

**07/2009**

**Applicability: All General Aviation Pilots and AOC Holders**

**LETTER OF INTENT: PROPOSAL TO AMEND THE AIR NAVIGATION ORDER 2005**

**PROPOSAL TO AMEND ARTICLE 6 AND ARTICLE 138 OF THE AIR NAVIGATION ORDER 2005 FOR THE PURPOSE OF MAKING IT AN OFFENCE TO ADVERTISE FLIGHTS CONSIDERED TO BE ILLEGAL PUBLIC TRANSPORT**

## **1 Introduction**

- 1.1 In the Letter of Consultation (L of C) of 6 May 2008 ([FODCOM 20/2008](#)) the CAA detailed the proposal to amend the Air Navigation Order 2005 (ANO) to make it an offence to advertise flights which are considered to be illegal public transport.
- 1.2 An operator of UK registered aircraft must hold an Air Operator's Certificate (AOC) granted by the CAA in order to conduct public transport flights. The purpose of the AOC is to show that the operator has demonstrated the ability to operate the flights safely. Members of the public who buy flights from unregulated companies may well assume that the flights are properly regulated in the interests of safety, but that may not be the case.
- 1.3 The CAA has been concerned at an apparent increase in illegal public transport flights, namely flights defined in the ANO as public transport when the operator does not hold an AOC granted under Article 6 of the ANO or, in the case of foreign-registered aircraft, a Permission from the Secretary of State under Article 138. At present, the ANO contains no specific regulation that would make it an offence to advertise what are illegal public transport flights. The CAA believes that the absence of regulation has led to an increase in such operations. Additionally, the Department for Transport foresaw the possibility that a provision to make such operations illegal could be by-passed by people offering flights on non-UK registered aircraft. Such flights would be operated in contravention of the requirement to have a permit from the Secretary of State for Transport. Therefore, the proposal has been developed to make it an offence to advertise flights which are illegal public transport with both UK registered and non-UK registered aircraft.
- 1.4 The proposed new articles will apply to both public transport flights and commercial air transport flights.

## **2 Summary of Replies**

- 2.1 There were nine replies to the L of C. A summary of the replies is given at Annex A to the [Impact Assessment](#).
- 2.2 Most of the commenters supported the initiative although a number had some reservations. Some commenters expressed concern about the potential effect that the proposed legislation would have on the issuance of vouchers by legitimate third parties. Two commenters were concerned about the effect on market research prior to establishing a new business. Others were concerned about having to define pleasure flights and introductory flying lessons. The CAA has considered these concerns and has, as a result, decided to add further sub-paragraphs to the articles proposed in the amendment to ensure that these concerns were addressed without altering the intent of the original proposal.

## **3 Intention to Proceed**

- 3.1 The CAA is satisfied that the views expressed by the interested parties during the consultation have been taken into account. The CAA will now recommend to the Secretary of State that the ANO be amended as detailed in the Impact Assessment.

# FLIGHT OPERATIONS DIVISION COMMUNICATION - 07/2009

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## 4 Queries

- 4.1 Any queries as a result of this FODCOM should be addressed to Head of Flight Operations Policy Department at the following e-mail address: [FOP.Admin@caa.co.uk](mailto:FOP.Admin@caa.co.uk).

2 March 2009

*Recipients of new FODCOMs are asked to ensure that these are copied to their 'in house' or contracted maintenance organisation, to relevant outside contractors, and to all members of their staff who could have an interest in the information or who need to take appropriate action in response to this Communication.*

**Review FOP(C) December 2009**