

Airline Passenger Protections (Pay on Delay) Bill 2024

TWU Submission
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TWU BACKGROUND

The Transport Workers' Union of Australia (TWU) represents tens of thousands of men and women in Australia's aviation and road transport industries. With over one hundred years' experience, the TWU has been proactive in establishing industry standards that improve the lives and safety of transport workers, their families and the community. The TWU covers all workers in the aviation industry, including in ground and baggage handling, fleet presentation, airline catering, airport screeners, refuellers, cabin crew and pilots.

EXECUTIVE SUMMARY

This submission deals with the bill's provisions around the protection of passengers from improper conduct by carriers. Specifically it deals with the reform needed to correct the significant decline in aviation service and safety standards, made more obvious in the post-pandemic period but having been systematically eroded over the last 15 years. Protection of passengers cannot be accomplished by remedies following cancellations or delays; instead it must get to the root cause of the sharp decline in standards.

Airport chaos reached crisis levels in 2022, when only 63 per cent of Qantas, Virgin, Rex Airlines and Jetstar flights arrived on time [1], and up to 1 in 10 bags were mishandled [2]. But this combination of delays, cancellations and lost luggage had been in the making for over a decade through a Qantas-led strategy of workforce fragmentation and outsourcing to the lowest bidder.

The almost limitless power of Qantas and privatised airports has created an unsustainable market for both new entrants and existing entrants. Since the beginning of the pandemic it's seen the collapse of budget carriers Bonza and Tiger, and the narrow escape of Virgin. With the dismantling of decent jobs through Qantas' workforce fragmentation, the Australian aviation industry has seen massive shortages and severe under-staffing, which have hugely affected the few services left available to choose from. This combination of lack of choice and dismantling of a robust aviation workforce has impacted on not just passengers, but also regional communities, businesses, and aviation-dependent industries like tourism which rely on travel.

An aviation industry governed by profiteering at the expense of the Australian travelling public, workers, regions and businesses is not sustainable, even with solutions being considered by this inquiry. Without regulatory oversight that can ensure decisions are made in the public interest, we will continue to see service and safety standards worsen, and airfare prices increase.

1. BITRE: https://www.bitre.gov.au/sites/default/files/documents/bitre_otp_report_april_2022.pdf

2. The Guardian: <https://www.theguardian.com/business/2022/jul/11/qantas-baggage-handler-says-theres-not-enough-of-us-there-to-get-to-all-the-bags>

DECLINE IN STANDARDS A DECADE IN THE MAKING

To fully appreciate the correlation between the industrial pursuit of cost-cutting and the debilitating consequences for passengers just trying to get from A to B, we must first examine the history of the Qantas strategy. This will contextualise issues such as understaffing, the prevalence of safety incidents, and the rise in flight cancellations, delays and lost luggage.

A Qantas-led long-term strategy of splintering its workforce and creating chronic worker shortages and skills gaps has degraded the customer experience at our airports. The timeline below sets out the systemic dismantling of aviation jobs under former CEO Alan Joyce and its disastrous consequences for the Australian public.

2004 - SUBSIDIARY

As CEO of Jetstar, Alan Joyce sets up 'Express Ground Handling' to employ workers on lower pay and conditions for ground handling on Jetstar aircraft.

2008 - SUBSIDIARY

As CEO of Qantas Group, Alan Joyce sets up 'Qantas Ground Services' (QGS) to employ part-time workers on lower pay and conditions to perform the same duties on Qantas aircraft as Qantas Airways Limited (QAL) workers.

Qantas vows never to hire another worker under the QAL enterprise agreement.

2011 – GROUNDING OF FLEET

By grounding the fleet, Alan Joyce successfully puts a stop to protected industrial action over job security from QAL ground handling workers.

This action aimed at denying workers the ability to exercise their legal rights was an early example of the disproportionate power held and deployed by Qantas, with huge impacts on the industry, customers, businesses, and Australia's global reputation.

CIRCA 2015 – OUTSOURCING

Qantas outsources ground handling at some of its smaller regional ports to Swissport (roughly 10% of the business)

2020 - OUTSOURCING

On 30 November 2020, Qantas announces its rejection of workers' EY-supported in-house bid and outsources all ground handling and fleet presentation operations, except QLink regional work in Sydney (roughly 90% of the business)

2021 AND 2022– OUTSOURCING RULED ILLEGAL

Four Federal Court judges unanimously agree that the 2020 outsourcing of almost 1700 workers was unlawful for its motivations to avoid collective bargaining and protected industrial action.

Qantas tells the Federal Court it would retrench workers again if ordered to reinstate them.

This strategy, which has included the illegal outsourcing of over 1700 ground handlers as found by the Federal Court, Full Court of Appeal and the High Court, has fragmented the Qantas workforce into at least 38 separate entities and decimated standards for the travelling public.

The pandemic was seen by Qantas as a "vanishing window of opportunity [3]" to outsource its ground handling workforce, but precipitated a decline in standards that had already been years in the making.

With the competitive advantage of controlling roughly two thirds of the domestic aviation market, this strategy has not only given Qantas almost limitless power to dictate wages and conditions, but significantly worsened safety and service standards for the travelling public.

The pandemic also saw the administration of Virgin Australia and loss of budget carrier Tigerair, a blow to passengers who'd previously had the option of two budget carriers. This was partially remedied with the entrance of Bonza, both for affordability and connecting regional Australia.

3. ABC: <https://www.abc.net.au/news/2021-07-30/qantas-twu-ground-staff-federal-court-judgment/100336418>

But the recent collapse of Bonza, stranding passengers and putting hundreds of aviation jobs on the line, points to the broader issue of instability in an industry governed by aggressive competition and privatised decision-making decimating jobs and standards.

Though the pandemic threw into sharp contrast the issues behind the scenes at our airports, those issues were already in the making, and will only become more obvious with any future events impacting on aviation. The industry is inherently prone to sudden shocks like natural disasters, international conflict and, as we've seen, pandemics. Ensuring decent standards for passengers will necessitate not just provisions following delays or cancellations, but regulation to ensure aviation remains stable throughout peaks and troughs—crucially that means a robust and skilled workforce.

We have already seen a significant proportion of the workforce leave either through outsourcing or lack of government support during the pandemic. Without attracting skills and experience back into the industry through decent jobs, the price for passengers and the Australian public in the long-term will be a further decline in standards.

UNDERSTAFFING

The mass exodus of an estimated 25,000 skilled workers during the pandemic has led to widespread understaffing in aviation, with significant effects on the travelling public.

By the end of 2020, more than 13,500 job losses had been announced in aviation, including the roughly 2500 outsourced at Qantas and Jetstar. Expanding to broader airport roles, CEO Geoff Culbert said 15,000 jobs had been lost at Sydney airport throughout the pandemic [4].

The Morrison Government's sudden reversal of JobKeeper wage subsidies to foreign-Government owned companies like Dnata and SNP Security made it impossible for many workers to sustain long stand-downs. By October 2020, the announcement of 1,000 redundancies gave short-term reprieve to struggling Dnata workers on unpaid stand-down. Virgin's collapse into administration following the Morrison Government's refusal to provide support led to a further 3,000 job losses as well as budget carrier Tigerair ceasing operations, removing one of the only budget options available to passengers. TWU members fought hard to gain a commitment from new owners Bain Capital to prioritise and retain jobs throughout the sale.

Qantas axed 9800 workers through illegal outsourcing and overzealous redundancies, leaving the airline desperately understaffed when flying returned. By June 2022, under pressure from angry customers battling airport chaos, delays, cancellations and lost bags, Qantas was forced to cut the capacity of its domestic flights by 15 per cent, while international flying was around 50 per cent of pre-pandemic levels. Airfares hiked up as a result of the reduced capacity, while service standards remained subpar. The redundancies and unlawful sackings at Qantas saw predominantly those with the most experience, skills and training responsibilities leave the airline, and passengers have since suffered as a result.

More than 200 pilots also vacated, leaving scarcely any with check and training duties authorised by CASA. In June 2022, Sydney airport held a jobs fair in an attempt to fill 5,000 vacancies, but only succeeded in recruiting half the workers. A second attempt in September aimed to fill a further 4,000 vacancies. At one stage, Qantas executives were asked to work as baggage handlers as the airline attempted to tackle the shortage brought on by its illegal outsourcing of its entire ground handling operations.

Following the refusal to reinstate illegally sacked Qantas workers, ground handling labour providers struggled to recruit workers into the lower paid and less secure jobs. Swissport resorted to flying workers from interstate into Sydney and Melbourne to cover enormous gaps, and began paying workers \$50 a day just to show up, showing that it recognised low pay was a disincentive.

4. 9 News: <https://www.9news.com.au/national/sydney-airport-job-fair-recruit-5000-new-workers-staff-shortages/797af052-6993-4bd3-a3ff-784d2f1d80f5>

With wages and conditions having plummeted, these skill and experience gaps have not been filled and ground handling positions in particular have become transitory roles, with passengers worse off as a result. Turnover of staff remains high. In October 2022, a TWU survey of 165 Swissport workers revealed 76 per cent were considering leaving the industry over poor pay and conditions and chronic understaffing leading to exhausting pressure and safety incidents.

Swissport's own internal memos revealed that it knew it was understaffed, saying "The business is acutely aware that our human resource levels are simply not at a sustainable level to meet the ongoing demand from the airlines." Understaffing has also led to serious safety concerns as detailed further in this submission.

IMPACT ON REGIONAL COMMUNITIES

Bonza's collapse has seen a further 300 aviation job losses following the mass exodus during the pandemic, and its loss will have tangible impacts on regional passengers.

The entrant of Bonza was a much-needed boost for regional communities who were often either isolated or unable to afford airfares from the major carriers. When Bonza launched, passengers travelling directly from Sunshine Coast to Mackay increased from just 18 to 45,000 [5], an increase of 250,000%.

With the Sunshine Coast a key focus of the budget airline, its loss could have impacts of \$100 million [6], with job losses not just from directly-hired roles but adjacent jobs in the tourism sector from food and beverage suppliers to accommodation providers for flight crews.

Bonza's collapse has meant regional communities across Australia will remain isolated through unaffordable or unavailable air travel, despite strong demand, because of the minimal interest from major carriers to service these routes. Areas which had seen enhanced tourism and connectivity will be worse off.

Reports of predatory behaviour have also seen Rex exit from several regional routes since 2022. The entrance and exit from carriers of these routes has significant implications for businesses, passengers and the tourism industry, with constant changes meaning a lack of certainty. Regardless of what happens behind the scenes, regional Australia comes last in these discussions without having an independent decision-maker.

The untrammelled market power of privatised airports and major airlines has all but guaranteed new entrants can't survive, with regional communities disconnected from the nation as a consequence.

INCREASE IN DELAYS AND CANCELLATIONS

With complaints to the ACCC regarding aviation having risen by nearly 200% since 2018, it's clear the customer experience at our airports has significantly dropped following the mass exodus of aviation workers. Over the 2022 Easter school holidays, airport chaos saw passengers waiting two hours to get through security, countless passengers miss flights through airport delays or cancellations, and record numbers of lost luggage. Despite the 9800 jobs lost at Qantas throughout the pandemic, Qantas CEO Alan Joyce blamed passengers not being 'match fit' for the delays.

It was not until Qantas' reputation had reached rock bottom that new CEO Vanessa Hudson apologised to customers, claiming an "industry-wide labour shortage [7]" was the source of the airline's woes—despite it having created the issue to begin with through over-zealous redundancies and illegal outsourcing, all while receiving the most money in taxpayer handouts out of any company in Australia.

All told, an estimated 25,000 skilled, experienced aviation workers left the industry throughout the pandemic [8], while worker shortages and difficulty recruiting into lower-paid, less secure jobs saw airports thrown into chaos as flying returned.

5. 9 News: <https://www.9news.com.au/national/bonza-what-happened-to-the-low-cost-australian-airline/8f45a218-5ef7-4252-9c4c-fbb82ef89f0d>

6. Courier Mail: <https://www.couriermail.com.au/news/queensland/jobs-lost-tourism-sector-hit-100m-loss-from-bonza-collapse/news-story/0c3f9cfac3e7f1116a80ebf58dc789a5>

7. Qantas press release: <https://www.qantasnewsroom.com.au/media-releases/qantas-reaches-out-to-customers-with-a-formal-apology-and-several-ways-of-saying-thank-you/>

8. ABC: <https://www.abc.net.au/news/2024-03-19/aviation-industry-skills-shortage-covid-19-pandemic-workers-jobs/103573228>

SAFETY

Chronic understaffing and a lack of skilled, experienced workers is putting enormous pressure on workers leading to serious incidents, and raising considerable questions about passenger safety.

In September 2022, the TWU exposed a dossier of serious safety incidents at Swissport, which handles the bulk of Qantas outsourced ground work. Incidents included:

- Firearms unloaded onto arrivals carousels;
- Dangerous goods loaded onto planes without being documented;
- Cargo doors left open;
- Stairs removed while passenger doors open;
- Huge plane load imbalances;
- Staff working while injured; and
- Vehicles colliding with the refueling hose.

The TWU surveyed Swissport workers on safety, with disturbing results. The 165 respondents revealed:

- 81% were concerned about understaffing causing safety incidents
- 80% are concerned about inexperience from high staff turnover
- 95% have been fatigued at work
- 62% have been so fatigued they've worried about a safety incident occurring
- 80% felt under pressure to rush
- 41% have been injured at work
- Only 17% said they're trained on new safety procedures 44% said they find out safety procedures through word of mouth from coworkers

These are not isolated issues at Swissport. The TWU had previously exposed multiple breaches of award standards, workers forced to sleep at airports between split shifts, and other injuries and security failures.

In June 2024, Swissport staff revealed that poor training and understaffing had resulted in further mishandled firearms, damaged aircraft and unbalanced plane loads.

Despite consistently minimising the issues with standards after the illegal outsourcing of ground handling, Qantas was flagging incidents and demanding improvements from Swissport, which handles the bulk of the outsourced work. Some of the most recent incidents include losing the wheelchairs of Australia's Paralympians and a dented engine that went undiscovered until an engineer noticed the damage. Ground staff at Swissport said they "feared a serious safety incident could occur if standards were not lifted." [9]

PROFITS AND EXECUTIVE PAY

Qantas' 2023 AGM saw one of the largest protest votes against executive pay in Australian corporate history at 83%. While Qantas has reported almost \$4 billion in profits in just the last 18 months, passengers have experienced skyrocketing airfares and rock-bottom service.

Illegally outsourced workers are still waiting for compensation after having been fighting the airline in court for over three years, and Qantas' lack of regard for workers has also extended to its once-loyal customer base. In May 2024 it was announced that Qantas would pay a \$120 million settlement as part of the ACCC's "ghost flights" case (with \$20 million for customers and \$100 million as a civil penalty), with ACCC Chair Gina Cass-Gottlieb calling the airline's behaviour "egregious and unacceptable." [10]

9. Sydney Morning Herald: <https://www.smh.com.au/business/companies/lost-guns-damaged-planes-qantas-slew-of-complaints-to-ground-handler-revealed-20240613-p5jlhe.html>

10. ACCC press release: <https://www.accc.gov.au/media-release/qantas-agrees-to-20m-payments-to-customers-and-subject-to-court-approval-a-100m-penalty-for-misleading-consumers>

The lack of ramifications for highly-paid executives is an industry-wide issue. Recent reports show Paul Jones, a central figure in Qantas' illegal outsourcing whose evidence Justice Lee called "particularly troublesome," is a frontrunner to be the next Virgin CEO.

In 2018 Alan Joyce, at \$24 million, was the highest paid CEO in Australia and the highest paid airline executive in the world. Profits and executive pay packets soar when aviation is doing well, but when events like the pandemic occur, the assumption is instead that governments will provide bailouts with no strings attached.

The consequence of this cycle is that while strong profits flow to executives and shareholders, taxpayers are repeatedly forced to foot the bill to prop up airlines in more difficult times—all without a guarantee that it will mean a continuation of decent service standards. This continued cycle has drained skills and experience from our airports and left overpaid executives and unsatisfied passengers.

Privatised airports and a powerful airline duopoly has led to the protection of profits, executive bonuses and share prices no matter the state of aviation. Meanwhile workers and passengers are left behind. Standards will continue to slump without external regulation.

THE SOLUTION: REGULATORY OVERSIGHT

For the travelling public to experience decent service and safety standards, the aviation industry needs regulation through an independent decisionmaker to rebalance the scales.

The Senate Select Committee's report on 'The future of Australia's aviation sector, in the context of COVID-19 and conditions post pandemic' recommended the implementation of an independent body "with the power to make and enforce binding standards on aviation supply chain participants, including airports and their central role." The decline in standards in aviation has shown the necessity of such a body in order to rectify the power imbalance that's seen passengers experience increasingly poor standards.

The TWU is calling on the Federal Government to establish a Safe and Secure Skies Commission, which would ensure:

- Safe and fair standards for all workers;
- Supply chain participants including airports and airlines are responsible for safe and fair supply chains;
- Commercial, economic and contracting pressures and incentives that can lead to unsafe and unfair practices are removed;
- Efficient and effective dispute resolution across the supply chain, including unfair contracts and unfair contract terminations; and
- Strong collective representation for all workers through their relevant Registered Organisations.

Passengers and aviation workers in Australia will continue to see poor outcomes without proper regulatory oversight, regardless of whether there are measures to compensate for delays or cancellations.

The structural issues that have caused a mass exodus in aviation during the pandemic have meant the industry has not recovered to a level commensurate with customer, community or business expectations. From the decimation aviation jobs experienced, it is clear the industry will not be able to withstand further external shocks without a decision-maker geared towards the public interest. For the benefit of workers, passengers and regional communities, there must be a system in place that can ensure this critical industry serves the public.



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