

Andrew D. Price
Consultation Co-ordinator
Department for Transport
Zone 9/9 Southside
105 Victoria Street
London SW1E 6DT

16 October 2006

Dear Mr Price

CAA Partial RIA - PROPOSAL TO AMEND THE AIR NAVIGATION ORDER 2005 FOR THE PURPOSE OF IMPROVING THE TECHNICAL INTEROPERABILITY OF ALL AIRCRAFT IN UK AIRSPACE

The BHPA is recognised by the CAA as the long established and effective governing body of Hang Gliding, Paragliding and Self Propelled Hang Gliders (SPHG). On behalf of our membership I wish to raise a number of concerns regarding this recently closed consultation.

You will be aware that many sectors of the sport aviation community have raised objections to the proposals including hang gliding, paraglider and SPHG pilots. A number of our members have complained directly to us, the CAA and the DfT about the consultation process of the Partial RIA. Many have commented that the documentation was difficult to understand by a recreational pilot and very obviously biased in favour of a preferred CAA solution to a perceived problem which itself appears to lack credible substantiation. We have studied the Cabinet Office's Code Of Practice on Consultation and believe we have a number of valid concerns which affect the credibility of the Partial RIA These concerns are set out below:-

1) Non compliance with recommendation 1.4 of the Cabinet Office's Code Of Practice on Consultation:-

'1.4 The formal consultation period should always include a written consultation exercise. This written consultation period should be a minimum of 12 weeks. Departments should consider the specific circumstances of their stakeholders and consider longer consultation periods at certain times, for example during the summer holiday period'

This consultation took place through the height of the summer holiday period, including the August Bank Holiday.

2) Non compliance with recommendation 1.6 of the Cabinet Office's Code Of Practice on Consultation:-

'1.6 Where a consultation takes place over a holiday period or lasts less than 12 weeks, extra effort should be made to ensure that the consultation is still effective, by supplementing the written exercise with other methods of consultation'

A very few publicly accessible briefings were held, very late in the consultation process, none north of Manchester, none west of Basingstoke, none east of London, and not advertised in the aviation press due to their short notice. A small business workshop hosted by the CAA was also poorly targeted and largely irrelevant to BHPA related businesses.

3) Non Compliance with recommendation 2.2 of the Cabinet Office's Code of Practice on Consultation:-

'2.2 Explicitly state any assumptions made about those who are likely to be affected by the

proposed policy. Encourage respondents to challenge these assumptions'

We believe that there were a number of significant unwritten assumptions as to the efficacy of the technology being proposed as the solution.

4) Non compliance with recommendation 2.5 of the Cabinet Office's Code Of Practice on Consultation:-

'2.5 Representative groups should be asked when responding to give a summary of the people and organisations they represent.'

This was not asked for.

5) Non compliance with recommendation 3.1 of the Cabinet Office's Code Of Practice on Consultation:-

'Use plain language: avoid jargon and only use technical terms where absolutely necessary. A consultation should be as accessible as possible.'

'Explain complicated concepts as clearly as possible and, where there are technical terms, use a glossary'

It is obvious from the comments received by the BHPA from its members that the use of plain language was not evident with this document. Even our specialists on the proposals' subject matter had difficulty with the document and response form to the extent that it was deemed impossible to answer some of the questions posed.

6) Non compliance with recommendation 3.2 of the Cabinet Office's Code Of Practice on Consultation:-

'Provide an executive summary to the written consultation document that covers the main points of the document, preferably no longer than two pages. Even if the document is technical, ensure that the executive summary is accessible to all. Having read the executive summary, consultees should be in a position to decide whether the consultation is relevant to them, and whether they need to read further'

The Partial RIA contained no Executive Summary.

7) Non compliance with recommendation 3.3 of the Cabinet Office's Code Of Practice on Consultation:-

'Ensure that the consultation documents are available in paper format and with the fullest use of electronic means'

BHPA members without computer access were unable to easily obtain paper copies of the documentation without the assistance of fellow members. There was an apparent assumption that those without computer access could get a paper document and form from a friend. We understand that paper copies were not even available at the CAA briefings or on the CAA's stand at the PFA Rally.

8) Non compliance with recommendation 4.3 of the Cabinet Office's Code Of Practice on Consultation:-

'The consultation document should state the date when, and the web address where, the summary of responses will be published. As far as possible this should be within three months of the closing date of the consultation. Those without web access should be able to request a paper copy of this summary.'

The document does not contain this data.

9) Other significant matters:-

- i. The response document template limited the use of Word's normal editing facilities and caused formatting errors.
- ii. The CAA was slow acknowledging receipt of emailed responses (typically 6 day lag), and apparently only did so upon request.
- iii. No acknowledgement of receipt for on-line web based responses. We believe this should have been automatic.
- iv. No means for the respondent to save a copy of their on-line web based response.
- v. Problems with the on-line response. We have written acknowledgement from Andrew Greenwood, CAA consultant that on-line responses were corrupted with no section 10 responses recorded on at least 4 returns.
- vi. CAA staff gave the impression and at time appeared to advise that BHPA members did not need to respond to the Partial RIA. We have written acknowledgement from Simon Wragg, CAA that CAA staff had queried the need for individual responses in telephone conversations with BHPA members which may have deterred returns.
- vii. Inadequate consultation with user groups when drawing up the RIA. This is patently clear in the wording, assumptions, offered exemptions and costings given in the RIA document.

We look forward to further consultation from the CAA with regard to this matter in light of the unprecedented level of both our members' dissatisfaction and other public concerns to the Transponder proposal. In addition, given that these concerns are both serious, extensive and the matter involves a potential major impact upon the functioning and even existence of hang gliding and paragliding in the UK, I would be grateful for your prompt investigation and response on all of the issues raised above. Should you have any queries with regard to this matter please do not hesitate to contact me.

In the interests of transparency this letter is copied to the CAA and published for our members' information on the BHPA website.

I look forward to hearing from you.

Yours sincerely,

Martin Heywood
BHPA Chairman

C.C BHPA Airspace panel
J Arscott CAA