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10 DOWNING STREET

From the Private Secretary

15 July 1985

BRITISH AIRWAYS : LAKER LITIGATION

The Prime Minister has seen your letter to me of 12 July reporting that a settlement has been reached with the Laker liquidator. She has noted, however, that Sir Freddie Laker himself may decide to fight on.

The Prime Minister has asked me to record her appreciation for the substantial effort in Departments in Whitehall, our Embassy in Washington, British Airways and Linklater and Paines, which has been made to reach this settlement.

I am copying this letter to the Private Secretaries to the Foreign and Commonwealth Secretary, the Chancellor of the Exchequer, the Secretary of State for Trade and Industry, the Attorney General and the Financial Secretary to the Treasury and to Richard Hatfield (Cabinet Office).

ANDREW TURNBULL

Richard Allan, Esq.,
Department of Transport.

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JK

CC NO
→ SC 131



DEPARTMENT OF TRANSPORT
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Prime Minister (2)

The liquidator's suit is now ended. Laker and
Beckman have until 20 August to decide whether
to take \$8 million each, or fight a separate
action. The reply from No 10 might express some
appreciation for the work of those
who have made this settlement
possible, e.g. FCO, Embassy, Washington, Top, DTE lawyers,
Law Officers, Treasury, Lushington and Paine, BA.

12 July 1985

Handwritten signature/initials

AT
12/7

Dear Andrew,

BRITISH AIRWAYS: LAKER LITIGATION

We have now heard that BA's efforts to reach a settlement of the Laker liquidator's case at last seem likely to be successful. BA have finally reached agreement with the other defendants and the creditors to the proposal described in my Secretary of State's minute of 3 July. This provides that the offer of \$8m to Sir Freddie Laker in return for release of all claims would remain open for a limited period (to 20 August); it will be withdrawn if in the meantime either he or Lonrho initiate any action in any court. It would be paid as soon as the defendants are finally committed to pay the ticket holders and other small creditors.

BA's lawyers will put these proposals to Judge Greene at 11.15am (Washington time) today. We may therefore expect to hear the outcome at about 6pm (UK time).

What he has now done
Statements attached

If the Judge approves the settlement, BA will issue a press release setting out in broad terms the structure of the settlement and its cost. This is estimated to be some \$48m: the offers of \$8m to Laker and \$8m to the liquidator's US lawyers would be on top of that. But BA's share of the full \$64m is expected to be some \$28m.

Ministers are bound to be asked to comment on the settlement and its consequences. I enclose a copy of notes which my Secretary of State intends to use: these have also been sent to our Embassy in Washington. My Secretary of State considers that it is important not to be drawn into comment on the details of the settlement, which are a matter for BA's commercial judgement, or into any discussion about the likely timetable for the privatisation of BA; and that it should be emphasised that the class actions remain to be settled.

Copies of this letter go to the Private Secretaries to the Foreign Secretary, the Chancellor of the Exchequer, the

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Secretary of State for Trade and Industry, the Attorney General
and the Financial Secretary to the Treasury, and to Richard
Hatfield.

Yours,
Richard.

R A ALLAN
Private Secretary

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SETTLEMENT BY BRITISH AIRWAYS OF THE LAKER LIQUIDATOR'S ACTION
(for use if the proposed settlement is approved by Judge Greene on
12 July)

LINE TO TAKE IN RESPONSE TO INQUIRIES

(a) HMG does not accept that international civil aviation should be subject to US anti-trust law, deplores the fact that all the defendants have found it necessary to pay such a high price to settle a case that should never have been brought; and will maintain its efforts to persuade the US administration to remove from the scope of the anti-trust legislation aviation matters which are regulated under the Bermuda 2 agreement.

(b) Nevertheless we understand that all the defendants (including some American airlines) have to do business in the USA, and they have judged it individually and collectively as being in their commercial interests to settle the case out of court. Settlement implies no admission of liability. [If pressed: HMG has been kept informed of the terms of the proposed settlement, but its approval as BA's shareholder was not required].

(c) The proposal represents an agreement between the parties. The liquidation still has to be sanctioned by the competent courts (in England and Jersey).

(d) Once the settlement is sanctioned, one of the major obstacles to privatisation will have been removed. That is not the end of the road: for instance BA, Pan Am and TWA still need to settle the class action against them, and progress on this is still at a very early stage.

(e) Hope to privatise BA as soon as possible. But cannot set a date yet. [NB: You should not be drawn on the possible timetable for settling the class action].

2. Following is some defensive question and answer briefing.

Q1. WHAT IS HMG DOING TO ENSURE THAT ANTI TRUST DOES NOT APPLY TO CIVIL AVIATION?

A1. HMG has had various discussions with the US administration but latterly has been holding back to await the outcome of the present attempts to settle out of Court. We will be looking for a resumption of discussions when they have been settled.

Q2. WILL BA BE PRIVATISED AS SOON AS THE CLASS ACTION IS SETTLED?

A2. Hope so, but don't know how long that will be. Other technical factors will need to be taken into account, eg finding a place in the Stock Exchange queue, allowing time for proper marketing.

Q3. NOW THAT A SETTLEMENT SEEMS CERTAIN WHY NOT INDEMNIFY BA AGAINST THE EXPECTED COST SO THAT PRIVATISATION CAN GO AHEAD AT ONCE?

A3. It is for BA to decide whether to settle litigation against them and on what terms, in the light of their commercial judgment.

Q4. DID HMG PRESS BA TO SETTLE WITH THE LIQUIDATOR TO ENABLE PRIVATISATION TO GO AHEAD?

A4. No. The directors of BA decided that it was in the company's commercial interest to seek a settlement at the present time, and that the terms finally obtained were acceptable.

Q5. HOW MUCH WILL THE SETTLEMENT COST BA? (ANY OTHER QUESTIONS ABOUT THE DETAILS OF THE SETTLEMENT)

A5. That is a matter for BA.

Q6. DOESN'T THE FACT THAT THE AIRLINES HAVE HAD TO PAY A LARGE SUM IN SETTLEMENT MEAN THAT THEY WERE GUILTY?

A6. No. The defendants have not admitted liability. One of the objectionable features of the US system is that most of the costs are not recoverable if the defence succeeds.

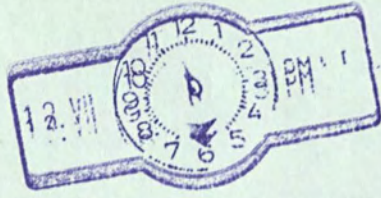
Q7. DO YOU THINK IT RIGHT THAT LAKER SHOULD BE OFFERED \$8M?

A7. It is deplorable that this case should have been brought and that any payments should have to be made. Who should be included in the settlement is for the commercial judgment of the defendants.

Q8. ARE LONRHO PART OF THE SETTLEMENT?

A8. As far as I am aware, Lonrho have no grounds for any legal action.

Aerospace: BA Pt 4



PS/SECRETARY OF STATE

cc:

PS/Mr Spicer Mr Aylīng
Sir Peter Lazarus Mr Oates
Mr Knighton
Mr Clarke
Mr Stevens
Mr Fortnam
Mr Rhodes

LAKER SETTLEMENT

Attached is a copy of BA's press release announcing the settlement of the liquidator's case.

DH

D HOLMES
12 July 1985

SETTLEMENT AGREED WITH LAKER LIQUIDATOR

British Airways announced today that an agreement had been reached with the Laker liquidator involving payments estimated at US\$48 million to the Laker creditors, which brings to an end the litigation brought by the liquidator against 12 defendants including British Airways. (Full list of defendants - see note.)

The settlement has been achieved with the co-operation of the liquidator, the major creditors and the other defendants and involves the 16,000 small creditors of Laker Airways being paid in full. These include 14,000 former Laker ticket holders and employees.

It is the wish of the defendants to see an end to all litigation arising from the collapse of Laker Airways. Therefore, in addition to the US\$48 million settlement with the liquidator an offer has been made to pay US\$8 million to Sir Freddie Laker in return for an acceptable release of all claims. If Sir Freddie Laker declines to accept the US\$8 million the settlement will nonetheless proceed.

The defendants have also offered the law firms of Beckman & Kirstein, and Metzger, Shadyac & Schwarz US\$8 million in full satisfaction of their fees, which they have declined to accept. The offer to the law firms remains open and the parties may ask the courts for assistance in resolving this issue.

Colin Marshall, Chief Executive of British Airways commenting on the settlement said, "Since early this year and in close co-operation with all the other defendants involved in the litigation, we have been exploring the possibility of an out of court settlement which would involve payment of only a small fraction of the total amount claimed. The high legal costs, which are not recoverable under any circumstances, the complexities of the litigation and the considerable time involved in pursuing this action through the courts made us conclude that every effort was necessary to reach a settlement. This is the normal course of action by companies involved in anti-trust actions in the USA where upwards of 90 per cent of cases are settled prior to trial.

m/f

"Settlement bears no admission of guilt. British Airways and the other defendants have denied throughout the Laker litigation and continue to deny that there was any attempt on our part to drive Laker Airways out of business or to breach US anti-trust laws.

"Ending the large degree of uncertainty is in the interests of all parties concerned in the long running saga over the collapse of Laker Airways.

"British Airways continues to explore the possibility of settlement of the class actions for the same reasons as apply in the Laker litigation."

NOTE

Defendants involved in the Laker litigation are:

British Airways
Pan American Airways
Sabena
UTA
TWA
KLM
SAS
British Caledonian
Swissair
Lufthansa

and McDonnell Douglas Corp.
McDonnell Douglas Finance Corp.