

Our Ref: ACCCQan01
Your Ref: C2002/1774

5 February 2003

Mr Tim Grimwade
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Dear Mr Grimwade

**Re: Applications for authorisation lodged by Qantas Airways Limited
and Air New Zealand Limited (A30220, A30221, A30222)**

Please find enclosed a submission from the Australian Council of Trade Unions (ACTU) regarding the applications by Qantas Airways Limited (Qantas) and Air New Zealand Limited (Air NZ) for authorisation for the proposed acquisition by Qantas of an equity of up to a 22.5 per cent in Air NZ.

Should the Commission wish to discuss the ACTU's application please contact ACTU Senior Industrial Officer Richard Watts on 03 9664 7351.

Yours sincerely

Greg Combet
ACTU Secretary



AUSTRALIAN COUNCIL OF TRADE UNIONS

**SUBMISSION TO THE AUSTRALIAN COMPETITION &
CONSUMER COMMISSION**

**REGARDING THE APPLICATION BY QANTAS AIRWAYS
LIMITED AND AIR NEW ZEALAND FOR AUTHORISATION
PURSUANT TO s88(1) & s88(9) of the *Trades Practices Act*
1974 (Cth)**

MATTER Numbers A30220, A30221 & A30222

February 2003

Introduction

The Australian Council of Trade Unions (ACTU) is Australia's peak Trade Union body with over 50 affiliated unions representing two million workers. The ACTU represents workers across all industries and occupations within the public, private and community services sectors of the economy.

A number of ACTU affiliates have significant membership within the Australian aviation industry with employees within Australia and overseas. Qantas Airways Limited (Qantas) is the dominant employer in the Australasian region, the majority of Qantas' workforce are members of an ACTU affiliated union or association.

The application for authorisation made to the Australian Competition and Consumer Commission (ACCC) by Qantas, Air New Zealand and Air Pacific will have a direct impact on the size and composition of the aviation workforce on both sides of the Tasman.

Whilst the union movement recognises the need for viable airlines on both sides of the Tasman it does not accept the need to reduce levels of services and employment levels within Australia and New Zealand.

The proposal to enter into arrangements which will reduce current and future competitive pressure and consequent costs between Qantas and Air New Zealand will reduce competition. On the other hand the Qantas and Air New Zealand proposals imply that it is desirable that there be competitive tension between those employees on each side of the Tasman who may be competing for the retention of their jobs and or wages and conditions.

Public Interest

Qantas and Air New Zealand argue that whilst their application will reduce competition overall, it meets the public interest test. The ACTU is firmly of the view that the public interest test should include an analysis on the impact on employment levels and safety. These issues are either not addressed or glossed over in the application and supporting documentation.

It is recognised that there may be efficiencies achieved through a closer working relationship between Qantas and Air new Zealand that do not involve reductions in employment levels and that these efficiencies may be categorised as a benefit. How that benefit is distributed will properly determine whether it is a public benefit or a benefit distributed to a smaller group, principally Qantas shareholders. It is recognised that given the New Zealand

Government's majority shareholding in Air New Zealand, a case for a public benefit may be more readily argued.

Impact on employment levels and skills base

A loss of jobs and or a reduction in Australia's aviation skills base is not a public benefit or in the national interest. It is submitted that the application will have this affect.

Aviation skill base

The maintenance of the existing skill base within Australia is a matter of serious concern to the ACTU.¹

The aviation industry is capital intensive with long lag times. In periods of uncertainty and change one of the few cost variables that can be altered within a short time frame is labour costs. Many of the "efficiencies" to be achieved from the Air New Zealand and Qantas strategic alliance involve the reduction in and combining of services and a consequent reduction in labour utilisation and costs.

It is submitted that in many areas of the aviation workforce in order to attract and maintain a skilled and experienced workforce it is necessary that a sufficient number and variety of employees be maintained. Failure to do so results in skills blockages as experienced and skilled employees are forced to seek work elsewhere to progress or continue their careers.

Job loses

It is proposed that Air New Zealand and Qantas will co-ordinate scheduling, routes, capacity and aircraft flown.²

The stated rationale is to improve revenue and cost efficiencies. Air New Zealand and Qantas assert that consumers will not be affected by the reduction in choice of carrier and frequency of flights. We do not accept this interpretation. There is no doubt that the reduction in flights between Australia and New Zealand and code sharing arrangements between the two airlines will have a significant impact on employment levels in a variety of occupations.

¹ The Australian Manufacturing Workers Union (AMWU) has provided the ACCC with a submission that deals with skills shortages in the maintenance and engineering and submits that it is in the public interest to ensure the continued operation of Qantas' maintenance operation within Australia. This position is supported by the ACTU and reflects the concerns of other ACTU affiliates. These submissions are adopted.

² Clause 5.4 of the Strategic Alliance Agreement between Air New Zealand and Qantas Airways Limited

It may be that employment growth elsewhere within the Qantas group will in part compensate for such a reduction in employment levels.³ It is disingenuous to claim that there will be no impact on jobs as a result of the arrangements between Air New Zealand and Qantas.

In some areas of employment, such as Check in, Cabin Crew, Flight Crew, Ground Crew the impact will be immediate and quantifiable. In other areas the impact will be more difficult to quantify and will not be as immediately noticeable. By way of example only, these areas will include in-flight services, reservations and information technology.

Clause 6 of the Strategic Alliance Agreement identifies numerous areas within and outside the Joint Airline Operation (JAO) network where the airlines agree to co-ordinate activities where they consider it 'efficient and beneficial to do so.'

It is submitted that the level of synergies proposed could result in hundreds of job losses both within Australia and New Zealand. The further development of 'co-ordinated' or joint activities in relation to frequent flyer programs, catering, entertainment, sales, freight, fleet planning and operation, information technology, purchasing and human resources will inevitably result in significant job losses and a diminution of the existing skills base within the industry.

It is submitted that such losses are not in the public interest or the long-term viability of the industry. Following modelling undertaken after the collapse of the Air New Zealand owned Ansett group of companies it is estimated that for every direct Ansett job lost another 2.5 external jobs were lost. We have no reason to believe that a similar multiplier would not apply should there be job losses within Australia and Air New Zealand following the implementation of the proposed Strategic Alliance Agreement.

It is submitted that the benefits of the proposed alliance will be reaped by Qantas and Air New Zealand and the costs borne by the airline's customers and the employees of the airlines.

³ It should be noted that at the time of writing Qantas is preparing for a reduction in demand and staffing levels in the event of outbreak of war in the Gulf region. It is considered that such an event is more likely than not.

Rationale for the transaction

Avoidance of War of attrition

Qantas and Air New Zealand argue that they both face significant competition from value based airlines and that the proposed alliance “..avoids a wasteful duplication of resources” and “..will avoid the need for, and the consequences of, a war of attrition.”⁴

It is argued that there will be “scheduling efficiencies” and “improved flight operations”, should the arrangements be approved. It is submitted that such a term is Orwellian newspeak for less flights and fuller planes.

It is recognised that the Australasian aviation market is small by world standards and susceptible to external shocks. The Australian and New Zealand Governments have an open skies policy and agreements to reflect these arrangements. Such a policy between Australia and Singapore may soon follow.

The applications by Air New Zealand and Qantas are a recognition that the industry is unique and requires a level of protection. Unbridled competition does not serve the industry or the travelling public.

The existence of viable full service national flag carriers on both sides of the Tasman is vital to the future of the industry and the economic interests of both nations. It is recognised that the strategic alliance will result in increased international competitiveness for both Qantas and Air New Zealand.

It is claimed that the arrangements are in the “furtherance of the national interest”. It is submitted that the continuance of Air New Zealand as a national flag carrier or the continuance of Qantas’ profitable operation is not dependent on approval of the application.

Value Based Airlines

It is argued by the applicants that the failure of Ansett Australia Limited was a result of the pressure from value based airlines. There is no evidence to support such a proposition. Whilst Ansett’s market share was reduced as a result of new value based entrants, the bulk of Ansett’s market share was lost to Qantas.

It is submitted that Ansett’s demise was the result of a number of factors, not least of which was the failure of management over a

⁴ Page 4 of Executive Summary of submission made by Qantas and Air New Zealand in support of applications pursuant to s88(1) and 88(9) of the *Trades Practices Act 1974*.

period of years to adequately plan for the future and the partial grounding of the Ansett fleet by safety regulators.

It is recognised that value based airlines have no regulatory or other requirements to fly extended networks and have the ability to cherry pick profitable routes which has an impact on profitability disproportionate to the level of access to the overall market.

Commercial Control by Air New Zealand

Ansett's problems were multiplied following the purchase of Ansett by Air New Zealand and the integration of a number of key functions of Ansett within the Air New Zealand group, principally finance, commercial planning, information technology. All key aspects of the operations of Ansett were taken over by Air New Zealand.

In hindsight it is submitted that the subsequent changes were detrimental to Ansett Australia and Air New Zealand and following the collapse of Ansett, resulted in a significant reduction in competition within the industry and the near collapse of Air New Zealand.

The alliance between Air New Zealand and Qantas will result in the Joint Airline Operation Networks, once fully implemented, being commercially managed by Air New Zealand. It is presumed that lessons have been learnt from the Ansett collapse.

Tourism injection

The applicants have argued that the strategic alliance will advance each country's tourism and export industries. There is little evidence that this will be the case.

Capital injection to Air New Zealand

It is recognised that the transaction provides a much needed capital injection into Air New Zealand and will avoid the costs of competition between the parties whilst producing saving through joint operations within the joint network and external to the network.

Regulatory and safety considerations

There are a number of regulatory differences between Australia and New Zealand. These relate primarily to operating procedures relating to staffing and safety. The arrangements between Air New Zealand and Qantas could result in a race to the bottom. Given the lack of detail provided by both airlines it is considered appropriate that both airlines provide details on any proposed or likely changes or implications regarding existing operating procedures, staffing and safety considerations.

Undertakings by Qantas and Air New Zealand

Qantas and Air New Zealand have submitted that there is limited scope within the trans Tasman market for direct competition. If this view is accepted by the ACCC it is submitted that any undertakings required of Qantas and Air New Zealand should be cognisant of this key proposition. The market's inability to sustain competition is a foundation stone in the applications before the regulatory authorities.

The provision of, or access to services for a third party entrant into the market may run contrary to the rationale for the granting of regulatory approval for the strategic alliance. Care should be taken that any undertakings sought are not counter productive.

Should any undertakings provide a level of access to airport gates, counter facilities, maintenance and baggage handling services, the conditions of use and cost should reflect the full cost of the provision of services, including the opportunity cost associated with the provision of capital and labour.

The provision of undertakings regarding scheduling of existing and new passenger and freight services and pricing is appropriate.

Employment undertakings from Qantas and Air New Zealand

The ACTU believes that it is appropriate that Qantas and Air New Zealand provide enforceable undertakings that staff will not be made redundant or disadvantaged as a result of the proposed strategic alliance. A growing Qantas should be in a position to provide undertakings that it will create more jobs in Australia. Given the assertion by Qantas that the proposed arrangements will not result in a reduction in staffing numbers, this undertaking should not be too onerous. It is submitted that these undertakings should form part of any undertakings provided pursuant to section 87B of the *Trade Practices Act 1974*.

**Australian Council of Trade Unions
February 2002**