CONFIDENTIAL

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BA PRIVATISATION AND US ANTI-TRUST

Essentially, you are offered two courses:

- the practical, which realistically focuses on our objectives (not least BA privatisation), the obstacles, and the most effective way of overcoming them;

- the affronted, which abhors the unreasonableness of the situation in which US anti-trust laws have placed us, and seeks to slay that dragon before we worry too much about the treasure.

John Moore and the Treasury want the treasure. Nicholas Ridley's instincts are first to slay the dragon. We would follow John Moore.

First, the dragon is much less dangerous than all the fire and smoke would suggest. Anti-trust as a check on the big corporations goes deep into the US business culture - back into the nineteenth century. Few large US corporations, however blue-chip and scrupulous in their behaviour, avoid anti-trust suits. Claims of billions of dollars are bandied about, but business goes on. The corporations remain credit-worthy. Their shareholders collect their dividends and sleep easy. The parasitic class action lawyers grow fat on the

system, but the out-of-court settlements are usually small in relation to the scale of business being conducted.

Against that background, our comments on Nicholas Ridley's proposals are as follows:

a) Accept proposed settlement of the liquidator's action.

We agree. It looks as if the the negotiation has reached the "moment juste", and cannot be bettered. Moreover, the settlement will reduce BA's exposure to class actions.

b) Note that BA will be exploring the possibility of settling the class actions ("normally no hope of concluding a settlement within 6-9 months at minimum").

Transport seem to be exaggerating the size of this obstacle, perhaps because they would rather be tackling the dragon.

BA have explored. Their expert lawyers (Linklater and Paine in the UK, and Sullivan and Cromwell in the US) have exhaustively reviewed BA's potential exposure to the class actions. They estimate that BA's maximum liability is of the order of $10 million. It looks as if BA will be able to insure against the outside chance of it

exceeding this figure. If not, we still have the Treasury's partial indemnity proposals as a sensible fall-back.

c) Vis à vis the US Government, to maintain your firm opposition to international aviation falling under US anti-trust laws.

Fine; right is certainly on our side, but changing the sytem will probably take a long time. It is deep-rooted. Meanwhile, a resolutely-pursued strategy is likely to be more effective than provocative tactics.

d) Agree that officials should analyse further the proposal for a compensation fund and work up legislation.

We would see this as just such a provocative tactic, which probably sacrifices BA privatisation and may ultimately hinder the removal of US anti-trust from international civil aviation.

e) Postpone a decision on the timing of BA privatisation.

Transport are right in not wanting to be publicly committed to a specific deadline until the major obstacles have been overcome. However, without setbacks on the Laker settlement and the class actions, the launch

could still be as early as July 1985. Transport should continue working on the other outstanding issues so as to keep the July option open.

f) Public Stance.

The substance looks about right, but the tone could be lighter and more positive. Making heavy weather of the anti-trust problems will not help our cause in settling the class actions, or in our public presentation here.

JOHN WYBREW