



9 March, 2007

Committee Secretary
Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

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Dear Sir / Madam,

Attached, please the AMWU's submission to the Inquiry into the Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007 – Senate Standing Committee on Economics.

Should you require further information, please don't hesitate to contact our Senior Research Officer, Tim McCauley on (02) 9897 9133.

Yours sincerely,

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AUSTRALIAN MANUFACTURING WORKERS' UNION



**Submission to the Inquiry into the Qantas Sale (Keep Jetstar Australian)
Amendment Bill 2007
Senate Standing Committee on Economics**

March 2007

Introduction

1. The Australian Manufacturing Workers' Union (AMWU) welcomes the opportunity to make a submission to the Inquiry of the Senate Standing Committee (the Committee) into the Qantas Sale (Keep Jetstar Australian) Bill 2007 ("the Bill").
2. The full name of the AMWU is the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union. The AMWU has a membership of approximately 130,000 members who work in every State and Territory of Australia. Our members are employed in the private and the public sectors, in blue collar and white collar positions, and in a diverse range of industries, vocations and locations..
3. The AMWU's membership in the Airline Industry includes aircraft maintenance engineers, licensed aircraft maintenance engineers, aircraft planners, simulator maintenance technical officers, draughtspersons, aircraft workers and trades assistants. The AMWU also has members employed in the various ground service equipment, property and line maintenance facilities at Qantas facilities around Australia.
5. The AMWU supports the submission of the Australian Council of Trade Unions (ACTU) to this Inquiry. We agree with the ACTU characterisation of the Bill as designed to amend the *Qantas Sale Act 1992* ("the Act") to bring all associated entities of Qantas Airways Limited within the scope of the Act. Further to those submissions, we wish to draw to the attention of the Committee the vital importance of the continuance and growth of airline maintenance operations in Australia, and the patent danger of allowing corporate machinations to undermine the limited guarantee that the Act was designed to achieve. It is the view of the AMWU that the Bill being considered by the Committee is essential legislation to maintain that limited guarantee. A failure to make the proposed amendments simply renders the Act impotent. To deny passage of this Bill is to deny the effect of the Act against simple corporate restructuring. Such restructuring was not foreseen by the drafters of the legislation – it should not be facilitated by denying the passage of this Bill.

6. The AMWU notes that on 6 March 2007, the Treasurer and the Minister for Transport and Regional Services jointly entered a "Deed of Undertaking" with parties currently offering to acquire the share capital of Qantas. The AMWU remains extremely concerned about the implications of the proposed takeover, and conversion to a private company, of the Qantas Group – and we are not of the view that the deed satisfies all of those concerns. 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. The apparent protections should not be limited to the ownership of the Qantas Group by Airline Partners Australia or TrusteeCo. Any of those protections should continue, regardless of ownership. The first step in ensuring the "principal operational centre" protection contained in that deed continues beyond the life of that deed is passing the Bill which is presently before the Committee.

Why keeping aircraft maintenance jobs in Australia is important for Australia

7. The record of safety at Qantas is something of which Australia can be proud, undeniably something of which Qantas maintenance workers should be proud. In no small way, the renowned safety record of the airline is attributable to their diligence, training and hard work.
8. The dominance of the Australian airline industry by Qantas, however, means that the prioritisation of maintenance by Qantas, or otherwise, has enormous ramifications for the entire Australian aircraft industry. Training of aircraft maintenance workers in Australia has Qantas apprenticeships at its core – approximately 500 apprentices are currently employed by Qantas. Without those apprenticeships, and that practical training, Australian aircraft maintenance qualifications become unobtainable. Once Australian education and training systems become incapable of producing those qualifications, that training capacity, and those skills, are gone forever. Without this, aircraft maintenance and engineering in Australia quickly becomes unsustainable.
9. Qantas Airways Ltd and its various subsidiaries operate the principal aircraft maintenance operations in Australia. These include, in Sydney the Qantas Jet

Base at Mascot and the Qantas Heavy Maintenance Support workshops at Bankstown, and well as Eastern Airlines maintenance facilities at Mascot; the Qantas 767 Heavy Maintenance facility at Brisbane Airport; in Melbourne Qantas Engineering and Maintenance at Melbourne Airport, Tullamarine, as well as maintenance operations at Avalon near Geelong; the former Impulse facility at Newcastle airport; and the joint Qantas / Patrick's Corporation Engine Maintenance Facility at Garden Drive, Melbourne. The direct dependence of over 6000 employees on these 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.

10. There are further and wider social concerns: the defence requirements of Australia include the skills learned and refined at Qantas to support the defence requirements of the nation. Just one example of this is shown in the decision by the RAAF to obtain five Multi-Role Tanker Transport (MRTT) aircraft from EADS CASA. EADS CASA and Qantas will jointly convert four of the Airbus A330 aircraft into RAAF tankers in Australia. The Defence Materiel Organisation has consequently contracted Qantas Defence Services to provide maintenance of these aircraft for the life of their contract, up to 20 years. QDS has stated that it:

*"...will sub-contract to Qantas Airways the maintenance, repair and overhaul of the basic 'green' aircraft. In addition Australian Industry partners will provide specialist support services for the Air Refuelling equipment, engines and components."*¹

11. These MRTT aircraft will replace the RAAF's B707s and will be responsible for refuelling whichever of the F/A- 18, F-111, C-17, Wedgetail Airborne Early Warning and Control Aircraft and the Joint Strike Fighter aircraft (JSF) which are operational when the MRTT aircraft enter service.² That these aircraft are vital to Australia's air defence goes without saying. The need to retain the capacity to maintain these aircraft in Australia, by Australians, is also manifest. This capacity depends on the retention of trained and skilled aircraft maintenance workers across the Qantas group. The defence of Australia is too important to risk a skills shortage when it may count the most.

¹ "Programs -- A330 Multi Role Tanker Transport", http://www.qds.qantas.com.au/a330_tanker.htm at 7 March 2007.

² The Hon. Dr Brendon Nelson , Minister For Defence, Media Release: "Skilled Support for Air to Air Refuelling", MIN 13/07, 23 February 2007.

12. A sustainable aircraft maintenance industry is not something that can or should be imported. It's not something that can be subject to a short-term outlook. It's too important to Australia. However, that maintenance is at risk. The least that is to be done to minimise that risk is to pass this Bill.

The risks

13. Risk is the core reason why this legislation is necessary. The proposed privatisation of the Qantas Group bears risk for Australia – our airline industry, economy and defence capabilities. This proposed buyout would be most risky for Australia because the new owners of the Qantas Group – and their creditors - will continually be attempting to minimise their risk, and assure their own commercial returns, throughout their period of ownership. The risk to the new owners and creditors of the Qantas Group thus amplifies and multiples the risk to Australia as a whole.
14. Some of this risk can be seen as this buyout causes the Qantas Group to become an increased credit risk itself, should the buyout proceed: Qantas' net debt will rise from \$4.5 billion to \$15 billion, which will "...lift the debt proportion of Qantas' enterprise value from 29 per cent to 77 per cent...". Standard & Poor's (S&P's) and Moody's have indicated that Qantas' long-term credit rating is almost certain to be lowered. Qantas are already on S&P's "creditwatch" list due to the proposed sale, compared with the previous rating of "BBB+", the highest of its "global airline peer group".³ Lenders will be certainly more and more risk-averse in their dealings with the Qantas Group. The increased risk leads to the potential that the creditor will become the true decision-maker of the Qantas Group, should unforeseen circumstances cause those creditors to seek to secure their interest in a highly leveraged company.
15. The implication of that, of course, is that all the platitudes and best intentions proclaimed by Airline Partners Australia will be worth exactly nil in the hands of an understandably risk-averse creditor. Without real enforceability of controls on the actions of the Qantas Group, any purported limitations are worthless.

³ Alan Jury, "Qantas debt should sound warning bells", *Australian Financial Review*, 5 March 2007, p.17.

16. A further and more immediate implication is that Airline Partners Australia (APA) will undoubtedly seek to ensure the commercial viability of their investment by minimising any activities which are seen to affect that bottom line. An examination of the history of some of the constituent members of APA bears frightening reading.
17. In 2005, Texas Pacific bought Grohe Water Technology in Germany. It then commissioned and supported a study which proposed sacking 71% of staff, moving production to China. It was only after heavy protest and campaigning that the percentage moved offshore was limited to 20%.⁴
18. In 2002, Texas Pacific bought Gate Gourmet, which proceeded with a campaign at Heathrow Airport of mass sackings, contracting out of work on poor pay and degrading of working conditions. According to the *Daily Mirror*, the Texas Pacific Group drew up a 15 week plan to replace all staff, saving a net four million pounds a year, as described in an internal memorandum:
- "Recruit, train and security check drivers. Announce intention to trade union, provoking unofficial industrial action from staff. Dismiss current workforce. Replace with new staff."⁵*
- Ultimately 3000 jobs were cut - 12% of the workforce.
19. More subtle methods of securing profit to the detriment of Australian maintenance, and jobs, are also likely. Increasingly, Qantas has taken leases on new aircraft which include maintenance contracts. Australian maintenance facilities never perform the heavy maintenance on the aircraft or develop the skills and capacities to do so. Qantas as a lessee minimises its risk and expenditure, to the detriment of its workforce, upon which Australian aircraft maintenance relies.
20. Further risk is key to the nature of international airline operations: the volatility of cash flow and earnings can be extreme due to the economic cycle, external events (such as terrorist attacks or flu pandemics etc), and fuel prices. There is the continual competitive risk that the risk that certain parts of the air industry supply chain, like airports, suppliers and leasing firms will take some greater share of the returns which are currently factored into forecasted

⁴ Jorn Madslie, "Reshaping Germany's companies", *BBC NEWS*, <http://news.bbc.co.uk/go/pr/fr/-/1/hi/business/4238438.stm>, published 15 September 2005 at 07:33:47 GMT.

⁵ Greig Box & Graham Brough, "Exclusive: Secret Plot To Sack BA Caterers", *Daily Mirror*, 15 August 2005.

Qantas equity investor returns. The high leveraging of the APA ownership will ensure that this return will have to be obtained from some other areas of Qantas operations.

21. Underlying all these risk factors, and reinforcing them, is the short-termism inherent in private equity buyouts such as this: Any private equity leveraged buyout is contingent on investors recouping their investment through an exit via trade sale or public share offer. While a long term hold position is possible, in a deal such as this the exit would generally be expected to occur within 3 or 4 years. Equity investors will therefore need to build a higher risk premium into their return calculations because of any complication and risks associated with exiting Qantas successfully. Short-termism in decision-making and the calculation of returns is ill-suited to the aircraft maintenance, social and defence needs of Australia, yet it is the commercial outlook of the type of ownership which Qantas would have under APA.

Protections

22. So, the risks inherent in aircraft management are magnified by the corporate structure which is proposed for the Qantas Group. Thus, the risk to Australia's reliance on the sustainability of Qantas aircraft engineering and maintenance is also multiplied.
23. The Federal Government has entered into what purports to be an "enforceable deed" to prevent, amongst other things, the aggregated "principal operational centre" of the Qantas Group moving outside of Australia. However, the deed is only binding upon the Australian Government and the named parties APA and TrusteeCo until such time as neither of those entities has a controlling interest in Qantas.⁶
24. That is, the transmission of control of the Qantas Group by any means to any other corporate entity renders the deed impotent. So, when the deed at clause 5.1(h) attempts to extend the "principal operational centre" test of the Qantas Sale Act to the Qantas Group generally, including Jetstar Airways, this is only until such time as the putative incoming owners vacate the field.

⁶ *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, clause 4.2.

25. The AMWU submits this is not good enough for the long-term interest of the Australian aircraft industry, and aircraft maintenance in particular.
26. There is a failure within the deed – a failure it shares 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. There is room to move in the current Act – there is just as much room to move in the deed entered by the federal Government. As Minister Vaile stated on 7 March:

“If Qantas requires some maintenance to be shifted offshore we’re not going to micro-manage this.”⁷

But it is not simply that the Treasurer and the Deputy Prime Minister have decided not to manage this risk, they cannot because they have vacated the field by entering into a truly unenforceable document.

27. We note the submission of the Australian Licenced Aircraft Engineers Association submission about removal of the term “aggregation” of facilities, and replacing it with the phrase “each of” the facilities to improve the test in the Bill and the Act to be more effective to ensure that no single Qantas facility is sacrificed to the protection of the majority. While understanding the intent of this approach, 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 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*. Due to the strategic, employment social, training and defence importance of the Qantas maintenance facilities, aircraft maintenance must be located in Australia.

⁷ “Vaile Admits some Qantas jobs could go”, *Herald Sun*, 7 March 2007, 08:27am at <http://www.news.com.au/heraldsun/story/0,21985,21339749-5005961,html>.

28. That said, we submit that this Bill is the minimal legislative guarantee of the “principal operational centre” control attempted to be achieved by the *Qantas Sale Act 1992*. As was stated in when this Act was introduced:

“The fundamentals of the national interest safeguards, referred to earlier, need to be enshrined in legislation.

These safeguards are important to maintain the basic Australian character of Qantas as well as to ensure that Qantas’ operating rights under Australia’s various bilateral air service agreements and arrangements with other countries are not put under threat. Once in legislation, these safeguards will not be subject to the whim of the Government of the day.

Thus, the Bill requires that Qantas’ Articles of Association must contain provisions which will ensure that: Qantas’ main operational base and headquarters remain in Australia;”⁸

29. To achieve at least that aim, this Bill must succeed.

Conclusion - More to be done – the risk is too great

30. The AMWU is of the view that much more needs to be done to assure Australians that their aircraft industry is sustainable, safe and capable of defending the nation.

31. As a recent Roy Morgan survey showed:

“Australians believe that maintenance of long-haul aircraft in Australia is of a higher standard than that overseas (76% agree, 9% disagree and 15% can’t say) and that planes maintained in Australia are safer (77% agree, 9% disagree and 14% can’t say).”⁹

And, in addition:

“A significant 87% of Australians aged 14 and over said they would prefer the national carrier keep its long-haul maintenance facilities in Australia...”¹⁰

⁸ Commonwealth of Australia, House of Representatives 1992, *Debates*, (The Hon R Willis, MP Gellibrand, Minister for Finance, ALP, Government), <http://parlinfoweb.aph.gov.au> at 2588, 4 November 1992

⁹ Roy Morgan International, “Overwhelming Majority Of Australians Want Qantas Maintenance At Home”, Finding No. 3984 - February 27, 2006, <http://www.roymorgan.com/news/polls/2006/3984/>.

¹⁰ *id.*

32. An airline industry, and a skilled aircraft maintenance industry is essential for Australia. Regulation of the commercial decisions of Qantas is essential in order to sustain these industries. At the very least, Qantas is essential to:

- Australia retaining aircraft maintenance skills and the training system which develops those skills;
- The direct employment of over 6000 engineering and maintenance employees, the jobs that depend on those jobs, and the regional economies that depend on those jobs; and
- The development, maintenance and support of Australia's air defence capabilities.

33. Yet, in the face of those essential functions for Australia, its society and economy, the proposed buyout of Qantas is fraught with risk:

- Risk that a highly leveraged Qantas will become increasingly controlled by its creditors who are trying to protect their own interests;
- Risk that is evident in the past practices of members of Airline Partners Australia;
- Risk that planned income streams will not be as fruitful as forecast leaving savings to be made elsewhere;
- Risk that private equity owners will aim for a short-term exit strategy, leading them to require a higher return to maximise their investment in the short-term, to allay their concerns that their initial investment will not be recouped on exit.

34. The importance of a sustainable aircraft maintenance industry, and the risks that now present themselves that Qantas will not ensure that means that the amendment proposed in this legislation needs to be made.

35. The "principal operational centre" test of the *Qantas Sale Act 1992*, even as amended by this Bill, allows enough scope for corporate and commercial manoeuvring and evasion to undermine aircraft maintenance in Australia. The practice of entering into leases for new aircraft, which leases include maintenance contracts, are but one demonstration of how the commercial arrangements into which Qantas may enter avoid core maintenance functions being performed by Qantas at all. This maintenance never comes into the equation to determine where the principal operational centre of Qantas is located. The requirements of proposed s.9(5) are rendered powerless, and

Australian jobs and training systems, and the defence of the nation, are precarious at best.

36. Australia needs aircraft maintenance. Australia needs to regulate the sustainability of the aircraft maintenance industry in Australia. Without effective regulation, the risks are too great, the commercial temptations and motivations too many. This Bill avoids one obvious means to skirt the regulation of the *Qantas Sale Act 1992*. To the detriment of the nation, it is not nearly enough.

AMWU

9 March 2007.