



CONFIDENTIAL

Prime Minister

COMMERCIAL IN CONFIDENCE

To note

PRIME MINISTER

*Please refer to me for consultation of Laker is in difficulty* MS 3/12  
*not*

LAKER AIRWAYS

I have seen John Biffen's minute to you of 26 November and your comments, as recorded in the Private Secretary letter of 30 November, on the use of the Civil Aviation Act 1949. I recognise the desirability of avoiding Laker's failure but, having carefully considered the proposals in John Biffen's minute, I am not convinced that I either could or should use my powers under the 1949 Act in the way he suggests.

2 Fortunately, there now appears to be a good prospect that with the help of the Bank of England Laker will be able to mobilise additional overdraft facilities to carry him through the winter period on the basis of guarantees from McDonnell Douglas, General Electric and British Aerospace. The proposal for a sale and lease-back of the Airbus aircraft would no longer be a necessary part of these arrangements. Laker would simply be permitted to defer for one year the principal element of his loan. My Department has already indicated that it would be prepared to continue subsidy in these circumstances.

3 But given the uncertain course of recent negotiations concerning Laker, the sale and lease-back proposal could yet



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recur. If so, we must in my view accept that the provision of a subsidy for sale and lease-back could not be represented as simply being a continuation of what was originally agreed: the Attorney General was quite clear that it would involve a new arrangement to be justified in terms of our vires as at the moment it was entered into. I would therefore have to be satisfied that such an arrangement would be necessary in support of the aircraft manufacturing industry. It would be politically dangerous (and open the way to damaging criticism from the PAC) to use these powers in a way which was seen to be for Laker's benefit rather than British Aerospace.

4 I have myself spoken to Sir Austin Pearce and it is clear that he does not consider a sale and lease-back arrangement for the Airbus aircraft to be justifiable as a means of avoiding damage to the Airbus programme. He told me that there were already 13 Airbuses on the market and that the availability of a further three would not significantly affect Airbus Industrie's prospects.

5 Equally, we should not take a decision to change the basis of the subsidy without recognising the policy implications set out in my minute of 25 November. If we allowed a "double subsidy" to Laker, we could not deny it to other airlines: BCAL would immediately claim it for their A310 purchase. And an important precedent would be created for other industries. I remain to be convinced that we could ignore these considerations.

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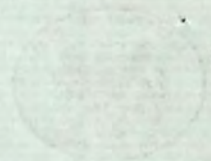
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6 John Biffen's minute also points out that, if Section 8 of the Industry Act 1972 were to be used to rescue Laker, it is possible, under certain circumstances, that HMG would find itself liable for most or all of Laker's debts if the airline subsequently failed. But the legal advice to me is that this danger would not be averted by the use, in the new circumstances of a sale and lease-back, of the powers under Section 1 of the Civil Aviation Act 1949. I should need to assess very carefully at the relevant time Laker's financial position and prospects. The problems by reference to Section 332 of the Companies' Act 1948 would be very much the same. A further use of the Civil Aviation Act 1949 to change the basis of the subsidy would also require an announcement to Parliament and possibly a reference to the EEC Commission. In the light of this, I think John Biffen's minute seriously overstates the relative advantages of using the Civil Aviation Act rather than Section 8 of the Industry Act 1972 if further support for Laker should prove to be necessary.

7 I hope the worries set out in this minute will soon prove to be academic. But I thought you should know my views in case we are called upon for hasty decisions later in the week.

8 I am copying this minute to the Chancellor of the Exchequer, the Secretary of State for Trade, the Lord Privy Seal, the Chief Secretary, the Attorney General, the Governor of the Bank of England and to Sir Robert Armstrong.

PJ



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