**AIR CARGO CLASS ACTION**

# What is the action about?

This class action is being brought by De Brett Seafood Pty Limited and J Wisbey & Associates Pty Limited (**the Applicants**) against Qantas Airways Limited, Lufthansa Cargo Aktiengesellschaft, Singapore Airlines Ltd, Singapore Airlines Cargo Pte Ltd, Cathay Pacific Airways Limited, Air New Zealand Ltd, Air New Zealand (Australia) Pty Ltd and British Airways Plc (**the Respondents**).

The Applicants allege that from 1 January 2000 to 11 January 2007 (**the Period**) the Respondents engaged in cartel conduct to fix the price of international air freight services including international air freight services to and from Australia in contravention of the *Trade* *Practices Act 1974.*

The class action claims that the cartel caused the prices of international airfreight services supplied by carriers including the Respondents to be higher than they would otherwise have been. The Applicants are claiming damages, declarations, injunctions and other orders on behalf of themselves and on behalf of the group members. The Respondents deny the allegations and are defending the class action.

# What is a class action?

A class action is an action brought by one person (the applicant) on his or her own behalf and on behalf of a group of people (group members) against another person (the respondent) where the applicant and the group members have similar claims against the respondent.

Group members in a class action **are not** individually responsible for the legal costs associated with bringing the class action. In a class action, only the applicant is responsible for the costs.

Group members are bound by any judgment or settlement entered into in the class action unless they have opted out of the proceeding. This means that:

* if the class action is successful, group members may be eligible for a share of any settlement monies or Court-awarded damages;
* if the class action is unsuccessful, group members are bound by that result; and
* regardless of the outcome of the class action, group members will not be able to pursue their claims against the respondent in separate legal proceedings unless they have opted out (the date for group members to cease to be group members by opting out of the class action has passed).

# Will you be liable for legal costs?

You will **not become liable for any legal costs** simply by remaining as a group member for the determination of the common questions. However:

* if the preparation or finalisation of your personal claim requires work to be done in relation to issues that are specific to your claim, you can engage Maurice Blackburn or other solicitors to do that work for you. A copy of the terms on which Maurice Blackburn are acting in the class action may be obtained by contacting us;
* if any compensation becomes payable to you as a result of any order, judgment or settlement in the class action, the Court may make an order that some of that compensation be used to help pay a share of the costs which are incurred by the Applicants in running the class action but which are not able to be recovered from the respondents; and
* class actions are often settled out of court. If this occurs in the class action, you may be able to claim from the settlement amount without retaining a lawyer.

# Funding and Retainer

Litigation funding company IMF (Australia) Ltd (**IMF**) has entered into a funding arrangement with the representative applicants and other group members. The key provisions of the funding arrangements are that:

* IMF will pay any Adverse Costs Order should the proceeding or any part of it be unsuccessful, which could amount to millions of dollars;
* IMF will provide funding or financial guarantees necessary to comply with any orders to provide security made by the Court in relation to the respondents’ legal costs (in fact IMF has already provided such a guarantee to the Court);
* IMF will fund disbursements of the representative applicants and funded group members from 21 October 2008 to the completion of each of the funding agreements in this matter;
* IMF will pay the professional fees of Maurice Blackburn upon a successful outcome being reached in this case. Maurice Blackburn will conduct this case, as it has since it was commenced in 2007, on the basis that it will defer payment of all of its professional fees until a successful outcome has been reached; and,
* IMF will assist with the general management of the Class Action on behalf of the representative applicants and funded group members.

In return, IMF will receive a funding commission from the representative applicants and funded group members of between **32%** and **37%** of damages recovered (see clause 12.1(d) of the IMF Investigation, Management & Funding Agreement for more detail) depending on the size of your claim.

# Am I a Group Member?

The action is brought by the Applicants on their own behalf and on behalf of all persons who are group members. Group members are all those persons resident in Australia as at 11 January 2007 who, during the Period, paid identified amounts (i.e. amounts identified by way of invoices, or equivalent demands for payment, or terms of trade, which identified international airfreight as a separate item for which payment was due) totalling more than AUD$20,000 for the carriage of goods to or from Australia including in each instance a component by air and who are not related parties of the Respondents.

# What do I need to do to participate?

If you fit the above description, deliver a **completed Group Member Registration Form (available on our website) to Maurice Blackburn no later than 4.00pm on 15 November 2013.** We will contact you upon receiving your completed registration form to invite you to retain us as your lawyers with respect to your individual claim.

Maurice Blackburn is conducting the case on a 'no win no charge' basis with funding from IMF (Australia) Ltd. There is no cost to class action participants unless they successfully recover money.

If you are unsure whether you are a group member in the class action or if you have any questions about the class action, please contact **Tahli Preston-Dixon at Maurice Blackburn on (03) 9605 2892.**