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Mr Norgrove

Prime Minister (Hot box)

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I think it will

be helpful

to you also to see this.

MR UNWIN



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28/2

CABINET OFFICE

E 0159

28 FEB 1986

FILING INSTRUCTIONS

FILE No. ....

cc Mr Roberts

ms. [Signature] 28/2/86

PRIVATISATION OF BA

You asked where we stood on MISC 112.

2. The Department of Transport have prepared a new and much franker form of words for the prospectus about possible exposure to US Anti-Trust Litigation. I understand that their UK legal and banking advisers are satisfied that this proposed new text (which has not been seen outside the Department) meets the concerns previously expressed about the propriety of going ahead on the basis of a rather partial disclosure. The Department's and BA's US lawyers are said to think that publication of this text would not greatly add to the risks BA already faces of further litigation. Nevertheless to go ahead on this revised basis would plainly be risky, not least to British Caledonian, who remain very vulnerable to demands for the disclosure of documents still held in the US. Moreover it seems clear that privatisation could not go ahead while the two cases currently outstanding (on behalf of Laker employees and a Los Angeles travel agent) have not been settled; BA are said to be fairly confident that they can secure the early dismissal of the case on behalf of the Laker employees, who have said to have no standing, and the travel agent case could always be settled by purchase of his business. The Department of Transport are trying to establish how long it is likely to take to reach a conclusion on these cases.

3. Although officials of the Law Officers' Department have not dissented from the proposed new approach, the Attorney General has taken a close personal interest in the position of BA, and may well feel that the risks cannot be supported. In any event he will need to discuss the situation with Mr Ridley before the





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latter makes up his mind on a possible new approach to MISC 112. Unless it can be established quickly that the new approach offers a reliable route to privatisation in the course of the summer, it will be essential to make some statement quickly in order to call halt to current preliminary work on marketing the issue.

4. The Department of Transport hope to be in a position to put the matter to MISC 112 towards the end of next week. On previous form, there would not be a full paper, but officials of the other Departments concerned (including the Cabinet Office), would be given a detailed oral briefing in advance of the Ministerial discussion.

JW

A J WIGGINS  
Economic Secretariat.  
28 February 1986





COMMUNICATIONS