

## Worries multiply for corporate operators

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Regulations

Just when you think the corporate aviation bashing has died down, yet another media report denounces an executive's use of a private jet or airs a politician's demands that companies rescind orders for corporate aircraft. It seems that corporate aviation is taking the brunt of a lot of pent-up taxpayer anger at the bailouts of industries not even remotely tied to aviation. And all too many aviation groups—manufacturers, unions, aircraft owners and operators—have been remarkably quiet. Why? Is everyone afraid that standing up for corporate aviation—and the jobs that it promotes and creates—will somehow backfire?

I think we should be out there making a case for aviation. We have the data that shows the importance of aviation to our economy and the world's economy. But we're not making the case in the hometown newspapers that shape many Americans' points of view. And if we're pitching the benefits of aviation in the halls of Congress, the message isn't making itself heard on any major—or not so major—news channel.

The situation is much more dire today than it was when the industry came together to get the General Aviation Revitalization Act passed in 1994. As many of you recall, before that law was passed, the manufacture of general aviation aircraft was imperiled by the potential for unlimited tort liability. For example, companies that had not manufactured a single piston-powered aircraft for more than a decade were nonetheless on the hook indefinitely in terms of liability.

Back then, it seemed every alphabet group—whether involved in general aviation or not—got behind the GA bill. Led by GAMA and AOPA, the effort included NBAA, NATA, PAMA, EAA, AEA and others, as well as airframe, engine and component manufacturers. The effort also benefited from highly visible support from organized labor unions. The industry as a whole mounted a sustained and highly effective campaign. It took seven years to triumph over what seemed like insurmountable odds, but we prevailed because we were united in our efforts.

The industry promised Congress that passage of GARA would create 100,000 jobs and it delivered. Now, those jobs—and who knows how many more—are at tremendous risk. But where is everyone? Why no hue and cry? Why is NBAA the lone wolf out there arguing for GA? And, yes, I know everyone supports what NBAA is doing. But supporting the association and doing something are two different things. It's going to take a concerted, sustained effort to keep corporate aviation from becoming just another victim of the fallout from the country's banking crisis.

So what can we do? NBAA has produced a number of excellent reports on the economic benefits of aviation to the U.S. economy. Take those papers to your local politicians. Get that data into your local papers. Get the positive message on corporate aviation out there. Squash the all too prevalent stereotype of corporate aircraft being the expensive toys of pampered fat cats, the ones whose lavish lifestyle caused the economic mess and are now getting bailed out with our money. We have a good story to tell; it's up to all of us to tell it.

### Jail Time for Illegal Part 135 Ops?

Add to record fines, certificate suspensions and revocations the threat of jail time for flying illegal Part 135 flights. Last month, the U.S. Attorney in Newark announced the [indictments](#) of several Platinum Jet executives for, among other things, operating passenger-carrying aircraft for compensation or hire without a Part 135 certificate. Platinum Jet is the operator of the Challenger 600 that crashed in 2005 on takeoff from Teterboro Airport. The aircraft plowed through a fence, across a highway and into a warehouse, where it caught fire. No one on the aircraft was seriously injured but a man driving to work was critically hurt. The accident caught the attention of the FAA and opened a Pandora's Box of operational control problems in the Part 135 world.

Well, it seems the U.S. Attorney was watching, too. It might have taken almost four years after the accident to arrest these executives but arrest them they did. (See [AIN, March, page 6.](#)) Of course, an arrest is not a conviction. But the stakes are higher now; it's not just the FAA that illegitimate operators need to worry about. This should be a wake-up call to all aircraft owners who put their aircraft on Part 135 OpSpecs but retain operational control.

While the indictments contain a laundry list of falsifications of records (for which we've seen criminal indictments on numerous occasions in the last few decades), this is the first time executives have been indicted for operating illegal Part 135 flights. The FAA took a lot of flack when its investigation of Platinum Jet opened the lid on operational control problems. In many cases the industry's response was an elaborate papering over of the issue. So-called "agency agreements" drafted by highly paid lawyers flourished, some say with the FAA's complicity.

Everyone—pilots, mechanics, service providers—had an agency agreement. Many of these were reviewed and at least tacitly approved by local FAA field offices. Notwithstanding all the elaborate paperwork agreements, some of which were explicitly approved by local FAA officials, the FAA took action. For example, the agency suspended and then revoked AMI's Part 135 certificate and then levied a record \$10 million civil penalty against TAG Aviation. The alphabet groups were in an uproar, saying the FAA had acted unfairly. But TAG and AMI settled, so we'll never know what the evidence was.

But we can learn from the AMI/TAG experience, and now the Platinum indictments. In the case of the AMI certificate revocation, few people focused on the FAA's allegation that the aircraft were operated either by AMI or the aircraft owners. The FAA's Order listed the aircraft—and owners—on AMI's Part 135 certificate, and it read like a who's who of corporate America. If these aircraft have shifted to other Part 135 OpSpecs in the wake of AMI's revocation, the aircraft owners, corporate titans or not, need to look closely at whether their operations should be certified under Part 135. And aircraft owners listed on other Part 135 OpSpecs whose pilots and mechanics effectively control the operation of their aircraft aren't off the hook. Operational control is serious business to the government. Operators have a whole lot at stake, and they shouldn't look at papering over the problem because it will cost more in the end. If the FAA's arrows—fines, certificate suspensions/revocations, aircraft seizures—aren't scary enough, the government has upped the ante with the specter of jail time. Time in a cell wreaks havoc with any bottom line—not to mention your free time.

The industry needs to stop fighting certification and find a cost-effective path to a Part 135 certificate. I know at least one company that's working toward that goal. With a little help from the FAA in making the certification process more efficient, Part 135 certification could be economically feasible even for the smallest corporate flight department that wants to maximize revenues, and defray expenses, by chartering its aircraft. Who knows, Part 135 certification could help if the IRS ever wakes up to those pesky aircraft tax deductions.