

Doherty John

From: Doherty John
Sent: [REDACTED]
To: mike.mrdak@infrastructure.gov.au; Wilson Andrew (Andrew.Wilson@infrastructure.gov.au);
Finlay Jess
Cc: [REDACTED] Borthwick Stephen; [REDACTED]
Subject: FW: Cabinet Sub [REDACTED] - incorp DPMO comments [SEC-PROTECTED, DLM-Sensitive-
Cabinet]
Attachments: Cabinet Sub [REDACTED] - incorp DPMO comments.docx

Suggested minor changes (in track mode) in response to DPM's comments.

[REDACTED]

From: [REDACTED]
Sent: [REDACTED]
To: Doherty John
Cc: Borthwick Stephen; [REDACTED]
Subject: Cabinet Sub [REDACTED] incorp DPMO comments [SEC-PROTECTED, DLM-Sensitive-Cabinet]

Hi John,

[REDACTED]

Also, the CLO has said that they're happy with the approval letter.

Happy to discuss.

Thanks,

[REDACTED]

Assistant Director
Trade and Aviation Market Policy
Aviation and Airports
Department of Infrastructure and Regional Development

[REDACTED]

Declassified -
FOI Request 15-25
19/01/2015

From: Wilson Andrew

To: Doherty John

Cc: Borthwick Stephen; Mrdak Mike;

Subject: RE: Qantas Sale Act submission [~~SEC=PROTECTED, DLM=Sensitive-Cabinet~~]

Ok

Sent with Good (www.good.com)

-----Original Message-----

From: Doherty John

To: Wilson Andrew

Cc: Borthwick Stephen; Mrdak Mike;

Subject: RE: Qantas Sale Act submission [~~SEC=PROTECTED, DLM=Sensitive-Cabinet~~]

From: Wilson Andrew

To: Doherty John;

Cc: Borthwick Stephen; Mrdak Mike

Subject: RE: Qantas Sale Act submission [~~SEC=PROTECTED, DLM=Sensitive-Cabinet~~]

I will go and talk to office this morning

Sent with Good (www.good.com)

-----Original Message-----

From: Doherty John

To:

Cc: Wilson Andrew; Borthwick Stephen; Mrdak Mike

Subject: FW: Qantas Sale Act submission [~~SEC=PROTECTED, DLM=Sensitive-Cabinet~~]

[REDACTED]

From: Finlay Jess

[REDACTED]
To: Doherty John

Cc: [REDACTED]

Subject: Qantas Sale Act submission [SEC=PROTECTED, DLM=Sensitive Cabinet]

Hi John,

[REDACTED]

Kind regards,

Jess

Jess Finlay

Office of the Deputy Prime Minister

Leader of The Nationals

Minister for Infrastructure and Regional Development

P: 02 6277 7680 [REDACTED]

Doherty John

From: Wilson Andrew
Sent: Tuesday, 25 February 2014 1:10 PM
To: Doherty John
Subject: RE: Coalition moves on Qantas ownership to 'level playing field' | The Australian [SEC=UNCLASSIFIED]

ta

-----Original Message-----

From: Doherty John
Sent: Tuesday, 25 February 2014 12:59 PM
To: Wilson Andrew
Subject: RE: Coalition moves on Qantas ownership to 'level playing field' | The Australian [SEC=UNCLASSIFIED]

-----Original Message-----

From: Wilson Andrew
Sent: Tuesday, 25 February 2014 12:37 PM
To: Borthwick Stephen; Doherty John
Subject: Coalition moves on Qantas ownership to 'level playing field' | The Australian [SEC=UNCLASSIFIED]

<http://www.theaustralian.com.au/business/aviation/coalition-moves-on-qantas-ownership-to-level-playing-field/story-e6frg95x-1226836613092>

assume drafting instructions are coming along well

Doherty John

From: Wilson Andrew
To: Doherty John
Cc: Borthwick Stephen
Subject: RE: QSA sub [SEC=UNCLASSIFIED]

Its marginal but ok

From: Doherty John

To: Wilson Andrew
Cc: Borthwick Stephen
Subject: QSA sub [SEC=UNCLASSIFIED]

Are you happy for the draft to go to DFAT (foreign trade and investment area in particular) as well? They have an interest in foreign participation in our carriers.

John Doherty
Executive Director Aviation and Airports
Tel 02 62747086



Australian Government

Department of Infrastructure and Regional Development

Doherty John

From: Wilson Andrew
Sent: [REDACTED]
To: Borthwick Stephen; Mrdak Mike
Cc: Doherty John; [REDACTED]
Subject: RE: QSA Cab Sub - [REDACTED] [SEC=PROTECTED, DLM=Sensitive-Cabinet]

Fine to go

From: Borthwick Stephen
To: Mrdak Mike; Wilson Andrew
Cc: Doherty John; [REDACTED]
Subject: FW: QSA Cab Sub - [REDACTED] [SEC=PROTECTED, DLM=Sensitive-Cabinet]

Mike/Andrew

Revised sub incorporating comments from PMC and Treasury attached. Once you are happy we will send to DPMO for clearance to circulate.

Stephen

Stephen Borthwick
General Manager, Aviation Industry Policy
Aviation and Airports
Department of Infrastructure and Regional Development

T: 02 6274 7739
F: 02 6274 6749
E: stephen.borthwick@infrastructure.gov.au

GPO Box 594, CANBERRA ACT 2601

From: [REDACTED]
Sent: [REDACTED]
To: Borthwick Stephen
Cc: [REDACTED]
Subject: QSA Cab Sub - [REDACTED] [SEC=PROTECTED, DLM=Sensitive-Cabinet]

Stephen,

Clean and updated sub attached.

Thanks,

[REDACTED]

Doherty John

From: Wilson Andrew
Sent: [REDACTED]
To: Borthwick Stephen
Cc: [REDACTED] Mrdak Mike; Doherty John; [REDACTED]
Subject: RE: Cabinet briefing - Qantas Sale Act - [REDACTED] [SEC=PROTECTED, DLM=Sensitive-Cabinet]

Good package - pass on to the team well done for pulling material together

From: Borthwick Stephen
Sent: [REDACTED]
To: Finlay Jess
Cc: [REDACTED] Mrdak Mike; Wilson Andrew; Doherty John; [REDACTED]
Subject: Cabinet briefing - Qantas Sale Act - [REDACTED] [SEC=PROTECTED, DLM=Sensitive-Cabinet]

Jess

As discussed on Friday, attached is briefing on the QSA Submission.

Happy to discuss.

Stephen

Stephen Borthwick
General Manager, Aviation Industry Policy
Aviation and Airports
Department of Infrastructure and Regional Development

T: 02 6274 7739
F: 02 6274 6749
E: stephen.borthwick@infrastructure.gov.au

GPO Box 594, CANBERRA ACT 2601

Doherty John

From: Wilson Andrew
Sent: [REDACTED]
To: Doherty John; Borthwick Stephen
Subject: Qantas Act [SEC=UNCLASSIFIED]

Well done

First step through

Please pass on to the team thanks for the excellent work this week

AW

Doherty John

From: Wilson Andrew
Sent: [REDACTED]
To: Borthwick Stephen
Cc: Doherty John; [REDACTED]
Subject: RE: Committee Submission on QSA [~~DLM=For Official Use Only~~]

Send through to Mike

This material contains information that, if disclosed inappropriately, may cause limited damage to national security, Australian Government agencies, commercial entities or members of the public. Recipients should ensure they handle and store this material appropriately.

From: Borthwick Stephen
Sent: [REDACTED]
To: Wilson Andrew
Cc: Doherty John; [REDACTED]
Subject: Committee Submission on QSA [~~DLM=For Official Use Only~~]

Andrew

Draft submission to Committee on the QSA – for comment before we put to Mike.

Happy to discuss.

Stephen

Stephen Borthwick
General Manager, Aviation Industry Policy
Aviation and Airports
Department of Infrastructure and Regional Development

T: 02 6274 7739
F: 02 6274 6749
E: stephen.borthwick@infrastructure.gov.au

GPO Box 594, CANBERRA ACT 2601

This material contains information that, if disclosed inappropriately, may cause limited damage to national security, Australian Government agencies, commercial entities or members of the public. Recipients should ensure they handle and store this material appropriately.

U N C L A S S I F I E D

**Australian Government****Department of Infrastructure and Regional Development***File Reference: RMS13/9544*

Dr Kathleen Dermody
Committee Secretary
Senate Economics Legislation Committee
PO Box 6100
CANBERRA ACT 2600

Dear Dr Dermody

Inquiry into the Qantas Sale Amendment Bill 2014

Thank you for your letter of 7 March 2013, inviting the Department of Infrastructure and Regional Development to make a submission to the Senate Economics Legislation Committee inquiry into the Qantas Sale Amendment Bill 2014.

The Department has prepared the attached submission to assist the Committee in its deliberations.

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

Yours sincerely

Mike Mrdak
Secretary

March 2014

U N C L A S S I F I E D

U N C L A S S I F I E D

Department of Infrastructure and Regional Development Submission to the Inquiry into the Qantas Sale Amendment Bill 2014

Regulatory framework

The Department of Infrastructure and Regional Development has overall carriage of policy issues regarding the aviation industry. The Government's key policy objective for the aviation industry is to ensure that the industry can grow in an environment that is safe, competitive and productive.

Australia's international airlines are subject to restrictions on the level of foreign ownership.

Foreign ownership levels in Qantas are governed by the *Qantas Sale Act 1992* (QSA), which limits total foreign ownership to 49 per cent. In addition, intermediate limits apply so that aggregate ownership by foreign airlines is limited to 35 per cent and ownership by any single foreign shareholder is limited to 25 per cent. Under the QSA, these limits apply to the whole Qantas business, including both international and domestic operations.

Foreign ownership restrictions on other Australian international airlines are governed by the *Air Navigation Act 1920* (ANA), which stipulates no more than 49 per cent of the total value of the issued share capital of the airline can be held by foreign persons.

The QSA also imposes other restrictions on Qantas' operations, including restrictions on the makeup of the board of directors, the use of the name Qantas, the location of the head office, place of incorporation, and the location of facilities that support its international operations.

Foreign investment in international airlines is not only limited by statute. International air services agreements impose ownership and control restrictions to ensure only airlines belonging to the countries party to the agreement can access the traffic rights granted under the agreement. International airlines wishing to access Australia's negotiated air traffic rights must be 'designated' by the Government and standard designation criteria are applied to ensure the airline meets the relevant ownership and control requirements under the agreements. Similar designation criteria apply for foreign airlines seeking to access their home country's air traffic rights.

Under the designation criteria, Australian airlines seeking designation are required to demonstrate that:

- at least two-thirds of the Board members must be Australian citizens;
- the Chairperson of the Board must be an Australian citizen;
- the airline's head office must be in Australia;
- the airline's operational base must be in Australia; and
- no more than 49 percent of the total value of the issued share capital can be held by foreign persons.

Further information on these criteria can be found on the Department's website:
< <http://www.infrastructure.gov.au/aviation/international/memorandum.aspx#design> >.

U N C L A S S I F I E D

Neither the designation criteria nor the ANA foreign ownership restrictions apply to domestic airlines operating in Australia, which can be up to 100 per cent foreign owned (subject to approval under the *Foreign Acquisitions and Takeovers Act 1975*).

Purpose of the Bill

The purpose of the Bill is harmonise Australia's aviation regulatory framework by amending the QSA to remove the foreign ownership and other restrictions that apply to Qantas but do not apply to other airlines based in Australia.

The Bill repeals Part 3 of the Act and thus removes the foreign ownership and other restrictions applying specifically to Qantas.

The Bill also amends the ANA to ensure that Qantas, in relation to its operation as an international airline, will come within the definition of an Australian international airline, meaning that Qantas will be subject to the same regulatory framework, including foreign ownership limits, as other 'Australian international airlines'. To achieve this result, the Bill removes the express words in the current ANA which have excluded Qantas from the operation of the ANA provision.

Impact of the Bill on the aviation sector

The Bill will increase Qantas' ability to compete in the domestic and international aviation market and provides business flexibility for Qantas consistent with other airlines based in Australia.

Removing foreign ownership restrictions under the QSA would allow greater levels of ownership by a single foreign investor (up to 49 per cent) and greater levels of aggregate ownership (combined limit of 49 per cent) by foreign airlines in Qantas. Foreign investment would continue to be subject to Foreign Investment Review Board consideration under the *Foreign Acquisitions and Takeovers Act 1975*.

While the Bill would also remove other restrictions in the QSA, Qantas, like other Australian international airlines, would continue to be subject to the designation criteria and the provisions of our air services agreements which require:

- at least two-thirds of the Board members must be Australian citizens;
- the Chairperson of the Board must be an Australian citizen;
- the airline's head office must be in Australia;
- the airline's operational base must be in Australia; and
- no more than 49 percent of the total value of the issued share capital can be held by foreign persons.

Qantas will also remain subject to a number of other legislative requirements including the *Fair Work Act 2009*, the *Corporations Act 2001* and civil aviation safety regulations.

Because no other Australian airlines are subject to the QSA, the Bill will not directly impact upon any other airlines in the industry. Qantas' main domestic competitors have publicly indicated their support for the Bill as it will allow all Australian based airlines to compete on an equal footing.

Impact of the Bill on other legislation

Aside from the amendments to the QSA and the ANA, the Bill has no impact on other legislation.

DRAFT

Doherty John

From: Wilson Andrew
Sent: Thursday, 20 March 2014 1:16 PM
To: Borthwick Stephen; Doherty John
Subject: FW: Hansard transcript from 18 March - Qantas Sale Amendment Bill 2014 - corrections due 28 March 2014 [SEC=UNCLASSIFIED]

Hey guys can you get this read for any corrections please

From: Kavgic, Morana (SEN) [mailto:Morana.Kavgic@aph.gov.au]
Sent: Thursday, 20 March 2014 12:17 PM
To: Wilson Andrew
Subject: Hansard transcript from 18 March - Qantas Sale Amendment Bill 2014 - corrections due 28 March 2014



Senate Economics Legislation Committee

Mr Andrew Wilson
Deputy Secretary
Department of Infrastructure and Regional Development

Email: andrew.wilson@infrastructure.gov.au

Dear Mr Wilson,

Inquiry into the Qantas Sale Amendment Bill 2014

Please find the link to an electronic copy of the proof Hansard transcript of evidence for the Committee's hearing held in Canberra on Tuesday 18 March 2014:

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommsen%2Ff64a8c1b-e906-42f8-990b-e9b4e5cb199f%2F0000%22>

To display the whole transcript, you will need to click on the PDF icon on the left hand side, marked as 'Download PDF'.

If you consider corrections to the transcript are needed, please mark them in red on a hard copy and return that copy to the secretariat by **Friday 28 March 2014** via email, fax or post. Please do **not** use track changes, as they will not be accepted. Please note that it will not be possible for corrections received after this deadline to be included in the Official Hansard transcript.

Corrections must be restricted to typographical and transcription errors. Suggested changes which alter the sense of the evidence, statistics given, or which are designed to improve style are not permitted. Should you wish to vary what you said to the Committee or provide additional information, this can be done by sending a letter providing additional information to the secretariat.

If you undertook to provide additional material after the hearing, it would be appreciated if this material could be provided as soon as possible, in the week following the hearing. However, answers to questions on notice should be provided in advance separately, as instructed by the secretariat.

Please note that corrections suggested by a witness may not necessarily be accepted and that the Committee may also make its own corrections.

If you do not wish to make any corrections, there is no need to respond to this letter. The Official Hansard transcript will then be finalised and published, and no further alterations will be possible.

I take this opportunity on behalf of the Committee to thank you for your assistance with the inquiry.

Yours sincerely

Dr Kathleen Dermody
Committee Secretary

PO Box 6100, Parliament House, Senate Economics Committee, SG.64, Canberra ACT 2600
Tel: (02) 6277 3540 | Fax: (02) 6277 5719 | Email: economics.sen@aph.gov.au | Website: www.aph.gov.au