



## 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. FAA Ends Employee Furloughs, Keeps Contract Towers Open.

The Federal Aviation Administration (FAA) transferred funds to end employee furloughs and keep the 149 low activity contract towers originally slated for closure in June open for the remainder of fiscal year 2013, following enactment of the Reducing Flight Delays Act of 2013 (H.R. 1765). The reductions had been planned to help meet federal sequester demands. FAA also will allocate \$10 million toward reducing cuts and delays in core NextGen programs and \$11 million to partially restore support of infrastructure in the national airspace system. H.R. 1765, signed by the President on May 1, authorizes the Secretary of Transportation to transfer for FY2013 to any FAA appropriations accounts (such as air traffic control operations) funds otherwise made available for discretionary grants-in-aid under the airport improvement or other FAA program. The legislation makes any transferred amount available immediately for obligation and expenditure as directly appropriated budget authority, and prohibits such transfer of funds unless the Secretary notifies Congress at least five days in advance. . . . The furlough of air traffic controllers between April 21 and 28 caused delays for large numbers of flights, said Airlines for America and Regional Airline Association in a petition to the Department of Transportation (DOT) requesting that April delays be excluded from airline arrival performance accounting.

### 2. Qatar Withdraws Offer to Serve as ICAO Permanent Seat.

The State of Qatar withdrew its offer to become the new permanent seat of the International Civil Aviation Organization (ICAO), when the current Montreal lease expires in 1916. ICAO has been headquartered in Montreal since 1946 and has now extended that lease to 2036.

### 3. United-Lufthansa-Air Canada JV Wins EU Antitrust Approval.

The European Commission (EC) accepted concessions from Star members United, Lufthansa and Air Canada to address concerns that their cooperation under a revenue-sharing joint venture may be in breach of EU antitrust rules and harm premium passengers on the Frankfurt-New York route. The airlines will make slots available at Frankfurt and/or New York airports. They also will enter into agreements allowing competitors to offer tickets on their flights (reducing competitors' frequency disadvantage) and get better access to their connecting traffic. The commitments are legally binding for 10 years.

**4. DOT Fines Southwest, Air China.**

DOT assessed a civil penalty of \$150,000 against Southwest for failing to respond in a timely manner to a large number of disability-related and other consumer complaints received from June 2011 through January 2012 because of a problem with its website. The responses also failed to contain information specifically required by DOT rules. . . . DOT gave Southwest a credit of \$45,000 against the penalty for refunds made to passengers affected by website problems. Air China was fined \$90,000 for failing to announce every 30 minutes to passengers on an aircraft delayed at New York Kennedy that they could leave the plane. . . . DOT fined ticket agent JTB USA \$60,000 for violating the code sharing disclosure rule.

**5. U.S. Imposes Sanctions on Syrian Arab Airlines.**

The U.S. Department of the Treasury imposed sanctions on government-owned Syrian Arab Airlines, which it says transports weapons and ammunition to Syria on behalf of Iran's Islamic Revolutionary Guard Corps-Qods Force. "Hizballah, Iran's terrorist proxy, helped facilitate the flights. The weapons have been sent to Syria to support the Syrian regime's violent crackdown against its own people," said officials. "U.S. persons are generally prohibited from engaging in any transactions with the [airline], and any assets of [the airline] subject to U.S. jurisdiction are frozen."

**6. Audit: FAA Risk-Based Oversight of Repair Stations Lacking.**

A final report from the DOT Inspector General on FAA risk-based oversight of aircraft repair stations finds that "less than half of inspection elements are evaluated based on risk, and foreign repair stations are not inspected using a risk-based system. In addition, FAA's oversight of foreign and domestic repair stations lacks effective, standardized processes for identifying deficiencies and verifying that they have been addressed." Numerous systemic discrepancies were found at repair stations visited during the review. FAA is responsible for overseeing 4,800 repair stations used worldwide by U.S. air carriers and plans to implement a new oversight system—the Safety Assurance System—in fiscal year 2015.

**7. Supreme Court Rejects United's Appeal on ADA.**

The U.S. Supreme Court declined to hear an appeal by United that sought to limit the Americans with Disabilities Act (ADA). A federal appeals court had concluded that an employer generally must offer an open position to a newly disabled worker even if a more-qualified applicant applies for the job. United, backed by the U.S. Chamber of Commerce and other business groups, said the appeals court ruling disregards the unassailable prerogative of employers to select only the best qualified candidates for job vacancies. As a result of the

Supreme Court refusal to hear the appeal, the 2009 Equal Employment Opportunity Commission lawsuit against United, which charges that United violates the ADA with its procedures for accommodating disabled employees, can now move ahead.

**8. March Airline Employment Down 2.7%.**

U.S. scheduled passenger airlines employed 380,325 workers in March, DOT reported, 10,436 or 2.7% fewer than in March 2012. Employment at the five network airlines was down 3.3%. The five network airlines employed 67% of the total, the six low-cost carriers employed 18.4% and the 14 regional carriers 13.2%. The most workers were employed by United (82,835) among the network airlines, Southwest (45,791) among low-cost airlines and American Eagle (11,244) among regional airlines.

**DOT Air Travel Consumer Report for March.**

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

	March '13/'12	Feb. '13	Full Year				
			2012	2011	2010	2009	2008
On-time arrivals %	79.8 / 82.2	79.6	81.85	79.6	79.8	79.5	76
Cancellations %	1.6 / 1.0	2.4	1.29	1.91	1.76	1.39	1.96
Mishandled baggage*	3.05 / 3.09	3	3.09	3.35	3.51	3.91	5.26
Consumer complaints:							
Airline service	943 / 1,117	899	15,335	11,546	10,988	8,821	10,648
Disability-related	42 / 48	38	743	628	572	519	477
Discrimination**	7 / 4	5	99	128	143	131	115

Note: Airlines reported no tarmac delays of more than three hours on domestic flights, but one tarmac delay of more than four hours on an international flight in March.

\* Reports per 1,000 passengers.

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

**9. Boeing 787 Service Resumes.**

B-787 service resumed as Boeing and the eight operators of all 50 Dreamliners in operation completed retrofits and testing of a redesigned lithium-ion battery system. The worldwide Dreamliner fleet was grounded in mid-January, after battery malfunctions on a Japan Airlines (JAL) 787 at Boston Logan and a smoking battery on an All Nippon (ANA) 787 in the air. FAA approved the new design in April. Ethiopian, with four 787s, was the first

airline to put the Dreamliner back in service. United, the only U.S. 787 operator, re-launched domestic flights from Houston Intercontinental, will begin Denver-Tokyo on June 10 and inaugurate 787 service on existing routes this summer, including Houston-London, Los Angeles-Tokyo, Los Angeles-Shanghai and Houston-Lagos. United expects to take delivery of two more Dreamliners this year. ANA modified all 17 of its 787s and, during one of 170 test flights, reported an electrical panel fault caused by a loose nut. The panel was not part of the battery system and ANA said safety was not compromised. ANA was operating five non-scheduled, domestic flights in advance of resumption of scheduled services from June 1 and has taken delivery of its 18<sup>th</sup> Dreamliner. Air India's six Dreamliners are back in service, with 27 on order. Qatar Airways resumed Dreamliner service to London Heathrow and Dubai and was phasing in Munich, Frankfurt and Zurich. Polish LOT took delivery of its third 787, with two more due this summer, and planned to resume service on June 5. LOT is the only European airline to fly the Dreamliner. Civil Aviation Administration of China issued a certification for the 787; China Southern and Hainan are among four Chinese airlines with 41 Dreamliners on order. Boeing rolled out the first 787 to be built at the increased production rate of seven airplanes per month and plans a 10 per month rate by yearend. The program has 800 unfilled orders with 58 customers worldwide. . . . The cause of the battery failures is still unknown and may never be known, say experts, because the evidence in the JAL and ANA incidents was destroyed by heat. Air Line Pilots' Association of Japan urged Boeing to disclose more information on its solution to the battery problems, saying 787 safety should be examined more carefully. Also challenging Dreamliner safety, FlyersRights.org and the Aviation Consumer Action Project petitioned FAA and DOT for a two-hour limit from the nearest airport. In a letter to Congressional leaders of air safety oversight committees, FlyersRights.org requested hearings on the regulatory decision-making by FAA regarding the Boeing 787 Dreamliner battery "and more broadly the FAA's delegation of nearly all its safety regulatory authority to the airline industry."

## **II. AIRPORTS**

### **1. Phase One of Delta's \$1.4 Billion Terminal 4 at Kennedy Opens.**

The first phase of Delta's Terminal 4 expansion at New York Kennedy has opened. Part of a \$1.4 billion program, the 346,000-square-foot expansion brings Concourse B to two million square feet and includes nine new and seven renovated international gates, centralized security checkpoint, in-line baggage system and a 24,000-square-foot Delta Sky Club with outdoor terrace. Completion of phase two, to include another 11 gates, is expected in summer 2015. Delta partner Virgin Atlantic also operates from Terminal 4.

### **2. Southwest Awarded Slots for DCA-Houston.**

DOT awarded Southwest two slot exemptions to operate a new daily non-stop roundtrip to Houston Hobby from Washington Reagan National (DCA); Southwest initially will operate one daily roundtrip from August 4. The slots became available when Spirit moved its Washington-area service to Baltimore/Washington. Also applying for the DCA exemptions were US Airways (Oklahoma City) and JetBlue (Jacksonville). Southwest currently operates 153 daily departures from Hobby, where it is constructing a five-gate facility to accommodate near-international service scheduled to begin in 2015.

### **3. \$4.8 Billion Approved for LAX Modernization.**

Los Angeles City Council approved \$4.76 billion in additional improvements for the ongoing Los Angeles International (LAX) modernization, including a controversial plan to separate two runways, moving one closer to homes. Opponents say the change will increase air pollution, noise and traffic in nearby Westchester and Playa del Rey and lawsuits are expected. The Council ordered a study of regionalizing airline flights; i.e., spreading LAX air traffic growth to other airports in the area, such as Ontario; an effort is underway to remove control of Ontario from Los Angeles. . . . In related news, Los Angeles Board of Airport Commissioners approved an incentive program, including waivers for rental, terminal and landing fees and a cooperative marketing program, to attract airlines to Ontario. And, a newly formed consortium representing air carriers will provide custodial services at Ontario and operate and maintain mechanical systems including passenger boarding bridges, inbound/outbound baggage conveyor systems, and related checked-baggage inspection systems.

4. **\$4.1 Billion Plan Announced for SFO.**

A ten-year \$4.1 billion capital improvement plan announced for San Francisco International Airport (SFO) includes renovations of Terminals 1 and 3 and an on-site 400-room luxury hotel. Improvements are subject to environmental approval.

5. **Little Rock Renamed Bill and Hillary Clinton National.**

Little Rock National is now Bill and Hillary Clinton National Airport, renamed in honor of former President Bill Clinton, an Arkansas native and former governor, and former First Lady and Secretary of State Hillary Rodham Clinton. Mrs. Clinton served as the Airport Commission's Attorney during the 1980s. The airport has completed a \$67 million first phase of an improvement project, which is part of a plan to become an international facility.

6. **MWAA Awards Contract for Phase 2 of Metro Line to Dulles.**

Metropolitan Washington Airports Authority (MWAA) awarded the contract for the largest design-build portion of Phase 2 of the Metrorail to Dulles International to Capital Rail Constructors. The 11.4-mile segment of the Silver Line will include six stations and run from Reston, Va., through the airport and into Ashburn in eastern Loudoun County, Va. The Silver Line will be operated by Washington Metropolitan Area Transit Authority upon completion. Phase 1, which extends the Metro system to Reston, is more than 90% complete; completion of Phase 2 is expected in 2018. MWAA operates Washington Reagan National and Dulles and the Dulles Airport Access Road and Dulles Toll Road and manages construction of the 23-mile Silver Line project.

7. **Hochtief Sells Airports Division to Canada's PSP Investments.**

German construction company Hochtief agreed to sell its airports division to Public Sector Pension Investment Board of Canada (PSP Investments) for €1.1 billion. The transaction is retroactive to January 1, 2013, with close expected in second half 2013. Hochtief AirPort has stakes in airports in Athens, Budapest, Dusseldorf, Hamburg, Sydney and Tirana.

8. **TAV to Build Terminal at Riyadh.**

Turkey's TAV Construction won a \$400 million design and construction tender for Terminal 5 at Riyadh King Khaled Airport in Saudi Arabia. Construction is expected to be completed within 18 months. Riyadh is among Saudi Arabian airports slated for privatization. TAV is also building Jeddah Airport aircraft maintenance hangars and Medinah International Airport projects, including a 100,000 square meter passenger terminal.

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

#### **1. TSA Evaluating Change in Carry-On Policy.**

Despite legislative action and wide opposition, the Transportation Security Administration (TSA) still may proceed with changing its carry-on policy to allow small knives. The changes were to take effect at the end of April, but implementation has been delayed as TSA gathers “input from key stakeholders.” In a speech at the Airports Security International Conference and Exhibition in Jeddah, TSA Administrator John Pistole reiterated that ICAO in 2010 changed security standards to permit knives with a blade length of up to six centimeters to be carried in the cabin of aircraft. With hardened cockpit doors, better passenger identification, and demonstrated passenger willingness to assist flight crew during a security incident, many security experts believe that “a small pocket knife is simply not going to result in the catastrophic failure of an aircraft. An undetected and successfully detonated improvised explosive device will.” One of TSA’s greatest concerns, said Pistole, is “the unknown radicalized individual who has somehow acquired the skill and ability to build an improvised explosive device and tries to bring it onboard an aircraft, whether in checked or carry-on baggage . . . our focus at the checkpoint must be detecting improvised explosive devices and the components that could be used to construct IEDs.” The two-day conference was organized by Saudi Arabia’s General Authority of Civil Aviation.

#### **2. TSA Expands Pre-Check to International Flights.**

TSA PreCheck is now available for participants flying internationally from U.S. airports and for their connecting domestic flights when they arrive in the U.S. on an international flight. The PreCheck program now has screened more than 10 million travelers, said TSA.

#### **3. Automated Passport Control for Vancouver-U.S. Travelers.**

An expedited customs entry process for passengers traveling from Vancouver International to the U.S. has been developed by Vancouver Airport Authority, in cooperation with U.S. Customs and Border Protection (CBP). With the Automated Passport Control program, instead of filling out a declaration card and taking travel documents to a CBP officer, passengers use a self-service kiosk in the CBP preclearance area to scan their U.S. passport and answer customs declaration questions using the touch screen, then proceed to a CBP officer to finalize processing. The kiosk allows up to four people residing at same address to be processed together. The program does not require pre-registration. Chicago O’Hare will be the first U.S. airport to implement the

program, with 32 kiosks planned for installation by July 1. Vancouver Airport Authority worked with Canada Border Services Agency to create Automated Border Clearance for travelers returning to Canada.

**4. Opposition to Abu Dhabi Preclearance Center Grows.**

A bipartisan group of 11 U.S. Senators asked Janet Napolitano, Secretary of the Department of Homeland Security (DHS), to explain an April decision to establish a preclearance facility at Abu Dhabi International Airport. No U.S. airlines fly to Abu Dhabi and only one state-owned Middle Eastern carrier serves the U.S. from Abu Dhabi. A similar letter was sent by 150 bipartisan House members. “Reducing wait times at U.S. airports should be a top priority of DHS and CBP—not using U.S. tax dollars to benefit a foreign government, particularly when wait times at U.S. points of entry continue to be excessive,” said Airlines for America President and CEO Nicholas Calio. A4A and other industry groups have urged DHS to drop the plan. In related news, an amendment agreed to by the House Committee on Homeland Security during consideration of the Border Security Results Act of 2013 would require DHS to review and report on the safety and competitive impacts of reimbursement agreements with foreign governments for CBP preclearance facilities.

**5. Clear to Expand to San Antonio.**

Clear will open at San Antonio International this summer. The biometric clearance program, which allows members to use their fingerprint or iris to identify themselves at security, currently operates at San Francisco, Denver, Dallas-Fort Worth, Orlando and New York Westchester County airports.

## **IV. E-COMMERCE AND TECHNOLOGY**

### **1. American, Amadeus Sign New Distribution Agreement.**

Amadeus and American signed a new long-term global distribution agreement that enables Amadeus subscribers to continue to access and book the full range of American-marketed flights. An end-to-end XML connectivity will be developed to facilitate expanded ancillary product distribution, real-time personalized offers, and improved merchandising, including the ability to book premium seating.

### **2. United, Sabre Sign New Distribution Agreement.**

United and Sabre signed a new, long-term, full content agreement; United's material ancillary products and services, including premium seats, will be made available in the Sabre global distribution system.

### **3. Gogo Wins FCC License to Operate 1,000 Ku-Band Satellite Aircraft.**

The Federal Communications Commission (FCC) granted Gogo a blanket license to operate up to 1,000 Ku-band satellite aircraft, enabling the company to expand its broadband offering to aircraft on transatlantic routes. Under an agreement with Intelsat, Gogo can provide high-speed connectivity for airline passengers crossing portions of the Atlantic and northern Pacific, as well as routes over South America, Asia, Africa and Australia. Gogo also has an agreement with Inmarsat to offer airlines a global Ka-band satellite solution via Inmarsat's Global Xpress service when it becomes available in 2015. Gogo inflight connectivity partners include American, Air Canada, AirTran, Alaska, Delta, Frontier, United, US Airways and Virgin America. Inflight entertainment partners include American, Delta, Scoot and US Airways.

### **4. FCC Proposes Expanded Air-Ground Service.**

FCC issued a Notice of Proposed Rulemaking to establish an air-ground mobile broadband service by which passengers can connect to a full range of communications services while flying over contiguous United States. The service would operate in the 14.0-14.5 GHz band, on a secondary, non-interference basis with fixed-satellite service earth-to-space communications. The proposal is based largely on a request from Qualcomm, which said its service "would significantly increase the amount of spectrum available for the provision of wireless broadband to airborne aircraft, helping to meet rising demand." The number of aircraft offering broadband service will rise from 3,000 in 2012 to 15,000 by 2021, said FCC.

**5. Study Measures Inflight PED Use.**

As FAA reviews its policies for inflight portable electronic device (PED) use, a joint study that gauges consumer usage and awareness was released by the Airline Passenger Experience Association (APEX) and the Consumer Electronics Association (CEA). Of the findings, 99% of adult airline passengers who travel with a PED carried at least one onboard in the past 12 months, and 69% used them; 30% of passengers report they accidentally left a PED turned on during a flight; 59% turn devices completely off when asked to do so; 21% switch to airplane mode; and 5% sometimes turn them completely off. Of passengers who left their PED on, 61% said the device was a smartphone. Four in 10 would like to use devices during all phases of flight, including take-off and landing. The most commonly used PEDs during flights are smartphones (28%), laptops (25%), tablets (23%), digital audio or MP3 players (23%) and e-Readers (13%). An Aviation Rulemaking Committee is preparing to make recommendations to FAA by July on expansion of inflight passenger PED use.

**6. SkyTeam Global Meetings Product Enhanced.**

An online self-booking tool has been added to SkyTeam's Global Meetings product, enabling delegates to book discounted travel on member airlines through a dedicated portal on SkyTeam.com. The event must have 50 or more attendees traveling by air from a minimum of two countries, other than the country in which the event is taking place.

## V. ENERGY AND ENVIRONMENT

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

Average price of aviation jet fuel, as of May 17, was \$118.1/barrel, up 4.7% on the month and down 4.7% year-on-year, reports the International Air Transport Association. Fuel price average for 2013 was \$116.1/barrel.

### 2. Chinese, Indian Airlines Face EU ETS Fines.

The European Commission said eight Chinese carriers could face fines totaling €2.4 million and two Indian airlines could face total fines of €30,000, for not providing data for intra-European emissions during 2012 nor sufficient permits to national authorities, as required by the European Union Emissions Trading System (EU ETS). The reporting deadline for 2012 was April 30. The airlines also could face exclusion from EU airports.

### 3. ICAO, ATAG Environment Conferences.

ICAO held its 4th Symposium on Aviation and Climate Change in Montreal, with 200 delegates from 44 countries in attendance. The Air Transport Action Group (ATAG), a cross-industry sustainable aviation organization, held a meeting prior to the symposium, where representatives explored commercialization of aviation biofuels, a balanced approach to reducing noise for aircraft operations, and reforms needed to realize potential efficiencies in air traffic management. A panel covering ICAO discussions of market-based measures (MBMs) found that little progress has been made, though some speakers believed agreement could be reached by ICAO's 38th Assembly in September, with further progress toward a global scheme by 2016. IATA's Tony Tyler said the most urgent political issue ahead is finding global agreement for MBMs. At its Annual General Meeting in Cape Town, IATA will call on members "to balance their individual short-term interests with the long-term future of the industry as a whole . . . ICAO's provisions for special circumstances and respective capabilities have proven capable of bridging gaps between states," said Tyler. "But we need the non-European states that successfully opposed Europe's unilateral plans [for EU ETS] to now be fully engaged advocates for a global solution." A special Joint Statement on sustainable approaches to emissions reduction was signed by ICAO Council President Roberto Kobeh González and ATAG Executive Director Paul Steele.

### 4. Airbus, Air Canada Partner With BioFuelNet Canada.

A partnership to assess Canadian solutions for production of sustainable alternative jet fuels, with the long term goal to supply Air Canada, has been

formed by Airbus, Air Canada and BioFuelNet Canada, hosted by Montreal's McGill University. The first assessment, expected by yearend, will include a preliminary study of processes and raw materials available for alternative fuel production. In June 2012, Airbus and Air Canada performed North America's first "Perfect Flight" over international borders, cutting CO2 emissions by more than 40% compared to a regular flight. The commercial flight with passengers from Toronto to Mexico City combined modern aircraft technology, sustainable alternative fuels, streamlined air traffic management and best practice operations such as single-engine taxiing.

**5. SGI, ExxonMobil to Study Use of Synthetic Algae for Biofuel.**

A new research program to study synthetic algae for biofuels was announced by Synthetic Genomics (SGI) and ExxonMobil. The companies have been studying naturally occurring and conventionally modified algae strains since June 2009. The new agreement emphasizes research to develop strains which reproduce quickly, produce a high proportion of lipids and effectively withstand environmental and operational conditions.

**6. Contracts Awarded for Advanced Biofuels Program.**

Emerald Biofuels, Natures BioReserve and Fulcrum Brighton Biofuels were awarded contracts totaling \$16 million to develop plans for refineries capable of supplying at least 150 million gallons of biofuel for less than \$4 a gallon. The companies have proposed making fuel from materials such as animal fats, food-processing waste and oil-seed crops. The contracts were issued by the U.S. Department of Defense Advanced Drop-In Biofuels Production Project and will be matched by more than \$17 million in investments by the contractors.

## VI. U.S. CONGRESS

### 1. Bill Would Overturn TSA Decision to Allow Small Knives on Planes.

Legislation introduced in the Senate would force TSA to continue to prohibit passengers from carrying small knives onto airplanes. In March, TSA announced it would allow knives with blades shorter than 2.36 inches in carry-on bags, for the first time since the 9/11/01 attacks, in an effort to speed checkpoint screenings and allow security officers to focus on items that cause greater security risks. Due to opposition from the public, flight attendants, pilots and others, in April TSA delayed implementation and asked the Aviation Security Advisory Committee to review the relaxed policy. . . . A bipartisan group of 145 House members in a letter urged TSA Administrator John Pistole “to keep the rule simple: no knives on planes.”

### 2. Immigration Bill Includes Biometric Exit Requirement.

The Senate Judiciary Committee passed the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744), which includes a provision that requires DHS to implement biometric exit tracking at the 10 busiest U.S. airports within two years of enactment. Inadequate funding and other problems have postponed implementation of the current law. Other travel-related provisions would expand the Visa Waiver and Global Entry programs; adopt a more accurate method of calculating visa overstay rates; adopt measures to encourage more travel from Canada; reduce visa wait times; authorize a pilot program to test feasibility of secure videoconferencing for visa interviews; make Hong Kong eligible to apply for membership in the Visa Waiver Program; and authorize hiring of 3,500 new officers to support U.S. Customs and Border Protection.

### 3. Schumer Urges Majors to Reverse New Change-Fee Policy.

Senator Charles Schumer (D-NY) called on major airlines to reverse a new policy that increased change fees. In April, United raised the fee to \$200 for U.S.-Canada travel and from \$250 to \$300 for certain international itineraries. American, Delta and U.S. Airways raised the change fee for domestic travel from \$150 to \$200. “Under these new policies, it would cost \$1,000 for a family of five to change their traveling plans,” said Schumer, as “families are already paying extra fees for baggage, food and Wi-Fi.” His request came as DOT released statistics showing the 15 largest U.S. airlines collected \$2.6 billion in ticket change fees in 2012, up 7.3% from 2011.

**4. Bill Would Seat Families Together on Commercial Flights.**

The Families Flying Together Act of 2013 was introduced by Jerrold Nadler (D-NY), a member of the House Transportation and Infrastructure Committee. The legislation would require DOT to direct each carrier to establish a policy to ensure, to the extent practicable, that a family that purchases tickets for a flight is seated together, and post the policy on their websites. “From airlines charging a fee to make advance seat assignments, to charging a premium for window or aisle seats, to eliminating advanced boarding for parents with small children, the obstacles for families are growing,” said Nadler. “There are increasing reports of people being separated from their children when they arrive to board the aircraft; [this is] potentially unsafe and traumatic for the families involved.”

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

### **1. United States, Saudi Arabia Sign Open Skies Agreement.**

The United States and Saudi Arabia signed an open skies agreement in Jeddah, which, following a transition period, will permit unrestricted air service by airlines of both countries between and beyond the other's territory, eliminating restrictions on how often the carriers fly, the kind of aircraft they use and the prices they charge. The agreement has been applied on the basis of comity and reciprocity since it was initialed on April 18, 2011.

### **2. JetBlue, Emirates to Expand Partnership with Bilateral Code Share.**

JetBlue and Emirates intend to expand their partnership to include bilateral code sharing, pending FAA and DOT regulatory approval and subject to receipt of foreign government operating authority. JetBlue will place its code on all flights currently operated by Emirates between the U.S. and Dubai, including twice daily A380 service from New York Kennedy; and also between Kennedy and Milan, to be expanded to daily nonstops in October. Emirates has placed its code on select JetBlue-operated flights since April 2012, expanding an interline agreement begun in 2010.

### **3. Canada, Peru to Expand Air Transport Agreement.**

An expanded and modernized air transport agreement between Canada and Peru, which will replace a 1955 bilateral pact, will provide: access to all points in Canada, Peru and select third countries for own-aircraft services; no limit on number of airlines permitted to operate; unlimited flights for all-cargo services; a fully flexible pricing regime; and an open regime for operation of code share services, including with airlines of third countries.

## VIII. EUROPE AND AFRICA

### 1. Delta Adds Seasonal European Service from Kennedy.

Delta will begin seasonal service from New York Kennedy on June 2, including up to six weekly Boeing 757-200 nonstops to Stockholm Arlanda; and four weekly B-767-300 nonstops to Copenhagen Castrup. Both services will operate with joint venture partner Air France KLM. Seasonal B-767-300 nonstops to Prague began in May, in conjunction with Czech Airlines.

### 2. EC Temporarily Approves Rescue Aid for LOT Polish Airlines.

The European Commission concluded that a rescue loan of €100 million granted by the Polish government to LOT was in line with EU state aid rules, primarily because the aid was limited in time and scope. Poland granted the short-term loan to enable LOT to pay creditors and maintain operating activities pending implementation of a restructuring plan.

### 3. Ryanair May Have to Reduce Stake in Aer Lingus.

Ryanair may have to reduce its 29.8% stake in Aer Lingus, said the UK Competition Commission in a provisional finding, as the shareholding enables Ryanair to influence commercial policy and strategy of Aer Lingus, its main competitor on routes between Great Britain and Ireland; obstructs Aer Lingus's ability to merge or combine with another airline to build scale and achieve synergies to remain competitive; could block special resolutions by Aer Lingus and hinder plans to issue shares and raise capital; and could prevent Aer Lingus from disposing of its valuable Heathrow slots.

### 4. EU Pilot Fatigue Plans Questioned.

As the EU Parliament prepares for June hearings on pilot fatigue, European Transport Safety Council (ETSC) reported that European Aviation Safety Agency (EASA) proposals "do not fully and properly reflect the scientific evidence that should underpin fatigue management. Nor do they fully incorporate the scientific evidence which EASA itself commissioned." British Airline Pilots Association said, "the ETSC has reiterated what pilots have been saying for a long time: the science has been ignored. The result is a much less safe set of rules than we currently have in the UK."

### 5. United-Lufthansa-Air Canada JV Wins EU Antitrust Approval.

See Section I, item 3.

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

### **1. American Starts Dallas-Seoul Service.**

American Airlines now offers a daily Boeing 777-200 nonstop between Dallas/Fort Worth and Seoul Incheon. The service is operated as part of a joint business agreement with oneworld partner Japan Airlines.

### **2. China Approves Startups.**

Civil Aviation Administration of China lifted its prohibition against new airlines, announced in 2007, with approvals of applications from domestic startups Qingdao and Ruili. A joint venture of Nanshan (55%), Qingdao Municipal Transport Development (25%) and Shandong Airlines (20%), Qingdao Airlines will have \$163.1 million in registered capital. Ruili Airlines, from Jingcheng Group in Yunnan province, will have capital of \$96 million and plans to acquire B737-700s and -800s to fly from Kunming Changshui International. . . . In other news, bookings from China to the United States (including Hawaii and Guam) increased 16% in first quarter, reports the U.S. Department of Commerce, and are expected to remain strong through third quarter.

### **3. Virgin Australia's Tiger Takeover Approved.**

Virgin Australia's plan to acquire a 60% stake in Tiger Australia was approved by Australia's Foreign Investment Review Board. The proposed transaction has also been approved by Australia's competition regulator and, subject to certain conditions, is expected to close in July. Singapore Airlines announced in April it would increase its stake in Virgin Australia to 19.9%.

### **4. AirAsia Names CEO for India Unit.**

Mittu Chandilya was named CEO of AirAsia India, set to launch in fourth quarter in partnership with Tata Group, subject to final clearances. Malaysia-based AirAsia saw a 39.23% fall in first quarter profits, caused partly by AirAsia Japan, a joint venture with All Nippon Airways, CEO Tony Fernandes told Reuters, but other affiliates have done well.

### **5. Lion Air Crash Report Urges Improved Pilot Training.**

Indonesia's National Transportation Safety Committee (NTSC) said an April Lion Air crash near Bali may have been due to pilot error. All 108 passengers and crew survived when the Boeing 737-800 missed the main airport runway amid sudden loss of visibility due to rain and wind and landed in water. The preliminary report ruled out aircraft problems and said the airport's navigational aids and approach guidance facilities were functioning properly at

time of crash. Lion Air was told to immediately review or reinforce safety measures related to landing procedures, handing over controls at critical altitudes and times, and how to respond when visibility is limited at low altitudes. Lion Air has had seven accidents and incidents since 2002 and a 2004 crash killed 25 people. Lion Air has been among several Indonesian airlines banned by the EU for lax safety standards since 2007. Indonesia has also failed ICAO standards, leading to restrictions on starting or increasing flights to the United States.

6. **New Zealand Approves Qantas-Emirates Trans-Tasman Partnership.**

New Zealand Transport Minister Gerry Brownlee authorized a five-year Qantas-Emirates alliance involving shared services on trans-Tasman routes, saying exporters and travelers will benefit from strengthened connections with Emirates' international network, including 30 points in Europe, as well as the growing Middle East region and Africa. Trans-Tasman competition will be maintained by existing carriers on the route and entry by new carriers. Conditions imposed by the Australian Competition and Consumer Commission require the airlines to maintain at least their pre-alliance aggregate capacity, subject to review to consider whether increases in the minimum required capacity are warranted.

7. **Etihad Acquires Abu Dhabi Airport Services Companies.**

Etihad Airways is acquiring Abu Dhabi Airport Services, Abu Dhabi In-Flight Catering and Abu Dhabi Cargo Company and incorporating them into a wholly owned subsidiary, Etihad Airport Services. Formerly part of Abu Dhabi Airports Company, the units will continue to provide ground handling, catering and cargo services to Etihad and other airlines at Abu Dhabi International Airport.

8. **U.S. Imposes Sanctions on Syrian Arab Airlines.**

See Section I, item 5,

9. **United States, Saudi Arabia Sign Open Skies Agreement.**

See Section 7, item 1.

10. **JetBlue, Emirates to Expand Partnership with Bilateral Code Share.**

See Section 7, item 2.

## **X. AMERICAS**

### **1. American Airlines Bankruptcy Update.**

American parent AMR received bankruptcy court approval to borrow up to \$3.25 billion to fund reorganization costs and repay debt; financing to be backed by airport gates, slots and routes between U.S. and South America. . . . The bankruptcy court approved a \$24.9 million settlement between American and FAA over alleged safety violations. . . . The U.S. Trustee asked the bankruptcy court to reject the disclosure statement for AMR's reorganization plan, largely because a \$20 million severance package for Chairman and CEO Tom Horton does not meet bankruptcy code requirements. . . . Major creditor Citibank told American to decide by July 2 if it will continue to use its branded credit card after a merger, or that of Barclays Bank Delaware, which is used by US Airways. . . . International Association of Machinists and Aerospace Workers and Transport Workers Union of America jointly bid to represent ground workers of a combined American and US Airways, and asked National Mediation Board (NMB) to hold elections after close of merger. The Teamsters union filed with NMB for elections to represent mechanics. . . . More than 100 members of Congress asked Transportation Secretary Ray LaHood and Attorney General Eric Holder to allow American and US Airways to keep all of their Reagan National slots if the merger is approved, saying other airlines lack necessary connectivity from the Washington airport and would likely transfer divested slots to larger cities and more lucrative routes.

### **2. Southwest to Launch Boeing 737 MAX 7.**

Southwest converted 30 orders for Boeing Next-Generation 737s to 737 MAX 7 orders, becoming the launch customer for the third member of the MAX family, with deliveries to begin in 2019. The carrier also exercised options for five more NG 737-800s, bringing its unfilled orders to 180 MAX airplanes and 137 NG 737s. Southwest also will purchase ten pre-owned 737-700s. The company increased its quarterly dividend to \$.04 per share from \$.01, to be paid on June 26 to shareholders of record on June 5; and increased the existing \$1 billion share repurchase authorization to \$1.5 billion. Of the remaining share repurchase authorization, an initial \$250 million of Southwest common stock will be repurchased under an accelerated stock repurchase program. "As the only investment-grade rated U.S. airline, our balance sheet and liquidity remain strong," said Chairman Gary Kelly. "Our cash and short-term investments are approximately \$3.5 billion, and we have a fully available unsecured revolving credit line of \$1 billion. With modest debt levels, and an additional \$150 million of debt payments planned for the remainder of this

year, our debt-to-capital leverage is estimated to fall below 40% by yearend, including off balance sheet aircraft leases.”

3. **76-Seat Aircraft Added to United Express Fleet.**

United announced a capacity purchase agreement for SkyWest to operate 40 Embraer 175s under the United Express brand. SkyWest will purchase the 76-seat aircraft, with deliveries in 2014 and 2015. United will purchase 30 Embraer 175s to be operated by a United Express carrier, also scheduled for delivery between 2014 and 2015. The Embraer 175, the first 76-seat regional jet in the United Express fleet, will be configured with 12 First, 16 Economy Plus and 48 Economy seats.

4. **Air Canada Ordered to Raise Compensation for Overbooking.**

Canadian Transportation Agency (CTA) ruled that Air Canada passengers bumped from overbooked domestic flights are entitled to more than current compensation rates of \$100 in cash or a \$200 travel voucher, which do not reflect current ticket prices, or costs of accommodation and incidental expenses. The preliminary ruling requires Air Canada to consult with CTA on the matter. Canada does not have industry-wide compensation rules. In other news, CTA reported that advertisers of air services in Canada are now complying with regulations approved in December, noting it will apply stricter enforcement of the all-inclusive price requirement.

5. **GOL Code Share Expansion With Delta.**

GOL now code shares on Delta flights from Brasilia to Atlanta; all Delta Brazil-U.S. flights and key connecting markets will be included in coming months. The companies together offer 380 destinations in 62 countries.

6. **Claudia Sender Named TAM CEO.**

Claudia Sender was named CEO of TAM, responsible for domestic passenger operations. She has been with TAM since December 2011. Marco Antonio Bologna remains CEO of TAM S.A., parent company of TAM Airlines, TAM Airlines in Paraguay and Multiplus. LATAM Airlines Group reported operating income of \$114.2 million for first quarter 2013. Operating margin reached 3.4%, up 2% over 2012, reflecting “a steady recovery in business operations as we advance in the process of achieving the expected synergies from the merger between LAN and TAM.”

7. **Neeleman’s Azul Files for IPO.**

Sao Paulo-based Azul, created in 2008 by JetBlue founder David Neeleman, hopes to raise \$500 million in an upcoming initial public offering.

8. **Single Brand for AviancaTaca Airlines.**  
AviancaTaca Holdings has been rebranded as Avianca Holdings. Colombia's Avianca and El Salvador-based Grupo TACA merged in 2009. Carriers in the group include TACA Peru, Costa Rica-based Lasca, Ecuador-based Aerogal and Tampa Cargo.
9. **United-Lufthansa-Air Canada JV Wins EU Antitrust Approval.**  
See Section I, item 3.
10. **U.S. Imposes Sanctions on Syrian Arab Airlines.**  
See Section I, item 5,
11. **United States, Saudi Arabia Sign Open Skies Agreement.**  
See Section 7, item 1.
12. **JetBlue, Emirates to Expand Partnership with Bilateral Code Share.**  
See Section 7, item 2.
13. **Canada, Peru to Expand Air Transport Agreement.**  
See Section 7, item 3.
14. **Delta Adds Seasonal European Service from Kennedy.**  
See Section VIII, item 1.
15. **American Starts Dallas-Seoul Service.**  
See Section IX, item 1.