



DEPARTMENT OF TRANSPORT  
2 MARSHAM STREET LONDON SW1P 3EB  
01-212 4581

SIR ALAN BAILEY KCB  
PERMANENT SECRETARY

Sir Michael Franklin KCB CMG  
Ministry of Agriculture  
Fisheries and Food  
Whitehall Place  
LONDON  
SW1A 2HH

AN  
M.

10 November 1986

Dear Michael,

PRIVATISATION OF BRITISH AIRWAYS -  
DISCLOSURE OF PROMOTERS' INTERESTS

I am writing to seek your assistance, and that of a wide range of copy recipients, in identifying and describing any dealings between the Crown and British Airways which we will have to disclose to the Company when shares in British Airways Plc are offered to the public early next year. Similar exercises have taken place before other privatisations, and I understand they worked effectively.

We need to take this action because the Crown is, in law, one of the promoters of the Company and has duties to disclose this information formally to the Company. Sufficient and proper disclosure is needed since otherwise it would be open to the Company, and indirectly its shareholders, to bring proceedings which might result in the rescission of contracts with the Government. Such proceedings could even give rise to Government liabilities to the Company. I am aware that this is a time-consuming task - but I fear it is absolutely necessary. I would therefore be grateful if you would provide information about your dealings with British Airways along the lines set out in Annex 1 to this letter. If there are any questions about the details of this letter, I should be grateful if they could be directed to Lucy Watts (212 5850, Room S5/15, 2 Marsham Street), to whom you might also address your replies.

I would be grateful for your initial response by 26 November, 1986, and for notification of any changes as they occur between then and the issue of the prospectus in January, 1987.

I am sending a copy of this letter to the Permanent Secretaries, Directors and heads of all bodies listed in Annex 3 to this letter. I would be grateful if you and copy recipients would

consider whether there is any associated organisation not listed in the Annex which, to your knowledge, should be regarded as a Crown body and if so to copy this letter to that body, informing this Department that you have done so.

*Yours,*

*Alan*

ALAN BAILEY

**PRIVATISATION OF BRITISH AIRWAYS:  
DISCLOSURE OF PROMOTERS' INTERESTS**

WHAT NEEDS TO BE DISCLOSED IN THIS TRAWL?

1. All dealings or transactions between the Crown and British Airways during the "promotion period" (starting on 1st September, 1979 and expected to end on 31st January, 1987 - see paragraph 5 below), which are not on standard terms and are so significant that knowledge of them is necessary for a potential investor in British Airways to have in order to make an informed assessment of British Airways at the time of issue of the Prospectus, need to be disclosed. A more detailed description of the dealings and transactions concerned is contained in paragraph 6 below and examples are given in Annex 2.

2. Expenditure by the Crown during the last financial year on all passenger, cargo and other services supplied by British Airways, whether under standard or non-standard terms, also needs to be reported.

DEFINITIONS

3. For this purpose, the Crown has a wide definition. It includes all manifestations of the Crown, except Her Majesty in a personal capacity. In essence the Crown includes all Government Departments. It does not, however, include those public bodies which, by reason of their nature or by statute, are not agents or servants of the Crown; it therefore does not include nationalised industries, or commercial companies controlled by the Government such as The Rover Group PLC.

4. Attached as Annex 3 is a list of bodies each of which we believe is or may be a Crown body, and at Annex 4, a letter sent

from the Management and Personnel Office to the Department of Trade and Industry at the time of the sale of British Telecom, which seeks to define what constitutes a Crown body.

#### The Promotion Period

5. The promotion period commenced on 1st September, 1979 and it will end on the date of issue of the Prospectus, which until further notice should be assumed to be no later than 31st January, 1987. Prior to 1st April, 1984, the date of vesting by the British Airways Board to British Airways Plc, you should consider transactions and dealings with the British Airways Board.

#### Non-standard and significant

6. Transactions with British Airways arranged on terms which as far as you are aware are the same as those provided generally for other customers need not be disclosed. In the case of fares, those which are not full fares (i.e. they have not been approved by the CAA) are to be treated as non-standard. All other transactions which are known or believed to be preferential to the Crown should be disclosed in this trawl, unless they are of a sufficiently insignificant nature as not to fall within the category of transaction knowledge of which is necessary in order to make an informed assessment of British Airways. Examples of possible non-standard transactions that may exist between the Crown and British Airways are set out in Annex 2. In order to assess what renders a transaction significant for these purposes, it is suggested that transactions falling within either of the following two categories would be significant:-

- (a) transactions which on any test are material, as far as British Airways is concerned, regardless of the time at which they took place during the promotion period (for example, the Concorde arrangements); or

- (b) transactions which have taken place since 1st April, 1984, therefore covering the last two financial years of British Airways and its current financial year.

7. The extent of disclosure for non-standard and significant transactions depends in part on the facts of each case. In general, both the fact that the Crown is interested in the transactions and any "profit" made as a result of the transaction requires to be disclosed. For these purposes "profit" means any net benefit accruing to the Crown as a result of the transaction and not just a cash surplus, so where the Crown has received some other sort of benefit from the transaction that too must be disclosed. Sufficient details of each transaction should be disclosed in order to enable the buyer of shares in the Company or the Directors of the Company to evaluate the transaction. Where non-standard and significant transactions are identified Lucy Watts (212 5850) in the Department of Transport would be happy to advise on the level of detail that needs to be disclosed.

#### ACTION REQUIRED

8. (a) Non-standard and significant transactions For such transactions, including any in the categories identified in Annex 2, we need to know essential details. To help simplify the task, I would be grateful if replies could follow the following pro-forma:-

- (1) A statement along the following lines:

"We confirm that, having made due enquiry, this Department [Crown body etc] has had no relationship with British Airways in the promotion period other than:

- (i) the supply of passenger, cargo or other services by, or any other transactions with, British Airways either:-

(a) on standard terms; or

(b) where such services or transactions are not significant;

(ii) the supply of passenger, cargo or other services by, or any other transactions with, British Airways, where such services or transactions are significant, on terms known or believed to be preferential to the Crown, details of which are set out below."

(2) For each item in (ii) above the following information:-

- A Name of Crown body.
- B Name of any other Crown body involved in or associated with this contract or transaction.
- C Relevant date(s) of contracts or transactions - and the date on which the Crown obtain its interest.
- D Description of nature of transaction or contract, including terms which you know or believe to be preferential to the Crown.
- E Any "profit" (see paragraph 7 above) arising from the transaction.
- F Any further details considered relevant.
- G Name, address and phone number of a contact who could supply further details if necessary.

(b) Provision of passenger, cargo and other services whether standard or non-standard significant or insignificant For all

passenger and cargo services and other services (including engineering services) provided to you by British Airways (irrespective of whether or not the terms are special or the transaction is significant), you should complete the following statement:

"We understand that, for the purpose of writing the Prospectus, a reasonably accurate estimate of the revenue received by British Airways from the Crown over the year ended 31st March, 1986 is required. After taking all due care to check on our expenses, we estimate the total expenditure on passenger, cargo and other services provided by British Airways during that year for this department [body, etc] to be £ \* ".

POSSIBLE NON-STANDARD TRANSACTIONS BETWEEN  
THE CROWN AND BRITISH AIRWAYS

1. Examples include:

- (a) dealings involving the supply of passenger, cargo and other services by British Airways to the Crown on non-standard terms (e.g. not full fares) which are known or believed to be preferential;
- (b) dealings involving the supply of non-airline goods or services by British Airways to the Crown on non-standard terms which are known or believed to be preferential;
- (c) dealings involving the supply of special goods or services to the Crown by British Airways;
- (d) dealings under which the Crown supplies for payment goods or services to British Airways;
- (e) dealings between the Crown and British Airways involving land and/or buildings: this would cover either sale or leases of land and/or buildings.

2. Dealings to be disclosed should include the entering into a contract within the relevant period even though no action may occur under the contract until after the period has expired. It is not necessary to disclose transactions which, although they occur in the promotion period, are in implementation of a contract entered into before that period began.



3. Transactions which merely represent the application of general fiscal or other similar regimes need not be disclosed, eg. the payment of taxes or national insurance contributions.

4. The duty of disclosure arises in respect of any transaction and whether the Crown is, broadly speaking, the supplier or the customer. It is necessary to make disclosure in respect of both sides of any dealing (for example, both payment for goods and services supplied and details of the services supplied) and whether goods and services are supplied to the Crown for its own use or for resale.

CROWN BODIES

ADVISORY, CONCILIATION AND ARBITRATION SERVICE  
AGRICULTURE, FISHERIES AND FOOD, MINISTRY OF  
AGRICULTURE FOR NORTHERN IRELAND, DEPARTMENT OF  
AGRICULTURE AND FISHERIES FOR SCOTLAND, DEPARTMENT OF  
ARTS AND LIBRARIES, OFFICE OF  
CABINET OFFICE  
CENTRAL OFFICE OF INFORMATION  
CHARITY COMMISSION  
COUNCIL OF TERRITORIAL, AUXILIARY AND VOLUNTEER RESERVE  
ASSOCIATION  
CROWN ESTATE COMMISSIONERS  
CROWN OFFICE, SCOTLAND  
CUSTOMS AND EXCISE, HER MAJESTY'S  
DEFENCE, MINISTRY OF  
DIRECTOR OF PUBLIC PROSECUTIONS, DEPARTMENT OF  
DUCHY OF CORNWALL  
DUCHY OF LANCASTER  
ECONOMIC DEVELOPMENT DEPARTMENT, NORTHERN IRELAND  
EDUCATION AND SCIENCE, DEPARTMENT OF  
EDUCATION FOR NORTHERN IRELAND, DEPARTMENT OF  
EMPLOYMENT, DEPARTMENT OF  
ENERGY, DEPARTMENT OF  
ENVIRONMENT, DEPARTMENT OF THE  
ENVIRONMENT FOR NORTHERN IRELAND, DEPARTMENT OF  
EXCHEQUER AND AUDIT DEPARTMENT, NORTHERN IRELAND  
EXPORT CREDIT GUARANTEE DEPARTMENT  
FAIR TRADING, OFFICE OF  
FINANCE AND PERSONNEL, NORTHERN IRELAND, DEPARTMENT OF  
FOREIGN AND COMMONWEALTH OFFICE  
FORESTRY COMMISSION  
GENERAL REGISTER OFFICE, SCOTLAND  
GOVERNMENT ACTUARY'S DEPARTMENT  
GOVERNMENT WHIPS (HOUSE OF COMMONS)  
GOVERNMENT WHIPS (HOUSE OF LORDS)  
GREENWICH HOSPITAL  
HEALTH AND SAFETY EXECUTIVE  
HEALTH AND SOCIAL SECURITY, DEPARTMENT OF  
HEALTH AND SOCIAL SERVICES, NORTHERN IRELAND DEPARTMENT OF

HOME OFFICE

INDUSTRY DEPARTMENT FOR SCOTLAND

INLAND REVENUE, BOARD OF

INTERVENTION BOARD FOR AGRICULTURAL PRODUCE

LAND REGISTRY, HER MAJESTY'S

LAW OFFICERS' DEPARTMENT

LORD ADVOCATE'S DEPARTMENT

LORD CHANCELLOR'S DEPARTMENT

LORD CHANCELLOR'S DEPARTMENT, NORTHERN IRELAND

LORD PRIVY SEAL'S OFFICE

MANPOWER ECONOMICS, OFFICE OF

MANPOWER SERVICES COMMISSION

METROPOLITAN POLICE OFFICE

NATIONAL INVESTMENT AND LOANS OFFICE

NHS HEALTH AUTHORITIES - ALL REGIONAL, DISTRICT AND SPECIAL  
HEALTH AUTHORITIES

NATIONAL SAVINGS, DEPARTMENT FOR

NORTHERN IRELAND CIVIL SERVICE

NORTHERN IRELAND OFFICE

NORTHERN IRELAND PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION,  
OFFICE OF THE

OFGAS

OFTEL

ORDNANCE SURVEY

OVERSEAS DEVELOPMENT ADMINISTRATION

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION AND HEALTH SERVICE  
COMMISSIONERS, OFFICE OF THE

PARLIAMENTARY COUNSEL

PAYMASTER GENERAL'S OFFICE

POPULATION CENSUSES AND SURVEYS, OFFICE OF

PRIME MINISTER'S OFFICE

PRIVY COUNCIL OFFICE

PROPERTY SERVICES AGENCY

PUBLIC RECORD OFFICE

QUEEN'S HOUSEHOLD, THE

RATING OF GOVERNMENT PROPERTY, DEPARTMENT OF

REGISTRY OF FRIENDLY SOCIETIES

ROYAL HOSPITAL CHELSEA

ROYAL MINT

SCOTTISH COURTS ADMINISTRATION

SCOTTISH OFFICE  
SCOTTISH DEVELOPMENT DEPARTMENT  
SCOTTISH EDUCATION DEPARTMENT  
SCOTTISH HOME AND HEALTH DEPARTMENT  
SCOTTISH RECORD OFFICE  
SPECIALISTS AND TECHNICAL CO-OPERATION OFFICERS, CORPS OF  
STATIONERY OFFICE, HER MAJESTY'S  
STATUTE LAW COMMITTEE, NORTHERN IRELAND  
STATUTORY PUBLICATIONS OFFICE  
TRADE AND INDUSTRY, DEPARTMENT OF  
TRANSPORT, DEPARTMENT OF  
TREASURY, HER MAJESTY'S  
TREASURY SOLICITOR'S DEPARTMENT  
WELSH OFFICE



CABINET OFFICE

MANAGEMENT AND PERSONNEL OFFICE  
70 Whitehall  
London SW1A 2AS  
Telephone 233 8389

Machinery of Government Division

Mr C Bridge  
Room 511  
Department of Trade and Industry  
1 Victoria Street  
LONDON SW1H 0ET

21 February, 1984

*Dear Charles,*

## DEFINITION OF "CROWN SERVICE"

1 You phoned to ask whether we could provide a list of bodies which perform their functions under the Crown. If I understood you correctly, you need this because the "Crown" is to be a promoter for the flotation of British Telecommunications shares, and a legal requirement is that the prospectus should spell out any interests of the promoter in the business.

2 I explained that it is not possible to provide a definitive list of Crown bodies. "The Crown" is a concept rooted in antiquity, whose significance has changed over time, and which rests on a combination of Prerogative and statutory powers, and interpretation by the Courts. Accordingly, it would be easier for us to start at the other end, by considering which of a list of BT's customers are Crown bodies. However, given that you are unable to provide such a list, I promised to send some guidance.

3 Generally speaking the Courts regard the Crown as representing the "sum total of Government powers", that is, as synonymous with the Executive. Accordingly the Crown includes:

- a) the Royal Household;
- b) Ministerial offices covered by the Ministerial and other Salaries Act 1975;
- c) the Armed Forces; and
- d) Government Departments operating under the direction of Ministers. (This concept has been modified by the practice over recent decades of conferring statutory functions on bodies outside the traditional structure of Government Departments.)

4 Legal opinion is that all bodies included in Schedule 2 to the Parliamentary Commissioner Act, 1967, and in the list published by the Minister for the Civil Service in pursuance of S.17 of the Crown Proceedings Act 1947, perform their functions under the Crown. Other bodies regarded as Crown bodies on the basis of express statutory provision or legal advice include the following:

The Royal Hospital, Chelsea  
Greenwich Hospital Department  
Cabinet Office  
Lord Advocate's Department  
Office of the Parliamentary Counsel  
Office of the Paymaster General  
Prime Minister's Office  
Privy Council Office

Parliamentary Commissioner for Administration  
Northern Ireland Civil Service  
Northern Ireland Court Service  
Corps of Specialists and Technical Cooperation Officers  
Council of Territorial, Auxiliary and Volunteer Reserve Association  
NHS Health Authorities  
Overseas Civil Service (constituted on 1.10.54 under Special Regulations  
by the Secretary of State for the Colonies)  
Metropolitan Police (but not other police authorities)

It follows from what I have said earlier that this is not an exhaustive definition;  
I hope that, nevertheless, it is of some help.

*Yours sincerely*  
*Helen Leiser*

HELEN LEISER

