

# TONE DEAF & COLOUR BLIND

With the ink barely dry on a scathing review of its performance, CASA finds itself in another controversy

**T**hough CASA has made no public comment about the Aviation Safety Regulation Review released at the end of May, the results of the government-ordered inquiry could hardly have been received as a compliment. Appearing to foreshadow a significant overhaul of the air safety regulator, the review described CASA as inappropriately adversarial, a poor communicator, and so out of touch with the industry it oversees that its leadership was only dimly aware of how deeply it was resented.

If those judgments left CASA feeling chastised, however, it didn't immediately show. Barely a week after the review was released, the agency was back in the news over an episode that, to critics, displayed exactly the kind of heavy-handed touch for which it had just been criticised.

At issue were regulations governing pilots with colour vision deficiency, or CVD, often referred to as colour blindness but, in fact, a spectrum of conditions affecting an estimated one-tenth of the male population who are able to perceive a smaller number of colours than most people. Among Australia's roughly 36,000 licensed pilots, about 400 have a color vision deficiency of some measure, including around 140 commercial pilots.

For almost two decades, Australia has had some of the most flexible

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regulations in the world regarding such pilots, but based on letters sent by CASA to air operators in early June, that position appeared to be shifting.

The letters referred to "recent medical research" that, according to CASA, "indicates that the safety-related implications of an individual's CVD may be more significant than they were initially considered to be." As a result, the letter said, CASA was "reviewing the situation" and operators were urged to do the same.

"I write to you now, as the holder of an air operator's certificate (AOC) who may employ one or more affected pilots, to encourage you to consider whether it is safe to allow those pilots to continue to exercise flightcrew privileges under your AOC, subject only to the existing condition, and what adjustments to those arrangements you may consider to be appropriate, in the interests of safety, pending CASA's further determination of the matter," the letter, signed by Peter Fereday, CASA's executive manager for industry permissions, read.

Though the letter did not specify what medical research it referred to, it is understood the reference was to a recent study conducted by New Zealand Civil Aviation Authority principal medical officer Dougal Watson. Published in the February edition of *Aviation, Space, and Environmental Medicine*, an academic journal, the study compared how 78

countries assess and regulate CVD pilots. Despite International Civil Aviation Organization requirements that pilots be able to perceive colours "necessary for the safe performance in duties," Watson's study found no clear definition of what that standard meant and wide discrepancies between how it was applied from one country to the next.

At one extreme, the study found, an applicant making a single error on a standard colour perception test, known as an Ishihara plate, would be disqualified from a Class 1 medical assessment. At the other end of the spectrum, a pilot "failing every color vision test required by the regulatory authority may be issued a medical assessment allowing commercial and airline copilot privileges," Watson wrote. Such wide divergence, Watson warned, could encouraged "aeromedical tourism" where pilots might shop around for the country with the most lax regulations.

The paper does not, however, appear to include significant new evidence of safety risks associated with CVD pilots, as CASA seemed to claim in its letter to AOCs. In the study, Watson acknowledged a "paucity" of aviation mishaps to which the colour vision deficiency of pilots had been identified as a contributing factor. Watson also acknowledged a lack of adequate research regarding the degree of colour

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perception required for safe aircraft operations, or which colours mattered most. The research, in short, identified a problem – a lack of uniform standards – but not the problem CASA seemed to claim.

To say that CASA is a frequent target of conspiracy theories is putting it strongly. It is fair to say, however, that to its many critics the agency's perceived lack of transparency and fair dealing are often seen as cover for an agenda that, if not exactly hidden, is less than openly stated. This produces theories with an often rather conspiratorial appearance.

Thus, in this case, the apparent disconnect between the new medical research and the argument CASA seemed to be making on its basis, and the opaque manner with which CASA presented that research in a letter that didn't make clear what it was referring to, has led critics to alternative explanations for CASA's renewed interest in CVD.

The most common one is a case pending before the Administrative Appeals Tribunal brought by John O'Brien, a regional airline pilot with CVD who is challenging a decision barring him from becoming a captain. Dr Arthur Pape, an aeromedical examiner and colour deficient pilot whose own 1987 appeal before the Tribunal led to the current regulations allowing CVD pilots, said the O'Brien case, set to be heard on July 21, had produced a "tsunami of hysterical and irrational activity" within CASA. That tempest had been further inflamed by an "unprecedented interrogation of CASA on this topic in the Australian Senate" during Senate Estimates in late May.

Indeed, Pape and others point to comments by CASA director John McCormick before a Senate Estimates committee as presaging the June letter to AOCs. During the hearing, McCormick told the committee that Australia's liberal policies with regard to CVD were at odds with those of most other countries.

"When we get to the point where we are pushing the boundaries, where we are pushing the science, looking for other ways to get around what could possibly be indicated from the clinical side is a dangerous thing to do, we are starting to impact on my ability to discharge my duties under section 9 of the Civil Aviation Act, and that is to provide safety," McCormick said.

Needless to say, the safety of passengers trumps the right of anyone

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in particular to pilot an aircraft, and that most other countries have more restrictive regulation with regard to colour vision might seem a reasonable cause for concern. But Pape and others say there remains no evidence that CVD pilots pose a risk – and plenty that they do not.

The 1987 Tribunal case brought by Pape after he was refused an endorsement to fly at night included what is widely seen as the most comprehensive assessment ever undertaken of the role of colour vision in flight. The Tribunal's ruling in favour of Pape was based largely on the argument that most colour cues in the cockpit were redundant. For example, indicator lights for landing gear, usually red, turned green when the gear was deployed, but there were generally three green lights and only one red light. Colour deficient pilots could still perceive differing intensity of light, and while they might see red as orange, they could still tell it was different than white, or no light at all. Two years after the Pape case, the tribunal reaffirmed its decision, this time with regard to a commercial pilot.

As Pape and others are quick to point out, in the years since no flight incidents in Australia have been attributed to the colour vision deficiency of a pilot, despite hundreds of such pilots having had successful careers. The only known incident overseas, the 2002 crash of a Boeing 727 freighter that hit trees on its approach to landing in the United States, remains a subject of some dispute. Though the first officer's CVD was listed as a contributing factor in the crew's failure to establish a proper glidepath, a report by the NTSB largely blamed crew fatigue and the failure of the captain and flight engineer to monitor the approach. According to Pape, the report contains no discussion of the role the first officer's CVD played in the accident.

"It is my view that CASA's actions and the responses by the director and the principal medical officer to the Senate Estimates Hearings reflect an absurd and indefensible position," Pape wrote in an online commentary. "Claims of 'medical evidence' by both in support of their stance cannot be substantiated because such evidence does not exist."

That view has received the backing of pilot unions, with the Virgin Independent Pilots Association weighing in against what it described as a discriminatory move.

"Whilst VIPA always recognises that aviation safety remains paramount, we condemn CASA's new procedures relating to CVD pilots," VIPA executive director Simon O'Hara said. "The fact is, there are hundreds of commercial pilots with CVD who have passed check and line training requirements and subsequently have thousands of hours flying without incident, who will be impacted by these restrictive practices."

In a letter to Deputy Prime Minister and Minister for Infrastructure and Regional Development Warren Truss, the Australian and International Pilots Association also linked CASA's position to the upcoming tribunal case and said its bellicose approach undermined whatever hope for change had come from the recent review Truss had ordered.

"In many ways, this cynical attempt by the senior executives of CASA to attack the long-standing CVD policy position of Australia, in concert with their intention to use the [Tribunal] to wind that policy back, has dulled some of the glimmer of hope that the industry attributed to your Aviation Safety Regulatory Review," AIPA wrote.

"Given the path that CASA seems determined to follow in regard to CVD pilots, AIPA strongly recommends that you accept the evidence of many years of safe operations by CVD pilots in Australia that this is not a safety issue and that you consequently intervene to direct a more sensible and less expensive approach to whatever procedural issue that is motivating CASA to further alienate much of the Australian aviation industry."

For its part, CASA sought to dial down the controversy after an initial round of news reports suggested it might be moving to ground colour deficient pilots. The agency's spokesman, Peter Gibson, told the ABC no such grounding was in the works.

"We're not grounding any pilots, we're not putting any further restrictions on any pilots, we're simply saying there is some new information out there which we're considering," Gibson told the national broadcaster. Any future changes, Gibson added, would only come after months or years of consultation.

Perhaps, as Gibson seemed to suggest, this was all being blown out of proportion. But if nothing else, the incident was yet more evidence of how little stock most of the industry places in CASA's idea of consultation. **A**