



## WASHINGTON AVIATION SUMMARY

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

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## I. REGULATORY NEWS

### 1. FAA Predicts One Billion Passengers by 2021.

U.S. airlines will reach the one billion passengers-per-year mark by 2021, according to the FAA Aerospace Forecast Fiscal Years 2011-2031, two years earlier than the Federal Aviation Administration (FAA) predicted last year. Revenue passenger miles will rise from 787 billion in 2010 to 1.7 trillion in 2031. The number of passengers traveling on U.S. airlines will increase by 3.5% from last year to 737.4 million in 2011, with projected growth of 2.8% each year to 1.3 billion by 2031. Total landings and takeoffs at FAA towered airports will decrease slightly in 2011, then grow at an average annual rate of 1.6% each year, reaching 69.4 million in 2031. . . . Worldwide, there will be 3.3 billion air travelers by 2014, up from 2.5 billion in 2009, said the International Air Transport Association (IATA), and 38 million tons of air cargo will be carried, up from 26 million in 2009. Of the 800 million new travelers expected in 2014, 360 million (45%) will travel on Asia Pacific routes; of those, 214 million will be associated with China (181 million domestic, 33 million international). The U.S. will remain the largest single country market for domestic and international passengers.

### 2. Severe Weather, High Fuel Prices Dent Recovery.

International scheduled air traffic for full-year 2010 showed an 8.2% increase in the passenger business and a 20.6% increase in freight, reports IATA. Demand growth outstripped capacity increases of 4.4% for passenger and 8.9% for cargo. Average passenger load factor was 78.4%, a 2.7% improvement on 2009; freight load factor rose 5.2% to 53.8%. Severe weather in Europe and North America in December shaved 1% off total traffic demand; passenger demand dipped to 4.9% growth on December 2009 levels, significantly lower than the 8.2% growth recorded in November. Hardest hit was Europe which saw December growth slow to 3.3%. This year, January traffic volumes were up, 8.2% on January 2010 and 2.6% on December, but, cautioned Giovanni Bisignani, IATA Director General and CEO, Middle East instability has sent oil prices skyrocketing. "Our current forecast is based on an average annual oil price of \$84 per barrel (Brent). Today the price is over \$100. For each dollar it increases, the industry is challenged to recover \$1.6 billion in additional costs. With \$598 billion in revenues, \$9.1 billion in profits and a profit margin of just 1.5%, even with good news on traffic 2011 is starting out as a very challenging year for airlines."

**3. Delta Fined \$2 Million for Violating Passenger Disability Rules.**

The U.S. Department of Transportation (DOT) fined Delta \$2 million for violating rules protecting air travelers with disabilities, the largest civil penalty ever assessed against an airline by DOT in a non-safety-related case. The carrier frequently failed to provide assistance getting on and off an airplane, did not provide adequate written responses to complaints and did not properly report each complaint to DOT. Of the \$2 million penalty, \$750,000 must be paid by the carrier; up to \$1,250,000 may be used to improve service to passengers with disabilities beyond what is required by law.

**4. American Fined \$90,000 for Failing to Disclose Voucher Fees.**

DOT assessed a civil penalty of \$90,000 against American Airlines for failing to disclose that vouchers given to passengers for voluntarily giving up seats on oversold flights could be redeemed only after paying as much as a \$30 ticketing fee. American stopped requiring fees for tickets purchased by phone using vouchers about four years ago but continued to require fees for tickets acquired at airport counters until late last year, and today passengers cannot use bumping vouchers to purchase tickets online. The carrier also did not tell passengers that vouchers used for tickets purchased by telephone had to be mailed to the carrier for processing as much as three weeks before the departure date. This is the first penalty issued by DOT against an airline for failing to disclose fees or other restrictions on the use of oversales vouchers.

**5. Administration FY'2012 Budget Proposals.**

The Obama Administration proposed a \$129 billion budget for DOT for fiscal year 2012, beginning October 1, which includes \$18.7 billion to support FAA current programs in the areas of air traffic controller and safety staffing, research and development and capital investment. Allocations include \$1.2 billion for air traffic control modernization. The proposal lowers funding for the airport grants program by \$1.1 billion to \$2.4 billion; guaranteed funding is eliminated for large and medium hub airports, but they can raise the current \$4.50 cap on passenger facility charges. The proposal includes a National Infrastructure Bank (I-Bank) which would, among other things, guarantee private loans made to help airlines purchase equipment in support of the Next Generation Air Transportation System. The DOT budget also includes \$8 billion for the first year of a six-year, \$53 billion high-speed rail investment plan. . . . The Department of Homeland Security (DHS) \$57 billion fiscal year 2012 budget request includes \$273 million for new explosive detection systems in U.S. airports; \$77 million for 275 new Advanced Imaging Technology airport body screening machines, for a total of 1,275 by the end of 2012; and \$58 million for vetting and credentialing programs for individuals requiring access to the transportation infrastructure.

6. **FAA to Equip JetBlue A320s for NextGen Trial.**

FAA will pay \$4.2 million to equip up to 35 JetBlue Airbus A320s with Automatic Dependent Surveillance-Broadcast (ADS-B) avionics, enabling them to fly satellite-based flights from Boston and New York to Florida and the Caribbean, beginning in 2012, even if traditional radar coverage is not available. FAA will collect NextGen data by observing and conducting real-time operational evaluations of ADS-B on revenue flights. JetBlue will provide flight operations, pilots, and aircraft maintenance and pay the cost of aircraft downtime while the avionics are installed and for training dispatchers and flight crews. The airline will demonstrate cost savings of ADS-B technology and potentially equip the rest of its fleet at its own expense with ADS-B avionics.

7. **FAA Accepts Southwest Transition Plan for AirTran Acquisition.**

FAA accepted Southwest's transition plan to combine its operations with AirTran until a single operating certificate is achieved, probably by first quarter 2012. Merger plans were announced in September and the transaction is expected to close during second quarter 2011, subject to regulatory approvals.

8. **United Temporarily Grounds B-757s.**

United voluntarily grounded its 96 Boeing 757s for two days, after discovering through an internal audit that checks required by FAA in 2004 on modifications to air-data computers had been performed out of sequence. Travel for thousands of passengers was disrupted during the inspections. The *Wall Street Journal* said the airline avoided penalties of \$25,000 per flight for failure to comply with an airworthiness directive.

9. **DOT Warns Against Bias in Fare Displays.**

DOT warned online travel agencies and global distribution systems (GDS) that bias or distortion in the display of fare and flight information violate federal laws governing trade practices. Several distributors removed American fares from their websites or placed the fares unfavorably in their listings, after the carrier decided to provide data directly to larger online sites via its own Direct Connect system. DOT reportedly sent the letter to Amadeus, Sabre, Expedia, Orbitz, Travelocity and Travelport and to the Interactive Travel Services Association, which represents online travel companies.

**10. DOT Air Travel Consumer Report for December and 2010.**

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

	Dec. '10 / '09	Nov. '10	Full Year				
			2010	2009	2008	2007	2006
On-time arrivals %	72 / 72	83.2	79.8	79.5	76	73.4	75.4
Cancellations %	3.7 / 2.8	0.7	1.76	1.39	1.96	2.16	1.71
Mishandled baggage*	4.80 / 5.27	3.57	3.99	3.91	5.26	7.05	6.73
<i>Consumer complaints:</i>							
Airline service	753 / 692	667	10,985	8,821	10,648	13,180	8,325
Disability-related	38 / 38	43	572	519	477	488	430
Discrimination**	14 / 11	11	143	131	115	99	114

Note: Three domestic flights had tarmac delays of more than three hours in December, compared to 34 in December 2009; and 15 tarmac delays of more than three hours were reported May-December 2010, compared to 584 same period 2009. There were 25 canceled flights with tarmac delays of more than two hours in December, when parts of the country experienced severe winter weather, and 27 in December 2009.

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. Virgin America Wins Chicago O'Hare Gates.

Virgin America has obtained a single gate at Chicago O'Hare and will introduce two daily nonstops from Los Angeles International and three from San Francisco International on May 25. The carrier in 2008 announced its intent to lease two gates at O'Hare and offer eight daily flights, but plans were delayed until the Delta-Northwest merger freed up gates. Virgin could win additional gates when the Chicago Department of Aviation assumes control of Terminal 3's L Concourse from Delta.

### 2. Dallas/Fort Worth Upgrade Begins.

Dallas/Fort Worth Airport began its seven-year, \$1.75 billion Terminal Renewal and Improvement Program (TRIP), which will "relife and remodel the airport's legacy Terminals A, B, C and E." Phase 1, renovating part of Terminal A, will take 16 months.

### 3. San Diego Begins \$1 Billion Expansion.

Construction began on San Diego International's \$1 billion expansion. The phased project includes a 10-gate build-out of Terminal 2 West, an elevated dual-level roadway with curbside check-in kiosks, expanded concession areas and airfield improvements.

### 4. Mineta San Jose Name Change Would Include 'Silicon Valley.'

San Jose city leaders may add 'Silicon Valley' to the name of Norman Y. Mineta San Jose International, because "the term has global cachet." The airport has suffered a major decline in traffic over the past decade and is trying to attract new airlines. In addition, it has to pay for a \$1.3 billion modernization. Norm Mineta represented San Jose in Congress for 20 years and served as DOT Secretary. The son of Japanese immigrants who spent a year in an internment camp during World War II, he served as mayor of San Jose in the early 1970s, the first Asian-American to lead a major U.S. city. He reportedly is open to adding 'Silicon Valley' to the airport name.

### 5. ACI-NA: \$80.1 Billion Needed for Essential Airport Projects.

U.S. airports will require \$80.1 billion in capital projects over the next five years, according to results of the 2011 Capital Needs Survey released by Airports Council International-North America (ACI-NA), 15% less than 2009 estimates. ACI-NA President Greg Principato told reporters that airports delayed or cancelled billions of dollars in projects because of the recession

and traffic declines. The projects are financed by the Airport Improvement Program and Passenger Facility Charge user fees, as well as airport bonds.

6. **Earthquake Shuts Down Christchurch International.**

Christchurch International shut down when a severe 6.3 magnitude earthquake struck the city, but domestic and international service resumed a day later as it was determined that the airport had not suffered any damage. Passport and photo identification rules were waived for evacuation flights. Airlines added extra flights and Air New Zealand offered one-way fares for as low as \$38. New Zealand officials reported at least 146 dead and more than 200 missing. Tourism New Zealand stressed that the damage was confined to the Christchurch Central Business District and Lyttelton.

7. **BAA Loses Latest Legal Appeal on Sale of Airports.**

The UK Supreme Court refused to hear the latest appeal by airport operator BAA, in the long-running battle regarding divestiture of Stansted and either Edinburgh or Glasgow airports. "We are disappointed," said BAA, and "continue to make the case to the Competition Commission that the circumstances in which they found reason to force the sale of airports have changed significantly since early 2009 and should certainly be reviewed in the light of the Government's policy to rule out new runway capacity in the South East of England."

8. **Work Begins on \$7.2 Billion Jeddah Airport Project.**

Work has begun on King Abdul Aziz International in Jeddah. The \$7.2 billion modernization project, handled by Saudi Arabia's Bin Laden Group, will double passenger handling capacity to 35 million per year.

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

#### **1. New Scanner Software Shows Generic Body Outline.**

The Transportation Security Administration (TSA) is testing new software on advanced imaging technology (AIT) machines at Las Vegas, Atlanta and Reagan National airports. TSA Administrator John Pistole said the software “enhances privacy by eliminating passenger-specific images and instead auto-detects potential threat items and indicates their location on a generic outline of a person.” A separate TSA officer would not be needed to view the image in a remotely located room. Currently, there are nearly 500 imaging technology units at 78 airports nationwide, with additional units planned for deployment this year. Body scanner opponents say the new software may address concerns about privacy, but not potential radiation hazards.

#### **2. DHS Considers Vehicle Screening, Ground Patrols at Airports.**

Checkpoints for vehicles approaching terminals and small ground patrol teams are among ideas being considered by the Department of Homeland Security (DHS) to tighten security in U.S. airport public areas. Pistole told a Congressional panel he submitted the ideas to DHS Secretary Janet Napolitano following the January suicide bombing in the international arrivals hall at Moscow Domodedovo, which killed 36 and injured more than 100. Security in locations passengers transit before being screened for flights is usually handled by local police. He also said a risk-based screening method in development will tailor procedures based on intelligence or information volunteered by the passenger, or from a behavior detection officer noticing something suspicious about the person; privacy issues and civil liberty concerns are being considered as the new method takes form.

#### **3. Limited Collective Bargaining for Screeners.**

TSA screeners may vote on whether they wish to be represented by a union for purposes of engaging in limited, clearly defined collective bargaining at the national level only on non-security employment issues, said Administrator John Pistole. “If security officers vote to move forward with collective bargaining, TSA retains the capability and flexibility necessary to respond to evolving threats, and continue improving employee engagement, performance and professional development.” Transportation Security Officers (TSOs) are prohibited from striking or engaging in work slowdowns, said Pistole. Local-level bargaining at individual airports is prohibited on certain employment issues such as shift bids, transfers and awards; as are bargaining on security policies, procedures or deployment of security personnel or equipment; compensation; proficiency testing; job qualifications; and discipline standards.

The Federal Labor Relations Authority in November issued a decision that called for an election among TSOs to determine if a majority wanted exclusive union representation for purposes other than collective bargaining. Under legislation that created TSA, the TSA Administrator was granted sole authority to establish terms and conditions of employment for airport security officers. Collective bargaining was prohibited, but union membership was not; more than 13,000 TSOs pay dues to unions, which provide personal rather than collective representation and cannot bargain on behalf of the officers.

**4. Global Aviation Security Measures.**

A “Security Roadmap on Aviation” was signed at the International Civil Aviation Organization (ICAO) Regional Conference in New Delhi. The roadmap identifies actions 14 member states will take to strengthen security screening procedures by ensuring that professionals are appropriately trained and equipped. Key elements include air cargo security and capacity building. This agreement will enhance existing aviation security harmonization efforts of countries in the region, as well as concepts in the ICAO Declaration on Aviation Security adopted in October. After the conference, TSA Administrator Pistole met with aviation officials in India to discuss opportunities for further collaboration and sharing of best practices.

**5. USTA Calls for Trusted Traveler Program.**

U.S. Travel Association CEO Roger Dow, writing in *USA Today*, said 28% of air travelers avoid two to three flights per year because of security screening hassles, according to a December survey, which translates to an \$82 billion loss in economic activity. Eight in 10 travelers support a voluntary trusted traveler program, which, he said, would give TSA a detailed understanding of the identity, background and threat level of potentially hundreds of thousands of passengers, and allow precious resources to be focused on those who require more screening. “It makes no sense to screen the businesswoman flying the same route every week the same as a non-U.S. citizen flying for the first time.” The U.S. Travel Association represents airlines, hotels, government tourism agencies and others involved in the travel industry.

**6. Amendment Makes Misuse of Body Scan Images Federal Crime.**

See Section VI, item 4.

**7. House Holds Security Hearings.**

See Section VI, item 5.

## IV. E-COMMERCE AND TECHNOLOGY

### 1. Groupon Enters Airline Ticket Market.

In its first foray into the air travel market, Chicago-based Groupon offered subscribers a \$70 savings on Virgin America introductory fares for roundtrips to O'Hare from San Francisco and Los Angeles. The Featured Deal sold out in less than an hour.

### 2. The Facebook Factor in Travel.

Social network site Facebook influences travel plans, reports flight comparison site Skyscanner. In a recent Skyscanner poll, 52% of respondents said that seeing friends' photos on Facebook had inspired them to book a vacation to the same place, 45% said Facebook encourages them to visit their friends, and 46% have either organized or been invited on a trip via Facebook.

### 3. New Technologies.

Online travel site Hipmunk presents search results by time of day and ranks flights on the basis of "agony"—price, duration and number of stops; unfortunately, navigating the rating system is agony. . . . Vayant Travel Technology offers a solution that enables unbundling and incorporates "a host of parameters in a single search"; a new agreement will enable customers to buy insurance coverage for split-ticket itineraries.

### 4. TAM Expands Inflight Connectivity.

TAM this year will install OnAir's on-board connectivity system on 26 single-aisle Airbus aircraft, allowing passengers to telephone, text, and browse the Internet using their own devices. TAM is the first airline in the Americas to offer inflight mobile phone service. Since October 2010, one Airbus A321, operating domestically, has been equipped with the OnAir system. TAM received technical approval from the Brazilian National Agency of Civil Aviation and OnAir has received authorization to operate the service by the Brazilian National Telecommunications Agency. The system has also been certified by the European Aviation Safety Agency and approved by the European Union. It is used on 150,000 flights to 356 cities, connecting passengers in 83 countries, said OnAir, which is owned by SITA and Airbus.

### 5. DOT Warns Against Bias in Fare Displays.

See Section I, item 9.

## V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel, as of February 18, was \$119.2/barrel, up 5.2% on the month and 39% year-on-year, reports the International Air Transport Association (IATA). New fuel price average for 2011 was \$114.2/barrel.

### 2. **OPEC Ready to Meet Any Supply Shortage.**

As unrest in the Middle East led crude oil prices to spike sharply, Saudi Arabia's Minister of Petroleum and Mineral Resources said any shortage of supplies would be met by OPEC (Organization of the Petroleum Exporting Countries). "There is concern and fear, but there is no shortage," he said. His remarks were made as delegates from more than 80 countries signed a new International Energy Forum Charter, which aims to bring stability to global oil markets.

### 3. **Air New Zealand Initiates ASPIRE-Daily Service.**

Air New Zealand began ASPIRE-Daily service from Auckland to San Francisco, using flight procedures that help reduce fuel burn and carbon emissions. The Asia and Pacific Initiative to Reduce Emissions (ASPIRE) is a partnership with FAA counterparts and airlines in Australia, New Zealand, Japan and Singapore. Over the next four months, other carriers will begin flying ASPIRE-Daily routes between additional city pairs. They must be equipped with advanced avionics that allow use of at least four environmentally friendly procedures per flight outlined in the ASPIRE program. Five ASPIRE demonstration flights have taken place since the agreement was signed in 2008.

### 4. **Mexico to Industrialize Algae Production.**

The Mexican government is planning substantial investment in large-scale jet fuel production and has contracted with OriginOil, which is developing technology to extract oil from algae. The pilot scale project will be located in Ensenada, Baja California, an ideal environment for algae growth. Mexico has set targets of 1% for all jet fuels to come from alternative sources by 2015 and 15% by 2020; four new refineries producing 400 million liters of fuel annually would be needed to reach these goals. Mexico is also studying biomass sources such as jatropha, salicornia and castor seed and has set up an Inter-Agency Biofuel Development Commission to overview and coordinate all government efforts related to biofuel production, storage, transportation, distribution, commercialization and final use. Collaboration agreements have

been established with state governments and the private sector, including Boeing and Honeywell's UOP.

**5. SWAFEA: Immediate Action Needed on Biofuels.**

Sustainability, biomass availability and investment are key obstacles to overcome if biofuels are to help the aviation industry meet a target of carbon neutral growth from 2020, according to a two-year assessment initiated by the European Commission (EC). The SWAFEA (Sustainable Way for Alternative Fuels and Energy for Aviation) study concludes that immediate action is required, with a ramp up in the rate of biomass production of 14.5% per year to reach and maintain targets. Fuel production processes providing higher yields than presently available are needed, as well as development of feedstocks such as algae. The final report of the SWAFEA consortium will be published in April.

## VI. U.S. CONGRESS

### 1. FAA Reauthorization Progress.

The House Transportation Committee and the full Senate approved FAA reauthorization bills. Following full House approval, the measure will go to a House-Senate conference committee for reconciliation. Congress has passed 17 temporary extensions since FAA's authorization officially expired on September 30, 2007; the latest extension expires on March 31.

### 2. Senate FAA Reauthorization Bill.

The Senate passed a two-year, \$34.5 billion FAA reauthorization bill. Among its provisions, the FAA Air Transportation Modernization and Safety Improvement Act would strengthen inspection of airline operations and oversight of foreign repair stations. It would establish deadlines for adoption of existing Next Generation Air Transportation System technology, requiring FAA to implement satellite-based procedures at the busiest 35 airports by 2014 and for the national airspace system by 2018; \$500 million in aviation taxes would be reserved for system modernization. A compromise on beyond-perimeter flights at Washington National Airport adds 16 daily flights beyond 1,250 miles to the current 12. The Essential Air Service program would be improved, but subsidies would be limited for service carrying fewer than 10 passengers daily into an airport located 90 miles or less from an airport with regular service; an Office of Rural Aviation within DOT would focus on development of longer-term EAS contracts.

### 3. House Panel Approves Four-Year FAA Reauthorization Bill.

The House Transportation Committee approved a four-year, \$59.7 billion FAA funding bill. The FAA Reauthorization and Reform Act of 2011 contains no earmarks, in accordance with a House Republican moratorium. Among its provisions, the legislation phases out funding for and sunsets the Essential Air Service Program, and increases beyond-perimeter slots at Reagan National Airport by 10 without increasing the total number of operations. The bill does not contain antitrust immunity sunset, a ban on cell phones or other controversial provisions that prevented enactment of previous FAA bills. It does not increase passenger facility charges. It includes binding arbitration for air traffic controllers and other FAA employees to resolve labor impasses. It repeals unionization election rule changes implemented by the National Mediation Board in 2010. It institutes "a risk-based approach to inspections of foreign repair stations in a manner that protects U.S. jobs and respects bilateral agreements."

4. **Amendment Makes Misuse of Body Scan Images Federal Crime.**

An amendment to the Senate FAA appropriations bill would make it a federal crime to misuse body images generated by scanners in federal buildings nationwide, including airports. The Security Screening Confidential Data Privacy Act would impose a penalty of up to one year in prison and a fine of up to \$100,000 per violation for anyone convicted of unlawfully recording or distributing body scan images.

5. **House Holds Security Hearings.**

Homeland Security Secretary Janet Napolitano told the House Committee on Homeland Security that the terrorist threat to the United States may be at its most heightened state since the 9/11 attacks; Al-Qaeda and its affiliates are placing increased emphasis on recruiting Americans and other Westerners to carry out attacks. New Committee Chairman Peter King (R-NY) is preparing for March hearings to examine the threat of Islamic radicalization within the Muslim-American community. Mike Rogers (R-AL), new Chairman of the House Transportation Homeland Security Subcommittee, said at a Terrorism and Transportation Security hearing that oversight of TSA will be vigorous. He plans to hold hearings on TSA acquisitions and spending practices. "We should not automatically separate national security from fiscal security," he said. "TSA and the taxpayer could benefit from procurement and acquisition reforms and I plan to pursue them."

6. **Antitrust Hearing on Southwest-AirTran Merger.**

The Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights held a hearing on the competitive effects of a Southwest-AirTran merger. Southwest Chairman, President and CEO Gary Kelly said rising fuel prices make the merger "absolutely imperative." The acquisition is a strategic hedge to enable resumption of growth by Southwest, he said. The field hearing was called by Herb Kohl (D-WI)—the two airlines would have a combined 39% share at Milwaukee's General Mitchell Airport.

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

### **1. U.S.-Croatia Open Skies Pact Signed.**

An open skies agreement was signed in Washington by U.S. Secretary of State Hillary Clinton and Croatian Minister of Foreign Affairs Gordan Jandrokovic. The pact “will allow for an open travel corridor between our two countries,” said Secretary Clinton. Croatia is a prospective member of the European Union. Croatia Airlines is a Star Alliance member.

### **2. Chinese Group Leisure Travel to the United States Expanding.**

The U.S. Department of Commerce announced the expansion of travel from China to the United States under Phase 3 of a Memorandum of Understanding (MOU), signed in 2007 between the two countries, which allows Chinese leisure travelers to visit the United States in group tours. Phase 3 expands the reach of the MOU to include three additional Chinese provinces, municipalities and autonomous regions, in addition to 21 areas included in the first two phases. This phase will give the U.S. travel and tourism industry access to 67 million more Chinese citizens. Since the initiation of travel under the MOU in 2008, total visitation from China to the United States increased by 54% by November 2010, and total spending for 2010, through September, was \$3.6 billion, a 28% increase. China is the fastest growing market for the United States, and by 2015 is projected to become the sixth largest, up from sixteenth before 2008.

### **3. State Department Travel Alerts.**

The United States suspended all embassy operations in Libya, given ongoing violence and a deteriorating security situation, and all official U.S. embassy personnel and their family members departed. Ferries were chartered to evacuate all U.S. citizens from Libya when the State Department was unable to obtain permits for charter flights. Travel warnings to U.S. citizens also were issued for Eritrea, Egypt and Yemen, and travel alerts for Bahrain and Tunisia. U.S. citizens traveling to or residing in India, Bangladesh and Sri Lanka during the ICC Cricket World Cup (February 19-April 2) were alerted to the potential for terrorist attacks.

## VIII. EUROPE AND AFRICA

### 1. European Commission News.

The EC continued to launch infringement procedures against member states regarding bilateral air service agreements with Russia, as they may hinder competition between European airlines and provide the basis for Siberian overflight charges that may be illegal under EU antitrust rules. The latest states to receive the formal requests for information are Cyprus, Ireland, Poland, Portugal, Slovakia and Spain. . . . The EC opened separate investigations to verify whether code share agreements implemented between Lufthansa and Turkish Airlines and between TAP Portugal and Brussels Airlines breach EU competition rules. The probes focus on routes where both companies operate parallel hub-to-hub code sharing and should be competing with each other. Routes in question are Munich-Istanbul and Frankfurt-Istanbul, and Brussels-Lisbon. . . . The EC opened a formal investigation under EU state aid rules to examine whether the restructuring plan of Czech Airlines (CSA) is suitable to restore the company's long-term viability and whether a proposed reduction in activities will be sufficient to offset the distortive effect of aid received; CSA received a €94 million grant from state-owned undertaking Osinek, among other preferential conditions.

### 2. Virgin Atlantic Suitors Line Up.

As rumors fly about potential bidders for Virgin Atlantic, the airline said the Virgin brand would be retained regardless of the outcome. Late last year, Virgin Group founder Richard Branson commissioned Deutsche Bank to assess options for his 51% stake in Virgin Atlantic. Etihad is among those reportedly considering a bid. SkyTeam partners Air France-KLM and Delta are said to have offered membership in their transatlantic alliance; Virgin presently is not part of a major alliance.

### 3. Iberia to Offer Los Angeles Service.

Iberia will begin Madrid to Los Angeles service on March 28. The Airbus A-340/300 flights are part of a joint business agreement with American and British Airways for routes over the North Atlantic.

### 4. Spanair to Code Share With US Airways.

Spanair will code share with Star partner US Airways between Madrid and Charlotte, NC, between May 14 and October 29.

5. **Ukraine Sells Controlling Stake in Airline.**

The government of Ukraine reportedly sold its 61.6% stake in Kiev-based Ukraine International Airlines for \$36 million to investment groups and Lufthansa unit Austrian Airlines.

6. **Star Transatlantic JV News.**

Austrian, bmi and Swiss International reportedly will join the immunized transatlantic joint venture of Lufthansa, Air Canada, Continental and United, as sub-brands of parent Lufthansa.

7. **EgyptAir Announces Revised Flight Schedule.**

EgyptAir issued a revised schedule through March 26, following reduced capacity since the political crisis in which President Hosni Mubarak was ousted. A revised summer schedule will feature gradual growth reaching normal volume toward the end of the season. The company is considering several measures to offset recent losses, including lease out of aircraft and crew. Egypt is one of the top 25 tourist destinations worldwide and current losses are estimated at over \$300 million a day. In related news, Continental indefinitely postponed planned service from Newark to Cairo, which was to have begun on May 18.

8. **ANA-Lufthansa Joint Venture Proposed.**

See Section IX, item 1.

9. **American, British Airways Launch Tokyo Haneda Flights.**

See Section IX, item 4.

10. **Middle East Airlines Joins SkyTeam.**

See Section IX, item 8.

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

### **1. ANA-Lufthansa Joint Venture Proposed.**

All Nippon Airways (ANA) filed an application with the Japanese government for antitrust immunity to launch a joint venture with Lufthansa on routes between Japan and Europe. Subject to approval of the application, the Star Alliance partners will be able to jointly manage their Japan-Europe operations in areas such as scheduling, pricing and sales.

### **2. ANA Forms Budget Airline.**

ANA and Hong Kong's First Eastern Investment Group formed discount carrier A&F Aviation Co., with service to begin in second half FY2011. The Kansai-based, no-frills airline will offer "overwhelmingly low fares" on domestic and international flights, said CEO Shinichi Inoue. The name will be changed; 10 Airbus A320s have been leased.

### **3. China to Invest \$227 Billion in Aviation by 2015.**

The Chinese government will invest more than \$227 billion in the aviation sector in the next five years, said Civil Aviation Administration of China Director Li Jiayang. China will build more than 45 airports, bringing the total to 220 by 2015; and expand its fleet to 4,500 aircraft, compared with 2,600 at the end of 2010.

### **4. American, British Airways Launch Tokyo Haneda Flights.**

American Airlines is now offering the only flights between New York Kennedy and Haneda, while oneworld partner British Airways is serving Tokyo's recently expanded gateway from London Heathrow. Haneda reopened to international scheduled services in October, after a 32-year break, with a fourth runway and a state-of-the-art international terminal.

### **5. Hawaiian Adds Osaka in Asia Expansion.**

Hawaiian will begin daily nonstops between Honolulu and Osaka, its third new Asia destination in recent months, subject to Japanese government approval. The flights will begin in July with 264-seat Boeing 767-300ERs; 294-seat Airbus A330-200s will be phased in later this year and in 2012. Hawaiian introduced service to Seoul in January and Tokyo in November.

### **6. Virgin Blue-Etihad Alliance Cleared.**

The Australian Competition and Consumer Commission (ACCC) authorized an alliance between Virgin Blue Group and Etihad Airways for five years. The airlines will cooperate on joint pricing and scheduling across their networks,

but will not share revenue. Virgin Blue long-haul subsidiary V Australia is the first Australian carrier to operate to the Middle East since 1991. In related news, Etihad Airways and Air New Zealand agreed to code share on ANZ flights to cities in New Zealand's North and South Islands, including Auckland, Wellington and Christchurch; and on Etihad flights to London Heathrow and other services. The pact "illustrates Etihad's growing ambitions in the Asia Pacific region," said CEO James Hogan, and "complements Etihad's alliance with Virgin Blue."

**7. Qatar Enters Canadian Market.**

Qatar Airways will enter the Canadian market with three weekly Boeing 777-200 LR flights to Montreal from Doha, effective June 29. An agreement signed last year between Canada and Qatar permits three passenger and three cargo flights per week into Canada. In an ongoing battle, the United Arab Emirates has been trying to obtain increased slots in Canada for Emirates airline.

**8. Middle East Airlines Joins SkyTeam.**

Beirut-based Middle East Airlines–Air Liban (MEA) signed an agreement to join SkyTeam in 2012. MEA has concluded a restructuring plan that includes fleet renewal and rationalization, increasing density of European, Middle East and West African network and improving product quality and consistency. China Airlines and China Eastern with its Shanghai Airlines unit will effectively join SkyTeam this year; Garuda Indonesia, Aerolineas Argentinas and Saudi Arabian Airlines have confirmed membership effective in 2012. SkyTeam said it seeks partners from India and Latin America.

## **X. AMERICAS**

### **1. U.S. Carriers Report 2010 Operating Profit of \$9.5 Billion.**

U.S. passenger and cargo air carriers reported an operating profit of \$9.5 billion in 2010, reports FAA, compared to \$849.8 million in 2009. Operating revenues increased 7% in 2010, and operating expenses by 1.6%. Domestic enplanements increased from 630.8 million in 2009 to 635.3 million (0.7%) in 2010 (mainline -0.7%; regional +5%). International enplanements increased from 73.6 million to 77.4 million (5.2%). Mainline domestic RPMs are forecast to increase 3.4% in 2011, and enplanements by 2.8%. International RPMs are forecast to increase 8.4% in 2011 and enplanements by 7.9%. . . . Despite severe winter storms in January 2011, U.S. airlines reported their thirteenth consecutive month of revenue growth, said the Air Transport Association of America (ATA). Passenger revenue rose 10% (domestic +6.7%, international +16%), compared to January 2010. Cargo revenue ton miles rose 4% year over year (domestic -2.5%, international +9.2%) in December 2010; January 2011 cargo data was not available. . . . U.S. winter storms from November 1 through early February resulted in almost 90,000 cancellations, the most since the government began tracking the data in 1987.

### **2. Delta, GOL Begin Code Share Flights.**

Delta began code share service on 56 GOL flights between Sao Paulo, Rio de Janeiro and Brasilia and 15 Brazilian destinations, with the number of markets to increase to more than 30 by summer, pending government approvals. As part of a \$2 billion enhancement through 2013, Delta will introduce premium economy on all long-haul international flights in summer 2011, featuring seats with up to four additional inches of legroom and 50% more recline. Full flat-bed seats will be installed on all international widebodies by 2013. The company is paying out \$313 million in profit sharing to its employees, following a \$1.4 billion profit for 2010. And, Delta became the first major U.S. carrier to eliminate mileage expiration, effective for all accounts as of January 1, 2011.

### **3. WestJet Teams With Delta, American.**

WestJet began an interline agreement with Delta and entered into a comprehensive code share and frequent flyer agreement with American Airlines. Subject to regulatory approvals, American will place its code on WestJet flights to up to 20 Canadian cities not currently served by American or American Eagle. WestJet will initially place its code on American or American Eagle flights from Canada to Chicago and Boston. American and WestJet are exploring other ways to augment their cooperation. The Calgary-based carrier

flies 93 Boeing Next-Generation 737s, with 42 confirmed deliveries through 2018.

4. **Spirit Resumes Fort Lauderdale-Punta Cana Service.**

Spirit Airlines resumed seasonal service between its Fort Lauderdale home and Punta Cana, Dominican Republic. The ultra low cost carrier is offering three nonstops per week.

5. **PC Capital Acquires Mexicana.**

PC Capital acquired the holding company that controls bankrupt Mexicana and said the airline will resume operations upon receiving regulatory approvals.

6. **Boeing 747-8 Intercontinental Unveiled.**

Boeing unveiled its stretched version of the 747-400, the 747-8 Intercontinental, which will carry 467 passengers. Korean and Lufthansa are launch customers, with first delivery scheduled for fourth quarter. Compared to its predecessor, the 747-8 provides 16% better fuel economy, 16% less carbon emissions per passenger and a 30% smaller noise footprint, said the company, and will have the lowest seat-mile cost of any large commercial jetliner.

7. **Iberia to Offer Los Angeles Service.**

See Section VIII, item 3.

8. **Spanair to Code Share With US Airways.**

See Section VIII, item 4.

9. **American, British Airways Launch Tokyo Haneda Flights.**

See Section IX, item 4.

10. **Hawaiian Adds Osaka in Asia Expansion.**

See Section IX, item 5.

11. **Qatar Enters Canadian Market.**

See Section IX, item 7.

12. **Middle East Airlines Joins SkyTeam.**

See Section IX, item 8.