



Prime Minister

PRIME MINISTER

To Mr

BRITISH AIRWAYS FLOTATION

12/4

I thought that Cabinet colleagues might be interested in a brief progress report on the privatisation of British Airways.

It became apparent at a very late stage last year that BA had failed to appreciate the seriousness for the prospectus of the anti-trust law suits mounted against them and other airlines in the US courts by the Laker Airways liquidator, and by representatives of allegedly aggrieved transatlantic travellers (the class actions). This failure made it necessary at the last moment to defer our plans to privatise BA in the financial year just ended. The uncertainties were far too great to be dealt with satisfactorily in the prospectus. You successfully persuaded President Reagan to drop the Department of Justice action in November 1984.

Though President Reagan's decision did not remove the civil suits, it created a more favourable climate for negotiated settlements. Since then, BA have been taking the lead on behalf of the defendants in seeking a negotiated settlement of both the liquidator's suit and the class actions.

The negotiations on the liquidator's suit have been complex, and there have been a number of obstacles in the way of a compromise acceptable to all the major creditors at a cost which the defendants collectively feel they can bear. But BA's lawyers have made substantial progress. They have also started negotiations with the lawyers responsible for the class actions and here too the prospects for a negotiated settlement seem promising.



I should add that these efforts to negotiate an out of court settlement imply no admission of guilt; ninety per cent of such actions in the USA are settled out of court and BA judge it to be in their commercial interests to resolve the uncertainty quickly. Civil actions of this kind, sponsored by contingency fee lawyers are, of course, a form of legalised blackmail which unfortunately businesses trading in the USA have to live with. Our objective must be to persuade the US Government to remove the unilateral application of anti-trust law from civil aviation, and to substitute agreed competition rules.

It is still too early to set a new target date for privatisation now, as the time which will be needed to resolve the remaining problem is uncertain.

I shall, of course, agree a new target date with the Chancellor of the Exchequer as soon as we can see a clear way forward. I am taking steps to ensure that at the right time we shall be able to put full marketing effort into the issue.

If Cabinet colleagues are asked about progress with privatisation over the next few weeks, they may like to draw on paragraphs 3-5 of this note. Points to watch are:

(a) we should avoid giving the impression that BA will pay over the odds for quick settlement of the outstanding actions;

(b) If the question of the reasons for the delay comes up, we should throw the blame where it belongs, on the pernicious US system;



✓ (c) we should not publicly highlight your personal role in persuading President Reagan to drop the indictments.

I am copying this minute to members of the Cabinet and to Sir Robert Armstrong.

R. A. Allen.
(Private Secretary)

for NICHOLAS RIDLEY

4 April 1985

(approved by the Secretary of State +
signed in his absence).



10 DOWNING STREET

From the Private Secretary

15 April 1985

This is to record that the Prime Minister has seen and noted your Secretary of State's minute of 4 April reporting on progress with the privatisation of British Airways. She agrees with the three points on presentation to which your Secretary of State refers and in particular (c) on avoiding reference to her personal role in persuading President Reagan to drop Department of Justice indictments in 1984.

(Timothy Flesher)

Richard Allan, Esq.,
Department of Transport.

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