

CONFIDENTIAL

PRIME MINISTER

12 December 1984

mm

BA PRIVATISATION

We are riding a tiger and cannot now afford to get off. It is important that we are seen to ride the problems with confidence and resolution.

The business world and the press are aware that the Government and BA need to remove the uncertainty of the Laker-related liabilities and resolve the question of BA's capital structure before the final stage of privatisation. So far, there is little suggestion that a Spring launch is seriously in jeopardy. You cannot avoid risk by delay. Any hint that we are contemplating a significant postponement would be damaging. The inference would be that BA is more vulnerable to anti-trust than anyone had supposed. The US lawyers will scent blood. The pressures for more disclosure will mount and BCal could well become more seriously implicated.

As it is, the parties to the Laker liquidator's case evidently see this as a propitious moment to settle out of court. The liquidator and his lawyers sense that the pressures of BA privatisation will induce BA to make a generous settlement. Against the alternative of a drawn out and expensive battle through the courts, they would no doubt rather take the money and run. At the same time, their leverage against BA will be tempered by the desire to settle with the other airlines as well. All the airline managements

CONFIDENTIAL

CONFIDENTIAL

- 2 -

will want to get the troublesome matter behind them and concentrate on running airlines.

The cost of an out-of-court settlement is likely to take some swallowing. That cost will have to be judged not just in absolute terms, but in relation to the cost of the alternatives - which may well be higher.

A settlement with the liquidator will stop the flow of potentially damaging evidence which the class action lawyers and others contemplating anti-trust action can feed on. The scale of the residual liabilities should look less alarming once the settlement is out of the way. Insurance may still be possible. If not, Government will have to counter an indemnity for BA's liabilities arising from past anti-trust infringements which should have been obviated by Bermuda 2. BA do not think the indemnity could be geared to leave them with some liability and with it the incentive to fight the case strongly. Is this right? (BA are adept negotiators and sometimes need to have their bluff called.)

The immediate action items remain much as a week ago:

- Do not waver. Our posture to the outside world should be that we still have our sights set firmly on a Spring launch.
- Negotiate an out-of-court settlement with the Laker liquidator - weighing the cost of the alternatives very carefully before rejecting it.

CONFIDENTIAL

E.R.

CONFIDENTIAL

- 3 -

- Be ready to cover the residual anti-trust liabilities by BA insuring, or HMG indemnifying BA, remembering that the buck stops at the Government in any event.

- Be ready rapidly to settle BA's capital reconstruction, bearing in mind that much of what we put in as additional equity should flow back through a higher market realisation. Transport are being tough negotiators. That's fine, but let's settle soon.

JW

JOHN WYBREW

CONFIDENTIAL