

General Aviation Alliance (GAA)

Brief for

Parliamentary Aviators' Group (PAG)

For a meeting with Theresa Villiers – Aviation Minister 10 November 2010

Background and General Position

Following EU Council decisions of 2002 and 2004, regulation of civil aviation has progressively moved to Europe, based on the principles of common safety rules and facilitation of free movement of goods and persons in the internal market. This led directly to the creation of the European Aviation Safety Agency (EASA) in 2002/03. Similarly, development and implementation of airspace initiatives through Eurocontrol and the radical changes envisaged by the Single European Sky (SESAR) project will influence all UK aviation including the important and growing recreational sector.

A major concern of the private, non-commercial General Aviation¹ (GA) community, both within UK and other EU Member States, is that its interests are entirely forgotten, given the understandable emphasis on commercial aviation and particularly Commercial Air Transport (CAT). This is highlighted by recent instances of regulatory emphasis not tailored or proportionate to acceptable risk levels, resulting in significant unintended consequences for the non-commercial sector. For example complex and necessary EU maintenance requirements designed for large airliners are being applied to simple single-engine aircraft or even gliders. GA has effectively been excluded from the SESAR project because of the financial and resource barriers required for participation.

The CAA Strategic and Regulatory reviews of UK General Aviation in 2006 were intended to describe and understand the GA sector and its regulatory arrangements, in the wider context of UK aviation. These reviews represented a major event in clarifying GA interests and activities. They established that GA contributed in excess of £1.4bn annually to the UK economy, employed over 11,000 people and represented about 8% of the economic contribution of commercial aviation. Key GA business sectors were growing strongly. Subsequent studies have confirmed an economic contribution of at least £1.4bn, with some estimates approaching four times that figure. The reviews also identified that of the 27,000 UK-registered aircraft; only 4% were CAT aircraft.

A good proportion of the Sports and Recreational Aviation ('S&RA') UK-regulated fleet is outside the scope of EASA authority (being in the 'Annex II' exclusions of the EASA Basic Regulation 216/2008) and hence remaining with the CAA. The Annex II exclusions include hang gliders, microlight aircraft, amateur-built aircraft and many historic and vintage aircraft (circa 6,500 aircraft). However, European regulations particularly on matters of airspace and licensing have a direct impact on operations. The EU regulatory approach also influences how national regulations are applied to our Annex II aircraft.

Effective consultation mechanisms in the CAA and other relevant Government bodies generally provided good interfaces with S&RA. A major issue though, is that we have to continually 'educate' those that influence the S&RA sector; the principles of proportionality and impact are often not understood.

¹ GA is here defined as "a civil aircraft operation other than a commercial air transport flight operating to a schedule"

Summary – Key Policy Issues for General Aviation

The relationships between DfT, CAA and the S&RA/GA community are good, constructive and appreciated by the S&RA community representatives. We want to build on this trust and openness to advance the position of GA and S&RA in the UK. While working with European agencies and adopting the best European policy positions, we must also seek to protect UK interests from some of the more unfortunate current developments. We summarise the key issues and action points:-

1. Recognising the Value of UK General Aviation. GA is an important business sector with significant benefits to the nation, as well as to local businesses and communities. The 2009 European Parliament resolution 2008/2134(INI) 'An Agenda for a Sustainable future in General and Business Aviation' is a well-considered document with recommendations endorsed by the European Parliament and based on discussion and agreement with the European GA community. Current apathy to this resolution must be reversed. *It should be fully implemented in UK and the EU authorities held accountable for implementation.*

2. EU - Adverse Impacts on GA/S&RA. EASA is progressively replacing the UK CAA's regulatory remit with its own rulemaking activities. Airworthiness, licensing, operations, training organisations, aerodromes and air traffic safety are currently subject to developing EASA Implementing Rules. EASA are struggling to meet their own programme, producing huge, complex and poorly-considered regulatory proposals. Many require GA and S&RA to operate to unnecessary commercial aviation standards, despite both the EASA basic regulation (and the above Parliamentary resolution) requiring proper assessment and proportionality. *The UK should seek to mitigate adverse impacts by opposing the further extension of EASA influence (e.g. to further nationally-regulated areas) and by derogating where possible.*

3. Civil Aviation Act 1982 and Future Role of CAA. The current and very necessary review of the Civil Aviation Act 1982 provides a timely opportunity for policy change, but unfortunately it has got off to a very bad start. The powers and functions of the CAA and Secretary of State must be brought up to date and clarified in the revised legislation, to provide a proper distinction and balance between the regulation of GA, its promotion and the provision of services. *The review the Civil Aviation Act 1982 must be urgently revisited; the initial DfT consultation was fundamentally flawed and poorly conducted. The basic issue of bias towards Commercial Air Transport should be reversed immediately.*

4. Future Government Transport Policy. We are concerned at recent ministerial statements that 'the user pays' in the aviation policy framework. This simplistic concept is at the heart of the excessive and disproportionate charging of the GA sector, onto which high infrastructure costs are loaded, primarily for the safety and regulation of Commercial Air Transport. *'Beneficiary pays' must be the principle in aviation policy, not 'user pays'.*

5. Charging for Radio Frequencies. OFCOM are intent on charging Administered Incentive Pricing (AIP) for aviation frequencies which are a matter for international, not UK, standards and allocation. Frequencies given up by a GA airfield due to AIP charges must be returned to the international forum for another nation's use. The aircraft using that airfield will simply have to make do without a radio station or navigation beacon. Hence AIP would reduce UK access to this spectrum resource and also risk aviation safety. *The defective OFCOM initiative on AIP should be immediately killed off: it is both impractical and dangerous.*

6. The Encroachment of Controlled Airspace. Airspace is fundamental to all aviation, but GA and particularly S&RA is progressively excluded from airspace in favour of commercial interests. A Transport Committee recommendation was "The CAA and NATS should review the techniques used for designing controlled airspace around airports. The techniques used should match European and USA best practice to minimise the impact on general aviation, whilst ensuring safety and that current standards are not lowered". *We must protect the ability of all aviation, not just CAT, to access our UK airspace. Agreed policies from the Transport Committee and the EU Parliament Resolution should be included in the current CAA work on a Future Airspace Strategy.*

7. The UK Network of Aerodromes, Airfields and Landing Strips. This is fundamental to aviation and a matter of significant concern identified in the 2006 CAA Strategic Review of GA. The UK national interest requires an infrastructure to support GA - planning policies and guidance must be aligned with this need. Small airfield security is a pressing EU policy issue that must be properly addressed by UK Government. *Ensure safeguarding of GA airfields - the UK national interest requires an infrastructure to support GA. A DfT policy statement on the value of GA airfields must be positively progressed.*

8. Reverse the Decline in UK-based Flight Training. Escalating costs, based on both VAT and expensive regulation, far exceed those in other countries. The migration of flight training away from the UK results in a loss of income and talent. If this trend is not addressed, there will be far fewer British airline pilots in the future, and a skill base essential to UK plc will be lost. The CAA has 'encouraged' this trend by approving foreign-based flight training organisations. *The headwinds for UK flight training must be reduced; this can be achieved with positive engagement of the CAA under DfT policy direction.*

Discussion and Clarification of Key Issues

1. Recognising the Value of UK General Aviation

Politically, the value and worth of GA is often omitted from consideration and the position of GA / S&RA is ignored, despite a European Parliament resolution. In 2009 the European Parliament passed a resolution (2008/2134(INI)) on "An Agenda for a Sustainable future in General and Business Aviation". This specifically included aspects of "proportionate regulation and subsidiary", "airport and airspace capacity", "environmental sustainability". It also included a section covering issues such as adequacy of data for policy making, the essential need to promote recreational and sport aviation and general recognition of the importance of this sector in development and training. The report concluded that the Commission shall report back on progress to the Parliament by end 2009. We are unaware of any such report and are surprised it has not been the subject of a European Parliament Transport Committee follow-up. The economic importance of GA to the UK has been mentioned in the introduction, but there are several other aspects, many touched upon below, through which the GA sector provides the infrastructure for many essential aviation services, and indeed supports CAT.

The 2009 European Parliament resolution "An Agenda for a Sustainable future in General and Business Aviation" should be fully implemented in UK and EU Authorities held accountable for implementation.

2. EU - Adverse Impacts on GA/S&RA

The Council of Ministers and the European Parliament, on the advice of the Commission, established EASA in 2002. The scope of its rulemaking activities is progressively replacing the UK CAA's regulatory remit and now covers airworthiness (new certification and maintenance rules are already in place), licensing, operations, training organisations, aerodromes and ATM safety. All of these areas are currently subject to developing EASA Implementing Rules.

For the non-commercial GA sector, certain aircraft are excluded from EASA's legal scope, because they are listed in Annex II to the EASA Basic Regulation 216/2008. For the great majority of GA aircraft within its scope, including microlights, gliders, balloons and helicopters, standardised Implementing Rules apply or will apply in future. The key issues from a UK viewpoint are:

- 1 EASA has been 're-inventing the wheel' in the cause of EU standardisation, resulting in changes that represent greater bureaucracy and increased cost for users without any discernable potential safety gain.
1. The well-developed (over many years) self-regulation and self-administration of some UK S&RA such as gliding (BGA), now within EASA's scope, have been overturned by introducing EU regulatory control, again so far with no discernable potential safety gain.
2. Pilot licensing rules currently will lead to EU pilot licences from 2012, replacing UK licences or their equivalent, presenting major problems for GA. There are adverse proposals also on medical certification for GA pilots. This is a complex area and very much the issue of the moment, with a number of difficulties arising.
3. In the longer term, the increased and unnecessary costs of regulatory compliance generated by the EU / EASA's implementing Rules will lead to reduced GA and S&RA economic activity, loss of facilities, and therefore lower safety, other things being equal.

4. The essentially volunteer nature of UK non-commercial S&RA is threatened by the increasing bureaucratic creep of the EU, and by the high costs of engagement in a stakeholder role.
5. The definition of 'commercial operations' in Basic Regulation 216/2008 will require interpretation in relation to S&RA; the risk is that things the UK CAA have accepted until now as non-commercial, may in future be deemed 'commercial' - with all the ensuing adverse compliance, cost and liability consequences. However, EASA has stated that member states are responsible for implementation and therefore we are hopeful of continuation of the CAA's pragmatic approach to this subject.
6. A particularly pressing issue is that EASA is struggling to deliver its own regulatory programme and as a consequence appears to be producing poor quality outputs which are then pulled apart and modified by the Commission. Eurocontrol is also building up a head of steam on some GA-related issues and is likely to repeat the same mistakes as EASA.

In many ways the S&RA sector would prefer to revert to the status quo pre-EASA, whilst having assurance of cross-border free movement through legally-based bi-lateral agreements between states. Across Europe there are good examples of successful self-regulation or delegated regulation being eroded or potentially seen as targets for EASA regulation (e.g. UK gliding). Indeed in UK the Pilling report identified that devolving regulation to "competent associations" has saved 150 full time equivalents. What is important is that the benefits of some aspects of pan-EU regulation are not completely outweighed by the many potential negative aspects.

EASA is having an increasing impact on GA/S&RA across the EU. The UK should seek to mitigate adverse impacts by opposing the further extension of EASA influence (e.g. to further nationally-regulated areas) and by derogating where possible.

3. Civil Aviation Act 1982 and Future Role of CAA

The Strategic Review of GA by CAA in 2006 recommended the "Government to revise the CAA's statutory objectives at Section 4 of the Civil Aviation Act at the next opportunity to remove any suggestion of a bias towards commercial aviation transport over GA". It is clear that a regulator should not be mandated to give preference to one sector over another which it regulates. The current and very necessary review of the Civil Aviation Act 1982 provides a timely opportunity for policy change, but unfortunately it has got off to a very bad start. The powers and functions of the CAA and Secretary of State must be brought up to date and clarified in the revised legislation, to provide a proper distinction and balance between the regulation of GA, its promotion and the provision of services. We should aim to:

- 1 Resolve the issue of a regulator with a statutory duty to one sector of those it regulates (CAT) but not another (GA).
- 2 Resolve funding, costing and charging issues for the UK aviation regulator, with due regard to a level playing field internationally.
- 3 Have regard to the European Parliament resolution paper of 3rd February 2009 on "An Agenda for (a) Sustainable Future in General and Business Aviation" (EC 2008/2134) in the treatment and regulation of GA.
- 4 Establish a CAA duty to promote pilot training in the UK and remove the disadvantages it bears, compared to many other states such as the USA.
- 5 Ensure safeguarding of GA airfields (the former Aviation Minister agreed this should be done).

We particularly note in this context, that the results of the DfT consultation (Dec 2009) 'Regulating Air Transport: Consultation on Proposals to Update the Regulatory Framework for Aviation' are now pending. This was a very inferior consultation document, which failed in any respect to consider the position of GA and was heavily criticized as a result. In making these unfortunate proposals, which place the interests of the consumer (specifically the airline passenger) at the forefront of the CAA's remit, the DfT took a wrong term influenced by consumerist dogma, rather than by the regulatory and safety needs of UK aviation. The review process requires considerably more consultation and consideration. The issue remains unresolved.

The review the Civil Aviation Act 1982 must be urgently revisited; the initial DfT consultation was fundamentally flawed and poorly conducted. The basic issue of bias towards Commercial Air Transport should be reversed immediately.

4. Future Government Transport Policy

We note a recent speech (25 October) by Rt Hon Philip Hammond MP to the Air Operators Association encouraging growth in the industry and recognising the need for a policy framework to support growth. We support that aim, however we are alarmed by the statement that the 'the user pays' in any such policy framework. This simplistic concept is at the heart of the excessive and disproportionate charging of GA and S&RA, who must bear these costs because of the existence of Commercial Air Transport, with its enormous infrastructure demands (e.g. controlled airspace) and regulatory requirements. The GA sector does not itself incur these infrastructure and regulatory costs. They are a necessary evil, both a burden and an inconvenience for GA. The only fair principle of cost recovery should be that 'the beneficiary pays' - including the cost of inconveniencing others.

'Beneficiary pays' must be the principle in aviation policy, not 'user pays'

5 Charging for Radio Frequencies

Against almost unanimous opposition from aviation safety experts, OFCOM is set on charging Administered Incentive Pricing (AIP) for the use of the aviation frequency spectrum in the UK. That is the spectrum internationally reserved for radio, radar and navigation beacons used by aircraft to ensure safe and effective flight. OFCOM intends to impose theoretical 'opportunity costs' as new charges on small GA airfields (as well as the major business users of frequencies) to 'make more efficient use of the spectrum'. For safety reasons the aviation spectrum is allocated internationally by the World Radio Conference and UK cannot trade or otherwise reallocate its spectrum. Hence, OFCOM's AIP proposals cannot lead to an efficient market in this spectrum. Frequencies given up by a GA airfield due to AIP charges must be returned to the international forum for another nation's use. The aircraft using that airfield will simply have to make do without a radio station or navigation beacon. Thus AIP would reduce UK access to this spectrum resource and risk aviation safety. OFCOM's doctrinaire position is, we believe, that they will 'find a way' of applying AIP despite the fact that it is obvious to the entire industry that it would have harmful effects on safety. The relevant Cave Report stated: *"If there is judged to be no prospect of alternative use due to international restrictions and since the UK is unable to act unilaterally in spectrum that is internationally harmonised for on-board use, then the opportunity cost of the spectrum for alternative use should be judged to be zero."* We recall Conservative policy statements that OFCOM would be disbanded - we look forward to that promise being implemented by the Government.

The defective OFCOM initiative on AIP should be immediately killed off: it is both impractical and dangerous.

6. The Encroachment of Controlled Airspace

Airspace is a national asset within which commercial organisations, in their own business interests, sponsor the development and expansion of controlled airspace to accommodate CAT. In many cases, GA is excluded from this controlled airspace, hence squeezing the GA traffic into ever-smaller areas, with significant safety implications. This expansion of controlled airspace is despite the fact that whilst passenger numbers have increased by 48% in 10 years, CAT flights have only increased by 29%. Controlled airspace divides the country, with only two non-controlled airspace access routes north to south for GA – a narrow corridor below 1000 ft between Manchester and Liverpool and a wider area East of Doncaster. For example, we note that Doncaster Airport has recently been awarded controlled airspace slightly larger than Gatwick but with only 2% of Gatwick's flights! Attempting to resist the encroachment of controlled airspace remains a significant problem for GA; the GA banner is carried only by one or two dedicated volunteers with limited resources, opposing the major business interests who lobby government and regulatory bodies. A Transport Committee recommendation was "*The CAA and NATS should review the techniques used for designing controlled airspace around airports. The techniques used should match European and USA best practice to minimise the impact on general aviation, whilst ensuring safety and that current standards are not lowered*". We seek support for that position to be specifically included in the current CAA work on a Future Airspace Strategy (FAS).

We must protect the ability of all aviation, not just CAT, to access our UK airspace. Agreed policies from the Transport Committee and the EU Parliament Resolution should be included in the current CAA work on a Future Airspace Strategy.

7. The UK Network of Aerodromes, Airfields and Landing Strips

The need for a network of smaller airfields and access by GA to commercial aerodromes/airports is fundamental both to operate and train future pilots, including commercial pilots. GA is being squeezed out of many of the larger aerodromes by excessively high charges and local policies 'against GA' at regional airports. This contrasts with encouragement of GA in virtually all other EU member states.

The issue also needs linking to planning policy in a positive manner, identifying not only the benefit to airport operators but to the community in general. Studies from GA organisations identify the economic contribution arising from GA as a significant benefit to local communities, where GA fields exist. We consider this local boost effect that increases the £1.4bn GA contribution to the UK economy by a factor of 2 or possibly 3, with attendant social, educational and small business benefits. It was a CAA Strategic Review recommendation that Government, in considering the economic and social benefits of GA, considers making a policy statement of that value and the related issue of retaining a viable UK network of GA airfields, to be considered by those involved in planning decisions.

DfT, with GA consultation, is progressing a document on this area as an additional statement to the relevant Planning Policy Statements (PPS) and Planning Policy Guidelines (PPG) which will hopefully progress this somewhat delayed implementation. While local factors will undoubtedly influence any planning decision, a purely local approach without consideration of relevant wider national infrastructure issues may not always deliver the best outcomes for the area, region or indeed, the country. This is certainly the case with transport networks and particularly the existing network of GA aerodromes, which have social and economic benefits at both the regional and national level. We have to be concerned when Government proposals announce significant use of airfields for alternative development (e.g. the eco town proposals 2008).

In addition to the national planning policy issues, there are EU considerations. In 2010, the DfT was charged with responding to the EU Regulation EC300/2008 which demands from small airfields, all the security measures that are currently in place at major airports. These include security fencing, control of access, airside screening, guarding and so on. If all these restrictions were imposed, they would effectively shut down GA. Nations were invited to exempt certain aerodromes by means of specific derogations. The DfT consultation with GA on these issues appeared to end in disarray, and GA organisations were uncertain as to whether all responses had been accepted. No subsequent DfT decision has been evident. This area now needs attention to ensure that the correct derogations are chosen to protect the GA industry, while establishing proportionate airfield security.

Ensure safeguarding of GA airfields - the UK national interest requires an infrastructure to support GA. A DfT policy statement on the value of GA airfields must be positively progressed.

8. Reverse the decline in UK-based Flight Training

The 2006 CAA Strategic Review of General Aviation identified that UK flying schools were at a competitive disadvantage in comparison with those based in other countries. This was due to a number of factors, though primarily the financial impact of higher UK regulatory charges and taxation (such as VAT on fuel and training). In part the export of UK flying training activity has of necessity been 'encouraged' by CAA, who have made a practice of approving foreign-based flight training organisations to conduct approved training courses outside the UK. With airlines severely curtailing or stopping pilot training sponsorship, self-sponsored students find the UK a cost prohibitive environment and one which is, of course, unattractive to foreign students.

Statistics are difficult in this area but in 2004/5 about one third of professional pilot licences were issued to non-UK applicants – an increase of 25% over the preceding 10 years. Currently a self-sponsored student will probably have to pay £80,000 in fees from personal taxed income for professional pilot training in UK. The result will be fewer British airline pilots.

The headwinds for UK flight training must be reduced; this can be achieved with positive engagement of the CAA under DfT policy direction.

Prepared by GA Alliance
October 31, 2010