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3 October 2023

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By email

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Dear Ms Laidlaw

**Australian Competition & Consumer Commission v Qantas Airways Limited (ACN 009 661 901)
Federal Court Proceeding VID685/2023**

We refer to your letter dated 15 September 2023 seeking particulars of the ACCC's Concise Statement dated 31 August 2023 (CS). The ACCC's response to Qantas' request for particulars is set out below.

CS Paragraph 7

1. The Scheduled Flight Representation was made on each and every occasion during the Relevant Period on which a flight the subject of paragraph 6(a) of the CS was:
 - (a) offered for sale through the channels described in paragraph 2 of the CS, in the manner described in paragraph 3 of the CS; and/or
 - (b) made available by Qantas to any person for purchase following a search for flights.
2. The Scheduled Flight Representation was partly express and partly implied. To the extent it was express, it was made in writing on the Qantas website, app and through Qantas' systems to third-party travel agents in each case by stating the flight number, and scheduled date and time of the particular flight. To the extent it was implied, it was implied by reason of the flight being offered for sale.

CS Paragraph 8

3. The Reasonable Endeavours Representation was made on each and every occasion during the Relevant Period on which a flight the subject of paragraph 6(a) of the CS was:
 - (a) offered for sale through the channels described in paragraph 2 of the CS, in the manner described in paragraph 3 of the CS; and/or
 - (b) made available by Qantas to any person for purchase following a search for flights.

4. The Reasonable Endeavours Representation was partly express and partly implied. To the extent it was express, it was made in writing on the Qantas website, app and through Qantas' systems to third-party travel agents, in each case by stating the flight number, scheduled date and time of the particular flight, and in clauses 5.2 and 9.1(a) of Qantas' conditions of carriage. To the extent it was implied, it was implied by reason of the flight being offered for sale subject to Qantas' conditions of carriage.

CS Paragraph 9

5. The Flight Unchanged Representation was made on each and every occasion on which a consumer who held a ticket on a flight the subject of paragraph 6(b) of the CS accessed their "Manage Booking" page after the date on which the flight on which they held a ticket was cancelled.
6. The Flight Unchanged Representation was partly express and partly implied. To the extent it was express, it was made in writing on the "Manage Booking" page in each case by stating:
 - (a) the flight number, scheduled date and time on the "Manage Booking" page;
 - (b) the word "*confirmed*" appearing after "*status*" on the "Manage Booking" page;
 - (c) the words "*Here's where you can manage your flight booking from [departure airport] to [arrival airport] departing on [scheduled date] at [scheduled time]*" on the "Manage Booking" page.

To the extent it was implied, it was implied by reason of the matters in paragraph (a) to (c) above, and the absence of any statement or indication that the flight had been cancelled on the "Manage Booking" page.

CS Paragraph 10

7. The Manage Booking Representation was made on each and every occasion on which a consumer who held a ticket on a flight the subject of paragraph 6(b) of the CS accessed the flight information on the "Manage Booking" page after the date on which the flight on which they held a ticket was cancelled.
8. The Manage Booking Representation was partly express and partly implied. To the extent it was express, it was made in writing in clauses 5.2 and 9.1(a) of Qantas' conditions of carriage and on the "Manage Booking" page in each case by stating:
 - (a) the flight number, scheduled date and time on the "Manage Booking" page;
 - (b) the word "*confirmed*" appearing after "*status*" on the "Manage Booking" page;

- (c) the words “*Here’s where you can manage your flight booking from [departure airport] to [arrival airport] departing on [scheduled date] at [scheduled time]*” on the “Manage Booking” page.

To the extent it was implied, it was implied by reason of the matters in paragraph (a) to (c) above, the flight being sold subject to Qantas’ conditions of carriage, and the absence of any statement or indication that the flight had been cancelled on the “Manage Booking” page.

We intend to file this response with the Court and do not see any cogent basis upon which it should not be uploaded to the Court's online file for this matter.

Yours faithfully



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