



1 February 2022

Senator The Hon Michaelia Cash
Attorney-General
Minister for Industrial Relations

via email: senator.cash@aph.gov.au

Dear Minister

Re: Qantas application to unilaterally terminate Qantas long-haul cabin crew agreement

We write in relation to the above and note that your Department contacted Commissioner Cambridge regarding this matter.

The impact of this application would be to cut pay by an average of 41%, with some standing to lose as much as 65% of their income. On top of this a number of other conditions would be slashed, such as redundancy entitlements and long-standing allowances.

Most concerningly, termination of the agreement would endanger passengers and crew due to the impact on fatigue management and crew's ability to respond to emergencies. The Award would significantly reduce rest time between long-haul flight duties, and allow for cabin crew on unlimited 'reserve' rosters to be called in at short notice for long periods away from home.

It is worth noting that these are the same cabin crew involved in repatriation flights, rescuing thousands of Australians left stranded throughout the course of the pandemic. Many of the crew volunteered to operate these flights prior to vaccinations becoming available and took part in the original flights to and from Wuhan, for which they received Certificates of Thanks from the Prime Minister.

Unfortunately, this is just the latest in a long list of appalling behaviour that the Qantas management team has inflicted on their frontline workers during this pandemic, despite being Australia's largest recipient of JobKeeper and continuing to receive millions in taxpayer support for its international operations, including the payment of wages.

Over the last two years, Qantas has:

- illegally outsourced its entire ground handling operation;
- pocketed the hard-earned sick leave of terminally ill workers;
- dangerously played down the virus which led to covid clusters and a worker nearly losing his life; and
- stood down an elected Health and Safety Representative who demanded that cabin cleaners receive proper training and personal protective equipment before servicing flights that had returned directly from China at the start of the pandemic.

It is worth noting that SafeWork NSW found that the health and safety representative had been raising legitimate safety concerns and is now prosecuting the airline for its disciplinary action against him.

The Fair Work Act (**the Act**) is intended to support and facilitate collective bargaining. Collective bargaining and the good faith requirements associated with it are intended to allow workers to combine their collective strength and achieve better industrial outcomes. The current Qantas



management team has manipulated the Act in several ways in order to discourage and shut down collective bargaining, including:

- Shutting down the airline in 2011 in order to end bargaining and force arbitration with pilots, engineers and ground handlers;
- Outsourcing two of its direct hire ground handling workforces in order to prevent workers from bargaining, found by the Federal Court to be illegal¹; and
- Now applying to terminate the long-haul flights attendants enterprise agreement in order to force employees back onto Modern Award conditions and/ or pressuring them to vote in favour of an enterprise agreement that 97% of them rejected as recently as December 2021.

Such unilateral action would not be able to be taken against individuals on common law agreements, thus Qantas has actively punished workers who choose to collectively bargain.

The last two examples above are in stark contrast to their only major domestic competitor Virgin Australia who, in spite of being placed into Administration with no Government support, negotiated replacement Ground Handling and Cabin Crew Enterprise Agreements. It is worth noting that when Virgin Australia put its first cabin crew enterprise agreement out to vote it was resoundingly voted down by employees. However, unlike Qantas Virgin participated in an extended mediation process which led to an agreed outcome.

We note that Commissioner Cambridge advised the parties to utilise the services of a specialist mediator, preferably an ex-member of the Commission. We wrote to Qantas last week suggesting that Tony Wilks, former Commissioner at the then Australian Industrial Relations Commission and a consultant extensively involved in negotiations with all work groups during the Virgin Australia Administration process, be engaged to mediate between the parties. We trust that Qantas will take up this offer.

Further, we urge your Department to intervene and prevent these unjust and unfair proceedings initiated by Qantas, including:

- Publicly calling on Qantas to abandon its current application and participate in further good faith bargaining under the Act as well as supporting the mediation proposal outlined above;
- Using any and all powers available to you under the Act to intervene and/ or make submissions in the proceedings; and
- Legislate to remove the ability of employers to unilaterally terminate expired enterprise agreements which are being weaponised against workforces who choose to collectively bargain in order to achieve better industrial outcomes.

The TWU and FAAA would welcome the opportunity to meet to brief you on the negotiation process in relation to the long-haul cabin crew agreement and the consequences of a terminated agreement for workers, their families and the travelling public.

Yours faithfully,

Nick McIntosh
TWU Acting National Secretary

Teri O'Toole
FAAA Federal Secretary

¹ *Transport Workers' Union of Australia v Qantas Airways Limited* [2021] FCA 873 (30 July 2021).