

13th July 2005

(BY FAX: 2869 6794)

Hon Margaret Ng
Chairman
Bills Committee on Civil Aviation (Amendment) Bill 2005
Legislative Council
Hong Kong

Dear Margaret

Civil Aviation (Amendment) Bill 2005

I refer to our first meeting where it was decided to ask Government whether they had any intention to amend the Bill on the issue of whether “Management” included maintenance and repair, and if not, whether the Committee itself would consider such amendments.

I have since consulted the airline and aircraft engineering industry on the matter.

Their view is that Bill seeks to exempt parties not involved in management of the aircraft (mainly financiers) from strict liability. If it is defined that maintenance is regarded as management, aircraft engineering companies who are contracted by airline operators would fear the risk of assuming strict liability, resulting in higher insurance premiums to cover the risk and therefore repair costs.

Airline operators fully understand that they have to assume strict liability as managers of the aircraft, and do not seek through legislation to divest that liability to other parties, not even contractors or agents who are employed to carry out certain maintenance or other work on aircraft which are not “managed” by the contractor.

The strong consensus amongst the industry is that any attempt to define “Management” that results in imposing strict liability beyond actual operators of the aircraft will be detrimental to the industry. I go along with this view and I also cannot support such an amendment by the Committee or Government. I have spoken to Jeff Lam who sits on the Committee and he concurs with this view.

The industry also queries whether correspondence on this Bill exchanged previously indicates that Government is straying beyond the original intention of exempting passive parties such as financiers, and instead is seeking to spread strict liability to beyond operators of aircraft. They understand and accept that as per international practice, strict liability should be confined to operators of aircraft. If this turns out not to be the intention of the Bill, then the industry will withdraw its support and ask for a total rethink.

Yours sincerely

Howard Young

CC: Ms Becky Yu, Clerk to Bills Committee
CC: Hon Jeff Lam