

To: TREN CONSULTATION INSURANCE

Subject: Fw: Regulation (EC)785/2004

I would like to contribute to this discussion. My background is that I am a partner in a UK based company representing three US manufacturers of FAA-PMA parts for GA aircraft. In addition I hold a UK PPL Group A (having flown over 500 hours) and operate my own aircraft. I have a strong interest in UK aviation history and historic and agricultural aircraft, having been closely involved with both in the 1960-70's.

Question 2 - The impact of the regulation on GA.

Since the introduction of the EC regulation the UK has seen a reduction in hours flown and a change in the type of aircraft being purchased by private owners.

Talking to owners and pilots the significant problem experienced by them all in that of having a finite amount of money available with which to fund their hobby. Thus any increase in insurance costs and fuel costs (and EC interference is about to further increase the cost of 100LL) reduces the amount of money available to spend on actually going flying. Furthermore when the hours flown fall below a certain level owner pilots decide that aircraft ownership is too expensive.

These facts can be confirmed by looking at the number of pilots not renewing their JAA-PPL's after five years, which UK AOPA quote as being 70% and the length of time a GA aircraft is advertised before sale, compared with a motor vehicle of similar value (and if you want to purchase a EU€ 75,000 Porsche there is far greater choice than, for example a PA-28RT of similar value, showing availability is not the cause).

The banding of EU limits for insurance is totally inappropriate and discriminates against the purchasers of certain types of aircraft. By introducing an increase in Third Party limit for aircraft over 1000 kg. it immediately resulted in a significant increase in premium for owners of types such as the Cessna 172M at 1043 Kg or PA-28-180 at 1111 Kg. compared with, for example a PA22-160 at 907 Kg. Each has four seats, a single engine, fixed pitch propeller, tricycle undercarriage and holds less than 200 litres of fuel, so logically should fall into the same insurance group. Experience shows that a four seat aircraft rarely carries four occupants (a situation you will be familiar with for you own a car) but the EU require insurance to cover that contingency. Furthermore frequently when the aircraft does carry four persons they often turn out to be the pilot and members of his/her family. The situation bears no relationship to commercial air transport where 300 people who don't know one another pay to be taken from A to B. Consequently the limit for that band need to be increased to something like 1,250 Kg. with a Combined single limit between Third Party and Passenger risks

Prior to EU interference most UK GA aircraft, not operating into Class A or B airspace carried insurance for a combined Single Limit between Third Party and Passenger Liability of £ 500,000 and if you check you will find no claims where insufficient coverage was available. The owner of something like a Cessna 172 was faced by EC 785/2004 with a significant increase in liability premium and if on a fixed flying budget the only alternative was to reduce the number of hours flown, with a likelihood of becoming involved in an accident or air space infringement due to lack of recent experience, or failure to purchase a recent chart on the basis that only 10 flights had been made using the previous edition.

On the other hand, in the accident to the Douglas B-26 Invader at Biggin Hill in September 1980, in which my original business partner and a number of my friends were killed insurers were able to deny liability for a perceived breach of policy conditions - a loophole which was not closed by (EC)785/2004.

EU regulation is pricing people out of what starts as a hobby, but often turn into a career. Reduced flying hours has had a knock on effect with maintenance companies facing increased overheads due to the introduction of Part M and consequently with suppliers such as ourselves. We have experience an increase in unpaid cheques and bad debts which can be directly attributed to the problems experienced by our customers.

Question 3 - the impact on the operators of historic aircraft.

My first aircraft was Avro Lancaster G-ASXX obtained in August 1964 and delivered to Bankstown, NSW from Noumea in New Caledonia. After overhaul it flew from Bankstown to Biggin Hill and then

performed a number of air displays in the UK. At no time did it carry more than £ 500,000 TP insurance.

The largest bomb carried by the Lancaster was the 10,000 Kg. Grand Slam, we did not carry that or belts of ammunition for the guns.

Existing EU regulations insist that historic aircraft carry insurance based on their maximum certified weight, despite the fact that they fly infrequently and at far lower weights. The number of airshow bookings obtained is based on the charge made to participate in a display. The Lancaster, Spitfires and Hurricanes operated by the Royal Air Force on the other hand are excluded by the regulations from carrying any insurance, hence a display organizer will initially try to book those aircraft on the grounds of cost.

Last month we unfortunately suffered the loss of a Hawker Hurricane at a display but the third party claim that will be met will be a fraction of the coverage required by the EC.

This summer, because of my interest in agricultural aircraft, I tried to preserve the only Callair A-9 in Europe. The A-9 is an EASA Annex One aircraft, similar to a Piper Pawnee and has a hopper intended to carry 1,000 lbs of fertilizer. Because it was a single seat aircraft, with a low cruising speed and negligible interest on the air show circuit but with high operating costs due to its six cylinder engine and variable pitch propeller I was the only person interested in seeing it preserved. Looking at the insurance costs however I was unable to justify the annual expense I would incur by seeing it preserved. The result was that the owners had it cut up, with 11 months of an EASA Standard CofA remaining, in order to avoid ongoing hangarage charges. The losers will be the young children who will never be able to see how fertilizer used to be applied from the air.

Those Gliding Clubs, which had purchased retired Piper PA-25 Pawnees with which to tow gliders found, even after the hopper was removed to save weight, that they were still required to purchase the higher level of insurance because the aircraft was originally certified to carry 10 cwt. of fertilizer in the hopper.

The regulations discriminate against sections of the aviation community not involved with Commercial Air Transport and unable to pass their costs onto passengers or freight forwarding agents.

Question 4 and 5 - war and terrorism.

The requirement for owners of GA aircraft below 2,700 Kg, not operating a Class A or B airspace, to insure against war and terrorism shows the EC has no concept of the actual risk. Terrorist attacks are carried out to obtain publicity, there is no publicity to be achieved from attacking a small GA airfield. Airfields seen to be at risk could be required to ensure users carry suitable insurance, rather than requiring ALL aircraft to meet the same requirement.

Question 8 - higher limits in certain countries.

Germany and Denmark require increased limits, for which my insurers required an increased premium.

Because insufficient time could occur to arrange additional cover, coverage which actually infringes my right to free travel within the EU, I decided, rather than paying the increase and not using the cover, not to visit those countries but to spend my taxed income in places which showed some enthusiasm for me visiting them.

Question 15 - de-harmonised requirements for aircraft under 2,700 Kg.

De-harmonization would benefit many GA pilots and owners. Even within the UK many pilots living more than 150 miles from Dover have never been abroad and those that have rarely venture much beyond Calais or Le Touquet. I strongly suspect many pilots in Greece, Spain and Portugal (and possibly France) have never flown outside their own national borders and having to provide insurance for risks that might occur outside their normal flying environment can be perceived as another reason to adopt another, less regulated sport, such as sailing.

Final comment.

A considerable amount of time and effort has been taken considering how to protect the world from another 9/11 when, as I tell my American friends, the next disaster will not be GA aviation related. It

will be caused by a small boat filled with explosives and apparently out of control running into a large liner, or a vehicle packed with Semtex being detonated in the middle of the Golden Gate bridge, or a major road tunnel, because those are the sort of things which will produce news headlines all over the world.

M. D. N. (Bill) Fisher

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Further to my initial submission I would like to add the following comments for consideration when looking at the replies to **Question 15**.

When I left Lloyd's of London to work for myself full time one of the Senior Partners at Beaumont & Sons, who were then leading aviation solicitors asked me what I had done about protecting myself with liability insurance. When I said that I had done nothing he advised me to keep it like that. His argument was that many of the expensive legal cases are actually taken to Court so that one set of insurers can reclaim their costs from another. When the man in the street approaches a solicitor that solicitor has to look both at the strength of the case **and his chances of getting paid at the end of the case**. If the defendant has few assets and no insurance the solicitors reaction was frequently to suggest the client tried for an out of court settlement as if the offer was a modest sum paid monthly over a period of years substantial legal costs would have been avoided.

This philosophy used to apply when pilots took youngsters flying under schemes like the Young Eagles where it was explained that no charge was made for the flight but parents understood that nothing is 100% safe.

In recent years a new breed of ambulance chasing lawyers have come on the scene. Knowing that the EU have mandated high limits of passenger liability cover they are able to approach parents after a flight and explain that if their child felt unwell, or distressed substantial damages could be obtained.

Because of the costs involved in defending a claim for € 30,000 in court an insurer is likely to offer an out of court settlement because, even if the case is very weak, it could go against them because the child received the sympathy vote. If the claim is settled at an amount equal to 7 years premium the insurer might not invite renewal and the loss record would increase future premiums.

As a result, because of the possibility of being sued, I won't participate in schemes to fly young people. Believing that if their parents want to give them the experience of flying they should purchase a ticket on EasyJet or Ryanair.

Unfortunately those flights don't generate the interest which makes youngster want to learn to fly, which may be resulting in the reduced numbers taking up flying and the consequent shortage of commercial airline pilots.

M. D. N. (Bill) Fisher