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From the Secretary of State

The Rt Hon Leon Brittan QC MP  
 Chief Secretary  
 HM Treasury  
 Parliament Street  
 London  
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ck 50  
 (2)  
Prime Minister  
 Legal qualms  
 about BAA's objectives.

MCS 17/12

17 December 1982

As you know, we have had some difficulty in handling the CPRS recommendations over agreed corporate objectives for the British Airports Authority largely because the current litigation with the airlines has made the Authority acutely sensitive to the statutory basis of their relationship with me.

You will recall that objectives were agreed with E(NI) earlier this year and were sent to the Chairman of the BAA by my predecessor. We were subsequently informed that Counsel had prepared an opinion which advised the BAA that what was proposed was almost certainly unlawful in principle and certainly unlawful in detail. Mr Peter Scott QC (who is acting for the BAA in the legal action) suggested that the Government was seeking to bind the Authority to a series of objectives which, however desirable they might be, were not the objectives presented by the statute and to do so in a manner which left it unclear whether these objectives would be changed if the BAA in exercising the statutory judgement which it was required to exercise, considered it necessary or desirable to do so. He advised that it was one thing for a statutory authority to have objectives arrived at in the exercise of its own judgement, and which it reviews from time to time. This was legitimate providing the Authority was prepared to reconsider such objectives in the light of representations made by those whom it is bound to consult. It was another to bind itself to an agreement with the Government to follow a pre-determined course which fettered its statutory discretion.

My officials and lawyers have had quite lengthy discussions with the BAA about the implications of this Opinion. In many respects we believe it goes too far and fails to reflect sufficiently the special position of the Government in relation to the



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nationalised industries. Nevertheless it has necessitated more careful handling of the matter than we had anticipated. The outcome is that in responding to our proposals, the Board has formulated and adopted a revised set of objectives (copy attached) which will form the basis of their next Corporate Plan. These take into account our proposals and the CPRS recommendations but the Board have not explicitly sought either my comments on the objectives or my agreement to them.

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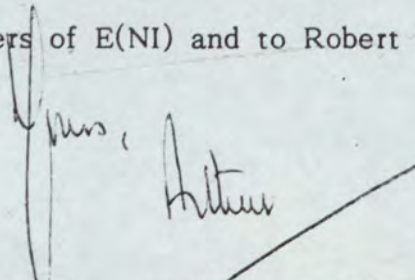
In fact, other than in style and general approach, they embody all but three of the objectives approved by E(NI) in March. Those omitted pose no serious difficulties since the subjects involved can be, and indeed are, covered by other statutory arrangements. More importantly the Board's objectives now recognise the need to meet financial and performance aims, and indeed any other targets which are agreed with Government from time to time: this is objective (e) on the Board's list. As you know in the litigation the plaintiffs allege that we were acting ultra vires in setting a financial target for the BAA: my defence is that the target was agreed with the Authority but it is nonetheless a sensitive issue and the Board's adoption of this objective is helpful.

In sending me the new objectives the BAA's Chairman has said that the Board are now working on a wide range of quantified performance aims, including a financial target, and that he would welcome discussions in the New Year on the financial and performance aims for the next and subsequent financial years which will have to replace the present targets when they expire on 31 March 1983. I attach great importance to such quantified indicators of overall performance.

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Now that the Board has adopted objectives which are broadly acceptable we can therefore move on to the next, and more important stage, of determining specific quantified objectives in time for these to be taken into account in the Board's next Corporate Plan. I hope therefore that you are content for me to proceed on this basis.

I am copying this letter to other members of E(NI) and to Robert Armstrong.

  
LORD COCKFIELD

CORPORATE PLAN 1983 - OBJECTIVES OF THE BAA

The BAA's primary objective is to respond to the present and future needs of air transport in an efficient and profitable way by operating, planning and developing its airports so that air travellers and cargo may pass through safely, swiftly and as conveniently as possible.

In support of this general objective the essential policies are:

- (a) To maintain, using the regulatory framework, high standards of safety for aircraft, passengers and airport staff, and to ensure that these standards match development in the air transport industry.
- (b) To ensure, within the limits of the Authority's powers, high standards against terrorism and crime in its airports.
- (c) To improve, as far as its powers permit, the range and quality not only of services offered to its customers but also those provided by other organisations and to have regard to the best practice of other airport authorities in the U.K. and abroad.
- (d) To maintain, as a public enterprise, a competitive and commercial approach to its operations, and to improve operating efficiency.
- (e) To ensure, as far as possible, that it meets the financial and performance aims, external financing limits and other targets agreed with the Government from time to time.
- (f) To provide facilities at the airports such as are necessary to enable them to meet the needs of air transport in a safe and cost effective manner.
- (g) To ensure, as a good employer, fair pay and conditions of service for employees and to encourage a working partnership leading to higher productivity and higher standards of service to the public through proper arrangements for participation, consultation and negotiation.
- (h) To operate in harmony with the communities adjoining its airports and to seek to maintain a balance of interest between those communities and the needs of air transport.
- (i) To market its skills and experience in its own specialist field both in its own right and in support of the efforts of other British consultants, contractors and suppliers in the service of the air transport industry.

17 DEC 1982

