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cc No

The Rt. Hon. Nicholas Ridley MP  
Secretary of State for Transport  
Department of Transport  
2 Marsham Street  
London SW1

20 November 1984

AVIATION AND US ANTI-TRUST: THE "LAKER" ISSUE

Dear Nicholas

I refer to your letter of 15 November to the Secretary of State for Foreign and Commonwealth Affairs which I have seen on my return from abroad.

I understand that the Americans have postponed the negotiations and it may be necessary for further or other instructions in the light of what has happened. However, I record that, subject to that, I am content with what you suggested.

You particularly drew my attention to the proposed assurance as to our policy over the powers in the Protection of Trading Interests Act 1980. I do not think that there is a legal obstacle to giving an assurance but there might be some in Parliament who would see this as a restriction of the powers granted by Parliament. It would be preferable, therefore, to give the assurance in a discreet form if possible.

Accordingly I think that such an assurance would be acceptable in the context of a satisfactory package of the kind you describe and with safeguards on the lines of those set out in your letter.

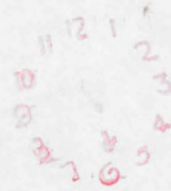
I am copying this to the Prime Minister, the Secretary of State for Foreign and Commonwealth Affairs, the Chancellor of the Exchequer, the Secretary of State for Trade and Industry and Sir Robert Armstrong.

Yours Gr. Michael.



Legal Proceedue : Lakes 3/83

22 NOV 1984





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BRIEF FOR PRIME MINISTER'S QUESTIONS

LAKER - US GOVERNMENT STATEMENT

Line to Take

I welcome the President's decision which is helpful in the context of our differences over the application of US anti trust laws to international aviation. I hope that we can now settle agreed arrangements for the future.

Background Note

The President's decision has been extremely helpful in heading off a crisis over criminal enforcement of US anti trust laws. The private suits remain a serious concern. The actual statement by the US Department of Justice regrettably does not make clear that they did not have the basis for an indictment in respect of a conspiracy to bring down Laker. This is being pursued.

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Department of Transport

20 November 1984



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A Department of Transport spokesman said "We understand that the US Department of Justice ~~is~~ not to bring any charges following their investigations into allegations, concerning British airlines, over fare discussions and agreements, involving services on the North Atlantic route.

2 The Department are naturally glad that no proceedings are to be brought against British companies.

3 As to arrangements for the future, talks have been going on about the general issues between the US and UK governments over the application of US antitrust law to international civil aviation. We hope these will come to an early and satisfactory conclusion. The aim would be to obviate any future difficulties, while protecting the interest of the travelling public through agreed arrangements to maintain a competitive industry."



Notes for use if necessary

1 Q Has this solved the problem with the US?

A No. It must be helpful. But we still have to agree how such issues are to be handled in future. And, of course, civil litigation continues.

2 [If asked about the implications for the Laker civil suits].

A This is a matter for British Airways and the other defendant airlines.

3 [If pressed about contacts between the British and US Governments about the Department of Justice investigations].

A In accordance with arrangements agreed within OECD, the British Government were given notice of the investigation. There is a legitimate dispute on this matter and HMG made its views known to the US Government.

[If further pressed]. The British companies and individuals whose interests were immediately affected were of course consulted by the Government.

4 Q Did the British Government know in advance about the decision?

A After they had taken their decision, US Administration informed us.

[Only if pressed]

Q Was it the Prime Minister who was informed?

A Yes.

5 What is the Government's attitude to price fixing between airlines?

A Discussions between airlines about fares are not unlawful in the United Kingdom. The fares of all UK airlines are approved by the CAA and must be charged as a condition of their licence. The CAA in considering fares have a duty to safeguard the interests of consumers. US airline fares must be similarly approved by the Department of Transport under the relevant permits.

6 Q What about the cheap winter fare filings?

A The Government had no alternative but to disapprove the winter fares recently filed; although discussions with the United States Government are continuing, the UK Government has not so far been satisfied as regards the risk that such tariffs would expose UK airlines to anti trust challenge in US courts.

[see Press Notice 521 of 15 November 1984.]



7 Q Are you going to agree more liberal arrangements with the Americans?

A The US-UK aviation arrangements are already one of the most liberal in the world. We shall be considering whether the existing competitive arrangements can be improved.



TEXT OF DOJ STATEMENT

Department of Justice today announced that it is closing an antitrust Grand Jury investigation into passenger air travel between the US and the UK. The Department announced that it was the President's decision based on foreign policy reasons that this should be done.