



## WASHINGTON AVIATION SUMMARY

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The Kirstein & Young law firm specializes in representing U.S. and foreign airlines, airports, leasing companies, financial institutions and aviation-related companies before U.S. Government agencies, Congress, the courts and in commercial and financing matters.

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## **I. REGULATORY NEWS**

### **1. Industry Coalition Battles Proposed Aviation Fees.**

A coalition of airlines, general aviation, manufacturers, consumer organizations and labor groups is opposing two initiatives in the debt-reduction plan proposed by the White House, one of which would add a new \$100 departure fee to all flights, and another that would double the existing passenger security tax from \$2.50 per enplanement to \$5 per one-way trip in 2012, and triple the tax to \$7.50 by 2017. “Policymakers should focus on increasing U.S. international competitiveness rather than viewing the industry as a collection agency,” said Nicholas Calio, President and CEO of the Air Transport Association (ATA). “If we are to maintain global leadership and increase jobs in this country, we need to ensure that tax policy is focused on strengthening U.S. aviation leadership and furthering the safety and modernization of the aviation system.” Members of the House of Representatives said the \$100 departure fee, which could cost airlines \$1 billion annually, would have a “devastating impact on the aviation industry and fails to achieve our shared goal of improving the economy and creating jobs.”

### **2. DOT Fines Airlines for Rules Violations.**

The U.S. Department of Transportation (DOT) fined Orbitz \$60,000 for violating rules prohibiting deceptive price advertising in early 2011. The online ticket agent failed to provide information on additional taxes and fees on home page ads, and advertised discounted fares that were no longer available. . . . South African Airways was fined \$55,000 and ticket agent Destination Southern Africa \$20,000 for violating price advertising rules. Ads on their websites failed to adequately disclose government taxes and fees, among several violations. Lion World Travel, another ticket agent marketing tours for South African, was fined \$20,000 last year, for violating the full-fare advertising rule. . . . LAN Airlines was fined \$50,000 for failing to provide adequate information on its website about additional taxes or fees for a period of time in 2011. . . . Caribbean Airlines, based in Trinidad and Tobago, received a \$60,000 fine for limiting reimbursements for lost, damaged and delayed baggage. Caribbean’s website said it was not liable for, and would not compensate passengers for, loss of irreplaceable or high-value items such as electronics, jewelry, cameras or cash. Many passengers found these expensive items had been removed from carry-on bags they were required to check after boarding because of cabin space limitations. Caribbean regularly refused to pay claims for damaged baggage and limited payments for buying necessities due to delayed bags, and frequently required passengers to file a

report on missing property before leaving the airport terminal, which unreasonably limited the time they had to discover that items were missing from their baggage.

**3. FAA Proposes Fines.**

The Federal Aviation Administration (FAA) proposed \$1,042,500 in civil penalties against Pinnacle for allegedly operating two non-compliant regional jets on a combined 63 flights. Pinnacle operated 23 flights (April 30-May 4, 2009) on which flight crew members performed procedures that should have been performed by maintenance employees, after FAA inspectors denied an airline request to make the work an operations task instead of a maintenance task; proposed penalty is \$625,000. . . . Pinnacle let 640 operating hours pass between inspections of a crack in the low-pressure turbine case (May 22-August 31, 2010) and the 3.5-inch crack grew to four inches in length; proposed penalty is \$417,500. . . . FAA proposed a civil penalty of \$160,000 against SkyWest for allegedly operating four non-compliant regional jets on four revenue passenger flights on March 3, 2011. SkyWest operated the flights without a load manifest that accurately reflected the weight of cargo and baggage, when total weight of the aircraft was not computed under approved procedures, and when the aircraft were not loaded according to an approved load schedule. SkyWest has paid civil penalties in eight previous cases involving improper weight, balance and loading calculations and documentation. . . . FAA proposed a civil penalty of \$241,200 against Miami-based Streamline Aviation for allegedly failing to complete proper repairs and inspections of steel landing gear parts between February and July 2008.

**4. GAO: Controller Errors, Runway Incursions Increase.**

FAA met goals for reducing runway incursions in 2009 and 2010, but the overall rate at towered airports has trended steadily upward, and close calls involving aircraft or other vehicles at or near airports occur almost daily, reports the Government Accountability Office (GAO). In fiscal year 2004, there were 11 incursions per million operations at towered airports, 18 in fiscal year 2010. The rate and number of airborne operational errors made by air traffic controllers nearly doubled from second quarter fiscal 2008 to same period 2011. FAA has not met related performance goals, said GAO; comprehensive data are not available for some safety incidents, including runway overruns or incidents in ramp areas. Increases can be attributed to changes in reporting policies and procedures at FAA; however, trends may also indicate an increase in actual occurrence of incidents. GAO recommends that FAA extend oversight of terminal area safety to include runway overruns and ramp areas, develop risk-based measures for runway safety incidents, and improve information sharing about incidents.

**5. FAA Proposes AD for Boeing B-757 Inspections.**

FAA proposed an airworthiness directive (AD) that would require repetitive detailed inspections of Boeing 757 horizontal stabilizers for hazardous corrosion that could lead to loss of control of the airplane. The system is similar to one that failed on an Alaska Airlines MD-83 in January 2000, leading to a crash in the Pacific that killed all 88 people aboard. Comments are due by December 9, 2011.

**6. DOT Air Travel Consumer Report for August.**

Based on data filed by the largest U.S. airlines.

	August '11 / '10	July '11	Full Year				
			2010	2009	2008	2007	2006
On-time arrivals %	79.3 / 81.7	77.8	79.8	79.5	76	73.4	75.4
Cancellations %	2.5 / 1.0	1.7	1.76	1.39	1.96	2.16	1.71
Mishandled baggage*	3.44 / 3.42	3.71	3.99	3.91	5.26	7.05	6.73
<i>Consumer complaints:</i>							
Airline service	1,471 / 1,200	1,285	10,985	8,821	10,648	13,180	8,325
Disability-related	47 / 71	56	572	519	477	488	430
Discrimination**	12 / 17	5	143	131	115	99	114

Note: U.S. airlines reported three tarmac delays of more than three hours in August.

\* Reports per 1,000 passengers.

\*\*I.e., race, religion, national origin or sex.

**7. 2Q 2011 Airline Financial Data.**

The largest U.S. network, low-cost and regional airlines reported operating revenue of \$38.6 billion in second quarter 2011, said DOT, and operating expenses of \$36.6 billion. The revenue figure includes \$1.5 billion from baggage (\$887 million) and reservation change (\$612 million) fees. Additional passenger fees are combined with other types of revenue; a proposed rule would require airlines to report 16 additional categories of fee revenue. In related news, global ancillary revenue this year has increased 43.8% over 2010 to \$32.5 billion, according to the Amadeus Worldwide Estimate of Ancillary Revenue for 2011, 38% of which was commanded by U.S. major airlines (\$12.5 billion).

**8. August Employment Rose 2.8%.**

U.S. scheduled passenger airlines employed 388,523 workers in August 2011, reports DOT, 10,688 (2.8%) more than in August 2010. The six network airlines employed 67.7% of the scheduled passenger airline total in August, the seven low-cost carriers employed 17.4% and the 17 regionals employed 13.7%. Network airlines employed 6,941 more than in August 2010, but 5,702 fewer than in August 2007. Low-cost airline employment was up 5.7% from August 2010, the largest year-to-year increase since September 2007. Regional airline employment was up 2.1% over August 2010, but down 12.2% from 2007 for the 16 regionals reporting in both years.

## II. AIRPORTS

### 1. DOT Approves Delta-US Airways Slot Transaction.

DOT approved the Delta-US Airways slot swap proposed for New York LaGuardia and Washington Reagan National. Delta will acquire 132 slot pairs at LaGuardia from US Airways and US Airways will acquire 42 slot pairs at Reagan National from Delta and rights to operate additional daily service to Sao Paulo, Brazil in 2015. Delta also will pay US Airways \$66.5 million in cash. The airlines will divest 16 slot pairs at LaGuardia and eight at National to airlines with limited or no service at those airports. The Justice Department concluded its antitrust investigation of the proposed transfer of slots at LaGuardia without finding any harm, but will continue to determine if competition at National will be harmed by the additional US Airways slots.

### 2. Denver Awarded \$37 Million in Federal Grants.

Denver International was awarded a total of \$37,363,832 in federal grants to be used for airport improvement projects. FAA awarded \$22,194,394 for airfield maintenance, including runway and taxiway rehabilitation. A \$15 million award from the Transportation Security Administration will be used to improve baggage screening. The airport is set to begin its South Terminal project, which includes a rail station, an open-air plaza and a 500-room hotel, scheduled for completion by 2016.

### 3. FAA Awards \$10.6 Million Grant to Orlando.

FAA awarded a \$10.6 million grant to Orlando Sanford International to assist in the purchase of land needed for a runway expansion. Construction is slated to begin in October 2012.

### 4. FAA Grants New Extension for Chicago Midway Privatization.

FAA granted Chicago an extension to March 31 to submit a reasonable and realistic timetable for completing privatization of Midway airport and a copy of a request for interest or qualifications from potential for-profit investors. A failed attempt in 2009 to privatize Midway was attributed to the financial crisis. The city said it will end the effort if the plan does not seem viable by the new deadline.

### 5. Sacramento Opens \$1 Billion Terminal.

Sacramento International opened its \$1 billion Central Terminal B, which replaces a 44-year-old terminal slated for demolition. The new facility includes 19 gates, an elevated people-mover, a nine-acre park, and public art valued at

\$6 million. Construction of a hotel and parking garage has been delayed. Passenger facility charges and parking fees cover half the construction costs; airline fees cover 26%, and the balance comes from federal grants and other fees. The airlines are negotiating lower fees; Southwest, which accounts for 55% of Sacramento flights, paid \$6.05 per passenger in 2008, but would pay \$16.15 next year and \$19.67 by 2013.

**6. BAA to Divest Edinburgh Airport.**

The UK Competition Commission accepted a proposal from airport operator BAA to reverse the order of sales in its decision requiring BAA to sell London Stansted followed by either Edinburgh or Glasgow airport. BAA has decided to sell Edinburgh and “expects to formally approach the market in the New Year with a view to agreeing to a sale by Summer 2012.” BAA has already sold Gatwick.

**7. Spain Delays Airport Privatization.**

The Spanish government delayed plans to privatize operations of Madrid Barajas and Barcelona El Prat. The October 31 bidding deadline was extended to January 31.

**8. Thailand Flooding Closes Airport.**

Severe flooding in Thailand resulted in a shut-down of operations at Don Mueang Airport, which is located in a northern suburb of Bangkok and handles domestic flights. Bangkok Suvarnabhumi “has considerable flood protection measures in place and officials are monitoring the situation closely,” said Airports of Thailand; a dyke was erected along the airport perimeter and there are drainage stations and pumps. Tourism Authority of Thailand estimated a loss of 1 million Thai tourists and 1.1 billion baht in revenue, in addition to the loss of 70,000 foreign travelers and 2.7 billion baht in revenue.

### III. **SECURITY AND DATA PRIVACY**

#### 1. **TSA Initiatives.**

The Transportation Security Administration (TSA) is testing a voluntary pre-screening initiative with a small known traveler population flying domestically from Atlanta, Detroit, Dallas/Fort Worth or Miami airports. PreCheck is meant to expedite the screening process. Eligible participants include selected American and Delta frequent flyers and members of the Customs and Border Protection's Trusted Traveler programs, including Global Entry, SENTRI and NEXUS. TSA is testing other new risk-based screening initiatives, including a program designed to provide positive ID verification for airline pilots and expanded behavior detection techniques. . . . TSA will purchase new technologies to identify altered or fraudulent passenger identification credentials and boarding passes. Credential Authentication Technology–Boarding Pass Scanning Systems eventually will replace current procedures. The \$3.2 million award includes purchase of 30 systems from three vendors. TSA began testing travel document authentication technology at the TSA Systems Integration Facility in July 2011. . . . TSA plans to deploy millimeter wave Advanced Imaging Technology (AIT) to 29 additional airports; the machines include automated target recognition software designed to enhance privacy by eliminating passenger-specific images. Currently, there are nearly 500 AIT units at 78 airports nationwide. President Obama's fiscal 2011 budget included purchase of 500 units, and the 2012 budget requests funding for another 275 units. . . . TSA placed a \$25 million order with Science Applications International Corporation (SAIC) to upgrade 210 Reveal Imaging CT-80 checked baggage screening systems to next-generation CT-80DR.

#### 2. **Gatwick Introduces Iris Recognition Technology.**

Gatwick says its new South Terminal Security area is processing passengers in under five minutes, as 19 color coded security lanes accommodate 5,000 people per hour. The £45 million area includes two dedicated lanes for families with young children and passengers with reduced mobility and two for premium travellers. Large screens display queue times and give instructions in five languages. The first iris recognition system in Europe, from AOptix, has been integrated into 34 automated e-Gates by Human Recognition Systems; data captured includes boarding pass details (including passenger name), passenger photo and iris algorithm results. The new security area is part of a £1.2 billion investment in the airport, said Gatwick CEO Stewart Wingate.

**3. Laser Interference A Growing Menace.**

Laser events in the United States have increased steadily since FAA created a formal pilot reporting system in 2005. Reports rose from nearly 300 in 2005, to 1,527 in 2009, 2,836 in 2010 and 2,795 through October 20 this year. The increase is likely due to availability of inexpensive laser devices on the Internet; increased power levels that enable lasers to reach aircraft at higher altitudes; more pilot reporting; and introduction of green and blue lasers, which are more easily seen than red lasers. FAA imposes a civil fine of up to \$11,000 for interfering with a flight crew and hosts a website where pilots and the public can report laser incidents and obtain information on the subject. . . . Eurocontrol hosted a seminar on laser interference and called for a harmonized, multidisciplinary and pro-active approach to counter the threat. In 2009, there were 1,048 reported incidents in ECAC states and 4,266 in 2010. The UK had 30 instances in 2007 and 1,600 through September 2011. Eurocontrol's Voluntary ATM Incident Reporting had eight reports in 2008 and 500 in 2010. Participants at the seminar agreed that timely and effective in-flight and post-flight procedures for dealing with interference are needed, with training for pilots and air traffic controllers, defined alerting processes to authorities and guidance material for decision-making; advances in nanotechnology filters might prove helpful. At present, only a few European states have regulations on laser interference and judicial measures should be taken further; the European Union (EU) should develop stringent regulation on the production, distribution, purchase, carriage and use of lasers.

## IV. E-COMMERCE AND TECHNOLOGY

### 1. American, United Sign Agreements With Amadeus.

American Airlines reached a medium-term agreement to extend its previous full-content agreement with Amadeus. Amadeus travel agencies will continue to have access to American Airlines fares and inventory with no change from the previous agreement. . . . United and Amadeus reached a new multi-year extension agreement into 2013, which upgrades their existing arrangement. Amadeus travel agents will continue to be able to access and book the complete range of fares, schedules and inventory for both United and Continental. United's Economy Plus seating will become available to U.S.-based Amadeus travel agencies beginning mid-year 2012. . . . In other news from Amadeus, BC Partners and Cinven Group sold their final 6.84% stake in the travel technology firm for €386 million. Other Amadeus' shareholders include Air France-KLM (15.2%), Iberia (7.5%) and Lufthansa (7.6%).

### 2. Travelport Signs Pacts with Aeroflot, China's TravelSky.

Travelport and Aeroflot announced a five-year pact that secures full content from the carrier for Galileo and Worldspan travel agents worldwide. . . . Travelport and Beijing-based TravelSky Technology announced a joint product development agreement focused on advanced Passenger Service Systems technology. Initially, the parties will collaborate on a Master Seat Maps module, "which applies marketing and customer value to the physical seat characteristics of a given aircraft." TravelSky maintains the global distribution system (GDS) for China's travel agencies, processing more than 200 million passengers annually. Customers include 30 domestic and 200 regional and international airlines, 147 domestic airports and 7,000 ticket agents.

### 3. FlightView Launches 'Flight-In-Sight!'

Technology that shows passengers where their plane is located when it is not at the end of the jetway has been launched by FlightView, a provider of real-time flight information. The Flight-In-Sight! gate display can show travelers radar weather affecting flights, departure and arrival times, time remaining, and in-air stats like speed, altitude and aircraft type.

### 4. Farelogix Launches iflybags

Farelogix launched 'iflybags.com,' which provides travelers instant access to current airline checked baggage allowances and fees based on the specific traveler, number and weight of planned checked items, and airline-itinerary specific information. The user enters basic itinerary and bag details into the

website, which calculates allowances and fees. The technology will also evaluate and present best combination of checked bags for multiple travelers on a single itinerary, taking into account traveler frequent flyer status. The site is updated hourly, using data from Airline Tariff Publishing Co.

**5. Mileage-Tracking Sites at Odds With Airlines.**

Carriers including Southwest and American have sent 'cease and desist' letters in the past year to websites that track loyalty programs, reports the *Wall Street Journal*. Airlines cite concerns about security of traveler data, including stored credit card numbers, and repeated queries slowing down their networks. Usingmiles, AwardWallet, MileWise and GoMiles are among sites that help travelers manage miles; some show cash prices for a ticket as well as what a ticket would cost in miles.

## V. **ENERGY AND ENVIRONMENT**

### 1. **Fuel Bill for Global Airline Industry.**

The average price of aviation jet fuel, as of October 21, was \$128.4/barrel, up 2.2% on the month and up 35.3% year-on-year, reports the International Air Transport Association. Fuel price average for 2011 was \$127.5/barrel.

### 2. **EU Advocate General: EU ETS is Legal.**

An adviser to the European Court of Justice (ECJ), Advocate General Juliane Kokott, pronounced the European Union's emissions trading scheme (EU ETS) legal, in advance of a decision on the case brought by Air Transport Association of America, American Airlines and United Continental. The U.S. government maintains strong legal and policy objections to inclusion of flights by non-EU carriers, a DOT official told reporters, and does not see the ECJ process as resolving these objections. Twenty-six nations, including the United States, are filing a formal protest against the ETS, which takes effect on January 1, and the U.S. House of Representatives passed a bill that would prohibit U.S. aircraft operators from participating in the scheme (see Section IV, item 1).

### 3. **San Diego Airport Wins \$2 Million Environmental Grant.**

FAA awarded a \$2 million grant to San Diego International to reduce use of conventional fuels to improve air quality. The grant through FAA's Voluntary Airport Low Emission (VALE) program is part of a major improvement project at the airport called "The Green Build." It will enable the airport to install a landside power unit and pre-conditioned air unit at each of 10 new gates, and seven air units at existing gates, allowing arriving aircraft to shut off auxiliary power units, saving fuel and reducing aircraft emissions on the ground. FAA provided VALE grants for 12 low-emission projects at 11 airports in this fiscal year; 52 low-emission projects at 30 airports have been funded since 2005, a total investment of \$140 million (\$110 million in federal grants and \$30 million in local airport matching funds).

### 4. **Settlement Allows Fort Lauderdale Expansion to Proceed.**

After an 18-year battle, Dania Beach homeowners agreed on a settlement that will allow Fort Lauderdale-Hollywood International expansion plans to move forward. The airport's south runway will be extended and elevated 65 feet above ground level and is scheduled to open in 2014.

**5. Court Bans Frankfurt Night Flights in Noise Dispute.**

As Frankfurt's new 2,800 meter-long fourth runway began operations, the administrative court in Hesse halted all night flights until Germany's supreme court of appeal issues a final ruling in a noise dispute with local residents. Lufthansa Cargo Chairman Karl Ulrich Garnadt said the ban "has forced us to lay on a timetable, which in part is economically and ecologically absurd. We will be operating with unnecessary take-offs and landings, which will lead to more noise, higher fuel consumption and more costs running into millions." Airport operator Fraport called for a "pragmatic" ruling, "urgently and very soon," one that "takes into account the interests of both the noise-blighted region as well as the airlines operating worldwide." Separately, Fraport said Frankfurt traffic will grow from 83 to up to 90 takeoffs and landings per hour with the new runway; total departures will increase by 3.7% year-on-year to 4,535 per week this winter; and total seat capacity will jump by 7.1% to 715,000 seats per week.

**6. Biofuel Initiatives.**

China's first sustainable biofuel flight was conducted by Air China and Boeing. PetroChina, with Honeywell's UOP, sourced and refined the China-grown, jatropha-based biofuel used on the two-hour mainland flight aboard a Boeing 747-400. China National Aviation Fuel blended the biofuel with traditional jet fuel and provided support. China's National Energy Administration (NEA) and Boeing agreed to further study of regional biofuel development, with results to inform a renewable energy agreement between the U.S. Trade and Development Agency and NEA. Air China and Boeing plan a flight between the U.S. and China fueled by sustainable biofuel. . . . Air France flew an Airbus A321 from Toulouse to Paris Orly with fuel that included 50% used cooking oil. The plane flew the shortest available route using a more efficient continuous descent approach, which helped cut in half overall CO2 emissions. . . . Virgin Atlantic partnered with New Zealand-based energy company LanzaTech to develop a low-carbon jet fuel in India. Boeing and Swedish Biofuels are also partners in the project, which will capture, ferment and chemically convert waste gases from industrial steel production using Swedish Biofuels technology.

## **VI. U.S. CONGRESS**

### **1. U.S. House Votes to Halt EU ETS.**

The House of Representatives passed bipartisan legislation that prohibits U.S. aircraft operators from participating in the EU ETS. The European Union Emissions Trading Scheme Prohibition Act of 2011 (H.R. 2594) also instructs U.S. officials to negotiate or take any action necessary to ensure U.S. aviation operators are not penalized by any unilaterally imposed EU scheme. Prior to the vote, a Congressional delegation met with International Civil Aviation Organization (ICAO) leaders, EU representatives and other officials regarding U.S. opposition to the EU ETS. The EU maintained it would enforce ETS, but is open to discuss concerns about implementation. Environmental advocates, including Congressman Edward Markey (D-Mass.), warned that if H.R. 2594 becomes law, Europe could retaliate with opposition to U.S. regulations, such as security rules. The Senate has not proposed companion legislation.

### **2. Mica Foresees Long-Term FAA Bill This Year.**

House Transportation Committee Chairman John Mica (R-Fla.) told reporters he intends to pass a four-year FAA authorization this year. Remaining areas of disagreement between House and Senate versions include cuts in essential air service and changes in National Mediation Board rules that make it easier for unions to organize airline workers. Mica said both houses are ready to settle on funding.

### **3. DHS Authorization Bills Passed in House, Senate Committees.**

The House Homeland Security Committee passed a fiscal year 2012 authorization bill (H.R. 3116) for the Department of Homeland Security (DHS). The bill creates an Acquisition Review Board to centralize departmental oversight of all acquisitions to eradicate wasteful spending, and requires DHS to independently verify integrity of major acquisitions and notify Congress of any major acquisition, among other provisions. Committee Chairman Peter King (R-NY) applauded passage of the bill, the first since DHS was created in 2003, but Ranking Member Bennie Thompson (D-Miss.) called it an authorization bill in name only because it lacks a top-line funding level. With approval of this bill, we have abdicated our responsibility to the Appropriations Committee, which already passed a bill this spring that slashed the DHS budget, said Thompson. . . . The Senate Homeland Security and Governmental Affairs Committee passed a companion authorization bill (S. 1546) in September, which would also streamline acquisitions. Among other provisions, S. 1546 would require continued implementation of an electronic

system to notify airlines when a traveler's visa to enter the U.S. is cancelled and another to allow DHS officials to review visa applications remotely; it will also establish an Office of International Travel Security and Screening to manage U.S. Visit, the visa waiver program, and the Screening Coordination Office. The Senate bill would cut 5% in overhead costs by consolidating DHS offices in the same geographic area; eliminate duplicative programs; and consolidate DHS Washington headquarters at St. Elizabeth's by 2018. The full House and Senate must take up respective bills and reconcile them in conference.

**4. NextGen Hearing: Delays Threaten Costs and Benefits.**

The House Aviation Subcommittee held a hearing on Costs, Benefits, Progress and Management of the Next Generation Air Transportation System (NextGen). A report from the Government Accountability Office (GAO) stated that FAA has improved efforts to implement NextGen; demonstrated measurable benefits for system users, such as fuel savings; and progressed in streamlining processes and developing new flight procedures, with a focus on key metropolitan areas. Several acquisitions are on time and on budget, but others delayed, with an impact on timelines of dependent systems, resulting in increased costs and reduced benefits. Going forward, reported GAO, FAA must focus on delivering systems and capabilities in a timely fashion, continue to monitor how delays will affect international harmonization issues, focus on human factors issues, streamline environmental approvals, mitigate environmental impacts, and focus on improving management and governance. Tom Hendricks, a senior Air Transport Association official, in his testimony said airline priorities are to accelerate the development and approval process of performance-based navigation (PBN) procedures; streamline the National Environmental Policy Act (NEPA) review process to expedite development and implementation of PBN and other environmentally beneficial NextGen procedures; and develop metrics to gauge actual performance of NextGen.

## **VII. BILATERAL AND STATE DEPARTMENT NEWS**

### **1. U.S. Links Mahan Air to Support for Terrorism.**

The Treasury Department imposed sanctions on Tehran-based Mahan Air for providing financial, material and technological support to Iran's Islamic Revolutionary Guard and its Quds Force unit, following an attempt to assassinate Saudi Arabia's Ambassador to the United States. U.S. persons are prohibited from engaging in commercial or financial transactions with Mahan, and assets it holds under U.S. jurisdiction are frozen. Mahan Air denied the allegations and said it is a fully private company belonging to Kerman-based Mol-Al-Movahedin Charity Institute; does not belong to any governmental or military bodies or any political party or individuals; and will seek support of a competent international body to defend its reputation.

### **2. Free Trade Agreements Signed Into Law.**

President Obama signed U.S. trade agreements with Korea, Colombia and Panama. The pact with Colombia eliminates certain user fee exemptions previously applied to arriving passengers whose journey originated in Canada, Mexico or any adjacent Caribbean island. Travelers from Canada and Mexico to the U.S. will pay an additional \$5.50 for airline tickets, which legislators say will offset revenue lost from lifting tariffs on Colombian goods. Air Canada said "initiatives should be undertaken to encourage economic growth, not burden consumers with additional costs [and] there is no indication that the monies raised from these additional fees will be used where they are sorely needed—to make the necessary investments in U.S. Customs and Border Protection pre-clearance resources at Canadian airports in order to better meet demand for U.S.-bound travelers."

### **3. EU–Russia Aviation Summit.**

Opening a Euro-Russia Aviation Summit, Tony Tyler, IATA Director General and CEO, urged officials to emphasize "key industry priorities of safety, security, environment and a level commercial playing field." ACI Europe criticized lack of progress in normalizing EU-Russia aviation relations and Russia's failure to "eliminate abusive unilateral taxes levied on foreign airlines for Siberian over-flights." Olivier Jankovec, Director General ACI Europe, said an example of Russian "red tape and unnecessary restrictions" is imposition of border control measures at airports for foreign aircraft crews, a "breach of well-established ICAO standards."

## VIII. EUROPE AND AFRICA

### 1. Spinetta, Van Wijk to Head Air France-KLM; Gourgeon Gone.

Air France-KLM postponed plans to reorganize into a holding company, from early next year until 2013, and obtained the resignation of CEO Pierre-Henri Gourgeon. The architects of the Franco-Dutch merger, Jean-Cyril Spinetta and Leo Van Wijk, were named Chairman/CEO and Deputy CEO, respectively. Alexandre de Juniac was named Air France Chairman/CEO. "Surrounded by an experienced and younger team," Juniac will submit measures to improve Air France performance to the Air France and Air France-KLM boards, and will be responsible for their follow-up, said the company, which aims to improve operating and financial performance amid "economic uncertainties affecting the European air traffic, as well as the position of Air France in respect of increased competition from new entrants."

### 2. OpenSkies Suspends Washington Service.

British Airways' all-business class OpenSkies suspended Washington Dulles-Paris Orly service, but continues to operate from New York Newark to Orly.

### 3. New EU Consumer Rights Rules to Enter Into Force.

The EU Council of Ministers adopted the EU Consumer Rights Directive. Governments have two years to implement rules, which eliminate hidden charges and costs on the Internet, increase price transparency, ban pre-ticked boxes on websites, allow 14 days to withdraw from bookings and eliminate surcharges on credit card use. The directive establishes "a single set of core rules for distance contracts (sales by phone, post or internet) and off-premises contracts (sales away from a company's premises, such as in the street or the doorstep) in the European Union, creating a level playing field and reducing transaction costs for cross-border traders, especially for sales by Internet."

### 4. Low-Cost Iberia Express to Launch Next Summer.

International Consolidated Airlines Group (IAG) approved the launch of Iberia Express, which will operate as part of Iberia's short- and medium-haul network. The low-fare unit will begin service next summer from Madrid, with an initial fleet of four Airbus A320s, and 13 aircraft by the end of 2012 sourced from Iberia's existing fleet. Iberia Express will recruit new staff at market rates and have improved aircraft utilization, said the company; creation of the unit will not change terms and conditions for existing employees nor modify relationships with Vueling and Air Nostrum. Iberia's pilot union, Sepla, said the

decision to form Iberia Express violates agreements made before the merger of Iberia and British Airways and threatened a strike.

**5. Martin Gauss to Head AirBaltic.**

Martin Gauss was named Chairman/CEO of AirBaltic, replacing Bertolt Flick. Gauss most recently was a Malev CEO and earlier was Managing Director of Deutsche BA, where he began his career as a pilot. Prime Minister Valdis Dombrovskis told Dow Jones that Latvia intends to make the airline profitable within two years, before listing it on a stock exchange or selling it to an investor. The government and Baltic Aviation Systems (BAS) co-own AirBaltic; Flick has ownership in BAS. In return for Flick's resignation and other conditions, the state agreed to inject \$40 million into the struggling company. The International Monetary Fund expressed concerns about Latvia's plans to use public money to rescue the airline and its strategy.

## **IX. ASIA/PACIFIC AND MIDDLE EAST**

### **1. Qantas Halts, Resumes Operations.**

Fed up with industrial actions that were costing the airline A\$15 million per week in lost revenue, with 70,000 passengers affected and 600 flights cancelled since September, Qantas abruptly grounded its fleet on October 29 and intended to lock out pilots, licensed engineers and baggage, ground and catering staff as of October 31. However, the government intervened to end the strikes and Qantas began working to get its fleet back into the air. "The industrial process has now passed into the hands of the independent umpire," said Qantas CEO Alan Joyce. "All parties will be treated equally and we will respect the decisions that are made." Among their demands, unions want increased compensation and oppose Qantas plans to cut 1,000 jobs and long-haul flights; they reject management's intention to establish Asia-based airlines for international flying.

### **2. Asia Pacific Traffic Up 5.4% in September.**

Asia Pacific-based airlines flew 16 million international passengers in September, up 5.4% over same month last year, reports Association of Asia Pacific Airlines, "underpinned by business and leisure demand on Asian routes." With available seat capacity expanding by 6.8%, average load factor fell 1.1% to 77.3%. International air cargo demand declined 6.5%. For first three quarters, the region's airlines saw a 3.7% increase in the number of international passengers, while international air cargo demand fell by 4.1%.

### **3. Singapore - Virgin Australia Alliance Wins Approvals.**

The proposed Singapore Airlines-Virgin Australia alliance was approved by the Competition Commission of Singapore (CCS), while the Australian Competition and Consumer Commission (ACCC) announced draft approval; ACCC is seeking further submissions before making its final decision. Under the alliance, the airlines will cooperate on all aspects of their Australia-Singapore services and international and domestic connecting routes, including joint pricing and scheduling and joint marketing and sales.

### **4. Virgin Australia-Hawaiian Code Share Begins.**

Under a new agreement, Virgin Australia's international airline, V Australia, began code sharing on Hawaiian Airlines flights between Sydney and Honolulu and beyond on connecting services to Maui, Kauai and Hawaii. Hawaiian operates five weekly flights from Australia and will increase to year-round daily in December. . . . In other news, Brisbane-based Strategic Airlines

announced discounted fares for Airbus A330 flights from Brisbane and Melbourne to Honolulu, to begin in December. Launched in 2009, Strategic provides scheduled, contract and ad hoc charter services, aircraft brokering, and logistics and cargo handling.

5. **India Expects to Rank Among Top Five Aviation Nations.**

The Indian aviation sector is set to rank among the top five in the world, rising from a current ninth, said President Pratibha Patil, in opening remarks at the International Civil Aviation Negotiation Conference (ICAN) in Mumbai. Annual passenger traffic over the next 10 years could reach 180 million domestically and 80 million internationally. In the next five years, airport expansion will provide connectivity to tier II and III cities, said Mrs. Patil; \$10 billion has been invested in airports since 2005 in public-private partnerships. Some 300 delegates from 65 countries attended the ICAN conference.

6. **First Routes Approved for Japan's Peach.**

Peach Aviation obtained approval from Japan's Transport Ministry to operate domestic flights to congested airports from March 1 to March 24. The Kansai-based low-cost carrier will offer three daily Osaka Kansai-Sapporo and four daily Osaka Kansai-Fukuoka roundtrips.

7. **HNA, Bravia Capital Complete Acquisition of MyCargo.**

Hong Kong-based Bravia Capital and HNA Group of China completed their acquisition of Istanbul-based ACT Airlines, which has been operating long-term air cargo contracts for DHL and Lufthansa, among others. ACT will be rebranded and trade as MyCargo Airlines, and will be part of HNA's Grand China Logistics Group. Bravia and HNA financed and delivered two Boeing 747-400 freighters to MyCargo and will source and deliver up to 10 Airbus A300-600s and three additional 747-400s over the next two years.

## **X. AMERICAS**

### **1. Delta Expands Economy Comfort Brand.**

Delta's premium economy cabin product launched on long-haul international flights earlier this year will be installed on the entire mainline fleet of 550 aircraft and 250 two-class regional jets by summer 2012. Seat-pitch of at least 34 inches compared to standard seat pitch of 31 inches. Economy Comfort customers also receive priority boarding. Delta is investing \$2 billion through 2013 in airport facilities and products, services and technology.

### **2. American Reduces Winter Capacity.**

American Airlines reached a tentative agreement with fleet and ground service employees, with increased compensation and additional holidays, sick time and vacation. The four-year pact "better aligns American's work rules with all other airlines through outsourcing daytime cabin cleaning and fueling work," said the carrier; employees currently performing these jobs will be reassigned to other duties. American will reduce fourth quarter mainline capacity by 3% year-over-year, but said advance bookings are in line with last year. American will retire up to 11 Boeing 757s in 2012; new deliveries start in 2013. In July, American ordered 460 Airbus A320s and Boeing 737s, the largest aircraft order in history, backed by \$13 billion in manufacturer-committed financing. In other news, American continued bargaining with Allied Pilots Association (APA), which denied rumors that senior pilots are bailing out due to inside information about the airline's financial state. "Our advisers have in fact indicated that the airline does not face any immediate liquidity crisis and possesses respectable cash reserves," said APA. And, American Eagle and Air Line Pilots Association (ALPA) reached a tentative agreement on an eight-year contract, which, said ALPA, will provide greater job security when American divests the regional.

### **3. Southwest Forecasts \$1 Billion Atlanta Revenue.**

Southwest announced 15 daily nonstops to five destinations in February from Atlanta, where it expects to add up to \$1 billion in annual revenue as it optimizes AirTran flight schedules. CEO Gary Kelly said daily departures will fall 13% to 175 as smaller markets are cut, but a focus on larger cities and point-to-point schedule will result in greater profits. Southwest acquired AirTran in May and a single operating certificate is expected in 2012.

**4. Virgin America Growth Planned.**

Virgin America opened a \$1 million crew training facility at its San Francisco headquarters. Sir Richard Branson, who attended the event, said he visualizes the airline will hire about 500 people annually over the next three to five years, as the 42-aircraft fleet grows to 100. Launched in 2007, the carrier serves 14 destinations and will add Puerto Vallarta and Palm Springs in December.

**5. Alaska Debuts Benefits for State Residents.**

Alaska Airlines initiated Club 49, a program exclusively for Alaska residents, which offers two free checked bags, as of November 1, last-minute discounts and weekly sales. Alaska Air Group reported record adjusted third quarter net income of \$131.1 million, "driven by a record quarterly load factor of 86.5%, higher yields and record on-time performance of over 91%," said Chairman and CEO Bill Ayer.

**6. ASA, ExpressJet to Be Called 'ExpressJet.'**

A merged Atlantic Southeast (ASA) and ExpressJet will be called 'ExpressJet,' rather than the previously announced 'SureJet.' ExpressJet was acquired by ASA parent SkyWest last November, and the merger should be completed by year end, along with single operating certificate status. The combined airline's headquarters are in Atlanta. The new ExpressJet will operate 2,400 daily flights with an all-jet fleet of 400 aircraft. Together, ASA and ExpressJet fly to 190 airports in the U.S., the Caribbean, Canada and Mexico. ASA operates as Delta Connection and United Express, and ExpressJet operates as Continental Express and United Express.

**7. FedEx Seasonal Hiring to Rise 18%.**

FedEx plans to hire 20,000 seasonal workers, 18% more than last year, as holiday shipments increase 12% to more than 260 million.

**8. Air Canada, Flight Attendants Agree to Arbitration.**

Air Canada flight attendants agreed to binding arbitration after Canada's labor minister referred the dispute to the Canada Industrial Relations Board, heading off an imminent strike. Arbitration is underway. Earlier, Air Canada filed an unfair labor practice complaint, accusing Canadian Union of Public Employees of bad faith bargaining, and was seeking an order awarding unspecified damages to compensate for losses incurred as a result of union actions. The airline requested a federal conciliator to facilitate talks with pilots, after a failed first attempt at a negotiated settlement.

9. **LAN-TAM Merger Update.**

Brazil's TAM and Chile's LAN are appealing a Chilean antitrust court decision, which approved their proposed merger with contingencies; TAM says some of those conditions are illegal and unconstitutional. Earlier, Chile's Constitutional Court threw out a request by Chile's PAL Airlines to declare the merger unconstitutional; PAL has agreed to drop an appeal, in return for which LAN will pay PAL's legal costs. "We are very pleased with the integration process between both companies," said Enrique Cueto, LAN's CEO, "and we expect to complete the process of creating LATAM Airlines Group by end of first quarter 2012, after obtaining all necessary approvals."

10. **OpenSkies Suspends Washington Service.**

See Section VIII, item 2.

11. **Virgin Australia-Hawaiian Code Share Begins.**

See Section IX, item 4.