

*Regulating for Safety in Aviation: What Works and What Doesn't*

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Two Propositions

- SAFETY IS GOOD!
- REGULATION IS GOOD!

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'Safety', 'Regulation' and the Mitigation of Risks

- **Safety** – an acceptable level of risk
- **Risk** – likelihood and gravity of consequences
- **Regulation** – legal processes by which government directs, constrains, compels and prohibits conduct

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### Effective Safety Regulation

'Extra-Regulatory Functions

- Encouragement
- Education
- Safety Promotion

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### Core Regulatory Functions

- Developing Standards (rules)
- Conducting Surveillance
- Monitoring Performance to Identify Trends and Risks
- Developing Effective Enforcement Strategies to Secure Compliance

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### Objectives of Enforcement

- PROTECTIVE – prospective action *in the interests of safety* (properly a regulatory function)
- PUNITIVE – retrospective action to deter, prevent and/or punish misconduct (properly a judicial function)

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**Organisational Approaches to the Enhancement of Safety**

**SAFETY MANAGEMENT SYSTEMS**

- Identify Hazards
- Assess Risks
- Monitor the Environment
- Respond Effectively

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**Safety Management Systems**

**'SAFETY CULTURE'**

- Commitment and involvement at a high level of the organisation
- Proactive
- Dedicated 'Safety Officer' (or equivalent)
- Non-Punitive Reporting System
- Demonstrably Responsive

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**Essential Features of a 'No-Fault/No-Blame' Reporting Scheme**

- 'Eligible' Conduct – objective and explicitly specified criteria
- Meaningful, timely and effective responsive action by the organisation
- Organisational Responsibility and Accountability

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### 'Just Culture' – Critical Limitations and Distinctions

- *Just Culture* as 'transactional immunity'
- Private and Public Domains
- Rule of Law
- Natural Justice

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### Reform the Law!

- Regulation – '...in the interests of safety'
- Safety Management Systems – to complement, not to supplant, regulation
- Organisational Accountability – to balance freedom and responsibility
- 'Just Culture' – maintaining the public/private divide

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