

Australian Court rules Qantas outsourcing of ground staff unlawful

Terry Cook
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Last week the Australian Federal Court ruled that Qantas, Australia's largest airline, had acted unlawfully and was in breach of the Fair Work Act when it outsourced its ground handling operations at the end of 2020, destroying 2,000 in-house jobs including baggage handlers, ramp workers and cabin cleaners.

Qantas, like its global and domestic competitors, has ruthlessly used the pandemic to bring forward previously prepared restructuring plans, ensuring workers bear the cost of the crisis. The company has already slashed 8,500 jobs since the pandemic erupted in March 2020.

Qantas estimated that the outsourcing of the ground handling work would save around \$100 million annually and reduce capital expenditure costs by \$80 million over the next five years.

Handing down his ruling, Federal Court Justice Michael Lee rejected the company's argument that its decision to outsource resulted from financial pressures stemming from the pandemic. Lee found that Qantas deliberately took advantage of a "vanishing window of opportunity to outsource" before an upcoming enterprise bargaining round, during which workers could have legally carried out industrial action.

The company's decision, he said, infringed on protections in the Fair Work Act that prevent employers from punishing employees for exercising workplace rights.

Qantas quickly emphasised that the "judgment does not mean Qantas is required to reinstate workers or pay compensation or penalties" and immediately declared it would appeal the ruling. This means the displaced workers face further months of uncertainty, as the case continues to grind its way through the courts.

Michael Kaine, national secretary of the Transport Workers Union (TWU), immediately hailed the

judgment as "a watershed moment for workers in Australia" claiming the ruling meant "workers cannot be bypassed by employers like Qantas which want to drive down wages and conditions."

Kaine's assertions are designed to cover over the fact that the union had pushed the issue into the Federal Court having ruled out mobilising any political and industrial action to prevent the outsourcing. The TWU's main complaint about Qantas's move was that the union had not been brought into the consultation process, during which it would undoubtedly have offered to provide other cost-cutting alternatives, as it has in the past.

The TWU only mounted its Federal Court challenge to the outsourcing after it failed last November to convince Qantas to employ the union itself as the cheap labour contractor for its outsourcing operation.

Lee specifically rejected the union's claim that the Federal Court action was a test case that "put outsourcing on trial." To drive this home he ruled that Qantas did not breach workplace laws when it outsourced ground staff operations at its low cost subsidiary Jetstar last year, destroying more than 400 jobs.

Speaking to the media after the ruling, Kaine said that Qantas should now reinstate all the outsourced workers. However, when asked what the next best solution was, should the court fail to order reinstatement, he lamely replied: "If for some reason the court declines that, we will deal with that when it happens."

Continuing the savage assault on jobs and working conditions, Qantas announced this week that it will stand down a total of 2,500 staff without pay for two months across its own operations and Jetstar. The airline claims it is facing a significant drop in demand due to current lockdown restrictions in response to

outbreaks of the COVID-19 Delta variant in several Australian states, particularly in New South Wales.

Qantas CEO Alan Joyce had telegraphed possible stand-downs in an email to staff last month. Joyce, who raked in \$10.74 million in total annual earnings last year, contemptuously declared that those employees who were stood-down would have to rely on whatever government support was available to maintain some income.

The unions responded to Joyce's email by calling on the government to implement a national plan "to ensure the industry's survival" with the TWU declaring that airline workers wanted "a plan for how their industry can be supported during rolling lockdowns." In other words, the TWU and management are in firm agreement—if workers are to receive any financial support during the pandemic, it won't be from Qantas.

This is despite well over a billion dollars having already been handed to the airline by governments since March 2020 on the phoney basis that this would save jobs. In fact, as the experience of the ground staff sharply expresses, Qantas has not only stood down workers without hesitation whenever it has been forced to cancel flights, it has used the pandemic as an opportunity to make permanent cuts to its workforce.

Under the International Aviation Support (IAS) package introduced by the federal government in March, Australia's two major airlines have been handed a total of \$200 million to supposedly retrain and keep 8,600 staff tied to their international businesses and to maintain wide-body fleets in readiness for when global travel reopens. Qantas, which employs around 7,500 workers in its international division, will pocket \$174.4 million under the IAS.

This is on top of \$1.2 billion in previous government handouts, including \$726 million from the so-called JobKeeper scheme, which Qantas used to offset its wages bill; \$102 million in federal fee refunds; \$276 million to underwrite the continuation of domestic operations and overseas repatriation flights, and \$110 million for freight assistance.

Virgin Australia will rake in \$25.6 million under IAS resulting in an estimated \$500 million total it has received in government handouts since being bought out by giant private equity company Bain Capital last year. Having finalised the buyout, Bain slashed 3,000 jobs and dumped Virgin's low cost carrier Tigerair at

the cost of hundreds of positions.

In a statement last month, the TWU again called on the Federal government to acquire an equity stake in Qantas. The union has falsely presented this as a campaign to "nationalise" the airline. Such a move to partial government ownership would not result in the airline's workers being able to exercise any control over the company's decisions. It would however be used as justification for funnelling even more government funds into the airline, and ultimately into the hands of the remaining private shareholders. With a federal election due next year, the TWU could be looking to the Labor Party to take up this call and hoping for the inclusion of union representatives in lucrative board or management positions.

The Keating Labor government privatised Qantas in 1993 and the party has backed the company's subsequent attacks on workers, both in and out of office. In 2011, the Gillard Labor government acted along with the unions to suppress workers' opposition to Qantas's grounding of its entire fleet, clearing the way for the company to carry out its restructuring and cost-cutting agenda.

Airline workers need to urgently draw lessons from years of attacks enforced by Labor and the unions. The struggle to defend jobs and working conditions requires a definitive break with the unions and the construction of new independent working-class organisations of struggle, including rank-and-file committees, across the aviation industry in Australia and globally. To facilitate this urgent task the International Committee of the Fourth International has called for the building of an International Workers Alliance of Rank-and-File Committees (IWA-RFC).

This struggle must be based on a socialist perspective aimed at establishing workers' governments to place aviation and all essential industries under public ownership and the democratic control of the working class, to be used for social need, not private profit.



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