

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)
VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
GENERAL DIVISION**

No: VID12/2007

NOTICE OF FILING

This document was filed electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 22/03/2011.

DETAILS OF FILING

Document Lodged: Reply: Federal Court Rules form 17
File Number: VID12/2007
File Title: De Brett Seafood Pty Ltd & Anor v Qantas Airways Limited & Ors
District Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



★ **Date:** 22/03/2011

Registrar

Warwick Soden

Note

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**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

No. V12 of 2007

**DE BRETT SEAFOOD PTY LIMITED (ACN 093
552 366) & Anor**

Applicants

and

**QANTAS AIRWAYS LIMITED (ACN 009 661 901)
& Ors according to the Schedule**

Respondents

APPLICANTS' REPLY TO FIRST RESPONDENT'S DEFENCE

1. The applicants join issue with the first respondent's defence, other than to the extent admissions are contained in that defence.
2. In further reply to paragraph 137 of the defence, the applicants say that whether or not any part of the amounts which the first respondent received in respect of the Fuel Overcharge and the Security Overcharge referred to in paragraphs 133 and 134 of the Fifth Amended Statement of Claim was passed through by the applicants and group members to their customers, any such passed through amount is not legally capable of limiting the first respondent's statutory liability to the applicants and group members.
3. In further reply to paragraph 139 of the defence, the applicants say that their claims for relief accrued after 12 January 2001.

Filed on behalf of:
Filed by:
MAURICE BLACKBURN PTY LIMITED
Lawyers
Level 10, 456 Lonsdale Street
MELBOURNE VIC 3000

Ausdoc: DX 466 (Melbourne)

The Applicants

Solicitors' Code: 564
Tel: (03) 9605 2700
Fax: (03) 9600 2401
Contact: Brooke Dellavedova
Contact Tel: (03) 9605 2700
Ref: BWD/1265250

Date: 22 March 2011

Maurice Blackburn Lawyers

.....
MAURICE BLACKBURN PTY LIMITED
Solicitors for the Applicants

FILED on behalf of the Applicants.

FORM 15B CERTIFICATION

(pursuant to Order 11 Rule 1B of the Rules)

I, **BARRY LIPP**, certify to the Court that the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date: 22 March 2011

B. Lipp

Legal Representative for the Applicants

SCHEDULE OF PARTIES

DE BRETT SEAFOOD PTY LIMITED (ACN 093 552 366)	First Applicant
J. WISBEY & ASSOCIATED PTY LIMITED (ACN 001 959 851)	Second Applicant
QANTAS AIRWAYS LIMITED (ACN 009 661 901)	First Respondent
DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (ARBN 495232)	Second Respondent
SINGAPORE AIRLINES LTD (ARBN 1056195)	Third Respondent
SINGAPORE AIRLINES CARGO PTE LTD (ARBN 95934857)	Fourth Respondent
CATHAY PACIFIC AIRWAYS LIMITED (ARBN 479514)	Fifth Respondent
AIR NEW ZEALAND LTD (ARBN 312685)	Sixth Respondent
AIR NEW ZEALAND (AUSTRALIA) PTY LTD (ACN 084 974 569)	Seventh Respondent
JAPAN AIRLINES INTERNATIONAL CO LIMITED (ARBN 564358)	Eighth Respondent
BRITISH AIRWAYS PLC (ARBN 2747597)	Ninth Respondent

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)
VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
GENERAL DIVISION**

No: VID12/2007

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**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

No. V12 of 2007

**DE BRETT SEAFOOD PTY LIMITED (ACN 093
552 366) & Anor**

Applicants

and

**QANTAS AIRWAYS LIMITED (ACN 009 661 901)
& Ors according to the Schedule**

Respondents

APPLICANTS' REPLY TO SECOND RESPONDENT'S DEFENCE

1. The applicants join issue with the second respondent's defence, other than to the extent admissions are contained in that defence.
2. In further reply to paragraph 137 of the defence, the applicants say that whether or not any part of the amounts which the second respondent received in respect of the Fuel Overcharge and the Security Overcharge referred to in paragraphs 133 and 134 of the Fifth Amended Statement of Claim was passed through by the applicants and group members to their customers, any such passed through amount is not legally capable of limiting the second respondent's statutory liability to the applicants and group members.
3. In further reply to paragraph 139 of the defence, the applicants say that their claims for relief accrued after 12 January 2001.

Filed on behalf of:
Filed by:
MAURICE BLACKBURN PTY LIMITED
Lawyers
Level 10, 456 Lonsdale Street
MELBOURNE VIC 3000

Ausdoc: DX 466 (Melbourne)

The Applicants

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Tel: (03) 9605 2700
Fax: (03) 9600 2401
Contact: Brooke Dellavedova
Contact Tel: (03) 9605 2700
Ref: BWD/1265250

Date: 22 March 2011

Maurice Blackburn Lawyers

.....
MAURICE BLACKBURN PTY LIMITED
Solicitors for the Applicants

FILED on behalf of the Applicants.

FORM 15B CERTIFICATION

(pursuant to Order 11 Rule 1B of the Rules)

I, **BARRY LIPP**, certify to the Court that the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date: 22 March 2011

B. Lipp

Legal Representative for the Applicants

SCHEDULE OF PARTIES

DE BRETT SEAFOOD PTY LIMITED (ACN 093 552 366)	First Applicant
J. WISBEY & ASSOCIATED PTY LIMITED (ACN 001 959 851)	Second Applicant
QANTAS AIRWAYS LIMITED (ACN 009 661 901)	First Respondent
DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (ARBN 495232)	Second Respondent
SINGAPORE AIRLINES LTD (ARBN 1056195)	Third Respondent
SINGAPORE AIRLINES CARGO PTE LTD (ARBN 95934857)	Fourth Respondent
CATHAY PACIFIC AIRWAYS LIMITED (ARBN 479514)	Fifth Respondent
AIR NEW ZEALAND LTD (ARBN 312685)	Sixth Respondent
AIR NEW ZEALAND (AUSTRALIA) PTY LTD (ACN 084 974 569)	Seventh Respondent
JAPAN AIRLINES INTERNATIONAL CO LIMITED (ARBN 564358)	Eighth Respondent
BRITISH AIRWAYS PLC (ARBN 2747597)	Ninth Respondent

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)
VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
GENERAL DIVISION**

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**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

No. V12 of 2007

**DE BRETT SEAFOOD PTY LIMITED (ACN 093
552 366) & Anor**

Applicants

and

**QANTAS AIRWAYS LIMITED (ACN 009 661 901)
& Ors according to the Schedule**

Respondents

APPLICANTS' REPLY TO THIRD AND FOURTH RESPONDENTS' DEFENCE

1. The applicants join issue with the third and fourth respondents' defence, other than to the extent admissions are contained in that defence.
2. In further reply to paragraph 137 of the defence, the applicants say that whether or not any part of the amounts which the third and fourth respondents received in respect of the Fuel Overcharge and the Security Overcharge referred to in paragraphs 133 and 134 of the Fifth Amended Statement of Claim was passed through by the applicants and group members to their customers, any such passed through amount is not legally capable of limiting the third and fourth respondents' statutory liability to the applicants and group members.
3. In further reply to paragraph 139 of the defence, the applicants say that their claims for relief accrued after 12 January 2001.

Filed on behalf of:
Filed by:
MAURICE BLACKBURN PTY LIMITED
Lawyers
Level 10, 456 Lonsdale Street
MELBOURNE VIC 3000

Ausdoc: DX 466 (Melbourne)

The Applicants

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Contact Tel: (03) 9605 2700
Ref: BWD/1265250

Date: 22 March 2011

Maurice Blackburn Lawyers

.....
MAURICE BLACKBURN PTY LIMITED
Solicitors for the Applicants

FILED on behalf of the Applicants.

FORM 15B CERTIFICATION

(pursuant to Order 11 Rule 1B of the Rules)

I, **BARRY LIPP**, certify to the Court that the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date: 22 March 2011

B. Lipp

Legal Representative for the Applicants

SCHEDULE OF PARTIES

DE BRETT SEAFOOD PTY LIMITED (ACN 093 552 366)	First Applicant
J. WISBEY & ASSOCIATED PTY LIMITED (ACN 001 959 851)	Second Applicant
QANTAS AIRWAYS LIMITED (ACN 009 661 901)	First Respondent
DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (ARBN 495232)	Second Respondent
SINGAPORE AIRLINES LTD (ARBN 1056195)	Third Respondent
SINGAPORE AIRLINES CARGO PTE LTD (ARBN 95934857)	Fourth Respondent
CATHAY PACIFIC AIRWAYS LIMITED (ARBN 479514)	Fifth Respondent
AIR NEW ZEALAND LTD (ARBN 312685)	Sixth Respondent
AIR NEW ZEALAND (AUSTRALIA) PTY LTD (ACN 084 974 569)	Seventh Respondent
JAPAN AIRLINES INTERNATIONAL CO LIMITED (ARBN 564358)	Eighth Respondent
BRITISH AIRWAYS PLC (ARBN 2747597)	Ninth Respondent

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)
VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
GENERAL DIVISION**

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**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

No. V12 of 2007

**DE BRETT SEAFOOD PTY LIMITED (ACN 093
552 366) & Anor**

Applicants

and

**QANTAS AIRWAYS LIMITED (ACN 009 661 901)
& Ors according to the Schedule**

Respondents

APPLICANTS' REPLY TO FIFTH RESPONDENT'S DEFENCE

1. The applicants join issue with the fifth respondent's defence, other than to the extent admissions are contained in that defence.
2. In further reply to paragraph 137A(a) of the defence, the applicants say that where payments were made by the applicants and group members for international air freight services to third parties and not to one or more of the present respondents, to the extent that the prices paid for those services were inflated by the Fuel Surcharge or the Security Surcharge, such inflation of prices was caused by the conduct of the Respondents set out in the Fifth Amended Statement of Claim.
3. In further reply to paragraph 137A(b) of the defence, the applicants say that whether or not any part of the amounts which the fifth respondent received in respect of the Fuel Overcharge and the Security Overcharge referred to in paragraphs 133 and 134 of the Fifth Amended Statement of Claim was passed through by the applicants and group members to their customers, any such

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The Applicants

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Contact Tel: (03) 9605 2700
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passed through amount is not legally capable of limiting the fifth respondent's statutory liability to the applicants and group members.

4. In further reply to paragraph 137B of the defence, the applicants say that their claims for relief accrued after 12 January 2001.

Date: 22 March 2011

Maurice Blackburn Lawyers

.....
MAURICE BLACKBURN PTY LIMITED
Solicitors for the Applicants

FILED on behalf of the Applicants.

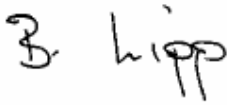
FORM 15B CERTIFICATION

(pursuant to Order 11 Rule 1B of the Rules)

I, **BARRY LIPP**, certify to the Court that the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date: 22 March 2011



Legal Representative for the Applicants

SCHEDULE OF PARTIES

DE BRETT SEAFOOD PTY LIMITED (ACN 093 552 366)	First Applicant
J. WISBEY & ASSOCIATED PTY LIMITED (ACN 001 959 851)	Second Applicant
QANTAS AIRWAYS LIMITED (ACN 009 661 901)	First Respondent
DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (ARBN 495232)	Second Respondent
SINGAPORE AIRLINES LTD (ARBN 1056195)	Third Respondent
SINGAPORE AIRLINES CARGO PTE LTD (ARBN 95934857)	Fourth Respondent
CATHAY PACIFIC AIRWAYS LIMITED (ARBN 479514)	Fifth Respondent
AIR NEW ZEALAND LTD (ARBN 312685)	Sixth Respondent
AIR NEW ZEALAND (AUSTRALIA) PTY LTD (ACN 084 974 569)	Seventh Respondent
JAPAN AIRLINES INTERNATIONAL CO LIMITED (ARBN 564358)	Eighth Respondent
BRITISH AIRWAYS PLC (ARBN 2747597)	Ninth Respondent

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**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

No. V12 of 2007

**DE BRETT SEAFOOD PTY LIMITED (ACN 093
552 366) & Anor**

Applicants

and

**QANTAS AIRWAYS LIMITED (ACN 009 661 901)
& Ors according to the Schedule**

Respondents

APPLICANTS' REPLY TO SIXTH RESPONDENT'S DEFENCE

1. The applicants join issue with the sixth respondent's defence, other than to the extent admissions are contained in that defence.
2. In further reply to paragraph 137 of the defence, the applicants say that whether or not any part of the amounts which the sixth respondent received in respect of the Fuel Overcharge and the Security Overcharge referred to in paragraphs 133 and 134 of the Fifth Amended Statement of Claim was passed through by the applicants and group members to their customers, any such passed through amount is not legally capable of limiting the sixth respondent's statutory liability to the applicants and group members.
3. In further reply to paragraph 139 of the defence, the applicants say that their claims for relief accrued after 12 January 2001.

Filed on behalf of:
Filed by:
MAURICE BLACKBURN PTY LIMITED
Lawyers
Level 10, 456 Lonsdale Street
MELBOURNE VIC 3000

Ausdoc: DX 466 (Melbourne)

The Applicants

Solicitors' Code: 564
Tel: (03) 9605 2700
Fax: (03) 9600 2401
Contact: Brooke Dellavedova
Contact Tel: (03) 9605 2700
Ref: BWD/1265250

Date: 22 March 2011

Maurice Blackburn Lawyers

.....
MAURICE BLACKBURN PTY LIMITED
Solicitors for the Applicants

FILED on behalf of the Applicants.

FORM 15B CERTIFICATION

(pursuant to Order 11 Rule 1B of the Rules)

I, **BARRY LIPP**, certify to the Court that the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date: 22 March 2011

B. Lipp

Legal Representative for the Applicants

SCHEDULE OF PARTIES

DE BRETT SEAFOOD PTY LIMITED (ACN 093 552 366)	First Applicant
J. WISBEY & ASSOCIATED PTY LIMITED (ACN 001 959 851)	Second Applicant
QANTAS AIRWAYS LIMITED (ACN 009 661 901)	First Respondent
DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (ARBN 495232)	Second Respondent
SINGAPORE AIRLINES LTD (ARBN 1056195)	Third Respondent
SINGAPORE AIRLINES CARGO PTE LTD (ARBN 95934857)	Fourth Respondent
CATHAY PACIFIC AIRWAYS LIMITED (ARBN 479514)	Fifth Respondent
AIR NEW ZEALAND LTD (ARBN 312685)	Sixth Respondent
AIR NEW ZEALAND (AUSTRALIA) PTY LTD (ACN 084 974 569)	Seventh Respondent
JAPAN AIRLINES INTERNATIONAL CO LIMITED (ARBN 564358)	Eighth Respondent
BRITISH AIRWAYS PLC (ARBN 2747597)	Ninth Respondent

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)
VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
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**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

No. V12 of 2007

**DE BRETT SEAFOOD PTY LIMITED (ACN 093
552 366) & Anor**

Applicants

and

**QANTAS AIRWAYS LIMITED (ACN 009 661 901)
& Ors according to the Schedule**

Respondents

APPLICANTS' REPLY TO SEVENTH RESPONDENT'S DEFENCE

1. The applicants join issue with the seventh respondent's defence, other than to the extent admissions are contained in that defence.
2. In further reply to paragraph 137 of the defence, the applicants say that whether or not any part of the amounts which the seventh respondent received in respect of the Fuel Overcharge and the Security Overcharge referred to in paragraphs 133 and 134 of the Fifth Amended Statement of Claim was passed through by the applicants and group members to their customers, any such passed through amount is not legally capable of limiting the seventh respondent's statutory liability to the applicants and group members.
3. In further reply to paragraph 139 of the defence, the applicants say that their claims for relief accrued after 12 January 2001.

Filed on behalf of:
Filed by:
MAURICE BLACKBURN PTY LIMITED
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Level 10, 456 Lonsdale Street
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Ausdoc: DX 466 (Melbourne)

The Applicants

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Contact: Brooke Dellavedova
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Ref: BWD/1265250

Date: 22 March 2011

Maurice Blackburn Lawyers

.....
MAURICE BLACKBURN PTY LIMITED
Solicitors for the Applicants

FILED on behalf of the Applicants.

FORM 15B CERTIFICATION

(pursuant to Order 11 Rule 1B of the Rules)

I, **BARRY LIPP**, certify to the Court that the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date: 22 March 2011

B. Lipp

Legal Representative for the Applicants

SCHEDULE OF PARTIES

DE BRETT SEAFOOD PTY LIMITED (ACN 093 552 366)	First Applicant
J. WISBEY & ASSOCIATED PTY LIMITED (ACN 001 959 851)	Second Applicant
QANTAS AIRWAYS LIMITED (ACN 009 661 901)	First Respondent
DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (ARBN 495232)	Second Respondent
SINGAPORE AIRLINES LTD (ARBN 1056195)	Third Respondent
SINGAPORE AIRLINES CARGO PTE LTD (ARBN 95934857)	Fourth Respondent
CATHAY PACIFIC AIRWAYS LIMITED (ARBN 479514)	Fifth Respondent
AIR NEW ZEALAND LTD (ARBN 312685)	Sixth Respondent
AIR NEW ZEALAND (AUSTRALIA) PTY LTD (ACN 084 974 569)	Seventh Respondent
JAPAN AIRLINES INTERNATIONAL CO LIMITED (ARBN 564358)	Eighth Respondent
BRITISH AIRWAYS PLC (ARBN 2747597)	Ninth Respondent

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)
VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
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VICTORIA DISTRICT REGISTRY**

No. V12 of 2007

**DE BRETT SEAFOOD PTY LIMITED (ACN 093
552 366) & Anor**

Applicants

and

**QANTAS AIRWAYS LIMITED (ACN 009 661 901)
& Ors according to the Schedule**

Respondents

APPLICANTS' REPLY TO NINTH RESPONDENT'S DEFENCE

1. The applicants join issue with the ninth respondent's defence, other than to the extent admissions are contained in that defence.
2. In further reply to paragraph 137 of the defence, the applicants say that whether or not any part of the amounts which the ninth respondent received in respect of the Fuel Overcharge and the Security Overcharge referred to in paragraphs 133 and 134 of the Fifth Amended Statement of Claim was passed through by the applicants and group members to their customers, any such passed through amount is not legally capable of limiting the ninth respondent's statutory liability to the applicants and group members.
3. In further reply to paragraph 139 of the defence, the applicants say that their claims for relief accrued after 12 January 2001.

Filed on behalf of:
Filed by:
MAURICE BLACKBURN PTY LIMITED
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Level 10, 456 Lonsdale Street
MELBOURNE VIC 3000

Ausdoc: DX 466 (Melbourne)

The Applicants

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Contact Tel: (03) 9605 2700
Ref: BWD/1265250

Date: 22 March 2011

Maurice Blackburn Lawyers

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MAURICE BLACKBURN PTY LIMITED
Solicitors for the Applicants

FILED on behalf of the Applicants.

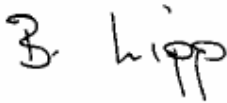
FORM 15B CERTIFICATION

(pursuant to Order 11 Rule 1B of the Rules)

I, **BARRY LIPP**, certify to the Court that the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date: 22 March 2011

Handwritten signature of Barry Lipp in cursive script.

Legal Representative for the Applicant

SCHEDULE OF PARTIES

DE BRETT SEAFOOD PTY LIMITED (ACN 093 552 366)	First Applicant
J. WISBEY & ASSOCIATED PTY LIMITED (ACN 001 959 851)	Second Applicant
QANTAS AIRWAYS LIMITED (ACN 009 661 901)	First Respondent
DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT (ARBN 495232)	Second Respondent
SINGAPORE AIRLINES LTD (ARBN 1056195)	Third Respondent
SINGAPORE AIRLINES CARGO PTE LTD (ARBN 95934857)	Fourth Respondent
CATHAY PACIFIC AIRWAYS LIMITED (ARBN 479514)	Fifth Respondent
AIR NEW ZEALAND LTD (ARBN 312685)	Sixth Respondent
AIR NEW ZEALAND (AUSTRALIA) PTY LTD (ACN 084 974 569)	Seventh Respondent
JAPAN AIRLINES INTERNATIONAL CO LIMITED (ARBN 564358)	Eighth Respondent
BRITISH AIRWAYS PLC (ARBN 2747597)	Ninth Respondent