

**Senate Standing Committee on Education Employment and Workplace  
Relations**

**QUESTIONS ON NOTICE  
Budget Estimates 2012-2013**

**Agency - Fair Work Ombudsman**

**DEEWR Question No. EW0147\_13**

**Senator Xenophon provided in writing.**

**Question**

**FWO - Jetstar**

In response to a question about monitoring Jetstar more closely in the future, the response was: "...obviously the courts have to make pronouncements. Beyond that we are not seeking to put the companies under further action or further scrutiny than that." And later: "Depending on what the Federal Court finds, if anything, that will cause us to go back and settle up with the company: 'If this pertains to these eight workers, then what are you doing about the remainder?'" [EEWR Estimates Hansard 28 May 12 P55] • In workplace matters generally, is DEEWR solely reactive to issues brought to light by the public, or is there a "proactive" or even "predictive" element to the work of the Department? • If the Federal Court does find something in regard to the initial cadre of eight cabin crew, will you move to another round of prosecutions for the remaining cabin crew, or will you deal with the matter out of the public eye as an administrative matter? • Senator Abetz asked whether Jetstar has paid back entitlements that were underpaid to both cabin crew and the cadet pilots [EEWR Estimates Hansard 28 May 12 P65]. The response referred only to the cabin crew matter. What is the situation in regard to the cadet pilots' remuneration? • Senator Abetz asked whether a resolution had been achieved "where the underpayments will not occur again and they realise what their obligations are". In terms of the response that "To date they are taking a different position in terms of their interpretation of the act and they are entitled to do that.", have there been any meetings between the Department and Qantas/Jetstar in relation to this issue?

**Answer**

*The Fair Work Ombudsman provided the following response.*

- 1. In response to a question about monitoring Jetstar more closely in the future, the response was: "...obviously the courts have to make pronouncements. Beyond that we are not seeking to put the companies under further action or further scrutiny than that." And later: "Depending on what the Federal Court finds, if anything, that will cause us to go back and settle up with the company: 'If this pertains to these eight workers, then what are you doing about the remainder?'"*

The Matter is currently before the court. The Fair Work Ombudsman will consider if any further action should be taken following the court's decision in this matter.

2. *In workplace matters generally, is DEEWR solely reactive to issues brought to light by the public, or is there a "proactive" or even "predictive" element to the work of the Department?*

The Fair Work Ombudsman conducts both proactive and reactive work. Workplace investigations can commence as a result of a variety of factors, such as complaints received by members of the public, stories that appear in the media, referrals from third parties such as members of parliament or through our ongoing targeted compliance program.

3. *If the Federal Court does find something in regard to the initial cadre of eight cabin crew, will you move to another round of prosecutions for the remaining cabin crew, or will you deal with the matter out of the public eye as an administrative matter?*

As outlined above, this matter is currently before the court and the Fair Work Ombudsman will consider if any further action should be taken following the court's decision on the matter.

4. *Senator Abetz asked whether Jetstar has paid back entitlements that were underpaid to both cabin crew and the cadet pilots [EEWR Estimates Hansard 28 May 12 P65]. The response referred only to the cabin crew matter. What is the situation in regard to the cadet pilots' remuneration?*

#### **Cadet Pilots:**

On 21 October 2011, a letter was sent to the Cadet Pilots by Jetstar informing them that the funding agreement with Jetstar Airways Pty Ltd had been cancelled, that their liability under the funding agreement no longer applied and that repayment of any monies paid under the agreement would be made by the end of October 2011.

Monies were refunded to all the Cadets on 30 November 2011. The amounts vary for each Cadet as they were dependent upon the Cadets start date and the number of deductions that had been made from the individuals pay.

#### **Cabin Crew:**

As the International Cabin Crew were employed by two overseas entities who were contracted to supply labour to Jetstar, it is not the responsibility of Jetstar to reimburse the workers for any alleged underpayments.

However, the Fair Work Ombudsman understands from records of discussions and correspondence with Jetstar that in early March 2012 Tour East Thailand and Valuair made a goodwill payment to their employees of approximately \$15 per block hour for work undertaken in excess of 4 domestic sectors in Australia since 1 January 2009.

5. *Senator Abetz asked whether a resolution had been achieved "where the underpayments will not occur again and they realise what their obligations are". In terms of the response that "To date they are taking a different*

*position in terms of their interpretation of the act and they are entitled to do that.”, have there been any meetings between the Department and Qantas/Jetstar in relation to this issue?*

The Fair Work Ombudsman has consulted with each of the related Jetstar entities throughout the investigation and litigation process.