov.au](mailto:peter.white@casa.gov.au)).

Yours sincerely,

Peter White  
A/g Group Executive Manager  
Aviation Group



**Australian Government**  
**Civil Aviation Safety Authority**

AVIATION GROUP

3 May 2019

Mr. Glen Buckley  
Chief Executive Officer  
Australian Pilot Training Alliance Pty Ltd  
By email: [glen.b@auspta.com.au](mailto:glen.b@auspta.com.au)

**EXTENSION OF INTERIM OPERATIONAL ARRANGEMENTS – AUSTRALIAN PILOT TRAINING ALLIANCE (APTA)**

As a CASA delegate I write to advise I have decided to extend the Interim Operational Arrangements for APTA, as described in correspondence to you dated 12 February 2019.

I anticipate CASA will provide APTA with further Guidance (including 'model clauses' that CASA would expect to see within any contract between APTA and 'Affiliates') during the week commencing Monday 20 May 2019. CASA will review Interim Operational Arrangements and consider APTA transition to 'business as usual' operations once APTA has reviewed the CASA Guidance and provided CASA with appropriately revised contracts between APTA and 'Affiliates'.

As per my earlier email, I also confirm CASA's willingness to facilitate CASR 141.035 approvals for non-APTA employees whom are delivering flight training on behalf of APTA, by way of a single Instrument, on receipt of a list of relevant names, employers and ARNs. CASA would also be prepared to consider waiving any associated fees if this was sought by APTA.

This extension of Interim Operational Arrangements is issued on the basis that APTA will continue operating consistent with the content of the extant APTA exposition, manuals, procedures and processes, for the period up to and including Monday 1 July 2019, providing the following requirements continue to be met:

- APTA ensures a sufficient number of appropriately qualified personnel and necessary facilities, infrastructure and support materials are in place at the locations where APTA operations are conducted; and
- APTA employees and relevant separate entities clearly understand APTA operations are interim until formalised by CASA. In order for CASA to formalise arrangements, we require the provision of requisite documentary evidence (ie: the revised 'binding contracts' between the parties and the additional information requested above to facilitate CASR 141.035 approvals).

I ask, unless otherwise advised by me, that you provide your response direct ([peter.white@casa.gov.au](mailto:peter.white@casa.gov.au)).

Yours sincerely,

Peter White  
Executive Manager, Regulatory Services and Surveillance  
Aviation Group

## Appendix B Aviation Ruling

*CASA Ruling 1 of 2006*

Page 1 of 3

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# Aviation Ruling

## **Franchise AOC arrangements**

**Effective Date:** This ruling is effective from 1 March 2006.

**Catchwords:** AOC

Franchised AOC

AOC holder's organisation

Act s.28BE

## **Information about rulings**

Aviation rulings are advisory documents setting out CASA's policy on a particular issue.

CASA makes rulings available to CASA officers and the public to ensure that there is a consistent policy adopted in administering particular aspects of the air safety regulatory regime. Rulings are intended to apply to a range of factual situations and are necessarily general in nature. CASA will proceed on the basis that a person who relies on a ruling is complying with the law, as long as that person:

- i) Exercises due care in acting in reliance on the ruling – ie a person who carelessly misreads the test of a ruling will not be entitled to rely on that misreading; Relies on the ruling in good faith – ie CASA will not allow a person to frustrate the intent of the ruling by adopting an extreme or contrived interpretation of the words of the ruling which results in consequences that were clearly unintended by CASA at the time the ruling was issued;
- ii) Only relies on the clear statements of fact and policy in the ruling – ie the ruling is completely self-contained and does not permit any additional interpretation of the relevant law, or application of the policy to different fact situations.

A user of aviation rulings should also be aware that a ruling is only a statement of CASA's policy. It is not a restatement of the law. Accordingly, while rulings are drafted to be consistent with the law referred to in the ruling as understood by CASA from time to time, they cannot displace any inconsistent legal requirements. You should notify CASA's General Counsel if you believe that compliance with this ruling would lead to a breach of a legal requirement or if you believe that a ruling is based on an erroneous factual assumption.

**Members of the public can contact CASA via its national number 131 757.**

## **Aviation Ruling: Franchise AOC arrangements**

Effective Date: **1 March 2006**

Catchwords: AOC

Franchised AOC

AOC holder's organisation

Act s.28BE

### **Issue**

1 From time to time, issues arise about the use of Franchise AOC arrangements under which an AOC holder allows another person (who does not hold an AOC) to use the privileges of that AOC. These ruling states CASA's position on the use of Franchised AOCs.

### **Background**

2 The Act creates a regime for the issue and regulation of AOCs. Section 28 of the Act authorises CASA to issue AOCs to natural or legal persons.

3 A Franchise AOC arrangement may arise where an AOC holder (**A**) and another person (**B**) enter into an arrangement under which **B** uses's **A's** AOC to conduct commercial operations and does not hold a separate AOC. Franchised AOCs may reflect one or more of the following characteristics:

3.1 **B** advertises to the public in its name (not **A's** name) that it will conduct commercial aviation operations. The advertisements may refer to an association with **A**;

3.2 **B** hires the staff engaged in carrying out the operations, organises maintenance and controls all financial dealings including contracts for the flying activities covered by the Franchised AOC;

3.3 **B's** operations are not supervised by **A's** Chief Pilot;

3.4 usually **B** would pay a franchise fee to **A**, although a Franchise AOC arrangement may not involvement payment of a fee;

3.5 **B's** operating systems are not integrated into company **A's** approved systems and have not been reviewed by CASA for the purpose of the issue or regulation of the Franchised AOC.

4 Persons using company **B's** services, including passengers, are unlikely to be aware that CASA does not regulate **B** or its operating systems.

### **Ruling**

5 It is CASA's view that the scheme of the Act and CARs intend that the activities authorised by an AOC are carried out 'within the organisation of the AOC holder.

6 Among other requirements in the Act, CASA requires that to comply with the Act all AOC operations must be conducted:

6.1 in accordance with the systems of an AOC holder;

6.2 under the oversight and management of the key personnel of that AOC holder; and

6.3 using the facilities and documentation of that AOC holder.

7 The AOC holder at all times remains responsible for the actions of another person conducting operations under the AOC.

8 It is possible that operations to be conducted by **B** under a Franchised AOC will not be carried out within **A's** organisation and, accordingly, will not be authorised by **A's** AOC (ie, the AOC that has been franchised to **B**). Further, unless those operations are authorised under another AOC, the operation may not be authorised by any AOC.

9 It is therefore CASA's view that a Franchise AOC arrangement could result in the serious consequences that a person in the position of **B** breaches s.27(1) of the CAA by conducting operations for CAR 206 purposes without an AOC (see section 27(9) of the Act) ; and

10 Additionally, if **A**, as an AOC holder, enters into a Franchise AOC arrangement that does not comply with the requirements of this ruling, CASA will view such action on the part of **A** to be highly relevant as to whether **A** complies with its obligations under section 28BE of the Act to ensure that every activity covered by the AOC, and everything done in connection with such an activity, is done with a reasonable degree of care and diligence.

## Definitions

11 In this ruling:

"**A**" means a hypothetical natural or legal person who holds an AOC and enters into an arm's length contractual arrangement with **B**, by which **A** intends to allow **B** to use the privileges of **A's** AOC, resulting in the creation of a Franchised AOC;

"**Act**" means the *Civil Aviation Act 1988*;

"**AOC**" means an air operator's certificate issued under section 27 of the Act;

"**B**" means a hypothetical natural or legal person who enters into an arm's length contractual arrangement with **A**, by which **B** intends to exercise the privileges of **A's** AOC, resulting in the creation of a Franchised AOC;

"**CAR**" means the *Civil Aviation Regulations 1988*;

"**Franchised AOC**" is an AOC where some or all of the operations authorised by the AOC are conducted by a legal entity (eg "**B**") other than the AOC holder (eg "**A**"), in accordance with an arm's length contractual arrangement between **A** and **B**. A Franchised AOC arrangement may, but does not necessarily, include any or all of the circumstances described in paragraph 3.

**[Signed Bruce Byron]**

Bruce Byron

Director of Aviation Safety

21 February 2006



## Appendix C CAR 206 operations, CASA removes Flying Training

5

OLD  
pre 119114  
Flying Training is  
a commercial purpose

### 206 Commercial purposes (Act, s 27(9))

- (1) For the purposes of subsection 27(9) of the Act, the following commercial purposes are prescribed:
- (a) aerial work purposes, being purposes of the following kinds (except when carried out by means of a UAV):
    - (i) aerial surveying;
    - (ii) aerial spotting;
    - (iii) agricultural operations;
    - (iv) aerial photography;
    - (v) advertising;
    - (vi) flying training, other than conversion training or training carried out under an experimental certificate issued under regulation 21.195A of CASR or under a permission to fly in force under subregulation 317(1);
    - (vii) ambulance functions;
    - (viii) carriage, for the purposes of trade, of goods being the property of the pilot, the owner or the hirer of the aircraft (not being a carriage of goods in accordance with fixed schedules to and from fixed terminals);
    - (ix) any other purpose that is substantially similar to any of those specified in subparagraphs (i) to (vii) (inclusive);
  - (b) charter purposes, being purposes of the following kinds:
    - (i) the carriage of passengers or cargo for hire or reward to or from any place, other than carriage in accordance with fixed schedules to and from fixed terminals or carriage for an operation mentioned in subregulation 262AM(7) or under a permission to fly in force under subregulation 317(1);
    - (ii) the carriage, in accordance with fixed schedules to and from fixed terminals, of passengers or cargo or passengers and cargo in circumstances in which the accommodation in the aircraft is not available for use by persons generally;
  - (c) the purpose of transporting persons generally, or transporting cargo for persons generally, for hire or reward in accordance with fixed schedules to and from fixed terminals over specific routes with or without intermediate stopping places between terminals.
- (1A) However, the commercial purposes prescribed by subregulation (1) do not include:
- (a) carrying passengers for hire or reward in accordance with subregulation 262AM(7); or
  - (b) carrying out an activity under paragraph 262AM(2)(g) or 262AP(2)(d).
- (2) In this regulation:
- aircraft endorsement** has the same meaning as in regulation 5.01.
- conversion training** means flying training for the purpose of qualifying for the issue of

**206 Commercial purposes (Act, s 27(9))**

NEW!  
Post 119114  
Flying Training is  
NOT a commercial

- (1) For the purposes of subsection 27(9) of the Act, the following commercial purposes are prescribed:
- (a) aerial work purposes, being purposes of the following kinds (except when carried out by means of a UAV):
    - (i) aerial surveying;
    - (ii) aerial spotting;
    - (iii) agricultural operations;
    - (iv) aerial photography;
    - (v) advertising;
    - (vi) balloon flying training (within the meaning of subregulation 5.01(1)) for the grant of a balloon flight crew licence or rating;
    - (vii) ambulance functions;
    - (viii) carriage, for the purposes of trade, of goods being the property of the pilot, the owner or the hirer of the aircraft (not being a carriage of goods in accordance with fixed schedules to and from fixed terminals);
    - (ix) any other purpose that is substantially similar to any of those specified in subparagraphs (i) to (vii) (inclusive);
  - (b) charter purposes, being purposes of the following kinds:
    - (i) the carriage of passengers or cargo for hire or reward to or from any place, other than carriage in accordance with fixed schedules to and from fixed terminals or carriage for an operation mentioned in subregulation 262AM(7) or under a permission to fly in force under subregulation 317(1);
    - (ii) the carriage, in accordance with fixed schedules to and from fixed terminals, of passengers or cargo or passengers and cargo in circumstances in which the accommodation in the aircraft is not available for use by persons generally;
  - (c) the purpose of transporting persons generally, or transporting cargo for persons generally, for hire or reward in accordance with fixed schedules to and from fixed terminals over specific routes with or without intermediate stopping places between terminals.
- (1A) However, the commercial purposes prescribed by subregulation (1) do not include:
- (a) carrying passengers for hire or reward in accordance with subregulation 262AM(7); or
  - (b) carrying out an activity under paragraph 262AM(2)(g) or 262AP(2)(d).

## Appendix D Notification from CASA of a change of CMT.



### Australian Government Civil Aviation Safety Authority

SAFETY ASSURANCE BRANCH

File Ref: F14/9540

10 May 2018

Mr Glen Buckley  
Group CEO APTA  
Moorabbin Airport VIC 3194  
Email: [glen.b@auspta.com.au](mailto:glen.b@auspta.com.au)

Dear Mr Buckley,

In 2012, CASA introduced a multi-disciplinary Certificate Management Team (CMT) model to more effectively oversight and manage authorisation holders and provide a central point of contact for all approvals and permissions. The objective of the CMT model is to enhance CASA's surveillance, improve entry control, ensure the efficient provision of regulatory service tasks, and to match inspectorate skills to industry needs.

Part of this model is to regularly review the allocation of certificates to ensure the Southern Region is structured in the most effective and efficient way to ensure the provision of quality services.

As Regional Manager, I have recently reviewed the model and the outcome was the reallocation of some organisations to a different oversighting team, this includes APTA. I can confirm that commencing Monday 14 May 2018, APTA's certificate will be managed by Southern Region's CMT3, comprising—

Title	Name	Phone Number	Mobile
Certificate Team Manager (CTM)	Will Nuttall	03 9927 5374	0431 656 301
Airworthiness Inspector (AWI)	Phil Cullen	03 9518 2783	0477 374 559
Airworthiness Inspector (AWI)	Michael Helmers	03 9518 2711	0457 553 957
Airworthiness Inspector (AWI)	Andrew Peucker	03 9518 2721	0428 228 119
Flying Operations Inspector (FOI)	Bill Cox	03 9518 2724	0427 169 623
Flying Operations Inspector (FOI)	Anthony Franc	03 9927 5311	0434 601 816
Flying Operations Inspector (FOI)	Brad Lacy	03 9518 2738	0419 211 469
Flying Operations Inspector (FOI)	Shawn Ottway	03 9518 2784	0437 006 162
Safety Systems Inspector (SSI)	Grant Howard	03 9927 5306	0419 171 751

Will Nuttall and his team look forward to working with you and continuing the positive and productive working relationship you have had with CTM John Costa and his team.

Please don't hesitate to contact me if you have any questions.

Yours sincerely

**Michelle Massey**  
Region Manager, Southern  
Regulatory Services & Surveillance

## Appendix E CASA Enforcement Manual

<https://www.casa.gov.au/publications-and-resources/publication/enforcement-manual>

Appendix F Regulation Impact Statement. Grossly inaccurate.

<https://www.legislation.gov.au/Details/F2013L00218/6b3523f0-4a46-4cd9-a6b9-358947eec395>

## Appendix G CASA's own Regulatory Philosophy.

### Our regulatory philosophy

Our regulatory philosophy is published in accordance with the Government's response to the aviation safety regulation review.

The philosophy sets out the principles underpinning the way we perform our functions, exercise our power and engages with the aviation community.

#### Purpose

Consistent with CASA's obligation to comply with the laws governing its regulatory activities, this statement of regulatory philosophy sets out the principles that guide and direct CASA's approach to the performance of its regulatory functions and the exercise of its regulatory powers.

Fidelity to these principles will be reflected in CASA's regulatory policies and practices, and will extend to the fullest extent possible to all aspects of CASA's engagement with the wider aviation community.

#### 1. CASA is committed to maintaining the trust and respect of the aviation community

CASA is committed to maintaining the trust of the Australian aviation community and regaining that trust where it has been shaken or compromised. CASA is likewise committed to fostering mutual respect between itself and the aviation community in every aspect of our engagement with members of that community.

#### 2. Mindful of the primacy of air safety, CASA takes account of all relevant considerations, including cost

Although safety must always be CASA's 'most important consideration', this does not mean that safety is the only consideration CASA takes into account when performing its regulatory functions and exercising its regulatory powers. CASA is required to take all relevant considerations, including cost, into account.

Where reasonable alternative approaches to the fulfillment of a regulatory requirement-

- satisfy applicable legal requirements and
- do not unacceptably compromise safety.

CASA will readily entertain such alternatives if they are proposed, and accept them in the absence of compelling reasons not to do so.

### 3. CASA takes risk-based approaches to regulatory action and decision-making

CASA will adopt a regulatory approach based on a sound assessment of the level of risk associated with particular aviation operations. In doing so, the highest safety priority will be afforded to passenger transport operations, and operations in which passengers and others exposed to higher levels of risk are not in a position to make informed judgements and effective decisions about the risks to which they are exposed.

### 4. CASA performs its functions consistently with Australia's international obligations

Except where a difference to a standard specified in an Annex to the Chicago Convention has been properly notified to the International Civil Aviation Organization (ICAO) by Australia, CASA will strive to ensure its regulatory requirements, policies and practices:

- are consistent with ICAO standards and
- harmonise with best international regulatory practice, having particular regard to aviation jurisdictions with features similar to Australia's.

Harmonisation does not necessarily mean replication, and where it is appropriate to do so, CASA's regulatory requirements, policies and practices should reflect considerations that are distinctive to the Australian aviation environment.

## 5. CASA approaches its regulatory functions consultatively and collaboratively

CASA will develop and implement appropriate, and appropriately inclusive, consultative and collaborative policies and practices with a view to:

- understanding the nature and practical implications of existing and potential aviation safety issues and problems
- deciding whether, and if so the extent to which, CASA should be involved in addressing such issues and problems and
- identifying the most appropriate contributions CASA can make to addressing such issues and problems, recognising that a regulatory response will not always necessarily be the most appropriate contribution.

Correspondingly appropriate consultative and collaborative policies and processes will be developed to guide and direct the way in which CASA carries out its distinctive responsibilities (regulatory and otherwise) in addressing the aviation safety issues and problems in respect of which CASA's responsibilities have been identified.

## 6. CASA communicates fully and meaningfully with all relevant stakeholders

At every stage of the regulatory activities in which CASA engages-from contemplating the need to make a rule or impose a requirement, to the application of a rule or requirement-and to the fullest extent possible in the circumstances, CASA will ensure that everyone whose rights, interests and legitimate expectations will, or are likely to, be affected by CASA's contemplated actions has access to information and advice about:

- what it is CASA proposes to do
- why CASA is proposing to do so
- what considerations CASA has taken into account in forming its view on the matter to hand
- what alternatives (if any) had been considered and why those alternatives had been ruled out
- what the effects of the proposed actions are expected to be and



- what recourse is available to persons who are, or are likely to be, affected by the proposed action.

CASA will ensure that the information and advice it provides to the aviation community, generally and in individual cases, is:

- **clear and concise**, using plain language and concepts wherever possible
- **correct and complete**, authoritatively informed and fully informative
- **responsive** to the questions or issues to hand and
- **timely**.

## 7. CASA fairly balances the need for consistency with the need for flexibility

CASA will consistently employ the same processes, and have regard to the same criteria, in all cases involving the consideration of particular facts and circumstances for the purposes of determining whether, and if so how, a regulatory requirement should be interpreted or applied in any given situation. In this way, everyone may be confident that they are receiving the same advice about the general meaning and application of any regulatory requirement.

CASA will also ensure that all relevant facts and circumstances peculiar to an individual situation have been fully and fairly considered on their merits, and will provide advice about, or decide the outcome of, a particular matter governed by a regulatory requirement on that basis. In this way, everyone may be confident that, within a regulatory framework that consistently employs the same processes and assesses facts against the same criteria, their individual circumstances will be fully and fairly considered.

## 8. CASA embraces and employs rational 'just culture' principles in its regulatory and related actions

CASA embraces, and encourages the development throughout the aviation community of, a 'just culture', as an organisational culture in which people are not punished for actions, omissions or decisions taken by them that are commensurate with their experience, qualifications and training, but where gross negligence, recklessness, wilful violations and destructive acts are not tolerated.

Requiring a person to undertake further training and, where necessary in the interests of safety, to refrain from exercising the privileges of a relevant authorisation pending the successful demonstration of competence where deficiencies have been identified, shall not be regarded as discipline or punishment.

Appropriate policies will be developed and implemented to ensure the integrity of this approach, and to guard against any inappropriate punitive action by CASA, or disciplinary action by a service provider, in a manner inconsistent with this principle.

## 9. CASA demonstrates proportionality and discretion in regulatory decision-making and exercises its powers in accordance with the principles of procedural fairness and natural justice

CASA will seek optimal safety outcomes in the exercise of its regulatory powers. On that basis and to that end, CASA will ensure that its actions and responses are appropriate and proportional to the circumstances.

In the first instance, and in the absence of demonstrable safety-related reasons for doing otherwise:

- CASA will adopt an approach to regulatory compliance based on the encouragement of training and education, with a view to remedying identified shortcomings and correcting specified deficiencies.
- Where the interests of safety require that a person's aviation-related privileges need to be limited, curtailed or suspended pending the rectification of identified shortcomings or specified deficiencies (including the satisfactory demonstration of requisite levels of skill or competence), voluntary mechanisms to achieve those objectives will be developed and employed.
- Where it is necessary in the demonstrable interests of safety for CASA to exercise discretionary powers in order to achieve a specified safety-related outcome, CASA will employ the least intrusive and least disruptive means consistent with the achievement of that outcome.
- CASA will not utilise its discretionary powers to vary or suspend a civil aviation authorisation for punitive or disciplinary purposes, but only for purposes reasonably calculated to achieve specified safety-related objectives, including the

protection of persons and property pending the satisfactory demonstration by the person whose privileges have been, or are to be, varied or suspended, that the shortcomings or deficiencies giving rise to CASA's action have been effectively addressed.

In determining whether and how to exercise its regulatory discretion in a particular matter, CASA will have regard to:

- the seriousness of the safety-related implications of the instance of noncompliance under scrutiny
- mitigating or aggravating circumstances impacting on the appropriateness of the responsive regulatory action(s) contemplated
- the history and background of the person whose acts or omissions are under scrutiny, in relation to that person's demonstrated ability and willingness to comply with regulatory requirements
- the passage of time since the acts or omissions under scrutiny occurred, and when they were discovered by, or otherwise came to the attention of, CASA
- the degree of responsibility of the individual(s) whose acts or omissions are under scrutiny
- the effect on the wider aviation community (including the general public) and confidence in CASA's administration of the civil aviation legislation in the interests of safety
- the obsolescence or obscurity of the law
- whether a contemplated regulatory response would be perceived as counter-productive, for example, by bringing the civil aviation legislation or CASA into disrepute;
- the availability and efficacy of appropriate alternatives to a particular regulatory response
- whether the consequences of the regulatory action contemplated would be unduly harsh or oppressive
- whether the matter is one of considerable public concern
- the actual or potential harm occasioned to an individual or the damage to property and

- whether the person whose acts or omissions are under regulatory scrutiny is (or has been) willing to co-operate with CASA in the efforts to address the particular matter to hand and/or to address relevant safety-related issues more generally.

The applicability of and weight to be given to these and other factors will depend on the particular circumstances of each case.

Beyond its legal obligation to do so in most cases, in all cases in which CASA exercises discretion in determining whether, and if so to what extent, a requirement will be imposed on a person, except where the interests of safety prevent it or it is otherwise demonstrably impracticable to do so, CASA will afford persons affected, or likely to be affected, by a decision with an appropriate measure of procedural fairness and natural justice.

## 10. CASA has a legitimate, but limited, role in pursuing punitive action for breaches of the civil aviation legislation

CASA has a legitimate, but limited, role in the pursuit of punitive action against a person for alleged breaches of the civil aviation legislation. CASA will not pursue regulatory administrative action to vary, suspend or cancel a civil aviation authorisation for punitive purposes.

Last modified: 6 April 2018



**Australian Pilot Training Alliance** STEVE HITCHEN

# Forging a New Alliance



Glen Buckley has a lot of expertise in his team at APTA. From left to right: Group Head of Safety Andrew Warland-Browne, Group Head of Operations Ermin Javier Jr, Standby Head of Operations Jacqui Armstrong, CEO Glen Buckley and Internal Co-ordinator Laveniya Ruthalingam.

A new style of training organisation, the Australia Pilot Training Alliance, is providing a fast and efficient path to CASA approvals for flying schools. As **Steve Hitchen** found out, their very existence has enabled some to expand and others simply to keep the doors open.

There are any number of people in the aviation community happy to tell you what's wrong with the industry, but very rarely does someone come up with a truly innovative solution that can genuinely be labeled as a "game changer".

Glen Buckley is one person who has, and he's literally bet his house on the outcome.

Buckley is the owner of Melbourne Flight Training (MFT), a small but flourishing school at Moorabbin. MFT had its niche, and with quality, smart training as a weapon, gathered

new business purely through word of mouth. MFT was never going to rake in wads of cash for Buckley, but it did OK and provided employment for several flying instructors.

Then came the day that the CASA threatened to wipe out all of that simply with a change of rules that excluded MFT, and many other flying schools, from 95% of the Commercial Pilot Licence training market. CASA announced CASR Part 142, a complex and costly form of flying school approval that had at its heart the 150-hour CPL course. It



was exclusive to Part 142, so if you didn't have the capital to step up and invest, you were simply out of business.

The aftershocks of Part 142 are still rippling throughout the aviation industry with destructive force, and at the end, only the strongest will still be standing, with the weakest relegated to scrambling for the 200-hour CPL market; a much less attractive option for potential students.

"CASA said 'Right, the 200-hour CPL lives here with the Part 141 schools, and the 150-hour CPL becomes the exclusive domain of the Part 142 organisations,'" Buckley recalls. "But my business gets 95% of its income from the 150-hour CPL,

the flying schools, and it is the extra salaries needed that have proven the largest stumbling block for schools to go forward.

That's where APTA comes into it: they provide an Air Operator's Certificate approved to Part 142 and the expertise required to maintain all the manuals and oversight needed to comply with CASA regulations. Smaller flying schools join the alliance and share the resources. Arm-in-arm they go forward to tackle the 150-hour CPL market together.

"The reason I took all this on is that we had a situation where a Part 142 school could offer the 150-hour PPL and a Part 141 school could not," Buckley points out, "but in actual fact, the

went through the onerous process of getting approval for MFT.

However, he understood that it wouldn't be sustainable, and so created APTA to share the load and give other small schools an easier path to CASA approval.

"I moved the Part 142 approval over to APTA, as well as the RTO [Registered Training Authority] and the CRICOS [Commonwealth Register of Institutions and Courses for Overseas Students]. Then I went after the very best people possible to fill the key roles," Buckley recalls.

Buckley has chosen his team astutely, with former Philippine Air Force and Royal Australian Navy officer Ermin Javier taking the key role of Group Head of Operations. Javier's job is effectively group CFI, which means that alliance members don't need a CFI of their own, relying instead on Senior Base Pilots to provide on-the-spot oversight.

Similarly, the appointment of former CASA educator and safety advisor Andrew Warland-Browne as Group Head of Safety has provided APTA with the horsepower to cascade the central safety management

system down to the group members, and with former Qantas operational manager Wes Mason running the documentation system and technical services, Buckley has put together a powerful team at APTA.

And to top it off, even CASA is impressed.

"Despite me being probably the hardest person CASA's ever had to deal with, they are extremely supportive of the concept," Buckley says with a wry smile.

"Why? Every school puts their own spin on Part 142, so CASA has to walk into 10 different organisations and do 10 different audits. At APTA, all members run a system called Flight School Manager and it's all paperless.

"Everything from flying hours to maintenance tracking goes into this, which makes it a very powerful oversight tool. Now, we can monitor all group members from head office, and that's why CASA supports the concept."

## "APTA has opened doors for us that would normally have been closed"

and on 1 September 2017, the privilege was going to be taken away from my business overnight. It was destined for absolute destruction; there was no way in the world it could survive on Part 141 only."

Buckley is not the sort of person that you'll see taking a lot of steps backward, so in the spirit of "if you can't beat them, join them," he set out to find a way that MFT could stay in the Part 142 market, and on his journey, developed a solution not only for MFT, but for other schools in the same predicament.

He called his solution the Australian Pilot Training Alliance (APTA), and it's now one of the very few training organisations that has Part 142 approval from CASA.

### Getting it together

When asked about APTA, Buckley most often falls back on the "IGA" analogy: it's like a group of independent businesses banding together for mutual benefit to take on industry giants.

Part 142's largest burden is the need for top-end staff to service

same instructor could teach at both schools, and deliver exactly the same subjects out of exactly the same manual of standards. Then you get the same testing officer in to test both candidates to identical standards. So why does one business get forced into making one candidate fly an extra 50 hours?"

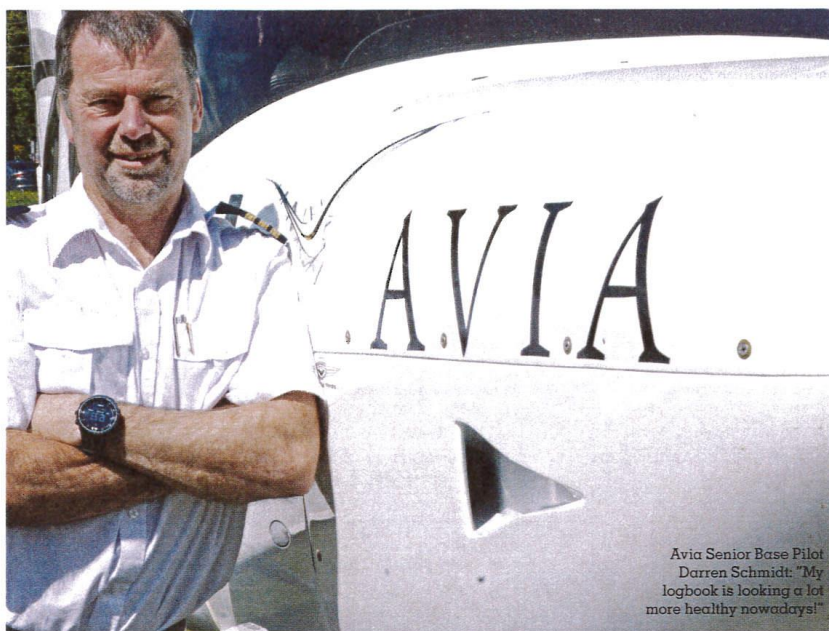
The paradox is that Buckley believes that the 150-hour CPL is actually a good product, and



LEFT: TVSA Flight Training at Bocchus Marsh used APTA as a fast-track to Part 142.

ABOVE: Under the new rules, Part 141 schools can offer CPL candidates the 200-hour syllabus only.

## Australian Pilot Training Alliance



Avia Senior Base Pilot  
Darren Schmidt: "My  
logbook is looking a lot  
more healthy nowadays!"

It has been a bug-bear of CASA for many years that some arrangements between flying schools—"lending" an AOC—has resulted in remote oversight that has proven several times to be the equivalent of no oversight. According to Buckley, the software and systems within the APTA group mean they can show effective oversight of all members ... and that makes CASA very happy indeed.

### Joining up

At the time *Australian Flying* spoke with Buckley, APTA had five members: MFT, TVSA Flight Training, Learn to Fly, Avia Aviation and Flight Standards. There were more knocking on the door as the realities of Part 142 began to bite, but the APTA concept can be scaled up to cope with many more schools coming on board.

Avia Aviation Co-founding Director Charles Gunter committed his company to APTA once he considered that doing so would be to Avia's advantage.

"I'm ecstatically excited about this," he said with a huge grin. "I wish we'd done this long ago."

"Undoubtedly APTA has opened doors for us that would normally have been closed. And there are probably more doors out there that we haven't knocked on."

"The potential upside is enormous for potentially less overhead cost. If you look at the human resources that went into our original AOC, and the changes we had to make for Part 61 and Part 141, I estimate that we spent well north of \$250,000 to achieve those objectives."

"Now our overhead cost with APTA is probably one third of that."

But for schools looking to join APTA, there is one painful duty they have to perform: they must mothball their own AOC, the one they spent a lot of money to get and many long hours making sure they keep. The great advantage to doing that, it that they inherit quality staff from APTA instead.

"We've always been impressed with Glen as an individual, and

also we were surprised at the calibre of people within APTA," Gunter said. "They are people who have a track record in excellence in whatever they're doing. That really impressed the heck out of me!"

APTA membership also brings another opportunity: check and training. Not only is the 150-hour CPL the exclusive privilege of a Part 142 school, but also the right to conduct check and training for charter aircraft over 5700 kg MTOW. Flying schools with charter AOCs have traditionally been approved for this function, but if they stay at Part 141 level, they'll have to farm that out to a Part 142 organisation. Through the APTA membership, there is now opportunity for Avia to branch into the check and training market.

And there is another advantage that current Chief Flying Instructors will immediately relate to.

Avia Senior Base Pilot Darren Schmidt is a Grade 1 instructor with MECIR approval and Flight Examiner Rating. He should

be sitting behind a CFI's desk snowed under with paperwork, but instead, all that is taken care of by Javier at APTA, freeing up Schmidt to spend more time teaching people to fly.

"I'm getting so much more time in aeroplanes now," Schmidt said, "which means I can oversee the students and other instructors so much better. My logbook is looking a lot more healthy nowadays!"

### Growth in progress

Perhaps one of the more surprising schools to jump on the APTA train is Learn to Fly. The Moorabbin-based school is recreational only, and so can't benefit from anything that Part 142 brings. However, if you draw back that curtain, there is a clever decision behind it.

School Operations Manager Kai Li has big plans for Learn to Fly, and APTA membership is a key part. The company has facilities also in Hong Kong, Singapore and Shanghai, and a large expansion into the general aviation training market is planned for Moorabbin. Already they have building approval for a 4400-sqm base to train 60-80 students at one time, and the expansion plans will utilise the best advantages of APTA membership: Part 142, CRICOS, RTO and shared resources.

"We do mainly recreational flying here, but our pilots have been doing some GA flying through MFT," Li points out. "Our target is now students from overseas who want to do CPL, but you can't do CPL on RAAus aircraft [for the 150-hour syllabus], so we needed to get into GA flying."

"We tried to buy an Air Operator's Certificate to get into the market, but the price was going to be too much. And even if we bought one, we wouldn't have the expertise to run it. So it was better to join APTA rather than run our own school."

The economics of APTA also made a lot of sense to Li. The membership fee of \$80,000



looks steep at first, but when you consider the cost of the alternative, it starts to look more like a bargain.

"It's not that much from my point of view," Li reckons. "If I hire a GA CFI I would pay them that much anyway, so why not pay that money to APTA? It saves my time, gives me the Part 142 approval, RTO, CRICOS, management systems and access to the resources of the group."

Learn to Fly has plans for its own GA fleet to be housed in the new training complex, but in the meantime, they can fall back on the resources of other group

in place. APTA had all those personnel, plus all the systems and procedures in place ready for us.

"At the same time we were going through a change of CFI and Chief Pilot, joining APTA meant we could transition to Part 142 pretty easily without having to go through the whole CASA approval process."

But as a business person, Pearson also appreciates that APTA membership can provide more benefits than just the training approvals.

"I think one of the big advantages is that there is other people within the group that we

"We would have still made the transition, but it would have been much more difficult and taken a lot longer."

## Forging ahead

Buckley sees APTA as an opportunity that goes beyond simply flying school management; his vision includes using the brand as a powerful marketing tool for members.

"We have an Australian-owned product that actually has more capability than anyone else in the country," he stresses. "APTA can offer every single course CASA has approved. Our Head of Operations brings to table multi-crew ATPL flight testing, and most large flying schools can't say that!"

"So if we can go overseas with the APTA brand, we've got a multi-base, Australian-owned business that does everything that any other organisation can do."

"Provided we keep this well-intentioned and keep investing up

top here, I think we'll kick goals."

In future, there may be even scope for Part 141 flying schools and aero clubs to jump on the band wagon, in the process immediately boosting their own capability and potential. One of the problems plaguing country operations is attracting qualified CFIs to replace those that have moved on. In many cases, schools have had to temporarily cease operations whilst they hunted a replacement that was not only qualified and approved, but also was prepared to move to a regional area. APTA membership can provide the solution quickly and easily.

"I think this is an opportunity for rural areas," Buckley predicts. "APTA will bring a capability to flying schools that they've never had before, and they're never going to get unless they come together like this."

"If APTA can help keep a flying school in business, I would love them to come to us, because that's truly what we're about."

## "We have an Australian-owned product that actually has more capability than anyone else in the country"

members to realise their ambitions short-term. Planes can be cross-hired; instructors can be allocated from one school to another and their skills, expertise and training with them.

For an organisation starting from scratch in GA training, Learn to Fly's decision to go with APTA can't have been that difficult: everything they needed would come in one neat package.

## Fast track to Part 142

TVSA Flight Training at Bacchus Marsh found themselves not only on the Part 142 outer, but also down one critical person: a Chief Flying Instructor. For Director/owner Dan Pearson, the decision to join APTA solved more than one issue.

"We joined APTA because they are a Part 142 approved organisation, and we hadn't yet transitioned ourselves to 142, so they provide all the approvals we need for all the types of training we deliver," Pearson told *Australian Flying*.

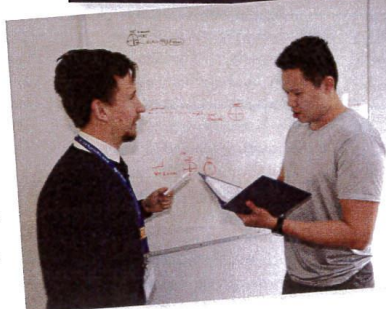
"We wanted to make sure we had the best of both worlds [Part 141 and Part 142] and that we had the right key personnel

can get access to. For example, whilst we might not do multi-crew training today, there are people in the group that we can use to gain that capability."

"Also, if we need resources or other people within the group need resources, they can borrow planes or instructors from us, so it's kind of like a sharing of resources and people."

TVSA was facing the same brick wall currently before the eyes of many flying schools around Australia: either shell out the money and time to get your own Part 142 approval, stay at Part 141 and forego a large market, or join in with someone like APTA. Pearson chose the latter, but if the APTA option wasn't there, he and his team had a lot of hard work ahead of them.

"We would have had to put a lot more emphasis on transitioning to Part 142 ourselves and we would have had to employ staff sooner than we wanted to, so APTA gave us some breathing space to employ them on our terms rather than those dictated by industry."



ABOVE: Learn to Fly's Kai Li has big plans for expansion, helped along by APTA membership.

LEFT: With APTA oversight, Learn to Fly will be able to offer the 150-hour CPL to overseas students.



## Appendix I Industry Complaints Commissioner Governance Arrangements

[https://www.casa.gov.au/sites/default/files/icc\\_gov.pdf](https://www.casa.gov.au/sites/default/files/icc_gov.pdf)

## Appendix J Civil Aviation Act highlighting CASAs functions.

### 9 CASA's functions

(1) CASA has the function of conducting the safety regulation of the following, in accordance with this Act and the regulations:

- (a) civil air operations in Australian territory;
- (b) the operation of Australian aircraft outside Australian territory;
- (ba) ANZA activities in New Zealand authorised by Australian AOCs with ANZA privileges;

by means that include the following:

**(c) developing and promulgating appropriate, clear and concise aviation safety standards;**

- (d) developing effective enforcement strategies to secure compliance with aviation safety standards;
- (da) administering Part IV (about drug and alcohol management plans and testing);
- (e) issuing certificates, licences, registrations and permits;
- (f) conducting comprehensive aviation industry surveillance, including assessment of safety-related decisions taken by industry management at all levels for their impact on aviation safety;
- (g) conducting regular reviews of the system of civil aviation safety in order to monitor the safety performance of the aviation industry, to identify safety-related trends and risk factors and to promote the development and improvement of the system;
- (h) conducting regular and timely assessment of international safety developments.

(2) CASA also has the following safety-related functions:

- (a) encouraging a greater acceptance by the aviation industry of its obligation to maintain high standards of aviation safety, through:
  - (i) comprehensive safety education and training programs; and
  - (ii) accurate and timely aviation safety advice; and
  - (iii) fostering an awareness in industry management, and within the community generally, of the importance of aviation safety and compliance with relevant legislation;
- (b) promoting full and effective consultation and communication with all interested parties on aviation safety issues.



# **AUSTRALIAN PILOT TRAINING ALLIANCE AGREEMENT 2017**

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## 1. Definitions

In this agreement, the following words shall have the following meanings, unless the context requires otherwise:

"APTA Member initiated Visit"	Is an unscheduled visit as a result of a non-normal occurrence. This includes but is not limited to visits required as a result of the Member Organisation not complying with their obligations, additional training over and above what would normally be expected or scheduled, or concerns about Compliance or Safety that remain uncorrected after a request.
"APTA Initiated Visit"	Is a scheduled or routine visit to attend to matters of Safety, Compliance, or Training as a normal part of APTA's role. This includes but is not limited to routine surveillance, attendance at CASA audits, Safety Stand-down days, scheduled Training, or support as mutually agreed. An APTA initiated visit can however occur as a result of a request from a Member Organisation
"Central Undertaking"	Means the whole of the business carried on by APTA, part of which is intended to be shared to the Member under this agreement.
"Confidential Information"	Means all business information about a party to this Agreement. It includes among other things: information about businesses, methods of doing business, future plans, policies, suppliers and customers. It includes information about suppliers, agents, distributors and customers. It includes information about staff, their personal contact information and about the Intellectual Property and the "know-how".  Information of a Commercial nature such as Syllabi, training notes, and other products that can be identified with a particular operating base will not be shared between bases without the approval of the base that the intellectual property belongs to.

"Agreement"	Means the arrangement for operation of the Member Business, as regulated by this agreement.
"CASA Approved Facility"	Means the real property or premises occupied by the Member for the purpose of the Member Business, being Flight Training. That facility will have CASA Approval as a Flight Training Facility.
"Member Business"	Means the business, carried on under the brand name of APTA and is being operated according to the terms of this agreement. Organisations will retain their own branding in its entirety.
"Intellectual Property"	Means Intellectual property of every sort of either party to this Agreement, whether or not registered or registrable in any country, including intellectual property of all kinds coming into existence after today; and including, among others, patents, trademarks, unregistered marks, designs, copyrights, Software, domain names, discoveries, Know-how, creations and inventions, together with all rights which are derived from those rights.
"Know-how"	Means the body of knowledge and ideas created by APTA and used in any part of the Central Undertaking at any time.
"Manual"	Means every manual and other document intended to provide instruction or set policy on any aspect of the operation of the Member Business.
"Software"	Means the software used in the Member Business and licensed as part of this agreement. The System utilised will be Flight School Manager.
"Termination Date"	Means the date when this agreement ends.
"Territory"	Means the area covered by the CASA Approval. In normal operations, this would be restricted to Flight Training within Australia.

## **2. Interpretation**

In this agreement unless the context otherwise requires:

- 2.1 Any agreement by any Party not to do or omit to do something is deemed to include an obligation not to allow some other person to do or omit to do the same thing, except where stated any obligation of any person arising from this Agreement may be performed by any other person, provided they are qualified, approved, and there is an approved procedure for such action. That person must be suitably qualified in accordance with all Regulatory requirements, and where required, hold the relevant CASA Approvals.
- 2.2 All money sums mentioned in this agreement are calculated exclusive of GST, which will be charged when payment is due.

## **3. Warranties for Authority**

- 3.1 Each of the Parties warrants that it has power to enter into this agreement, and have the necessary approvals to do so.
- 3.2 Each party warrants and undertakes that he/she is not aware as at the date of this agreement of anything within his/her reasonable control which might or will adversely affect his ability to fulfil his/her obligations under this agreement. The Member warrants that there are no CASA disciplinary procedures currently being undertaken or Legal Action being undertaken against them.
- 3.3 Each party warrants that he/she is not at the time of entering into this agreement insolvent and knows of no circumstances which would entitle any creditor to appoint a receiver or to petition for winding up or to exercise any other rights over or against his/her assets.

## **4. Relationship of Parties**

- 4.1 Nothing in this Agreement shall create a partnership or agency or the relationship of employer and employee, or other relationship between any of the Parties, other than the contractual relationship expressly provided for in this agreement.
- 4.2 Neither Party shall have, nor represent that it has, any authority to make any commitment on the other Parties behalf, except initiatives, the terms of which are agreed in writing from time to time.

## **5. Entire Agreement**

- 5.1 This Agreement, together with the Manual, contains the entire agreement between the parties and supersedes all previous agreements and understandings between the Parties.
- 5.2 The Member acknowledges that they have read and understood the Operations Manuals and associated APTA Procedures. The Member accepts that APTA may change anything in the Manual provided that change is in the interest of the Central Undertaking.
- 5.3 Each Party acknowledges that, in entering into this agreement, he/she does not rely on any representation, warranty, information or document or other term not forming part of this Agreement.

3.4 Conditions, warranties or other terms implied by statute or common law are excluded from this agreement to the fullest extent permitted by law. As an exception, the Parties do rely on Regulatory requirements as laid down by CASA or other Government Departments.

## 6. Grant of Approval

6.1 With effect from the date of signing and upon receipt of CASA Approval, APTA grants approval to operate under the APTA AOC subject to the terms and conditions of this agreement, and any CASA Regulatory requirements including any APTA Operational Procedures.

6.2 The Member will operate from the CASA Approved Facility and not from any other place without CASA and APTA Approval.

6.3 The Member may use the APTA trade mark, trade name, copyright, or intellectual property related to the Central Undertaking.

6.4 The Termination Date is the Date nominated by the Member Organisation, although three months' notice of Termination is required unless by mutual agreement.

## 7. Ongoing Company Provision

7.1 During the period of the Agreement APTA undertakes that it will provide the CASA required Key Personnel and procedures for a Part 141/142 Organisation. This will include: -

- Group Head of Operations
- Group Head of Safety
- Group Head of Maintenance
- Deputies for each Key Personnel Role
- Part 61/141/142 Compliant Manuals
- Manage Transition for the Group to a Part 142 Organisation
- Comprehensive Range of Part 61 Approved Courses
- RTO Capability where Approved by relevant Authorities
- Overseas Student Training Approval where Approved by relevant Authorities
- Subscription to Flight School Manager & Virtual Server
- Ongoing Compliance Management
- A minimum of one Periodic visit from the APTA Team per annum. In cases where a Member initiates a request for Attendance for other than Safety or Compliance i.e. assistance with a specific project, APTA will be responsible for the Airfare and Expenses component, the Member Organisation will be responsible for the Hotel component only.
- Actively seek Government Grants and support relevant to the Groups Operations
- Actively develop Business Opportunities for the Group and access new markets
- Selection of Maintenance Organisations is determined by Member Organisation although the HAAMC will be involved in the process.

## 8. Payment of Fees

8.1 Payment will be made by Member Organisations on a Quarterly basis and all fees are paid in advance.



8.2 The fee is based on flying hours completed per annum. A review will be made of flying hours conducted over the last six months, and adjustments to the rate will be made where required.

8.3 The first payment of fees will be made upon signing the Non-Disclosure Agreement & APTA Agreement. The subsequent payment will be made 90 days after the Base Approval from CASA has been obtained.

8.4 Fees (exclusive of GST)- Paid Quarterly.

- \$80,000 p.a. for Schools Flying less than 2000 hrs p.a.
- \$110,000 p.a. for Schools Flying 2,000 to 4,000 hrs p.a.
- \$130,000 p.a. for Schools Flying 4,000 to 6,000 hrs p.a.
- \$140,000 p.a. for Schools Flying 6,000 to 8,000 hrs p.a.
- \$150,000 p.a. for Schools Flying 8,000 to 12,000 hrs p.a.
- Greater than 12,000hrs p.a price subject to mutual agreement

Note: Additional Bases operating under a Primary Base will be charged an additional \$2500 per Quarter provided that Base does not exceed 300hours per annum.

8.5 In the event of a delayed payment, an extension period can be granted provided that request is made at least 7 days prior to the fees being due.

8.6 Late fees not prearranged within 7 days prior to due date. In such cases APTA may elect to charge the member interest on late payments. The rate will be charged on a daily basis at a rate equivalent to 5% above the cash rate of the Reserve bank of Australia. Continued non-payment extending more than 21 days, may result in written notification giving 7 days' notice of intention to cancel the Agreement.

8.7 In cases whereby the CEO determines that there is a grave and imminent risk to Air Safety, time frames can be shortened.

8.8 All payments to be made by the Member Organisation under this agreement shall be made in full without offset or counterclaim and without deduction of or withholding for any tax now or subsequently.

8.9 First 20 hours of CASA Charges associated with the approval process will be met by APTA. The excess of 20 hours will be met by the member organisation.

Note: 20 hours should be sufficient for the approval process. It is not anticipated that it would take longer.

## 9. Right to Renewal

9.1 The Member may renew the Agreement for any number of additional 3 month periods in accordance with the following conditions.

9.2 Gives written notice to APTA at least three months before the Termination Date.

9.3 Is not in breach of any term of this Agreement.

9.4 Is not affected by any circumstance which could provide grounds for the Termination of this Agreement.

#### **10. Data Protection Laws Compliance**

10.1 The Manual and the operation of the FSM software require that the Member shall pass personal information to APTA. APTA undertakes to comply in all respects with the Data Protection Laws

#### **11. Confidentiality**

11.1 Both the Member and APTA agrees and undertakes that they will: -

- Keep all records of Confidential Information of the other party in all media separate from other records.
- Use best endeavours to keep confidential (and to make sure that employees and agents shall keep confidential) any Confidential Information which that party obtains from the other party.
- The Member and APTA agree and undertake that they will not store, copy or use Confidential Information of the other party in any place or in any electronic form which may be accessible to any other person.

#### **12. Provision of Annual Report**

12.1 APTA will provide an Annual Report to the Business Owner of each Member Company. This will provide transparency of the Finances for the Group.

12.2 To provide high levels of transparency to the Group, financial statements will disclose Salaries paid within the APTA Key Personnel Team.

12.2.1 Competitive Salary packages will be offered to ensure Industry Leading Personnel can be attracted to the Group

12.2.2 The exception to this being the Position of CEO. This role will attract a nominal Salary of \$25,000 per annum for the first two years of Group Operations.

#### **13. Procedure on joining APTA**

13.1 An onsite visit will be arranged between APTA and the Member Company. An assessment will be made of the Key Personnel required for that visit. That meeting will review recent CASA Audits and introduction and familiarisation with the Operation as well as conduct of a GAP analysis. The following process will be followed

1. Writing of the Base Procedures Manual, and selection of desired Courses
2. Submission to CASA
3. Receipt of CASA Approval
4. Installation and Induction on the use of Flight School Manager
5. Application Process for RTO
6. Application Process for Overseas Student Training Approval
7. Ongoing Training on site as required will be provided.

#### **14. Initial Training**

14.1 Initial Training will be required on site at the Member organisation. Members will make at least two members of staff available for that training.

14.2 In cases where onsite Training is required at the APTA facility, APTA will be responsible for travel and accommodation expenses related to that training for up to 10% of total operational member numbers. Additional Personnel can attend but in such cases that will be at the Members expense.

14.3 The Member must complete the training to the level required by APTA. It is at the discretion of APTA as to whether the Member has completed the training to the required level.

#### **15. APTA expectations of Members**

15.1 Member Organisations will be expected to act to the best of their ability in accordance with all Operations Manuals and Base Procedures manuals as well as all CASA and Government regulatory requirements.

15.2 Comply in all respects with the procedures and methods of conducting the Member Business as are set out in the Manuals, as changed from time to time.

15.3 Not conduct any aspect of the Member Business in a way which does not conform to procedures set down in the Manuals or required by CASA.

15.4 Not to do anything which may harm the reputation and or market value of the Brand Name APTA.

15.5 Member Companies would commit to at least one Safety Stand-down Day per annum. This will be dedicated to Staff Training and Development. Topics covered will include DAMP, Safety, Maintenance or a topical subject relevant to Operations.

15.6 Employ suitably qualified and experienced people in the Member Business.

Note: APTA requests that all new employees of Member Organisations be Inducted at APTA Head Office to minimise the cost of deploying resources.

15.7 Maintain high standards of human resource management and comply with laws regarding Employment.

15.8 Obtain and maintain all the licences, approvals and registrations necessary for the operations of the Member Business.

15.9 Maintain accounting, employment and other records in a form complying with any Manuals and in line with current Australian Accounting practices.

15.10 Make available to APTA all records of every type from time to time as APTA may request, provided that request is reasonable.

15.11 Maintain a relationship with every customer and other Member Business in ways which enhance the image and value of APTAs brand.

15.12 Determine their own retail pricing rates.

15.13 Always use your best endeavours to promote and extend the Member Business.

15.14 Allow access to any person authorised by APTA into the CASA Approved Facility and provide whatever information that is required in any medium, without limit provided that reason is for Safety or Compliance.

15.15 Not incorporate or change the ownership structure of the Member Organisation without the prior written notification to APTA.

15.16 Each shareholder in a Member Business who signs this agreement whether or not named as a Party, agrees to be bound as if he/she was a named Party.

15.17 Pre-Employment Drug & Alcohol tests when required will be the responsibility of the appropriate Base.

#### **16. What members can expect of APTA**

16.1 All queries directed to the Key Personnel will channel through the Internal Co-Ordinator (IC). The IC will acknowledge all correspondence and be responsible for follow through and action. Response times will be dependent to the nature of the query. All queries will be acknowledged within 24 hours. Safety matters or matters of a more important nature will be prioritised accordingly.

16.2 APTA will contractually obligate provide at least one Annual Onsite Visit from each of the Key Personnel in any twelve-month period. It is envisaged that frequency of visits would be more than once per annum.

16.3 APTA appreciates that on occasion such as a Special Project or an anticipated significant increase in workload, a request can be made for a tailored visit outside of Regular Scheduled Visits. APTA will facilitate such requests.

#### **17. Member input into direction of the Group**

17.1 APTA will arrange 2 Group Meetings per annum. Each Member Company will be represented by the Business Owner/s or their Nominated Person. Although onsite attendance is not mandatory it would be strongly encouraged. In cases where a Member or their nominee cannot attend, participation via video conferencing would be encouraged.

17.2 The purpose of those meetings will be to engage on all matters relevant to Group Operations with emphasis on the Group direction. The Team of Key Personnel are required to have a high level of autonomy. The Member CEOs will meet to mutually agree on Business Opportunities and Group Direction. This will extend to deciding priorities for Personnel Roles such as RTO Compliance, Business Development Manager etc as required to maximise Group Potential.

17.3 Management Meetings are held on Wednesdays' with a commencement time of 9:00AM AEST. It is strongly encouraged that all organisations be represented at these meetings as far as is practical.

#### **18. Audits**

18.1 A full audit of each member organisation will be conducted per annum. This is in addition to periodic surveillance conducted throughout the year.

#### **19. Intellectual Property**

19.1 The Member organisation and APTA agree not to cause anything which may damage or endanger the Intellectual Property of the other party.

- 19.2 To notify APTA of any suspected infringement of the Intellectual Property. Similarly, APTA will notify any affected parties.
- 19.3 To take such reasonable action as a party shall direct at that party's expense in relation to any infringement of that party's Intellectual Property which may be found or suspected
- 19.4 To compensate a party for any use by the other party of the first party's Intellectual Property otherwise than in accordance with this agreement.
- 19.5 To indemnify the other party for any liability to third parties arising from misuse of the Intellectual Property.
- 19.6 On the expiry or termination of this agreement to immediately stop using the Intellectual Property except as expressly authorised by the other party in writing.
- 19.7 Not to use Intellectual Property of the other party otherwise than as permitted by this agreement.
- 19.8 Not to use the Intellectual Property of the Member except directly in the Member Business.

## **20. Use of Software**

- 20.1 The Member agrees throughout the term of the Agreement to
  - 20.1.1 Use FSM supplied by APTA and only in the Member Business.
  - 20.1.2 To attend training in the use of FSM.
  - 20.1.3 Not to copy FSM.
  - 20.1.4 To permit APTA to inspect and operate FSM.
  - 20.1.5 To notify APTA as soon as practical if it discovers any fault or defect in FSM or notify of any suggestions or improvement.
  - 20.1.6 To co-operate fully with APTA in the diagnosis and cure of any such fault or defect
- 20.2 To use only the current version of FSM as notified by APTA from time to time
- 20.3 Not to allow any third party to provide support services to the Software or otherwise interfere with it in any way
- 20.4 In situations where a member organisation has elected to use their own local server to host the FSM Program, a facility must be in place to back up on a nightly basis.

## **21. Marketing (RTO & CRICOS)**

- 21.1 This section is relevant to Member Organisation who would like to use the Registered Training Organisation & Commonwealth Register of Institutions and Courses for Overseas Students Approvals.
- 21.2 Marketing material used by Member Organisation must be approved by Australian Pilot Training Alliance Chief Executive Officer. This includes course brochures, student information that is issued prior to enrolment, advertisements, etc. It is critical that the partnership that exists between Australian Pilot Training Alliance and Member Organisation

is clearly explained to prospective students, so they can make an informed choice when enrolling. Marketing material should identify the partnership in an obvious way using easy to understand language. The partnering organisations must incorporate both logos in the marketing material. Information disseminated by partnering organisations must:

- Not provide any guarantees to students about the successful completion of training or any particular employment outcome that is outside of their control.
- Only advertise those qualifications or statements of attainment that are approved by Australian Pilot Training Alliance under the partnering agreement for delivery.
- Identify qualifications and statements of attainment in advertising by their full code and title as they appear in the training package and not to represent these qualifications in any other way.
- Maintain a clear distinction between nationally endorsed training offered under the partnership agreement and other training being offered by it.
- Use the NRT logo only in accordance with the Standards for Registered Training Organisations, Schedule 4 and only after proposed marketing has been approved by Australian Pilot Training Alliance.
- Identify Australian Pilot Training Alliance in marketing by its RTO code and legal name.

## **22. Withdrawal from APTA**

22.1 Where a member Company elects to withdraw from APTA, three months' notice is required.

## **23. Removal from APTA**

23.1 APTA shall be entitled to terminate the Agreement immediately and without notice if

23.1.1 CASA so direct on Safety Grounds.

23.1.2 The Member voluntarily abandons the Business.

23.1.3 Declares or becomes insolvent.

23.1.4 Is convicted of a crime that carries a custodial sentence.

23.1.5 Is fraudulent in connection with the Operation of the Business.

## **24. Consequences of Termination from APTA**

24.1 Upon Termination of this Agreement for any reason

24.1.1 The Member may no longer use the Intellectual Property of APTA or operate under the AOC.

24.1.2 Allow APTA reasonable access to the Member Facility.

24.1.3 Each Party shall return to the other, all records in all media in his/her possession or control, which contain or record Confidential Information of the other party.

24.1.4 Each Party shall remain liable to perform all outstanding obligations and liabilities under this agreement even if the other has issued a claim or exercised a right against it.

24.1.5 Except as provided here, neither Party shall be under any further obligation to the other.

## **25. Change of Ownership of a Member Company**

25.1 A transfer to a third party, will be permitted by APTA only on the following conditions: -

24.1.1 The transferee must meet the requirements then applied by APTA to assess any new member.

24.1.2 The transferee signing the then current form of the APTA agreement.

24.1.3 Payment to APTA of any other cost arising from the proposed transfer.

25.2 If a transfer does not proceed, the Member shall pay to APTA all costs related to the investigation in respect of the transfer and the transferee.

25.3 A three-month prior notice would be required if the third party elects to not transfer and sign a new agreement with APTA.

## **26. Accident or Serious Incident**

26.1 In the case of an Accident, Incident or Serious Occurrence, APTA has an expectation that Member Organisations will act with full disclosure and provide the support as required by the Key Personnel.

26.2 In instances whereby post incident/accident Drug and Alcohol testing is required. The costs of that testing are not covered by APTA.

## **27. Representations on behalf of the Members**

27.1 APTA undertakes to pursue opportunities for Group Benefit. APTA will make representations on behalf of the Group for benefit of three Membership. One example of this will be negotiations with Fuel suppliers. We will pursue Group discounts.

## **28. Damages not adequate**

28.1 Without prejudice to any other rights or remedies which a Party may have, the Parties now acknowledge and agree that damages would not be an adequate remedy for any breach of the Terms of this Agreement and that in the event of a breach, the Party claiming shall be entitled, in addition to damages, to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach by the Party offending, or in breach, any other relevant person.

**29. Time is of the Essence**

29.1 The Member must perform all his obligations in the time or period stated. Time is of the essence.

29.2 APTA will use all reasonable endeavours to achieve by any specified or requested date, but each such date is to be treated as an estimate only and time shall not be of the essence.

**30. Limitations of Liability**

30.1 Except in the case of Fraud or the death or personal injury of some person, the maximum limit of the liability of APTA to the member, whether in contract, tort or negligence, breach of statutory duty or otherwise shall not exceed the sum of Four Hundred Thousand Dollars.

30.2 Neither Party shall be liable to the other in any possible way, for any loss or expense which is indirect or consequential loss, or economic loss or other loss of turnover, profits, business, or goodwill.

**31. Uncontrollable Events**

31.1 Neither Party shall be liable for any failure or delay in performance of this Agreement which is caused by circumstances beyond their reasonable control.

**32. Dispute Resolution**

32.1 The following terms may apply in the event of a dispute between the Parties.

32.1.1 If either Party has any complaint then he/she must report the issue to the other by email message and receive an acknowledgement of receipt of that complaint.

32.1.2 The Report shall include, the nature of the dispute, the outcome the Party wants and proposed action that will settle the dispute.

32.2 Both Parties agree to resolve the issue themselves within 21 days of receipt of the Report.

32.3 In situations where a resolution cannot be accomplished, both parties can agree to pursue independent arbitration.

**33. Use of APTA Brand**

33.1 The APTA brand name is available for use in marketing as required. APTA reserves the right to reverse that Approval if the brand name is being used in a manner that could negatively impact on the Groups reputation.

**34. Signatures**

Signed by/on behalf of the first named party by his/her representative who personally accepts liability for the proper authorisation to enter into this agreement and by the CEO of APTA.



**(Joining Company Name)**

**APTA Personnel**

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**Witness**

**Witness**

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

### *Spirit of APTA*

The actual Spirit of what we hope to achieve in Plain English. This is the "hand shake and a look in the eye" part of the Agreement. Nothing Legally Binding but the genuine intent why you would join APTA. What we will work towards achieving. While it won't formally be tracked or written in complicated procedures, APTA will provide dedicated support via the Group Internal Coordinator (IC) to facilitate and assist whenever required. The size of that particular Department will be increased as required to provide exceptional levels of customer support. Regarding my Legal Obligations. My Responsibility to the Group as the CEO and in delivering my Key Personnel is identified in Legislation. We are answerable in Law to those criteria. Similarly, I am accountable for all my Actions and Decisions as the Group CEO. The intent of what I hope to achieve is below. I have invested heavily in this concept and to be honest, my future depends on its success. My return is not intended to be from APTA but from the increasing robustness of my Flying School, Melbourne Flight Training. I am already a Member obviously, and I know it works. Its success depends on other Business Owners sharing my vision. You won't be contractually held against the criteria below, but my hope is that you would share the same vision on the majority of these factors.

- We will work towards each other's mutual success. If one school excels at Instructor Ratings and another at Instrument Ratings they would consider mutually recommending each other's Products within the APTA group provided they were confident in the Product. We will seize opportunities to Cross Market each other's Products where it will not be at the detriment of our own Business.
- Schools would seek to fill their personnel requirements from within the group. By mutual agreement between organisations and via the position of Internal Co-Ordinator we would advertise positions and offer genuine career and development opportunities to personnel. As all staff are Inducted, Flight and Duty monitored, D and A Tested, Familiar with the Flight School Manager System, Manuals, and Syllabi they can move seamlessly between Bases to meet peaks and troughs in demand. We recognise the efficiencies this can bring to our respective Organisations.
- If a particular school wished to develop Aerobatics, Formation or any other Qualification, they would look to within the group for assistance in this area.
- They would genuinely work to enhance the image of APTA as a Professional Alliance associated with a quality product.
- Recognise that in order to attract Industry Leading Personnel to the management we need to offer industry leading pay and conditions. Our expectation of APTA Management Team is appropriate to the conditions that we offer them. We also recognise that to be truly effective they need the required levels of office support. The Member Teams will be invited to provide feedback on the performance of the Key Personnel, and that feedback will be incorporated into Performance Reviews. The Key Personnel recognise that the Member Business is the Customer. Their approach will not be adversarial, it will be highly supportive. They will talk to you to assess areas where they can be of the most assistance. They will communicate well, and be readily contactable. They will work from most important to least

important. Underpinning everything they do will be the concept of SIMPLE, ACCOUNTABLE, EFFECTIVE.

- Provide weighted consideration to Instructors that completed their Instructor Rating within the APTA Group, as those graduates will be trained in our procedures.
- The APTA Management Team will actively seek out Government Grants that we are eligible for.
- As the APTA Group grows we will reinvest back into the Group. This will be by way of increased Personnel, whose priority will be based on Group engagement. My hope is that RTO Compliance Management, Business Development, Roving Ground School, Head of Sim Training etc., would be determined to be Group priorities.
- Recognise that the Industry is operating in a challenging Environment. The future is potentially more challenging for Rural Based Flying Schools. As a Group we would provide weighted consideration to this in our Group actions.
- Relationship with CASA. CASA has been on the receiving end of some strong and warranted criticism. We recognise that in fact our best Business, Safety and Compliance result is actually achieved by a strong relationship with the Regulator. A relationship where we can communicate so effectively that we can have meaningful input and expedite processes. We also recognise that as Professionals we have an obligation to our Students to allow them to form their own view of the Regulator. We recognise that a negative impact of the Regulator actually diminishes Safety.
- Would have a Positive attitude towards the future. Be a School that is actually looking forward to the potential opportunities that present if we work collaboratively.
- Recognise this is not perfect. This is a New Approach to the way we do Business. We need to work towards Procedures that are Simple, Accountable, and Effective. We will provide the communication through the Internal Co-Ordinator. You will have a well-resourced, highly capable, and importantly a customer focussed Team of Key Personnel. Our intention is not to "push down from above" but to engage and work collaboratively. Our Key Personnel appreciate that the APTA Members are Customers. We need your entire Team on board. We need to act on your feedback

## Appendix L Latrobe Valley Audit Results (subsequently produced)

### Australian Pilot Training Alliance (APTA)

#### Addition of Latrobe Valley as an APTA base

##### Application

On 21 May 2018 APTA commenced operations at Latrobe Valley (LTV) by “activation” of a temporary base facility. APTA formally applied to CASA on 22 Jun 2018 to add LTV (Latrobe Valley Aero Club (LVAC)) as a base under the APTA AOC.

##### APTA Background Information

Melbourne Flight Training (MFT) ARN 759217 had been established for a number of years as a flying school business operating from Moorabbin Victoria. In 2016/2017 the Australian Pilot Training Alliance (APTA) name was introduced to replace MFT as the holder of ARN 759217 and the associated ABN/ACN's. Concurrently in Sep 2016 a new ABN/ACN was established with the name “Melbourne Flight Training”, however, MFT does not currently hold any CASR Part 141 or 142 authorisations.

All present and historical CASA Authorisations have been issued to ACN 119 046 285 i.e. the entity with the current name of **Australian Pilot Training Alliance (APTA)**. APTA completed its transition to Part 141/142 and was authorised as a Part 141/142 operator on 26 April 2017.

##### Structure review of APTA model

APTA's structure is based on a single CEO (Mr Glen Buckley), HOO (Mr Ermin Javier) and Safety Manager (Mr Andrew Warland Browne) at the parent organisation being responsible for supervision of all bases. I.e. under the CASR, the HOO located at Moorabbin concurrently supervises operations on the same day at Ballarat, Latrobe Valley and 3 Moorabbin based companies. APTA states that it assists the HOO in this activity by use of Senior Base Pilots in each location.

APTA has submitted/discussed further applications to bring organisations located at Ballina, Darwin and Leongatha under its AOC structure.

As an organisation joins the AOC, APTA states that the organisation now can conduct any activity available under the APTA AOC. With each new base addition APTA seeks to add any new aviation permissions from the new organisation to its own AOC. E.g. if APTA adds an organisation that teaches Aerial Application, APTA seeks to add the permission Aerial Application to its AOC and then make that capability available to all APTA sites.

##### Addition of Latrobe Valley Aero Club (LVAC)

Latrobe Valley Aero Club (LVAC) had been established as a flying school located at Latrobe Valley (LTV) in Gippsland for many years. In recent times LVAC has struggled to obtain/maintain sufficient key personnel to maintain an aviation authorisation issued by CASA. In Mar 2018 the LVAC authorisations expired without renewal as the organisation did not have the required key personnel to maintain any form of AOC/141/142 permissions.

LVAC entered into an arrangement with APTA and is providing flying training school services at LTV aerodrome by the use of the APTA AOC (Note this has not yet been formally approved by CASA).

### Site Inspection

On 3 Sep 18 the CMT conducted a site visit of the proposed APTA site at LTV.

As part of the entry briefing the CASA inspectors confirmed that the operator was in agreeance that that photos may be taken by CASA staff during the site visit. This was confirmed.

The site inspection identified a number of compliance issues that needed to be resolved prior to the inclusion of LVAC as a permanent training base under the APTA Part 141/142.

### Potential Franchise Operation

The APTA website ([www.auspta.com.au](http://www.auspta.com.au)) states in its 'Vision':

*To enhance your profitability, and the profitability of other APTA member's, by creating an innovative new training "Alliance" based on integrity, genuine collaboration and lateral thinking within a practical framework whilst retaining your current ownership structure and autonomy in operating your business.*

*Importantly, you retain complete control over your own business. Your business maintains its identity and individuality. Your administration function and procedures remain completely your own, independent of the Alliance. There is a pooled system of manuals and procedures, directed by a shared high-powered team that will take on the responsibility for the Key Personnel requirements.*

*APTA provides a time and cost efficient system specifically designed to let the business owners get on with running their respective businesses.*

**Note:** For the purpose of the CASA assessment of Latrobe Valley Aero Club as a possible Franchise AOC, equally these factors extend across to other members of the APTA alliance.

### Aviation Ruling 1/2006



Aviation Ruling -  
Franchised AOCs.pdf

Extracted from Aviation Ruling 1/2006  Franchised AOC's	Analysis of Latrobe Valley Aero Club – proposed APTA base  For the purpose of analysis: Operator A is considered to be APTA Operator B is considered to be LVAC.
A Franchise AOC arrangement may arise where an AOC holder (A) and another person (B) enter into an arrangement under which B uses A's AOC to conduct commercial operations and does not hold a separate AOC. Franchised AOCs may reflect one or more of the following characteristics:	The LVAC website indicates that it holds a number of aviation permissions. The LVAC AOC was not renewed in Mar 2018 due to a lack of Key Personnel. LVAC has initially partnered with Bairnsdale Air Charter and then transferred to the coverage of APTA in May 2018.

3.1 B advertises to the public in its name (not A's name) that it will conduct commercial aviation operations. The advertisements may refer to an association with A;	<p>All Website material indicates LVAC as an operating flying school with qualified LVAC Grade 1 instructors.</p> <p>All physical signage at the site indicates LVAC. The APTA website indicates that there is no need for the base to change signage i.e. the operating model assumes that the buyer will not adopt APTA logos or signage, especially when the APTA 'Vision' states: <i>"APTA provides a time and cost efficient system specifically designed to let the business owners get on with running their respective businesses."</i></p>
3.2 B hires the staff engaged in carrying out the operations, organises maintenance and controls all financial dealings including contracts for the flying activities covered by the Franchised AOC;	<p>Employees at LVAC do not appear to be employed by APTA.</p> <p>Email from APTA HOO (Ermin Javier) nominated the Senior Base Pilot(SBP) as David Wright an employee of MFT (not APTA and not LVAC). David Wright advised during the LTV site visit that he is employed by MFT.</p> <p>Maintenance activities are not part of the APTA software. In the case of LVAC, a different software application is run by LVAC in partnership with the local Maintenance org (East Coast Aviation).</p> <p>The local LVAC instructor Gerard Lappin was nominated by APTA HOO as the secondary point of contact for LTV. The APTA ERP for LVAC contradicts this advice and nominate Mr Lappin as the SBP. Mr Lappin reported that all aircraft are local cross hires with all invoicing for aircraft costs appearing to occur <u>outside</u> of the APTA system.</p>
3.3 B's operations are not supervised by A's Chief Pilot;	The nominated SBP (David Wright from MFT) admitted to being confused by the APTA organisation structure. In theory the operations are supervised by APTA HOO, however, the site visit identified a number of deficiencies in the actual occurrence of the supervision.
3.4 usually B would pay a franchise fee to A, although a Franchise AOC arrangement may not involve payment of a fee;	APTA site clearly states that partner organisations will pay APTA for membership i.e. a fee is paid to receive an AOC organisation structure.
3.5 B's operating systems are not integrated into company A's approved systems and have	LVAC runs its own IT system. The APTA FSM suite is available by an installed shortcut which

not been reviewed by CASA for the purpose of the issue or regulation of the Franchised AOC.	<p>activates the remote Windows desktop services of APTA.</p> <p>LVAC billing, maintenance and flight authorisation activities occur outside of the APTA system.</p> <p>In the case of flight authorisation it is not readily apparent that an APTA system is being used concurrently with the LVAC system.</p>
4 Persons using company B's services, including passengers, are unlikely to be aware that CASA does not regulate B or its operating systems.	<p>There is scant public information available to indicate that LVAC does not hold any Aviation Authorisations. To the untrained observer it is highly likely that they would not be aware of the associated APTA AOC structure. The lack of APTA awareness is physically evident at the Aero Club and also via website and social media.</p>

#### Considerations of Non-Compliant Activities.

The initial review of the LTV site addition for APTA has identified a number of issues that appear to breach the regulations.

Reg	
<p>CASR 141.310 (1),(5) and (6)</p> <p>CASR 142.390 (1),(5) and (6)</p>	<p>Commencement of activities without permission</p> <p>APTA commenced operations in May 2018 under the provisions of a temporary location.</p> <p>APTA define in their manual suite a "Temporary Base or Location" as -  <i>A location intended for minimal use, such Bases are usually located in a remote area, farm or similar and intended for delivery to a single or small group of trainees where completion of training will constitute the cessation of the Base</i></p> <p>APTA's use of a temporary location appears to breach their exposition and CASR requirements  APTA's activation of LTV as a site appears to breach the CASR requirements.</p>
CASR 117	<p>Advertising</p> <p>LVAC does not hold any authorisations from CASA however their website indicates that they hold such permissions.</p>

<p>CASR 141.260 (g)</p> <p>CASR 142.340 (g)</p>	<p>141.260(g) the name of each instructor appointed by the operator's head of operations to have responsibility for particular authorised Part 141 flight training;</p> <p>APTA's exposition/operations manual only names the CEO, HOO and Safety Manager. The Base Procedures Manual for LVAC does not clearly name a Senior Base Pilot however Mr Lappin is nominated in the ERP as the SBP.</p>
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## Appendix M Initial Response to CASA claims

*my initial  
response to  
threatened  
closure*

24/10/18. (Email sent to David Jones. Regional Manager. Will Nuttall copied in)

Dear Mr David Jones,

I am in receipt of your correspondence F14/9540 addressed to the HOO, Mr Ermin Javier. As the nature of the correspondence is quite substantive, I have elected to respond in my role as the CEO.

As you will appreciate, I was concerned to receive that correspondence. My initial thought is that something may be "lost in translation", and therefore I request a face to face meeting with you and the appropriate Personnel within CASA to clarify a number of items. As you will appreciate my timelines are tight, so I will fit in with your availability.

The concept of APTA is sound and we felt that we had a good understanding with CMT 2. As you are aware, we have had CASA closely involved during the creation of APTA and the writing of the manuals and procedures, we have had previous bases approved by CASA i.e. MFT, TVSA, LTF, and AVIA. Through the application of our Continuous Improvement processes we continued to apply the same or improved procedures with our newer Members.

I note that many of your concerns relate to the "temporary locations" for which we have a CASA approved procedure. Our previous consultation with CASA suggested we should plan on somewhere between 6 to possibly 8 weeks for activation of a base from a temporary location to a permanent location. Experience has shown that the last approval took 12 months, and that is the sole reason for the protracted periods. It is simply not practical for Flight Training Organisations to be dormant for 12 months while CASA attends to the Sig Change request. The intent is that we operate a temporary location to facilitate continuing operations, while CASA is processing supporting documentation in the timelines that were suggested by CASA.

I have never had any expression of concern at all from CASA, and in fact we had an extensive Level 1 Audit in November 2017, since our CASA approval. The results were all attended to, and we were commended on the manner in which the entire process was handled.

As you will appreciate this 180-degree change in direction was not expected, and it has certainly come from "left field". I would like to discuss the "trigger", as to this change of direction.

Firstly, I would like to confirm that the Aviation Ruling in fact applies to this situation. I appreciate that the Aviation Ruling is not a restatement of the law. I believe it was intended for the Charter Industry and CAR 206 operations, rather than flight training, which as you will appreciate is not a CAR 206 activity. It was drafted primarily many years ago for Charter operations in the old regulatory environment.

- 3.2 APTA uses a APTA employees on site as required at the locations. We currently have Company employees based at both LTV and Ballarat delivering the majority of the operations at those locations and drawing a salary from us. At Moorabbin locations that engagement is achieved by the close geographical location and constant engagement. This face to face engagement on a consistent and regular basis is also supported by our well documented, approved and operating procedures. We regularly accommodate and base our personnel at these bases, conduct regular meeting and rove amongst the bases consistently.
- 3.3 All operations are highly supervised by the Chief Pilot. The Chief Pilot is role in a charter organisation. In the Flight Training sector we operate with a HOO and a strong supporting management team. All systems have been designed from the onset with high levels of supervision and integration. All Personnel at all bases are fully inducted into APTA.
- 3.5 There are no other operating systems other than the APTA systems and all Personnel are fully integrated.

- 6.1 I am very much of the view that the activities authorised by an AOC are carried out "within the organisation of the AOC holder" and that all operations are conducted in accordance with the systems of the AOC holder.
- 6.2 All operations are "under the oversight and management of the key personnel of the AOC holder"
- 6.3 All members utilise the facilities and documentation of the AOC holder.
- 7. As the CEO of APTA I am fully mindful of my obligations and accept total and absolute responsibility for all actions conducted under the AOC at all locations. There is only the one approval for all our bases and we are fully aware that all Flying training operations are APTA operations.
- 9. CAR 206 defines commercial purposes. APTA delivers only flying training and not Commercial purposes as defined in CAR 206.
- 10. I am of the opinion that all activities are done with significantly more than a "reasonable degree of care and diligence"

I note your referral to CAA Section 27(8) referring to AOC. I concur, an AOC cannot be transferred. To be honest I feel drawing the Part 141 Flying Training Certificate to the AOC is a long bow to draw, and particularly as CASA explained that one of the intentions of the new regulations was to actually move that training away from an AOC requirement, and CASA has previously addressed this "the training businesses will not be required to hold an AOC"

I note that you requested a copy of the contract. At this stage could I ask that you draw on the contracts previously provided to CASA, for no other reason than commercial sensitivity. A number of contracts have been given to CASA previously and most recently to Dave Edwards and Harold Bankkien via email on 06/12/17. If you would like me to resend that email, please advise. If you still require the individual contracts, please let me know and I will attend to it.

As this has come from "left field", can I ask what the trigger is that has lead to the reversal of policy application. I would have expected that there would have been at least some engagement or consultation from CMT 3 prior to this correspondence. We have been working on this project for many years in close consultation with CASA, and in fact to date have felt that they are supportive of the concept

I am of the opinion that the activation of Temporary locations is a robust and Industry leading procedure, and far in excess of anything that was done previously in the industry. It incorporates, site visits, consulting with other operator, conducting a risk assessment, inducting and training all Personnel, and placing experienced APTA personnel on site for as long as is required.

For clarity and planning purposes, can I clarify that CASA intends to do the following:

- APTA Ballarat Base will be directed to cease operations.
- APTA Latrobe Valley Base will be directed to cease operations.
- APTA Moorabbin Base (LTF) is an APTA/CASA approved base, and that CASA is not retracting their approval to operate but not permitting operations at the new facility only. There is no mention of LTF in the correspondence other than the sig change request for a change of location. My understanding from the correspondence is that they are not affected, or it may be an omission from the correspondence.
- APTA Moorabbin Base (AVIA) is operating as an APTA/CASA approved base, and that CASA is reversing that approval

- APTA Moorabbin Base (Arc Aviation) will be directed to cease operations as temporary location.
- APTA Moorabbin Base (MFT) my own business established for 12 years will be directed to cease operations.
- APTA Brisbane (Sim Jet) request will not be processed.
- APTA Moorabbin (Vortex) has applied to join APTA, but that request will not be processed.
- APTA Ballina (Whitestar) will be directed to cease operations as a temporary location.

As you will appreciate this will have significant impact on me, my family, my Business, my employees and a number of operators.

Unless CASA deems that APTA operations are deemed an imminent and grave risk to Aviation Safety can I respectfully request a 14-day extension to facilitate my employees into new positions with other organisations and shut down the Organisation in the most controlled manner possible.

I reject CASAs assumptions. I have invested very heavily to ensure I have a safe and compliant organisation delivering unparalleled levels of oversight and supervision. There is only one Approval and all of us operate under that approval. APTA and I in the role of CEO accept complete and total responsibility for all operations. These are not the traditional "arm's length" agreements that were perhaps prevalent in the industry many years ago. This is a highly supervised and integrated system that is CASA approved and intended to deliver safe and compliant operations. It has been operating for some time now, has previously been well supported by CASA.

I find the initial approach extremely disappointing but hope that you will afford me the opportunity of a meeting to see if the matter can be resolved.

Yours sincerely, Glen Buckley

Appendix N NPRM as part of consultation process

<https://www.casa.gov.au/files/nprm0312fspdf>

## Appendix O CASA Release (Support for Industry)

<https://www.casa.gov.au/publications-and-resources/publication/casa-briefing-july-2018>

### CASA RELEASE- JULY 2018

#### Minister requires CASA to look at costs

CASA is required to consider economic and cost impacts on individuals, businesses and the community in its regulatory approach. That was a key message delivered by Deputy Prime Minister and Infrastructure and Transport Minister, Michael McCormack, to the general aviation summit in Wagga in July 2018. Mr McCormack said CASA was also required to take a pragmatic and proportionate approach to regulation as it applies to different aviation sectors. He said these requirements were contained in the Government's Statement of Expectations issued to the CASA Board in March 2017. "These are not just words," Mr McCormack said. "The statement of expectations is a legislative instrument and I expect the Board of CASA to ensure its requirements are met. I can also assure you that I will work in partnership with our aviation agencies and industry in tackling the challenges and opportunities for the general aviation sector, identified in the Government commissioned Bureau of Infrastructure, Transport and Regional Economics (BITRE) study released late last year.....I am keen to hear from you on the key issues you want tackled by Government and industry that relate to general aviation operations in Australia."

#### From acting CEO and Director of Aviation Safety, Graeme Crawford

Recent debate about safety regulation and the general aviation sector has focused on the need for a sustainable and viable aviation industry. Implicit in this debate is the suggestion by some people that CASA does not support a sustainable and viable general aviation sector. I would like to assure everyone this is simply not true. There is no CASA agenda against general aviation and we regard the sector as a vital component of the national aviation community. Many of CASA's staff are participants in general aviation, or started their careers in the sector, and have a practical understanding of the issues and challenges the sector faces. CASA can't deliver solutions to the broader economic and social changes that are affecting parts of general aviation, but we can and will do our best to provide an appropriate safety regulatory framework that creates confidence in general aviation across the broader community..... CASA is focused on regulatory solutions that are both practical, proportionate and address aviation safety risk.....CASA will continue to develop regulatory solutions that consider risk appetite and safety consequences...."Best wishes,  
*Graeme Crawford*  
(Shane Carmody is on leave)

## Appendix P PGPA Act

Please refer to the link below for the PGPA Act:

<https://www.legislation.gov.au/Details/C2017C00269>

Appendix R CASA's definition of an Aviation Ruling.

<https://www.casa.gov.au/rules-and-regulations/standard-page/aviation-rulings>

## Aviation rulings

Aviation rulings are advisory documents setting out CASA's policy on a particular issue. CASA makes rulings available to CASA officers and the public to ensure that there is a consistent policy adopted in administering particular aspects of the air safety regulatory regime.

Rulings are intended to apply to a range of factual situations and are necessarily general in nature.

CASA will proceed on the basis that a person who relies on a ruling is complying with the law, as long as that person:

- exercises due care in acting in reliance on the ruling - ie a person who carelessly misreads the text of a ruling will not be entitled to rely on that misreading;
- relies on the ruling in good faith - ie CASA will not allow a person to frustrate the intent of the ruling by adopting an extreme or contrived interpretation of the words of the ruling which results in consequences that were clearly unintended by CASA at the time the ruling was issued;
- only relies on the clear statements of fact and policy in the ruling - ie the ruling is completely self contained and does not permit any additional interpretation of the relevant law, or application of the policy to different fact situations.

A user of aviation rulings should also be aware that a ruling is only a statement of CASA's policy. It is not a restatement of the law.

Accordingly, while rulings are drafted to be consistent with the law referred to in the ruling as understood by CASA from time to time, they cannot displace any inconsistent legal requirements. You should notify

CASA's General Counsel if you believe that compliance with this ruling would lead to a breach of a legal requirement or if you believe that a ruling is based on an erroneous factual assumption.



## Appendix S Aviation Safety Regulation Review

[https://infrastructure.gov.au/aviation/asrr/files/ASRR\\_Report\\_May\\_2014.pdf](https://infrastructure.gov.au/aviation/asrr/files/ASRR_Report_May_2014.pdf)

## Appendix T APTA - Additional Background

Welcome to the Australian Pilot Training Alliance (APTA). My name is Glen Buckley, the CEO of the organisation and I'd like the opportunity to provide an overview of APTA, what we do, and how we operate, as an understanding of APTA is essential for all staff operating within the APTA framework.

### Background

Between 2014 to 2018, a legislative change referred to as Part 61/141/142 was introduced to the flight training industry, a consequence of that change, was that it significantly increased the costs, and administrative burden of running a flight training organisation. Many organisations, and particularly in regional areas, faced closure. The current critical skills shortage of experienced personnel has exasperated the situation and left many organisations struggling to provide the required supervision and mentoring. A solution to this challenge was the model that we now operate under. We call it the Australian Pilot Training Alliance, or "APTA."

Allow me to digress a moment before getting back, "on track". No doubt you're familiar with the major Supermarket chains, Woolworths, Coles, ALDI and IGA. Interestingly, IGA take a different approach to the way they do business, compared to the other three retailers. Rather than me try and tell their story, I have copied from their website:

*"At IGA, we've never taken a 'one size fits all' approach to the way we do business. We recognise that every one of us is an individual and that each city or town where we have stores is different. We understand that we are a culturally diverse nation of more than 23 million people with different likes and dislikes. As a result, **through our network of independently owned stores** (all 1,400 of them) we tailor our ranges and brands to give our local customers more of what they like. This includes many of your favourite brands, the ones you may no longer find on shelves in other supermarkets. We proudly support Aussie producers too by stocking ranges of locally made products. We actively participate in the communities around our stores doing whatever we can to help local schools, surf clubs or hospitals whether it's footie balls for the under 14's or life-saving equipment. Through IGA Community Chest we continually raise funds to support local communities, charities and other worthwhile causes, to date we've put well over \$60 million back into communities across the country.*

*But at the beginning of each day, we open our doors for one reason and one reason only, to deliver a shopping experience how the locals like it."*

So, IGA is a network of independently owned Stores working collaboratively under the control of an IGA Head Office.

Even though each store is a separate entity, responsible for its own costs i.e. salaries, utilities, etc they answer to Head Office and operate to standardised procedures. That Head Office is accountable to various Government departments for licencing, compliance, OHS etc. For all intents and purposes, IGA is the one retail company. The whole organisation acts as one, to standardised procedures, their relationship is closely intertwined, they act in each other's interests, they depend on each other and they all share the same vision. If they elected to operate independently outside of the IGA group, they would be significantly weaker, and in fact its highly likely that they wouldn't be in business. By distributing the expenses among a group of stores it facilitates a stronger and more robust business model. If you asked that person where they worked they would nominate "IGA" rather than Bill Smith Pty Ltd.

Similarly, you can think of APTA Head Office as the IGA Head Office, and you can think of the APTA bases, as the IGA stores. APTA was designed from the ground up, over many years to closely replicate the approach that IGA chose, and in fact we share the same values.

Whereas IGA has 1400 stores, APTA aims to maintain a more modest 10 Members within the group at any time. This will be small enough to ensure we can work closely together, and in each other's interests, while maintaining a well-resourced operation with unparalleled capability.

Let's move away from discussing IGA and spend a bit more time on our own organisation, APTA, the bases, and how we operate.

#### APTA

APTA holds more capability and capacity than any other Australian owned organisation in the Country. It is a Part 141 and 142 Organisation, ARN 759217 with Head Office located at Moorabbin Airport in Melbourne, Australia. The Organisation is a Registered Training Organisation and holds CRICOS approval to train International Students. As a group we operate from several bases across Australia, delivering all levels of pilot training from the RPL right through to the MCC Course. By utilising the groups bases, we have capacity to handle large student volumes, and potentially pursue larger contracts.

For those that aren't familiar with the two types of flight training organisations in Australia, they are referred to as either a Part 141, or Part 142. The Part 141 will generally be a smaller school, whereas the Part 142 capability brings with it the ability to deliver multi crew and integrated training. APTA is both a Part 141 and 142 Organisation.

Considering that the Part 142 approval is the highest accreditation available to a flying school, in Australia, it carries with it, significant responsibilities. For a Part 142 Organisation to operate, CASA stipulate a requirement for three, "Key Personnel", the Chief Executive Officer (CEO), Head of Operations (HOO) and a Safety Manager (SM). Those three Key Personnel are based in APTA Head Office. For redundancy APTA maintains CASA approved standby personnel for each of those three roles. Should one of the Key Personnel become unavailable, the pre-approved standby can move into the role seamlessly to ensure continuity of operations. A third HOO will soon be CASA approved, which will give APTA unparalleled levels of redundancy, and especially so in the current environment where organisations find it increasingly difficult to attract and retain staff. In fact, investing in the future and forward planning of personnel is a significant part of our investment into APTA, and available to us, because we choose to take a shared approach. Its highly unlikely that a single organisation operating alone, could build that level of redundancy into their own organisation.

Also located in the Head Office facility is the Internal Co-Ordinators office, Finance, and Admin. The Internal Co-Ordinator Office in particular, is a core function within APTA, as this is where the workflows are directed, and communications managed. This office maintains several important tasks including our Registered Training Organisation (RTO) compliance, our Commonwealth Register International Courses to Overseas Students (CRICOS) compliance, Continuous Improvement Program. Within the Internal Co-Ordinators Department is a part time Technical Writer assisting with the substantial changes in documentation. Increasingly, the IC office will be taking many of the administrative functions out of the bases and into head office. The intention being for the bases to be freed up, to focus more of their attention on delivering quality instruction, rather than on administrative tasks.

We have a Manual Suite for our operations, these Operations manuals are abbreviated as

- ☐ OM1 General operating procedures
- ☐ OM2 A/C Operations
- ☐ OM3 Aerodromes and Routes
- ☐ OM4 Internal Training and Checking
- ☐ OM4A Flying School Operations
- ☐ OM5 Safety

Operations Manual 1(OM1) outlines the position descriptions for each of the positions within the Company, and I encourage you to familiarise yourself with all roles within APTA, and on site at the bases. I also draw your attention to the repeated use of the word “ensure,” in the position descriptions for the Key Personnel. The burden on them is significant, and they depend highly, on everyone within APTA acting professionally.

We have an overriding series of manuals, but each base will also have its own manual referred to as the Base Procedures manual or BPM. This will contain items that are specific to each base. Its contents will include, the facilities located at each base, the base specific Emergency Response Plan (ERP) etc.

We expect all personnel to have a high level of knowledge of our policies and procedures. This is achieved by referring back to the manuals on an almost daily basis, and not simply on induction day. From the moment you start reading the following manuals you have an important role to play. If something isn't clear, isn't addressed, or could be improved, we need to know about it

APTA maintains a robust “continuous improvement process”, and we are always looking for ways to improve how we operate. Throughout your time at APTA I will be highly appreciative of your involvement in this program. If you come across situations where you are unclear, or think something could be done more effectively, or just better, bring, it to our attention. Delivering flying training is becoming an increasingly demanding task, but our buzzwords are, Simple, Accountable, and Effective. That's what we need to work towards, but we do need your involvement.

### The Bases

You will recall that the bases, are separate entities, although under the full operational control of APTA and its associated procedures. While the cost of APTA is shared by the Members, the bases are responsible for their own expenses. So how does this increase safety and compliance.

APTA stipulates requirements on the entities to ensure that they maintain a sufficient number of appropriately qualified personnel, necessary facilities, infrastructure, and support materials at the locations where operations are conducted. Those requirements can be placed on the entity with the consideration being safety, supervision, and regulatory compliance, and not on the "cost of operating". Obviously we respect that the entities have a commercial requirement, although our decision making can be more independent than would normally be achieved.

On site, at the base level, the person previously referred to as the Chief Flying Instructor (CFI) or Head of Operations (HOO) becomes what is referred to as, the Senior Base Pilot (SBP) in the APTA structure. As the title suggests, it is the senior person on the base. This is an important role in the structure, and the Key Personnel depend highly on the SBP at each of the bases.

On site, the SBP will have the support of a Safety Officer (SO), and a Maintenance Administration Officer (MAO). Importantly, the whole system is designed to be scalable. Potentially a base could be a limited one-person operation, with the one person in the role of SBP, Safety Officer and Maintenance Administration Officer.

More typically, a school such as MFT at Moorabbin will operate with an SBP, Two Training Managers managing 5 instructors each, a Safety Officer, and an MAO. Wherever possible we use MFT as the training hub, and personnel move through that school prior to being placed at the respective bases. That is not always possible, but that is our aim. We have ex MFT personnel in SBP roles at almost all current and proposed bases. By using MFT as the central training school, it ensures continuity of thoroughly inducted staff as required at the bases. It is effectively, the "feeder" school. This approach assists us to have access to personnel throughout the group that are fully inducted into APTA procedures. As part of our forward planning we aim to operate the MFT base with two SBPs, so the group has access to a SBP should a Member have their own SBP, move on at short notice.

### A bit more detail about APTA

Obviously having bases across Australia requires high levels of communication. We achieve this through a number of methods.

We all use a system called Flight school Manager. You will be trained in Flight School Manager. You need to be aware that this isn't an "app" designed to be fun. It is a regulatory compliance tool, and complex in its nature. It is the only system available that fully meets APTAs needs. Without FSM, APTA would be unable to satisfy CASA that suitable supervision is in place, and remote bases simply would not be able to operate. The system is used in many flying schools across Australia, and a significant investment was made to modify this product for our operations. Specifically, we needed to break down and build walls. For example we needed the flight and duties to talk to each other when pilots operate from a number of bases, but we need to keep the business element i.e. customer details, base specific. We run regular and ongoing training on the system, so if at any time you have concerns, please approach the IC department and further training will be provided.

The Flight School Manager System was redesigned specifically for our requirements, and is critical to our procedures. It provides APTA and CASA with high levels of oversight across all bases. From this system we administer the entire operation from staff qualifications, safety reporting, training records, flight and duties, communications, document library, and share and redeploy resources etc.

Nothing can replace face to face engagement wherever practical, so we are regularly at each of the bases, and of course always available on phone or email. As a group we all come together at intervals not greater than fortnightly, for our management meeting. As a group we attend to compliance, safety, resourcing, cross deployment of resources, adequacy of supervision, staff development, qualifications, test feedback, continuous improvement etc.

Frequently we will base APTA nominated personnel at bases to meet any requirements identified at Management meetings, and this would be a routine part of APTA procedures. It could be the Safety Manager conducting an audit, or it could be an FSM trainer located on site. Frequently during the first few months of a newer base you would expect more frequent contact as it's critical that all staff are familiar with, and operating in accordance with all procedures. APTA will provide whatever ongoing support is required initially, and on an ongoing basis. It's not uncommon for us to place a staff member at a base for a protracted period in order to ensure a thorough induction has been completed.

We also communicate by rotating staff, and this is an important concept to appreciate. You will appreciate that we all work under the same Part 141/142 approval. We are all pre-employment drug and alcohol tested into the same organisation, all standardised and proficiency checked into the same organisation, we are all inducted and trained in the same procedures, and we all utilise Flight School Manager. This gives APTA a unique opportunity for supervising, mentoring and developing, that is not available to a single organisation acting alone. As an APTA staff member you may be called on to be deployed to another base from time to time, and when this occurs you can effectively walk into that base and commence operating, because we are one large flying school. Some real life examples of how we operate.

For example, Base "A" may have an unusually high demand for IFR training that they are unable to resource. That base would contact the Internal Co-ordinators office and identify the requirement. At the fortnightly group management meeting that requirement would be highlighted. Another base, Base "B" with a surplus IFR instructor may opt to deploy their excess IFR instructor to base "A" for a period. During the deployment the salary associated with that IFR instructor would be met by Base "A". The instructor can readily deploy between bases, because they are inducted into the one organisation. Throughout the deployment, irrespective of where the salary is being drawn from, that Instructor is operating as an APTA instructor.

Similarly, Base "C" may have a junior instructor that needs more mentoring and development. It may be identified that Base "D" has more Grade One Instructors available to take on this responsibility. The junior instructor would be redeployed to Base 'D'.

Base "E" may have an upcoming demand for some aerobatic training. It could be that the aerobatic instructor on site has limited experience. A highly qualified instructor, from Base "F" may be deployed to Base "E" to provide the required mentoring.

We have fortnightly group meetings and monthly safety meetings which are attended either personally or via video conferencing. These regular meetings are integral to group operations. They are generally attended by all Key Personnel, SBPS, and safety personnel, but all are welcome and a standing invitation has been provided to CASA personnel. At these meetings we discuss resourcing, upcoming leave, test results, compliance, continuous improvement, maintenance, supervision, mentoring etc.

In fact, this will become one of the significant advantages of APTA. In an environment where many organisations face critical skill shortages that stretch operations, APTA has an enormous depth of experience amongst the bases, and this knowledge base can be efficiently re-deployed to address skill shortages and provide supervision and mentoring at other bases as required. Within the group we have ex airline and military pilots, and flight examiners, we have Subject Matter Experts (SMEs) on everything from aerobatics, tailwheel, formation, low level, multi crew training, warbirds, instructor training, safety, auditing, and airline recruiting,

Importantly APTA provides us with the opportunity to improve safety and compliance. Operating individually, most entities would not have a Safety Department. But by working collaboratively, we have a well-resourced group safety department. Our monthly Safety meetings regularly demonstrate the benefit of a number of entities working collaboratively to improve safety outcomes.

Similarly, our regulatory compliance improves. We continually audit our systems and procedures. In fact, this internal auditing is a significant part of what APTA does in the background. We conducted 85 internal audits during the last 12 months alone.

APTA provides access to CASA via the FSM System, which provides CASA with the highest levels of oversight available in the Industry. We are a transparent organisation and have nothing to hide, but with that level of openness we do depend on our staff to act professionally.

### Closing

Some of you reading this will be new to the industry and many of you will have many years of exposure. For those of you, that have been around for some time, you will have seen what appears to be enormous change. In many ways, it isn't. We have always been required, to maintain flight and duties, complete training records, familiarise ourselves with new procedures, make bookings, and juggle aircraft due maintenance. The job hasn't fundamentally changed. What has changed is the level of accountability.

Not that long ago, a CASA audit at a flying school was associated with a week of late nights prior, as the flight and duties were all bought up to date, and missing pages of training records attended to. The staff qualifications board was all bought up to date and the audit proceeded.

In the environment that we now operate in, everything is tracked, as is the time of data entry. Flight and Duties bought up to date the night before will be obvious at audit. That's nothing to be alarmed about, it simply means APTA will have a high expectation on you to act professionally. Basically, the majority of the work has been moved from when it "had to be done" to "when it should be done", fundamentally there isn't a lot more work, its just being done at a different time.

Saying that, we all know that the "paperwork" has increased significantly. This simply means that each entity needs to recognise that, and instructors in the "new

environment”, do need more support than they did previously. In order to deliver safe, compliant operations we do need to be adequately resourced. and CASA has been very clear on their expectation of APTA, and have put it in writing;

*“APTA **ensures** a sufficient number of appropriately qualified personnel and necessary facilities, infrastructure, and support materials are in place at the locations where APTA operations are conducted”*

There is no doubt that the APTA concept is new to the Industry and it has been controversial. From my own perspective it has been a far larger project than I could have ever anticipated. Understandably, there were elements within CASA that were, and possibly still are, cautious of the concept. A small group of open minded senior personnel within CASA became involved, and APTA now has the opportunity to really move forward. What has been granted by CASA, as with any flight training organisation, is an approval to demonstrate; “we do, what we say we do”. It is not an approval to go forward and do whatever we want.

I can argue that APTA increases safety and compliance, facilitates aero clubs, and creates jobs in rural areas, reduces CASA resources and supports Australian owned businesses, but irrespective of all that CASA expect us to be safe and compliant. We do depend on each and every one of you to walk into work each day committed to acting professionally. We need instructors that are highly conversant with procedures and operate in accordance with those procedures.

What APTA is not. This is not a group of organisations operating independently and doing “their own thing”. This is in fact, one organisation, APTA.

From a regulatory perspective, and in the interests of safety, the essence of this model is that the authorisation holder is fully accountable under the applicable legislation and is demonstrably able and willing to do everything that needs to be done in order to ensure that its safety-related legislative obligations are effectively fulfilled. As a matter of operational control, and integral to the very object of the authorisation[s] involved, CASA must be satisfied that all these considerations have been, and will continue to be, satisfied by the authorisation holder.

It is reasonable to expect going forward that CASA will be closely monitoring APTA, to ensure we remain safe and compliant. Whether the member be a larger organisation or an aero club, all bases and personnel at those bases will have a high expectation placed on them. You need to be aware that you are working as part of a larger group.

Thankyou in anticipation of your co-operation and understanding

Glen Buckley



## Appendix U      ICC Process

### Appendix U (a)      ICC Initial Complaints Review



#### **Australian Government** **Civil Aviation Safety Authority**

INDUSTRY COMPLAINTS COMMISSIONER

19 March 2019

Mr Glen Buckley  
glen.b@auspta.com.au

Dear Glen

#### **Initial complaints review**

I refer to the complaints you lodged with the ICC between October 2018 and January 2019. In this letter I set out my provisional views on the Industry Complaints Commissioner's ('ICC') jurisdiction to review each of the issues raised.

As you're aware, I expressed a preference to review the central themes presented in the complaints that relate to CASA's oversight of APTA cumulatively rather than individually, given the similarities in the issues raised.

That's because I felt the complaints could more helpfully be addressed under an umbrella complaint about the manner in which CASA had oversighted APTA since 2018. This would include whether CASA had complied with relevant policies (for instance its Regulatory Philosophy and other guidance material) and law (such as the principles of administrative law, regulations and statutes).

You initially opposed my proposal on the basis you felt it would dilute APTA's concerns and prolong the timeframe for an outcome. However, following our meeting at APTA's Moorabbin base on 14 March 2019 you indicated that this approach may be acceptable. To assist APTA confirm its position, as a prelude to considering the umbrella complaint I've proposed I undertook to email my preliminary jurisdictional assessment of each of the complaints the ICC has received. I've set this out below.

#### **Complaint 331**

In complaint 331, you seek 'a declaration from CASA that they are of the opinion that they have achieved clear and concise aviation safety standards.'

That's on the basis that you consider CASA has failed to achieve this, and as a result it has affected APTA.

Broadly speaking, the ICC's Governance Arrangements empower the Commissioner to review complaints '...about the decisions, administrative actions or services provided by CASA staff, delegates or authorised persons to determine if they are wrong, unjust, unlawful, discriminatory or unfair.'

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Further context to the types of 'decisions, administrative actions or services' that are able to be reviewed is provided by the types of complaints the ICC is restricted from reviewing, which includes:

*'...complaints about CASA's regulatory, operational or corporate policies and practices generally (as opposed to complaints about the conduct or actions of individual officers, managers, delegates or authorised persons).*

Therefore, at this stage I propose to conclude that complaint 331 is about 'CASA's regulatory, operational and corporate policy generally' and the ICC is unable to accept it for review.

#### **Complaint 332 - transition**

APTA alleges CASA's requirement it transition to Part 142 by 1 September 2017 caused significant financial loss to APTA.

The ICC Governance Arrangements prevent the acceptance of matters where *'...the ICC is satisfied the complainant was aware of more than 12 months before the complaint was raised with the ICC.'*

In my view, another relevant consideration is that APTA seeks compensation in resolution of this complaint, something that is not within the ICC's remit.

At this stage, I have reservations that this complaint is within the ICC's jurisdiction and I invite further submissions on this issue. In the event the complaint is accepted for review, I propose this be addressed separately from the other issues APTA has raised about CASA's oversight from 2018.

#### **Matter A**

In matter A, APTA highlights five separate issues about CASA's failure to provide material related to a Level 2 audit it completed at its La Trobe Valley facility on 3 September 2018 despite repeated requests.

CASA's position is the visit to La Trobe Valley was to complete a regulatory services task for the addition of that location to APTA's AOC and was not a Level 2 audit. As a result, there aren't any 'audit findings' and CASA states you should refer to the email of 20 November 2018 for a summary of the issues arising from that regulatory services task.

From a jurisdictional perspective, my view is Matter A broadly falls within the ICC Governance Arrangements and as a result, will be addressed in the comprehensive response I propose.

#### **Matter B**

In this complaint, APTA asks a series of questions about why 'looser' arrangements were permitted between Bairnsdale Air Charter and La Trobe Valley Aero Club, when similar arrangements with APTA were not.

My preliminary assessment of the ICC's jurisdiction is that a complaint about disparity in regulatory oversight can be accepted. However, the ICC is not the appropriate forum to seek answers to the specific questions you've posed. On that basis, I propose to limit the review to whether CASA's requirements of APTA were more onerous than those imposed on Bairnsdale Air Charter.

#### **Matter C**

APTA requests a change of Certificate Management Team to allay its safety concerns.

The assignment of Certificate Teams to the oversight of operators is a management decision rather than a complaint, and on that basis I propose to refer your request to Peter White and Southern Region Manager Jason McHeyzer for consideration.

#### **Matter D**

APTA alleges CASA has breached s9(1)(c) of the Civil Aviation Safety Act by failing to provide appropriate, clear and concise aviation standards.

While I will consider the applicability of the 'Aviation Ruling' in the context of reviewing the reasonableness and legality in the context of other APTA complaints, in my view your request for 'CASA to clearly and concisely outline the legislative requirements' it's relying on isn't a complaint in of its own right and I don't intend accepting this as a separate complaint for review.

#### **Matter E**

This complaint again alleges the same breach of the Civil Aviation Act as Matter D, but in the context of CASA's obligations under the Public Governance and Performance and Accountability Act ('PGPA'). APTA believes CASA's concerns aren't safety related and therefore fall outside of its stated functions.

As noted above in Matter D, I will consider CASA's compliance with any regulatory obligations. But its not my role to inform 'decision makers' within the Deputy Prime Minister's office and I will not be doing so.

#### **Matter F**

CASA has relied on an 'Aviation Ruling' with no regulatory head of power to initiate action against APTA.

While it's not my role to identify a link between the Ruling and safety, APTA's complaint about the Rulings' legal applicability falls within the ICC Governance Arrangements and as such will be addressed in the comprehensive response I propose.

#### **Matter G**

CASA has failed to provide evidence of identified flight and duty exceedances despite multiple requests.

This complaint falls within the ICC's jurisdiction and will be addressed in the comprehensive response I propose.

#### **Matters H**

APTA alleges CASA has failed to adhere to the principles of its Regulatory Philosophy in its oversight of APTA.

In general terms, this complaint falls within the ICC's jurisdiction and will be addressed in the comprehensive response I propose. In terms of the expected outcome, the ICC can't provide on CASA's behalf the type of specific statements APTA seeks. Instead the ICC is able to review CASA's actions and make an assessment of whether its actions adhere to the guidelines set out in the Regulatory Philosophy.

#### **Matter I**

APTA alleges CASA has failed to adhere to the principles of its Regulatory Philosophy in its oversight of APTA.

As noted above, it's not the ICC's role to provide statements on CASA's behalf. However, whether CASA's actions met the guidelines of the Regulatory Philosophy are within the ICC's jurisdiction and will be addressed in the comprehensive response I propose.

#### **Matter J**

CASA's regulatory oversight of APTA has been heavy handed and doesn't take a risk-based approach. As noted above, CASA's compliance with the guidelines of its Regulatory Philosophy is within ICC jurisdiction. Therefore its oversight of APTA generally through the prism of the Regulatory Philosophy's guidance will be addressed in the comprehensive response I propose.

#### **Matter K**

APTA's business model was designed in conjunction with, and approved by, CASA. APTA alleges CASA has failed to adhere to the principles of its Regulatory Philosophy in its oversight of APTA. Following a change of CMT, CASA's approach changed and action was initiated against APTA's business model.

In my view, this is the best summary of APTA's complaint. It falls within the ICC's jurisdiction and the issues raised in APTA's other complaints (with the exception of Matter B) are in my opinion encompassed and captured by this complaint. Matter K falls within the ICC's jurisdiction and will be addressed in the comprehensive response I propose.

#### **Matter L**

The oversight of Southern Region's CMT3 has failed to adhere to the guidelines of CASA's Regulatory Philosophy. The broader issues raised in Matter K fall within the ICC's jurisdiction and will be addressed in the comprehensive response I propose.

#### **Matter M**

APTA alleges CASA has failed to adhere to the principles of its Regulatory Philosophy in its oversight of APTA.

You seek information from CASA about what it proposes to do. This is not a complaint, and the ICC cannot provide responses of this kind on CASA's behalf.

On that basis, I propose not to review Matter M.

#### **Matter N**

APTA seeks CASA to clarify the current situation with Ballina base.

This is a request for information rather than a complaint. On that basis, I don't propose to accept this complaint for review.

#### **Matter O**

This complaint is essentially the same as Matter A — CASA's failure to identify the findings from a Level 2 surveillance you say was completed at La Trobe Valley on 3 September 2018.

Noting CASA's position is no audit was completed, as in complaint A I consider the issue falls within the ICC's jurisdiction to review.

#### **Matter P**

Like Matters A and O, this relates to an audit APTA alleges CASA completed at La Trobe Valley on 3 September 2018, the results of which were 'used as a basis (for) seeking legal advice.' Because APTA was never provided with the audit results which suggested a breach of CASR 117, it couldn't challenge CASA's incorrect assumptions.

Noting CASA's position is no audit was completed, as in complaints A and O I consider the general issue this complaint highlights falls within the ICC's jurisdiction to review.

#### **Matter Q**

This complaint seeks a declaration from CASA that it is compliant with the Regulatory Philosophy.

As noted in reference to earlier complaints, it's not the ICC's role to provide statements on CASA's behalf. However, as noted in other complaints whether CASA's actions met the guidelines of the Regulatory Philosophy are within the ICC's jurisdiction and Matter K falls within the ICC's jurisdiction and will be addressed in the comprehensive response I propose.

#### **Matter R**

CASA has failed to comply with its Enforcement Manual.

APTA seeks a declaration from CASA it believes it has acted strictly in accordance with the Enforcement Manual.

I do not propose to accept this Matter for review. As I've noted above, it's not the ICC's role to provide statements on CASA's behalf. In addition, I query the relevance of the Enforcement Manual to CASA's interactions with APTA as because as far as I am aware, enforcement action has not been commenced against it.

#### **Matter S**

APTA seeks a clear and concise outline of CASA's expectations for employment contracts with its staff.

It's not the ICC's role to make statements on behalf of CASA and my provisional view this isn't a complaint that falls within the ICC's Governance Arrangements.

#### **Matter T**

APTA complains that the time taken to process regulatory services tasks falls outside industry norms.

Unreasonable delays in the processing of requests is the type of complaint that falls within the ICC's Governance Arrangements and this issue will be addressed in the comprehensive response I propose.

#### **Matter U**

In essence this is the same complaint as Matter K – CASA's actions in reversing its position on a business model it helped design and later approved are unreasonable. This is an issue the ICC has the jurisdiction to review and this issue will be addressed in the comprehensive response I propose.

In resolution of this complaint, APTA seeks financial compensation. As I've explained in the past financial compensation isn't something within the ICC's powers to award.

#### **Matter V**

Matter V sets out a chronology of APTA's concerns and summarises the complaints raised in other issues bullying and harassment; a failure to achieve clear and concise aviation standards; breaches of natural justice; PGPA Act breaches; mischaracterisation of findings in audit reports; failures to comply with the regulatory philosophy; and applying public resources to non-safety issues in breach of the PGPA and Civil Aviation Acts.

Because these issues repeat other complaints, at this stage I don't propose accepting Matter V as a separate complaint.

#### **Matters W and X**

I advised I had no record of these issues on 29 January and 5, 14, 18 and 27 February 2019.

On 27 February 2019, you advised:

*I will be holding those matters, as the grouped response you propose is not acceptable. Those matters will be held, so that they are attended to as they should be, and you will not have the opportunity to "muddy them up" in a grouped response.*

The ICC Governance Arrangements prevent the acceptance of a complaint '...where the complainant is not pursuing it in a reasonable way.' In my view withholding complaints isn't reasonable. So notwithstanding the fact I don't know what these complaints relate to, I don't intend accepting them for review after I have provided a comprehensive complaint if they relate to issues that should have been reviewed at that time.

#### **Matter Y**

Like Matter E, Matter Y seeks confirmation that 'the relevant person within the Department that these allegations have been brought against CASA' given its obligations under the PGPA.

As noted in Matter E, this is not the ICC's function and I don't propose to accept this complaint.

#### **Matter Z**

Matter Z sets out the physical and emotional toll you say CASA's actions have had on you. You seek an immediate withdrawal of all action against you.

Because the ICC doesn't have the power to make this sort of decision, I don't propose to accept this as a complaint.

#### **Matter A1**

This complaint alleges CASA has failed to respond to requests for clarification.

A failure to respond to a request for information is the type of complaint that falls within the ICC's Governance Arrangements and this issue will be addressed in the comprehensive response I propose.

**Matter B1**

This complaint alleges CASA has failed to respond to requests for clarification with respect to temporary base procedures.

As noted in Matter A1, a failure to respond to a request for information is the type of complaint that falls within the ICC's Governance Arrangements and this issue will be addressed in the comprehensive response I propose.

**Next steps**

Please let me know if you have any feedback about my proposed review being comprehensive rather than individual, or if you disagree with any of my preliminary views on the ICC's ability to accept complaints under its Governance Arrangements.

I hope to be in a position to have a preliminary outcome of the complaints within jurisdiction on or before 13 April 2019 as they relate to the events of 2018. I will advise you as soon as possible if this proves to be unfeasible.

**Referral rights**

If at any stage in the complaints process you are unhappy with my investigation or response, you're able to ask the Commonwealth Ombudsman to review the ICC's consideration of your concerns.

Information about how to make a complaint can be found at [www.ombudsman.gov.au](http://www.ombudsman.gov.au). Alternatively, you can contact the Ombudsman on 1300 362 072.

Yours sincerely



Jonathan Hanton  
Industry Complaints Commission



**Australian Government**  
**Civil Aviation Safety Authority**

INDUSTRY COMPLAINTS COMMISSIONER

12 April 2019

Mr Glen Buckley  
glen.b@auspta.com.au

Dear Glen

**Preliminary review outcome**

In my letter dated 19 March 2019, I set out how I proposed to respond to the 28 separate complaints made to the Industry Complaints Commission ('ICC') by the Australian Pilot Training Alliance ('APTA') between October 2018 and January 2019.

My preferred approach was to review the central theme I distilled from the 28 complaints: APTA's dissatisfaction with its oversight by CASA's Southern Region following a change of Certificate Team (from that led by John Costa to Will Nuttall's team) in 2018. APTA's view was that CASA's actions following the change breached its legislative and administrative law obligations, as well as internal CASA policies and procedures (such as its Regulatory Philosophy). In addition, APTA complained CASA had failed to properly engage with multiple requests for clarification or more information, and had unreasonably delayed the processing of regulatory service tasks. APTA's position is CASA's actions have jeopardized its commercial viability.

For those issues that were within the jurisdiction conferred on the ICC by its Governance Arrangements, in my letter of 19 March I explained that I felt it would be more helpful to address these in one response, rather than the 28 you'd initially requested. After our meeting at APTA's premises in March 2019, you agreed a single response would be the best approach. In this preliminary outcome, I set out my provisional conclusions as to whether CASA has treated APTA unfairly, unreasonably or unlawfully<sup>1</sup> in its regulatory oversight since 2018.

While you're aware the ICC isn't empowered to recommend the compensation you seek in resolution of APTA's complaints, you've stressed the importance of having an ICC review so as to inform other avenues APTA intends to pursue.

**The genesis of APTA's concerns**

It appears to me that any recent deterioration in the relationship between APTA and CASA had its roots in correspondence to APTA Head of Operation Ermin Javier from then acting Southern Regional

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<sup>1</sup> Paragraph 2.1 of the ICC Governance Arrangements defines the ICC's primary role as considering 'complaints ... about the decisions, administrative actions or services provided by CASA staff... to determine if they are wrong, unjust, unlawful, discriminatory or unfair.'



Manager David Jones on 23 October 2018. Based on legal advice Mr Jones had received, his letter informed APTA CASA proposed to refuse an application for approval of significant changes to its Exposition and Operations Manual. APTA had requested the changes (the addition of operating and ancillary bases) on 21 June and 31 August 2018. The 23 October Notice advised:

- APTA's arrangements with Alliance members were perceived by CASA as potentially being in breach of a CASA Aviation Ruling: *Franchise AOC arrangements*.
- APTA Alliance members may be conducting unauthorised operations, and if APTA had facilitated their regulatory breaches it may be the subject of enforcement action.
- CASA proposed to decline APTA's significant changes applications because operations at Alliance members' bases weren't temporary locations and couldn't be authorised by APTA's Part 141 and 142 certificates.

The Notice sought APTA's comments and other information (contracts and other agreements) on the above issues '*within 7 days, whereupon CASA will provide a final determination on them.*'

You've commented this letter came out of the blue and has caused considerable damage to APTA.

#### **Was the letter a change in CASA's approach to APTA?**

Reviewing available records, I agree the letter of 23 October marked a significant divergence in CASA's attitude towards APTA, both in tone and regulatory approach.

Whereas CASA had worked collaboratively with APTA at the time it sought to transition to Parts 141 and 142, the correspondence of 23 October was direct and unequivocal. With the fresh eyes that came about as a result of new oversight arrangements and legal advice, it presented a new interpretation as to the nature of APTA's arrangements with Alliance members. The letter imposed a short deadline, and as far as I'm aware nobody within APTA had been given an indication prior to dispatch its significant change applications were likely to be considered differently.

In terms of the ICC's mandate to consider whether CASA's actions were wrong, unjust, unlawful or unfair, I don't at this stage propose to find the actions were wrong or unlawful. It's any decision maker's prerogative (and obligation) to consider an application on its merits. Just because a different interpretation was reached to a previous decision maker on substantively the same question, it doesn't mean it was unlawful.

In terms of the other assessments the ICC can make, I don't consider CASA treated APTA fairly when its approach changed on 23 October. That's because collectively as an organisation, CASA had an awareness of the APTA business model for a significant period of time prior to its compliance with regulation being called into question. In changing its position so drastically, the circumstances were such that CASA's actions weren't fair, given APTA's likely to have relied on CASA's failure to highlight any concerns when conducting its operations and planning.

I've reached the conclusion CASA didn't treat you fairly collectively, rather than it being an outcome 'against' Mr Jones or Mr Nuttall's CMT. One reason for the broad conclusion is your specific request that I not review the actions or decisions of the CMT APTA was previously oversights by, who you commended for their professionalism. Respecting that request means it's impossible for me to draw any conclusions about which approach to the APTA business model is more likely to be legally correct.

At this stage, I also propose to conclude that as well as being unfair, having two opposing regulatory interpretations about the APTA business model meant CASA didn't meet the principles it aspires to meet in its Regulatory Philosophy. In addition to APTA's complaint the different approaches meant

CASA didn't maintain its trust and respect (Principle 1), I also agree the divergence in the positions CASA took is also unlikely to conform with Principle 7.

Principle 7 provides '*CASA will consistently employ the same processes criteria and have regard to the same criteria for the purposes of determining whether, and if so how, a regulatory requirement should be interpreted or applied in any given situation.*' There's limited available information to conclude the Aviation Ruling's applicability was considered when first assessing APTA's business model; nor was there consistency about whether the model met regulatory requirements.

#### **Failure to provide information: audit findings**

APTA highlights it has made repeated requests for the findings of CASA's Level 2 audit of its La Trobe Valley base on 3 September 2018. APTA considers CASA's failure to provide the information a timely manner represents a failure to comply with its administrative law obligations. APTA stresses CASA had an obligation to provide procedural fairness given the findings of this audit were the basis of significant action being taken against it.

CASA's position is that while a Level 2 audit had been scoped, it was never commenced and its visit to La Trobe Valley was for the purpose of assessing a regulatory services task (APTA's significant change applications). APTA doesn't accept this position, noting Mr Jones referred to the visit in the presence of CASA's Executive Manager of Regulatory Services and Surveillance Peter White as a Level 2 audit.

Reviewing all of the available information, at this stage I have insufficient basis to conclude the visit was a Level 2 audit as APTA allege, and instead conclude it was to assess a regulatory service task. In reaching that position, I note:

- There's no record of the documents I would expect to see if a Level 2 had been commenced in CASA's Sky Sentinel surveillance database. If the visit had been an audit, a number of mandatory documents and records are required to be produced.
- Mr Nuttall's email of 27 August organising the visit was titled: '*Confirmed Dates - Regulatory Service Tasks AOC2018-2148 and AOC2018-2149*' and specified CASA would be visiting La Trobe Valley on 3 and 4 September.

That means there are no audit findings to provide. At this stage I'm satisfied CASA's correspondence of 23 October and 20 November provides sufficient details of the reasons APTA's application to make significant changes wasn't approved at that point.

APTA's position is the results of Southern Region's visit to La Trobe Valley led to 'significant action' against it, given it was the basis for seeking internal legal advice. In my view, seeking internal legal advice can't be considered as commencing action against APTA, but is instead part of a prudent decision-making process. In any event, I note no changes to APTA's existing operations have eventuated from the visit of 3 September; CASA's assessment of the significant change application; or the 23 October letter. A notice that CASA intends or proposes not to approve something is not an action in of itself.

#### **Failure to provide information: Flight and duty exceedances**

APTA complains Mr Jones wrote in an email dated 28 November '*these anomalies should be known by Ermin (as the APTA HOO) as there were problems identified with the FSM system and Flight and Duty (F&D) management, in particular associated with the F&D exceedances.*'

APTA continues that CASA later clarified there weren't any identified flight and duty exceedances, but that it has failed to provide details of what had originally led to this comment.

Noting your statement CASA doesn't consider there to have been any exceedances, I've attached the information from the La Trobe Valley visit that led to the initial comment as Appendix A in resolution of your complaint.

#### **Failure to provide information: website**

APTA highlights that despite multiple requests, CASA has never identified the webpages it extracted the information reproduced in Mr Jones' letter dated 23 October. I can advise that as at 20 September 2018, the information in Mr Jones' letter could be found at [www.auspta.com/our-vision](http://www.auspta.com/our-vision) and [www.auspta.com.au](http://www.auspta.com.au). I've reproduced the pages as they were at that date in Appendix B.

While I acknowledge it would have been helpful if CASA had provided links to the source of that information in its letter of 23 October, I don't consider it acted inappropriately in not doing so. That's because it wasn't unreasonable for CASA to assume APTA would be aware of the information contained on its own website.

#### **Delays in the completion of regulatory service tasks**

APTA has been engaging with a number of different people within CASA on a range of issues, including delays in CASA processing regulatory service task. I note Southern Regional Manager Jason McHeyzer's email of 2 April, which I reproduce below, addresses the background to this complaint:

*I acknowledge your requests for information in relation to a 'freeze' of APTA regulatory tasks.*

*I have reviewed CASA records and can report the following:*

*On 23 Oct 2018, CASA issued you with a Notice of proposal [sic] refusal to approve significant changes to exposition and operations manual (CASA ref F14/9540) in relation to your applications for additional bases at Ballarat Aero Club, Latrobe Valley Aero Club and White Star Aviation.*

*The 23 Oct 2018 notice is an important part of CASA's decision making process as it provides an opportunity for authorisation holders to respond with evidence for CASA to consider prior to making a final decision.*

*On 2 Nov 2018, you provided a letter response to then Acting Regional Manager, Southern Region, Mr David Jones, providing your views on the issues raised in CASA's proposed refusal and requesting a meeting to resolve the identified issues.*

*Shortly after your 2 Nov 2018 letter, Executive Manager of Regulatory Services and Surveillance, Peter White, met with you and has since been working with you to resolve the contractual arrangement issues raised in CASA's letter of 23 Oct 2018.*

*CASA issued you with a letter on 12 Feb 2019 confirming interim operational arrangement for APTA until 13 May 2019.*

*I understand that CASA and APTA are very close to resolving the contractual arrangements. Once these arrangements have been satisfactorily resolved then the key issue identified in the 23 Oct 2018 letter will be removed as a consideration in CASA decision making.*

*In anticipation of successful resolution of the contractual arrangement I have instructed my team to provide you with fee estimates for outstanding regulatory service tasks. On receipt of payment for these fees, CASA will commence assessment of the regulatory services.*

*I note that CASA commenced assessment of your applications for the additions of Ballarat Aero Club and Latrobe Valley Aero Club as operating bases prior to receipt of the fees for these tasks. To date, the fees have not been paid.*

*CASA has not made a final decision in relation to your applications for additional bases at Ballarat Aero Club, Latrobe Valley Aero Club and White Star Aviation.*

*I look forward to working with you to finalise the outstanding regulatory service tasks.*

I don't consider Mr McHeyzer's position unreasonable. Until there was a level of certainty about whether APTA's model could meet regulatory requirements (following the change in approach taken by the new CMT), it would have been premature to assess regulatory services tasks. I appreciate the disruption you say this has caused APTA, but at this stage I don't propose to conclude it was unreasonable or inappropriate in the circumstances.

#### **Next steps**

Please provide any additional information you'd like me to consider by **26 April 2019**. I'll then consider that information before finalising my review of your complaint.

#### **Referral rights**

If at any stage in the complaints process you are unhappy with my investigation or response, you're able to ask the Commonwealth Ombudsman to review the ICC's consideration of your concerns.

Information about how to make a complaint can be found at [www.ombudsman.gov.au](http://www.ombudsman.gov.au). Alternatively, you can contact the Ombudsman on 1300 362 072.

In the event you wish to make a complaint about me, the ICC Governance Arrangements provide this should be addressed at first instance to the Director of Aviation Safety.

Yours sincerely



Jonathan Hanton  
Industry Complaints Commission

## Appendix A – La Trobe Valley Flight and Duty comments

### FDL

#### OM 2 1.1.6 Rostering in Accordance with Flight and Duty Time Policy

The Company recognises that on occasion a Pilot may be operating for more than one organisation. The FSM programme must reflect all Flying activities carried out for any organisation PRIOR to re-commencing any flying activity for APTA so that the APTA regime is compliant. – this does not occur. Gerard demonstrated he was running a separate FDL program (used also by Bairnsdale Flying school) and not updating the APTA FSM....

### FSM

HOO Ermin Javier demonstrated Flight and Duty time limit monitoring system. Candidate used was Derek Ng - GD 3. On reviewing Derek's duty the system clearly indicated Derek had exceeded a flight duty limit daily flight limit. The HOO was unaware of the breach, indicating he was neither monitoring the limits and the alert system (automated email) did not provide an alert. HOO was unable to find the email when requested.

When HOO was requested to provide the names of the SBP, the HOO noted he did not know who they were and indicated the list was kept by Internal Coordinator Lavenya Ruthralingam. After some deliberation he accessed his email and opened an email titled to the SBP and found their names.

Ermin Javier - SBP are not known by HOO. HOO accessed names by opening email sent to SBP by admin staff. As the SBP's are not known by Ermin it stands to reason that APTA reporting system is not functioning as OM 1 0.5.6 Group Head of Operations (HOO) Direct reports – SBP's are noted as a direct report...

#### Senior Base Pilot: Repeat finding

David has been designated by Ermin as the Senior base Pilot for Latrobe valley. It was noted by David that he has:

- David is present at BLT on (an) ad hoc basis
- Between Monday and Thursday, review Base Flight and Duty for all personnel with particular attention paid to the timely completion, compliance and accuracy. Initiate any required action. Present any anomalies for the attention of the HOO as soon as practicable but no later than the next Wednesday Management Meeting. – The SBP sets a phantom roster in Flight Safety manager (FSM). Actual pilot duty is expected to be updated by the pilot in a separate sign on sign off system. Gerard was observed running a personnel FDL program due to his other flying employment. SBP was unaware of these duties and hence was unaware of the impact on the pilots total flight duty limits. This is in contravention to APTA OM 2 1.1.6 Rostering in Accordance with Flight and Duty Time Policy

Pilot Derek Ng operates a Shrike Commander as a secondary employment. Derek had not entered any flight details in the flight and duty system. HOO reported each pilot is required to sign on and off at arrival and departure from base. However, the day of site inspection, the pilot had not signed on as was evident by his flight and duty system and print out.

## OUR VISION

To enhance your profitability, and the profitability of other APTA member's, by creating an innovative new training "Alliance" based on integrity, genuine collaboration and lateral thinking within a practical framework whilst retaining your current ownership structure and autonomy in operating your business.

Accordingly, we would like the opportunity to put to you, and other invited Flight School Owner in Australia to a compelling new Industry proposition to consider joining this new Alliance. It is effectively a very simple but cost effective idea, that we share the Operations Manuals, share our capabilities and share the cost burden of an Industry Leading Team of Key Personnel.

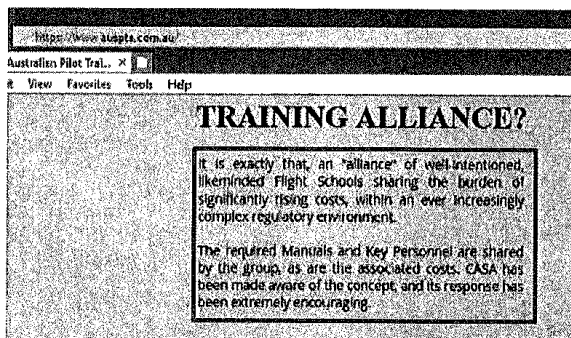
Importantly, you retain complete control over your own business. Your business maintains its identity and individuality. Your administration function and procedures remain completely your own, independent of the Alliance. There is a pooled system of manuals and procedures, directed by a shared high-powered team that will take on the responsibility for the Key Personnel requirements.

It is a challenge operating in today's environment; as collectively we need to have a Leadership Team of highly capable and well-supported Key Personnel continuously overseeing and directing our collaborative effort. Effectively CASA will provide the oversight of an Alliance of Flight Schools headed by a shared "A" team of Key Personnel and shared Compliance Procedures.

The costs savings will be very substantial; importantly your time will be considerably freed up by releasing you from much aviation red-tape thereby empowering you to concentrate on driving your Business.

APTA provides a time and cost efficient system specifically designed to let the business owners get on with running their respective businesses.

Firstly, it frees up your capacity by providing a shared alliance of Industry Leading Key Personnel, an Operation Manual suite written to the new Regulations. Secondly, it potentially offers the ability to be an RTO and deliver training to Overseas Student by the way of CRICOS Approval. Thirdly, it offers a new level of flexibility in deployment of Personnel and Aircraft. Lastly, and most importantly, it will protect you and your Business by providing higher levels of safety and compliance.



## Appendix U (c) APTA Response to Preliminary Review Outcome

13/05/19

Dear Mr Hanton,

Thankyou for providing me with the opportunity to respond to your preliminary review outcome. APTA submitted 28 individual complaints to the ICC. The office of the ICC decided that it could only deal with some of those complaints; Thirteen complaints were attended to and fifteen were not.

As you are aware I sent an email to Mr Graeme Crawford asking for a written explanation as to why CASA is taking such substantive action against my business. I feel I am entitled to a written explanation. Mr Crawford sent the

*"Glen,I understand that you have arranged an extension to 26 Apr 2019 deadline for you to provide your feedback to the ICC response to your previous complaints against CASA. With that in mind, please be advised that I intend to respond to your email dated 24 Apr 2019 below, post ICC receipt of your feedback.Kind regards,Graeme"*

following response.

The ICC is my process, and I see no reason that Mr Crawford would place a "condition" on his response. I am seeking an explanation for an action initiated 6 months ago, and still continuing. My understanding was that the ICC answers to the Board, and my understanding is that Mr Crawford would not have access to the process. Reluctantly, please accept my response to your preliminary report. My expectation is that, in line with his commitment, Mr Crawford will now provide me with that explanation as promised. For clarity, I am submitting this response to the ICC to facilitate an explanation by Mr Crawford of what basis the current CASA action is being taken on. I am of the opinion that Mr Crawfords approach is unethical and unfair.

- |                 |                  |
|-----------------|------------------|
| • Complaint 331 | rejected         |
| • Complaint 332 | rejected         |
| • Matter A      | accepted         |
| • Matter B      | accepted in part |
| • Matter C      | rejected         |
| • Matter D      | rejected         |
| • Matter E      | rejected         |
| • Matter F      | accepted         |
| • Matter G      | accepted         |
| • Matter H      | accepted         |
| • Matter I      | rejected         |
| • Matter J      | accepted         |
| • Matter K      | accepted         |
| • Matter L      | accepted         |
| • Matter M      | rejected         |
| • Matter N      | rejected         |
| • Matter O      | accepted         |
| • Matter P      | accepted         |
| • Matter Q      | accepted         |
| • Matter R      | rejected         |

- Matter S                rejected
- Matter T                accepted
- Matter U                rejected
- Matter V                rejected
- Matter W                not submitted to ICC
- Matter X                not submitted to ICC
- Matter Y                rejected
- Matter Z                rejected
- Matter A1               not submitted to ICC
- Matter B1               accepted

Regarding your introduction you summarised the issues as;

*"The 23 October Notice advised:*

- *APTA's arrangements with Alliance members were perceived by CASA as potentially being in breach of a CASA Aviation Ruling: Franchise AOC arrangements.*
- *APTA Alliance members may be conducting unauthorised operations, and if APTA had facilitated their regulatory breaches it may be the subject of enforcement action.*
- *CASA proposed to decline APTA's significant changes applications because operations at Alliance members' bases weren't temporary locations and couldn't be authorised by APTA's Part 141 and 142 certificates.*
- *The Notice sought APTA's comments and other information (contracts and other agreements) on the above issues 'within 7 days, whereupon CASA will provide a final determination on them.'*

It is important to understand the ramifications on APTA. By CASA giving the business a limited period of operations and simultaneously freezing all APTA tasks, the effects were significant. APTAs product was "future security". The CASA action took away my "product", future security. CASA also placed a freeze on increasing capability. This has , resulted in the closure of two businesses i.e. Simjet and Whitestar. Shortly a third business will be forced into closure, and in fact the continuing action by CASA jeopardises APTAs entire operations. No business in Australia could survive if it has only 7 days certainty of operations, cannot market its product, and cannot take on customers. This situation has been continuing on for more than 6 months. CASA are still unable to work out what they want in the contracts, after 6 months. The matter is totally unacceptable. There are no safety concerns identified and there are no regulatory breaches. The impact on me and my family has been significant.

I do wish to clarify some points about the reasons CASA used to initiate the action, as all of those items are now "off the table" and CASA has not pursued them.

- CASA has now taken the Aviation Ruling "off the table". CASA has advised that it was not the correct document to be using, for reasons previously well documented.



- The operations were not unauthorised operations and were completely in accordance with our procedures which were recommended to us by CASA personnel. They were in fact "word for word" from CASAs own guidance material. Comments by the Regional Manager, "I have had legal advise that the procedures were not intended for flying schools" (yet the exact procedure is in CASAs own template) indicates to me that he was not aware of the CASA procedure. When we advised that the previous CMT provided the procedure, the FOI retorted "did you get that in writing". In fact, we didn't have to get it in writing because it was actually CASAs own suggested text and could be found in CASAs own guidance material. This indicated that the individuals were not familiar with CASAs own material. Technical incompetence is a significant contributing factor in a number of errors and wrong assumptions
- The bases are in fact temporary locations because that is all we are approved to activate. Admittedly, they are a better facility than a "farm" although that only increases safety. The FOI seemed concerned that they were not a farm, which seemed to indicate a preference for the "less safe" option which I could not appreciate. They are temporary locations.
- The CASA action cannot be justified. Other operators continue to operate in the Charter area (CAR 206 operations) and the Aviation Ruling was written for those organisations. Those businesses have not had their date of operations curtailed as mine have been. This action is specific to my organisation, and I am not a CAR 206 operation.
- APTA is not a new concept. Flying schools have been sharing AOCs with CASA consent for many years. APTA was the first business in Australia to address the deficiencies, and actually try and do it well. It is inexplicable why CASA to attack it so aggressively, with no prior notice.

Please find my responses attached. Thankyou for your work to date,

Respectfully, Glen

### **Matter A**

- Attachments      Appendix A (Initial CASA notification)
- Latrobe Valley Audit results.

Importantly on this matter, irrespective of whether it was a Level 2 audit as identified to me, or it was not, as CASA now assert, the CASA event did raise completely new allegations of regulatory breaches, that I had not seen before, and it was the first time that I became aware of those issues. I have attached the allegations of breaches that CASA raised from its audit, to highlight that irrespective of whether it was an audit, allegations of breaches were raised.

When CASA makes an allegation of a regulatory breach, I am compelled to respond and work towards a resolution. I made multiple requests to resolve the allegations, and CASA has not responded.

CASA has not afforded me my right of reply as required in Administrative Law, and simple ethics.

CASA has made substantive decisions on this audit i.e. prevented me from marketing my business or taking on any new customers for more than 6 months now. Had CASA discussed the audit findings with me, prior to initiating the action, the entire last 6 months could have been avoided.

It is important to appreciate the timeline and actions that occurred here, and that the Regional Manager stated in writing that the Latrobe Valley Audit results were used by CASA in arriving at their determination.

03/09/18

CASA conduct an audit at Latrobe Valley. The only issue identified at the onsite exit meeting by CASA personnel was that the exams needed to be contextualised for Latrobe Valley. CASA personnel advised that a written report would follow. It never arrived. Irrespective, of the fact that we had not received the written report we improved the exams, as suggested. There was no other correspondence from CASA on this matter until we received the initial notification from CASA of the threatened closure of the entire business. Prior to that stage APTA was under the impression that only minor anomalies with the exam had been identified. We were very satisfied with the CASA verbal debrief, as no safety deficiencies had been identified and there were no identified regulatory breaches or other

concerns raised. CASAs procedures are that all deficiencies should be identified at the exit meeting so there are no "surprises".

23/10/18

APTA receives notification from CASA that it is more likely than not that the business would be closed at any time after 7 days. As you will appreciate, this decision was inexplicable as previously only a minor anomaly had been identified with exams. In an email the CASA Regional Manager (RM) stated : **the assessment of the LVAC was used as the basis of seeking CASA legal advice on the potential Franchise AOC activity.** This raises the question in my mind, "why has CASA sought legal advice, leading to the closure of my business, if I have not been afforded procedural fairness and had the right to respond, to the audit results, in fact, I had not seen them.

16/11/18

Attended meeting at CASA offices, with a CASA Executive Manager and CASA Regional Manager to work out what was going on. The Executive Manager (EM) asked the Regional Manager (RM), what level of audit was conducted, and it was clearly identified as a Level 2 audit by the RM. The RM raised entirely new concerns from the audit. This time he identified the widespread use of incorrect forms everywhere. This concerned me as I was now dealing with an entirely different matter. I identified that we use a paperless system, so that was unlikely. I now had situation where the one audit appeared to have raised two different concerns. At that original meeting it was identified that CASA had not provided the written report on the audit as was required. I had been denied the opportunity to respond to the audit results. CASA undertook to provide the written report from the audit, as they are required to, and Mr Peter White directed. Importantly the audit results not provided to me, were the very audit results that were used to initiate an action against my business.

20/11/18

The audit results from the CASA audit are provided. These notes are not dated but have been written up after our meeting on 16/11/18, and this time they differed entirely to the verbal debrief on site on the day (03/09/19) and differed entirely to the meeting in the CASA office (16/11/18). An entirely new list of alleged breaches arose that had not been raised prior. It was immediately obvious that these were not the

original audit results that CASA had used to base its decision but appeared to be written after our meeting in the CASA office. The new documentation alleged breaches of;

- The Aviation Ruling
- CASR 141.310 (1)
- CASR 141.310 (5)
- CASR 141.310 (6)
- CASR 142.390 (1)
- CASR 142.390 (5)
- CASR 142.390 (6)
- CASR 117
- CASR 141.260 (g)
- CASR 142.340 (g)

I now have a situation where the two verbal debriefs differ entirely from each other and I now have 10 alleged breaches of the regulations that are entirely new, and I have not seen before. These new allegations above appeared for the first time, approximately 10 weeks after the audit.

Throughout the last 6 months I have made at least 5 requests on each of those matters except for CASR 141.260 and 142.340, where only two requests have been made. Every attempt at resolving these alleged breaches has been completely ignored by CASA. It is impossible for me to respond to those breaches if CASA ignore my requests for assistance. I am required to resolve allegations of regulatory breaches, and have no idea why CASA would not assist me to resolve those regulatory breaches. I emphasise that CASA has not responded to any of the requests for further guidance.

05/12/18

Out of complete frustration, and after 3 months of trying to resolve this, and CASA refusing to provide me with the original audit results, I make an application under Freedom of Information to try and get the original audit results that still have not been provided to me by CASA. This would assist me to clear up any misunderstandings in CASA.

21/12/18

I receive the results under FOI, but they are completely redacted (blackened out), and of absolutely no value in trying to help me resolve the allegations by CASA of regulatory breaches.

07/01/19

It seems absurd to me that I have a situation where two verbal debriefs from CASA personnel differ to each other, that the written report raises new allegations of regulatory breaches that have never been raised previously, and that CASA are using these audit results (that they will not release to me) as the basis to shut down my business.

I made an appeal on the CASA FOI decision to not release the audit results, but my appeal was rejected.

12/04/19

I have lodged a complaint with the Industry Complaints Commissioner. Although the final report has not come out, the preliminary report has, and it contained some of the original audit results that I had previously been denied access to by CASA. What I saw of those audit results, showed gross errors in CASAs assumptions. I have no doubt that had I been provided those original audit results, I would have had the opportunity to clear up those errors on CASAs behalf that they used against me, without affording procedural fairness as required by CASAs own procedures, and a fundamental requirement of Administrative Law.

Commencement of activities without permission

CASA stated; *"APTA commenced operations in May 2018 under the provisions of a temporary location. APTA define in their manual suite a "Temporary Base or Location" as - A location intended for minimal use, such Bases are usually located in a remote area, farm or similar and intended for delivery to a single or small group of trainees where completion of training will constitute the cessation of the Base. APTA's use of a temporary location appears to breach their exposition and CASR requirements APTA's activation of LTV as a site appears to breach the CASR requirements."*

I cannot understand how CASA can act against me on the Temporary location procedure. For complete clarity;

- APTA never asked for the procedure.
- It was suggested and offered by CASA
- CASA provided the text in its entirety

- APTA adopted the CASA suggested text. CASA then approved their own procedure in our organisations subsequently approved bases under this exact procedure, and CASA conducted a Level 1 audit

The Regional Manager stated that he "had legal advice that the CASA temporary locations procedure was not intended for flying schools. That statement was not truthful as CASAs own guidance material, is where we extracted the procedure.

The FOI did not believe that it was a CASA procedure, and stated "did you get that in writing". He was obviously not aware that it was in fact CASAs own procedure. Had he been aware of that, he would not have initiated the action based on our temporary locations procedure.

How is it possible that CASA suggest a procedure, I accept it, CASA approve it, and then I have an allegation of a regulatory breach?

#### Aviation Ruling

CASA have now "taken the aviation ruling off the table". It was entirely the wrong document to be using

- No head of power
- Written for different regulatory environment
- Flying schools had been advised by CASA on its release in 2006 that it did not apply to flying schools
- It refers to personnel that do not exist in a flying school
- We do not conduct "commercial operations" as defined by CAR 206.

My questions raised in my complaint have not been attended to, so I will restate them here;

I was seeking an explanation specifically as to why CASA advised that we should expect a written report, and why did that report never arrive?

By making substantive decisions on audit results, but not providing those audit results, is that a breach of my procedural fairness?

I was after an explanation as to why all audit reports from the audit differ so substantially?

### **Matter B**

You undertook to respond regarding whether Bairnsdale Air Charters requirements were less onerous than those placed on APTA.

Recall that Latrobe Valley changed from BAC to APTA overnight.

BAC did not have a contract with LTV Aero Club. CASA never required a contract. CASA never asked for a contract. CASA permitted Latrobe valley to operate under BAC unhindered. Once LTV joined APTA, far more onerous requirements were placed on APTA than had been placed on BAC, and in fact CASA has refused to approve the APTA operation.

Specificacly I was trying to identify why other operators have not had substantive action taken against them. It would appear that CASA policy is being applied specifically to my organisation, and the Latrobe valley experience is indicative of this.

### **Matter F**

You undertook to make a determination about the applicability of the Aviation Ruling which has not been done. Recall that APTA is actually the first time in Australia that an organisation has addressed the deficiencies highlighted by the Aviation Ruling. CASA continues to allow other operators to share AOCs, and turns a blind eye to those operators.

My arguments were that the Aviation Ruling

- Refers to CAR 206 commercial purposes. In September 2014 CASA determined that flying training was not a CAR 206 activity and removed it.
- When the Aviation Ruling was introduced in 2006, CASA advised flying training organisations that it did not apply to them. Industry peers will provide stat decs supporting that contention if required. That is my recollection as well.
- The Aviation Ruling talks about personnel positions i.e.Chief Pilot that do not exist in a flight training organisation.
- The Aviation Ruling was written for the charter industry, and the industry has experienced a complete regulatory change since that time.

CASA have taken substantial action against my business on the basis of the Aviation Ruling, which I believe is not applicable.

I was seeking a written statement from CASA confirming its applicability to a flying training organisation.

### **Matter G**

CASA made allegations of flight and duty exceedances and required me to respond to those allegations. There were no breaches of flight and duty exceedances. I have made 5 requests for the details and CASA has not responded or provided any evidence. In fact, it was an error on the behalf of the CASA staff member. Evidence was provided of the breach, by CASA and it was not a breach, although Mr Jones was of the opinion that it was a breach. I specifically wanted to know if CASA contend that a breach occurred, and if so, why do they not respond to my multiple requests for further information, to resolve this matter.

The Regional Manager stated in an email *"these anomalies should be known by Ermin (as the APTA HOO), as there were problems identified with the FSM system, and Flight and duty management, in particular associated with the flight and duty exceedances"*

Importantly, there were no flight and duty exceedances and there were no problems with the FSM. Both those written statements are not factually correct. Despite CASA allegations of "problems identified with the FSM system". The system worked perfectly as it is supposed to. It was a misunderstanding on behalf of the FOI, as CASA pointed out a "red mark". This is not a breach, it is simply a built in warning system, and is exactly how the system was designed. CASA queried why there was no emailed warning. The answer is, if there is not a breach, we cannot be expected to get a warning email of such. The misunderstanding here was the FOIs lack of knowledge of the system.

For complete clarity. There was no breach and there was no flight and duty exceedance. My complaint was that I wanted to know how that allegation came to be made.

I point out that as CASA had not sent us the results of the site visit, and not followed up with the promised written report, it was not possible for Ermin to be aware, as he had not been advised of the CASA concerns. This was the first time that we were alerted to the exceedances.

CASA alleged a breach, and I am compelled to respond to close that allegation. I made multiple requests for information on the breach over the last 5 months, and CASA has been unable to substantiate their claim.

Interestingly, the attached Appendix A contains audit results that have been previously denied to me, and that is the first opportunity I have had to see those.

Appendix A (provided by CASA) contains alarming errors. Had CASA provided me with those audit results, I would have had the opportunity to respond. This breach of procedural fairness is a major contributing factor to the difficult situation we are now in.



Importantly CASA made an allegation of a regulatory breach, and have not responded to multiple attempts to resolve this breach. CASA have not retracted this allegation, so it remains unresolved.

#### **Matter L**

CASA is obliged by its Regulatory Philosophy to engage consultatively and collaboratively. CASA provided absolutely no prior notice prior to initiating the substantive action. Did CASA comply with principle 5 of its own regulatory philosophy? This specific matter was not attended to.

#### **Matter O**

Irrespective of whether an audit was conducted or not. The exercise resulted in 10 allegations of regulatory breach which were presented to APTA for response. Despite 5 requests, CASA has failed to provide me with further details on those allegations of breaches.

This included alleged breaches of CASR 141.310 and CASR 142.390.

We did not ask for the procedures, CASA offered them to us, and the procedure that we used was in fact CASAs own procedure from their own guidance material. CASA then approved their own procedure, and approved bases under it. CASA also conducted a level 1 audit and raised no concerns.

Specifically, I am wanting to know how we could have an allegation of a regulatory breach against us, when we verbatim use CASAs own procedure. It was obvious that the Regional Manager, FOI, and team leader had no idea that the procedure existed in their own manuals.

Mr David Jones stated that he had legal advice that the temporary locations procedure was not intended for flying schools. Quite simply, that is a false and untruthful statement, because it actually appears in CASAs own guidance material. Embarrassingly the FOI, Mr Brad Lacey did not believe that CMT had provided us with the suggestion and said "did you get that in writing". That was an unusual statement considering that we used CASAs own material.

I am wanting to know how I can have a regulatory breach if I followed CASAs suggestion and their own guidance material, and CASA approved the procedure, which was their own. I point out that Temporary base procedures are not new and we have been using them for decades.

With hindsight CASA would now be aware that this entire matter could have been completely avoided had CASA simply come and chatted to me, rather than threaten to shut the business down.

Did CASA comply with item 5 of its own Regulatory Philosophy?

### **Matter P**

CASA made allegations of a breach of CASR 117. I made 5 requests for CASA to provide further information over a period of 6 months. All requests were completely ignored. The allegation had no substance and was incorrect. I am of the opinion that CASA cannot attend to this, as they are mistaken. If I have an allegation of a regulatory breach made against me, CASA is obligated to help me resolve it.

My request was quite simple i.e. please provide a link to the offending Latrobe Valley Website page. I make no claims on that page, so am interested how this can be a breach. My multiple requests to resolve this allegation have been completely ignored for 6 months.

On this subject, there appears to be a misunderstanding. The allegation made by CASA of the Regulatory Breach referred to the LTV website, not the APTA website.

CASA attended Latrobe Valley Aerodrome on 03/09/18.

A verbal debrief was given by CASA staff on site, on the day, regarding contextualising one of our exams more specifically for Latrobe Valley. That was the only feedback. No concerns were raised by CASA at the exit interview.

At a meeting with Mr Peter White Executive Manager and Mr David Jones in the CASA office on 16/11/18. The EM specifically asked the RM what exercise was conducted at Latrobe Valley. The RM clearly responded that it was a level 2 audit. My father was present, and that is also his recollection. I have no doubt that Mr Peter White, will concur. The Regional Manager highlighted CASAs major concern from the visit was the Latrobe Valley paperwork being used. As the APTA system is paperless, that claim surprised me, and differed from the verbal debrief on the day. The EM identified that I should be entitled to those audit results and that they would be provided to me by

Those results were provided, and they are attached.

The written results that were now produced made a completely fresh set of allegations of regulatory breaches that had not previously been mentioned. These included allegations of breaches of

CASR 141.310 (1)

CASR 141.310 (5)

CASR 141.310 (6)

CASR 142.390 (1)

CASR 142.390 (5)

CASR 142.390 (6)

CASR 141.260 (G)

CASR 142.340 (G)

#### CASR 117

I am compelled to respond to CASA to resolve those claims of regulatory breach. I made multiple and well documented attempts on each of these, and CASA repeatedly failed to respond to my requests. I have made repeated requests on each of the allegations above and every request on every item has been completely and totally ignored. Throughout the process, I have ensured that I have made each request on at least 5 occasions. Once those requests were ignored on 5 occasions I felt it futile to pursue them.

29/11/18 "CASR 117. I have visited the Latrobe Valley Website and cannot identify the breach. Could you please provide information on specifically which part of the website is causing the regulatory breach, perhaps a link to the relevant page"

05/12/18 "In regard to our alleged breach of CASR 117, I have visited the Latrobe Valley Website and cannot identify the breach. As per my request submitted to you on 28/11/18 can I make a second request to have the offending link sent through to me, so I can satisfactorily address the breach."

10/12/18 "Similarly with CASR 117. I have reviewed CASR 117, and I do understand the regulation but I am having difficulty in responding as I cant see the "offending" page on the Latrobe Valley website. Perhaps a link could be sent through and I will attend to that immediately"

07/01/19 "Dear Mr Jones, I thought I would take the opportunity to remind you to attend to this. One month ago, you advised that you respond. My experience dealing with you is that you consistently deflect or do not respond. My request is fair and reasonable and your consistent failure to respond and assist me to finalise this matter is unethical and brings unnecessary continuing harm to my business. Repeated and consistent requests have been made. I am very strongly of the opinion that you are deliberately frustrating my efforts. There can be no other explanation as my request is entirely reasonable. Can you please clearly address my queries, by the end of the day. You have obligations placed on you by the PGPA Act, and I call on you to act professionally and act in accordance with those obligations. Failing an answer to my questions, I will have no option but to initiate a further ICC complaint about the approach that you have chosen to adopt with my business. Glen"

04/04/19 I made a further appeal, as I now had a new Regional Manager.

"Dear Jason McHeyzer, I am writing this acknowledging that you are new to the role, and this correspondence is not intended to be a reflection on you. The purpose of this letter is to ascertain the status of the alleged breach of CASR 117 made by CASA against APTA. I am hoping that the variations to our operating conditions will be soon lifted. I want to ensure there are no outstanding concerns that could delay this. As you know APTA has had a "freeze" applied to its operations. I believe a contributing factor is the allegations of a breach of CASR 117. I have been attempting to resolve this on many, many occasions and seeking guidance over a 5-month period, every request has been completely ignored by CASA. The allegation was against the Latrobe Valley Website. I have

*been requesting direction to the offending page on the website so that I can attend to it promptly. It is a very simple request, probably a 2-minute task at most. Alternatively, a confirmation that the alleged breach has been withdrawn, and annotated on CASA records, would more than suffice. Thankyou for your co-operation, and look forward to hearing from you. Cheers. Glen"*

At no stage have CASA responded to my repeated requests to resolve this alleged regulatory breach.

#### **Matter Q**

Did CASA choose the least intrusive, and least disruptive means when it placed a finite date on my operations? After more than 6 months CASA has still not been able to work out what it wants in the contracts. My expectation is that if CASA have deemed my contracts are not correct, they should have a clear opinion on what is correct, prior to initiating such substantive action.

The fact is that this whole matter could have been completely avoided had CASA decided to talk with me, rather than threatening to close down the entire operation. It is in fact this matter that has caused the most financial damage to the Company.

Specifically, did CASA operate in accordance with Item 9 of its own regulatory philosophy?

#### **Matter T**

The turnaround time on regulatory tasks was not addressed. The turnaround times on tasks for APTA are well outside of CASA target dates. More specifically I was wanting to be assured that all operators are having tasks processed at the rate of 30 minutes per month or are these excessive timelines unique to APTA. I am of the opinion that APTAs timelines are far above those experienced by other operators and that is the feedback that I have received. Specifically, I was after an assurance that APTA timelines on regulatory tasks are in line with CASA published timelines, or Industry standards for other operators?

It is critical to understand the context of this complaint.

On 23/10/18 CASA issued a proposed rejection of Ballarat and Latrobe Valley. They simultaneously reduced the businesses expiry date to 7 days in the future. Over the last 6 months, this business has had as little as a minute by minute approval to operate and at no stage has that timeline extended beyond 90 days.

Simultaneously with that action to reduce our surety of operations, CASA refused to add capability, renew capability, and we were prevented from marketing or add new customers. For 6 months this business has had to operate in that environment. No business can survive in that situation.

APTA submitted a request to add

- low level flying training,
- MCC Course

These courses are within APTAs scope and we do have authority to conduct those courses. Those applications are not related to CASAs concerns and the matters should not be interrelated. CASA concerns were based around our temporary location's procedure, and there is no reason that those courses should not have proceeded. The two matters are totally separate. CASA applied a "freeze" on all regulatory tasks that was never identified to us. We observed that tasks appeared to have ground to a halt. When queried on it, Mr Will Nuttall advised that tasks would not recommence until the contract issue was resolved. After more than 6 months the contract issue is not resolved. There is no justification for applying a freeze.

APTA is a standalone approved organisation with the right to add courses and capability, and in fact CASA is not permitted to reject those applications without a reason. There is no reason for CASA to not add those capabilities. The commercial impact is significant. There are no regulatory or safety concerns, so why would those courses not be added.

By applying the Freeze, CASA was varying, suspending, or cancelling an AOC. This is a substantive action and I should have been issued with an Administrative Decision. I made multiple requests for an Administrative decision that I could take to the AAT, but CASA ignored those requests. To date, I have not been provided with appropriate documentation by CASA to appeal to the AAT.

Irrespective, to take such heavy-handed action against a business, on reasons other than a safety or regulatory breach, is unacceptable.

For clarity, we are not close to resolving the contractual issue that has continued on for 6 months, a quick recap,

CASA never stipulated a requirement for contracts, it was entirely APTA initiated.

APTA has been willing to incorporate anything that CASA requires.

CASA lead me to believe that the contract issue would have been resolved months ago. It has not.

CASA have now called on an external QC to review the contractual requirements. A freeze on this business should not have been applied. The confusion is entirely CASAs, and after 6 months, they have not been able to demonstrate what "right" looks like.

Applying a Freeze and delaying processing tasks that are not related to Temporary Locations, is not an appropriate or reasonable action. How can such action be justified?

The complaint was more specifically about the lengthy time lines experienced in the processing of regulatory tasks. I believe that my timelines are significantly

lengthier than CASA target timelines, and more than other organisations experience. This complaint was to identify if my timelines are extraordinarily long. These are "significant changes", important to the organisation, and should be processed efficiently. Our experience has been that CASA process tasks for APTA at the rate of 30 minutes per month i.e. a 5-hour task will take CASA approximately 10 months. Those times are unacceptable to industry. Is my experience specific, or is it the experience of industry generally?

**Matter B1**

CASA advised that we could not reopen our Ballina base and that we should standby for written notification. That never came despite multiple requests by APTA. This resulted in the closure of the business. We have no idea why CASA would not let us re-open Ballina, or why CASA never provided the promised written update.

Our procedure is CASAs own procedure. I cannot understand how our procedure is in breach, and am requesting an explanation.

<https://www.casa.gov.au/about-us/standard-page/our-vision-mission-and-values>

# Our vision, mission and values

## Our vision

Safe skies for all.

## Our mission

To promote a positive and collaborative safety culture through a fair, effective and efficient aviation safety regulatory system, supporting our aviation community.

## Our values

**Excellence** - to strive to excel in all we do.

**Courage** - to act with strength of character and conviction while being accountable for our actions.

**Teamwork** - to work together to promote a strong, cohesive and highly effective workforce.

**Fairness** - to ensure our actions and decisions are informed, consistent, risk-based, evidence driven and without bias.

**Integrity** - our actions and behaviour are open, transparent and ethical.

**Respect** - to engage with our peers, colleagues and the wider aviation community in a clear, concise and respectful manner at all times.

**Innovation** - to challenge existing practices and look for opportunities to support effective continuous improvement.

## Appendix W Part 141 Technical Assessor Worksheet & Handbook

### Part 141 Worksheet

<https://www.casa.gov.au/files/part141-sheetxism>

### CASR Part 141 Technical Assessor Handbook

<https://www.casa.gov.au/file/124361/download?token=VAVyrBzr>

### CASR Part 142 Technical Assessor Handbook

[https://www.casa.gov.au/sites/default/files/part\\_142\\_technical\\_assessor\\_handbook.pdf](https://www.casa.gov.au/sites/default/files/part_142_technical_assessor_handbook.pdf)



## Appendix X Formal Response to Dr Jonathan Aleck

Dear Dr Aleck,

Please accept this as my formal response, and attached proposed contract, with an introduction about APTA, a definition of Affiliates, and a new section in 34.signatures

For clarity, I remain committed to a resolution. CASA have advised dissatisfaction with the current APTA contracts. I am willing to place any CASA required text into the contracts that will fully satisfy CASA. If CASA is of the opinion that the contracts are deficient, it is incumbent upon CASA to advise what they require. A fundamental principle of determining that something is wrong, is that you must know what is in fact "right".

I have attached my proposed contract, with the new section contained within "signatures". Whilst this has not had any legal input from Mr Colin King, I have 30 years of experience in the industry and over a decade as an "Authorisation Holder". I have a full understanding of the industry, and my obligations. I am of the opinion that clear and concise terminology is essential in developing aviation safety standards. I am fully satisfied with, and understand the text I have proposed, as do my members (affiliates). If CASA have identified a deficiency in their legislation, it is incumbent on CASA to address that deficiency and advise what they require. As stated, I am willing to comply, the ball is firmly in CASA's court, so to speak. Simply tell me what you want, and it will happen. I appreciate that you keep telling me that it's not CASA's job to tell me what to write. I believe that it is, because quite simply, I don't know what you want, despite my repeated attempts.

Therefore, may I respectfully request that in order to satisfy CASA requirements, CASA clearly identify the changes that they require if any.

I am satisfied that the CASA action degrades safety, compliance and threatens people's livelihoods to the extent that I am compelled to act, and protect my business, my reputation and the people who depend on me for their livelihood.

After a prolonged process that is now past 5 months, and an associated freeze that has had an enormous commercial impact on my business, it is time to bring this matter to a close. I really have nothing left to offer. I had a well-intentioned and safely operating business that could have been expected to continue on well into the future, provided I at least maintained the standards of safety and compliance that I had been able to achieve in the previous decade.

On the 23<sup>rd</sup> October 2018, you advised me that it was likely my business only had those 7 days to continue operating.

From the period 30<sup>th</sup> October until 25<sup>th</sup> January 2019, my business operated literally on a minute by minute approval.

On 25<sup>th</sup> January 2019 you notified me that my business could continue operating for three months until 25<sup>th</sup> April 2019.

On 12<sup>th</sup> February 2019 you advised me that my business could continue operating until 13<sup>th</sup> May 2019, which is the current status.

I have no certainty of operations after 13<sup>th</sup> May 2019. It is truly an impossible situation in which to run a business.

To date:

- I have had a threat to shut down my entire business, as well as other CASA-approved bases.
- I have had a freeze that prevents me adding new customers, adding new courses, adding new capability, renewing existing capability etc. The action that CASA has taken is highly inappropriate.
- I have had an Aviation Ruling applied against me. It was the wrong document to be initiating such substantial action against my business. Later to be taken off the table by CASA.
- I have had accusations of breaches of Temporary locations procedure, only for CASA to be embarrassed when they realised it was in fact their very own procedure.

- I have had breaches of regulations made, and despite repeated attempts to have those substantiated, I have been repeatedly and completely ignored for over 5 months.
- I have had accusation of no contracts, when in fact I did have contracts and CASA only later realised that they did in fact have those contracts.
- I have had completely false allegations made of flight and duty times that were known to be false accusations at the time of writing.
- I have had blatantly false statements made by CASA personnel that only demonstrate their lack of technical competence.

The truth is that many flying schools have operated, and continue to operate under a shared or franchised AOC. The CASA personnel on the frontline, will be able to advise you on how common it is. In fact, I myself had been doing it, with TVSA at Bacchus Marsh in Victoria, prior to the Transition. It is something that has been going on for decades. APTA is in fact, the first attempt to actually address the deficiencies, and do it properly. You will appreciate my frustration when CASA takes such bullying and intimidating action against a well-intentioned operator.

There are 350 flying schools in Australia, and I will assert that you have not placed such onerous requirements on other operators. I will assert that in fact CASA hold no other contracts on flying schools doing a looser arrangement than the APTA arrangement, and those other operators are permitted to continue operating. There can be no doubt that CASA have singled me out for special treatment, and far more onerous requirements than others.

Delaying tactics are widely known as a CASA method to bring financial hardship on businesses that incur the wrath of CASA. I am of the opinion that those tactics are being used on my business. I appreciate that this is a strong allegation, but this entire matter could have been resolved within 72 hours had CASA chosen an approach that was more in line with their own regulatory philosophy. Instead, the matter has dragged on for a prolonged period, due to no fault of my own, that will most likely exceed 6 months.

With that in mind, I now ask CASA to make a determination on continuing APTA operations. In the event that CASA elects to continue with their proposed action to bring a cessation to operations, and considering that there are no related safety concerns, I would hope that the notice period would be of such duration that I could work closely with CASA to minimise the impact on other Parties, and protect as many peoples livelihoods as possible.

My preference is, as it has always been, is to continue operations. I believe CASA is so determined to see APTA fail, that I cannot possibly succeed.

For clarity, I await CASA final input on the contracts, please advise any other perceived outstanding matters to assist in this most important determination.

I feel I must add, and it is not intended as a criticism of you, but in all honestly, the weakness in CASA is actually the lack of values, i.e. courage, integrity, honour, duty, professionalism, lack of organizational values, lack of accountability and a total disregard for its own regulatory philosophy etc. Until you can have those values flowing through the organisation, we will never be able to move forward. From here on I will leave it to CASA for their determination, but I will be very publicly defending my position and my reputation.

Respectfully,

Glen Buckley

Appendix Y Ministers Statement of Expectations on CASA.

<https://www.legislation.gov.au/Details/F2017L00288>

## Appendix Z Latrobe Valley Audit redacted results released under Freedom of Information



### Australian Government Civil Aviation Safety Authority

#### LEGAL AND REGULATORY AFFAIRS

TRIM Ref: F18/8029

21 December 2018

Glen Buckley  
Australian Pilot Training Alliance

By email: [Glen Buckley <glen.b@auspta.com.au>](mailto:Glen.Buckley@glen.b@auspta.com.au)

Dear Glen,

#### ACCESS TO DOCUMENTS UNDER THE *FREEDOM OF INFORMATION ACT*

I refer to your email of 5 December 2018, seeking access to documents under the *Freedom of Information Act 1982* (Cth) (the Act). Your request was for the documents that the CASA Certificate Management Team submitted to CASA Legal in support of their contention that you are a franchised operation operating with an arms-length contractual arrangement.

#### Decision

I am the decision maker for your request. I have identified 2 documents comprising 8 pages that are within the scope of your request. I have decided that the documents are exempt documents and will not be released to you, for the following reasons. Document 1 contains material that is outside the scope of your request, and this part of the document has been redacted accordingly, in accordance with s 22 of the FOI Act.

#### Exemption - legal professional privilege

Section 42 of the Act provides that a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.

Relevantly, the privilege protects confidential communications between a client and his or her lawyer that are made for the purposes of seeking or being provided with legal advice. The documents would be privileged from production in legal proceedings on the ground of legal professional privilege. The documents contain an email and attached material between CASA officers and a CASA legal officer, seeking legal advice and comment regarding the issue of franchised AOC arrangements. Accordingly, I have made a decision that part of Document 1, and all of Document 2, are exempt documents.

#### Application for internal review of decision

Section 54 of the Act gives you the right to apply for an internal review of my decision. An application for internal review of my decision must be made in writing within 30 days of receipt of this letter.

No particular form is required, but it is desirable to set out in the application the grounds on which you consider that the decision should be reviewed. An application for review should be addressed to Freedom of Information at the address below:

GPO Box 2005 Canberra ACT 2601

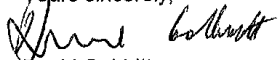
Freedom of Information  
Advisory and Drafting Branch  
Legal and Regulatory Affairs Division  
Civil Aviation Safety Authority  
GPO Box 2005  
Canberra ACT 2601

**Review by the Australian Information Commissioner**

Alternatively, under section 54L of the Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <http://www.oaic.gov.au/freedom-of-information/requesting-a-review>  
email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
post: GPO Box 2999, Canberra ACT 2601  
in person: Level 3, 175 Pitt Street, Sydney NSW  
phone: 1300 363 992

Yours sincerely,

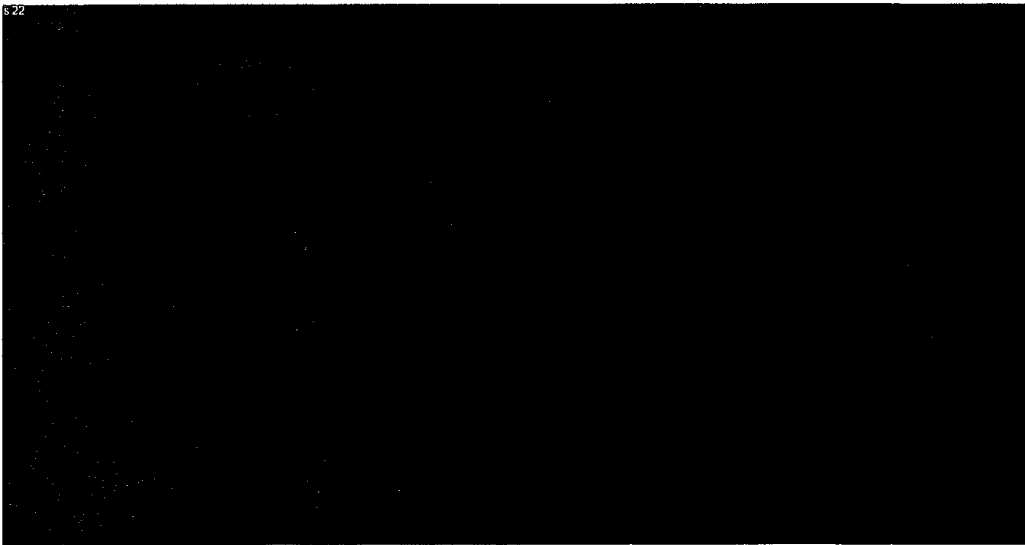
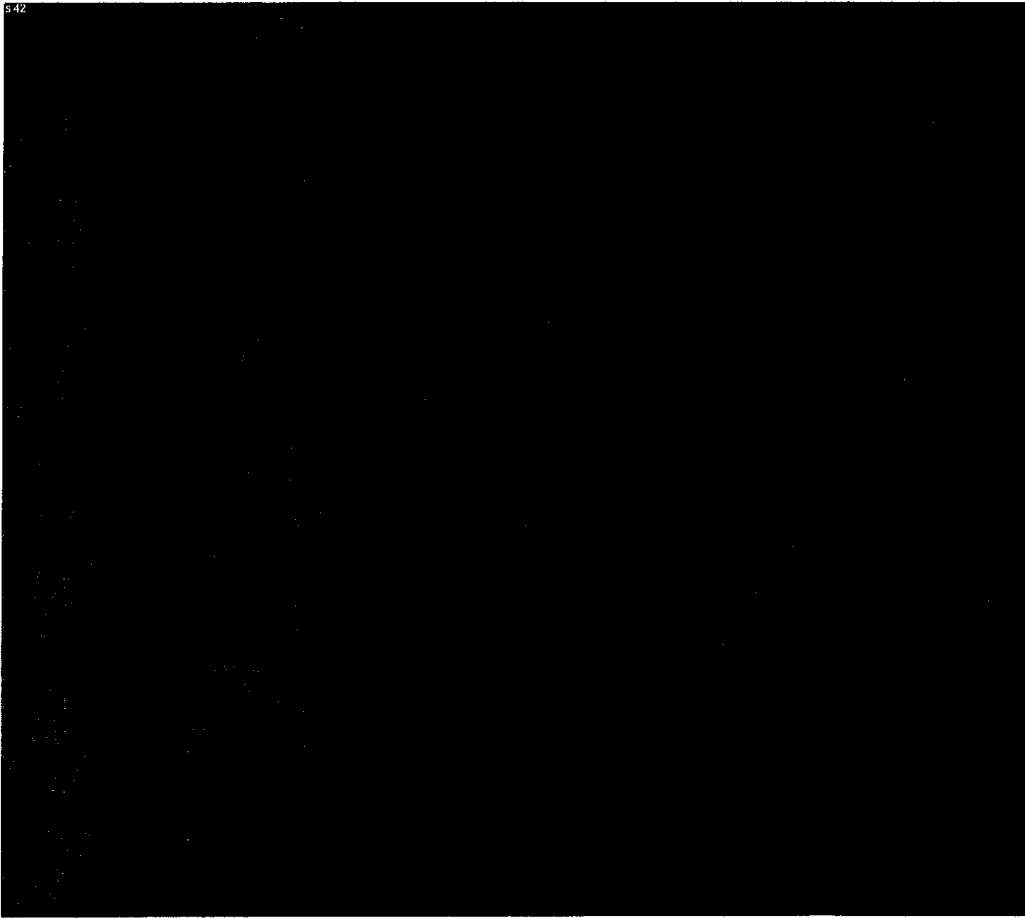


David Gobbitt  
Freedom of Information Officer  
Advisory and Drafting Branch  
Legal and Regulatory Affairs Division  
Civil Aviation Safety Authority

**Schedule of documents**

No.	Date of document	Description of document	Decision
1	9 October 2018	Email chain between CASA officers	Exempt – s 42
2		Document titled 'Request for Review of the APTA structure – Is this a Franchised AOC activity?	Exempt – s 42

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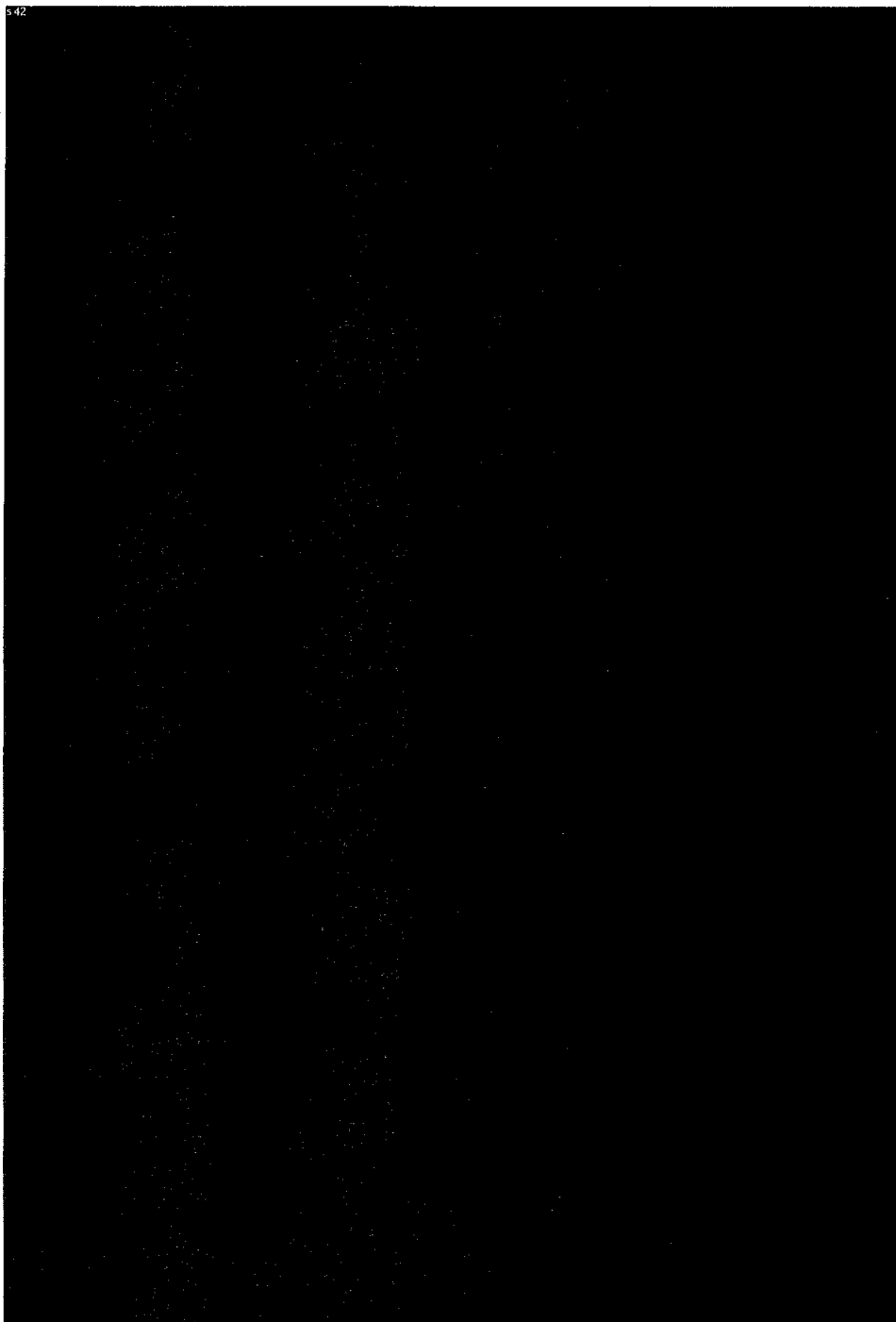




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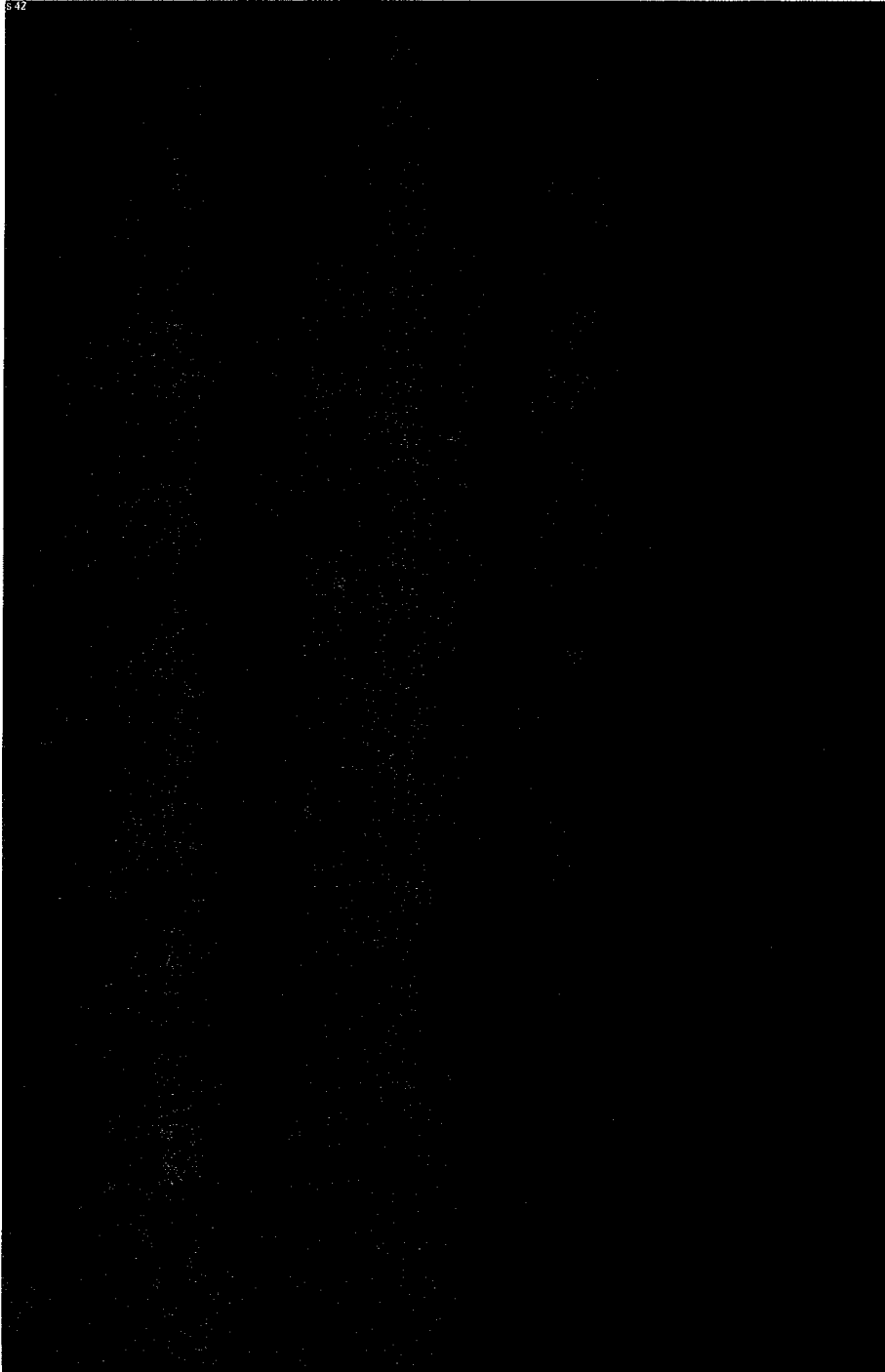


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