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By Email

24th July 2014

BGA Response to CAP1188 Consultation on the GA Policy Framework

Question 1 – Do you agree that the framework will enable the CAA to balance effectively its statutory duties and protection of third parties with its new approach to GA regulation?

We support the framework approach. We agree with the focus on protecting third parties on the ground and commercial airspace users, and numerical estimates being made of the risks to these third parties from particular segments of GA.

The CAA's assumption that regulation reduces risk is unwarranted. In the former, largely self-regulated gliding regime, medical incapacitation accidents and accidents resulting from airworthiness deficiencies were both extremely rare. There is no evidence that more stringent regulation would have avoided these accidents.

One element of quantifying the risk to third parties in self-regulated and CAA regulated regimes must be an informed estimate of the impact of regulation on risk. That impact may be positive, neutral or negative, depending on the circumstances.

Question 2 – Do you agree that the EASA criteria for acceptability of levels of risk are appropriate for the CAA's own assessment of risks to third parties, but that higher levels of risk to the participants themselves should be allowable?

Yes. Qualified pilots who wish to participate in air sports where the only risk is to the pilot should have the right to do so.

Question 3 & 4 – Do you agree that the CAA's proposed GA Policy Framework poses the right questions for the CAA to ask itself when considering how it might regulate different aspects of GA activity? Are there any additional questions you would add and why? Where would you put them in the decision process?

Only if the particular segment of GA under consideration is given opportunities to make factual representations to support a case for change.

We recognise that the CAA is bound by EASA regulations. However, EASA are open to proposals for reducing the regulatory burden on GA, so we see no reason to refrain from making proposals that the CAA is not currently able to implement.

Gliding was largely self-regulated to the satisfaction of the CAA for more than 70 years. Under EASA, gliding has been subject to regulation designed for commercial aviation. In the last 10 years gliding has had to devote gigantic amounts of volunteer time dealing with disproportionate and expensive regulatory requirements, including:

- a more complex and less safe airworthiness system
- overly complex and prescriptive pilot training and licensing requirements
- inappropriate medical requirements
- a prescriptive and disjointed rather than flexible and holistic approach to safety management

Further complexity and cost is anticipated as EASA operations requirements are adopted.

CAP1188 makes very ambitious policy statements about deregulation. The issues faced by gliding calls for very ambitious deregulation to that which existed prior to EASA. The BGA accident rate and internally generated safety initiatives support deregulation. The BGA has comprehensive accident and incident data since 1974.

There have been no fatal accidents to uninvolved members of the public from 15.2 million glider launches in the 40 years from 1974-2013. There were two tragic accidents to persons on the ground involved with gliding; an airfield visitor was hit by a landing glider and a glider pilot sports photographer was hit by a glider on approach.

We support the process outlined in the framework at Annex A.

Question 5 – Do you agree that it is appropriate for individuals to be permitted to engage in aviation activities which involve increased risk of death or bodily injury to themselves, provided that they willingly assume the risks involved and provided that third parties are safeguarded from their conduct?

Yes. The BGA believes strongly that willing participants should retain the freedom to expose themselves to risk providing third parties are unaffected.

Question 6 – Do you agree that the information disclosed regarding risk associated with an activity should be that which a reasonable member of the public would expect to know prior to participating; and do you agree that a CAA-employed qualified lawyer should make this determination?

We agree with the sentiment about disclosing risk. It's not clear what contribution a CAA lawyer would make.

Question 7 – Do you agree with what is proposed to be out of scope of the framework?

Not entirely. We agree with excluding rules of the air, but GA has an intense interest in the protection of class G airspace from increases in controlled airspace, and in the liberation of new class G airspace. In a gliding specific context, licensing of pilots and establishing competency does not need to be a regulated activity, and there is no need to involve Aeromedical Examiners in the medical certification of glider pilots.

Question 8 – Do you have any suggestions as to how the CAA can continue to collect proportionate and accurate data from the GA community without applying excessive burdens on the sector?

The BGA prioritises its risk management processes on protecting third parties, commercial air transport passengers and unqualified participants. The BGA already has a comprehensive and accurate accident report collection and processing system that informs its holistic safety management system.

Question 9 – Do you agree with how we propose to consult on conclusions reached before final decisions are taken?

Yes, subject to satisfactory engagement with the relevant GA partners.

Question 10 – Do you believe that the governance mechanisms we propose to put in place will ensure the GA Policy Framework is applied appropriately within the CAA's statutory duties?

Not entirely. There should also be vigorous CAA engagement with EASA to open up the scope for delegation and deregulation that the CAA is currently not free to implement.

Question 11 – Any other comments?

- Support. The BGA is willing and able to engage with CAA in developing the framework going forward.
- Qualified Entities. The level of delegation made to organisation involved with EASA regulated GA activity will presumably be impacted by the Basic Regulation Annex V Qualified Entity criteria. As stated on a number of occasions including during the RTC process, the BGA believes that it is critically important that the CAA enters into detailed discussion with the BGA on this issue.

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