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Employment Relations

ASSIGNMENT COVER PAGE

Assignment 3 - ER Portfolio

Course ID	BUSM4769 - Employee Relations
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Table of Contents

1. The Organization and the Employment Perspective	3
2. Legislation and Institutions.....	3
3. Employee Representation and Trade Unions	3
4. Minimum Standards, Awards and Non-Compliance	4
5. Individual Contracts and Enterprise Bargaining.....	5
6. Occupational Safety and Health (OHS)/ (Work, Health and Safety) WHS, Equal Employment Opportunity (EEO) and Unfair Dismissal Legislation.....	5
7. Conflict Management	6
8. International and Comparative Employment Relations	6
9. Employment Relations in the United States	7
10. The Future of HR	7
11. References.....	9

1. The Organization and the Employment Perspective

Qantas, Australia's national airline, operates in a complex employment relations environment being the provider of employment to 23,000 Australian people (Evans 2023). From a pluralist perspective, effective employment relations at Qantas involve balancing the competing interests of key stakeholders (Budd et al., 2020). This perspective recognizes that conflict is inevitable due to the inherent power imbalance between capital and labor, yet can be managed through collective bargaining, consultation, and dispute-resolution processes (Van Buren III 2022). For Qantas, this means engaging in good faith negotiations with unions to reach mutually beneficial enterprise agreements, while also communicating directly with employees to understand their needs and concerns. The report is written under this perspective, arguing that such a perspective can be advantageous for the firm, considering the history of industrial disputes as will be outlined in the remaining sections.

2. Legislation and Institutions

The Australian state plays a significant role in shaping employment relations at Qantas. The Fair Work Act 2009 provides the overarching legal framework, setting minimum standards through the National Employment Standards and Modern Awards, and regulating collective bargaining, industrial action, and dispute resolution (Myhill et al. 2023). The Fair Work Commission, Australia's national workplace relations tribunal, can approve or reject enterprise agreements, arbitrate disputes, and issue orders to stop or prevent industrial action (Stewart 2011). Other relevant regulators include Safe Work Australia and the Australian Human Rights Commission (Harpur 2009). This web of legislation and institutions creates a complex regulatory environment that Qantas must navigate to maintain compliance and industrial peace.

3. Employee Representation and Trade Unions

By 2022, around 6,500 Qantas employees are union members, belonging to 17 different unions (Marin-Guzman 2022). The key unions representing Qantas workers are the Australian Services Union (ASU) covering administrative and customer service staff (ASU 2024), the Transport Workers Union (TWU) for ramp and baggage handling staff (TWU 2024), the Flight Attendants Association of Australia (FAAA) for cabin crew (FAAA 2024), and the Australian and International Pilots Association (AIPA) (AIPA 2024).

Despite the broader trend of declining unionism in Australia, the unions still wield considerable industrial power due to their ability to take protected industrial action and disrupt operations (Nahm et al. 2017). Supporters argue that unions play a vital role in protecting workers' pay and conditions in a cutthroat industry (Kelly 2015), as 84.4% of Qantas Airways employees were worried about job security, higher than the industry average of 70% (TWU 2018). Unions have campaigned against the increasing use of outsourcing and contract labor at Qantas, which they claim undermines the job security and conditions of direct employees (ABC News 2023).

However, critics have argued that the adversarial nature of union-management relations has hampered airlines' ability to reform and adapt to an increasingly competitive environment (Von et al. 2017). In 2007, Qantas expressed its concerns about Labor's plans to eliminate Australian workplace agreements, stating that it need the adaptability offered by individual employment contracts to remain competitive in global aviation markets (Davis 2007). Moreover, it should be noted that non-union collective agreements, which have been a significant component of Australia's industrial relations and labor law environment since 1993, are unique to the nation (Ben and Sage 2022).

4. Minimum Standards, Awards and Non-Compliance

The National Employment Standards (NES) and modern awards form the foundation of Australia's workplace relations system. The NES, set out in the Fair Work Act 2009, provides 10 minimum standards for all employees, which cover areas such as maximum weekly hours (38), annual leave (4 weeks paid per year), personal/carer's leave (10 days paid per year), parental leave (12 months unpaid), notice of termination and redundancy pay (up to 4 weeks notice and 16 weeks pay) (FWO 2020). Most employees at Qantas are covered by the Airline Operations - Ground Staff Award 2020 [MA000048], Air Pilots Award [MA000046] or Aircraft Cabin Crew Award [MA000047] (FWO 2024a; 2024b; 2024c). Awards play a vital role in maintaining fair and decent standards, and non-compliance with the NES or awards can lead to significant penalties (Kaine 2020). However, academics have argued that Australia's award system, while providing a safety net, can also act as a "floor" that limits the scope for productivity-enhancing flexibility at the enterprise level (Goods et al. 2019). In some cases, the mandatory minimum salary set by the award system compelled companies to adapt by decreasing their workforce (IMF 1997).

5. Individual Contracts and Enterprise Bargaining

Under the Fair Work Act, employers can engage workers on individual common law contracts as long as they still meet the minimum standards in the NES and any applicable award or enterprise agreement (Bishop and Cassidy 2017). However, the use of individual contracts has been criticized for undermining collective bargaining and contributing to growing income inequality (Vettori 2016).

For many workers, enterprise bargaining offers the opportunity to negotiate pay and conditions above the award safety net (Hamberger 2020). As of 2020, Qantas had 50 enterprise agreements covering around 75% of its workforce (Productivity Commission 2020), which must pass the Better Off Overall Test (BOOT), meaning they cannot undercut the relevant award (Nicholson et al. 2017). However, enterprise bargaining at Qantas has been highly contentious, reflecting the often adversarial relationship between Qantas management and unions. A key flashpoint was the 2011 bargaining round, where Qantas sought to cut costs and increase flexibility in response to intense competition (Thompson 2011). When negotiations with unions broke down, Qantas CEO Alan Joyce grounded the entire fleet, a dramatic move that forced the government to intervene, with some union heads condemning this move as “holding a knife to the nation’s throat” (BBC News 2011:1). Moreover, some scholars have suggested that the highly adversarial nature of enterprise bargaining in Australia reflects a deeper conflict between the 'market' logic of competition and cost minimization, and the 'institutional' logic of union solidarity and worker protection (Gahan et al. 2018). Resolving this tension remains an ongoing challenge for Qantas and its workforce.

6. Occupational Safety and Health (OHS)/ (Work, Health and Safety) WHS, Equal Employment Opportunity (EEO) and Unfair Dismissal Legislation

As a large employer in a safety-critical industry, Qantas has a legal and moral obligation to provide a safe working environment for its employees. This includes complying with applicable OHS/WHS legislation, conducting risk assessments, providing training and protective equipment, and having effective safety management systems in place (Karanikas and Tyson 2022). EEO legislation, such as the Sex Discrimination Act 1984 and the Racial Discrimination Act 1975, prohibits discrimination in employment based on protected attributes (Armstrong Legal 2024), under which companies ensure its recruitment, promotion, and remuneration practices are non-

discriminatory and that it takes steps to prevent harassment and discrimination (Strachan et al. 2014). Failure to do so can lead to legal action and damage to its reputation (Strachan et al. 2014). Unfair dismissal legislation, contained in the Fair Work Act 2009, protects eligible employees from being dismissed in a harsh, unjust or unreasonable manner (Howe 2016). In 2014, Qantas lost a high-profile unfair dismissal case after sacking an employee for misusing her travel benefits, with the FWC finding it had acted too harshly (Hannan 2014).

7. Conflict Management

To avoid such escalation as the 2011 industrial conflict mentioned below, Qantas needs to take a proactive and constructive approach to managing conflict, which starts with maintaining open and regular communication with employee representatives to identify and address issues early (Saeed et al. 2014). It is also important to invest in positive employee relations initiatives, such as job security measures, training and development opportunities, and employee involvement programs, to build trust and shared goals (Bean 2021). When conflicts do arise, Qantas should have clear dispute resolution procedures that emphasize consultation, negotiation and mediation before resorting to industrial action (Brown and Raymond 2014). However, Qantas must also be prepared to take a firm stance if unions make unreasonable demands or threaten unprotected industrial action, using the legal avenues available under the Fair Work Act (FWO 2023). Ultimately, successful conflict management requires a delicate balance between asserting managerial prerogative and respecting the legitimate role and interests of unions and employees (Bardoel et al. 2014).

8. International and Comparative Employment Relations

As a global airline operating in multiple countries, Qantas must navigate diverse employment relations landscapes. For example, in the European Union, the Working Time Directive sets a maximum 48-hour work week and mandates paid annual leave, whereas in the United States, there are no federal laws limiting work hours or requiring paid vacation (Colomb 2015).

Moreover, regarding unions, only around 11.2% of American employees and 22.3% of British Airways employees are unionized (Statista 2022; BLS 2023). In contrast, in Iceland, Denmark, and Sweden, the union rate is 91.4%, 67%, and 65.2%, respectively (Qery 2024). In the EU, sectoral bargaining, which is an inclusive collective agreement that encompasses all employees within a certain sector of the economy, is the norm (Card and Cardoso 2022). Culturally, in high-

context Western cultures like Australia and the US, direct communication between managers and employees is common; while in more low-context cultures such as Japan and China, there is a greater emphasis on indirect communication (Bean 2021). Therefore, companies must strike a balance between global integration and local responsiveness, adapting policies where needed to comply with regulations, norms, and expectations in each country (Budd 2019).

9. Employment Relations in the United States

If Qantas were to expand its operations in the United States, it would need to consider several key aspects of the American employment relations system. Firstly, labor relations in the airline industry are governed by the Railway Labor Act (RLA), a federal law that aims to prevent disruptions to interstate commerce (Leiserson 2023). The RLA allows for 'closed shops' where employees must join a designated union at least 60 days before the actual employment date (Toffel 2021). This contrasts with Australia, which prohibits closed shops under Section 342 of the *Fair Work Act* (2009) Cth. As such, it should be noted that the US airline industry is also heavily unionized, with the largest carriers like American, United, and Southwest having a unionization rate of 80 to 85% (Reed 2021).

Thirdly, the US has a unique 'employment-at-will' doctrine, which allows employers to dismiss workers without notice or reason, absent a contract stating otherwise (Gertz 2007). This gives American employers more flexibility than in Australia, where unfair dismissal laws protect workers from harsh, unjust or unreasonable termination (Howe 2016). However, there are exceptions to employment-at-will, such as discrimination, whistleblowing, and union activity, which can lead to wrongful termination claims (Gertz 2007).

Finally, labor standards differ significantly between the US and Australia. For example, the federal minimum wage in the US is just \$7.25 per hour, although some states and cities have higher rates (USAGov 2023). In contrast, Australia's national minimum wage is \$23.23 per hour (FWO 2024d). Qantas would need to decide whether to offer wages and benefits above the legal minimums to attract and retain talent in the US market.

10. The Future of HR

Qantas is advised to stay informed on employment relations initiatives through its dedicated employee relations team, which monitors legal and regulatory changes, participates in industry forums, and engages with key stakeholders such as unions, government agencies, and employer

associations (Boxall 2014). Proactive and strategic HR management should be realized in navigating the challenges and opportunities of the future, such as digital transformation, workforce diversity, and the gig economy (De Prins et al. 2020). Based on the insights shared by the guest speaker Mrs. Thao Doan, I recommend that Qantas prioritize open and respectful communication with unions to build trust and collaboration, which is also in line with the pluralist perspective. This could involve regular consultations, information sharing, and joint problem-solving initiatives. Moreover, Qantas should also invest in developing the skills and capabilities of its HR professionals to effectively engage with unions and manage the complexities of the employment relationship. Qantas may become known as an employer of choice and increase its competitiveness in the international aviation market by proactively and ethically basing its approach to employment relations.

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