13 October 2011

The Committee Secretary
Senate Standing Committee on Rural Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Email: rat.sen@aph.gov.au

Dear Committee Secretary

AIR NAVIGATION AND CIVIL AVIATION AMENDMENT (AIRCRAFT CREW) BILL 2011 and QANTAS SALE AMENDMENT (STILL CALL AUSTRALIA HOME) BILL 2011

Qantas appreciates the opportunity to make a written submission to the Committee in relation to its inquiry into these Bills.

Air Navigation and Civil Aviation Amendment Bill 2011

Successive Australian Governments have progressively opened the Australian economy to international competition and thousands of Australian businesses now operate successfully outside of the Australian economy in international markets. These include major Australian corporations operating in the banking, mining and transport sectors.

As a direct consequence of these policy decisions, the Australian aviation industry is amongst the most competitive, open and transparent in the world. It has been opened to foreign competition, both in the domestic and international sectors, in a manner not replicated in any other developed economy, with the one exception of New Zealand. As a matter of principle and policy consistency Australian airlines, as with any other business in the Australian economy, must have the reciprocal opportunity to compete with foreign businesses in their own markets.

Qantas intends to exercise its right to compete in these markets on precisely the same terms as any other Australian business. We will continue to participate directly in the "Asian Century" to ensure that our employees and shareholders benefit from unprecedented growth opportunities that are emerging and which will continue to grow significantly in coming years. The national interest is well served by having Australian businesses of the calibre of Qantas directly competing in these markets.

In the financial year 2010/11 the Qantas Group earned income of almost AUD15 billion. This income was overwhelmingly generated within the Australian economy, under Australian law and Australian industrial practice rules. We are proudly an Australian based enterprise and will continue to be so. The Qantas Group has over 65% of the

Australian domestic market and over 80% of all corporate travel within Australia. Over 90% of our employees are based in Australia. Our brand strength and corporate identity are inexorably linked to Australia. Suggestions to the contrary, or suggestions that we do not value that privileged position, do not warrant serious discussion. A clear distinction must be drawn between our absolute and continuing commitment to remain domiciled in the Australian economy and our intention to take advantage of growth opportunities available to us in international markets. They are mutually compatible objectives and work to the clear and unambiguous benefit of all of our stakeholders.

The counter factual is significant. Denied the opportunity to compete in foreign markets on equal terms, the Qantas Group will not be able to effectively grow in the long term to the clear detriment of its employees, shareholders and the national economy. Downstream dependent industries will suffer, particularly the tourism sector which is already under considerable structural pressure. The Bill has the potential to compromise international air services to important Australian regional destinations, leading to possible withdrawal from markets and impacting negatively on regional tourism and employment.

Taken to its logical conclusion, the Bill has serious implications for any Australian business seeking to exercise the legitimate right to expand internationally and to compete on equal terms in foreign markets. Qantas is a publicly owned business trading on the Australian Stock Exchange. The Australian Government owns no shares in the Qantas Group. An underlying presumption in the Bill is that the Australian Parliament can assume the role of the Qantas Board of Directors and determine the circumstances of the Group's investment and expansion decisions. In our view this is an extraordinary presumption and has profound implications for any Australian business seeking to take advantage of clearly articulated national policy directions.

The assertion in the Explanatory Memorandum that foreign contracts do not include the same flight duty limitations that apply to Australian crew is simply not correct. The Qantas Group takes the issue of fatigue management extremely seriously and universal standards are applied across all Group operations. This is a matter of public record, including in evidence provided before the Senate Rural Affairs and Transport Committee's inquiry into pilot training.

Qantas Sale Amendment (Still Call Australia Home) Bill 2011

We do not believe the Bill is required and are concerned that it has significant unintended consequences for the Qantas Group.

The Bill proposes that the Australian Parliament determine the composition of the Board of a wholly publicly owned business trading on the Australian Stock Exchange, and dictate the manner and circumstances of key commercial decisions taken by the Board on behalf of shareholders. It proposes that investments made by the Group in enterprises established in foreign jurisdictions also be subject to the will of the Australian Parliament. This action is proposed exclusively for the Qantas Group and for no other airline operating within or into and out of Australia. As such, it would place the Qantas Group at a trading disadvantage relative to its major competitors; impact market share, and materially affect our ability to raise operating capital. All of which inevitably will have a material impact on employment across the Group. We question whether this is an appropriate course of action.

The Qantas Sale Act was passed in 1992 simply to put into place a legislative and administrative framework to enable the Commonwealth Government to sell Qantas Airways Limited. All other Australian carriers remain subject to the provisions of the Air Navigation Act 1947. Proposals in the Bill to impose additional enforcement measures ignore the fact that Qantas already must comply with the provisions of the Qantas Sale Act. Qantas cannot be incorporated outside Australia and must remain majority Australian owned. The Qantas Sale Act already requires that facilities, taken in aggregate and located in Australia, when compared with those located in any other country, must represent the principal operational centre for Qantas. We comply fully with that requirement.

Qantas always has, and will continue to, comply with the requirements of the Act. These requirements are that:

- ownership of the airline by foreign persons cannot exceed 49%;
- foreign airlines cannot own more than 35% of Qantas;
- an individual foreign person cannot own more than 25% of the airline;
- Qantas must always form part of the airline's trading name;
- Qantas' Head Office must be located in Australia;
- the principal operational centre for services that support air travel (e.g. catering, engineering) must be located in Australia;
- two thirds of the directors must be Australian citizens; and
- Qantas is prohibited from becoming incorporated outside Australia.

Over 90% of Qantas' heavy maintenance is undertaken at our facilities in Australia. Qantas outsources only a minority of work that either cannot be accommodated within the physical capability of our facilities or on new aircraft types where work volumes are very low. This practice has been in place for the last 30 to 40 years. It would be highly inappropriate to require the Qantas Group to maintain surplus facilities and staffing levels that exceed the available maintenance workload. No other Australian carrier, or to our knowledge any comparable foreign carrier, is subject to such conditions. The Qantas Group remains the only airline to do any heavy maintenance in Australia.

The Bill requires that whether an entity is an associate of Qantas is to be determined in the same manner as the question is determined in the Corporations Act. Section 50AAA of the Corporations Act defines when one entity is an associate of another entity. If enacted, the Bill runs the real risk of forcing Qantas to materially change its current operations. Qantas has an interest in Jetconnect Limited (a wholly owned New Zealand incorporated subsidiary); Jetstar Asia and Value Air (Singapore); Jetstar Pacific (Vietnam); Air Pacific (Fiji), and has recently announced its participation in Jetstar Japan (Japan). With the exception of Jetconnect, all of these enterprises are majority owned by nationals of the country in which they are located. The Bill, if enacted, would require Qantas to dispose of these shareholdings. No other Australian carrier would be subject to similar requirements.

Jetstar was established in 2004 by Qantas as a wholly owned, Australian incorporated subsidiary. Jetstar is a separate legal entity, operating under its own Air Operators Certificate with an independent executive and operational management. Jetstar has also been designated by the Australian Government to operate international air services.

Jetstar (as is the case for any other designated Australian airline) must comply with the provisions of the Air Navigation Act 1947 which, inter alia, requires Jetstar to be majority Australian owned. These requirements ensure that, in order for Jetstar to fully access Australia's air services agreements, it must maintain its head office in Australia and must be able to demonstrate it has a majority of Australian directors and an Australian Chair.

No additional requirements are imposed on other Australian carriers, including Virgin Australia. It is simply not appropriate to impose on Jetstar (and Qantas' other associated entities) conditions which are not imposed on its competitors.

Qantas did not establish Jetstar, nor has it invested in new enterprises formed outside Australia, to circumvent the provisions of the Qantas Sale Act. In this respect we are acting in a manner totally consistent with decisions taken by many other prominent Australian businesses. This is our right and our entitlement.

Qantas would be happy to further discuss these matters with the Committee.

Yours sincerely

OLIVIA WIRTH
Group Executive
Government and Corporate Affairs