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COMMONWEALTH BILATERAL AIR SERVICES AGREEMENTS

Qantas Airways Limited (Qantas) is pleased to make a submission on the matters being considered by the Senate Select Committee for Commonwealth Bilateral Air Services Agreements (Committee) for inquiry and report following our appearance before the Committee on 27 September 2023.

Aviation plays an integral role in the Australian economy, connecting international, domestic, regional and remote communities and supply chains, and providing a key source of employment and tourism.

Qantas has a proud history of serving the Australian community. In its 103 years of operation, including many times in recent years, Qantas has stepped in at times of national crisis – from bringing Australians home from conflict zones overseas to transporting first responders and equipment in the face of natural disasters.

However, Qantas recognises that over the past few years it hasn't consistently delivered for its customers, and that there have been times when we have let down the Australian public. While this isn't unique to the national carrier or the broader industry in the wake of COVID, we are sorry to have disappointed those who rely on us, particularly given the high standards to which we are appropriately held and to which we hold ourselves.

We are already making changes to earn back the trust of our customers and the communities we serve. We're focused on continuously improving our reliability and our product and service standards, including:

- Putting more specialists in our call centres to help solve problems faster;
- Adding more frequent flyer seats;
- Removing the expiry dates on all COVID credits;
- Reviewing our customer policies and processes to make sure they're fair; and
- Giving our frontline staff more flexibility so they can better help when things don't go to plan.

Given the Committee's interest and focus on Qantas and on issues that go well beyond bilateral traffic rights negotiations, this submission has been expanded to touch on airfares, cancellations, slots, competition and how we interact with government. We hope this submission assists the Committee with its final report.



Airfares

Qantas appreciates the importance of affordable air travel and acknowledges the upward pressure on air fares since the COVID restart. Inflation is driving up the price of goods and services across the economy and aviation is not immune. That same pressures have been experienced across the sector globally and are not unique to Qantas or Australia.

The data shows that the long-term trend for airfares has been inexorably down. Since the Australian industry deregulated in the 1990s, the price of domestic flights has dropped by about 50 per cent, adjusted for inflation. There are few goods or services where that has been the case.

The COVID pandemic was incredibly damaging for the aviation sector. Across the globe, the industry came to a virtual standstill. With international borders closed and domestic travel restrictions in place, Qantas had to stand down thousands of staff.

When borders finally opened, the return to flying was not nearly as smooth as we had hoped. Staff shortages, sick leave, supply chain issues and aircraft still in hibernation meant the industry couldn't meet the huge pent-up demand for travel. The result was long queues, delays and cancellations.

To address these issues, we had to cut capacity to reduce pressure on the system. This worsened an imbalance between supply and demand, which pushed up fares across all airlines. At the same time, fuel prices spiked by more than 60 per cent, driving fares higher again.

Fares peaked in December last year – and, as all airlines have increased capacity, have been trending down ever since.

Internationally, capacity has doubled in the past year and new flights are being added regularly by the 52 international airlines serving Australia. In the 12 months from July 2023, an additional 6.6 million one-way seats have been published on international routes from Australia, which will take total market capacity back to almost 100 per cent of pre-COVID levels and bring the total one-way international seats published on international routes from Australia to around 25 million for financial year 2024.

Average fares have declined from their December 2022 peak by around 10 per cent, despite the 30 per cent increase in the cost of fuel since May. Airlines (like hotels, car hire companies and others) use dynamic pricing, so it is important to remember that fares quoted in headlines are often the most expensive on that particular flight. They rarely reflect the average of what everyone on that flight paid. Sales fares are frequently available, with Qantas offering an average of 17 network-wide sales per year and Jetstar on track to offer 10 million fares less than \$100 by the end of 2023. It is important to note, too, that Qantas Frequent Flyer Points redemptions accounted for 1 in 11 seats flown by Qantas in financial year 2023.

Delays and cancellations

Airlines try to operate all flights on time. It is in our economic interests to operate without delays to avoid costly knock-on impacts to other flights, crew hours, fleet planning and passenger connections. Many factors influence on-time departure or arrival, including weather, air traffic control, crewing and engineering considerations. We will always put safety before schedule.

Our operations have come a long way since we restarted flying post-COVID. Government data shows Qantas has been the most on-time of the major domestic airlines for 12 months in a row and has had the lowest cancellations the past four months. These important facts seem to have been overlooked in much of the recent debate.

When operational problems mean that we can't fly our schedule as planned, we lean on – that is, 'borrow' – recovery flights from high-frequency routes like Melbourne-Sydney or Canberra-Sydney because the impact on customers is usually limited to an hour or so. This helps us protect lower-

frequency routes to regional centres and places like Darwin or Hobart where the impact of a cancelled flight for passengers could be half a day or more.

While this context is important, we appreciate the dissatisfaction of passengers travelling on those high-frequency routes. We've adjusted our schedule to address this and we're working internally and with industry stakeholders, particularly Airservices Australia, to lower our cancellation rate across the network.

Understandably, the recent ACCC allegations have caused significant concern among our customers, our people and the general community. Qantas takes its obligations under the Australian Consumer Law seriously. Suggestions that Qantas was charging a 'fee for no service' are wrong. We promise our customers to get them away at or close to the scheduled time. When a flight is cancelled, customers are offered an alternative flight as close as possible to their original departure time, or a refund.

Sydney slots

Sydney Airport is a critical piece of national infrastructure and ensuring its capacity is utilised efficiently, competitively and sustainably for regional, domestic and international services must be a priority for Government. Qantas broadly supports the recommendations of the Harris Review on the basis they will increase transparency and efficiency and make the Sydney Airport Demand Management Scheme more consistent with the Worldwide Airport Slot Guidelines.

While it deviates in some respects, the Sydney Airport Demand Management Scheme is based on international principles consistent with the Worldwide Airport Slot Guidelines (**WASG**). In a rule that is common worldwide to enable the smooth operation of a global industry, airlines at Sydney Airport are required to operate at least 80 per cent of their allocated slots in order to keep them. This 20 per cent buffer reflects the operational challenges faced by all airlines, and the importance of always putting safety before schedule.

Qantas is operating more than 90 per cent of its allocated slots – well above threshold levels administered by the Worldwide Airports Slots Board, of which Sydney Airport is a member. Indeed, 99 per cent of Qantas' slots were returned in the most recently completed season. An interesting point of comparison is that Rex Airlines, with significant operational challenges in its regional services, in the current reporting season is operating to about only 82 per cent of its allocated regional slots. The WASG would, if that performance continues, allow those regional slots to be returned to Rex in the hand-back process, while a higher threshold, that deviates from the accepted global standard, would not.

Sydney Airport is not full. Only 75 per cent of its available slots are allocated. In 2023, numerous new entrants have commenced international services into Sydney. In 2021, Rex commenced domestic jet operations out of Sydney, including during peak periods. In both 2023 scheduling seasons Rex was awarded the majority of additional peak slots it sought – 108 additional slots in total. Bonza did not participate in the seasonal slot process in Summer or Winter 23 and so did not obtain any slots.

Competitive environment

Australia is one of the most liberal aviation markets in the world. That means that unlike a lot of other jurisdictions, we have Open Skies Agreements with our key markets and there are no restrictions on foreign carriers setting up domestic operations here.

Domestic travel has never been more competitive. For the first time, there are now four large jet operators and as the ACCC noted in its monitoring, with Rex expanding onto mainline routes and the entry of Bonza, competition in Australia has increased following the restart from COVID-19.

Internationally, Qantas competes against more than 50 carriers and total market capacity has more than doubled over the past year.

This level of competition both domestically and internationally compels the sector to invest and innovate to reduce costs and deliver better service and products to customers. Far from seeking to avoid it, competition has driven some of the Qantas Group's best innovations, including the establishment of Jetstar, which has put air travel within the reach of Australians who had previously never flown.

The Committee has heard allegations from Rex and Canberra Airport suggesting Qantas' entry onto new routes during the COVID-19 Pandemic was anti-competitive. The allegations made by Rex were thoroughly investigated by the ACCC in 2021, and the ACCC did not make any such finding, instead noting that competition appeared to be increasing, rather than decreasing.

Canberra Airport supported and incentivised Qantas' entry onto all of the routes in respect of which they have complained to the Committee. All were started in the depths of COVID, when all airlines were looking for what routes they could fly based on which States and Territories were open at any one time. The Australian Capital Territory was open to Tasmania and Queensland, but New South Wales was not open to either jurisdiction. Canberra-Hobart services continue to operate successfully. Canberra-Ballina was a 'test and try' route that commenced after FlyPelican exited, but which regrettably did not prove feasible. Canberra-Sunshine Coast operated successfully during COVID, but once borders reopened, performance declined and the service was discontinued in January 2023, some 16 months after Alliance exited the route.

Competition in the domestic and regional aviation markets intensified during 2020 and 2021, with Virgin Australia emerging from administration with a leaner cost base and Rex launching jet operations at a time where narrowbody leases were extremely cheap. Failing to respond to the competition by not considering and improving our customer proposition – through capacity, price and service – would have had a materially negative impact on the Qantas Group's business model and profitability, on top of the impact of the pandemic more generally. The suggestion that Qantas should effectively 'sit still' or 'make way' for its competitors is not reasonable and not how any business operating in a competitive industry can sustainably operate. Importantly, 'sitting still' would also lead to an inferior outcome for the Australian public by diminishing competition among carriers and reducing choice for customers.

Qantas takes compliance with competition laws seriously. Our conduct has always been, and will continue to be, for the legitimate purpose of enhancing our customer proposition to better compete against other carriers to retain and attract the loyalty of customers, and to thereby maximise our competitive advantages and long-term profitability.

Bilateral air services agreements

Over the past 30 years, Australia has been at the forefront of international market deregulation and liberalisation. This approach has delivered more flights, lower prices and more innovation, and has helped facilitate substantial growth for Australia's visitor economy. One clear symbol of this increased competition is the dilution of Qantas' share of international travel, from 41 per cent in 1994 to around 17 per cent (or 28 per cent when combined with Jetstar) today.

The vast majority of international airlines with which Qantas competes for Australian customers have significantly lower cost bases, chiefly due to the price of labour in their home markets. This has driven Qantas to keep innovating (for instance, through direct routes like Perth-London) as well as restructuring to improve our own competitiveness.

Successive Australian governments have sought to negotiate agreements that balance Australia's national interests, expand Australian airlines' access to the world, allow foreign carriers increased access to Australia, provide opportunities for trade and tourism and deliver connectivity and competition benefits for passengers.

After a COVID-related hiatus, the program of bilateral engagement on air services agreements is ramping up again. This is critical. While the bilateral system has limitations, it has effectively delivered growth and will continue to do so while the Australian Government explores opportunities for expanded liberalisation. Sequenced case-by-case negotiations, which balance benefits and opportunities, and focus on reciprocity, will enable the progressive liberalisation of air services arrangements that expand Australian airlines' access to the world and allow foreign carriers to increase their access to Australia.

The bilateral system

Some brief but important historical context: In the closing stages of World War II, 54 countries came together to discuss the future of international aviation. The conference resulted in the signing of the *Convention on International Civil Aviation*, subsequently called the *Chicago Convention*. The Chicago Convention established the rules under which international aviation operates. It also established the International Civil Aviation Organization (ICAO), the United Nations organisation responsible for fostering the planning and development of international air transport.

The Chicago Convention determined that no scheduled international air service may be operated over or into the territory of a contracting state without their express permission. This means that before an airline can operate international services to another country, the departing country's government must first negotiate a treaty-level agreement with the destination country's government. These treaties are known as bilateral air services agreements.¹

In the years following its creation, ICAO developed a series of traffic rights, known as *freedoms of the air*. These freedoms continue to form the basis of rights exchanged in air services negotiations today. To allow international aviation to grow and to expand their home carriers' access to new and emerging markets, governments must continually negotiate new treaties.

As a result, international aviation is regulated by a complex web of more than 3000 bilateral air services agreements. The Australian Government has negotiated more than 100 bilateral air services agreements and associated arrangements allowing airlines to offer the services that they do today.²

This type of trade arrangement does not exist in any other sector and reflects the history and complexity of these rights. The bilateral agreements of each country are informed by their relative bargaining power and the rights that are available to trade.

Australia has a number of 'Open Skies' agreements with other countries, which effectively allow designated airlines from those countries to freely fly international routes and compete openly with each-other for passengers, breaking down regulatory barriers and eliminating government involvement in airline decision making. Australia has such agreements with the United States, New Zealand, China, the United Kingdom, Singapore, India, Japan and Switzerland, and highly liberal arrangements with most other key trading nations relevant to Australia.

Relevant process

Decisions on bilateral air service agreements are matters for government.

The format for this process is largely similar worldwide. A request is made. That request is considered. If agreed, talks are scheduled. Relevant parties (in particular, home market airlines) are consulted. Negotiations succeed or fail and any new arrangements are enacted.

¹ <https://www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/international-aviation/bilateral-air-services-system>

² <https://www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/international-aviation/air-services-agreements-arrangements>

The fact that Qantas and other market participants are routinely consulted by government as part of this process shows that this is not a simple yes/no process, and that a number of broader market factors are considered. It also shows there is nothing unusual about Qantas (or any other interested party) being for-or-against the proposal. Each party is entitled to argue in their own interests, with government being the ultimate decision maker.

Qantas has, in a majority of cases, welcomed more competition and Open Skies arrangements. We have worked hard with successive governments to open specific key trade and tourism markets vital to Australia, including Japan, China, Indonesia and Europe.

This process is not always successful. Improved access to places like Hong Kong, France, Fiji and Japan is out of reach for Qantas as an Australian carrier.

Other than third/fourth freedom capacity, Hong Kong is happy with the rights already in place for their airlines, so Australia has not been able to substantively negotiate on traffic rights. Similarly, the bilateral with France is one of Australia's oldest and most restrictive agreements. The airlines of both sides have been limited to three units of capacity per week since the 1990s.

An assessment of the national interest informs the decision making of both governments considering changes to agreements. National interest is a concept with broad application in state-to-state engagement and is necessarily fluid. Relevant considerations might include the 'beyond' rights on offer, the ability to code share, the adherence of the other country to international rules, freight rights, access to ground handling, airports and the ability to sell freely, rights of domestic domiciled airlines and their interests internationally.

Negotiating governments often place considerable importance on their home carriers' significant national employment, investment and strategic importance, as well as factors such as high levels of government ownership and support for the applying carrier, and the ability for their home carriers to compete on a level playing field.

Impact of bilateral air services agreement decisions on the Australian economy

Prior to the COVID-19 pandemic, aviation contributed \$20 billion to the Australian economy, or 1 per cent of GDP.³ Ensuring that these benefits can be restored and grown is both a challenge and priority for the sector.

As set out above, the approach of successive Australian Governments to bilateral negotiations, deregulation and liberalisation has delivered more flights, lower prices and more innovation and has helped facilitate substantial growth for Australia's visitor economy.

In the context of the QCAA application, it is worth noting that the vast majority of outgoing Australian travellers only use Qatar as a transit hub, with passengers travelling solely between Australia and Qatar averaging 245 per week before the pandemic. The Australia-Europe market is extremely well served via hubs other than the Middle East, including Singapore, Hong Kong, Bangkok, Kuala Lumpur, Guangzhou, Shanghai and Beijing. Of these, Singapore and China have Open Skies arrangements with Australia, and the others have liberal capacity arrangements in place. There are no restrictions on dedicated international air cargo services between Qatar and Australia.

In terms of inbound tourism, Qatar Airways carries a disproportionately high number of outbound Australian-based passengers. On that basis, suggestions that granting the QCAA application would have materially advanced the Australian tourism industry's recovery are overstated.

³Department of Infrastructure, Transport, Regional Development and Communications, The Future of Australia's Aviation Sector – Flying to Recovery, Issues Paper 2020.

In considering the tourism impact, it is also worth noting that Qantas is the largest private investor in marketing Australia to the world, and what separates us from other international carriers serving this market is our singular focus on promoting Australian tourism in the key destinations to which we fly.

Appeal rights

Bilateral air services agreements are the result of a government-to-government process. The history of air services agreement negotiations shows this process can be protracted and iterative – often over a period of years. Airlines and other parties do not have ‘rights’ that can be properly appealed in this context and granting them would put Australia out of step with other jurisdictions in an environment where reciprocity is critical. In analogous fields, such as trade or taxation, there are no appeal provisions in respect of other government-to-government agreements.

QCAA proposal

The QCAA proposal was lodged in August 2022, at a critical time for Australian aviation, with the sector’s recovery from the pandemic finally gathering pace. The Australia-Qatar air services arrangement had been updated just seven months earlier, with a 33 per cent increase in capacity to/from Australia’s four main gateways off the back of progressive growth over a long time.

At the time the application was made, airlines around the world – especially those that are not government-owned and had more repair work to do from the crisis – were working to return capacity to the market as fast as possible. There were strong commercial incentives to do this, given high levels of pent-up travel demand.

In circumstances where the recovery was expected to accelerate over the following months, Qantas indicated it would be inappropriate to make a significant structural change to an important bilateral agreement, which had the potential to permanently distort the market while the sector was still recovering. That recovery is exactly what is happening. Singapore Airlines, Cathay Pacific, Emirates, Delta, ANA and China Eastern are among the airlines that are adding capacity back into Australia, and international fares have dropped considerably as a result.

As has been subsequently reported, there is plenty of opportunity for airlines, including Qatar Airways, to add more flights to Australia under the current arrangements. The capacity QCAA applied for represented an estimated two percentage points of incremental, annualised capacity. Qatar Airways currently flies a mix of Boeing 777s and Airbus A380s on its routes to Australia. If it opted to upgauge these to A380s, which it can under its current traffic arrangements, it would immediately increase the number of seats offered by 27 per cent.

Qantas notes that Australia is not alone in hesitating to grant applications by the QCAA over the past few years. Most recently, Qatar Airways’ CEO has complained about the Canadian Government’s refusal to grant the airline additional traffic rights despite the fact it maintained services during the pandemic, saying: *“It is distressing to me that the Canadian authorities are not providing us with fair allocation of traffic rights that they have given to our neighbours.”*⁴

‘Quid Pro Quo’

The suggestion that the Government’s decision on the QCAA application may have been related to Qantas’ support for the Voice and the Yes23 campaign has no basis in fact and ignores Qantas’ longstanding commitment to indigenous reconciliation.

Qantas has a long history of supporting indigenous reconciliation and constitutional recognition of Aboriginal and Torres Strait Islander people, as the timeline below shows:

⁴ Forbes, 27 August 2023 <https://www.forbes.com/sites/ramseyqubein/2023/08/27/qatar-airways-ceo-discusses-new-business-class-future-of-a380s-and-oneworld-alliance/amp/>

- In 2014 Qantas placed the Recognise campaign's logo on one of its aircraft, as a public display of our support for reconciliation.
- In 2017 Qantas made a statement regarding the indigenous voice co-design process, where it recognised that a First Nations Voice to Parliament is a fair and practical way to deliver meaningful recognition and reform for Aboriginal and Torres Strait Islander peoples.
- In 2019, Qantas joined other organisations to publicly support the Uluru Statement from the Heart which calls for Voice, Treaty and Truth.
- In April 2021, Qantas responded by way of Submission to the [Interim Voice co-design report](#) in support of reconciliation.
- On 2 July 2023, on the first day of NAIDOC Week, Qantas reaffirmed its support for a Voice to Parliament and a YES vote in the upcoming referendum, through a [joint statement](#) with Reconciliation Australia and more than 70 organisations and businesses.
- In August 2023, the Qantas Group reaffirmed our support for the upcoming referendum with three aircraft displaying the Yes23 logo – much like the 'Recognise' livery had done nine years before – as a symbol of our support for an Indigenous Voice to Parliament. We have also agreed to provide in-kind flights to the Yes23 campaign.

We are proud to support both the Yes23 campaign and the Uluru Dialogue and see the referendum as a positive step in closing the gap and for advancing reconciliation in Australia.

Qantas' engagement with Government

There has been a lot of discussion before the Committee about Qantas' engagement with the Federal Government. The underlying suggestion seems to be that Qantas is not entitled to put forward its position.

It is worth briefly outlining how this relationship works with governments on both sides of politics. Qantas has regular interactions with many different parts of the Federal Government, driven largely by its role as a critical piece of national infrastructure in one of the nation's most tightly regulated industries.

In any given month, those interactions might include agencies such as CASA, ATSB, Border Force, Airservices Australia, AQIS, AFP and Federal Departments including Foreign Affairs and Trade, Infrastructure, Treasury and Finance, Employment and Workplace Relations.

Qantas also has regular interaction with the Executive branch, typically centred on information provided to relevant Ministerial advisers on current and emerging issues. Lastly, Qantas engages with Members and Senators – Government, Opposition and crossbench – on issues relevant to their constituents or portfolios.

Some members of the Committee will be familiar with the nature of these interactions, including during their time as Ministers and as current Shadow Ministers.

By way of example, over the past few months the topics that featured regularly in discussions with Government include:

- Updates on Qantas and Jetstar's operational performance, capacity levels and network expansion.
- Industrial relations reform and its potential impact on the Qantas Group.
- Introducing the new Qantas Group CEO to relevant Ministers.
- Discussions with Border Agencies and relevant Ministerial offices on logistical support needed for Qantas to increase its international flying from Perth to destinations including South Africa.
- Informing Government of the Qantas Group's investment decisions on fleet and the flow on impacts for jobs and training (e.g. formation of the Qantas Group Engineering Academy).

- Temporary closure of Darwin Airport runway due to works required by the Department of Defence and the impact on passenger services.
- Performance challenges and improvement plans put in place by Airservices Australia.
- Responding to constituent complaints on issues including COVID credits and disability access.

In turn, Qantas is often consulted by Government in relation to policies that would impact the broader aviation and tourism industries. For instance, the design of new flight paths for Western Sydney Airport. These discussions typically result in better outcomes overall, which is the purpose of government consulting with industry.

It is equally important that any party engaging with the Government or the Opposition be capable of doing so in strict confidence. It is our view that a critical hallmark of a robust democracy is the ability of parties to convey their perspective on issues to the Government and the Opposition without hesitation, and particularly without fear of (lawful and appropriate) confidential disclosures being disclosed inadvertently or deliberately. To accept otherwise is to place in real peril the Government and Opposition receiving candid and important information, perspectives and advocacy.

Conclusion

Aviation plays a critical role in the Australian economy, connecting international, domestic, regional and remote communities and supply chains and providing a key source of employment and tourism.

Australia needs an efficient, safe, sustainable and competitive aviation sector. Affordable travel is crucial, but aviation policies focused *purely* on providing the cheapest possible fares will not achieve the kind of industry that has served Australia well for many decades. A vibrant and sustainable aviation sector exists when customers have the choice of a range of service and pricing options.

Qantas acknowledges the important reform work that the Government is doing to through the review of competition policy settings and the Aviation White Paper and we look forward to participating in these processes.

As we indicated in our appearance before the Committee, Qantas acknowledges that since COVID we have often let down our customers. We are making significant changes to restore standards Australians have come to rightly expect from us, while retaining our enduring focus on safety.

Our return to profit means we are tackling these challenges from a much better financial position than in prior years. As well as moving quickly to fix customer issues, we have a significant pipeline of investment in new aircraft and new destinations that will create around 8,500 additional high-skill and well-paid local jobs in the next decade.