



KordaMentha

# Ansett Group

**(Subject to Deeds of Company Arrangement)**

**Eighth Report to Creditors**

**11 April 2008**

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# Ansett Group (Subject To Deeds Of Company Arrangement) Eighth Report to Creditors

## 1 Executive Summary

### 1.1 Introduction

This is the Eighth Report to Creditors of the Ansett Group of Companies. This report provides a general update to creditors on the status of the administration as at 31 December 2007. The Administrators have also issued 88 Committee of Creditors' updates, 52 employee updates and detailed reports to the Commonwealth Government and to representatives of employees.

### 1.2 What has been achieved?

The Administrators realised \$20.7m of assets during 2007. All aircraft and over 95% of the other assets have now been sold, parted or leased.

The Administrators paid two dividends during 2007. The eighth and ninth dividends totalled \$29.1m, of which \$17.7m was paid to employees and \$11.4m to the Commonwealth Government.

Employees have now received \$682.8m of the revised total employee entitlements of \$758.0m.

The Commonwealth Government has now received \$334.0m of the \$382.4m of its total advances.

Subsequent to 31 December 2007, the SEES scheme has also been closed. The total employee entitlements and SEES advances have also been finalised and marginally reduced due to the elimination of contingent liabilities and certain warranties expiring.

The Administrators are now able to increase the net asset realisation estimate by a further \$40.0m from \$670.0m to \$710.0m as a result of:

- higher than previously budgeted asset realisations to date;
- higher than previously budgeted future estimated asset realisations;
- lower than budget costs to date; and
- the elimination or mitigation of contingent claims.



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### 1.3 Where are we going?

The Administrators will:

- continue to sell spare parts;
- collect in amounts still owing from travel agents and pursue legal actions; and
- collect aircraft lease revenue.

The above is expected to realise \$49.0m.

Costs to complete the administration are estimated at \$8.0m. \$2.2m of the total cost to complete the administration is for trade creditors and employee provisions accrued during the administration period to 31 December 2007. \$2.7m of the total cost to complete the administration is for external labour requirements.

There are contingencies, both assets and liabilities, which are being resolved on a continuing basis.

### 1.4 Future dividends

The Administrators estimate employees will receive at least a further \$29.8m, to be paid over the next few years. **This means each employee will receive at least 40 cents in the \$ of their current outstanding balance.** Accordingly, the Administrators anticipate total payments of \$712.6m of the \$758.0m of total employee entitlements owed (approximately 94 cents in the dollar on average).

We note this is a significant increase of \$24.0m to the employees since the last report. The increase is due largely to litigation success that has crystallised in the last month.

The Administrators estimate the Commonwealth Government will ultimately receive \$353.2m of its total advance of \$382.4m. Further dividends will be paid over the next few years as assets are realised.

It is important to note the major risks in delivering the estimated returns. These risks are documented in Section 5.3.

### 1.5 Subsequent Events Update

Subsequent to 31 December 2007, the Administrators have concluded the Diners Global Rewards and TSS litigation. Further details are documented in Section 6. The funds from these pieces of litigation will be used to pay a further dividend in April 2008.



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## 2 Communication with Stakeholders

### 2.1 The Administrators' websites

The Administrators established websites early in the administration to post documents relating to major issues in the administration. Further information is placed on the websites when appropriate.

The web addresses are <http://www.ansett.com.au> and <http://www.kordamentha.com>

### 2.2 Committee of Creditors' updates

The functions of the Ansett Committee of Creditors are to consult with the Administrators about matters relating to the administration, receive and consider updates and reports prepared by the Administrators and to approve the Administrators' remuneration from time to time.

Updates and reports provided to the Committee of Creditors contain detailed information, often of a sensitive nature. A summary of the major issues covered in each update during 2007 is as follows:

Update	Date	Major Issues Reported
84	28 February 2007	Current employee entitlement and asset position, updates on debtors, spares, aircraft, property and contingencies.
85	4 May 2007	Update as to Diners Club and IATA litigation and sale of AAES assets.
86	31 May 2007	Current employee entitlement and asset position, updates on debtors, spares, aircraft, property and contingencies.
87	31 August 2007	Current employee entitlement and asset position, updates on debtors, spares, aircraft, property and contingencies.
88	30 November 2007	Current employee entitlement and asset position, updates on debtors, spares, aircraft, property and contingencies.

### 2.3 Employee updates

Employees have also been provided with updates on the Administrators' websites. A summary of the major issues covered in each update during 2007 is as follows:

Update	Date	Major Issues Reported
49	2 April 2007	Release of Seventh Report to Creditors.
50	19 July 2007	Payment of Eighth Dividend and sale of AAES assets.
51	29 October 2007	Update on current litigation.
52	13 December 2007	Payment of Ninth Dividend and update on litigation.



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### **2.4 Key stakeholder communications**

Regular meetings have also been held with key stakeholders, including the Commonwealth Government and representatives of the employees. In addition, detailed reports have been provided to the Commonwealth Government and to representatives of the employees.



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### 3 What has been achieved?

#### 3.1 Assets realised during 2007

The Administrators realised \$20.7m of assets during 2007. The Administrators have now realised over 95% of assets. There are no aircraft remaining for sale. Assets other than aircraft realised in 2007 totalled \$18.7m.

The non aircraft assets realised during 2007 are as follows:

Non Aircraft Assets realised during 2006	Section	\$m
Businesses	3.1.1	5.0
Debtors	3.1.2	2.7
Spares, Rotables and Consumables	3.1.3	11.0
<b>Total</b>		<b>18.7</b>

##### 3.1.1 Businesses

###### Ansett Australia Engineering Services

On 1 June 2007, the Administrators sold the business assets at the AAES Maintenance base at Melbourne Airport to John Holland Aviation Services (“JHAS”).

These assets were sold for \$10.0m. The sale also saw employment opportunities for approximately 150 existing Ansett staff going forward.

Fifty percent of the purchase price was received on 1 June 2007. The balance of the purchase price was received in January 2008. The payment of the balance of funds was dependent on JHAS achieving CASA and EASA certifications or 1 June 2008 – whichever was the earliest date. There were interim measures in place whereby JHAS traded utilising the AAES CASA and EASA approvals whilst providing AAES with the appropriate indemnities.

The sale excluded the supply centre, the spare parts, the ALF engines from the parted BAe146 aircraft and the IT systems. In addition Ansett allowed JHAS to have use of the Ansett IT systems by JHAS in the short term.

The sale was a complicated transaction due to the on-going certification requirements, employee issues and the on-going requirements of Ansett to maintain control over the IT systems in order to maximise the sale of spare parts.



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### **3.1.2 Debtors**

#### **Debtor Recoveries**

During 2007, the collection team has recovered a further \$2.7m in pre administration debtors. This has increased total collections to \$149.3m. The recoveries are from in excess of 10,000 separate debtor accounts and over 1,100 BSP travel agents who sold pre administration flight tickets on Ansett's behalf.

#### **IATA, Diners Club and TSS**

Details of recoveries and proceedings during the 2007 year are contained in section 6 of this report. Further events subsequent to 31 December 2007 are also discussed.

### **3.1.3 Spares, Rotables and Consumables**

During 2007, \$11.0m was realised from the sale of spares, rotables and consumables.

The Administrators' consignment and marketing agreement with AASS for the sale of rotables and consumables has minimum performance standards, which were again met during 2007.

The Administrators are currently in negotiations with AASS to possibly extend the terms of the consignment and marketing agreement.

## **3.2 Aircraft realised during 2007**

As of 1 January 2007, there were no aircraft available for sale.

There were however four aircraft on lease with the lessees holding options for purchase as follows:

- Orion Air - two BAe146-300's (EWR and EWN) over two years from June 2006; and
- European Skybus – two BAe146-300's (NZG and NZJ) over two years from November 2005.

It has always been the expectation that the lessees will exercise their purchase options due to the structure of the contracts whereby the lease payments offset the final settlement amount.

These leases are currently being wound up – the terms of which will be announced on completion of the negotiations.

There is one BAe146-300 located in Melbourne which is in the process of being parted.





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### The Fleet

Below is a summary of the number and type of aircraft previously used in various Ansett Group airlines:

Aircraft Type	Owned	Financed, with Equity	Financed, with No Equity	Operating Lease	Total
Airbus A320	2		12	6	20
Boeing B727-200F				1	1
Boeing B737-300			20	4	24
Boeing B747-400				2	2
Boeing B767-200	7			2	9
Boeing B767-300				4	4
BAe146-200	5			2	7
BAe146-200QT	2				2
BAe146-300	11				11
Fokker F50	4	5			9
Fokker F27-600	1				1
Fokker F28	4				4
DC-3	1				1
DHC-6	4				4
Metro 23	7				7
Saab 340A	7			1	8
Saab 340B				8	8
CRJ-200ER			12		12
<b>Total Aircraft in Ansett Fleet</b>	<b>55</b>	<b>5</b>	<b>44</b>	<b>30</b>	<b>134</b>
Sold/parted to Date	(55)	(5)	N/A	N/A	(60)
Redelivered to Date	N/A	N/A	(44)	(30)	(74)
<b>Aircraft to be Sold/Parted</b>	<b>0</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>0</b>

It is notable that, of the original Ansett Group fleet of 134 aircraft, substantially all of the newer and higher value jet aircraft, including the 12 CRJ aircraft (acquired between 1999 and 2001), 18 of the 20 Airbus A320 aircraft, the four Boeing 767-300 aircraft and the entire fleet of 24 Boeing 737 aircraft were financed or leased. These 74 aircraft were redelivered to the respective lessors or financiers over a two year period, however have not returned any net equity to the Ansett Group.

Of the 60 remaining aircraft that were owned or financed with equity, 22 were smaller aircraft utilised by the regional airlines of the Ansett Group and were disposed of to the purchasers of those businesses. Of the remaining aircraft, 18 have been or are being sold for parts and 20 have been sold on the market.

### 3.3 Dividends paid during 2007



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The Administrators paid two dividends in 2007 totalling \$29.1m, being the eighth and ninth dividends, as follows:

- the eighth dividend on 19 July 2007 of \$15.3m of which \$9.3m was paid to employees, being 10.0% of each employee's outstanding balance after payment of the first to seventh dividends; and \$6.0m to the Commonwealth Government; and
- the ninth dividend on 13 December 2007 of \$13.8m of which \$8.4m was paid to employees, being 10.0% of each employee's outstanding balance after payment of the first to eighth dividends; and \$5.4m to the Commonwealth Government.

Employees have now received \$682.8m of the estimated total employee entitlements of \$758.0m.

The Commonwealth Government has now received \$334.0m of the \$382.4m of its total advances.



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## 4 Where are we going?

Overall, the Administrators expect to achieve total net realisations of at least \$710.0m. Significantly, the net asset realisations estimate has increased by \$40.0m from the \$670.0m previously reported in the Seventh Report. This is as a result of:

- higher than previously budgeted asset realisations to date;
- higher than previously budgeted future estimated asset realisations;
- lower than budget costs to date; and
- the elimination or mitigation of contingent claims.

Estimated Realisations	Section	5 <sup>th</sup> Report 31 December 2004 \$m	6 <sup>th</sup> Report 31 December 2005 \$m	7 <sup>th</sup> Report 31 December 2006 \$m	8 <sup>th</sup> Report 31 December 2007 \$m
Cash at Bank	4.1	151.1	142.4	32.3	18.4
Proceeds from Asset Sales used for distributions		413.5	467.5	628.4	658.3
Assets still to be realised	4.2	32.0	33.6	27.1	44.5
Costs to complete (including aircraft costs)	4.4	(42.3)	(24.0)	(12.5)	(8.0)
Contingency reserve	4.5	(25.8)	(16.6)	(9.7)	(5.7)
<b>Total before remaining aircraft realisations</b>		<b>528.5</b>	<b>602.9</b>	<b>665.6</b>	<b>707.5</b>
Aircraft still to be realised	4.3	61.5	37.1	4.4	2.5
<b>Total Realisations</b>		<b>590.0</b>	<b>640.0</b>	<b>670.0</b>	<b>710.0</b>



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Ultimately, the Administrators expect the \$710.0m to be distributed as follows:

Estimated Dividends	31 Dec 2003 \$m	31 Dec 2004 \$m	31 Dec 2005 \$m	31 Dec 2006 \$m	31 Dec 2007 \$m
<b>Dividends to Date</b>					
Employees	162.5	177.7	202.3	282.9	300.0
SEES	188.7	258.3	272.5	322.7	334.0
Unsecured creditors	-	-	-	27.0	27.0
	<b>351.2</b>	<b>436.0</b>	<b>474.8</b>	<b>632.6</b>	<b>661.0</b>
<b>Amounts To Be Distributed</b>					
Employees	85.1	68.9	84.2	21.8	29.8
SEES	113.7	45.1	54.0	15.6	19.2
Unsecured Creditors	40.0	40.0	27.0	-	-
	<b>238.8</b>	<b>154.0</b>	<b>165.2</b>	<b>37.4</b>	<b>49.0</b>
<b>Total Dividends</b>					
Employees	247.6	246.6	286.5	304.7	329.8
SEES	302.4	303.4	326.5	338.3	353.2
Unsecured Creditors	40.0	40.0	27.0	27.0	27.0
	<b>590.0</b>	<b>590.0</b>	<b>640.0</b>	<b>670.0</b>	<b>710.0</b>



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### **4.1 Cash at bank - \$18.4m**

The \$18.4m in the bank on 31 December 2007 consists of:

- \$2.7m is being held in trust for either continuing employees or for SEES.
- The balance is required temporarily to act as working capital for existing operations and against contingent liabilities of the administration. As these contingent liabilities are resolved or the risks are mitigated in conjunction with future asset realisations, further distributions will take place.

#### **Trust Monies – not reported as Cash at Bank**

We also note the Administrators were holding the following amounts in separate trust accounts pending the resolution of litigation at 31 December 2007:

- Diners Club - as previously advised, Diners were ordered by the Supreme Court to pay Ansett the sum of \$9.6m plus interest of \$5.5m therefore a total sum of \$15.1m. Diners were also ordered to pay Ansett's costs of the proceeding up until 13 April 2006 on a party/party basis and thereafter on an indemnity basis. Diners have paid the claim and interest amounts with the costs currently being determined. Diners exercised its right of appeal, and as such, Ansett was required to hold the monies in trust until the appeal was heard and a decision handed down. The matter was heard on 8 October and on 28 February 2008, the Supreme Court of Victoria, Court of Appeal dismissed Diners appeal. The amount in the account at 31 December 2007 was \$15.6m.
- TSS – the TSS trial was heard in the Supreme Court in May 2007. Justice Hargrave handed down a decision in Ansett's favour on 19 September 2007 and TSS paid the \$4.0m claim plus interest – a total of \$4.9m. TSS exercised its right of appeal, and as such, Ansett was required to hold the monies in trust until the appeal was heard. The matter was settled through mediation at the end of March 2008.

**These litigation trust monies are not recorded as cash assets at 31 December 2007. The litigation has concluded subsequent to 31 December 2007 and the trust funds will be released and will be available to pay dividends at around the date this report is released. Further details of the settlements are available in Section 6.**

### **4.2 Assets still to be realised - \$44.5m**

The Administrators have been able to revalue the remaining assets to give updated net estimated realisations based on the following:

- updated legal advice and settlements subsequent to the 31 December 2007 balance date;



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- updated valuations given changing market conditions; and
- increased performance standards for ongoing contracts.

### **Businesses and Property**

As previously detailed, the Administrators sold the business assets at the AAES Maintenance base at Melbourne Airport to JHAS.

Fifty percent of the \$10.0m purchase price was received on 1 June 2007. The balance of the purchase price was received in January 2008 and as such, is part of the Assets yet to be realised.

The administration continues to utilise the Supply Centre at Garden Drive, Tullamarine and have recently moved all remaining engineering staff to the existing offices in the Supply building.

The Supply Centre will not be sold in the short term given the AASS agreement referred to below.

### **Debtors and Travel Agents**

Recovery of funds from debtors and funds held in trust from BSP travel agents is continuing.

In respect of outstanding debtors funds, the recovery is predominantly through the Magistrates Court.

BSP Travel Agents have been served with a final letter of demand by Ansett solicitors. Failing an appropriate response, Ansett has initiated claims through the appropriate court.

There are currently 52 actions before the Courts. Anticipated further collections are between \$0.5 to \$1.0m. We also hold default judgements of approximately \$0.5m, however significant recovery on these debtors is unlikely.

### **Spares, Rotables and Consumables**

The Administrators are currently negotiating to extend the term of the AASS agreement.

During 2007, \$11.0m was realised from the sale of spares, rotables and consumables. The Administrators estimate net future realisations from the sale of spare parts of \$14.4m over the next year and a half. The estimated realisation value is net of costs required to realise the assets.

Ansett is required to maintain a considerable infrastructure, including the warehouse facility at Garden Drive, Tullamarine, Ansett's information technology system and personnel to support the continuing sale of remaining spare aircraft parts.

### **Engines**

No spare engines remain to be sold.



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Engines from the parted BAe146's will be sold in isolation and this is discussed in Section 4.3.

#### **4.3 Aircraft still to be realised - \$2.5m**

Of the original fleet of 134 aircraft, at 31 December 2007, there are no aircraft remaining to be sold or leased.

There are however remaining revenue streams to be realised as follows:

- Orion Air – lease of two BAe146-300's (EWR and EWN) over two years from June 2006;
- European Skybus – the balance of the lease payments of two BAe146-300's (NZG and NZJ) – the leases have now expired; and
- Sale of parts, including ALF engines, from the BAe146 aircraft parted during 2006 and 2007.

BAe146 aircraft are no longer being produced. A reasonable proportion of the total number of these aircraft manufactured are currently available on the market. These aircraft are also facing competition from other aircraft types, including the Fokker F100. Given the prohibitive cost of the modifications required to bring many of the Ansett BAe146 aircraft to market, the ongoing storage costs and heavy maintenance requirements, the decision was made to part the balance of the BAe146 aircraft.

As such, the realisation strategy employed for the BAe146 aircraft has proved a success to date, the strategy has seen:

- the sale of a BAe146-300 to Albanian Airways;
- the lease of four BAe146 aircraft (with purchase options for the lessees);
- the sale of two BAe146-200QT aircraft to Westair Sweden and Titan; and
- the parting of the balance of the BAe146 aircraft.

For the parted aircraft, the parts removed undergo a certification process upon removal. These parts are now being remarketed as part of the ongoing spares agreement with AASS in the US.

Given the continued uncertainty in the market with regard to the BAe146 aircraft, a continuation of the conservative approach to the valuation of aircraft is appropriate.

The Administrators now expect to receive a further \$2.5m from the aircraft assets detailed above.



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#### **4.4 Costs to complete the Administration - \$8.0m**

##### **4.4.1 Estimated costs to complete**

Costs to complete are estimated at \$8.0m. \$2.2m of the total cost to complete the administration is for the trade creditors and employee provisions as at 31 December 2007. \$2.7m of the total cost to complete the administration is for external labour requirements.

There are a number of ongoing expenses necessary to maximise realisations of the assets and finalise outstanding matters of the administration.

The following table summarises the updated estimated costs to complete, by asset type:

<b>Costs to Complete – Asset Analysis</b>	<b>Costs to Complete 31 December 2007 \$m</b>
Aircraft costs	0.7
Working Capital – includes trade creditors and employee entitlements accrued during the administration period	2.2
Shared services costs – includes clerical and accounting costs, IT, insurance, non asset specific payroll costs	2.4
Administration and legal fees	2.7
<b>Total</b>	<b>8.0</b>

The Administrators have revised these budgeted costs due to the extension of time required to realise the aircraft and the spares, rotables and consumables.

Costs to date have, however, been significantly below budget. 2007 costs were approximately \$5.7m, marginally less than the budget of \$5.8m as set out in the Seventh Report.

We also note that a considerable cost mitigation exercise was undertaken in the second half of 2007 particularly with regard to IT. New software and hardware is being used to replace the expensive Ansett legacy systems that were necessary whilst amongst other things, AAES was operating and aircraft were held on the Ansett register.

The Administrators have replaced the aviation maintenance and stock systems, the accounting system and the communications systems with “off the shelf” packages that have been tailored to our requirements. These systems and the hardware are considerably more robust than the Ansett legacy systems thereby mitigating a major business risk, and given the technology advances, significantly cheaper to purchase, host and operate.

Even with the implementation and hardware costs for the new systems, the savings are expected to be in excess of \$1.0m per annum as of 1 January 2008.





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The following table shows the costs to complete budget from January 2004, forecast to the completion of the administration and the revised budget on which future reporting will be based:

Costs to Complete – Timetable	5 <sup>th</sup> Report 31 Dec 2004	6 <sup>th</sup> Report 31 Dec 2005	7 <sup>th</sup> Report 31 Dec 2006	8 <sup>th</sup> Report 31 Dec 2006
	\$m	\$m	\$m	\$m
Working Capital	5.3	7.3	3.1	2.2
Jan – Jun 05	13.3			
Jul – Dec 05	11.5			
Jan – Jun 06	3.7	7.7		
Jul – Dec 06	2.1	3.6		
Jan – Jun 07	1.9	2.6	3.3	
Jul – Dec 07	1.9	2.4	2.5	
Jan – Jun 08			1.9	2.2
Jul – Dec 08			1.7	1.6
Jan – Jun 09				1.0
Jul – Dec 09				1.0
Regionals/Other	2.6	0.4		
<b>Total</b>	<b>42.3</b>	<b>24.0</b>	<b>12.5</b>	<b>8.0</b>

The budgets for the 2008 and 2009 calendar years have increased due to the assets taking longer than expected to realise, particularly the aircraft parting. This has been more than offset by the higher than budget receipts for these realisations and lower than budget costs to date.

Subsequent to the sale of AAES, the Administrators now have far more discretion over incurring costs of any nature. Costs are only incurred once a cost benefit analysis has been completed.

**4.4.2 Administrators’ remuneration**

Costs to date and to complete include Administrators’ remuneration. The Committee of Creditors approve Administrators’ remuneration on a monthly basis.

In February 2005, the Administrators prepared a detailed Ansett Administrators’ Remuneration Policy Manual (of approximately 23 pages plus attachments) which was provided to the Committee. The manual and subsequent updates issued in February 2006, 2007 and 2008 continually provide the Committee with detailed disclosure of:

- Annual remuneration paid;
- Calculation of the remuneration including hours, staff and detailed task analysis;
- Annual remuneration compared to the previously approved annual budget; and
- Annual remuneration budget for the forthcoming year.



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The Policy Manual also documents in detail the approval process for remuneration and information on how the remuneration claims are prepared and calculated. At the meetings of Committee of Creditors held on 28 February 2005, the Committee agreed sufficient disclosure of information had been provided to them and also agreed with the approval process as outlined in the manual. This detailed disclosure continued on a monthly basis and is provided to the Committee to assist in its review of each remuneration claim.

At the meetings of Committee of Creditors held on 30 March 2006, the Committee resolved to move forward with quarterly committee meetings and as such, a quarterly remuneration approval process and revision of rates. The detailed disclosure however is still completed on a monthly basis and is used by the Committee to review each monthly remuneration claim. There has been no change to the remuneration process since 2006.

In March 2007, the Committee of Creditors reviewed the 2007 Remuneration budget of \$2.1m.

The 2007 Schedule of Monthly Remuneration Claims is provided below:

Month	Monthly Total \$
January 2007	144,329
February 2007	181,261
March 2007	167,771
April 2007	119,403
May 2007	179,777
June 2007	166,930
July 2007	173,367
August 2007	157,037
September 2007	157,757
October 2007	189,884
November 2007	162,252
December 2007	126,900

The Remuneration claim for 2007 was \$0.2m under budget.



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**4.5 Contingency reserve - \$5.7m**

There are contingencies, both assets and liabilities, that are yet to be resolved, but the number of contingencies has been materially reduced since 2004. Contingencies that could affect the return to creditors, other than the realisation of assets and aircraft are contingent liabilities of up to \$16.6m (reduced from \$42.0m in the Fourth Report and from \$31.0m in the Fifth Report).

These amounts have not been included in the estimated realisations for creditors.

At 31 December 2007, the administration was \$155.7m over budget realisations (other than aircraft). After the release of a further \$40.0m, the amount of contingency reserve at 31 December 2007 is \$5.7m.

The table below shows the history of asset realisations over budget (other than aircraft), the build-up of the contingency and the release of the contingency:

Details	4 <sup>th</sup> Report 31 Dec 2003 \$m	5 <sup>th</sup> Report 31 Dec 2004 \$m	6 <sup>th</sup> Report 31 Dec 2005 \$m	7 <sup>th</sup> Report 31 Dec 2006 \$m	8 <sup>th</sup> Report 31 Dec 2007 \$m	Total \$m
Contingency at 1 January	0.0	12.7	25.8	16.6	9.7	0.0
Assets realised over budget / revalued in calendar year	42.7	13.1	40.8	23.1	36.0	155.7
Contingency released	(30.0)		(50.0)	(30.0)	(40.0)	(150.0)
<b>Contingency at 31 December</b>	<b>12.7</b>	<b>25.8</b>	<b>16.6</b>	<b>9.7</b>	<b>5.7</b>	<b>5.7</b>



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## 5 Future Dividends

### 5.1 Return to Employees

The following table illustrates by example, dividends paid and expected to be paid to the total group of employees.

		Time	Total Owed to Employees \$m
<b>Total Outstanding</b>			
Includes Estimated Future Amounts Owed to Government			758.0
<b>First Dividend</b>			
SEES funded - 100% of unpaid wages, annual leave, long service leave, time in lieu, pay in lieu of notice and redundancy up to 8 weeks		When employee became redundant	(382.4)
Administrator funded - 100% of unpaid wages, annual leave, long service leave, time in lieu, pay in lieu of notice and redundancy up to 8 weeks			(13.9)
Total of Redundancy >8 Weeks Owing			361.7
<b>Special Dividend</b>			
Amounts Varied Between Employees		10-Dec-03	(67.0)
Balance of Redundancy >8 Weeks Owing			294.7
<b>Second Dividend</b> - Calculated as % of Balance Owed	<b>27.5%</b>	10-Dec-03	(80.3)
Balance of Redundancy >8 Weeks Owing			214.4
<b>Third Dividend</b> - Calculated as % of Balance Owed	<b>7.5%</b>	15-Dec-04	(16.1)
Balance of Redundancy >8 Weeks Owing			198.3
<b>Fourth Dividend</b> - Calculated as % of Balance Owed	<b>12.5%</b>	12-Dec-05	(25.0)
Balance of Redundancy >8 Weeks Owing			173.3
<b>Fifth Dividend</b> - Calculated as % of Balance Owed	<b>10.0%</b>	27-Apr-06	(17.3)
Balance of Redundancy >8 Weeks Owing			156.0
<b>Sixth Dividend</b> - Calculated as % of Balance Owed	<b>30.0%</b>	7-Sept-06	(46.9)
Balance of Redundancy >8 Weeks Owing			109.1
<b>Seventh Dividend</b> - Calculated as % of Balance Owed	<b>15.0%</b>	14-Dec-06	(16.2)
Balance of Redundancy >8 Weeks Owing			92.9
<b>Eighth Dividend</b> - Calculated as % of Balance Owed	<b>10.0%</b>	19 Jul-07	(9.3)
Balance of Redundancy >8 Weeks Owing			83.6
<b>Ninth Dividend</b> - Calculated as % of Balance Owed	<b>10.0%</b>	13-Dec-07	(8.4)
<b>Balance Now Outstanding</b>			75.2
<b>Future Dividends Estimated</b>	<b>40%</b>		(29.8)
Estimated Shortfall			45.4
Total Amount Estimated to be Distributed			712.6



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The Administrators estimate employees will ultimately receive a further \$29.8m. Accordingly, the Administrators anticipate total payments of \$712.6m of the \$758.0m total entitlements owed, being 94.0% of total entitlements. For individual employees, this means that the Administrators estimate each will receive 39.6% of their current outstanding balance (following payment of the ninth dividend) on average.

Note that this estimate has increased significantly from that in the Fifth Report of anticipated total payments of \$633.0m of the then \$760.0m estimated total entitlements owed, being 83.3% of total entitlements.

**The estimated returns to creditors are based on currently available information. It is a best estimate only. Events or changes in conditions may materially impact the estimates used in the report. It is important to note the major risks in delivering the estimated returns. These risks are documented at Section 5.3.**

Furthermore, it should be noted that the total employee entitlements owed has decreased from \$760.0m to \$758.0m. This \$2.0m provision was made up of contingent employee claims that could potentially have been made on Ansett.

As such, we have previously held monies in trust to cover the notional dividends that would have been payable (in arrears) should the contingencies have been required. These trust monies were included in the amounts deemed as paid, or put aside, for the employees. Now the requirement to hold the contingency has expired, the monies will be released and as such are deducted from the notional amount paid to date.

### **5.2 Return to Commonwealth Government**

The Administrators estimate SEES will ultimately receive \$353.2m of the total SEES advance of \$382.4m.

### **5.3 Major risks and assumptions**

It is important to note the major risks in delivering the estimated returns:

- Costs to Complete – costs are largely driven by litigation and labour for the provision of consumables and rotables to market;
- Resolution of contingent liabilities and resolution of unforeseen claims on title and warranties provided;
- Realisation of contingent assets;
- Realisation of consumables and rotables – these assets are contracted for sale on a commission basis with the realisable value dependent on the state of the aviation spares market;



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- Exchange rate variations; and
- Resolution of litigation and disputes.



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## 6 Statutory and legal matters

### 6.1 Court applications

The Administrators have made a number of applications to various courts. There have however been no further applications made since the Seventh Report.

Applications made previously (including those made by other parties) and which have continued or been resolved since the Seventh Report include:

- applications regarding monies due to AAL under Global Rewards Participation Agreements and under a Charge Card Merchant Agreement from Diners Club Australia;
- application regarding IATA;
- applications concerning recovery of trade receivables;
- applications to recover Trust Funds from Travel Agents; and
- application regarding monies due to Ansett from Travel Software Solutions,

More detailed information on a number of these applications made during the administration can be obtained from the Administrators' websites.

Below is a brief summary of the above applications and their current status or outcome since the Seventh Report. Applications that are not material or in which no substantive claims are made on behalf of or against the Ansett Group or the Administrators have not been included.

### 6.2 Proceedings regarding Diners Club

In the Fifth, Sixth and Seventh Reports, the Administrators outlined two proceedings issued by AAL against Diners Club Australia ("Diners"). In summary, those proceedings are outlined below:

#### **Global Rewards**

On 3 November 2004, AAL issued a proceeding in the Commercial List in the Supreme Court of Victoria at Melbourne against Diners (proceeding number 2071 of 2004). The statement of claim alleges that Diners is indebted to AAL for monies due under a Global Rewards Participation Agreement. The statement of claim particularises claims by AAL in the amount of approximately \$9.6m together with interest and costs. Diners filed its amended defence and counterclaim on 25 October 2005 and filed a Further Amended Defence and Counterclaim on 17 February 2007, denying any liability on a number of grounds and setting out a counterclaim.



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His Honour Justice Hargrave, heard the matter between 6 February 2007 and 22 February 2007. On 4 May 2007, Diners were ordered by the Supreme Court to pay AAL the sum of \$9.6m plus interest of \$5.5m, therefore a total sum of \$15.1m.

Diners were also ordered to pay AAL's costs of the proceeding up until 13 April 2006 on a party/party basis and thereafter on an indemnity basis. Diners have paid the claim and interest amounts with the costs currently being determined.

Diners exercised their right of appeal, and as such, AAL was required to hold the monies in trust until the appeal was heard and the decision handed down. The matter was heard on 8 October 2007.

On 28 February 2008, the Supreme Court of Victoria, Court of Appeal handed down Judgement in favour of AAL, thus dismissing Diner's appeal.

Diners had the right to seek leave to appeal to the High Court of Australia. Diners had 28 days in which to seek leave. The 28 day period has now expired and Diners have not exercised their right of appeal. The trust account balance at 31 March 2007 was \$16.1m, which will now be available to pay a dividend in April.

### **Diners Merchant Agreement**

In addition, and in the same proceeding, AAL made a separate claim against Diners under a Merchant Agreement whereby customers of AAL settled their account through the provision of a Diners Charge Card facility. Pursuant to the claim, AAL alleges that Diners was indebted to AAL for \$20.5m, together with interest and costs. The quantum of the claim will be reduced if Diners can substantiate valid charge card "charge backs" or refunds. Diners alleged that of the \$20.5m claim, \$18.0m relates to charge backs.

The proceeding was initially issued in the Supreme Court of Victoria but Diners referred the matter to Arbitration in New York in accordance with the terms of the Merchant Agreement. Pursuant to a standstill agreement between the parties, the arbitration will not be commenced until the Global Rewards proceeding (outlined above) is completed.

We are now in the process of enlivening these proceedings.

### **6.3 Applications regarding IATA (Proceeding Nos. 8792 of 2002 and 6455 of 2003)**

#### **Victorian Supreme Court, Court of Appeal decision**

On 10 November 2006, the Victorian Supreme Court, Court of Appeal handed down judgement allowing Ansett's appeal by a 2-1 majority. On 14 December 2006, IATA filed an application for special leave to appeal to the High Court. The High Court Justices granted IATA leave to appeal.





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IATA gave the required undertaking to pay Ansett's costs of the High Court appeal (irrespective of the outcome of the appeal).

### **High Court of Australia, Court of Appeal decision**

The matter was heard on 4 September 2007.

The High Court, by majority, overturned the judgement of the Victorian Court of Appeal and decided in IATA's favour on the basis that IATA, and not the transacting IATA member airlines, possessed the debtor/creditor relationship with Ansett.

As a result of the High Court judgment, Ansett will not now be able to recover the monies set off in the IATA clearances after the appointment of Voluntary Administrators on 12 September 2001 from the other relevant IATA member airlines. However, there is a possibility that Ansett may be able to recover amounts in respect of rejections from other IATA member airlines. Ansett is considering these potential claims further.

### **Background to IATA proceeding**

IATA operates a Clearing House for the clearing and settlement of transactions between participating members (largely international airlines) and other organisations. AAHL was a member of the IATA Clearing House at the time of the appointment of Voluntary Administrators.

The Administrators previously reported that on 23 December 2002, IATA commenced proceedings in the Victorian Supreme Court against AAHL seeking declarations that the IATA Clearing House regulations continued to apply to AAHL notwithstanding AAHL's entry into voluntary administration.

AAHL defended the claims brought by IATA and issued a cross-motion seeking orders (among others) that the Clearing House regulations ceased to apply to AAHL upon the execution of its Deed of Company Arrangement on 2 May 2002. AAHL claimed that the Clearing House Regulations did not apply to AAHL's credits and debits that were not cleared as at 12 September 2001, but rather those debits and credits must be dealt with in the administration of AAHL pursuant to, and in accordance with, the provisions of the Deed of Company Arrangement.

AAHL relied upon a standing House of Lords decision of *British Eagle International Airlines Ltd v Compagnie National Air France* [1975] ("British Eagle") in support of its claim. IATA's and AAHL's proceedings were heard together before His Honour Justice Mandie.

Justice Mandie delivered judgement in favour of IATA on 22 April 2005.

AAHL filed a notice of appeal to the Supreme Court of Victoria, Court of Appeal on 20 June 2005 and the appeal was heard on 19 June 2006. On 10 November 2006, the Court of Appeal handed judgment in favour of Ansett by a 2-1 majority. The Court of Appeal agreed with Ansett's contentions that, notwithstanding the purported effect of the IATA Clearing House regulations, Ansett remained the true debtor and creditor vis a vis the other transacting IATA member airlines. The Court



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of Appeal also agreed that the Clearing House arrangements deprived Ansett of the debts owed to it by the other net debtor airlines and that, as such, the Clearing House arrangements were contrary to public policy and could not prevail over Ansett's Deed of Company Arrangement.

IATA subsequently appealed to the High Court as discussed above.

Copies of the decisions of the High Court, Supreme Court of Victoria and the Supreme Court of Victoria, Court of Appeal can be viewed on the Administrators' websites.

**6.4 Application regarding Travel Software Solutions (Proceeding No. 2062 of 2006)**

Ansett issued a writ and Statement of Claim in the Commercial List in the Supreme Court of Victoria at Melbourne against Travel Software Solutions ("TSS"). The statement of claim alleges that TSS is indebted to Ansett for monies due pursuant to a dividend declared by TSS on 21 December 2005 and for which Ansett as a shareholder of TSS is entitled to receive the sum of \$4.0m, plus interest and costs.

TSS was defending Ansett's claim on the basis of an alleged right of set-off.

The matter was heard in the Supreme Court in May 2007. Justice Hargrave handed down a decision in Ansett's favour on 19 September 2007 and TSS paid the \$4.0m claim plus interest – a total of \$4.9m. TSS exercised their right of appeal, and as such, Ansett as required to hold the monies in trust until the appeal was heard. A hearing date had not been set, however mediation was agreed to between the parties.

Mediation took place on 27 March 2008 whereby the parties agreed to a settlement. Subject to the discontinuance being filed and relevant share transfers being completed, the funds (the trust account balance on 31 March 2007 was \$5.0m) will be available for distribution in the April dividend.

Dated this 11<sup>th</sup> day of April 2008



MARK A KORDA  
Deed Administrator



MARK F MENTHA  
Deed Administrator



**Appendix 1 Listing of Companies for which this Report has been Prepared**

501 Swanston Street Pty Ltd (ACN 005 477 618)	Northern Territory Aerial Work Pty Ltd (ACN 009 611 321)
Airport Terminals Pty Ltd (ACN 053 976 444)	Rock-It-Cargo (Aust) Pty Ltd (ACN 003 004 126)
Aldong Services Pty Ltd (ACN 000 258 113)	ANST Show Pty Ltd (Formerly Show Group Pty Ltd) (ACN 002 968 989)
Ansett Aircraft Finance Limited (ACN 008 643 276)	South Centre Maintenance Pty Ltd (ACN 007 286 660)
Ansett Aviation Equipment Pty Ltd (ACN 008 559 733)	Spaca Pty Ltd (ACN 006 773 593)
Ansett Australia Limited (ACN 004 209 410)	ANST Travel Pty Ltd (Formerly Traveland Pty Ltd) (ACN 000 240 746)
Ansett Australia and Air New Zealand Engineering Services Limited (ACN 089 520 696)	ANST Travel International Pty Ltd (Formerly Traveland International Pty Ltd) (ACN 000 598 452)
Ansett Australia Holdings Limited (ACN 004 216 291)	Traveland International (Aust) Pty Ltd (ACN 000 275 936)
Ansett Carts Pty Ltd (ACN 055 181 215)	Traveland New Staff Pty Ltd (ACN 080 739 037)
Ansett Equipment Finance Limited (ACN 006 827 989)	Walgali Pty Ltd (ACN 055 258 921)
Ansett Finance Limited (ACN 006 555 166)	Westintech Limited (ACN 009 084 039)
Ansett Holdings Limited (ACN 065 117 535)	Westintech Nominees Pty Ltd (ACN 009 302 158)
Ansett International Limited (ACN 060 622 460)	Whitsunday Affairs Pty Ltd (ACN 009 694 553)
Bodas Pty Ltd (including in its capacity as trustee of the Westsky Trust and the Pelican Trust) (ACN 002 158 741)	Whitsunday Harbour Pty Ltd (ACN 010 375 470)
Brazson Pty Ltd (ACN 055 259 008)	Wridgways (Vic) Pty Ltd (ACN 004 153 413)
Eastwest Airlines (Operations) Limited (ACN 000 259 469)	Wridgways Holdings Limited (ACN 004 449 085)
Eastwest Airlines Limited (ACN 000 063 972)	ANST Westsky Aviation Pty Ltd (Formerly Skywest Aviation Pty Ltd) (ACN 004 444 866)
ANST Lednek Airlines (Aust) Pty Ltd (Formerly Kendell Airlines (Aust) Pty Ltd) (ACN 000 579 680)	ANST Westsky Jet Charter Pty Ltd (Formerly Skywest Jet Charter Pty Ltd) (ACN 008 800 155)
Morael Pty Ltd (ACN 003 286 440)	ANST Westsky Holdings Pty Ltd (Formerly Skywest Holdings Pty Ltd) (ACN 008 905 646)
Northern Airlines Limited (ACN 009 607 069)	(All Deed Administrators Appointed)



## Appendix 2 Abbreviations used in this Report

<b>"the Administrators" or "the Deed Administrators"</b>	Mark Korda and Mark Mentha of KordaMentha
<b>"Engineering" or "AAES"</b>	Australian Aviation Engineering Services a division of Ansett Australia Limited (ACN 004 209 410)
<b>"AASS"</b>	Ansett Aircraft Spares and Services
<b>"AAL"</b>	Ansett Australia Limited (ACN 004 209 410)
<b>"AAHL"</b>	Ansett Australia Holding Limited (ACN 004 216 291)
<b>Collectively "the Companies" or "the Ansett Group"</b>	All companies listed in Appendix 1
<b>"IATA"</b>	The International Air Transport Authority
<b>"BSP"</b>	The Billing and Settlement Plan established by IATA
<b>"Diners"</b>	Diners Club Pty Limited
<b>"Commonwealth Government"</b>	Commonwealth Government of Australia
<b>"SEES"</b>	The body administering the Special Employee Entitlement Scheme for Ansett Group Employees
<b>"SEESA"</b>	Special Employee Entitlement Scheme for Ansett Group Employees
<b>"the Act"</b>	Corporations Act (2001) Commonwealth
<b>"the Court"</b>	The Federal Court of Australia
<b>"DOCA"</b>	Deed of Company Arrangement
<b>"the Administrators' websites" or "websites"</b>	<a href="http://www.kordamentha.com/national/creditor.aspx">http://www.kordamentha.com/national/creditor.aspx</a> and <a href="http://www.ansett.com.au">http://www.ansett.com.au</a>
<b>"First Report"</b>	First Report by Administrators of the Ansett Group dated 16 January 2002
<b>"Second Report"</b>	Second Report by Administrators to the Creditors of the Ansett Group dated 15 March 2002
<b>"Third Report"</b>	Third Report by Administrators to the Creditors of the Ansett Group dated 16 September 2002
<b>"Fourth Report"</b>	Fourth Report by Administrators to the Creditors of the Ansett Group dated 31 March 2004
<b>"Fifth Report"</b>	Fifth Report by Administrators to the Creditors of the Ansett Group dated 31 March 2005
<b>"Sixth Report"</b>	Sixth Report by Administrators to the Creditors of the Ansett Group dated 31 March 2006
<b>"Seventh Report"</b>	Seventh Report by Administrators to the Creditors of the Ansett Group dated 31 March 2007

