



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. DOT Proposes to Apply Tarmac Delay and Service Plan Rules to Foreign Carriers.

On June 2, 2010, DOT issued a Notice of Proposed Rulemaking to require foreign carriers to comply with the recently issued Tarmac Delay Contingency Plan and Customer Service Plan rules that apply to U.S. carriers. Under the Tarmac Delay rule, foreign carrier flights would have to return to the gate and release passengers if the delay exceeded a specific duration to be determined by the carrier. The Customer Service Plan would set 13 minimum customer service standards to which all carriers must comply such as, offering the lowest fares available on the website, at ticket counters, or by phone reservation, allow passengers to hold or cancel reservations within 24 hours without penalty, disclosing cancellation policies, frequent flyer rules, aircraft configuration, and lavatory availability on the carrier's website, and upon request, from the carrier's telephone reservations staff. Other proposed changes or additions to current rules include, e.g.: Increase the maximum available compensation for passengers involuntarily bumped from flights; require full and prominently displayed disclosure of baggage and other ancillary fees on carrier websites. Comments on the proposed rule will be due 60 days after publication in the Federal Register, which should occur in the next few days.

2. IATA: Global Traffic Falls 2.4% in April in Volcano's Wake.

Global passenger demand slumped by 2.4% in April, reports the International Air Transport Association (IATA), as a result of massive cancellations due to ash cloud from an Icelandic volcano. European carriers posted an 11.7% demand drop in April (compared to 6.2% increase in March). North American carriers posted a 1.9% decline (7.8% increase in March), primarily due to the impact of ash on North Atlantic routes. Asia-Pacific carriers saw strong growth slow to 3.5% (12.9% growth in March). Middle Eastern airlines recorded the strongest traffic growth at 13% (25.9% increase in March). African carriers saw recovery slow to 8.6% growth (16.9% growth in March). Latin American carriers posted a 1.2% increase (4.6% growth in March). The recovery pace of international scheduled cargo traffic slowed to 25.2% growth (down from 28.1% improvement in March).

Looking ahead, IATA challenged Europe to reform its air traffic management. "The ash crisis was an embarrassing wake-up call for European governments. We need leadership to deliver the Single European Sky, fair passenger rights legislation and continent-wide coordination," said Giovanni Bisignani, IATA Director General and CEO. "Unfortunately, we are trading ash for two

additional uncertainties—strikes and a growing currency crisis—both of which are also focused on Europe. . . It's a tough competitive world. Airlines need to reduce costs to be competitive. Labor must realize that their pay checks are supported by the performance of the company. The middle of a very fragile recovery is not the time for striking. This mentality is divorced from reality," said Bisignani.

3. Europe Issues Guidelines to Minimize Volcanic Ash Disruptions.

As ash cloud led to another 1,000 flight cancellations by mid-May, IATA called on European governments and air navigation service providers to urgently develop more precise procedures to identify ash-contaminated airspace and allow more flights. Refinements made by the Volcanic Ash Advisory Centre (VAAC) did not prevent an "unnecessary closure of airspace," said IATA, but France kept its airspace open by enhancing VAAC data with operational expertise to more precisely determine safe fly zones, and UK authorities worked with airlines and manufacturers to more accurately define tolerance levels. "Numbers show that the current system is flawed. Over 200,000 flights have operated in European airspace identified by the VAAC as having the potential presence of ash," IATA said, noting that the U.S. government, with wide experience in volcanic activity, identifies a no-fly zone where ash concentration is the highest and for all other areas it is the airline's responsibility to decide whether to fly based on available data.

The European Commission (EC), European Aviation Safety Agency (EASA) and Eurocontrol issued guidelines that give states greater flexibility in managing their airspace. Also, the EC and Eurocontrol created the European Aviation Crisis Coordination Cell (EACCC), to be activated when circumstances beyond normal operations are evident (e.g. volcanic eruption). Association of European Airlines and ACI Europe urged an end to "the piecemeal approach to the ongoing volcanic ash crisis" and called for development of a uniform European model "based on accurate data rather than unverified assumptions."

The International Civil Aviation Organization (ICAO) formed the European and North Atlantic Volcanic Ash Task Force (EUR/NAT VATF) to review ash tolerance thresholds and establish a coordinated, region-wide operational approach to volcanic ash emergencies. The task force identified key areas for improving response efficiency, including harmonizing procedures used by North Atlantic States with those adopted in European airspace, new requirements for VAAC services, and harmonizing aeronautical information on volcanic ash concentration. EUR/NAT VATF will meet June 8-10 to finalize proposals to amend current Volcanic Ash Contingency Plans, for subsequent

endorsement by the European Air Navigation Planning Group and the North Atlantic Systems Planning Group.

4. **NMB Amends Union Election Rule.**

The National Mediation Board (NMB) amended its rules to provide “a more reliable measure/indicator of employee sentiment in representation disputes.” With the new rules, airline employees could form a union with majority approval of those who vote; unreturned ballots would no longer be counted as “no” votes. The Air Transport Association (ATA) filed a federal suit on behalf of several of its members against NMB seeking to block the change, stating: “By permitting the certification of minority-supported unions, the NMB’s new rule will likely fundamentally change the legal duties and relationships between many ATA-member airlines and their employees.” ATA argued NMB acted in an “arbitrary and capricious” manner, “contrary to the Railway Labor Act, which clearly states that a majority of employees have to vote in favor of representation.” Due to the litigation, the earliest effective date of the rule change will be June 30, rather than June 10, as previously announced.

5. **FAA Proposes \$1.55 Million Civil Penalty Against Federal Express.**

The Federal Aviation Administration (FAA) proposed a \$1.55 million civil penalty against Federal Express for allegedly failing to revise its Continuous Airworthiness Maintenance Program in accordance with FAA regulations. FAA proposed a \$325,000 civil penalty against **Continental** for operating an aircraft on at least 12 commercial flights without properly maintaining its right main landing gear. And, FAA proposed \$572,150 in civil penalties against **Atlas Air**, which incorrectly installed a replacement cockpit window on a Boeing 747F, and operated it on 49 flights when it was not in compliance with regulations.

6. **Babbitt Calls for “Sensible Scheduling Practices.”**

FAA will not sit back and be the scapegoat for gridlock and delays in the future, said FAA Administrator Randy Babbitt. “New runways and modernizing the system won’t get us where we need to be unless we commit to more sensible scheduling practices. This is a business where cooperation needs to be the order of the day. By and large, we’re sharing the same airports and the same airspace, the same technology and the same tools. If you don’t do your part to keep the system moving, the gridlock and delays will lie squarely at your feet which is where they belong . . . De-peaking is the answer here.”

7. **FAA Awards NextGen Contracts Worth Up To \$4.4 Billion.**

FAA awarded Next Generation Air Transportation System (NextGen) contracts totaling up to \$4.4 billion over 10 years to Boeing, General Dynamics and ITT, which will conduct large-scale demonstrations, including use of aircraft as

flying laboratories, to see how concepts, procedures and technologies can be integrated into the current system.

8. DOT Secretary Convenes Future of Aviation Advisory Committee.

Transportation Secretary Ray LaHood convened a Future of Aviation Advisory Committee to provide information, advice and recommendations on industry challenges. In his opening statement at the May 25 Kickoff Meeting, LaHood asked for no more than a handful of recommendations of actions “we can take now, or in the very near future, which will make a real difference.” Two of the issues discussed at this initial meeting were labor concerns over the “outsourcing” of jobs to foreign carriers through alliances and continued consolidation of U.S. legacy carriers. The recommendations can address issues from five areas – safety, workforce, competitiveness, stable funding for aviation systems, and environment. The 19 Committee members include representatives from airlines, airports, labor, manufacturers, environment, finance, academia, consumer interests, and general aviation.

9. March Passenger Airline Employment Down 3.8%.

U.S. scheduled passenger airlines employed 377,261 workers in March, 3.8% fewer than in March 2009, reports the U.S. Department of Transportation (DOT), and the lowest total for any month since at least 1990. The six network airlines employed 256,500 in March, 68% of the passenger airline total, while low-cost carriers employed 16.9% and regional carriers employed 13.7.

10. NTSB Urges Regionals to “Explore New Approaches.”

Regional airlines need to explore new approaches to solve old problems like pilot fatigue, said Deborah Hersman, Chairman of the National Transportation Safety Board (NTSB). She cited a trucking company that invested in sleep apnea screening, which resulted in a reduction in preventable crashes by 30%, and an incidental decline in monthly health care costs of almost \$540. Speaking before the Regional Airline Association national convention, Hersman congratulated the sector “for eclipsing the mainline carriers by operating over half of scheduled airline departures in the nation.” But recent high-profile accidents have raised questions about minimum standards, professionalism, pilot training and qualifications, she noted, and “the entire industry rises or falls on its safety record.”

11. DOT Air Travel Consumer Report for March.

Based on data filed by 18 of the largest U.S. airlines.

	March '10 / '09	Feb. '10	Full Year				
			2009	2008	2007	2006	2005
On-time arrivals %	80 / 78.4	74.6	79.5	76	73.4	75.4	77.4
Cancellations %	1.5 / 2.1	5.5	--	--	--	--	--
Mishandled baggage*	3.72 / 4.23	4.01	3.91	5.26	7.05	6.73	6.64
<i>Consumer complaints:</i>							
Airline service	961 / 708	769	8,819	10,648	13,180	8,325	8,741
Disability-related	44 / 37	29	517	477	488	430	511
Discrimination**	15 / 7	5	132	115	99	114	129

Note: There were four flights with tarmac delays of four hours or more in March.

* Reports per 1,000 passengers.

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

II. AIRPORTS

1. Delta, US Airways to Appeal DOT Slot Swap Ruling.

In a final decision on a slot swap proposal by Delta and US Airways at Reagan Washington National (DCA) and New York LaGuardia (LGA), DOT ordered the carriers to divest 14 pairs of daily slots at DCA and 20 at LGA and sell them through a blind sale to airlines that currently have little or no service at these airports; they may retain the proceeds from the sale. In a joint response, Delta and US Airways said they will appeal the ruling; the case could establish whether slots are an operating privilege granted by the government or a property right protected by the Fifth Amendment.

2. DOT Awards Four Routes to Tokyo Haneda.

DOT tentatively awarded four routes (slot pairs) to Tokyo Haneda to American (New York), Delta (Los Angeles and Detroit) and Hawaiian (Honolulu). Haneda's fourth runway becomes operational in October and carriers would be required to begin operations by January 29. Continental, Continental Micronesia and United also applied. In objections filed in response to the tentative decision, United asked DOT to re-allocate one slot pair for its use from San Francisco and Hawaiian ask for a second slot pair for its Honolulu service in lieu of one of the awards to Delta. In related news: Japan Airlines will restore scheduled service from Haneda to San Francisco, Honolulu, Paris, Bangkok and Taipei (Songshan), and convert charter flights to Seoul, Beijing, Shanghai and Hong Kong to scheduled flights. JAL said it plans to deepen its code share with oneworld partner American Airlines, including Haneda-New York. Haneda expects an 80.2% increase in passenger arrivals and departures on international flights in fiscal 2010, once the fourth runway opens, according to operator Japan Airport Terminal Co.

3. New UK Gov't Axes Third Heathrow Runway.

The UK's new coalition government announced it will cancel the planned third runway at Heathrow, refuse permission for new runways at Gatwick and Stansted, support an increase in the EU emission reduction target to 30% by 2020, and replace the air passenger duty with a per-flight duty. Regarding the latter, the Air Transport Association of America said "international treaties that the United Kingdom is party to unquestionably prohibit the application of any such fee to international flights."

4. Northwest Florida Opens.

Northwest Florida Beaches International Airport opened with service by Southwest and Delta. Located in Panama City, it is the first international

commercial service airport built in the United States in 15 years. Real estate developer St. Joe donated 4,000 acres within its 75,000-acre West Bay Sector Plan for the airport, which has a 10,000 foot runway.

5. **Regional Study of Bay Area Airport Capacity**

With the number of air passengers traveling through the Bay Area expected to increase from 60 to 100 million by 2035, planners are studying ways to accommodate demand without expanding runways at the region's three primary airports (San Francisco, Oakland and San Jose). The Regional Airport Study is considering increasing average aircraft size, implementing new air traffic control technologies to improve operations during poor weather, high-speed rail, and use of general aviation and military airports in areas such as Sacramento, Stockton and Monterey.

6. **Mexico to Build Riviera Maya Airport.**

Mexico will begin to accept bids in November for construction and operation of a new international airport south of Cancun, reports Reuters.

7. **European Passenger Traffic Up 5.2% in First Quarter.**

European airports saw a 5.2% rise in passenger traffic in the first quarter, reports ACI Europe, compared with Q1 2009. Freight traffic increased by 22.6%. "Passenger traffic still lags behind 2008 by about 7%," said Director General Olivier Jankovec, but "more than 80% of Europe's airports have seen growth during this period." In April, Europe's airports lost up to 25% of traffic due to "paralysis caused by the massive closure of airspace in response to volcanic ash dispersion."

8. **Fraport Consortium Takes Over St. Petersburg's Airport.**

Fraport and Northern Capital Gateway consortium acquired a 30-year concession to operate and modernize St Petersburg Pulkovo, Russia's fourth largest airport.

III. **SECURITY AND DATA PRIVACY**

1. **FBI Deputy Director Nominated to Head TSA.**

President Barack Obama nominated John Pistole as Assistant Secretary for the Department of Homeland Security (DHS). Pistole is Deputy Director of the FBI, where he has also served as Assistant Director for Counterterrorism and Executive Assistant Director for Counterterrorism and Counterintelligence. Two previous Obama nominees for the post of Administrator of the Transportation Security Administration (TSA) withdrew from consideration. In related news, Rep. Frank Wolf (R-Va.) renewed a call for a 10-year term for the TSA Administrator, like that of FBI Director.

2. **More Rapid Checking of No-Fly Lists Ordered.**

U.S. airlines were ordered to check passenger manifests against the no-fly list within two hours of a change notification, rather than 24 hours. The move came when the so-called Times Square bomber was able to board an Emirates flight at New York Kennedy after his name had been added to the no-fly list. Customs and Border Protection officers found his name on the passenger list, removed him from the Dubai-bound flight and arrested him. Faisal Shahzad, a naturalized U.S. citizen born in Pakistan, had attempted to set off a car bomb in New York's Times Square. He then purchased the one-way Emirates ticket with cash; senators have proposed that airlines alert TSA when a passenger wants to buy a plane ticket with cash.

3. **EC Adopts Draft Mandate on Data Protection Negotiations With U.S.**

The European Commission adopted a draft mandate to negotiate a personal data protection agreement between the European Union and the United States. The aim is to ensure a high level of protection for personal information, like passenger data, that is transferred as part of Transatlantic cooperation in criminal matters. The agreement would enhance the right of citizens to access, rectify or delete data. EU citizens could seek judicial redress in the U.S. if their data is unlawfully processed. Independent public authorities would be given a stronger role in helping people exercise their privacy rights and in supervising Transatlantic data transfers. "Fundamental rights must be protected and respected at all times," said EC Justice Commissioner Viviane Reding, who in May held talks with U.S. Homeland Security Secretary Janet Napolitano and in June will meet with U.S. Attorney General Eric Holder.

4. **GAO: TSA Behavior Detection Program Needs Scientific Validation.**

TSA deployed its behavior detection program nationwide without first validating a scientific basis for identifying suspicious passengers in an airport

environment, reports the Government Accountability Office (GAO). Since scientific consensus does not exist on whether behavior detection principles can be reliably used for counterterrorism purposes, according to the National Research Council of the National Academy of Sciences, GAO suggested that independent experts review TSA methodology to ensure “a rigorous, scientific validation” of the Screening of Passengers by Observation Techniques (SPOT) program. GAO found that TSA does not fully utilize resources such as law enforcement and intelligence databases to systematically collect and analyze information obtained by Behavior Detection Officers (BDO). And, most BDOs lack a mechanism to input data on suspicious passengers into a database used by TSA analysts, and lack means to obtain other information on a timely basis; “these capabilities could help TSA ‘connect the dots’ to identify potential threats,” said the GAO report.

5. DHS to Eliminate Form I-94W for Visa Waiver Passengers.

Use of paper I-94W forms will be eliminated by the end of this summer for Visa Waiver Program (VWP) travelers with an approved Electronic System for Travel Authorization (ESTA) arriving in the United States. DHS said a seven-month pilot conducted with New Zealand government support on Air New Zealand flights from Auckland to Los Angeles was successful. Travelers provide basic biographical, travel and eligibility information automatically through ESTA prior to departure for the U.S., and the U.S. Customs and Border Protection receives the passenger data electronically.

6. Manchester Testing Automated Screening Lanes.

The UK’s Manchester Airport is testing use of automated screening lanes, in which passengers move through a glass booth equipped with advanced detection technology. If nothing suspicious is detected, the passenger proceeds to the gate through a green door. If further screening is required, a red door opens and passengers proceed into a full-body scanner.

IV. E-COMMERCE AND TECHNOLOGY

1. Kayak Acquires swoodo.

Travel site Kayak acquired Munich-based swoodo, and plans to develop both brands in German-speaking countries. Kayak CEO and co-founder Steve Hafner said the acquisition “gives us a clear leadership position in Europe's second largest online travel market.”

2. flydubai Opts for Fiber Optics In-Flight Entertainment System.

Dubai's low-cost flydubai will be launch customer for the ‘Fiber To The Screen’(FTTS™) In-Flight Entertainment system from California-based Lumexis. Use of fiber optics rather than traditional copper piping reduces costs and weight. The airline is equipping 44 Boeing B-737-800NGs, the first due to arrive in October, and will offer the service as an option.

3. Bluebox to Offer iPad IFE.

Bluebox Avionics said it has successfully ported over its PC-based operating and security software to the Apple platform for use on the iPad, and will begin offering wireless in-flight entertainment products to airlines via the iPad in July.

4. Travelocity Business Tools for Unused Tickets.

Travelocity Business said its unused ticket tracking and exchange tools saved customers more than \$11 million in 2009, as 84% of ticket values were reused. One service alerts travelers that an unused ticket is available with a message on the site's homepage and throughout the booking path. Another allows travelers to make a change to their ticket online; details are automatically calculated on the screen and Travelocity Business handles processing with no agent intervention.

5. Companies Create Travel Groups on Triplt.

Trip management company Triplt said over 10,000 company groups have opted for a free feature that allows employees to see who is traveling on a company travel map. Itineraries can be accessed via mobile devices and social networking sites. A premium service for frequent travelers monitors travel itineraries, providing mobile alerts, alternate flight options, frequent traveler point tracking and automated trip sharing.

V. ENERGY AND ENVIRONMENT

1. Fuel Bill for Global Airline Industry.

The price of aviation jet fuel, as of May 14, was \$89.7/barrel, down 6.7% for the month and up 41.5% year-on-year, reports the International Air Transport Association. Fuel price average year-to-date was \$89/barrel.

2. ATA Legal Challenge to EU ETS to Move to EU Court of Justice.

The Air Transport Association of America (ATA) won permission from the English High Court to proceed with a legal challenge to the extension of the European Emissions Trading Scheme (ETS) to international aviation. The High Court will refer the case to the European Court of Justice for a ruling on the validity of the EU law. "The unilateral extension of the EU ETS to international aviation is contrary to international law both as an extraterritorial action and an improper tax or charge. It also clearly stands in the way of an appropriate and effective global solution," said ATA. Airlines worldwide support a global framework for greenhouse gas measures under the International Civil Aviation Organization.

3. Bill Could Help Lower Fuel Costs.

ATA applauded Senate passage of a financial reform bill, which could mandate transparency in oil markets and stem Wall Street manipulation of energy prices. "As Congress works to reconcile the legislation with the House-passed bill in a conference committee, ATA will remain focused on ensuring that the greed of Wall Street does not neuter the bill and cede ground gained during this hard-fought battle," said CEO James May.

4. United Tests Synthetic Jet Fuel.

United conducted a successful test flight using Rentech's certified synthetic jet fuel (RenJet^R), the first time a U.S. commercial airline has used synthetic jet fuel in flight. A 40/60 mix of the synthetic fuel and conventional Jet A fuel was used in one of two engines on an Airbus 319. The aircraft departed Denver International and climbed to an altitude of 39,000 feet, where an onboard team collected data on fuel performance during several maneuvers. The synthetic jet fuel, derived from natural gas and converted to liquid fuel through the Rentech Fischer Tropsch process, is approved by ASTM International and is safe for use on passenger flights. United was among eight airlines that in 2009 signed a multi-year agreement with Rentech for up to 1.5 million gallons per year of renewable synthetic diesel for ground service equipment operations at Los Angeles International beginning in late 2012, when Rentech's Rialto Renewable Energy Center is scheduled to go into service. Rentech and

ClearFuels Technology this year jointly received \$22.6 million from the U.S. Department of Energy to construct a biomass gasifier at Rentech's Energy Technology Center in Denver. The gasifier will be integrated with Rentech's Product Demonstration Unit for the production of renewable synthetic fuels from biomass in late 2011.

5. Oakland Receives \$2.5 Million FAA Grant for Emissions Reduction.

Oakland International Airport received a \$2.5 million grant from FAA's Voluntary Airport Low Emission (VALE) program, to be used to install electrical ground power for aircraft parked away from terminals or undergoing maintenance or cargo loading/unloading. This is part of a \$31 million project that includes reconstruction of a taxi lane, a section of the aircraft parking ramp and air cargo loading ramp, and replacement of a portion of the Terminal 2 apron with concrete. Oakland also received \$14.9 million in federal stimulus funds for the overall project, with completion expected in summer 2011. A portion of the project is also being funded through Passenger Facility Charges.

6. Lufthansa Hopes to Use Biofuels by 2012.

Lufthansa plans to begin using a mix of biofuel and kerosene on some flights within two years. CEO Wolfgang Mayrhuber told reporters a schedule will be announced by the end of this year.

7. China Plans Biofuel-Powered Test Flight.

Boeing and China will collaborate on a biofuel-powered test flight this year. PetroChina will provide jatropha-based fuel for the Air China flight. China has said it will replace at least 15% of total diesel and gasoline consumption with biofuel by 2020.

VI. U.S. CONGRESS

1. Continental-United Merger Addressed on Capitol Hill.

Glen Tilton and Jeff Smisek, respective CEOs of United and Continental, told the Senate Judiciary Committee their proposed merger will be good for consumers and employees; improved profitability will come from efficiencies, not higher fares; and service to small communities will be maintained House Judiciary Committee Chairman John Conyers, Jr. (D-Mich.) and Judiciary Subcommittee Chairman Henry Johnson (D-Ga.) want specific information about loss of jobs, with the transfer of headquarters from Houston; the closing of one or more hubs, “which would have a devastating impact on flyers and businesses”; protection of union employee benefits; and pension plan guarantees; they asked the airlines to provide detailed answers when they appear at a hearing on June 16. . . . A Senate Commerce hearing on the financial state of the airline industry and implications of consolidation was postponed. . . . A House Aviation Subcommittee hearing is scheduled for June 16; meanwhile House Transportation Committee Chairman James Oberstar (D-Minn.) said the Department of Justice should reject the merger, because it would lead to higher fares and more market power by global mega-carriers. The Continental-United merger would create the world's largest airline.

2. Failures Cited in Northwest Flight 253 Bombing Attempt.

The Senate Intelligence Committee said 14 intelligence failures led to the attempted Christmas Day attack on Northwest Flight 253 over Detroit. Among problems cited in a new report, the would-be bomber was not in the Terrorist Screening Database, the selectee list or the no-fly list, although there was a basic terrorist record for him on the Terrorist Identities Datamart Environment (TIDE). And the State Department did not revoke his visa when consular officials in Nigeria were told he was involved with extremists in Yemen; they misspelled his name and therefore failed to find and revoke the visa. Among recommendations, the Administration, in consultation with Congress, should simplify, strengthen, and add flexibility to watch listing practices. Also, the State Department must use independent judgment and authority to revoke visas for anyone suspected of being involved with terrorism or terrorist groups, in real time in coordination with the intelligence community. The State Department should also develop a system for electronically notifying all airlines of individuals whose visas have been revoked.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. U.S. Signs New Open Skies Pact with Trinidad and Tobago.

A new open skies agreement between the U.S. and Trinidad and Tobago removes restrictions on the cities that airlines can serve, pricing and charter operations. Carriers of both countries will be allowed to select routes and destinations for any number of flights based on consumer demand for passenger and cargo services. The new agreement also provides for code sharing and intermodal rights.

2. EU Signals Readiness for Airbus-Boeing Talks With U.S.

Following a meeting with U.S. Trade Representative Ron Kirk in Washington, EU Trade Commissioner Karel De Gucht told reporters the European Union is ready to begin talks with the United States to resolve the long-running Airbus-Boeing dispute over subsidies, as long as there were no preconditions on future European government aid for Airbus. The dispute is still under review at the World Trade Organization (WTO). In its response, the U.S. told AFP, "We have always been ready to discuss an agreement with the EU and the relevant member states, but any productive discussions must necessarily address all WTO-inconsistent subsidies to civil aircraft."

3. EC Proposes to Open Aviation Market With Brazil.

The European Commission proposed to EU transport ministers to open negotiations on a comprehensive aviation agreement with Brazil. Negotiations would aim at opening market access for airlines and achieving a high level of regulatory convergence. According to an economic impact assessment study, such an agreement could generate up to €460 million in consumer benefits a year; potential traffic growth is estimated at 335,000 additional passengers in the first year. More than four million passengers per year currently are carried on flights between the EU and Brazil.

4. EC Adopts Draft Mandate on Data Protection Negotiations With U.S.

See Section III, item 3.

VIII. EUROPE AND AFRICA

1. British Airways Flight Attendants Strike.

As the company announced a GBP1 billion drop in revenue for 12 months ended March 31, British Airways flight attendants staged a five-day strike, with additional walkouts planned into June. The carrier said it would ground 30% of flights, including 40% of long-haul services at London Heathrow, and would use non-striking attendants, other employees and chartered aircraft and crews during the strike; all London Gatwick and London City flights were to operate normally. British Airways had won a legal bid to block the strike, but the union successfully appealed that decision.

2. Air France to Operate A380 on Paris-London Summer Service.

Air France will operate the Airbus A380 on the London Heathrow–Paris de Gaulle route, from June 12 to August 30. Air France currently operates A380s to New York and Johannesburg. Separately, Air France-KLM posted a loss of €1.56 billion for year ended March 31, compared with year-earlier loss of €814 million. Total revenue fell 15% to €20.99 billion. The company saw improvement in unit revenues at the end of the fourth quarter, but the ash cloud crisis in April resulted in a daily loss of €35 million in lost revenue and passenger expenses. CEO Pierre-Henri Gourgeon reaffirmed the company's objective to "break even at the operating level in the current financial year excluding the impact of pre-2009 fuel hedges, and subject to the definitive cost of the closure of European airspace"; the priority is to contain costs through head-count reduction, and to restore unit revenue by limiting capacity growth as a means of improving yields.

3. Lufthansa Takes Delivery of its First A380.

Lufthansa took delivery of its first Airbus A380; it will enter scheduled service on June 11 on the Frankfurt–Tokyo route. The carrier will take delivery of four A380s by autumn, to be operated on Beijing and Johannesburg routes. Lufthansa Group posted an operating loss of €330 million for the first quarter, €286 million less than same period 2009. The Passenger Airline Group saw increased traffic revenues during Q1, but recorded an operating loss due to "crisis-related lower prices, an extreme winter and pilot strikes at Lufthansa and Germanwings in February.

4. OFT Clears BA Executives in Price-Fixing Case.

The UK Office of Fair Trading (OFT) withdrew criminal proceedings against four current and former British Airways executives for price-fixing, after "discovery of a substantial volume of electronic material [from Virgin Atlantic

computers], which neither the OFT nor the defense had previously been able to review. Given that the trial had already begun and the volume of material involved, the OFT accepts that to continue with the trial in light of this unforeseen development would be potentially unfair to the defendants.” OFT had charged the four defendants with agreeing with Virgin Atlantic to fix fuel surcharge prices. Virgin won immunity by cooperating with the investigation; OFT said it now will review the role played by Virgin Atlantic, with “potential consequences for Virgin's immunity from penalties.”

5. Stelios Resigns from easyJet Board.

easyJet founder Sir Stelios Haji-Ioannou resigned as Non-Executive Director of the Luton-based discount carrier, with immediate effect, to “focus on a campaign as a shareholder activist against the increase of the size of the aircraft fleet of the company beyond the current level of about 190 aircraft.” Robert Rothenberg also resigned. Stelios and family members hold about 38% of easyJet stock.

6. EU Ruling Favors Airlines in Lost Baggage Claims.

The European Court of Justice ruled that the 1999 Montreal Convention limits compensation airlines must pay for lost or damaged baggage. A passenger lawsuit had sought to double the limits by claiming both material and immaterial damage. The court rejected the claim, saying stricter limits help establish an equitable balance of interest between airlines and passengers.

7. US Airways Begins Nonstops to Rome from Charlotte.

US Airways began daily, year-round nonstops to Rome from its Charlotte, N.C. hub. The Airbus A330-300 flight will complement US Airways' daily nonstop service to Rome from Philadelphia.

8. Alitalia Reports Q1 Improvement.

Alitalia reported first quarter revenue of €639 million, compared to €515 million same period 2009, and a 7% passenger increase. An operating loss of €125 million compared to a Q1 2009 loss of €210 million. Alitalia begins Milan Malpensa-Miami and Rome Fiumicino-Los Angeles service in June.

9. Iberia First European Airline to Operate on Madrid-Cordoba Route.

Iberia will launch direct flights between the Argentine city of Cordoba and Madrid in October, the first European airline to operate on the route. With 70,000 passengers expected during the first year of operation, Iberia's current 26% market share between Europe and Argentina could rise to 30%. The three times weekly service will be operated on 342-seat Airbus A-340-600s. Iberia announced first quarter consolidated net losses were down by almost half, to €52.52 million, from the shortfall of €92.6 million posted in Q1 2009.

Load factor of 80.8% was 4.4% higher than in same quarter 2009, as available seat miles fell by 6.6%; largest aircraft reductions were in medium- and short-haul segment. Staff was reduced by 5.2% and payroll expenses fell by 3.8%.

10. Air Berlin Begins San Francisco Summer Service.

Air Berlin initiated service from Dusseldorf to San Francisco, through October 22, 2010, and will offer service between Miami and Berlin from November 1 to April 28, 2011. The twice-weekly services utilize Airbus A330-200s. The company reduced losses in the first quarter, following integration of the acquired TUIfly city routes and with demand for flights within Europe recovering; and, said CEO Joachim Hunold, despite “the exceptionally harsh winter”; passenger numbers increased 2.4% to 6.2 million.

11. SAS Code Shares With Continental, Ethiopian.

SAS formed code share agreements with Continental Airlines and Ethiopian Airlines. With the Continental pact, SAS will add destinations across the U.S.; Montreal, Quebec and Toronto in Canada; Lima, Peru and Mexico City. The agreement with Ethiopian covers the African airline’s flight on the Stockholm-Rome-Addis Ababa route.

12. JetBlue, South African Airways Announce Interline Agreement.

JetBlue and South African Airways established an interline agreement, providing a single itinerary for travel on flights of both carriers in one transaction. South African Airways has created a corporate division “dedicated to ensuring that fans have the most comfortable and convenient service to and between the World Cup matches [June 11-July 11], including a round-the-clock domestic African flight schedule that will make it easy to fly to and from matches in the different cities.”

13. Air Arabia Egypt to Launch in June.

Air Arabia received its Air Operators Certificate from the Egyptian Civil Aviation Authority, clearing the way for the launch of Air Arabia Egypt, an Alexandria-based joint venture with Middle East travel and hospitality group Travco. Air Arabia Egypt expects to begin operations in June from Alexandria Burj Al Arab Airport, with flights to Khartoum and Kuwait, and will serve the Europe, Middle East and Africa (EMEA) markets.

14. TAM Joins Star Alliance.

See Section X, item 7.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. Asia Pacific Rebound Continues.

Association of Asia Pacific Airlines (AAPA) reports that passenger and air cargo markets continued to improve in April, despite disruptions to traffic in and out of Europe as a result of the Icelandic volcanic eruption. International revenue passenger kilometers grew by 8.9%; available seat capacity rose 1.2% and average load factor increased by 5.6% to 78.4%. Freight ton kilometers rose 32.1%, compared to weak 2009 market conditions, with a 13.2% expansion in freight capacity; average international cargo load factor increased by 10.3% to reach 71.9%. For first four months 2010, international passenger traffic achieved 11% growth compared with same period last year. "Traffic demand is now back to the levels seen before the recession," said AAPA Director General Andrew Herdman, and the outlook for the coming months remains broadly positive, "although concerns remain over regional imbalances, as well as oil and currency volatility."

2. Airline Crashes in Libya, India, Afghanistan.

An Airbus A330-200 operated by Afriqiyah Airways flight crashed on approach to Tripoli en route from Johannesburg; there was one survivor among 104 passengers and crew. A Boeing B737-800 operated by Air India Express crashed when it overshot a runway at Mangalore en route from Dubai; eight of 166 passengers and crew survived. And an Antonov-24 operated by Pamir Airways crashed in a remote mountain site 25 miles from Kabul, killing all 44 people on board.

3. American, Delta Offer New China Services.

American Airlines began Boeing 777 flights between Chicago and Beijing on May 25. Delta will begin Boeing 767 Seattle to Beijing flights on June 4.

4. Emirates to Reinstate A380 Service to New York.

Emirates will reinstate the Airbus A380 on one of its twice-daily flights to New York Kennedy in October. The carrier reported an 8.1% increase in revenue for the Americas in the 2009-10 financial year and an overall net profit of \$964 million with a 20% increase in passengers to 27.5 million. Emirates will receive 11 new wide-bodies in 2010, including Airbus A380s and Boeing 777s, and plans to add new U.S. cities to its New York, Houston, Los Angeles and San Francisco gateways, said President Tim Clark.

5. **China's Passenger Traffic Volume Rises 31%.**

Traffic on international routes of Chinese airlines was up almost 62% in the first four months of this year, said Li Jiayang, Director General of the Civil Aviation Administration of China, with overall traffic volume up by 31%. In other news from China, Hainan subsidiary Deer Air was renamed Capital Airlines; the Beijing-based carrier flies 25 Airbus planes and 24 business jets.

6. **ANZ, Virgin Blue Propose Trans-Tasman Alliance.**

Air New Zealand (ANZ) and Virgin Blue are seeking regulatory approval for a proposed alliance on the trans-Tasman, which would include collaboration on "future route and product planning, code sharing and frequent flyer program benefits." Air New Zealand CEO Rob Fyfe said the alliance would "improve the airline's competitive position on the trans-Tasman in the face of the Qantas Group's two-airline move for regional dominance." The Australian Competition and Consumer Commission and the New Zealand Ministry of Transport are expected to take about six months to review the applications, said the carriers. "The agreement is not a signal of intention by Air New Zealand or Virgin Blue to take a shareholding in the other," they said.

7. **ACCC Probes ANZ, JAL on Alleged Air Cargo Price-Fixing.**

The Australian Competition and Consumer Commission (ACCC) instituted proceedings against Japan Airlines International (JAL) and Air New Zealand for alleged price fixing in the air cargo industry between 2002 and 2006, bringing to 16 the number of airlines facing such proceedings. ACCC is seeking declarations, injunctive relief, pecuniary penalties, and costs.

8. **Iraqi Airways Ceases Ops in Dispute With Kuwait.**

Iraqi Airways has ceased operations and been dissolved, said Iraqi officials, who have been unable to resolve a dispute with Kuwait over war reparations. Kuwait claims it is owed \$1.2 billion for aircraft seized when Saddam Hussein invaded Kuwait in 1990. Kuwait intends to continue to pursue its claim against the government of Iraq.

9. **Air Arabia Egypt to Launch in June.**

See Section VIII, item 13.

10. **TAM Joins Star Alliance.**

See Section X, item 7.

X. AMERICAS

1. Double-Digit Increases in April Passenger Revenue.

Passenger revenue at U.S. airlines rose 12.5% in April, year-on-year, reports ATA, the fourth consecutive month of revenue growth. About 0.5% more passengers traveled on U.S. airlines in April, while the average price to fly one mile rose 14%. International passenger revenue rose 15%, led by a 37% gain in transpacific markets. "Last year, domestic round-trip fares averaged \$28 less than they did a decade earlier," said ATA President and CEO James C. May; "year-ago fares were a staggering \$117 short of keeping pace with inflation." Cargo revenue ton miles rose 22% (12% domestically, 30% internationally) in March, year-on-year; April cargo data was not yet available.

2. American's Flight Attendants Authorize Strike.

American Airlines flight attendants approved a strike, as they seek "an agreement that significantly improves our pay, benefits and work rules." The Association of Professional Flight Attendants said a record 96.8% voted yes with a record turnout of 90%. American had a Q1 net loss of \$505 million.

3. Delta's New York-Chicago O'Hare Shuttle Begins June 14.

Delta Shuttle will begin Embraer 175 service from New York LaGuardia to Chicago O'Hare on June 14; the 11 daily flights replace LaGuardia-Chicago-Midway service. In other news, a federal judge awarded Delta \$3 million in a billing dispute with Mesa and found Delta was justified in canceling a contract with Mesa unit Freedom Airlines, as the regional was not achieving the flight completion rate required in its contract. "We are greatly concerned for our approximately 500 employees who will be significantly impacted as a result of this decision," said Mesa CEO Jonathan Ornstein.

4. US Airways' Parker Addresses Mergers.

In a speech before the Washington Aero Club, US Airways CEO Doug Parker said he supports the proposed Continental-United merger, since it makes the industry more efficient and stronger.

5. Henri Courpron Heads ILFC.

Former Airbus executive Henri Courpron was named President and CEO of Los Angeles-based International Lease Finance Corporation (ILFC), a unit of American International Group (AIG). ILFC founder Steven Udvar-Hazy left the company in February after a failed attempt to buy its assets from AIG and is planning a new venture. Courpron was President and CEO of Airbus North

America Holdings and Airbus Executive Vice President-Procurement. Most recently he was President of Seabury Group.

6. **Delta to Fly Between Detroit Hub and Sao Paulo.**

Delta received DOT approval to operate twice-weekly Detroit-Sao Paulo service, and has applied to expand the service to daily as frequencies become available. The Boeing 767-300ER service begins October 21.

7. **TAM Joins Star Alliance.**

Brazilian carrier TAM joined the Star Alliance network. "Our brand is now global," said CEO Libano Barroso, "and Star Alliance now has a strong presence in South America." In related news, TAM and Star partner US Airways agreed to code share, subject to U.S. and Brazilian government approvals. US Airways began daily, nonstops to Rio de Janeiro from its Charlotte hub in December 2009, while TAM serves the U.S. from Miami, Orlando and New York Kennedy.

8. **US Airways Begins Nonstops to Rome from Charlotte.**

See Section VIII, item 7.

9. **SAS Code Shares With Continental, Ethiopian.**

See Section VIII, item 10.

10. **JetBlue, South African Airways Announce Interline Agreement.**

See Section VIII, item 11.

11. **Iberia First European Airline to Operate on Madrid-Cordoba Route.**

See Section VIII, item 12.

12. **American, Delta Offer New China Services.**

See Section IX, item 3.