

REGULATING Fatigue

I had the honor of testifying recently before the U.S. Senate Committee on Commerce, Science and Transportation's subcommittee on aviation, which conducted a hearing on fatigue regulation in commercial aviation. It reminded me what a tough job it is to write decent regulations in the middle of a public debate. Right now, fatigue rules are undergoing a fundamental rewrite by both the U.S. Federal Aviation Administration (FAA) and the European Aviation Safety Agency. This effort is long overdue. Researchers have been telling us for at least 15 years that our fatigue regulations are out of date.

For most of those 15 years, the problem has been special interests and an extreme lack of trust. On both sides of the Atlantic, there has been a great deal of concern that labor or management or both would take advantage of fundamental changes in flight and duty-time rules. Nobody wanted to make the first move, because no one knew what the result would be. The thinking was that it is easier to live with rules that are known to be flawed rather than risk letting the other side win. I don't think anybody was proud of this epic standoff, but few things are more important than working conditions. Sometimes even the best of us tend to put less important things ahead of safety.

It seems that the gridlock has at least ended in the U.S. There is now enough science on the table for people to trust that the possible outcomes will be fair and reasonable. In addition, the tragedy of the Feb. 12, 2009, Colgan Air crash in Buffalo, New York, made inaction unacceptable, and a dynamic new FAA administrator is ready to serve as a tiebreaker on those issues where the answers are not obvious.

Even with all of this new momentum in the U.S., the problem is still difficult. First of all, the public

and the politicians want the industry and the regulator to take on the issue of commuting long distances to flight assignments. That is a problem that may be too tough for regulation to solve. Market demands force airlines to move domiciles quickly, and pilots like to have a stable home, living where they like and commuting to work. Many of us in the industry would like to leave that issue up to professionalism and trust pilots to show up rested. But I have to tell you, that is not an easy position to defend when the parents of a Colgan victim are sitting two rows behind you. They don't want to hear "trust us."

Another tough balance is choosing between solid prescriptive regulations and fatigue risk management systems. A modern regulation needs to address both. It looks like the FAA process will result in the adoption of prescriptive regulations, based on science, that are similar to those from the U.K. That is an essential start, but there also has to be room for sophisticated operators to use a fatigue risk management system to continuously optimize the safety of their operation. This is easy to write but hard to sell to a public that doesn't want to hear anything that sounds like there is more than one acceptable way to fly safely.

There is a lot of momentum behind the current regulatory initiative in the U.S., and there is a lot of agreement among many traditional adversaries. My biggest concern is that the FAA finds a way to sell the right answer to the public.



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