



Australian Government

Department of Infrastructure and Transport

Secretary

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Contact: Aidan Bruford 6274 7064

Ms Jeanette Radcliffe
Committee Secretary
Senate Rural Affairs and Transport References Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600


Dear Ms Radcliffe

Inquiry into the Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011 and the Qantas Sale Amendment (Still Call Australia Home Bill) 2011

Thank you for the opportunity to comment on the draft amendments to the Qantas Sale Amendment (Still Call Australia Home Bill) 2011 and the Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011 put forward by Senator Xenophon to be considered as part of the inquiry. Further to the comments previously provided by the Department in relation to the Bills, additional comments relating to the amendments put forward by Senator Xenophon are provided below.

In relation to the Qantas Sale Amendment (Still Call Australia Home Bill) 2011, the Department notes that the scope of the Bill would be narrowed by the amendments, such that fewer Qantas-related airlines would be affected by the Bill.

However, the amended Bill still contains a number of terms that do not have a commonly understood meaning, and it is uncertain how these provisions are to be interpreted.

As the Department noted in its earlier submission, the Bill proposes a new provision which would require the 'majority' of Qantas's 'heavy maintenance' and a 'majority' of 'flight operations and training' 'conducted by, or on behalf of Qantas' to be conducted in Australia. A similar requirement is imposed on the other Qantas-related airlines to which the Bill applies. The Department notes that the requirement for these airlines to conduct the 'majority' of their 'flight operations' in Australia could be construed to effectively require these airlines to be primarily domestic operators.

In addition, the amended Bill would still change the requirements of the *Qantas Sale Act 1992* relating to the mandatory provisions that Qantas must include in its articles of association. Qantas, as a public company, would be required to complete the process of changing its constitution and the revised Bill does not address this, or the possibility shareholders could oppose the amendments.

The Department also notes that the *Qantas Sale Act 1992* requires Qantas's articles of association to include the mandatory provisions from the date of privatisation. The amendment would operate so that Qantas's articles would need to have included the new article from the date of privatisation, which is impossible.

In relation to the Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011, the Department notes the amended Bill proposes amendments to the *Fair Work Act 2009* regarding coverage of the Australian industrial relations framework and amendments to the *Civil Aviation Act 1988* regarding the obligations of Air Operator Certificate (AOC) holders relating to fatigue. The Department of Education, Employment and Workplace Relations and the Civil Aviation Safety Authority respectively are better placed to comment on the substance of these amendments.

The Department would be happy to discuss the information contained in this submission.

Yours sincerely



Mike Mrdak

10 February 2012