Aircraft Financing – how things have changed

Questions & Answers

DAVID PERRY: (Buddle Findlay, Auckland): More out of curiosity, for John Field. Does the Damage by Aircraft Act, or the Aircraft Act, extend liability to the administrators, receivers, liquidators, and, if so, did that have any influence on the decisions whether or not to fly in the context of Ansett?

JOHN FIELD: The Act certainly doesn't expressly talk about administrators. It simply talks about the operator of the aircraft, which is defined in the Act as the person who "uses" the aircraft, and where that person is an employee then it is the employer who is deemed to be the operator. It is a good question. I don't know that the administrators would have personal liability. Certainly, the company is liable, jointly and severally with the aircraft owner. Any personal liability of the administrator would depend on whether the liability under the Act is a "debt" incurred by the administrator in performing his or her functions, within the meaning of s443A of the Corporations Act. I'm not aware that this risk was a factor that influenced the Ansett administrators one way or the other in relation to flying. Obviously, they did keep Ansett flying once they had the government's backing to pay the employees for that period, but perhaps it is something that the administrators would have thought about if they had focused attention on the issue. But I am not aware that it was taken into account.

DAVID PERRY: About the Voluntary Administration regime itself, again, from the other side of the Tasman, we were watching Ansett and it seemed to be a succession of hiccups. Talking with insolvency practitioners in Australia, they seemed to think that the VA regime didn't fit at all neatly with a collapse of the order of that associated with Ansett. The general feeling semed to be that the seven-day moratorium which was ultimately extended by Justice Goldberg to 14 days, was not altogether suitable for abig airline. I ask this again because in the last two weeks in New Zealand we've just had some policy statements from our regulators which suggest that we're going to move to a scheme like Australia's VA scheme although it looks like New Zealand's statutory management scheme (contained in the Corporations [Investigation and management] Act 1989) might be better suited to a collapse like Ansett because under that scheme you don't have the same sort of time constraints.

JOHN FIELD: There are certainly complexities in an airline fleet, particularly – as airlines have probably got a higher proportion of their overall working assets which are leased in one way or another whether it is a finance lease or operating lease, than most other organisations. In the case of Ansett, the problem was compounded by the change of administrators during the course of that seven-day period. Even if there had been no change of administrators, I think for the administrators to have decided the extent to which they would continue the operations during the course of the administration and to have decided what assets they needed, as regards the mix of different aircraft types and so forth, and which assets they wanted to keep to use in the continuing operation and which they were willing to return to the lessors, would almost inevitably have taken them more than seven days. So, in the context of an airline, the seven days is pretty tight and probably unreasonably tight. For most other types of companies, I think the seven days is probably pretty fair. However, I would expect the person best placed to answer that in the airline context is probably one of the administrators themselves like Peter Hedge (who spoke at the conference yesterday or Mark Korda.

CLIVE CRAVEN: (Clayton Utz Sydney): Aircraft companies started buying aircraft and financing them, then they went into leveraged leasing and double, treble and quadruple dips and the like. Then there was the poor man's approach to obtaining aircraft through operating leases. Operating leases now seem to be taking off more than straight purchases. Do you think there is a trend to go to the next step of actually having fully serviced aircraft provided? For example, the latest PFI approach which has been discussed in another room here would provide for aircraft to be made available on demand. You know, just ring up and say, "I want three aircraft to go on this particular route," and it's available from presumably, an owner. Also, in that context, I notice last week that Boeing were trying to push their fully-serviced operation through Boeing Capital Corporation - not quite a wet lease but something fairly close to it. What do you think of that trend?

STEVE FOURACRE: I think there are definitely developments along that line and not just in relation to aircraft but engineering as well. GE, for example, are doing a lot of work in relation to full service maintenance provision for engines so that effectively you pay an hourly rate and they take the risk effectively of the maintenance condition of that engine. There is a trend that way. At Qantas, to some extent, we've had an operation flown by National Jet Systems in Adelaide for a number of years, really a virtual airline, under the brand of Airlink where, effectively, they supply us with everything - pilots, aircraft, handling facilities, etc.

So I think there is a bit of a trend toward that. From the Qantas mainline perspective, we will tend to hold aircraft for 15 to 20 years on average. We find that while your maintenance cost goes up as the aircraft ages, the capital cost of replacing that asset doesn't justify turning over aircraft any quicker than that. So the average age of our fleet will probably hover somewhere between about eight and 12 years over time. That seems to be the lowest cost alternative for us.

In that situation, operating leases are not necessarily the lowest cost option for us. We are reasonably comfortable with the residual risk that we can take on that, but for a lot of the carriers (especially in the low cost ones), there's a trend there and the proof is in the pudding in terms of the share price performance of recently listed start-ups. It's an attractive idea. We are certainly looking pretty hard at it.