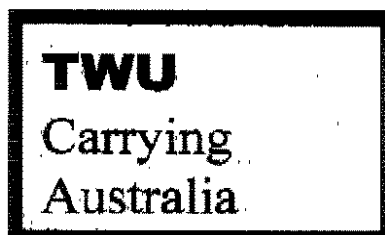

Submission

***INQUIRY INTO QANTAS SALE (KEEP
JETSAR AUSTRALIAN) AMENDMENT
BILL 2007***

9 MARCH 2007

The Transport Workers Union
Of Australia

Submitted by Tony Sheldon
National Secretary
Transport Workers Union of Australia



Introduction

1. The Transport Workers' Union of Australia (TWU) represents 15 000 persons in the Qantas group of companies. This membership affords the TWU a unique understanding of the commercial and operational realities of Qantas Airways and associated entities. Our submission on the background and content of the Qantas Sale (Keep Jetsar Australian) Amendment Bill 2007 ("the Bill") is informed by this representational experience.

Background

2. The Qantas Sale Act (1992) ("the Act") was enacted by the Commonwealth Parliament to preserve the function of Qantas Airways as Australia's national carrier after the ownership of the Qantas group of companies was transferred to the private sector.
3. These functions were preserved by inserting "national interest safeguards"¹ into Section 7 of the Act. They require the articles of association of Qantas to (amongst others) provide for the company's head office to be located in Australia, for two-thirds of the Qantas Board of Directors to hold Australian citizenship, for an Australian citizen to chair any meeting of the Board of Directors and for the facilities located in Australia, taken in aggregate, which are used by Qantas 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), to represent the principal operational centre for Qantas, when compared to those located in any other country.

¹ House Hansard, 11/11/92 R. Willis.

4. The purpose of these provisions, as evinced from the Parliamentary debates held at the time, were to permit the "benefits that are thought to come from public ownership in the sector"² to continue under "private ownership."³
5. In the Act's second reading debate, no participant in the House or Senate distinguished between bodies corporate in the Qantas group of companies in the application of Section 7.
6. When a purposive approach is adopted in interpreting Section 7, after referring to the second reading debates, it is clear that Parliament intended for the obligations in Section 7 to apply universally throughout the Qantas group of companies – particularly to bodies corporate which transport persons by air.
7. To remove any doubt as to its' intention, the TWU supports the extension of these national interest safeguards to associated entities of Qantas Airways Ltd by means of the proposed bill.

Necessity

8. Since the adoption of the Act, the competitive dynamic within the Australian aviation market has shifted from being between competing full service carriers to being between, and among, full service and low cost airlines. This trend commenced with the entry of "Virgin Blue" into the

² Ibid

³ Op Cit

domestic market in 2000 and accelerated when Qantas formed "Jetstar" in 2004 to counter the growing market share of Virgin Blue.⁴

9. In its' two years of operation, Jetstar has facilitated the migration of domestic services from the full service carrier its' low cost model. Jetstar now provides 14% of services to domestic travelers⁵. In the same period the level of services provided by Qantas full service domestic has fallen from 67% in 2002, to 52% in 2006.⁶ With the launch of its' international division, it is reasonable to expect the market share of Jetstar will expand over time.
10. Whether the provision of the Act applies to Jetstar is currently being judicially decided. It is the view of the TWU that it has always been Parliament's intent for Qantas companies to be subjected to the terms and *character* of Section 7. In that circumstance, were Parliament to adopt the bill, the sincerity of its' intent would be beyond question – judicial or otherwise.
11. In a circumstance where Jetstar is obtaining market share at the expense of Qantas Domestic, the TWU submits that it is a necessity for Parliament to close the loophole that would let Qantas, under any ownership structure, circumvent the intent of Parliament in passing the Act.
12. In our view, the bill provides the mechanism by which the Section 7 safeguards can be attached to bodies corporate in the Qantas group that conduct a similar function to the main carrier.

⁴ Qantas Target Statement. www.qantas.com.au

⁵ Ibid

⁶ Op Cit

The Bill's Provision

13. The TWU supports the Australian Council of Trade Union's submission as to the function and operation of the bill's proposed provisions and calls for their adoption.

Further Additional Safeguards

14. Current terms of the Act do not reflect Parliament's stated intent for the Act to protect the "national interest" whilst Qantas is privately owned. In particular, it does not reflect Parliament's intent for Qantas to provide employment for Australians, does not reflect Parliament's intent for Qantas to remain the world's safest airline – in aircraft performance and occupational health & safety standards – does not reflect Parliament's intent for Qantas to assist in times of national emergency, does not reflect Parliament's intent for Qantas to participate in Australia's national defense and does not reflect Parliament's intent for Qantas to service regional destinations.
15. To preserve the character of Qantas Airways and to guarantee the benefits to Australian employment, Australian safety and Australia's national defense for all time, the TWU calls for the bill to be expanded to include in Section 9 additional clauses that properly reflect Parliament's intent in each regard.

A National Icon

16. Were Parliament to include these safeguards in the bill, its' action would be consistent with the widely held view that Qantas is no ordinary

company; but an Australian icon, built by succeeding generations of Australians, that transmits Australian values and the Australian character abroad.

17. Furthermore, Parliament would be acting in accordance with the opinion of the Prime Minister, who on the 15th of December 2006 said:

"It's very important that we don't needlessly bargain away the interests that our national carrier has. I hope the Qantas we have is the Qantas we keep, because it's a very popular airline and it's quite an airline and it's quite an icon"

18. If Parliament were to legislate to meet the Prime Minister's wish for "the Qantas we have" to be "the Qantas we keep", it must recognize a material change in the corporate environment in which Qantas operates and the threat that presents to preserving the Qantas we, as Australians, all currently have.

Conclusion

19. To remove any doubt as to the application of the Qantas Sale Act, the TWU calls on Parliament to confirm its' original intent for national interest safeguards to apply universally throughout the Qantas group of companies by passing the bill.

20. To properly protect the "national interest", the TWU calls on Parliament to expand the proposed new Section 9 to enshrine in law employment obligations, national defense responsibilities and safety standards.

⁷ ABC Radio