

FAMILY FIRST DISSENTING REPORT

Inquiry into the Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007

Securing Australian jobs for workers and their families

Securing Australian jobs for workers and their families is FAMILY FIRST's top priority. That is why FAMILY FIRST introduced the Bill, to protect jobs in Jetstar and other associated entities from being sent overseas.

Australian workers need job security because that ensures their families have peace of mind.

FAMILY FIRST was startled at the inquiry to hear Qantas admit "... all jobs within Qantas are under review ...".

There is a loophole that allows Qantas to avoid the *Qantas Sale Act*

Currently the *Qantas Sale Act* forces Qantas to keep jobs and operations in Australia. But the Act does not apply to associated entities like Jetstar and Australian Airlines.

Qantas has been transferring more and more of its seats to Jetstar, because of Jetstar's lower costs and higher profits. Associated entities like Jetstar are not covered by the *Qantas Sale Act* and can be used to move Australian jobs offshore.

It makes no sense for different parts of Qantas to have different rules applied to them.

Parliament should resolve this situation

It is vital that the Parliament clarifies the scope of the *Qantas Sale Act* to ensure Qantas does not use corporate restructuring to avoid its restrictions.

The Bill should be passed with some amendments

FAMILY FIRST recommends the Bill be passed with amendments to ensure a majority of Qantas and associated entity jobs stay in Australia.

This can be done by deleting from clause 5(b) the words "any other country" and replacing them with "all other countries". There should also be a similar and complementary amendment for section 7(1)(h) of the *Qantas Sale Act*.

Introduction

Securing Australian jobs for workers and their families is FAMILY FIRST's top priority. That is why FAMILY FIRST introduced the *Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007*, to protect jobs in Jetstar and other Qantas associated entities from being sent overseas.

Currently the *Qantas Sale Act* forces Qantas to keep jobs and operations in Australia. But the Act does not apply to associated entities like Jetstar and Australian Airlines.

These subsidiaries can be used to move Australian jobs offshore and that is something FAMILY FIRST wants to stop.

That is why FAMILY FIRST has introduced legislation to amend the *Qantas Sale Act* to close this loophole and ensure that restrictions that apply to Qantas – including rules about maintenance, training and administration – also apply to Jetstar and other associated entities like catering.

It is relatively easy for Qantas to push operations into associated entities with a lower cost base like Jetstar. There is extensive evidence this is happening, even at the expense of Qantas-badged services' growth and profit.

In another case, Qantas is using associated entity Australian Airlines to cut costs on Qantas-badged services. Jetstar may also end up flying aircraft on behalf of Qantas under Qantas colours, completing the corporate manoeuvre to achieve lower cost flights with fewer Australian workers and lower conditions.

FAMILY FIRST'S Bill is an anti-avoidance measure, to stop Qantas from seeking to avoid the *Qantas Sale Act* by moving Qantas operations to Jetstar and other associated entities.

It makes no sense for different parts of Qantas to have different rules applied to them.

FAMILY FIRST's interest in this issue was prompted by the proposed takeover of Qantas by Airline Partners Australia, but even if the takeover fails, the issue remains and the Bill will continue to be important.

The Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007

The *Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007* is to ensure that the requirements listed for Qantas' articles of association in the *Qantas Sale Act* also apply to Qantas associated entities.

The Bill does this by using an anti-avoidance provision and four other provisions which mirror clauses in the *Qantas Sale Act*.

The Bill names Jetstar in its title as the most prominent of those associated entities, but the Bill is not limited to Jetstar. The Bill refers to "associated entities" rather than

specific entities or subsidiaries to ensure the provisions of the *Qantas Sale Act* cannot be avoided by a change of name or a corporate restructure.

This is the important point highlighted in one of the submissions:

A failure to make the proposed amendments simply renders the [Qantas Sale] Act impotent. To deny passage of this Bill is to deny the effect of the Act against simple corporate restructuring.¹

FAMILY FIRST welcomes Qantas's statement that it has "... no objection in principle to the intentions of the Bill."²

Current regulation

Current regulation of Qantas relevant to the *Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007* consists of the *Qantas Sale Act 1992*, the *Air Navigation Act 1920*, policy and the Deed of Undertaking signed earlier this month.³ The coverage is not adequate to keep jobs in Qantas associated entities in Australia, which is why the *Qantas Sale Act* must be amended.

Qantas Sale Act 1992

The *Qantas Sale Act* was passed in 1992 following the Government's decision to sell 100 per cent of the Qantas Group. The Act sets out a range of conditions that must be included in Qantas' articles of association to maintain the Australian character of Qantas.⁴

The legislation applies to Qantas and not to other carriers because Qantas is Australia's national carrier and a national icon. A number of witnesses testified to Qantas' importance to Australia:

As our national carrier, Qantas and the Qantas Group cannot just be regarded as another public/private company. As the national carrier it has bestowed on it significant rights and, we say, responsibilities through the granting of Air Service Agreements by the Australian Federal Government. The Company could not operate to its current extent without these rights and so conversely it has to and does expect regulation by the Federal Government in the national interest.⁵

1 Australian Manufacturing Workers' Union, *Submission 9*, page 2.

2 Mr Johnson, Qantas, *Committee Hansard*, 13 March 2007, page E5;

3 Deed of Undertaking to the Treasurer of the Commonwealth of Australia and the Minister for Transport and Regional Services, representing the Commonwealth of Australia, dated 6 March 2007, by Airline Partners Australia Limited and Aurora Holdco Pty Limited.

4 Mr Willis, Minister for Finance, *House of Representatives Hansard*, 4 November 1992, page 2588.

5 Australian Services Union, *Submission 7*, page 8.

Virgin Blue, when you look at its position in the Australian aviation industry compared with the Qantas group of companies, it does not have the reach or significance, nor does it provide the services or have the historical background and the cultural identity that Qantas has.⁶

Qantas is an economically strategic company. The existence of the Qantas Sale Act is evidence of this. Qantas and its subsidiaries, including Jetstar, play a vital role in the Australian transport industry and the economy as a whole. In many cases Qantas, its subsidiaries and Jetstar are often the sole operators flying to regional and remote regions within Australia.⁷

The conditions to be included in Qantas' articles of association include restrictions on foreign ownership to 49 per cent of Qantas; limits on foreign airlines owning more than 35 per cent; limits to prevent any one foreign person owning more than 25 per cent; ensuring the head office of Qantas is in Australia; prohibiting Qantas incorporating outside Australia; requiring that a minimum of two thirds of directors be Australian citizens; requiring that the chair of the meeting of directors be an Australian citizen; and ensuring the principal operational centre for Qantas be in Australia.

The *Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007* also applies these conditions to Qantas associated entities.

Australians do not know the difference between Qantas and the Qantas Group. As far as the public is concerned, Qantas is Qantas. But Qantas claims there is a big difference and the *Qantas Sale Act* only applies to one part of the Qantas Group – Qantas Airways Limited.⁸

Jetstar does not appear to regard itself as separate to Qantas, leaving its representation during this inquiry to Qantas Airways Limited.

Other Qantas associated entities, which also did not offer their own positions to the Committee, include Australian Airlines, Jetconnect, Air Pacific Limited, Orangestar which runs Jetstar Asia and Valair, Australian Air Express, Express Freighters Australia and Qantas Flight Catering.⁹

Qantas claims it was the Australian Parliament's intention that the *Qantas Sale Act* would not apply to associated entities.¹⁰ As evidence, it points to the comments of one Member of Parliament – an Opposition Member, Senator David MacGibbon. Qantas also points to the fact the relevant Minister did not respond to Senator

6 Mr Swan, Australian Workers Union, *Committee Hansard*, 13 March 2007, page E43.

7 Australian Council of Trade Unions, *Submission 1*.

8 Qantas Airways Limited, *Submission 6*, page 1.

9 Mr Johnson, Qantas, *Committee Hansard*, 13 March 2007, pages E3 and E8.

10 Qantas Airways Limited, *Submission 6*, page 1.

MacGibbon's comments.¹¹ In fact, Senator MacGibbon's comments were his interpretation of a conversation with "two advisers from the Department", not ministerial advisers or the Minister.¹² Senator MacGibbon also referred to one particular subsidiary rather than the general issue of subsidiaries.¹³

The evidence that Qantas relies on is flimsy and it is extremely difficult to believe its claims.

The Australian and International Pilots Association has taken a dispute over the interpretation of the *Qantas Sale Act* to the Federal Court, to determine if the legislation applies to subsidiaries.¹⁴

Given there is doubt on this matter, it is appropriate that the Parliament clarifies the issue by passing the *Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007* to ensure jobs are kept in Australia.

Air Navigation Act 1920

The *Air Navigation Act* is the overarching legislation that:

... covers all of the licensing and designation requirements for all Australian international carriers ... foreign shareholdings [must] be no more than 49 per cent ... at least two-thirds of the board members must be Australian citizens, the chairperson of the company must be an Australian citizen, the airline's head office must be in Australia and the airlines operational base must be in Australia ... Those provisions apply to all carriers applying for an international airline licence, apart from Qantas, which has provisions on top of that under the *Qantas Sale Act* ...¹⁵

But these requirements are not necessarily as strict as the Department implies:

One lawyer said there are a range of factors relevant to whether an airline can hold the relevant licence. 'My understanding is it has never been the case that any one of them is absolutely mandatory so that if you didn't quite meet some targets but you could demonstrate strength in a number of other factors you could continue to [hold a licence],' he says. This would mean

11 Mr Johnson, Qantas, *Committee Hansard*, 13 March 2007, page E6.

12 Senator MacGibbon, *Senate Hansard*, 7 December 1992, pages 4256-4260.

13 Mr Somerville, Australian and International Pilots Association, *Committee Hansard*, 13 March 2007, page E19.

14 Mr Somerville, Australian and International Pilots Association, *Committee Hansard*, 13 March 2007, page E21.

15 Mr Mrdak, Department of Transport and Regional Services, *Committee Hansard*, 13 March 2007, page E48.

Jetstar could possibly shift maintenance, catering and training jobs overseas, but stay incorporated in Australia, and have its head office here.¹⁶

It is also interesting to note that "Australia and New Zealand are the only countries which permit wholly foreign owned domestic carriers."¹⁷

The Department of Transport and Regional Services also indicated that the laws on where an airline's operational base and head office should be located are likely to be weakened in the near future:

We are one of those countries that have been looking, as part of a liberalisation process, at introducing clauses such as principal place of business and those sorts of provisions. But they are not yet established in all our bilaterals. At this point, a carrier could not operate and exercise Australian traffic rights without having its operational base and its head office in Australia.¹⁸

Given the comments of the Department that the location of an Australian international airline's operational base and head office will soon be up for grabs, the *Qantas Sale Act* must be amended to ensure Qantas does not use its corporate structure to shift jobs overseas.

Deed of Undertaking

It was generally agreed in evidence to the Committee that the Deed of Understanding has a limited lifespan and will only last as long as Airline Partners Australia has a controlling interest in Qantas.¹⁹

That is unlikely to be long as private equity companies tend to sell off assets they have purchased in less than five years.²⁰

Corporate lawyer Janet Whiting writes that the requirements of the Deed need not be passed on to a new buyer:

... if Airline Partners or Aurora disposed of their interests in Qantas to third parties (who were Australian and so did not offend the foreigner restrictions

16 Drummond, M, Pilots creating turbulence for Qantas bidders, *Australian Financial Review*, 26 February 2007, page 60.

17 Mr Johnson, Qantas, *Committee Hansard*, 13 March 2007, page E9.

18 Mr Mrdak, Department of Transport and Regional Services, *Committee Hansard*, 13 March 2007, page E49.

19 For example: Mr Johnson, Qantas, *Committee Hansard*, 13 March 2007, page E6; Australian Manufacturing Workers' Union, *Submission 9*, page 7.

20 Drummond, M, Private equity warned about selling airline on, *Australian Financial Review*, 8 March 2007, page 9.

in the legislation nor require Foreign Investment Review Board approval), the purchasers would not be bound by the undertakings.²¹

The undertakings given in the Deed largely mirror current legislation. There is mention of Jetstar, but not the broader issues of associated entities. The Deed also includes a number of additional undertakings that are unenforceable:

One senior corporate lawyer, who declined to be named because his firm is involved in the deal, said these obligations [the 'additional obligations' in the deed of undertaking] could be strictly complied with provided that at the time of signing the deed, Airline Partners honestly believed they were true. But once the deed was signed, Airline Partners would be free to change its plans.²²

The Australian Manufacturing Workers' Union also held grave concerns about the usefulness of the Deed:

The deed provides no real protections for Australian jobs that cannot be avoided through corporate manoeuvres. It is also avoidable through transmission of ownership of the Qantas Group. Nevertheless, to the extent that the deed does purport to provide some protections for the Australian airline industry, those protections should be contained in legislation, not private contract.²³

There is also a good deal of scepticism that the Australian Government would act to enforce the Deed:

... the government has also arranged undertakings on other big mergers and takeovers involving companies including Arnotts, BHP, Brambles and Rio Tinto without ever following up on the undertakings with enforcement action.²⁴

"Similar promises [to the deed] were extracted when Ansett was sold to Air New Zealand, and soon afterwards jobs were offshored," said Ingrid Scott, ASU Victorian state secretary.²⁵

The Committee received a detailed analysis from the Australian and International Pilots Association, setting out the difficulties of enforcing the Deed.²⁶

21 Whiting, J, On a deed, a wing and a prayer, *Australian Financial Review*, 8 March 2007, page 63.

22 Drummond, M, Private equity warned about selling airline on, *Australian Financial Review*, 8 March 2007, page 9.

23 Australian Manufacturing Workers' Union, *Submission 9*, page 3.

24 Crowe, D, Promises aplenty, but hard to enforce, *Australian Financial Review*, 7 March 2007, page 10.

25 Ingrid Scott, Australian Services Union Victorian state secretary in Drummond, M, Jobs 'may still be lost', *Australian Financial Review*, 7 March 2007, page 10.

26 Australian and International Pilots Association Opening Statement and analysis of the Deed, tabled at the Committee Hearing on 13 March 2007.

Transfer of Qantas seats to Jetstar and other lower cost entities

Qantas has been transferring more and more of its seats to Jetstar, because of Jetstar's lower costs and higher profits. As one reporter wrote, "Jetstar's ... behind the improvements in all of the key measures of Qantas's performance and its falling cost base."²⁷

Qantas told the Committee that:

Jetstar has enabled a growth in leisure based operations also in Australia. It is not competing directly head to head with Qantas, but it is recognising that in certain market segments there is growth potential that could be realised if operated with the Jetstar model.²⁸

Such a description implies Jetstar is targeting a fairly limited market. But increasingly the international airline market is not a business market. And Jetstar's sights are not limited to the leisure market as evidenced by the new StarClass business class service on Jetstar which is designed to attract business travellers to the airline.

Michael Ryan, co-founder of pioneer low cost airline Ryanair commented on the Qantas strategy:

I would imagine that what they [Qantas] are trying to do is put as many of Qantas' routes into Jetstar [as possible].²⁹

Australian observers have been pointing to this trend for a number of years.

Where a year ago Jetstar wasn't going to be allowed to harm Qantas, Dixon now says, 'Jetstar has an incredible future in value based air travel. It is not to be constrained in any way.' ... In the past year [Qantas] has admitted significant yield migration away from Qantas domestic pointing to the flood of cheap fares from Jetstar that were supposed to be only bad for competition.³⁰

Continuing along this theme:

The conclusion that can be readily drawn ... and supported by some public comments from Qantas chief executive officer, Geoff Dixon, is that it is worth more to Qantas to use Jetstar to lower its costs and curb Virgin Blue than any dilution of main line revenue. In bulk terms, Jetstar's 12 per cent market share by the end of June was at the expense of Qantas, which

27 Hall, J, Consortium's eye on the Jetstar prize. *Australian Financial Review*, 9 February 2007, page 65.

28 Mr Hawes, Qantas, *Committee Hansard*, 13 March 2007, page E6.

29 Michael Ryan, co-founder of Ryanair in Tabakoff, N, Cut to the Chase, *The Bulletin with Newsweek*, 20 February 2007, page 36.

30 Sandilands, B, Local airlines manoeuvre for growth, *Aviation Business Magazine*, October 2005, page 16.

withdrew in large measure or in full from a range of what it declared to be leisure routes, handing them over to Jetstar.³¹

More recently, one commentator has argued that the Airline Partners Australia takeover deal

... is predicated on Qantas growing. The only place that can happen, with a company altering scale, is outside of Australia. And the only platform that can happen from, is Jetstar. Why? First, because Jetstar's cost base is made so wonderfully competitive because Dixon & Co don't have to deal with Qantas' 13 unions. And second, because all the growth in the airline business is in the discount airspace.³²

As a result of this conscious strategy by Qantas to move more and more seats to Jetstar, "... travellers should expect to find themselves increasingly on Jetstar aircraft, rather than the familiar Flying Kangaroo, whether on local routes or to overseas destinations."³³

Experience with Qantas subsidiaries Australian Airlines and Jetconnect demonstrates that Qantas can also use restructuring and subsidiaries to achieve lower cost base flights under its own colours.

The Committee heard evidence that Qantas is now operating flights that appear to be normal Qantas flights, but which have lower cost crews from other Qantas subsidiaries:

Australian Airlines was set up and operated for some period of time. On 30 June last year it was closed down. Essentially, if you remember, Australian had its own livery—its own uniforms, its own call signs. At 1 July this year, it became Australian Airlines wet leasing and it has now commenced to fly Qantas mainline aircraft, white with red tails with Qantas uniforms on Qantas routes. The company achieved a 20 per cent reduction in cost base because the same terms and conditions of employment apply ... given the model that has evolved through Australian Airlines and its use as a wet leasing arrangement for Qantas mainline, in our view, it is highly likely that that will occur with Jetstar.³⁴

Jetconnect was described to the Committee by those appearing for Qantas as "... a wholly owned New Zealand incorporated subsidiary ...which operates scheduled

31 Sandilands, B, 'Low cost' dominates in Australia's skies, *Aircraft and Aerospace*, August 2005, page 28.

32 Stevens, M, Jetstar set for take-off as Qantas must grow. *The Australian*, 8 March 2007, page 21.

33 Nancarrow, D, Smooth takeover for Qantas, *The Bulletin with Newsweek*, 7 March 2007.

34 Mr Somerville, Australian and International Pilots Association, *Committee Hansard*, 13 March 2007, page E20-21.

international air transport services as it operates 737 services on the Tasman and in domestic New Zealand on behalf of Qantas.³⁵

Jetconnect provides flights under Qantas colours within New Zealand and between New Zealand and Australia. The company also provides cabin crew for Jetstar flights between New Zealand and Australia.³⁶

As aviation commentator Ben Sandilands explained a couple of years ago:

What took off as Jetstar in May 2004 is [Geoff] Dixon's and [Peter] Gregg's vehicle for a total reconstruction of the culture, processes and profitability of the sometimes overlapping territories of Qantas international, Qantas domestic, Qantas Cityflyer, Qantaslink (jet), Qantaslink (turboprop), Australian, JetConnect, Jetstar and the so far hapless Jetstar Asia.³⁷

Qantas is using what space it can find around the rules to maximise its profit. The Australian Council of Trade Unions argues that:

If left unchanged, the Qantas Sale Act, does not restrict those controlling the Qantas Group from establishing a new entity and subsequently shifting resources, licences and other rights to the new entity and consequently avoid the provisions of the Qantas Sale Act.³⁸

It is vital that the Parliament clarifies the scope of the *Qantas Sale Act* before its provisions are made meaningless by corporate restructuring to avoid its restrictions.

Jobs and conditions

Australians workers need job security because that ensures their families have peace of mind. Unfortunately Australians who work for Qantas and its associated entities do not enjoy job security.

FAMILY FIRST was startled at the inquiry to hear Qantas executives admit "... all jobs within Qantas are under review ...".³⁹

We already know the attitude of Qantas CEO Geoff Dixon about his workers and job security. Mr Dixon has said that his workers should be grateful to have jobs!⁴⁰ Further, he has said profits are more important than workers and their families:

35 Mr Johnson, Qantas, *Committee Hansard*, 13 March 2007, page E3.

36 Jetconnect recruitment site - <http://www.bfound.net/login.aspx?CoId=261&rq=3>

37 Sandilands, B, Local airlines manoeuvre for growth, *Aviation Business Magazine*, October 2005, page 15.

38 Australian Council of Trade Unions, *Submission 1*.

39 Mr Johnson, Qantas, *Committee Hansard*, 13 March 2007, page E7.

40 Rochfort, S, 'Be grateful', says Qantas chief as axe sharpened, *The Age*, 19 August 2005.

I sometimes get criticised for this, but I have always seen shareholders as our most important stakeholders. I know some CEOs say look after your customers, look after your employees, and the returns for shareholders will follow. I do the exact opposite.⁴¹

Representatives of maintenance workers told the hearing about their involvement in an ongoing review:

From subsequent discussions that I and our delegates have been directly involved in with regard to the ongoing review of maintenance and engineering in the Qantas group, I can say categorically—and the Seabury consultants that were engaged by Qantas have said so quite bluntly—that their recommendation to the Qantas board is to offshore the whole lot. We are struggling to save Australian jobs in maintenance and engineering.⁴²

Another maintenance worker representative revealed his concern that more maintenance work would go offshore:

I met with Mr Dixon—along with Bill Shorten, the National Secretary of the AWU, and Doug Cameron, the National Secretary of the AMWU—in December ... He did mention that if we can come down to somewhere close to within five per cent of the costs at the Asian facilities then we would keep maintenance onshore. But from that statement I assume that if we cannot match that he is going to make a decision, or the board will make a decision, to send maintenance offshore based purely on cost and not safety.⁴³

Qantas has regularly threatened its workers with job cuts:

Dixon says that if Singapore Airlines is allowed into the Pacific, it could induce Qantas to review its engineering and maintenance operations in Australia. Dixon says the company employs 6000 professional engineers and their equivalents, but the cost structure makes that part of its business less efficient. The veiled threat is that if Singapore enters the market, Qantas might be forced to shut up shop, sack up to 6000 workers, and outsource its maintenance work to the likes of Air New Zealand.⁴⁴

Qantas executives at the hearings stated:

The act does not require [Qantas] to maintain a majority of facilities in Australia but in reality a majority of facilities are in Australia.⁴⁵

41 Flying Hazards: Geoff Dixon - Qantas. *CEOFORUM Magazine*, December 2005. <http://www.ceoforum.com.au/article-detail.cfm?cid=6292>

42 Mr Swan, Australian Workers Union, *Committee Hansard*, 13 March 2007, page E43.

43 Mr Purvinas, Australian Licensed Aircraft Engineers Association, *Committee Hansard*, 13 March 2007, page E26.

44 Ferguson, A, Troubled flight, *Business Review Weekly*, June 30 – July 6 2005, page 16.

45 Mr Johnson, Qantas, *Committee Hansard*, 13 March 2007, page E9.

The jobs are not only valued by the workers and their families, but by many others who have related and dependent employment:

The direct dependence of over 6000 employees on these [maintenance] operations, as well as a multiplier effect of these jobs of at least 2-3 times, shows the devastation that would be wreaked at places like Geelong and Bankstown, as well as Sydney, Melbourne and Brisbane generally, should these jobs become too much of a burden for a highly leveraged Qantas to bear.⁴⁶

Protecting jobs for Australian workers and their families is the number one reason for FAMILY FIRST's Bill.

FAMILY FIRST believes there is more to running a business than making a profit. Companies like Qantas and its associated entities have an obligation to the communities they serve.

Amendments

A number of amendments have been proposed to strengthen the Bill and FAMILY FIRST is happy to consider each of those amendments.

The most significant comments in submissions and from witnesses were on the following key clause of the Bill, which expands the coverage of the legislation to "associated entities", based on words used in the *Qantas Sale Act*:

(5) Qantas must ensure that:

...

(b) the facilities taken in aggregate which are used by Qantas and by any associated entity in the provision of scheduled international air transport services (for example, facilities for the maintenance and housing of aircraft, catering, flight operations, training and administration), located in Australia, when compared with those located in any other country, represent the principal operational centre for Qantas and its associated entities;

Those giving evidence agreed with the intent of the clause, but thought it would not achieve its purpose.

The Australian and International Pilots Association pointed out that:

This would permit, for example, 25% of the facilities to remain in Australia and 75% to go off-shore, spread between 5 countries with 15% in each country, so that the principal operational centre for any associated entity would remain located in Australia as required. Instead, the Bill should be amended to ensure that the Australian facilities, when compared to facilities

46 Australian Manufacturing Workers' Union, *Submission 9*, page 4.

in all other countries, represent the principal operational centre for the associated entities of Qantas.⁴⁷

The Australian Licenced Aircraft Engineers Association stated that:

If such words [in the bill] are accepted then Qantas management will be able to shift all maintenance of its fleet offshore so long as half of the remaining (non engineering) combined facilities remain in Australia. We consider the likelihood of Qantas accepting this option would be high and today information was received in our office showing that Qantas has started advertising internally for engineers and aircraft planners (who plan aircraft maintenance work) to move to Asia.⁴⁸

The Australian Services Union, representing workers in areas such as check-in, load control, call centres and clerical and administrative tasks like finance, information technology and human resources, stated that:

The ASU believes that it is important to strengthen the Qantas Sale Act 1992 to include provisions to maintain Australian jobs. The current proposed provision, which takes the facilities in aggregate as the benchmark for keeping jobs in Australia, at best preserves 50% plus one of the Group jobs in Australia if the Qantas Group jobs are in Australia and one other country. The more countries that have Qantas Group jobs the less jobs are required in Australia. The provision also does not in fact specify which jobs are preserved. There is also nothing in the provision which would maintain particular classes of jobs in Australia, for example in call centres, administration, finance or maintenance. All of these jobs could be offshored and yet Australia could still be the principle operational centre for the Qantas Group and the aggregate of jobs in the Group could be still in Australia.⁴⁹

The Australian Manufacturing Workers' Union also pointed out that aircraft leasing arrangements could affect the calculation of the undefined "principal operational centre":

There is a failure ... [shared] with the Act – to define a 'principal operational centre'. Does the principal operational centre exist in Australia 'when compared with any other country' because no one other country has aggregate Qantas operations compared with Australia. Even on the best possible reading, that it is the aggregate in all other countries that must be compared with Australia, what happens when Qantas leases aircraft with a lease that includes maintenance of that aircraft offshore? It is not a Qantas operation at all which maintains that aircraft, so it never comes into the 'principal operational centre' equation ... the AMWU believes that to ensure the continued effective operation of maintenance facilities in Australia that a definition of principal operational centre be adopted. The term 'principal

47 Australian and International Pilots Association, *Submission 10*, page 6.

48 Australian Licenced Aircraft Engineers Association, *Submission 3*, page 7.

49 Australian Services Union, *Submission 7*, page 10.

operational centre' must mean *the facilities that conduct the planned, routine, primary and ancillary maintenance of the current and future operational fleet of Qantas and its subsidiaries are located in Australia.*⁵⁰

FAMILY FIRST agrees the Bill should be amended to ensure that more than half of the jobs in Qantas and associated entities remain in Australia. FAMILY FIRST has also considered more prescriptive amendments which would ensure a majority of particular types of jobs remain in Australia. But this would take the amendments away from the original approach of the *Qantas Sale Act*.

FAMILY FIRST recommends amendments to ensure a majority of Qantas and associated entity jobs stay in Australia. This can be done by deleting from clause 5(b) the words "any other country" and replacing them with "all other countries". There should also be a similar and complementary amendment for section 7(1)(h) of the *Qantas Sale Act*.⁵¹

Conclusion

PROTECTING Australian jobs for workers and their families is FAMILY FIRST's top priority which is why FAMILY FIRST believes the *Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007* must be passed by the Parliament with amendments.

Senator Steve Fielding
Leader of the FAMILY FIRST Party
FAMILY FIRST Senator for Victoria

50 Australian Manufacturing Workers' Union, *Submission 9*, page 8.

51 Australian and International Pilots Association, *Submission 10*, pages 6, 9.