

**The Aviation Legislation Amendment
(International Airline Licences and
Carriers' Liability) Act 2008 - A view
from the Australian International
Airlines and Aviation Insurance
Companies**

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INTRODUCTION

The global aviation industry has faced many problems over recent years. The current global financial crisis is a major cause of many of these problems. According to Novosti (2008), the increase in aviation fuel prices (by end of 2008) has already forced 24 airlines to discontinue flights or file for bankruptcy to protect themselves against creditors. Most airlines do not have any additional resources to deal with the financial crisis. They react to higher fuel prices by increasing ticket prices. Fewer people can afford to buy expensive tickets; airlines have to reduce the numbers of flights, which further aggravates their financial status. In addition, every increase in the price of fuel by one dollar is raising the global aggregate loss by \$1.6 billion. For example, Austrian Airlines, an Austrian national carrier, lost up to 90 million Euros by the end of the calendar year 2008, although in the past year it made a profit of 3.3 million Euros. According to Global Traveler (2009), soaring fuel prices have threatened the financial stability of airlines around the world, with many airlines falling victim earlier this year. On a whole, international travel is down two percent from August 2007 as the industry has seen a decline in travel to the Middle East and the Asia Pacific region. Travel in the domestic aviation sector in many countries has also dropped, by amounts ranging from four percent to 16 percent. In late 2008, British Airways' CEO Willie Walsh claimed that the aviation market was entering its toughest trading period of the year off the back of a disappointing performance in the first three-quarters of 2008¹.

The increasing of airplane accidents has also caused a dramatic drop in the aviation passenger volume level. For instance, between 12 February 2009 and 23 March 2009, the global aviation industry was involved in three serious airplane accidents which happened in Asia, United States and Europe. These accidents killed more than 60 people, injured hundreds of others and damaged cargo badly. The first accident, which happened in New York, United States, is caused by negligent actions of a pilot². The second airplane crash happened in Schiphol – Turkey because of aircraft's operational failure³; and the last one involves a cargo plane crash in Tokyo which is caused by strong wind⁴. Therefore, the most important challenges for airlines now are to gain consumer confidence and to deal with financial crisis effectively and efficiently.

Australian airlines are facing the same problems as many other airlines in the world. In order to deal with the global financial crisis, especially the rise in oil prices, Qantas increased the fuel surcharge on its airfare ticket which then affected its level of passenger volume. On the other hand, Qantas has also cut jobs in order to lower the cost of production. In early 2009, Deputy Prime Minister Julia Gillard described plans by Qantas to axe up to 1,750 workers as “another difficult day” amid increasingly bad news on the employment front, where at least 10,000 jobs have been lost so far this year nationwide. This move by Qantas was unwelcome news and distressing for workers and their families. Qantas has been involved in several airplane accidents in 2008 due to its aircraft's operational failures. Firstly, Qantas airline Flight 30 had an explosive

¹ Lloyd's News Centre, (October 2008),

<http://www.lloyds.com/News_Centre/Features_from_Lloyds/BA_chief_predicts_tough_times_for_aviation.htm>, viewed 20/04/2009.

² On 12/02/2009, the 50-seat commuter plane, Continental Airlines Flight 3401, was flying from Newark to Buffalo when it crashed into a house at Clarence Centre, Buffalo, New York State, U.S.A.

³ The Turkish Airlines Boeing 737, flying to Schiphol airport from Istanbul, went down in a field close to the main runway as it approached the runway to land and broke into several pieces on impact on 25/02/2009.

⁴ A FedEx Corp. cargo plane en route from China crashed in high winds and exploded in a ball of flames at Tokyo's Narita International Airport on Monday 23/03/2009.

decompression event over South China Sea about 200 miles from Manila. Although it then successfully landed on Manila without an injured person, a portion of the fuselage just forward of the wing root was found missing after the aircraft landed. And the second one involved an immediate landing at Learmonth airport near the town of Exmouth, Western Australia on 7 October 2008, causing by a sudden and unexpected altitude change in a scheduled international flight from Singapore to Perth. These accidents do not only cause a decrease number in consumer, but also bring concerns to the Government relating to upgrading consumer's insurance and protection level for travelers who fly to or from Australia.

The Government has achieved this by updating aviation laws to increase the limit of Australian international carriers' liability and required levels of insurance coverage, so that consumers now have greater potential to claim for their injuries and loss. The Aviation Legislation Amendment (International Airline Licences and Carriers' Liability Insurance) Act 2008 (Cth) deals with international air carrier liability in respect of carriage of passengers, baggage and cargo. The Act changes the system of international airline licences, the mandatory requirements for carriers' liability insurance and the designation of international airports. According to Airline Insurance Market Indicators Autumn Report 2008, insurance market is now hardening for the first time in the last five years.

The purpose of this research paper is to answer the question whether or not Australian airlines and their aviation insurance premiums will be affected by the new Act, and how airlines view and respond to the new legislative regime when their insurance contracts are renewed in 2009.

METHODOLOGY & LIMITATIONS

The four-stage process used to build the research in this paper is as follows:

1. Focusing on explaining topic question and determining some problems might be faced when finding answers.
2. Reviewing academic literature and relevant websites to gain general understanding and information on the topic.
3. Using different qualitative approaches to gain answers for specific questions arising from the topic such as interview via phone calls, emails, and news reviewing for related previous information that might link to the case.
4. Gathering all the information and answers to plan and prepare a logical research paper.

The topic question in this paper is would Australian Aviation insurance premiums and airlines be impacted by the Aviation Legislation Amendment (International Airline Licences and Carriers' Liability Insurance) Act 2008? The purpose of this Act is to improve the level of consumer protection in international carriage by air, and to modernize the smooth flow of passengers, baggage and cargo. Are Australian-based international air carriers such as Qantas, Pacific Blue, and Air New Zealand and their insurance companies concerned about the impacts of the Act on them, which might result in an increase in airline insurance costs? Should they be concerned? More importantly, would the implementations of this Act also have effects on Australian consumer as they might have to face more expensive ticket prices? The paper will focus on researching the reality to examine the actual impacts of the Act.

The Aviation Legislation Amendment (International Airline Licences and Carriers' Liability Insurance) Act 2008 came into effect for Australia from 24 January 2009. The newness of the legislation makes research more difficult – in particular it makes the gathering of realistic data and information more difficult because of the relative sparseness of available data. Furthermore, insurance companies do not usually list their aviation insurance clients on either websites or annual reports, which make it harder to provide actual examples about current contractual relationship between airlines and their insurance companies. Moreover, airlines' annual reports for the financial year 2009 had not been released by the time this research was due for completion, making it even more difficult to acquire up-to-date information. Even though copies of previous annual reports are available, insurance premium costs barely rate a mention in these reports, and are seen as less important for airlines than fuel costs.

CIVIL AVIATION AND AVIATION INSURANCE MARKET IN AUSTRALIA

Civil aviation in Australia has been defined by the experience of military aviation, government support, and private sector response to passenger, cargo and mail demands. The Australian Flying Corps (AFC) was as influential on Australian civil aviation as it was on early Australian military aviation. According to Australia's Culture Portal (2008), former AFC officers Ross and Keith Smith were the first Australians to fly from England to Australia in 1919, as part of air trials sponsored by the Australian Government. After that, Australian Government engagement with civil aviation continued throughout the 1920s and 1930s with prescribing standards, awarding prizes, establishing flying schools and airports. After the Second World War, the Australian Government established Trans-Australia Airline (TAA) as a government airline in competition with Ansett for domestic air service in 1946. Furthermore, in 1947 the Government nationalized Qantas, buying shares at market prices, to service Australia's international routes. Until 1980s, TAA was the dominant player in Australia, covering the major interstate and inter-capital routes, as well as route to Papua-New Guinea. The airline was then renamed Australian Airlines in 1986 and was sold to Qantas in 1992. Since the late 1980s, Qantas has continued to be a significant international airline in Australia during that period of time. However, the deregulation of domestic aviation in 1990 in Australia brought about important changes in the Australian domestic aviation industry as well as leading to changes in Australia's international aviation market as well.

Australia's domestic airline market became deregulated on November 1, 1990. The purpose of this deregulation was to lower average air fares, encourage more people to travel by air, increase competition, and improve quality of services. As a result, more airlines entered into the Australian domestic market such as Air New Zealand and, Virgin Blue, which later forced Qantas to establish Jet-Star to compete in the low air fare sector. The international aviation sector was also changed because of the entry of new international airlines that aggressively compete with each other to gain market share. For example, as Virgin Blue established its newest Australian international airline called V Australia in February 2009, Qantas and other players must consider and maintain their market positions more carefully.

One of the most significant changes in Australian aviation insurance came from the effects of terrorism incidents in the United States in 2001. According to Creed & Mereine (2002), p.43, after the September 11 attacks in the United States, aviation insurance organizations around the world sought to suspend, vary or even cancel certain coverage under existing aviation insurance contracts. Higher premiums for war risk coverage were also imposed. This made it extremely

hard for airlines all over the world to satisfy various requirements of aviation authorities in different countries. Furthermore, Governments around the world have stepped in to support their national airlines. Unfortunately, aircraft have still been grounded because they simply cannot obtain the requisite insurance. In Australia, the Government has granted some Australian airlines an indemnity for loss and damages. However, this is a temporary emergency response and cannot be used as long-term solution. It's important for owners and operators to seek alternative means of insurance in the commercial market. This will be difficult and very expensive.

According to Freehills & Freehills (2003), p.1, two major difficulties for airlines, airports and other aviation services providers in Australia arose as a consequence of the September 11 2001 incident in the United States. Firstly, aviation insurers wanted to retain the right to cancel and vary policies with short notice and more importantly were not prepared to offer insurance on non-cancellable and non-variable terms as a provision in Australian insurance legislation prohibited the cancellation and variation of insurance policies. Secondly, provisions in Australian liability legislation forced owners of aircrafts to be liable for damages caused on the ground by their aircrafts. "Aircraft owners and financiers were thereby exposed to a very real risk in the event of acts of war or terrorism because the claims being considered by insurers after 11-September-2001 events far exceed the reduced cover offered by the insurance market together with any Commonwealth indemnity" (Freehills, 2003, p.1). This is mainly caused by the immediate response of international underwriters to the terrorism events in USA in 2001 which was to give seven days notice of cancellation of aviation war and terrorism risk cover. In addition, the seven day cancellation clause for war and terrorism risks is a standard clause used on the international insurance market. However, in Australia, the *Insurance Contracts Act* 1984 prohibits the cancellation or variation of a contract of insurance by the insurer, so international underwriters refused to renew coverage for Australian airlines because of the effects of this provision. In November 2002, the law is changed as these provisions do not apply to cover for risks related to war or terrorism events. Australian airlines now are therefore no longer subject to this barrier in obtaining insurance on the international insurance market.

THE PREVIOUS LEGAL SYSTEM

Nowadays, international aviation is based on a complex system of bilateral air services agreements between nations. The agreements cover economic, technical and security related arrangements. The Department of Transport and Regional Services (DOTARS) is in charge of negotiating Australia's bilateral agreements relating to international aviation on behalf of the Australian Government. Each agreement provides that airlines designated by the Government of the other party are entitled to operate certain services to and from Australia, and vice versa. Each agreement also defines the conditions under which the airlines of each party are entitled to do business in the territory of the other party. More importantly, these agreements are supported by legislation, the aim of which, among other things, is to ensure that the provisions of the agreements are met by the airlines flying into and out of Australia. Previously, the international system for carriers' liability in Australia was governed by the Warsaw Convention. This Convention used to create rules of liability governing international carriage of persons, baggage and cargo by aircraft. In addition, it's signed in 1929, rapidly became out of date even though it was amended by a number of protocols and conventions. Nowadays, the Warsaw Convention and its amendments as The Hague Protocol 1955, The Guadalajara Convention 1961, The Guatemala City Protocol 1971 and the Additional Protocols No.1, 2, 3, 4 done at Montreal 1975

are referred to as the Warsaw system. The version of the Warsaw system that applies to international airlines is that to which both country of departure and country of destination are parties. According to the Discussion Paper of DOTARS in 2005 regarding the proposals for Amendment of Legislation Dealing with the Administration of International Aviation and Air Carriers' Liability by the Australian Government, the Carriers' Liability Act in Australia provided for compliance by a carrier with the relevant version of the Warsaw system. This Act gave the force of law in Australia to each version of the Warsaw Convention to which Australia is a party.

In the sector of passenger liability insurance, DOTARS proposed amendment of the Civil Aviation (Carriers' Liability) Act, the Civil Aviation (Carriers' Liability) Regulations 1991 and the Civil Aviation Act to ensure that carriers would be required to maintain insurance coverage at all times for passenger-carrying services. After the crash of Monarch Airline in June 1993, the Carriers' Liability Act was amended by the addition of Part IVA to give effect to a national scheme requiring air carriers to carry mandatory, non-voidable passenger liability insurance. In addition, section 41E of Part IVA stated that it was an offence for a carrier (other than the Crown) to carry passengers by air unless the carrier had an 'acceptable contract of insurance' that was in force. A carrier was said to have an 'acceptable contract of insurance' only if the carrier had a current certificate from the Civil Aviation Safety Authority (CASA), stating that CASA was satisfied that the carrier had a contract of insurance that meets the requirements. If the carrier was the Crown or a Crown agent (Commonwealth or State Commonwealth or authority - such as Qantas), it did not have to hold insurance, but was required to produce to CASA evidence of satisfactory financial arrangements as this allows Government to self-insure. Moreover, under the Act, it was illegal to conduct commercial activities without an Air Operator's Certificate (AOC).

In 1997, the Civil Aviation Act was amended with the intention of giving CASA the authority to prevent the carriage of passengers by operators who do not hold the mandatory passenger liability insurance required by Part IVA of the Carriers' Liability Act. Also, under section 28BI of the amendment, it stated that the holder of an AOC must at all times comply with section 41E of the Carriers' Liability Act, including as it applies under State law to intra-State carriage. However, problems arose because all the relevant provisions in both the Carriers' Liability Act and the Civil Aviation Act in fact did not give CASA the ability to ensure that insurance cover was maintained at all times. While section 28BI of the Civil Aviation Act required AOC holders to comply with the insurance requirements of the Carriers' Liability Act, those requirements were breached only at the point at which a carrier actually carried, or proposed to carry, passengers without being insured. There was in fact no section requiring insurance to be in place either before the AOC was issued, or as a requirement for the continued holding of an AOC. Also, the authority of CASA did not allow it to refuse to issue an AOC to an otherwise qualified applicant, solely on the ground that the applicant did not have an acceptable contract of insurance in place. Nor was there any prohibition on the holder of an AOC allowing the insurance cover to lapse during the term of the AOC, if no passengers were carried during relevant time. Unless and until the carrier conducted an operation involving the commercial carriage of passengers under its AOC, it did not fail to comply with the requirement of section 41E of the Carriers' Liability Act, and was not in any breach of the condition imposed relating to its AOC by section 28BI of the Civil Aviation Act. While CASA had the power to require a carrier to produce evidence that it had insurance, there was no penalty if a carrier failed to produce the evidence. Only where

there was sufficient evidence to show that a passenger-carrying AOC holder had carried passengers without the required insurance cover, could CASA suspend or cancel the operator's AOC for breaching the condition specified in section 28BI of the Civil Aviation Act. However, the important thing is the carrier's flight would have been authorised by AOC at the time that it took place. The result was that a criminal penalty would be imposed under the Carriers' Liability Act, but this would not in itself affect the carrier's right to continue flying. The final consequence of the previous system was the routine failure of operators to timely provide CASA with a declaration in relation to the renewal of a contract of insurance or its re-issue to cover the addition of the aircraft being operated. Thus the pre-2009 provisions did not allow CASA to be active in ensuring that the required insurance is in place at all times, because it was possible for a passenger flight to occur, authorised by an AOC, without the carrier having passenger liability insurance covering that flight.

THE NEW AVIATION LEGISLATION AMENDMENT (INTERNATIONAL AIRLINE LICENCES AND CARRIERS' LIABILITY INSURANCE) ACT 2008

In the aviation insurance sector, the new Act refines the regulatory processes associated with Australia's system of compulsory non-voidable insurance for passenger-carrying air operators. In addition, it improves the ability of CASA to actively enforce insurance requirements for air carriers. Under the old system, carriers were required to maintain minimum levels of insurance to protect passengers in the event of an accident. More particularly, sub-section 41E(1) stated that a person (other than a person who is, or is an agent of, the Crown in any capacity) must not engage in, or propose to engage in, a passenger-carrying operation, unless an acceptable contract of insurance in relation to the operation is in force. Sub-section 41C (1) now changes the definition of acceptable contracts of insurance to mean a contract of insurance that relates to the operation and meets the prescribed requirements, in relation to a passenger-carrying operation that a carrier engages in, or proposes to engage in. The scheme is supplemented by provisions in the Civil Aviation Act, which actually helps CASA to maintain the requirements as part of their management of safety issues through the process of AOC. Under this new system, it will not require air carriers to obtain a certificate of compliance from CASA before a flight is operated. Instead, carriers will be obliged to provide CASA with a declaration indicating that they have obtained an appropriate contract of insurance. Moreover, operators now have to make declarations within a timeframe of two week time. A small administrative penalty will be issued for carriers in case of failure to make this declaration. However, this failure would not affect a carrier's authority to do the services. As long as carriers have appropriate contract of insurance, carriers can run their passenger services. Furthermore, the authority to carry passenger under an AOC will only be valid while carriers hold an appropriate contract of insurance. This also uses for short term approvals for non-scheduled international flights. In addition, in case of these special approvals, carriers who do not have a commercial presence in Australia will be required to prove that they have an appropriate contract of insurance before they are granted an approval to operate their services. The *Aviation Legislation Amendment (International Airline Licences and Carriers' Liability Insurance) Act 2008*, sub-section 3(1) defines commercial presence as any type of business or professional establishment. For example, a person can have a commercial presence through the creation or maintenance of a branch or representative office.

Importantly, if a carrier allows its insurance contract to be expired, the authorisation to carry passenger will also automatically be cancelled. This authorisation can be activated as soon as the

carrier can provide its appropriate and valid insurance. According to the explanatory memorandum of the Act, the effect of this amendment is that any carrier who carries passengers without an appropriate contract of insurance would be subject to a range of administrative actions and criminal penalties. Thus, the new effect is to improve carriers' compliance with higher insurance requirements. This can be achieved by providing CASA necessary power, in order to ensure that carriers have appropriate insurance at all times. Besides, the financial impacts regarding the carriers' liability insurance are expected to reduce administrative costs for both Australian international airlines and CASA. However, the reality indicates that owners and other financiers of international airlines operating in Australia need to be aware of the Act's effects and consider their positions having regard to the liability imposed on them by the Act; alternative financing structures also may need to be considered carefully.

DISCUSSION

QBE Insurance (Australia) Limited is a member of the QBE Insurance Group. The company has been operating in Australia since 1886, and today QBE Aviation is Australia's largest and longest-serving aviation insurer in the Australian market. QBE says that most of their underwriters are trained pilots and their claims team is renowned throughout the aviation world for settling claims with minimal down time and disruption to clients' businesses⁵. According to its Annual Report 2008, the worldwide portfolio mix shows the gross earned premium in marine, energy and aviation sector increased from 9.9% to 10.0% for the year ended 31 December 2008. QBE states that its flexibility of principles-based risk framework allows for adaptation in the face of changes in the regulatory or business environment. The company also expects further changes in regulation as a result of the current global dislocation of financial markets and certain well publicised company failures and bail outs. More particularly, the sector containing marine, energy and aviation took 4.1% gross earned premium of the whole QBE's businesses in Australian market in the calendar year 2008. Moreover, Australian operations' CEO, Terry Ibbotson, claims that the insurance sectors of property, package, aviation and workers' compensation business continue to produce excellent results⁶. He also expects the overall average premium rate increases to be greater than 5% for 2009. Even though the company does not indicate whether the new Act causes any direct impact on them which leads to the rising insurance product price, they believe that insurance premium will surely be increased in the next few years in Australia.

Similarly, Lloyds is known as an industry leader in the global aviation market, with a balanced portfolio across all sectors of this specialist class, including airline, aerospace, and general aviation and space business. Aviation business is written as both direct and reinsurance acceptances, on an excess of loss, proportional or facultative basis. Rates in the aviation market have been steady decline since the rise that immediately followed the heavy September 11 in 2001. This trend continued in 2008 until the final quarter of 2008, which saw some improvements in airline rates and a more stable rating environment elsewhere. The year 2008 is considered to be an accident year performance. For example, according to Lloyd's Annual

⁵ QBE (2009), <http://www.qbe.com.au/Business/Aviation/DATA_EXT_CON_AV>, viewed 21/05/2009.

⁶ QBE Annual Report (December 2008), P.27, <http://74.125.153.132/search?q=cache:R9R_wmbCfGsJ:group.qbe.com/content/idcplg%3FIdcService%3DGET_FILE%26dDocName%3DXPRODUCT004459%26RevisionSelectionMethod%3DLatestReleased%26allowInterrupt%3D1+QBE+annual+report+2008&cd=1&hl=en&ct=clnk&gl=au>, viewed 21/05/2009.

Report 2008, when the Air New Zealand Airbus 320 crashed in the Mediterranean in November 2008 it was the 24th Western-built aircraft to suffer a total loss in the year, bringing the total hull loss figure for the year to more than U.S \$350 million. David Slevin, aviation team leader at Lloyd's insurer Faraday, believes airline insurance market premiums to continue rising over the next few years; however, he also states that the "main cost issues faced by airlines include fuel, capital, and currency; the cost of insurance is the equivalent to less than a \$1 change in fuel costs"⁷. Therefore, the added insurance costs that would be produced by a hardening market would represent a very small percentage of an airline's total expenditures and would certainly not be significant enough on their own to endanger an airline's financial survival. Hence, even though the aviation legislation amendment (International Airline Licences and Carriers' Liability Insurance) Act 2008 may be a factor that rises the price of insurance premium for airlines in the next couple of years, Lloyds still believes that this is a very tiny impact on airlines' financial management. Nevertheless, as this Act improves carriers' compliance with higher insurance requirements, it may make airlines to pay extra cost for their insurance premium expenses; it is therefore a negative impact for airlines in cost reduction sector as they are trying their best to reduce operation cost during this period of financial crisis. First, the case of Qantas is examined as follows:

Qantas is known as the world's second oldest airline. It was found in the Queensland outback in 1920 and is Australia's largest domestic and international airline. The organization is recognized as one of the world's leading long distance airlines, having pioneered services from Australia to North America and Europe. Today the company employs approximately 36,000 employees and offers services across a network covering 151 destinations in 38 countries. These services cover the regions of Australia, Asia and the Pacific, the Americas, Europe and Africa. According to the International Air Transport Association (IATA) comparisons for the calendar year 2007, Qantas was the world's 13th largest airline in terms of Revenue Passenger Kilometres (RPKs). In addition, with a fleet of 224 aircrafts, Qantas provided carriage services to 38 million passengers during the period of 2007 and 2008. Therefore, insurance premium for an airline which contains a large number of aircrafts and flights might cause financial effects on Qantas's expenditure. However, Qantas does not consider insurance premium price and the new Act to be significant problems that may affect their current financial and operational management. This is because Qantas is Government owned airline, and according to the new Act provisions, the company is not required to submit a valid insurance contract to operate flights. As long as it declares a financial statement indicating that it has sufficient funds to cover loss and damages (as insurance) in case of unexpected incidents and accidents caused by its operation failures. On the other hand, according to Qantas's Annual Report and Financial Report 2008, there is no section discussing airline insurance level as this matter is considered to be a very small factor in the whole organizational expenditure. Also, according to Qantas staff's media contact, they are unable to provide further business information related to these insurance effects as this may be commercially sensitive⁸.

Secondly, V Australia is the Australia's newest international airline, as it took off to the skies in February 2009 with its inaugural services between Sydney and Los Angeles. Also, its second

⁷ Lloyd's News Centre, (Oct 2008), <http://www.lloyds.com/News_Centre/Features_from_Lloyds/Turbulence Ahead_for_aviation_insurance_market.htm>, viewed 10/05/2009.

⁸ Sophie, Qantas Airways, (email received 29/06/2009), Subject: Incident 090528-000411, viewed 29/06/2009.

route between Brisbane and Los Angeles will also take off in April 2009; and more services will also commence between Melbourne and Los Angeles in late 2009. V Australia is an Australian international airline which belongs to Virgin Blue Holding Limited (Virgin Blue Airlines who applies cost reduction for low air fares). V Australia is the only carrier to operate the economically and environmentally efficient Boeing 777 aircraft on the long haul trans-Pacific route between Australia and United States. In relation to this topic, the company does not have a discussion part on the amount of insurance level in its Annual or Financial Report as V Australia is just opened since February this year. In fact, for the response on impacts of the new Act, Virgin Blue - the corporate level management of V Australia – indicates that they are currently working on negotiating and obtaining insurance premium renewals this year⁹. Also according to Virgin Blue's annual report 2008, the organization considers this impact to be minimized as the company have already forecasted the rising of insurance premium price for the next few years. Therefore, even though this Act might be a factor that adds to the rising of insurance premium renewal price, it is still well managed by Virgin Blue's financial management and does not really affect the cost reduction strategy of the airline group. With the same concerns as Lloyds, Virgin Blue worries more about the fuel cost during this period of time as it is the main effect on the company's cost reduction strategy.

By looking at those various insurance and airline organizations, there are similar responses which can be divided into two categories. The first one is insurance companies' points of view. Both QBE and Lloyds state that their insurance premium renewal prices will keep increasing not only in 2009, but also in the next few years. Moreover, they also believe that airlines are fully aware of this rising in price, and this impact will have minimize effects on the airlines' financial management; as airlines are advised to concern more on fuel rather than insurance costs. Importantly, even though the new Act is a factor that adds to the decision in price rising, none of these leading insurance organizations think this new Amendment Act is a significant effect that forces them to raise insurance price for airlines. The second category is Australian international airlines' perspectives. In addition, Qantas and V Australia (Virgin Blue) shows both similar and different points of views according to their different types of organization. Qantas is Government owned organization where V Australia is a public company. As the new Act determines the differences of insurance requirements between the two, Qantas will not concern about rising in insurance price as it does not need to declare an appropriate insurance contract like other airlines. As long as Qantas can prove it has sufficient fund to cover airline risks, it can provide air services to customers. Therefore, the new Act seems not likely to have significant impacts on Qantas's operations and costs management, even though the company decides not to discuss on this matter due to commercially sensitivity. V Australia, on the other side, must declare an appropriate insurance contract as this is the major requirement in the new process. However, even though insurance organizations indicate that insurance costs will increase, V Australia has already been aware of the impact and therefore maintains its expenditure effectively and efficiently, which shows its strengths in cost reduction strategy. Hence, the new Act does not cause direct and sudden effects on both Government-owned and public airlines in terms of insurance cost rising and harder legal requirements.

⁹ Marie Hughes, Insurance Officer, (email received 17/04/2009), Subject: Website Feedback – 1238469550, viewed 17/04/2009.

CONCLUSION

This paper has discussed the nature of Australia aviation industry, the aviation market in Australia, the current operated airlines and various leading insurance companies. Moreover, the paper also examines how previous legal system may cause several problems in terms of process, cost, and effectiveness, which leads to the development of the new Amendment Act. The purpose of those is to answer whether the new Aviation Legislation Amendment (International Airline Licences and Carriers' Liability) Act 2008 cause effects on airlines and insurance companies. The Act aims to develop a more effective legal process which requires airlines to obtain and declare more appropriate insurance contracts for the authorisation to provide air services. During this turbulent economic time, together with rising numbers of aviation accidents, this Act may make insurance organizations to raise their insurance product price which later on affects airlines' focus on cost reduction. The findings show that leading insurance companies in Australia such as Lloyds and QBE will increase their insurance premium prices in the next couples of years. Qantas, a Government owned airline, does not concern about the impacts of rising insurance prices. As a Government owned entity, they do not need to declare appropriate insurance contract to CASA for authorisation to deliver the services. V Australia, Australia's newest international airline, is quite different as it's a public organization so it needs to take all appropriate steps to meet the harder legal requirements now. Although insurance renewal price keeps rising, by apply well forecasting strategy V Australia still maintains its expenses effectively. Each party has quite different responses to the topic. However, the main view here is that both insurance companies and Australian international airlines believe that the new Act does not cause major impacts, which was thought to raise insurance price, impact airline costs, or to even create unexpected steps on legal requirement process for airline operations.

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