



WASHINGTON AVIATION SUMMARY

May 2010 EDITION

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For further information, including documents referenced, contact:

Joanne W. Young
Kirstein & Young PLLC
1750 K Street NW
Suite 200
Washington, D.C. 20006
Telephone: (202) 331-3348
Fax: (202) 331-3933
Email: jyoung@yklaw.com

<http://www.yklaw.com>

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. Airlines Lose \$1.7 Billion in European Airspace Closure.

More than 100,000 flights were cancelled and some 10 million passengers were stranded, when airspace was shut down across Northern and Central Europe for six days due to a cloud of ash from an Icelandic volcano. The International Air Transport Association (IATA) estimated the event cost airlines \$1.7 billion in revenue, and the European Union (EU) estimated total industry losses could reach \$3 billion.

The International Civil Aviation Organization (ICAO) said no ash-related incidents or accidents occurred because of the smooth operation of the International Airways Volcano Watch (IAVW) system that detects and tracks movement of volcanic ash in the atmosphere and warns states and aviation users. However, said ICAO, in light of the unprecedented disruptions to air traffic, a global safety risk framework for routinely determining safe levels of operation in airspace contaminated by volcanic ash should be established.

IATA was critical of Europe's methodology for closing airspace and of air navigation service providers, which announced they would not provide service without adequately consulting airlines. The chaos and economic losses are a clarion call that a Single European Sky is critical and urgent, said IATA Director General Giovanni Bisignani. He urged Eurocontrol to establish a volcano contingency center capable of making coordinated decisions.

European Commission Transport Vice President Siim Kallas said the EU will present a proposal on airspace closures to the ICAO General Assembly in September, after exchanges with other regions, and addressed issues such as passenger rights and state aid to airlines (see Section VIII).

2. DOT Denies Requests for Waiver of Tarmac Delay Rule.

The U.S. Department of Transportation (DOT) denied airline requests for temporary exemptions from the tarmac delay provision of the new passenger protection rule, which took effect April 29. The tarmac delay measure prohibits U.S. airlines operating domestic flights from permitting an aircraft to remain on the tarmac at large and medium hub airports for more than three hours without deplaning passengers. Exceptions are made for safety or security reasons or if air traffic control advises that returning to the terminal would disrupt airport operations. JetBlue, Delta and American asked for exemptions for New York Kennedy operations until the airport's main runway, currently under construction, reopens in December. Continental requested exemptions for

New York LaGuardia and Newark flights, and US Airways for Philadelphia. Carriers warned they will cancel flights, rather than risk fines for non-compliance that could reach \$27,500 per passenger.

3. **FAA Calls on Airlines to Limit Cockpit Distractions**

The Federal Aviation Administration (FAA) called on air carriers to create and enforce rules and training meant to limit distractions in the cockpit that divert attention from required duties, including use of personal electronic devices for activities unrelated to flight. Last year, pilots of Northwest 188 overflew their destination by 150 miles because they were using laptops for personal activities and lost situational awareness. And investigators found that pilots of Continental Connection 3407 were engaged in conversation rather than flight conditions, in a crash near Buffalo in which 50 people were killed. The National Transportation Safety Board (NTSB) has made recommendations to FAA regarding cockpit discipline.

4. **Pilot Fatigue Rule Stalled by OMB.**

The White House Office of Management and Budget (OMB) is delaying new rules on pilot fatigue, according to a *Wall St. Journal* report, because the projected cost to airlines is not justified by anticipated safety benefits. FAA had hoped to release draft regulations by early 2010.

5. **FAA Proposes Penalties Against Frontier, Chautauqua.**

FAA proposed civil penalties against Republic units Frontier (\$380,000) and Chautauqua (\$348,000). Frontier operated Airbus A-318s and -319s on about 900 flights when they were not in compliance with federal aviation regulations; the carrier reconfigured passenger cabins to permit dual-aisle access to overwing emergency exits, but did not display new placards showing passengers how to operate the exits. Chautauqua allegedly operated some regional jets without performing inspections required by five different FAA airworthiness directives (ADs); problems with Chautauqua's management of its maintenance program and its system for tracking the status of ADs led to the alleged violations.

6. **FAA Proposes New Policy on Antidepressants for Pilots.**

FAA reversed a rule that banned pilots from flying a plane while taking certain medications for mild to moderate depression. Pilots will be allowed to fly if they have been satisfactorily treated on the medication for at least 12 months. FAA will not take civil enforcement action against pilots who take advantage of a six-month opportunity to share a previously non-disclosed diagnosis of depression or use of antidepressants. "We need to change the culture and remove the stigma associated with depression," said FAA Administrator Randy

Babbitt. "Pilots should be able to get the medical treatment they need so they can safely perform their duties."

7. DOT Air Travel Consumer Report for February.

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

	Feb. '10 / '09	Jan. '10	Full Year				
			2009	2008	2007	2006	2005
On-time arrivals %	74.6 / 82.6	78.7	79.5	76	73.4	75.4	77.4
Cancellations %	5.5% / 1.2%	2.5	--	--	--	--	--
Mishandled baggage*	4.01 / 3.63	4.62	3.91	5.26	7.05	6.73	6.64
<i>Consumer complaints:</i>							
Airline service	769 / 577	927	8,819	10,648	13,180	8,325	8,741
Disability-related	29 / 33	45	517	477	488	430	511
Discrimination**	5 / 4	7	132	115	99	114	129

Note: There were 12 flights with tarmac delays of four hours or more in February.

* Reports per 1,000 passengers.

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

8. Passenger Airline Employment Down 3.5% in February.

U.S. scheduled passenger airlines employed 378,100 workers in February 2010, reports DOT, 3.5% fewer than in February 2009 and the lowest total for any month since at least 1990. The six network airlines employed 256,800 in February, down 3%. Low-cost airline employment was up 1.4% and regional was down 9.8%.

II. AIRPORTS

1. O'Hare Wins \$410 Million Federal Grant.

Chicago O'Hare won a \$410 million federal grant, its third grant to build two new runways and extend a third. The city is selling \$1.2 billion in municipal bonds to help fund the \$3.28 billion Phase One of the O'Hare Modernization Plan. The second and final phase of the airport's project will cost \$5.5 billion.

2. Lynn Hampton Named MWA Interim President, CEO.

Lynn Hampton was appointed Interim President and CEO of the Metropolitan Washington Airports Authority (MWA), effective May 9, replacing Jim Bennett who will retire after 14 years of service. Hampton served as Vice President for Finance and Chief Financial Officer since 1989.

3. FAA Criticizes LAX Study on Runway Safety.

FAA Administrator Randy Babbitt advised Los Angeles Mayor Antonio Villaraigosa, in a letter, that failing to further separate two north field runways at Los Angeles International would be a serious mistake. Babbitt criticized a recent \$2 million study that concluded the runways are safe and said FAA identified several critical flaws in the study's assumptions, methodology and conclusions. LAX has more runway incursions than any other U.S. airport, according to a federal study released two years ago; a \$333 million project to separate south airfield runways has led to a drop in incursions. The Mayor said Babbitt's letter raised serious safety questions that cannot be ignored and asked the Board of Airport Commissioners and operator Los Angeles World Airports to review the issues.

4. IATA: Japan Must Reduce Airport Charges.

IATA Director General and CEO Giovanni Bisignani urged Japan to re-think the JPY2,400 per tonne charge for international operations at Tokyo Haneda. "Charges must follow ICAO principles . . . transparent charges, no cross subsidization and consultation with users. International and domestic operations use the same infrastructure." Haneda and Narita should compete on costs and services to serve the Tokyo market and for hub traffic at Hong Kong, Incheon, Shanghai and Beijing to serve the growing Chinese market, said Bisignani, "but that won't happen with costs double that of successful airports like Singapore's Changi."

III. SECURITY AND DATA PRIVACY

1. DHS Embarks on Global Effort.

Secretary of Homeland Security Janet Napolitano told Aero Club of Washington her agency is “pushing a lot more information overseas” to coordinate watchlists and enhance information sharing and best practices with other countries. The Department of Homeland Security (DHS) began a joint initiative with ICAO to reach global consensus on improved aviation security and DHS officials met with officials in several countries to discuss “better information collection and sharing; better passenger vetting and the sharing of information about passengers before they even get to the airport; stronger cooperation on the development and deployment of technologies.” A global general assembly under the auspices of ICAO will be held in September.

2. TSA Initiates New International Screening Rules.

Transportation Security Administration (TSA) policy of screening all U.S.-bound travelers from 14 nations considered at high risk for terrorist activity, implemented after the Christmas Day bombing attempt on a Detroit-bound flight, has been replaced by “more flexible security protocols,” announced Homeland Security Secretary Janet Napolitano. New measures cover all U.S.-bound travelers and “utilize real-time, threat-based intelligence and multiple, random layers of security, both seen and unseen,” including explosives trace detection, advanced imaging technology, canine teams or pat downs.

3. Coalition Petitions DHS to Suspend Body Scanner Use.

A coalition of more than 30 privacy and civil liberties organizations sent a formal petition to DHS to demand that the agency suspend the airport body scanner program. They argue that the “uniquely intrusive” search is unreasonable and violates travelers' Fourth Amendment rights against unreasonable search; that the program fails to comply with federal laws, including the Religious Freedom Restoration Act, the Privacy Act of 1974, and the Administrative Procedures Act; that the machines are ineffective and that there are better, less costly security technologies; and that TSA has misled the public about the ability of the devices to store and transmit detailed images of travelers' naked bodies. Among groups participating are the Asian American Legal Defense and Education Fund, Electronic Privacy Information Center (EPIC), Council on Islamic-American Relations, Center for the Study of Responsive Law, Liberty Coalition and Public Citizen. In a Freedom of Information Act lawsuit, EPIC obtained documents from DHS that include hundreds of traveler complaints and has a letter stating DHS possesses about

2,000 body scanner photos from devices that the agency said earlier could not store or record images.

4. **Flight Diversions Increase Due to Security Alerts.**

The number of flights that land prematurely because of security alerts doubled in first three months 2010, after the Christmas Day bombing attempt, compared with same period 2009, *USA Today* reports. There were 35 security diversions in first quarter 2010 and 17 in same period last year.

5. **TSA Nears Secure Flight Deadlines.**

TSA is on track to assume full responsibility from airlines for matching passenger data against terrorist watchlist records for all domestic flights in May and all international flights to and from the United States by December. A report from the Government Accountability Office says TSA has received \$358 million in appropriated funds for development and implementation of its advanced passenger prescreening program, Secure Flight, since fiscal year 2004; TSA estimates life-cycle costs of \$1.36 billion through fiscal year 2020.

6. **EU Researches Inflight Passenger Surveillance Technology.**

The EU is testing placement of a system of cameras, microphones and sensors on commercial airliners, reports the London *Telegraph*, that would alert pilots of any threatening behavior pattern. Researchers at Reading University in England have conducted trials on airplanes and say the system extends technology already used at airports and railway stations. The EU Security of Aircraft in the Future European Environment (SAFE) project is funding the research. Privacy International told the *Telegraph*, "Audio airline surveillance is the line that must never be crossed in a high security environment . . . The day the airlines install hidden microphones on planes is the day that all trust in the airlines is destroyed."

IV. E-COMMERCE AND TECHNOLOGY

1. Online Sites Inform Stranded Fliers in Volcanic Ash Crisis.

Online travel sites attempted to keep stranded fliers informed, as a volcanic ash cloud crossed Europe. For example, UK-based Skyscanner provided daily updates and links to operating airports, emergency and other accommodations and ferry and other transportation options. Cheapflights posted updates on flying status at every UK airport and ebookers provided detailed information on changing or cancelling reservations and waived cancellation charges.

2. American Adds Online Check-In Option for International Travelers.

American Airlines added an option for international travelers to its online check-in process. Passengers traveling to international destinations provide passport information and can check in only for flights to destinations where they have met international travel requirements.

3. Amadeus Reports Asia Pacific, Middle East, Africa Growth.

Madrid-based Amadeus reported strong performance in 2009 in Asia Pacific and the Middle East and Africa, despite the economic recession. The global distribution system (GDS) provider achieved a 33% market share in Asia Pacific and a 51% market share of online travel agency bookings, with primary gains in Australia, Hong Kong, Indonesia and Malaysia. In the Middle East and Africa region, Amadeus logged a 45% market share, with 9% growth in 2010 to date, began operations in Syria, Yemen and Lebanon, opened its Middle East Regional Hub in Dubai, and migrated the 13 members of Arab Air Carriers Organization per a 10-year agreement. Amadeus IT Holding raised €1.32 billion in an initial public offering.

4. Travelocity: Summer Fares Rebound to 2008 Prices.

U.S. domestic fares have returned to 2008 prices, with a roundtrip average of \$360, up 9% from last summer, reports Sabre-owned travelocity.com. International fares are 10% higher than summer 2009 and 2% higher than 2008. Year-over-year fares are down to Eastern Europe (-5%), Maui (-5%), the Dominican Republic (-4%) and the U.S. Virgin Islands (-2%).

V. **ENERGY AND ENVIRONMENT**

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

The price of aviation jet fuel, as of April 16, was \$95.2/barrel, up 5.3% for the month and up 54.4% year-on-year, reports the International Air Transport Association. Fuel price average year-to-date was \$87.9/barrel.

2. **ATA Endorses Bill Limiting Speculation in Commodity Futures Markets.**

The Air Transport Association of America (ATA) in a letter thanked Blanche Lincoln (D-AR), Chairman of the Senate Agriculture Committee, for introducing the Wall Street Transparency and Accountability Act of 2010, which would “protect American families from rising gasoline prices by limiting manipulation and unchecked speculation in the commodity futures markets.” Excessive speculation is responsible for current oil prices being 145 percent greater than 2009 lows, wrote ATA CEO James May. When jet fuel prices spiked in 2008 as a result of rampant oil speculation, the aviation industry experienced one of the worst economic crises in its history. The spikes also had a devastating effect on the larger economy. This legislation will close loopholes, increase transparency and promote stability in the commodity markets, resulting in benefits not only for the transportation sector and other industries but for all Americans.

3. **Solar-Powered Plane Completes Test Flight.**

An 87-minute test flight of a solar-powered aircraft was successfully completed in Switzerland. More than 12,000 solar cells cover the wings of the single-seat Solar Impulse, charging battery packs that power four 10 hp electric motors. The plane has a wingspan similar to an Airbus A340, while weighing about the same as a family sized car, reports UK Web site BusinessGreen. Engineers on the \$93.5 million project have been conducting short tests since December, a night flight is planned by July, and a second plane to be built based on results of test flights will attempt a five-stage round-the-world flight by 2013. Bertrand Piccard is Chairman and André Borschberg is CEO of the project.

VI. U.S. CONGRESS

1. FAA extended through July 3.

Congress again approved a short-term extension for FAA, to July 3, as the House and Senate work out differences on a long-term reauthorization bill.

2. Legislation Aims at Tax Loophole for Airlines.

Charles Schumer (D-NY), with other Senators, announced the Block Airlines' Gratuitous (BAG) Fees Act, that would designate carry-on baggage as a necessity for air travelers. Airlines currently pay a 7.5-cent tax to the federal government for every dollar they collect in fares, but no tax is imposed on fees collected for non-essential services, said Schumer. Last January, the Treasury Department ruled that carry-on bags are non-essential for air travel. Schumer believes this ruling creates a tax incentive for airlines to try to charge consumers to charge additional fees in addition to fares. Schumer's action followed a decision by Spirit Airlines to reduce fares to offset a charge for carry-on baggage intended to reduce injuries to flight attendants and passengers caused by excessive carry-on bags and to help speed up security lines and boarding as customers increasingly carry bags on board. It is estimated that the five largest U.S. airlines will collect \$1.76 billion this year for checked bags, \$117 million more than last year.

3. Aviation Panel Reviews NextGen Planning, Interagency Cooperation.

The House Aviation Subcommittee heard testimony on long-term planning and interagency cooperation for implementation of the Next Generation Air Traffic Control system (NextGen). The hearing focused on how near- and mid-term NextGen targets are being reconciled with long-term goals, and how the Joint Planning and Development Office (JPDO) will work in collaboration with partner agencies, which include the National Aeronautics and Space Administration, the Department of Homeland Security, the Department of Defense, and the Department of Commerce. In 2008, these agencies signed a memorandum of understanding with the JPDO to define roles and responsibilities of each party. They agreed to determine how research and development and demonstration projects will be conducted to achieve key NextGen capabilities. Three previous Aviation Subcommittee hearings focused on implementing NextGen in the near- to mid-term.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. U.S.-Israel Agree to Open Skies.

The United States and Israel reached an open skies agreement, under which airlines from both countries will be allowed to select routes and destinations based on consumer demand for passenger and cargo services, without limitations on the number of U.S. or Israeli carriers that can fly between the two countries or the number of flights they can operate. The agreement, which will take effect following a formal signing, will also provide unlimited opportunities for U.S. and Israeli carriers to engage in cooperative marketing arrangements, including code sharing. The previous U.S.-Israel agreement contained restrictions on code sharing opportunities and limits on cities that could be served.

2. U.S.-Mexico Review of Transportation Relationship.

DOT Secretary of Transportation Ray LaHood and Secretary of Communications and Transportation Juan Molinar Horcasitas shared perspectives on a broad range of aviation safety issues at a meeting in Monterrey, Nuevo Leon, Mexico, and agreed to continue long-standing aviation cooperation. They agreed on the importance of cooperating in areas of mutual interest to ensure the safety, reliability, efficiency and sustainability of the two transportation systems; reviewed the status of existing and prospective rail and highway projects in the border region; and reaffirmed their commitment to work closely together with other border stakeholders to ensure coordinated transportation planning.

VIII. EUROPE AND AFRICA

1. EU Proposes Airline Aid After Airspace Closure.

The European Commission announced a plan to help airlines recover from the six-day airspace closure stemming from the cloud of volcanic ash. Transport Commissioner Siim Kallas said the exceptional circumstances justify state aid to airlines, based on uniform criteria established at the European level and subject to review by competition authorities. Competition Commissioner Joaquin Almunia and Economic Commissioner Olli Rehn worked with Kallas on the plan, which would allow states to make loans and guarantees to airlines at market conditions. Other short-term proposals include waived airport slot and night flying restrictions and deferred en-route charges. For the longer term, Europe will develop new systems to handle future volcanic or other disruptions and fast-track work on the Single European Sky project. Kallas said the EC will be very active in ensuring common standards of enforcement of passenger rights rules, which require airlines to pay meal and hotel expenses for stranded passengers. The proposals will be discussed at a meeting of EU Transport Ministers on May 4 in Brussels.

2. British Airway, Iberia Sign Merger Agreement.

British Airways and Iberia signed a merger agreement that, subject to approvals from competition authorities and shareholders, will create one of the world's largest airline groups with 408 aircraft flying to 200 destinations and 58 million passengers a year. It will generate annual synergies of €400 million by the fifth year, and "has been structured so that it can take advantage of further consolidation in the global aviation industry." A new holding company, International Consolidated Airlines Group SA, will be known as International Airlines Group. The two oneworld partners will retain current operations and operate under individual brands. They have received UK and Spanish regulatory confirmation to retain existing national route licenses and traffic rights. Iberia can terminate the agreement if it deems a pension recovery plan agreed to by British Airways and its pension trustees would be materially detrimental to merger. Completion of the merger is expected by yearend. In related news, EU Competition Commissioner Joaquin Almunia said a decision on whether to approve the proposed joint venture of oneworld partners British Airways, Iberia and American Airlines likely will occur in June or July; DOT granted tentative approval in February. Virgin Group Chairman Richard Branson threatened legal action, should the EU approve the joint venture; he wants the transaction to be treated as a merger, since the carriers will be "behaving as a single entity," and has called their proposal to cede transatlantic slots in return for approval "woefully inadequate."

3. **Unite Recommends Members Reject British Airways Offer.**

British Airways and the Unite union resumed negotiations in early April, following two strike actions in March. The union, which represents most of the airline's cabin crew, has recommended that its members reject an offer in a dispute over pay and working conditions.

4. **European Passenger Traffic Rises 4% in February.**

Passenger traffic at European airports rose by 4% in February, compared with February 2009, and freight traffic increased 19.8%, despite industrial action, particularly in France and Germany. When compared to 2008 traffic levels, however, passenger traffic was down 10.1% and freight was down 13.7%, reports European Regions Airline Association (ERA).

5. **UK Probes Alleged Cathay Pacific, Virgin Atlantic Price Fixing.**

The UK Office of Fair Trading (OFT) is investigating allegations of price fixing between Virgin Atlantic and Cathay Pacific on the London-Hong Kong route. "The case concerns a number of alleged contacts between employees of the two airlines over a number of years which it is alleged had the object of coordinating the parties' respective pricing strategies regarding passenger fares through the exchange of commercially sensitive information on pricing and other commercial matters," said OFT. The matter was brought to OFT attention by Cathay Pacific under a policy in which the first company to report participation in cartel conduct may qualify for immunity from penalties. "At this stage it should not be assumed that the parties involved have broken the law," said OFT. Virgin said it intends to robustly defend itself against the allegations and does not believe it acted in any way contrary to the interests of consumers. In a separate OFT case, a prosecutor charged that collusion in price fixing among Virgin Atlantic and British Airways executives involved Sir Richard Branson.

6. **Court Rules EasyJet Violated French Labor Laws.**

A French court ruled that EasyJet violated labor laws by employing 170 workers at Paris Orly under British labor contracts between 2003 and 2006, and ordered the UK carrier to pay €1.55 million in damages and fines. EasyJet said it may appeal.

7. **Alitalia to Resume LAX-Rome Service in June.**

Alitalia will resume nonstop service from Rome to Los Angeles International Airport (LAX) beginning June 5. The five weekly flights will utilize Boeing 777-200 aircraft with 291 seats.

8. Julian Carr Named bmibaby Managing Director.

Julian Carr was named bmibaby Managing Director, succeeding Crawford Rix. Carr will lead bmibaby into the next stage of development, said Wolfgang Prock-Schauer, CEO of bmi, which is a unit of Lufthansa.

9. AFRAA Embarks on Restructuring Strategy.

The African Airlines Association (AFRAA) Executive Committee endorsed a turnaround strategy presented by new Secretary General Nick Fadugba, who said the organization has lost relevance to some members, lacks the international stature, authority and prestige needed to command global attention on key issues, and currently faces financial challenges. Fadugba will seek intervention of IATA in issues including: the harmful impact of the EU blacklist on the global reputation of the African airline industry; unilateral regulations, such as the EU's proposed carbon Emissions Trading Scheme; global liberalization "and its damaging impact on African airlines"; more active collaboration in collecting and analyzing African airlines traffic data; the inclusion of African airlines in IATA Working Groups; and Europe's new policy of block negotiations on air transport market access "which unfairly pitches the EU against individual African states." EgyptAir Group Chairman Hussein Massoud was named joint representative of AFRAA and the Arab Air Carriers Organization to the IATA Board of Governors.

10. Airlines Lose \$1.7 Billion in European Airspace Closure.

See Section I, item 1.

11. China Eastern to Join SkyTeam.

See Section IX, item 2.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. American Delays Start of Chicago-Beijing Flights.

American delayed launch of daily nonstops from Chicago to Beijing Capital International Airport, because landing and take-off slots awarded by Chinese aviation authorities are not “commercially-viable.” American gave a new date of May 25 for the launch, as it works to resolve the problem, saying new-entrant carriers to a market should receive preferential treatment. DOT said it was very disappointed that China failed to grant more favorable slot times to American.

2. China Eastern to Join SkyTeam.

China Eastern announced its intention to join SkyTeam by mid-2011. The Shanghai-based carrier will bring 25 new destinations to the Delta-led alliance. China Southern is also a member of SkyTeam.

3. JAL Update.

Japan Airlines (JAL) plans to cut a third of its workforce in this fiscal year, accelerating a restructuring proposal compiled by the carrier and state-backed Enterprise Turnaround Initiative Corp. (ETIC) that called for cutting 16,000 jobs over three years. JAL will cut about 45 international and domestic flights this fiscal year, including service from Tokyo to Sao Paulo, Amsterdam and Milan, and will retire Boeing 747s and Airbus A300s. New daily services from Tokyo Haneda to San Francisco, Honolulu, Paris and Bangkok are planned. ETIC said JAL generated an operating profit in March, following five consecutive quarters of operating losses.

4. ANA Merges Subsidiaries.

ANA will merge cargo subsidiaries, Air Japan (AJX) and ANA & JP Express (AJV), both of which operate Boeing 767s, “in order to build a more flexible operating structure and streamline their operations.” The merger is scheduled for July 1, with AJX the surviving company; AJV will be dissolved.

5. Air New Zealand, Continental Code Share.

Star Alliance partners Air New Zealand and Continental began code sharing on Continental flights from Houston, New York and Cleveland to Air New Zealand services to and from Los Angeles and San Francisco to Auckland. The code share arrangement covers Air New Zealand trans-Pacific services, including Rarotonga, Apia and Tonga; Auckland trans-Tasman and domestic New Zealand services; and Auckland-Hong Kong.

6. **ACCC Charges MAS With Alleged Air Freight Price-Fixing.**

The Australian Competition and Consumer Commission (ACCC) charged Malaysian Airline System (MAS) and its cargo subsidiary for agreeing with other carriers to fix fuel and security surcharges between 2001 and 2006. Understandings were reached in Indonesia and Hong Kong for fuel surcharges applied to cargo originating in those countries; and in Indonesia, Hong Kong and Singapore for a security surcharge applied to cargo originating in those countries. The ACCC is seeking declarations, injunctive relief, pecuniary penalties and costs. MAS is the 13th airline to be the subject of ACCC proceedings for alleged price fixing in the air cargo industry, which to date have resulted in penalties totaling \$41 million.

7. **Philippines Works to Improve Safety Ratings.**

Civil Aviation Authority of the Philippines (CAAP) fired some 170 consultants and appointed qualified technical personnel, reports the *Business Mirror*, as newly appointed Director General Alfonso Cusi strives to professionalize ranks and regain international safety ratings. The EU in March banned Philippine carriers from flying in European airspace, ICAO issued a safety alert in November 2009 and FAA in 2008 downgraded the country's safety rating to Category 2.

8. **Macquarie Unit Acquires 53 Aircraft From ILFC.**

A unit of Australian investment bank Macquarie Group agreed to acquire an operating lease portfolio of 53 aircraft from International Lease Finance Corporation (ILFC), a subsidiary of American International Group (AIG), for just under \$2 billion. Most of the portfolio is comprised of Boeing 737 Next Generation and Airbus A320 Family aircraft. Separately, ILFC founder Steven Udvar-Hazy is starting a new company, Air Lease Corp., with former ILFC COO John Plueger.

9. **Airlines Lose \$1.7 Billion in European Airspace Closure.**

See Section I, item 1.

10. **UK Probes Alleged Cathay Pacific, Virgin Atlantic Price Fixing.**

See Section VIII, item 5.

X. AMERICAS

1. United, Continental Announce Merger Agreement.

On May 3, 2010 United and Continental announced a \$3-billion merger. The merger would create the world's largest airline with annual revenues of \$29 billion based on 2009 results. Under the terms of the merger holders of Continental common stock would receive 1.05 shares of United stock in an all stock transaction. After the merger United shareholders would own 55% of the total equity and Continental shareholders would control 45%. Continental CEO Jeff Smisek would become CEO of the combined company and United CEO Glenn Tilton would be the nonexecutive Chairman until December 31, 2012 or the date of the closing whichever is later, at which point Smisek would become Executive Chairman. The Board would have 16 members, two of whom would represent labor unions. The company would be based in Chicago, with United as the brand, but would retain a large presence in Houston, which would become the combined carrier's largest hub. The carriers expect the merger would provide \$1.0 billion to \$1.2 billion in net annual synergies by 2013, including between \$800 million and \$900 million of incremental annual revenues, largely from expanded customer options resulting from the greater scope and scale of the network, and additional international service enabled by the broader network of the combined carrier. Since there is limited route overlap, the two companies do not anticipate large employment cuts.

2. Passenger Revenue Rose 15.4% in March.

Passenger revenue rose 15.4% in March versus March 2009, based on a sample group of U.S. carriers, marking the third consecutive month of revenue growth, reports ATA. About 1.4% more passengers traveled on U.S. airlines, while the average price to fly one mile rose 11.7%. Growth was robust across all regions in international markets, with passenger revenues rising 19.6%. Cargo traffic, as measured in cargo revenue ton miles, rose 14% year over year (4% domestically and 23% internationally) in February 2010; March 2010 cargo data was not yet available.

3. Southwest Terminates Agreement With WestJet.

Southwest terminated an agreement with WestJet to offer U.S.-Canada service, saying it cannot agree with modifications requested by the Canadian carrier. "We remain interested in exploring the possibility of one day offering service to Canada," said Southwest, and "would not rule out future code share relationships with Canadian carriers or flying north of the border ourselves."

Southwest said efforts continue to enable international connecting itineraries to Mexico with Volaris. WestJet is in alliance talks with Delta.

4. Sun Country Files Reorganization Plan.

MN Airlines, doing business as Sun Country Airlines, filed a Chapter 11 reorganization plan in U.S. Bankruptcy Court in St. Paul, Minnesota, after owner Thomas Petters was sentenced to 50 years in prison for running a \$3.5 billion fraud scheme. Ownership was ceded to creditors; MN said expressions of interest in acquiring the company included valuations from \$10 million to \$30 million, with no definitive offer.

5. Republic: Brand Unification for Frontier, Midwest.

In a step toward “the harmonization and ultimate integration of its branded operations,” Republic elected to retain the Frontier Airlines name and “its iconic animal trademarks” and will phase out the Midwest brand over the next 12-18 months.

6. Delta, GOL Seek Authorization for New Code Share Agreement.

Delta and GOL requested U.S. and Brazilian authorization to implement a code share agreement that initially will allow Delta to put its code on more than 45 GOL flights departing Brasilia, Rio de Janeiro and Sao Paulo to cities throughout Brazil, and on GOL flights between Brazil and Paraguay and Uruguay (subject to government approvals). Frequent flier program cooperation is planned.

7. Airlines Lose \$1.7 Billion in European Airspace Closure.

See Section I, item 1.

8. Alitalia to Resume LAX-Rome Service in June.

See Section VIII, item 7.

9. American Delays Start of Chicago-Beijing Flights.

See Section IX, item 1.

10. China Eastern to Join SkyTeam.

See Section IX, item 2.

11. Air New Zealand, Continental Code Share.

See Section IX, item 5.