



## 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. IATA: Revenues Will Fall 12% in 2009.**

The global air transport industry can expect losses of \$4.7 billion in 2009, reports the International Air Transport Association (IATA), revised from a December forecast of a \$2.5 billion loss. Industry revenues are expected to fall by 12.0% (\$62 billion) to \$467 billion. In the post-9/11 decline, revenues fell by 7% (\$23 billion) over the 2000-2002 period. Passenger traffic is expected to contract by 5.7% this year, cargo by 13% and yields by 4.3%. In January, passenger traffic was down 5.6%, with premium off 16.7%; cargo traffic fell 23.2%. IATA also revised its forecast losses for 2008 from \$5 billion to \$8.5 billion. "This is a resilient industry capable of catalyzing economic growth. But we are structurally sick. The historical margin of this hyper-fragmented industry is 0.3%. Bail-outs are not the prescription to return to health. Access to global capital, the ability to merge and consolidate and the freedom to access markets are needed to run this industry as normal profitable business," said Giovanni Bisignani, IATA Director General and CEO. As freight traffic fell 22.1% year-on-year in February, Bisignani said, "We may have found a bottom to the freight decline, but the magnitude of the drop means that it will take time to recover." Passenger traffic fell 10.1% from February 2008; a 5.9% cut in capacity was not enough to match the decline in demand, said IATA, and load factor fell to 69.9%.

### **2. Randy Babbitt Tapped as FAA Administrator.**

President Barack Obama nominated J. Randolph (Randy) Babbitt to become Administrator of the Federal Aviation Administration (FAA). Babbitt was an Eastern Airlines pilot and flew for more than 25 years. He served as President and CEO of the Airline Pilots Association (ALPA), was a Presidential appointee on the National Commission to Ensure a Strong Competitive Airline Industry and last year was part of an independent review team of aviation and safety experts tasked with evaluating and crafting recommendations to improve FAA implementation of the aviation safety system and its culture of safety. He is a partner in the Oliver Wyman aviation consultancy.

### **3. DOT Proposes Continental, US Airways for New U.S.-Brazil Services.**

The U.S. Department of Transportation (DOT) proposed to award Continental and US Airways new rights to fly to Rio de Janeiro, Brazil. If the decision is finalized, Continental could operate a new daily nonstop from Houston as early as June 1 and US Airways could begin a new daily nonstop from Charlotte, NC on October 1. In its preliminary decision, DOT noted that US Airways, the only applicant not currently serving Brazil, would inject new competition into

the market and provide the first direct Brazil service from Charlotte, where US Airways has a significant connecting hub. Continental's service from Houston would be the carrier's first year-round nonstop to Rio, and the only year-round nonstops to that city from the central or Western U.S. Other carriers filing applications were Delta (additional daily Atlanta-Rio service) and American (three additional weekly New York-Rio flights). The rights are made available under the second and third stages of a June 2008 U.S.-Brazil agreement that, among other provisions, increased weekly U.S.-Brazil passenger flights for each country's airlines from 105 to 154 in four stages. In August 2008, DOT awarded American 11 new weekly flights and Delta 10 under the first-stage. The 14 remaining weekly flights, available in October 2010, will be awarded in a future proceeding.

**4. Oneworld Airlines Respond to DOT Request for Information.**

oneworld carriers British Airways, American, Iberia, Finnair and Royal Jordanian filed a joint response to DOT's request for additional information regarding their transatlantic antitrust application. Immunity "will benefit the public by allowing oneworld to compete more effectively against the SkyTeam and Star alliances, both of which already enjoy broad antitrust immunity," said the carriers, who submitted their application to DOT in August and also informed appropriate European Union (EU) authorities. They hope for DOT approval in the second half of 2009.

**5. Alaska Again Questions DOT on Virgin America Compliance.**

Alaska Airlines again urged DOT to address questions about Virgin America's compliance with U.S. foreign ownership and control restrictions on domestic carriers. In a filing, Alaska asked DOT to promptly issue an order tentatively finding that Virgin America no longer qualifies as a U.S. carrier. This filing followed a February petition asking for a public investigation. The *Wall Street Journal* has reported that U.S.-based investors in Virgin America exercised their rights to sell back their almost 77% of the carrier's capital to Virgin Group Ltd. Virgin America maintains it complies with all citizenship rules and that no sale or transfer of the 75% U.S. citizen controlling equity has occurred.

**6. Baltia Wins DOT Authorization For New York-St. Petersburg Nonstop.**

DOT authorized New York-based Baltia Air Lines to engage in foreign nonstop air transportation of persons, property and mail from Kennedy to St. Petersburg, Russia. Baltia will be the only carrier to offer direct service on the route when it launches its single weekly Boeing-747 roundtrip this summer. Flights will build to five per week, CEO Igor Dmitrowsky told the *Moscow Times*, and service to Moscow, Riga, Minsk and Kiev could begin next year.

7. **FAA, Southwest Settle on \$7.5 Million Civil Penalty.**

FAA and Southwest reached a settlement agreement, under which the airline will pay a \$7.5 million civil penalty in three installments of \$2.5 million. Southwest will pay another \$7.5 million if it fails to accomplish 13 requirements related to personnel, manuals and procedures, company organization and training. The agreement stems from a \$10.2 million civil penalty proposed in March against Southwest for operating 46 airplanes on 59,791 flights without performing mandatory inspections for fuselage fatigue cracking.

8. **American to Undergo FAA Safety Audit of Records.**

FAA will begin an audit of American Airlines' operational data, manuals and other records. The review reportedly was precipitated by MD-80 problems found last year, an increase in safety reports issued to mechanics last year and by the lapse of the carrier's Aviation Safety Action Partnership (ASAP) program, although the latter has now been renewed. ASAP allows pilots to report safety-related issues without fear of reprisal from the airline or FAA.

9. **FAA Proposes to Seal Records on Bird Strikes.**

FAA has proposed to seal records on aviation bird strikes "to encourage continued voluntary reporting of wildlife hazard data." Releasing raw data could produce inaccurate perceptions of the bird-strike danger, FAA said, and cause under-reporting of incidents. FAA's Wildlife Hazard Database is said to contain more than 100,000 reports of strikes that have been voluntarily submitted since 1990. The National Transportation Safety Board (NTSB) has long recommended mandatory reporting and says the database grossly underestimates the magnitude of the problem and lacks critical information, such as the species of birds in a strike. A comment period on the FAA proposal ends April 20.

10. **FAA Drops Pilot Rest Plan for Ultra-Long-Range Routes.**

FAA withdrew a requirement for increased rest time for U.S. pilots flying ultra-long-range routes. Viewed as a safety measure by FAA and others, the plan was opposed by several airlines, which asked a federal court to set aside the new rule, as it would impose substantial burdens and costs, while safety benefits are unproven. The carriers also claim FAA violated the Administrative Procedure Act when it bypassed traditional rulemaking processes and initiated the mandate without involving stakeholders. FAA said it will work with airlines to gather data that will help determine safety requirements for these flights.

11. **U.S. Passenger Airline Employment Down 6.9% in January.**

U.S. scheduled passenger airlines employed 6.9% fewer workers in January 2009 than in January 2008, the largest year-to-year decrease since December

2003. There were 6.3% fewer employees at the seven network carriers, 3.1% fewer at low-cost carriers and 7.1% fewer at regional carriers.

**12. NTSB Urges Redesign of Some Boeing 777 Engines.**

NTSB issued an urgent safety recommendation to both FAA and the European Aviation Safety Agency, calling for the redesign of a Rolls-Royce engine component, the fuel/oil heat exchanger (FOHE), following two engine thrust rollback events on Boeing 777s powered by RB211 Trent 800 Series engines. In both cases—an accident and an incident—a build-up of ice (from water normally present in all jet fuel) on the FOHE restricted the flow of fuel to the engine, resulting in an uncommanded engine rollback. NTSB also recommended that, after the redesign is completed, the new system be installed on all affected B-777 airplanes at the next maintenance check or within six months. “Rolls-Royce indicated that a redesign of the FOHE was underway, and that they anticipated the redesign to be tested, certified and ready for installation within 12 months,” said NTSB.

**13. DOT Air Travel Consumer Report for January.**

Based on data filed by 19 of the largest U.S. airlines

	Jan.	Dec.	Full Year					
	'09 / '08	'08	2008	2007	2006	2005	2004	2003
On-time arrivals %	77/72.4	65.3	76	73.4	75.4	77.4	78.1	82
Mishandled baggage*	5.2/7.39	6.96	5.26	7.05	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>								
Airline service	884/1,174	700	10,643	13,180	8,325	8,741	7,452	5,983
Disability-related	42/45	33	474	488	430	511	521	375
Discrimination**	6/11	7	115	99	114	129	118	85

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. \$12 Million for Pennsylvania, \$28 Million for Arizona Airports.

Pittsburgh airports will receive the first funding allocations for airport infrastructure projects under the American Recovery and Reinvestment Act (ARRA) of 2009, including \$10 million to Pittsburgh International for runway repairs and upgrades. More than \$28 million is going to Arizona airports, including \$10.5 million for runway rehabilitation at Phoenix Sky Harbor. About 3,400 U.S. airports are eligible to receive ARRA funds; FAA received \$1.1 billion for qualified airports on a discretionary basis, to be allocated based on a priority system that addresses airport safety and security, infrastructure, runway safety, increased capacity and mitigation of environmental impacts.

### 2. FAA Asks Court to Suspend New York Slot Auction Proceedings.

FAA asked the U.S. Court of Appeals to suspend legal proceedings contesting its intention to conduct slot auctions at Newark, New York Kennedy and LaGuardia, reports *Air Transport World*, saying it is inappropriate to put the court and the parties to the burden of briefing the complex issues in the case until a decision on whether to withdraw the rules is made. The Port Authority of New York and New Jersey and the Air Transport Association were scheduled to file briefs by April 15.

### 3. Southwest to Acquire ATA's LaGuardia Slots.

An Indianapolis bankruptcy judge approved a plan that allows Southwest to buy the assets of ATA for \$7.5 million and take control of ATA's 14 takeoff and landing slots at New York LaGuardia, where service would begin this summer, reports the *Dallas Morning News*.

### 4. Governor Pledges Support for New Chicago Airport.

Illinois Governor Pat Quinn in his budget address renewed a commitment to build a third major Chicago airport. We will build it in the south suburbs of Chicago, as fast as humanly possible, he said. The state has been buying land for the airport, and plans have been submitted to FAA, but there is no firm time line for beginning construction. Meanwhile, Chicago received FAA approval to spend \$182 million in airline passenger ticket taxes for designing runway improvements and a new passenger terminal at O'Hare.

### 5. American Signs New 17-Year Lease at Dallas Love Field.

American Airlines signed a 17-year lease at Dallas Love Field, to 2028. But the airline will suspend remaining American Eagle Love Field service—to Chicago O'Hare—from June 11, until extensive terminal renovations are

complete in 2013. With its primary hub at Dallas-Fort Worth, American does not operate mainline flights at Love Field, a Southwest hub. The last of Wright Amendment restrictions will be lifted at Love Field in 2014, when Southwest will be able to offer nonstops to any U.S. city.

**6. Redevelopment Planned for San Diego International.**

The San Diego County Regional Airport Authority accepted for public distribution the Draft Concept Plan for redevelopment of San Diego International Airport (SDIA), after studies failed to find a viable alternative to the single-runway Lindbergh Field site. The plan is meant to solve ground traffic problems and would take place over a 20-year period at a cost of \$5 billion to \$11 billion. The airport served more than 18 million passengers in 2008 and is expected to reach capacity by 2025. Voters rejected an earlier proposal to convert part of the Miramar Marine Corps Air Station for commercial use.

**7. Dulles Metro Line Receives Formal Federal Backing.**

DOT committed \$900 million of federal funds to help build a \$5.2 billion extension of the Washington area Metro line to Dulles International. The project's first phase is scheduled for completion by 2013, and the remainder two years later.

**8. Chavez to Nationalize Venezuela's Airline, Airports.**

Venezuela's military has taken control of the nation's airports and President Hugo Chavez has created a state company to run them. Chavez plans to re-launch private airline Aeropostal as "social property." Caracas-based Aeropostal has been in state hands since late last year, when the owners, the Makled brothers, were implicated in drug trafficking. The government has another airline, Conviasa, which it founded in 2005.

**9. BAA Ordered to Sell Three British Airports.**

The UK Competition Commission ordered BAA, a unit of Spain's Ferrovial, to sell three of its seven British airports within two years. The company, which said it may appeal, can retain Heathrow, Aberdeen and Southampton and either Edinburgh or Glasgow, but must sell Gatwick and Stansted to different buyers. "We expect that the new airport owners, with the operating capabilities and financial resources to develop them as effective competitors, will have a much greater incentive than BAA to be more responsive to their customers," said Christopher Clarke, Chairman of the BAA Airports inquiry. A sale of Gatwick is underway; confirmed bidders are: Global Infrastructure Partners, a fund with General Electric and Credit Suisse as founding investors, which already owns London City Airport; and Citigroup unit Citi Infrastructure Investors, with Vancouver Airport Services and John Hancock Life Insurance,

bidding jointly as Lysander Gatwick Investment Group. A third group, made up of Manchester Airports Group and Canadian pension funds, reportedly is also bidding for Gatwick.

**10. ACI Calls for “Empowered” European Airports.**

Worldwide economic turmoil is having an unprecedented impact on airports across Europe, says Airports Council International (ACI) Europe, which released a paper that calls for five urgent measures: 1) ensure economic regulation truly incentivizes airports to modernize and develop infrastructure; 2) give them more flexibility to financially support vital regional air routes; 3) reduce the astonishing costs of security and make it more efficient; 4) get rid of economically nonsensical national taxes on aviation; and 5) commit to full and prompt aviation liberalization. “Airports are catalysts for job creation,” said Director General Olivier Jankovec. “They can do a great deal for economic recovery, but for that to happen, they now need to be given the freedom to develop.”

**11. Europe to Ease Slot Rules.**

The European Commission (EC) proposed to temporarily ease airport slot rules, to enable airlines to reduce services without losing landing and take-off rights. The economic and financial crisis has “had a knock-on effect on the airline sector,” said the EC; “to deal with this, airlines have to reduce their capacity.” ACI Europe said the proposal favors incumbent airlines and prevents competitors from gaining access to congested airports. “As this measure actively incentivizes airlines to further cut capacity, without freeing corresponding slots, it would only worsen the impact of the crisis on airports and prevent them from planning and using their capacity in the most efficient way,” said ACI.

**12. Dutch Government Scraps Airport Tax.**

The Dutch government agreed to rescind an airport tax that was intended to help reduce environmental pollution. The tax, which did not apply to transit passengers, added €11.25 on a ticket to most European destinations and €45 for intercontinental flights. A study by the Dutch Association of Travel Agents found that since introduction of the tax in June 2008, almost one million passengers have travelled to airports in neighboring countries to avoid paying it; scrapping the flight tax would generate €1.3 billion for the Dutch economy. Airlines had lobbied against the tax and now are urging Amsterdam Schiphol to reduce other charges, to be on a par with other major European airports.



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

1. **DHS to Spend \$1 Billion in Stimulus Funds on Screening Technology.**

The U.S. Department of Homeland Security (DHS) announced it will use \$1 billion in stimulus funds to enhance security at U.S. airports. DHS is proposing a plan to allocate \$700 million to checked baggage explosive detection systems and \$300 million for checkpoint technology—procuring and deploying additional X-ray units, whole body imaging technology and bottled liquid scanners. “The proposed construction projects are projected to create more than 3,000 jobs,” said DHS Secretary Janet Napolitano.

2. **House Votes to Create Privacy Officers at DHS.**

The House of Representatives passed legislation that creates a privacy official for every DHS division; each would be responsible for ensuring that privacy laws and regulations are followed. DHS would become the first federal agency to have statutorily-required privacy officers in all its major component agencies. The bill will now go to the Senate for consideration.

3. **80,000 Names on "Cleared" Travelers List.**

The Transportation Security Administration (TSA) has about 80,000 names on its list of cleared travelers, reports *USA Today*. The cleared list allows TSA screeners and airline personnel to know that “this individual with this government-issued ID is not the individual we’re looking for,” said TSA. Legislation in Congress would require TSA to combine and share its cleared list with other agencies, including Customs and Border Protection.

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

### **1. Air France Tests Smartboarding Card.**

Air France is testing an automated boarding system on flights from Paris de Gaulle to Amsterdam Schiphol. The personal smartboarding card uses biometrics, RFID and thermal printing (reprints up to 500 times), and can be shown at a dedicated boarding portal, baggage drop off points, security, lounges and tax-free shops at Schiphol.

### **2. Online Travel Agencies Vie For Bookings.**

Online travel agencies are tackling the travel slump in innovative ways. A Priceline promotion offers a price guarantee on airline tickets and vacations through June 1 and will reimburse travelers up to \$300 for a flight if another Priceline customer makes an identical reservation at a lower price. Orbitz Worldwide announced a similar, though long-term, program last June. Travelocity will reimburse its customers between \$10 and \$500 if the price of a vacation package falls after booking. The company also will waive booking fees during its promotion, which ends May 31. Expedia will waive booking fees for all flights booked through May 31 and will give its customers the last night free of a three-, four- or five-night hotel stay.

## V. **ENERGY AND ENVIRONMENT**

### 1. **Fuel to Drop to 25% of Operating Costs in 2009.**

With an expected price of \$50 per barrel (Brent oil), fuel is expected to drop to 25% of airline operating costs this year, compared to 32% in 2008 when oil averaged \$99 per barrel, reports IATA. Combined with lower demand, total fuel expense will fall to \$116 billion, compared to \$168 billion in 2008.

### 2. **Environmental Mandates in FAA Reauthorization Bill.**

The FAA reauthorization bill proposed in Congress would mandate creation of the Continuous Lower Energy, Emissions and Noise ("CLEEN") Engine and Airframe Technology partnership to develop, mature and certify CLEEN engine and airframe technology for aircraft over the next 10 years. FAA and industry would share costs of developing promising technologies to reduce aircraft environmental impact and energy usage. Other provisions include: an airport environmental mitigation pilot program; phasing out noisy Stage II aircraft; an aircraft departure queue management pilot program; and broadened airport improvement plan eligibility to include several energy saving terminal projects.

### 3. **UK EA to Monitor Aircraft Emissions.**

Under new guidelines, the UK Environment Agency (EA) can seize aircraft that do not meet strict new emissions caps. As the official body to enforce the European Emissions Trading Scheme for aviation, the EA will monitor emissions from flying, police companies' buying of credits if they exceed their allocation, impose fines and have power to seize assets of offending airlines. The threat of seizure is "very rare and mostly historic," said Roger Wiltshire of the British Air Transport Association.

### 4. **UK Committee Asks for Chicago Convention Reform.**

[atw] The UK House of Commons Environmental Audit Committee (EAC) wants reform of the Chicago Convention to allow governments to tax international aviation fuel. It also wants the Treasury to reform an air passenger duty into a per-plane tax to encourage airlines to fill flights more efficiently, and to introduce both a fuel duty and value added tax (VAT) on domestic flights to encourage modal shift, especially to rail; the Chicago Convention does not extend to fuel for domestic flights, said EAC, while most other European nations levy VAT on domestic flights.

## VI. U.S. CONGRESS

### 1. FAA Funding Extended Six Months.

FAA funding was extended from March 31 through the end of the fiscal year, September 30, as Congress continues to work on a full reauthorization.

### 2. House Committee Passes FAA Reauthorization Bill.

The House Transportation Committee cleared a four-year \$70 billion FAA reauthorization bill that provides \$39.3 billion for FAA operations, \$16.2 billion for the Airport Improvement Program, \$13.4 billion for FAA Facilities & Equipment and \$1.35 billion for Research, Engineering and Development. The bill increases the Passenger Facility Charge cap from \$4.50 to \$7.00. Among other provisions, the bill would sunset antitrust immunity for airline alliances every three years, requiring reapplication by airlines, would require FAA to inspect part 145 certificated foreign repair stations at least twice a year, and would require drug and alcohol testing for individuals working on U.S. aircraft. The bill must pass a House vote, then be reconciled with a Senate version.

### 3. FedEx Threatens to Cancel Boeing Order if FAA Bill Becomes Law.

Another provision in the FAA reauthorization bill would place FedEx under the jurisdiction of the National Labor Relations Act (NLRA) rather than the Railway Labor Act (RLA), which would make it easier for its employees to unionize. Rival UPS is governed under the NLRA. FedEx said it will cancel 15 firm orders for Boeing 777Fs if the bill becomes law, because it would lose cost-cutting flexibility with unionization. The agreement with Boeing allows FedEx to cancel the order if its labor status is changed, but, warns FedEx, thousands of Boeing and related jobs would be lost if the order is canceled.

### 4. Schumer Calls for GAO Probe of De-Icing Procedures.

New York Senator Charles Schumer (D) called for the Government Accountability Office (GAO) to undertake a broad study of airplane icing standards and regulations, and to examine to what extent FAA has considered past NTSB icing policy recommendations.

### 5. U.S.-EU Pacts Jeopardized by FAA Funding Measure.

See Section VII, item 1.

## VII. BILATERAL AND STATE DEPARTMENT NEWS

### 1. U.S.-EU Pacts Jeopardized by FAA Funding Measure.

The EU is protesting provisions in the FAA funding bill passed by the House Transportation Committee, particularly one which would sunset international airline alliances, requiring reapplication for anti-trust immunity (ATI) every three years (see *Section VI, item 2.*). The EC expressed concerns to James Oberstar (D-Minn.), Committee Chairman and an author of the sunset measure. The EU Ambassador in Washington, John Bruton, wrote to U.S. officials, including DOT Secretary Ray LaHood and Secretary of State Hillary Clinton, that the three-year limit would put in question carefully constructed agreements among airlines that are designed to offer customers a better and more seamless global product. Bruton also said a provision requiring FAA to inspect part 145 certificated foreign repair stations at least twice a year contradicts an EU-U.S. Aviation Safety Agreement signed last year and would impede its implementation, resulting in \$35 million in annual costs for facility inspections that would fall to \$1.1 million under the bilateral agreement. Bruton said language in the legislation requiring U.S. citizens to control all matters pertaining to the business and structure of an airline, including marketing, branding, fleet composition, route selection, pricing and labor relations, could hamper the current U.S.-EU open skies agreement and dangerously impair further liberalization negotiations.

A coalition of U.S. airlines, their European partners and other stakeholders urged the Obama Administration to oppose the bill. "International alliances are a vital element of a global economy and produce enormous benefits for travelers, businesses, shippers and others," said the Air Transport Association of America (ATA); the bill "could destroy important service and public benefits such as competitive fares and new routes by withdrawing previously granted rights for carriers to participate in alliances."

In remarks to the International Aviation Club in Washington, Oberstar defended his position regarding immunized alliances, saying they "hold great market power and have the potential for exercising that power to the exclusion of non-immunized carriers, thereby reducing competition in the international marketplace, as well as disrupting domestic competition. This legislation is an important step forward in determining whether DOT's antitrust policies are sound and whether the DOT gives appropriate consideration to the impact that granting antitrust immunity might have on competition here and abroad. If these immunized mega-alliances are allowed to proceed unchecked, the end result may be trading government control in the public interest for private

monopoly control in the interests of the industry. Opponents of my bill claim that the provision means the end of alliances. That is alarmist nonsense. Of course, it does not. If members of the alliances can show that ATI provides net benefits to the public, my bill permits DOT to reissue the grant of antitrust immunity.”

## VIII. EUROPE / AFRICA

### 1. Europe's Carriers Expected to Lose \$1 Billion in 2009.

Europe's carriers are expected to lose \$1 billion in 2009, said IATA. A forecast 2.9% fall in the continent's GDP is expected to result in a drop in demand of 6.5%. Capacity cuts of 5.3% will not keep pace with the fall in demand, driving yields and profitability down. Losses of \$600 million are expected for African carriers, compared to \$100 million lost in 2008; demand is expected to drop by 7.8% with only a 6% fall in capacity.

### 2. EU Adopts 'Single European Sky II.'

The EU adopted Single European Sky II (SES II) regulations that will coordinate and supervise member states' air traffic control systems and implement common rules and performance targets. A system coordinator will be appointed to facilitate agreements between member states, speed up the unification process and clarify the concept of common projects, including designation of funding sources. Implementation deadline for SES II is June 2012. Separately, the EU Parliament approved giving the European Aviation Safety Agency authorization to certify airports and establish air traffic management rules.

### 3. EU Investigates Lost Baggage Problem.

The EC began an investigation into the problem of lost luggage, after the British Air Transport Users Council (AUC) reported that airlines mishandled 42 million bags worldwide in 2007 and lost an estimated 1.2 million bags. EU Transport Commissioner Antonio Tajani said if the "alarming figures" are confirmed, he will call for "strong political intervention." In related news, SITA reported that the total number of bags mishandled in 2008 dropped by over 20% to 32.8 million.

### 4. Ryanair Ordered to Pay Damages in Passenger Rights Case.

In a landmark court ruling, Ryanair was ordered to compensate a Swedish couple for costs incurred after their Brussels-Stockholm flight was canceled at the last minute. When told it would be two days before the next Ryanair flight to Sweden, the couple returned home via train, rental car and taxi. They were reimbursed for plane fare but received no other compensation, nor were they offered food or a hotel room. Sweden's Consumer Ombudsman filed the suit on behalf of the couple, for what it saw as Ryanair's violation of the EC regulation that gives passengers the right to compensation in cases of denied boarding, cancellations or long flight delays. This is the first court ruling to examine to what extent airlines are responsible for compensating passengers.

“The district court has clearly stated that airlines must take responsibility for passengers affected by cancelled flights,” said Gunnar Larsson, the Swedish Consumer Ombudsman.

5. **Lufthansa News.**

With plans to take over Austrian and bmi and a stake in SN Brussels, Lufthansa CEO Wolfgang Mayrhuber forecasts no further acquisitions in the current demand situation. The company has grounded 20 passenger and four cargo aircraft. Passenger capacity likely will be cut by 0.2% across the group and cost-cutting measures will be extended in 2009. Lufthansa will almost double capacity to Saudi Arabia this summer, offering daily three-class flights to Riyadh and Jeddah from Frankfurt. Lufthansa will adopt a 92-seat mixed-class configuration, including an economy cabin, on business aircraft operated by PrivatAir on routes from Frankfurt to Bahrain and Dammam; PrivatAir also operates scheduled service for Swiss and KLM. Lufthansa Italia will add service to Rome, Naples and Bari in April from Milan Malpensa. Launched in February, the carrier now offers Malpensa service to Paris, Barcelona Brussels, Budapest, Bucharest, Madrid and Lisbon, but has no internal flights; a flight to London Heathrow is operated by bmi, which is partially owned by Lufthansa. Lufthansa Italia is adding two more aircraft to its fleet, for a total of eight two-class A319s.

6. **Air France to Introduce Premium Economy on Long-Haul Network.**

Air France will phase in a premium economy cabin on Boeing 777 and Airbus A340 and A330 flights. Initial routes will be Paris de Gaulle to New York Kennedy, Tokyo Narita and Osaka Kansai. Originally configured for 40 economy seats, the area will hold 22 fixed-shell seats; “Premium Voyageur” passengers will have priority check-in desks and priority baggage delivery.

7. **Air France, Aeroflot Among Czech Bidders.**

The first round of tendering in the CSA Czech Airlines sale closed with preliminary bids received from Air France-KLM, Aeroflot, private equity firm Odien and a Czech privately-held consortium. The Czech government said the buyer of its 91.5% stake in CSA should be known by the end of September. The Czech consortium is comprised of Unimex Group and Travel Service, parent of low-cost SmartWings; Icelandair Group is a shareholder in Travel Service. Odien owns Czech travel agent, Cedok. Air France, Aeroflot and CSA are members of SkyTeam. CSA and Aeroflot compete on several routes, while Air France-KLM cooperates with CSA on long-haul flights.

8. **Aeroflot CEO Valery Okulov Replaced.**

Aeroflot CEO Valery Okulov, a pilot and the son-in-law of Russia's first President, Boris Yeltsin, was dismissed and replaced by Vitaly Saveliev, a



minister under former Russian President Vladimir Putin and an executive at telecommunications firm Sistema.

**9. Alitalia Update.**

Air France-KLM completed its purchase of a 25% stake in Alitalia. To compete with a new high-speed train that will connect Rome and Milan city centers in only three hours, the newly privatized Alitalia is increasing the number of dedicated check-in counters and gates. CEO Rocco Sabelli said the airline is making progress toward its goal of earning a profit within three years and plans to purchase 90 Airbus 320s by 2013.

**10. United to Begin Washington Dulles-Moscow Nonstops .**

United will begin Washington Dulles-Moscow nonstops on March 29.

**11. Icelandair Announces Nonstop Service to Seattle.**

Icelandair will begin four weekly Boeing 757-200ER flights on July 22 from Seattle to Reykjavik, with connections to European hubs. In Seattle, Icelandair will work in cooperation with Alaska Airlines to provide connections to West Coast cities.

**12. Air Canada to Launch Daily Vancouver-Paris Service.**

Air Canada will offer the only daily service between Vancouver and Paris between July 1 and September 29. In June, Air Canada will begin new Montréal-Geneva service for the summer season.

**13. Greece Sells Olympic to Marfin Group.**

Greece agreed to sell Olympic Airlines to Marfin Investment Group, turning down a bid from Aegean Airlines reportedly because of doubts a merger with Aegean would meet EU rules. The EC has endorsed the Marfin purchase.

**14. U.S.-EU Pacts Jeopardized by FAA Funding Measure.**

See Section VII, item 1.

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

### **1. Asia Pacific, Middle East Forecasts.**

Carriers in the Asia Pacific region are expected to post losses of \$1.7 billion this year, reports IATA, compared to a previous loss forecast of \$1.1 billion. Japan, the region's largest market, is expected to see GDP drop by 5.5%. International demand to and from China is expected to contract by 5%-10%. India, whose international air services market tripled between 2000 and 2008, is expected to see capacity increase by 0.7% in 2009, while demand drops 2%-3%. Overall, the region is expected to see a 6.8% fall in demand but only a 4% drop in capacity. Asian carriers experienced an 8.4% drop in passenger traffic in January, while cargo fell by an unprecedented 28.1%. The Middle East will be the only region with demand growth in 2009 (+1.2%), but with a 3.8% increase in capacity, the result is expected to be a loss of \$900 million, compared to an \$800 million loss in 2008.

### **2. Continental Begins New York Newark-Shanghai Nonstops.**

Continental began daily nonstop Boeing 777-200 flights between New York Newark and Shanghai. This is the first U.S. carrier scheduled service between New York and Shanghai. Continental also operates nonstop New York flights to Hong Kong and Beijing.

### **3. China's Private Airlines Struggle.**

As China's private airlines struggle with mounting debts amid a shortage of capital, the Civil Aviation Administration of China (CAAC) ordered Wuhan-based private airline East Star to suspend operations. Chengdu-based United Eagle was taken over by state-owned Sichuan Airlines. Okay Airways halted passenger services in December and resumed flights in February.

### **4. Cathay Pacific Posts Record \$1.1 Billion Loss for 2008.**

Expecting "an extremely challenging year in 2009," Cathay Pacific said it would not rule out cutting jobs, capacity and routes. The company reported a US\$1.1 billion net loss for 2008, its largest ever; passenger traffic at Cathay and subsidiary Dragonair climbed 7.3% to 25 million, but cargo tonnage fell 1.6%. Cathay made a net profit of US\$900 million in 2007.

### **5. Qantas Group to Cut 90 Senior Management Positions.**

The Qantas Group will remove 90 senior management positions, maintain a salary freeze and change roles for remaining managers. CEO Alan Joyce said the changes are meant "to develop a leaner, more fast-moving organization

[as] the aviation sector faces considerable commercial challenges for the foreseeable future.”

6. **ANZ Spends \$2.5 Million to Promote Trans-Tasman Tourism.**

Air New Zealand will match a \$2.5 million government outlay to promote tourism from Australia. During the traditionally quieter autumn period for inbound arrivals, the airline will give away more than \$2 million in free domestic travel to its New Zealand ports when sold in conjunction with a trans-Tasman fare sold in Australia. Air New Zealand is also offering up to 100 free roundtrips to regional tourism organizations to attract Australian media. “We hope there are many more opportunities that lie ahead for tourism operators to take advantage of further funds to address declining visitor numbers from important international markets such as the USA and UK,” said the airline.

7. **Air India to Offer Daily Flights to Chicago, New York.**

Air India is restructuring operations to Europe and the U.S., with Frankfurt as its operational hub for West-bound flights, and will introduce a daily flight between Hyderabad and Chicago via Delhi/Frankfurt and also between Hyderabad and New York via Mumbai, for the summer schedule. Three weekly flights from Amritsar to Toronto via London will begin April 25.

8. **Philippine Airlines Adds North American Service.**

Philippine Airlines added daily direct Airbus A340-300 service to Vancouver and in April will add one weekly flight each to Los Angeles and San Francisco.

9. **Saudi-Based Kayala Suspends Operations.**

Kayala Airline, a premium carrier based in Riyadh, is suspending flights from April 1, due to mounting costs and decreased demand. Owned by National Air Services group (NAS Holding), the carrier operated Airbus A319s designed to carry up to 140 passengers but with a modified capacity of 44 passengers; destinations included Jeddah and Dubai.

## X. AMERICAS

### 1. U.S. Airline Passenger Revenue Fell 19% in February.

IATA predicts North American carriers will see a combined \$100 million profit in 2009, since a 7.5% fall in demand is expected to be matched by a 7.5% cut in capacity. In Latin America, traffic is expected to plunge by 7.8%; carriers will be able to drop capacity by only 3.8%, resulting in losses of \$600 million. U.S. airline passenger revenue fell 19% in February versus February 2008, reports Air Transport Association of America (ATA), the fourth consecutive month revenue fell from the prior year. Twelve percent fewer travelers paid 8% less to fly one mile, with declines extending beyond mainland U.S. to transatlantic, transpacific and Latin markets. Year-over-year results were also adversely affected because February 2008 had 29 days. Cargo traffic declined 21% year over year in January 2009, after back-to-back 17% declines in November and December 2008; transpacific cargo traffic fell 32%.

### 2. Delta Announces New Capacity Cuts.

Delta will reduce international capacity 10% beginning in September, with transatlantic capacity down 11%–13% and trans-Pacific down 12%–14% compared to Winter 2008. Latin America capacity will grow slightly in the fourth quarter. The reductions are in addition to a December announcement to reduce systemwide 2009 capacity by 6%-8% year over year. Nearly 2,100 employees are taking voluntary severance payouts, but the company said new capacity reductions are causing a reassessment of staffing needs. In other news, Delta and Midwest entered into a broad-based partnership that will include mileage reciprocity and code sharing on select flights. In addition, Midwest will move its Minneapolis-St. Paul gates to the main Lindbergh terminal to allow easier connections with Delta flights. Delta acquired a 47% non-management stake in Midwest through its merger with Northwest.

### 3. Continental's Kellner Open to Some New Regulation.

Continental CEO Larry Kellner would not be opposed to some re-regulation of the airline industry, reports the *Houston Chronicle*. Kellner said that while deregulation has been very successful in bringing lower fares to customers, overhauling some existing government rules could remove some cost constraints, allowing airlines to make money, employees to earn decent pay and passengers to feel they're getting a good deal. Kellner would revamp the Railway Labor Act, which he said creates a very cumbersome process and has not worked well since deregulation. The industry needs new rules, he said, ones that make the playing field equal for all carriers while still allowing competition to thrive.

4. **US Airways Urges Industry Reform.**

US Airways Chairman and CEO Doug Parker said the U.S. airline industry should adopt a financial performance standard similar to other industries, rather than one based on market share. Consolidation is needed, he said; there is not a single airline with more than 25% of market share, and there are six airlines with a 10%-25% share. Improved labor relations and customer satisfaction are needed, as well as stronger efforts to urge Congress to pass "do no harm" policies for the overtaxed and over-regulated industry. Parker said US Airways will be profitable this year, due to capacity cuts and ancillary revenues, which could reach \$500 million.

5. **JetBlue Expands International Service.**

JetBlue will begin service to Central America with daily nonstops to San Jose, Costa Rica, from Orlando, to begin in April. JetBlue will offer year-round service to Santo Domingo, Dominican Republic, from Boston, beginning June 19, subject to foreign government approval; the three weekly services will expand to daily over the peak winter season. CEO Dave Barger said the carrier is seeking additional international partners; JetBlue is in alliances with Aer Lingus and Lufthansa.

6. **Frontier Receives \$40 Million Loan From Republic.**

Frontier Airlines secured a \$40 million debtor-in-possession loan from Republic Airways, which runs through December 1 and replaces a loan that would have been due April 1. Frontier said the new financing preserves its stability as it seeks a plan to emerge from bankruptcy later this year.

7. **Island News.**

A federal judge ruled that inter-island Hawaiian carrier go!, a Mesa subsidiary, could not assume the name and other intellectual property of bankrupt Aloha. He invalidated the sale of Aloha's brand and logo to Yucaipa, Aloha's former majority owner, because the sale was not held publicly, and ruled that a new auction must be held. Meanwhile, go! reported a 12% rise in February traffic. In other news, Republic Airways took a 50% stake in inter-island carrier, Mokulele, after Mokulele defaulted on an earlier loan. Republic executive Scott Durgin will serve as interim President and CEO of Mokulele. Mesa terminated its code share agreement with Mokulele and signed one with Island Air.

8. **Spirit Expands Colombia Network With Service to Medellin.**

Spirit Airlines added daily Airbus A319 nonstops to Medellin to its Fort Lauderdale-Colombia service, which includes Bogota and Cartagena.

9. **Chile's LAN Begins Cargo Operations in Brazil.**

Chile's LAN Cargo started Monday-to-Friday Boeing 767-300F domestic operations in Brazil.

10. **American Express Wins Insurance Overcharge Case.**

A California Superior Court judge ruled in favor of American Express in a class-action lawsuit, in which cardholders claimed the company violated California and New York unfair business practices laws when it overbilled for travel insurance premiums and failed to refund fees when cardholders canceled flights. The judge found that the cardholders failed to prove their case. The lawsuit was filed in 2001 on behalf of six million current and former American Express cardholders who purchased fee-based, travel-related insurance plans from September 1995 to February 2008. American Express charged for insurance on all airline-related transactions above \$45, such as itinerary changes, baggage fees and seat upgrades, when it should have charged the fees only for airfare purchases, according to the complaint.

11. **DOT Proposes Continental, US Airways for New U.S.-Brazil Services.**

See Section I, item 3.

12. **United to Begin Washington Dulles-Moscow Nonstops.**

See Section VIII, item 10.

13. **Icelandair Announces Nonstop Service to Seattle.**

See Section VIII, item 11.

14. **Air Canada to Launch Daily Vancouver-Paris Service.**

See Section VIII, item 12.

15. **Continental Begins New York Newark-Shanghai Nonstops.**

See Section IX, item 2.

16. **Air India to Offer Daily Flights to Chicago, New York.**

See Section IX, item 7.

17. **Philippine Airlines Adds North American Service.**

See Section IX, item 8.