

# ***Government policy, aviation deregulation and the 1989 pilots' dispute***

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## **ABSTRACT**

During the period leading up to the pilots' dispute, a number of changes in government policy led to friction between sections of the union movement and the government. One of these policy changes, the proposal to deregulate interstate air services in 1990, had a major effect in destabilising the relationship between the unions representing employees in the aviation industry and the government. In July 1989, the breakdown of negotiations between the Australian Federation of Air Pilots and the management of the government owned Australian Airlines led to the dispute, which paralysed interstate air services for months and ended with the complete restructure of the industry. In this paper I argue that concerns about the increased flexibility which deregulation was designed to produce affected both the negotiating strategies developed by the major airline companies and the union and the response by the government to the breakdown of these negotiations.

## ***Introduction***

As Richard Hyman points out in *Strikes*, 'Every important trade union struggle over wages or conditions today has a political dimension, since it impinges directly on government economic strategy' (Hyman 1972: 171). He goes on to say '...any attempt to change the organisation and direction of individual enterprises or the economy as a whole would represent a highly political act – which would pre-suppose consciously articulated political aspirations on the part of working people' (ibid). Blackmur, in his discussion of industrial conflict in Queensland in the 1940s, justifies the study of strikes and lockouts because of 'the possibility that they may have a significant impact on future industrial relations at the macro and/or micro levels, and that they may contribute significantly to change in the wider society' (Blackmur 1993: 1).

Industrial conflict rarely springs fully-formed into the public view. Local disputes may arise solely from internal disagreement about wages or conditions and lead to, for example a picket outside the gates. Once the issues are resolved, through conciliation or arbitration, workers go back through the gates and the dispute has little effect on the community surrounding the workplace.

Others, such as the 1989 pilots' dispute, although they may start 'in the ordinary way' (McEvoy and Owens 1990: 87) rapidly escalate and develop into 'something most extraordinary...one of the longest and most bitter industrial disputes in Australia' (ibid). This dispute, it was never a strike, has been extensively researched but little attention has been paid to the regulatory, economic, political and industrial context in which it occurred.

## ***The domestic aviation industry in the 1980s***

During the decade leading to the pilots' dispute the Australian Federation of Air Pilots (AFAP), often in concert with other industry unions, had a variety of skirmishes with the government over policy and structural changes which workers believed were having a negative effect on their jobs, aviation safety and the efficiency of the regulatory authorities such as the 'significant loss of experience and expertise' caused by the transfer of staff of the Department to Canberra (Stuart 1979). The various unions representing transport workers, air traffic controllers, flight attendants and flight engineers were all involved in action over similar issues.

Through the Aviation Safety Advisory Panel (ASAP), during the years 1978 to 1985, the combined industry unions lobbied successive Prime Ministers and Ministers for Transport or Aviation and their Opposition Shadow Ministers. They wrote letters, made press statements, met with politicians and bureaucrats and provided submissions into inquiries or responses to issues papers.

The issues over which these concerns, some of which escalated into actual conflicts, arose were many and varied; some specific to the industry and others, such as the effects of the Accord, particularly from Accord Mark VI which 'was deeply divisive to the labour movement...by allowing long-established working conditions and working practices to be altered' (Wilson 1998: 551) and, in AFAP's view, had 'created an uneven playing field where employers are primed to extract maximum productivity with minimal compensation to employees' (O'Connell 1988: 10).

Policy changes to superannuation and taxation affected the total workforce but had specific resonance for pilots due to their generally short working life and high incidence of early retirement for medical reasons. AFAP had won employer and employee funded superannuation many years before in the major airlines and was conducting a campaign to improve superannuation for its members employed in general aviation. The union, with the ACTU and other white-collar unions, had worked since 1983 on a long campaign against this legislation, brought in only three months after the government had insisted 'that there would be no change to individuals presently on superannuation' (Brooksbank & Coysh 1983). Concessions were won, including a reduction from 30 to 15% in the top rate and other changes which 'do meet the reasonable concerns which were expressed by groups such as the pilots' (Hurford 1983), but lump sum taxation remained. The AFAP President spoke for colleagues when he expressed disappointment that the Hawke government would not withdraw legislation to allow 'savage taxing of lump sum superannuation...plundering our retirement benefits (Brooksbank 1986a: 14).

An exchange between AFAP President, Brian McCarthy and Treasurer, Paul Keating, shows some of the pilots' concerns about the effect flat wage increases and high tax rates were having on their salaries. The Treasurer was sent a copy of the following resolution passed at Extraordinary General Meetings of the union: 'these meetings overwhelmingly reject the concept of further flat increases and accepted the Decision only on the basis of substantial taxation cuts flowing to all sections of the community...'. (McCarthy 1988). The respondent Peter Morris, the Minister Assisting the Treasurer, provided some comfort on the issue of flat wage rises, writing 'the Government shares your members' concern with flat dollar increases forming part of an on-going wage determination process' (Morris 1988). Morris gave the pilots some hope with a reference to the Government's announced commitment to 'provide personal tax cuts in 1989-90 provided there is an acceptable wages outcome in 1988-89 and an appropriate wages/tax trade-off' (ibid).

Issues specific to the aviation industry included the structure and location of the Department of Transport, and the effects of these changes on morale, staff losses, efficiency and communication with the industry. Stuart, Chairman of ASAP, pointed out the loss of staff following the government's decision to conclude that 'the whole proposal is clearly unworkable; if it is persisted with it will be a disaster' (1978: 3); airport safety, including the lack of adequate fire-fighting services (AFAP 1979) and 'serious staff shortages in Air Traffic Control (Stuart 1981); the proposed sale of TAA (Smith 1981) which was later withdrawn following the election of the Hawke government in 1983; and a continuing battle, won and then lost, to have a separate Department of Aviation.

In the years immediately preceding the dispute, three interrelated issues came to dominate the discussions about the future of the aviation sector. In 1987 the new Minister for Transport and Communications, Gareth Evans, announced his intention to repeal the legislation which 'will bring the two airlines policy to an end, and open Australia's interstate air services to free competition' (Evans 1987: 1).

Unions in the industry, especially the AFAP, were very concerned about this proposal as they feared that if Australia followed the same path to deregulation that the USA had taken a decade before the same negative effects would be felt by Australian workers. Internationally linked to other pilot organisations through membership of the International Federation of Air Pilot Associations (IFALPA) they received regular information about what deregulation had done to wages, working conditions, industrial relations, safety and, most particularly job security as established airline companies merged, went into bankruptcy and collapsed and new entrants appeared and disappeared. The news seemed overwhelmingly bad for workers although the US proponents of deregulation were still singing its praises. Australian supporters of proposed deregulation and its opponents both used examples from the US to bolster their arguments in

the public and private consultations leading to the Australian government's announcements. For this reason a brief discussion of the US experience is relevant.

### ***Deregulation in the United States***

Alfred Kahn, the architect of deregulation in the USA, remains convinced that although 'the meltdowns in commercial aviation have been catastrophic for almost all the parties financially involved... they offer no valid basis for reversing deregulation (Kahn 2004: 47). Ansett's Manager of Aviation Policy, commenting on the US experience said 'the established carriers have been able to respond to the lower fares of new entrants by either renegotiating wages and conditions with their employees or, in extreme circumstances, going bankrupt and voiding their labor contracts...' (Kimpton 1986: 4).

Ten years after deregulation, the following statistics were produced in a US industry journal; of the 36 established airlines in 1978 only 19 were still operating in 1986; the 198 new entrant airlines in 1978 were reduced to 58 by 1986; there were 22 mergers or acquisitions in the period with a total price of US\$7,365 million and only 6 of the airlines with the top 10 market share in 1970 remained there in 1986 (Cassell & Spencer 1987: 26-28).

Henry Duffy, President of ALPA the pilots' union has a bleak view of deregulation which he believes 'has brutalised the relationship between labor and management... We are threatened with replacement every time we come into confrontation with a company. So we have had to escalate our response' (Duffy 1988: 73). In another forum, Duffy elaborated on the effect of deregulation on workers: airline workers measure this cost in terms of lower overall compensation, terminated pension plans, lower pay for new hires, and loss of jobs. The travelling public has paid the price in terms of worthless tickets and disrupted travel plans in the wake of airline bankruptcies, and in terms of reduced safety and a much lower quality of service' (Duffy 1987: 11). He also suggested that the industry was at a crossroad and warned of the negative effect of taking the road 'that continues the adverse effects of deregulation. On that path you'll find opportunistic managements looking for windfall gains like further labor pay and job cuts. The bottom line is that employees will continue to pay the price of deregulation (ibid).

To some extent, the problems evident during the first decade of deregulation in the US coloured the way all the parties responded to invitations to participate in consultations about aviation deregulation in Australia.

### ***Aviation regulation in Australia and the two airlines policy***

Even before the end of World War II, the Chifley government had indicated its intention to nationalise the airlines which operated interstate scheduled services and in 1945 it passed enabling legislation, establishing Trans Australia Airlines (TAA). However the major privately-owned companies challenged the validity of sections of the legislation and the High Court found in their favour. In response the government then passed unique legislation, the Civil Aviation Agreement 1952, to closely regulate parallel operations of a government-owned and privately -owned airlines. Poulton, the author of the most detailed history of what came to be known as the Two Airline system, states the successive versions of the Airlines Agreement Act form a system 'novel to Australia having no counterpart in any other part of the world and has successfully provided a forum in which a private enterprise operator has competed with a privately owned operator' (1981: 1). In its early stages this legislation 'provided machinery for rules concerning air routes, time tables, fares and freight rates and other related manners' (ibid: 51). Later versions of the Act loosened the controls and the 1981 Act 'was designed to increase the level of competition within the industry, while maintaining the established network of services on a safe and efficient basis (Evans 1987: 2).

In 1984, the then Minister for Aviation, Kim Beazley, introduced two Bills aimed to clarify the position of TAA. One repealed legislation, passed but not enacted by the previous government, and 'providing for the establishment of a public company and remove any doubt that TAA will remain a statutory authority of the Commonwealth' (Evans 1984a:1). The second aimed to 'give TAA greater flexibility of management and greater responsibility in its commercial airline operations while providing an appropriate level of Ministerial control and oversight (Evans 1984b:3).

The following year, recognising the high level of public interest in deregulating sectors of the economy and responding to advocates of aviation deregulation such as the Opposition, state governments, the Centre for Independent Studies and smaller commuter airlines wishing to expand their operations, the Government established the Independent Review of Economic Regulation of Domestic Aviation (the May Review).

### ***The May review and deregulation***

The May review was conducted over two years, and the committee received 80 submissions. These were prepared by airline companies, potential new entrants, unions, state governments and the travel industry. An incomplete survey of the available submissions shows a wide range of preferences, especially from industry participants. The pilots' union's initial submission made clear its strong opposition to total deregulation, citing the problems in the US to back their assertion that probable outcomes would include 'an influx of new entrants gravitating to major population centres and advantaging those centres, disproportionately' (AFAP 1985: 3); 'more fluctuations in the levels of service and fare structures' (ibid: 4); and 'a reduction in (safety) standards on a gradually increasing basis' (ibid: 9). Their preference was for a differently regulated rather than a totally deregulated system as they had already made clear at a 1985 seminar, Economic Regulation of Aviation in Australia, when the President Buck Brooksbank stated 'we welcome constructive change and strongly support a regulated multi-operator Australian Aviation environment. We oppose total deregulation' (Brooksbank 1985: 5).

In January 1987, public comment was sought on a draft report and a further 30 submissions were received. The union made both a written and a verbal submission, the latter being in two parts one discussing the need to continue to monitor fare levels and the equitable distribution of cheap fares (Coysh 1986) and the other concentrating on safety implications of deregulation (Brooksbank 1986b).

The final report was launched by the Minister for Transport and Communications in October 1987. It was critical of the current situation; found that Australian aviation was 'characterised by relatively low labour productivity and relatively high and stable profit levels' and identified 5 options 'for future Government policy on aviation, ranging from Option 1 'maintenance of the status quo to Option 5 full economic deregulation (Evans 1987). The summary of preferences included in the attachment to the Minister's Statement shows that Ansett strongly favoured Option 1 but viewed Option 5 as 'the only viable alternative...subject to AAL being sold and international operators being prevented from extending their operations on Australian domestic routes' (Evans 1987: 14). The ACTU also preferred this Option, believing that there was insufficient evidence of the necessity for change. Review Australian Airlines preferred Option 4, partial deregulation, with the 'proviso that route entry controls are also retained'; (ibid: 12); this option was also preferred by other respondents, in preference to the more highly regulated Options 2 and 3. The middle Option 3 was only preferred by the Regional Airlines Association while others strongly opposed it (ibid: 12). The unions strongly opposed Option 5 but expressed no common preference for any of the other Options. Most state governments supported Option 5, as did East-West Airlines the largest of the regional operators, before it was taken over by Ansett later in the year. This was the option recommended by the Review and accepted by the Government (ibid: 2). In his statement, the Minister said 'what is involved in the Government's economic deregulation policy is not a simple, or simple-minded, lifting of existing controls, but a complex group of interacting policies involving a number of internal checks and balances (Evans 1987: 9).

This immediately raised issues within the industry, chief among them the possible privatisation of the government airlines Australian and Qantas. Assurances were given in Evan's statement that Qantas would remain 'Australia's sole international airline and will not be permitted to operate domestic scheduled air services and that steps would be taken to 'put Australian Airlines in the best possible shape to compete in the post 1990 environment' (ibid: 8-9) but, apart from announcing that AAL would be incorporated as a public company, these did not spell out the government's intention in detail.

It was in this atmosphere of uncertainty about the future of their industry and their employer that bargaining between AFAP and the management of AAL commenced.

## ***The 1989 dispute***

In July 1989, when they commenced their scheduled negotiations for a new 2-year agreement, AFAP was acutely aware that, with the government's announcement of the forthcoming deregulation of the industry in 1990, they were entering a new era. They hoped that this agreement would both enable them to catch up to the conditions of their colleagues employed by Ansett (Learmonth 2002: 198-199) and to establish a firm footing for an uncertain future.

A pattern of bargaining in alternate years with the two major companies was well established, and the union expected that both companies would be anxious to continue in this manner as it would allow them to negotiate independent and different agreements to meet the challenges of deregulation and the introduction of greater competition. The Australian Industrial Relations Act 1988, with its introduction in Part VIB of enterprise bargaining also appeared to give the existing process additional legitimacy. Unexpectedly, after a promising start, AAL management withdrew from the process with a demand that future negotiations be conducted on an industry-wide basis.

The events which followed drew in Ansett Airlines and two subsidiaries, IPEC and East-West Airlines, the Australian Council of Trade Unions (ACTU), the Australian Industrial Relations Commission (AIRC), the Victorian Supreme Court and, most particularly the Hawke Labor government. Once the trouble spread beyond the initial AFAP and AAL negotiations, Ansett through its Chairman Sir Peter Abeles, played a large role, especially in public. The dispute has been covered in detail by others, including Bray and Wailes, McEvoy and Owens, Sappey and Burgess and the main events only will only be briefly listed here.

July 89	AAL withdraws from negotiations with AFAP AFAP sends new letter of demand to companies seeking 29.47% salary increase
August	In & out of IRC - Government offers support for Award cancellation PM meets with Ministers and airline Chairmen Pilots commence 9-5 campaign Government authorises RAAF and internationals to carry domestic passengers Companies threaten dismissal if pilots refuse to commit to full service & start standing them down Awards cancelled 1647 pilots resign to protect themselves from legal action Companies serve writs on AFAP and individual pilots
September	AFAP offers return to work so negotiations can commence AAL offers reemployment on individual contracts Federal Cabinet agrees to waive landing charges to avoid stand downs Ansett offers individual contracts IRC offers to arbitrate but pilots feel would not resolve the dispute
October	Companies seek & get new awards based on individual contracts Opposition & Democrats set up Senate inquiry Some union expressions of concern at precedents for the union movement PM claims in Parliament that AFAP no longer exists and the dispute is over Damages hearing starts in Victorian Supreme Court
November	More union & public support In Supreme Court airlines admit few pilots have returned Pilot meetings, rallies and community/public meetings Damages case decision – some charges dismissed but damages awarded against AFAP
December	PM asks airlines not to pursue damages RAAF ceases flights & airlines cease lease of seats on international services Chartered aircraft & overseas pilots still operating
January 90	Compensation to the airlines ceases
February & March	Airline's press release announces they will not pursue damages Pickets, meetings & doorknocking in run up to election – Labor wins

Of the several explanations that have been put forward for the actions of the companies and the strong support provided by the Hawke Labor Government and the ACTU, the need to protect the Accord is the most common. However the view of Bray and Wailes (1999: 93), that the employers 'opposed the 1989 wage claim because the imminent deregulation of the industry raised concerns about the ability of the companies to pass on wage concessions to consumers' is strongly supported with Burgess and Sappey (1922: 289) who assert 'the wage claim provided an opportunity for a show-down with the AFAP for the purpose of altering the pilots' award in time for deregulation, and McEvoy and Owens (1990: 87) who argue that deregulation meant that 'the stakes were critical for all parties, and indeed, the whole community'. Another view was that the real reason for the dispute was 'the consolidation of the union's power in the forthcoming deregulated era' (Wilson 2002: 131). Another view was that the real reason for the dispute was 'the consolidation of the union's power in the forthcoming deregulated era' (Wilson 2002: 131).

An insider, Graham McMahon, the General Manager of Ansett in 1989, commented on the effect of the dispute on Ansett's preparation for deregulation in the following remark, quoted in Ansett, *The Collapse*; 'We were putting a lot of things in place to get ready for deregulation when the pilots dispute blew up and that set us back on our heels considerably' (Easdown & Williams 2002: 92). Another insider, Brian McCarthy, the President of the union during the dispute ended a speech to the 45<sup>th</sup> Annual IFALPA Conference in Washington with the following words: 'It is obvious that the dispute is really about deregulation. Various comments made by the airlines and by Government Ministers indicate that preparing the airlines for deregulation has played a significant role in the current dispute. The most significant start was to destroy the pilots union' (McCarthy 1990: 9).

### **Conclusion**

If preparation for deregulation was behind the actions of the parties it is worth asking the question. Did they get the results they wanted?

The pilots certainly did not. Of the 1645 pilots employed by the interstate companies who resigned, many left the country and ended up flying for most of the world's airlines, although not in the USA. A small number returned to their previous employer and others never flew again. Another small group joined one of the new entrants into the deregulated industry and many of those lost their jobs again when, one by one, they succumbed to the pressures of competition and collapsed or were taken over by a bigger rival. All the pilots who remained in Australia found themselves working harder and with less control over their working lives.

They may have got more money, especially if they went into one of the established companies, had lost many of the conditions that their predecessors had fought for. The pre-dispute Awards averaged more than 150 pages and contained a number of clauses which provided for union representatives involvement in a number of scheduling, safety and aircraft selection activities, 'testimony to the significant inroads into managerial prerogative achieved by the pilots' (Bray & Wailes 1999: 86). The Awards which replaced them were about 10-12 pages in total and had been stripped of all signs of union participation. In essence they provided basic conditions and allowed the company to 'gain complete control over a pilot's rostering and work hours, seniority, promotion, away from home accommodation and leave entitlements, (Norrington 1990: 68). Recently pilots who went overseas have returned to work in Australia, often for Virgin Blue; others have returned to retire in familiar territory.

The airlines did at least at first They ended the dispute with a much smaller and fragmented workforce with only a weak staff association as their union option. In many ways, 'the combination of government support and strategic mistakes by the pilots provided the airlines with an opportunity to address their long-standing concerns about pilot productivity in advance of the deregulation of the domestic airline industry' (Bray & Wailes 1999: 95). The dispute was never about wages, although that was the common perception, fed by the companies and the Government. Instead, after the dispute, pilots received significantly higher wages in return for 'extraordinary increases in productivity' (ibid: 103). However, for some of both the established companies and new entrants, the good times did not last and in the fifteen years since the dispute

several companies – Compass twice, Impulse, Ansett and some of its subsidiaries – have come and gone. One new independent airline Virgin Blue, appears to be firmly in place and Qantas, which absorbed Australian Airlines has spawned Australian II and Jet Star.

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The ACTU probably didn't although it appeared to be on the winning side immediately after the dispute, which gave it another opportunity to demonstrate that 'no union successfully defied the ACTU...The ACTU was able to harness state power and exploit the institutional legacies of the state-union relationship' (Briggs 2002: 95). However, its actions angered sections of the union movement and led to a motion at the next Congress, condemning the ACTU's actions and pointing out the potential for the same actions to be taken against affiliated unions. This motion was passed only after it was amended so as to largely nullify its original intent. The ACTU Secretary, Bill Kelty, said at the Congress, which was held at the height of the dispute, that 'the pilots had declared war on ordinary Australian workers and the wage-fixing system' (Singleton 1990: 189). It is possible that, in 1998, memories of 1989 influenced the protagonists in the waterfront dispute. This time the ACTU, on the side of the embattled union, managed a successful campaign that mitigated the effect of changes in work practices on the workers.

Did the public win? After they got over the disruption of the dispute and in between the various airline collapses that followed deregulation many did. The number of people flying increased greatly as fares dropped, routes expanded and services increased. Business travel became more common although congestion on the ground, especially in Sydney is a growing problem of a different kind. Tourism eventually recovered from the effects of the dispute and holiday travel in Australia has increased dramatically. The communities and families with connections to pilots remain marked by the events of the dispute with many rifts still not healed.

Did the Government win? Certainly it was returned at the next election and, in 1990, legislated for the deregulation of domestic aviation. Most of the goals set in the May Review have been achieved. In his 1987 statement, Gareth Evans listed a number of benefits that 'increased opportunities for competition in a deregulated environment' would provide (Evans 1987: 3). These were:

- 'greater incentives for existing and new participants in the industry to become more efficient and responsive to customer needs;
- a wider range of air fares, in particular an increased availability of discount fares;
- growth, particularly in the price sensitive leisure travel market; and
- a greater variety in the types, standards and frequency of services provided, and use of more appropriate aircraft on some routes' (ibid).

Bray and Wailes provide a comparison of some of the change at Australian Airlines and show that between 1984 and 1991 the number of pilots fell from 496 to 303; annual total aircraft departures rose from 60,469 to 63,603; and annual aircraft departures per pilot increased from 122 to 210 (Bray & Wailes 1999). Based on these figures the Government would appear to have achieved its goals.

It remains for others to balance the economic, industrial and political gains of the deregulation of Australia's domestic aviation industry against the personal and social dislocation caused by the 1989 dispute and the subsequent changes to the airlines and their workers.

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