



Senate Economics Legislation Committee Inquiry

Qantas Sale Amendment Bill 2014

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About the ASU

The Australian Services Union [ASU] is one of Australia's largest Unions, representing approximately 120,000 employees.

The ASU was created in 1993. It brought together three large unions – the Federated Clerks Union, the Municipal Officers Association and the Municipal Employees Union, as well as a number of smaller organisations representing social welfare workers, information technology workers and transport employees.

Today, the ASU's members work in a wide variety of industries and occupations and especially in the following industries and occupations:

- Airline industry workers
- Local government (both blue and white collar employment)
- Social and community services
- Transport, including passenger air and rail transport, road, rail and air freight transport
- Clerical and administrative employees in commerce and industry generally
- Call centres
- Electricity generation, transmission and distribution
- Water industry
- Higher education (Queensland and SA)

The ASU is the biggest Australian union covering airline industry workers. Our members work for Qantas, Jetstar, Virgin Australia, Regional Express, Eastern Australia Airlines, Sunstate Airlines, Singapore Airlines, United Airlines, Malaysia Airlines, Emirates Airlines and other overseas airlines, as well as contractors in the industry like Menzies Aviation Services and Toll Dnata.

Our members working for the Qantas Group are employed in customer service (call centres, retail, reservations and airports), airline freight, maintenance, engineering, stores, catering, operations, load control, finance, administration and information technology.

The Qantas Group of companies that ASU members work in include Qantas Airways Limited (Qantas), Jetstar Airways Pty Ltd (Jetstar), Eastern Australia Airlines Pty Ltd, Sunstate Airlines (Qld) Pty Ltd, Q Catering Limited, Qantas Information Technology Limited and Australian Air Express Pty Ltd.

Qantas Sale Amendment Bill 2014

The purpose of the Bill is to amend the *Qantas Sale Act 1992* (the Act) to remove the foreign ownership and other restrictions that apply to Qantas but do not apply to other airlines based in Australia.¹

Such restrictions require that total foreign ownership of Qantas does not exceed 49%, that ownership by a single foreign investor does not exceed 25% and the aggregate ownership by foreign airlines does not exceed 35%.

¹ Qantas Sale Amendment Bill 2014, Explanatory Memorandum, p.1

The ASU supports the current Act in its entirety and rejects the proposed 2014 Bill. The intention of the current Act is clearly to ensure that Qantas remains a truly Australian airline, and encourages Qantas to invest in jobs and skills in Australia.

Advocates of the proposed reforms often argue that Qantas is disadvantaged by the restrictions on foreign ownership. They contend that Qantas has difficulties raising capital. We dispute this argument. As one of the world's most successful airlines, Qantas has never had any trouble raising capital when required. Qantas is presently below the foreign ownership threshold of 49%. It has only come close to the exceeding the threshold on one occasion (the APA private equity bid). This indicates that sufficient local capital is available.

The ASU is concerned about the proposed removal of the requirement that the majority of Qantas operations be based in Australia. Qantas has evidenced a clear intention to offshore Australian jobs where they see a commercial advantage. This submission details the many aspects of operations where Australian workers have been made redundant and their jobs moved offshore. The ASU contends that without the restrictions imposed by the Qantas Sale Act, this trend would accelerate and more skilled jobs would be lost offshore. The Qantas Sale Act has succeeded in preserving Qantas and Qantas-owned and operated companies as Australian entities.

The recent announcement that Qantas will cut 5000 jobs is the latest in a long list of job cut announcements made by Qantas in the past decade. History tells us those jobs may eventually end up offshore. The trend towards outsourcing and offshoring in the Qantas Group poses a risk to the safety and security of Australian aviation, and harms the Australian economy. Qantas workers need the protection of effective legal regulation against outsourcing and offshoring.

If the *Qantas Sale Amendment Bill 2014* is successful, the only legislative protection for Australian jobs will be found in the *Air Navigation Act 1920*. This Act does not sufficiently protect Qantas as an Australian airline. The *Air Navigation Act 1920* restricts foreign ownership of Australian international airlines to no more than 49% of the total value of shares. However, it does not require an airline maintain a head office and operation base in Australia. It does nothing to protect Australian based catering, flight operations, training, administration or housing and maintenance of aircraft. All this may be offshored under this Act. The Qantas Sale Act, Part 3, Section 7 (1) (h) provides important legislative protection that ensures Qantas' maintains an operational base in Australia.²

In early March 2014, Prime Minister Tony Abbott conceded that some jobs may go offshore in any restructure: "If some jobs have to go offshore in order to ensure that Qantas has a strong and viable long-term future, it may be regrettable but nevertheless it is the best way to guarantee Australian jobs for the long term,".³

This attitude is careless and inaccurate. Economic analysis conducted (and discussed later in this submission) clearly shows that the long term consequence of policy decisions such as this is further offshoring and the ultimate decline of a services industry in Australia.

² Qantas Sale Act 1992, p.6

³ Sydney Morning Herald, Govt to repeal Qantas Sale Act; <http://news.smh.com.au/breaking-news-national/govt-to-repeal-qantas-sale-act-20140303-33uufg.html> at 7 March 2014

Beyond the offshoring issue, the Bill also enables Qantas to cease to be, as it no longer requires the airline be called Qantas. This threatens an iconic brand which has an international reputation of safety and service and which has for 90 years put Australia on the aviation map;

The policy approach that is reflected in the Bill is out of step with the practices of other countries. Other Governments prioritise domestic jobs when designing Aviation policy and in particular negotiating Air Service Agreements. This is most evident

In contrast, when negotiating Air Services Agreements the Howard Government liberalised routes to give foreign airlines better access to the Australian market but with no requirements that they contribute to Australia by creating local jobs.

What's wrong with saying to the Middle Eastern companies who have rapidly expanded their operations in Australia, that they should have a flight attendant base here?

What's wrong with requiring Virgin Australia undertake some of its maintenance in Australia? Rather than New Zealand, where it is undertaken because its majority government owned share holder – Air New Zealand – requires them too.

What's wrong with saying to Virgin Australia that if they are to benefit from the Australian market, they should employ a majority of Australians in their call centres?

These are the sorts of measures the Aviation industry and the Australian economy need to promote jobs growth and retain high skilled workers in the industry.

Offshoring – an airline wide strategy

Growth of the overseas workforce at the expense of Australian jobs

Over the last decade the Qantas Group has grown its direct overseas workforce at the expense of Australian jobs. Without the barriers of the Qantas Sale Act we predict this will increase substantially with a super highway of jobs going offshore. Qantas Airways once boasted a proud record of employing Australian workers. In 2004 Margaret Jackson, Chairman and Geoff Dixon, CEO wrote in the following in the Qantas Airways Annual Report;

'Qantas today is one of Australia's largest employers. Direct employment has grown by more than 10,000 over the past decade. Qantas now employs approximately 35,000 full-time equivalent employees...More than 33,000 Qantas employees are Australia-based, a high percentage for any Australian company that operates internationally and also high when compared with the "home grown" employment levels of other international airlines (Qantas' five major international competitors employ a total of around 1,000 people in Australia).'⁴

Attitudes have since changed at Qantas Airways. The 2013 Annual Report barely mentions its employees, merely citing that it employs 33,265 people. Unlike Annual

⁴ Qantas, Annual Report 2004, p3

Reports in the past it does not mention where these employees are based or whether they are in Australia or overseas.⁵ This is clearly no longer a priority for Qantas.

Jobs drift

Over the past decade Qantas has cut Australian jobs in maintenance, cabin crew, information technology and more. ASU members have been particularly affected by these cuts; between 2002 and 2013, the workforce covered by the *ASU Qantas Airways Limited Agreement 10* has reduced by 33%.

During this period, direct overseas employment has increased dramatically. Over the last 9 years, overseas direct employment has expanded by at least 3000 employees. Qantas does not publically release figures on the rate of its offshoring but we expect these figures are a conservative indication. They do not, for example, include indirect employment where an employee has been employed via a third party but is undertaking work substantially or exclusively for Qantas.

The following case studies reflect incidents of job cuts and offshoring in particular operational areas:

Case study: telephone sales

The strategy to grow the company's overseas operations at the expense of its domestic workforce is evident in telephone sales. Qantas Airways has had a small telephone sales call centre in New Zealand for a number of years. It undertakes the same functions as the Australian based telephone sales. There are currently 800 workers employed in telephone sales in Australia in Hobart, Melbourne and Brisbane and 120 employed in New Zealand. In the last two weeks Qantas has announced a total review of its telephone sales operations in Australia and New Zealand. The Company proposes to increase the New Zealand call centre workforce by a further 30 jobs. This is at the same time that their counterparts in Australia are being made redundant.

Qantas has not recruited new telephone sales staff in Australia for around 4 years and despite attrition refuses to employ the 30 new staff that are required in Australia.

Similarly Qantas has recently outsourced call centre work to a South African call centre to deal with European language speakers. This move is in contrast to the practices of other airlines. Both Air France-KLM and Lufthansa have call centres based in Australia because they say that Australia is well equipped with a workforce with French, German and Asian language capabilities.

Case study: load control

The offshoring strategy has also been evident in Load Control. Load control is an important safety operation for all airlines. This is the operational area where the weight and balance of the aircraft is managed. The workers in this area are essential to the safe take off and landing of flights. Workers are licensed and are subject to strict CASA controls.

⁵ Qantas, Annual Report 2013, p172

Over the last few years Qantas Airways has moved load control operations to Hong Kong. In April 2012, 40 load control workers were the subject of targeted redundancies and the centre was closed. The Hong Kong load control operation centre has continued to operate, unaffected.

The ASU contends that the offshoring of this crucial operational area poses an unacceptable safety risk. We are concerned about the Australian regulator's ability to regulate and monitor operational functions where it is conducted offshore, and outside its jurisdiction.

Case study: information technology

The offshoring strategy has also been pursued in information technology. In this case, rather than expand its direct employment overseas, Qantas has outsourced its application and maintenance functions to two Indian companies Satyam and Tata.

Over the last decade, over 1000 Australian jobs have been cut. The 2006 deal to deliver a contract worth US\$150 million to Satyam and Tata resulted in 300 high skilled IT professionals losing their jobs in Australia. 200 jobs were created in India to replace them.⁶

In 2009 Qantas jettisoned a further 178 workers in an outsourcing arrangement with IBM to deliver data centre and mainframe services.⁷ At the time both parties claimed the jobs would remain onshore at IBM. Just one year later IBM announced it was offshoring 800 jobs Australia wide to centres in Bangalore, India and China.

Case study: Jetstar

Qantas, subsidiary Jetstar has also employed the offshoring strategy. This is evident across all their operations.

In 2006 Jetstar outsourced load control to Skystar in Perth and the call centres to Australian based Sales Force. Since this outsourcing, both functions have now been off shored to Manila based off shore operators.

Other functions at Jetstar like crewing, rostering and payroll administration are also performed in Manila. These moves starkly illustrate the shift of high skilled valuable jobs offshore by the Qantas Group through its Jetstar subsidiary.

It is important to note that Jetstar is not subject to the same restrictions as Qantas under the *Qantas Sale Act*. Its behavior represents a realistic indication of what might happen if the Act is amended to remove protections for Australian operations.

⁶ *Satyam wins multi-million dollar Qantas deal* (2006) Mahindra Satyam <http://www.indiaprwire.com/pressrelease/information-technology/20061109993.htm> at 13 March 2014
Tata Consultancy Services Signs \$16 Million Deal with AGL Energy Ltd (2007) Tata Consulting Services http://www.tcs.com/news_events/press_releases/Pages/TataConsultancyServicesigns16milliondealwithAGLEnergyLtd.aspx at 13 March 2014

⁷ Fran Foo, 'IBM in \$200 m Qantas outsource' *The Australian* (10th September 2009) <http://www.theaustralian.com.au/business/news/ibm-in-200m-qantas-outsourcing-deal/story-e6frg906-1225771282628>

Problems with offshoring in aviation

The outsourcing and offshoring of information technology, load control and telephone sales is particularly troubling. These are highly skilled jobs that are vital to the Australian economy and maintenance of a strong domestic aviation industry.

If the trend towards outsourcing and offshoring continues Australia will be left with virtual airlines - Australian shell companies that contract their core functions to third parties overseas. These companies are low cost, low care and high risk.

The offshoring of sensitive functions such as load control and IT poses a risk to safety, and the security of information. The work is offshored to countries with light regulation, and enforcement as compared to what is in place in Australia. For example, India only recently introduced data protection legislation. Yet Qantas outsourced its IT services to India in 2006. For at least 7 years those companies have been handling sensitive passenger information without effective domestic regulation.

In relation to New Zealand offshoring, given that Australia and New Zealand are committed to closer economic relations through the ANZCERT Agreement⁸, it seems particularly unjust that wage disparities exist between workers in industries with interchangeable workforces such as Aviation call centres.

The national interest

Qantas has reaped the rewards of its historical origins as a national carrier, supportive governments, dominant market share, loyal community and dedicated employees.⁹

The Australian public regard Qantas as a national icon. Most Australians support the idea of an Australian-owned national carrier. An Essential Report last week finding that only 31% of voters support greater foreign ownership of Qantas compared with 51% who oppose it.¹⁰

An unpublished poll by the Australian Council of Trade Unions in March 2013 revealed out of the 8 issues of concern in Australia, the increasing number of jobs being "offshored" was the number one concern of respondents, with over 65% being extremely concerned or very concerned and over 20% moderately concerned.

Australian communities are increasingly exposed to the experience of offshoring. As a direct result individuals are increasingly hostile to the practice of outsourcing local employment. As the rate of offshoring increases it can be expected that community hostility will grow and opinion polls will demonstrate a preference for Australian employment.

⁸ Australia New Zealand Closer Economic Relations Trade Agreement

⁹ ACTU Submission to the Inquiry into the Air Navigation & Civil Aviation Amendment Bill and Qantas Sale Amendment Bill 2011

¹⁰ Essential Report (2014), Government support for Qantas; <http://essentialvision.com.au/government-support-for-qantas> at 7 March 2014

Foreign ownership, Government backers and Air Services Agreements and the level playing field

Australia is already out of step with most of the world in allowing foreign carriers to fly domestically. Information obtained from the International Civil Aviation Organization (ICAO) demonstrates that only 10 Air Services Agreements are currently in place that allow for Eighth and Ninth Freedoms of the Air.

Eighth Freedom of The Air - the right or privilege, in respect of scheduled international air services, of transporting cabotage traffic between two points in the territory of the granting State on a service which originates or terminates in the home country of the foreign carrier or (in connection with the so-called Seventh Freedom of the Air) outside the territory of the granting State (also known as a ***Eighth Freedom Right*** or "**consecutive cabotage**").

Ninth Freedom of The Air - the right or privilege of transporting cabotage traffic of the granting State on a service performed entirely within the territory of the granting State (also known as a ***Ninth Freedom Right*** or "**stand alone**" cabotage).¹¹

Most countries do not allow domestic services to be operated by foreign airlines, with governments wanting to protect their domestic airlines to make sure they remain viable.

The United States (US) has restricted allowable foreign entity ownership levels in US airlines almost to the beginning of US commercial aviation itself. It is unique among industries in being governed by federal statutes requiring air carriers seeking to be certified in the US to be "owned or controlled" by a "citizen" of the US. This requirement is enforced by the Department of Transportation (DOT) performing "fitness reviews" on applicant airlines to ensure they meet the "citizenship" definition¹².

Historically, the US has limited ownership and control to US citizens for four primary reasons: the protection of a fledgling US airline industry, the regulation of international air service through bilateral agreements, concern about allowing foreign aircraft access to US airspace, and military reliance on civilian airlines to supplement airlift capacity.¹³

A similar approach can be seen in the international aviation market. Governments worldwide have maintained an active role and substantial investment in their flagship carriers. Appendix 1 shows that 12 out of the top 15 airlines by market share flying to Australia are owned wholly or in part by Governments. The playing field is anything but fair or level. Most critically, the playing field is not in Australia, it is international and it is these international factors that primarily affect Qantas.

If the government truly wants to "level the playing field in aviation" in Australia the solution does not lie in the Qantas Sale Act. Stricter negotiations focussing on the national interest and job creation in Australia, as part of the government negotiated Air Services Agreements would level the playing field. So would imposing would job creation requirements on foreign carriers flying domestically. Unfortunately poor aviation policy in the past causes difficulties now, but it is not too late to put the national interest first and create Australian airline industry jobs.

¹¹ <http://www.icao.int/Pages/freedomsAir.aspx>

¹² Christopher Furlan, 'Foreign Ownership and Control Restrictions in United States Airlines: Barrier to Mergers and Restructurings' <http://dailyairlinefilings.com/public/furlan.pdf> at 13 March 2014

¹³ Ibid

The National Institute of Economic and Industry Research (NIEIR) 2008 and 2012 reports

In 2008, the National Institute of Economic and Industry Research (NIEIR) was commissioned by the ASU, FSU and other concerned unions to produce their first report into offshoring. We raise this report here as it shows the future for service sector jobs including airline industry jobs if policy intervention to stop offshoring is not adopted.

As we contend earlier, to amend the Qantas Sale Act provisions as proposed, will create a super highway of jobs offshore. Australia should not adopt the view that this is the inevitability of globalisation. We need an active industry policy to stop the flow of jobs offshore.

The NIEIR 2008 report¹⁴ found that (for the base case) 850,000 Australian jobs are at risk of being lost offshore over the next two decades. This represented just under 10 per cent of total service sector employment and 8.2 per cent of total employment. The study also found that the majority of employment losses would be concentrated in the professional and managerial skill occupations.

In 2012 the ASU and FSU commissioned NIEIR to update their original report into offshoring that was released in 2008. The new report¹⁵ confirmed business offshoring practices are costing Australia 20-25,000 administrative and financial services jobs every year. It also estimates that an expected 700,000 to 1 million jobs will be moved offshore in the next three decades.

Occupations experiencing high rates of offshoring are in ICT, financial services and administrative occupations.

The NIEIR report advised that the following classifications are at greatest risk:

1. **General Clerks**
2. **Specialist Clerks**
3. **Accountants**
4. **Bank Workers & Credit and Loans Officers**
5. **Software and Applications Programmers**
6. **Call Centre and Telemarketers**
7. **Contract, Program and Project Administrators**
8. **ICT Support Technicians**
9. **Keyboard Operators**

At Qantas the categories of General Clerks, Specialist Clerks, Accountants, Call Centre and Telemarketers and Contract, Program and Project Administrators are all at risk of being offshored. With Software and Applications Programmers, ICT Support Technicians and Keyboard Operators already moved offshore by Qantas.

¹⁴ National Institute of Economic and Industry Research 2008 report

¹⁵ National Institute of Economic and Industry Research 2012 report

To secure the service sector jobs of the future Australia must compete on service delivery, technology and innovation in order to have the edge in a global jobs market. If we are to be a nation that invests in jobs that will place Australia at the forefront of service delivery in the Asian region we cannot afford to allow white collar jobs in finance, telecommunications, information technology, aviation and travel, legal services and data storage to be offshored.

The report found there is evidence that failure to deal with competitiveness of Australia's services industries is impacting the government's ambition to move toward being a knowledge-based economy and undermining the significant investment being made in education and training services.

Conclusion

The Qantas Sale Act is an important barrier that ensures foreign ownership does not exceed 49%, it requires Qantas head office to be located in Australia and requires at least two-thirds of Qantas Directors are to be Australian citizens amongst other important restrictions such as stipulating facilities for catering, flight operations, as well as training and administration be based in Australia. It is by no means a perfect barrier but it has kept jobs onshore.

The ASU is concerned that by changing the Qantas Sale Act and removing such restrictions the number of Qantas jobs going offshore will increase substantially over and above what has already gone. The intention of the current Act is clearly to ensure that Qantas remains a truly Australian airline, and encourages Qantas to invest in jobs and skills in Australia.

As evidenced in both NIEIR reports offshoring tends to decrease employment in this country as jobs are exported. This is not in the interests of the Australian community. Offshoring frequently diminishes the quality of the work performed by underestimating the necessary synergies provided by internal providers, and the resultant deskilling of the workforce is a major blow to the competitiveness and sustainability of our services sector.

The ASU does not want to see this happen to Qantas employees in the aviation industry.