



## 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. **Traffic Volumes Improve in August.**

International scheduled passenger demand declined by 1.1% in August, an improvement on the 2.9% decline in July, reports the International Air Transport Association (IATA). Compared to the low point of March 2009, seasonally adjusted passenger demand improved by 6%, but traffic levels remain 5% below May 2008 when the fall in demand began. Freight demand fell by 9.6% in August, an improvement over the 11.3% drop in July. Compared to the December 2008 low point, seasonally adjusted freight demand improved by 12%, but remains exceptionally weak at 16% below April 2008 levels when the fall in demand began. Average fares continue to be depressed (-22% for premium seats and -18% for economy). To match capacity with demand, airlines have reduced daily aircraft utilization, said IATA. Average daily hours for the global Boeing 777 fleet dropped by 2.7% to 11.1 hours per day through the first eight months of the year. Lower utilization helps load factors, but spreading fixed asset costs over fewer hours in the air pushes up unit costs. IATA predicts airline losses will reach \$11 billion in 2009, after earlier loss projections of -\$9 billion. Revenues for the year are expected to fall by \$80 billion (15%) to \$455 billion, compared with 2008 levels. IATA also revised 2008 estimates from a loss of \$10.4 billion to a loss of \$16.8 billion. For 2010, IATA anticipates average international passenger growth of just over 4%, compared to an expected full-year decline in 2009 of almost 5%.

### 2. **Airlines Oppose Higher APHIS Fees**

On September 28, 2009, the U.S. Department of Agriculture issued an emergency notice that it is raising the Animal and Plant Health Inspection Service (APHIS) fee imposed on arriving international passengers from \$5 to \$5.50 per passenger. Commercial aircraft user fees will increase from \$70.75 to \$78.00 per international arrival. APHIS last raised the AQI user fees on January 1, 2005. The agency stated the new fees are needed to ensure adequate funding to adjust for heightened security needs and falling passenger volumes. USDA expects these new fees to generate \$523 million in revenues in FY 2010. Following objections continue these important inspection activities that help prevent the introduction of plant and animal pests and diseases into the United States. Following objections from the U.S. Air Transport Association (ATA) and IATA, USDA announced that it would postpone the start date for collection of the new fees from October 1, 2009 until November 1, 2009. However, the agency is accepting comments on the change until November 27, 2009. Both IATA and ATA oppose the new rule and urged USDA to withdraw the emergency notice and conduct a proper rulemaking procedure.

**3. Global Airline Capacity Shows Positive Growth .**

Global airline capacity for September 2009 showed positive growth for the second consecutive month, reported OAG, with 296.9 million seats scheduled, a 1.4% increase (4,130,744 more seats) over September 2008 levels. Frequencies were marginally down compared to September 2008, with 2.4 million flights scheduled, down by 0.6% (14,321 fewer flights) compared with the same month last year. The August year on year global frequency figure was down by 2% and capacity was up by 0.2%. OAG is a provider of global airline data.

**4. OAG Releases Prototype for Pandemic Disease Management.**

OAG has developed a prototype to assist health organizations and government agencies in preparing strategies to combat the spread of pandemic diseases, including the H1N1 virus and other flu strains. The tool allows organizations to visualize and model in elapsed time: how a disease can spread from any single airport in the world, on any day within the future schedules time-frame; which cities and airports could be alerted of potential impact as elapsed time from original departure time increases; which carriers should be alerted at down-line connection points; which carriers may already be impacted; and how many (maximum) passengers could be exposed to a disease as time passes. The product will contain schedule data for all direct flights and connections for every airport around the globe. In other flu news, *USA Today* reports that more airports than ever are offering seasonal flu shots. In 2008, more than 40,000 flu vaccines were administered by FLUEase, a Chicago-based company that organizes and staffs flu shot kiosks at many airports, and 125,000 shots are planned for this year.

**5. New FAA Efforts Address Safety Concerns.**

The Federal Aviation Administration (FAA) announced new efforts to respond to safety concerns. An Office of Audit and Evaluation will handle all public safety complaints and whistleblower contributions, and serve as the focal point for the U.S. Office of Special Counsel, Government Accountability Office, and the Department of Transportation (DOT) Inspector General. A new Accident Investigation and Prevention Service integrates work of the Offices of Accident Investigation and Safety Analytical Services, allowing FAA to better understand current and emerging risks through use of data from accident and incident investigations, historical accidents and incidents, and voluntarily submitted information from industry programs such as Aviation Safety Action and Flight Operational Quality Assurance programs. An airworthiness Directive (AD) compliance plan aims to minimize disruptions to passengers; each year FAA issues about 250 ADs requiring carriers to correct potentially

unsafe conditions, with implementation sometimes resulting in large numbers of cancelled flights.

**6. FAA Approves Plan for Southwest to Replace Unapproved Parts.**

FAA approved a plan that required Southwest to replace unapproved parts installed on about 50 Boeing B-737s. FAA determined on August 21 that the parts, associated with hinge fittings for the exhaust gate assembly, had been installed on a number of Southwest planes and is investigating this issue; FAA and Boeing said the part would not prevent safe operation of the airplanes. Southwest can continue to operate aircraft until the parts are replaced, on condition that each plane is physically inspected for wear and tear every seven days and the affected parts are all replaced with an approved part by December 24, 2009. FAA directed Southwest to locate and dispose of other unapproved parts made by the same vendor and to report inspections results to FAA on a daily basis.

**7. DOT Official Recused From Oneworld Antitrust Review.**

Deputy U.S. Transportation Secretary John Porcari has been recused from examining the pending oneworld antitrust application led by British Airways and American Airlines; Porcari filed a comment on the case last November when he was Maryland Transportation Secretary. DOT Secretary Ray LaHood earlier stepped back from the case, as he supported the application before taking office. In other news, DOT General Counsel Robert Rivkin said the Departments of Transportation and Justice have developed a “harmonized” approach to assessing competition in the airline industry, despite using different methodologies. He referred to speculation about a policy rift when DOT approved the expansion of Star Alliance to include Continental despite Justice Department objections.

**8. DOT, Air Canada Reach Agreement on NHL Team Charters.**

Air Canada agreed to dismiss a lawsuit against U.S. Transportation Secretary Ray LaHood regarding a cabotage dispute. In August, DOT alleged Air Canada broke U.S. cabotage rules last year on charters conducted for some National Hockey League (NHL) teams and disallowed multiple stops. The Air Canada suit called the U.S. action “arbitrary, capricious, and contrary to law,” and Transport Canada retaliated in kind. In a new agreement, the charter flights will resume, and both countries can investigate allegations of cabotage, but disputes will be handled through negotiation. DOT said Air Canada agreed to implement security procedures comparable to those required for U.S. airline charter flights.

**9. DOT Receives 1,400 TIGER Grant Applications.**

More than 1,400 applications were received for a share of the \$1.5 billion TIGER (Transportation Investment Generating Economic Recovery) Discretionary Grant program, reports DOT. Awards are granted for innovative ground transportation projects that show significant economic and environmental promise for the nation, a region or metropolitan area. Congress created the program to finance significant performance-driven projects and those that involve multiple jurisdictions or modes. Of the \$57 billion in TIGER grants requested, more than half are for highway or bridge projects, with the rest focusing on transit, railroad, port infrastructure, multimodal or other investments. Teams from each of the major modes—highways, transit, rail, maritime and aviation—will evaluate the applications and projects will be announced by February 17, 2010.

**10. July Passenger Airline Employment Down 5.9%.**

U.S. scheduled passenger airlines employed 386,900 in July. That was 25,800 fewer (-5.9%) than in July 2008 and the lowest total for any month since 1993. The seven network airlines employed 260,459 in July, 67.3% of the passenger airline total, while low-cost carriers employed 16.3% and regionals employed 14.6%.

**11. DOT Air Travel Consumer Report for July.**

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

	July	June	Full Year					
	'09 / '08	'09	2008	2007	2006	2005	2004	2003
On-time arrivals %	77.6 / 75.7	76.1	76	73.4	75.4	77.4	78.1	82
Mishandled baggage*	3.98 / 4.87	4.17	5.26	7.05	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>								
Airline service	827 / 1,093	747	10,643	13,180	8,325	8,741	7,452	5,983
Disability-related	53 / 65	54	474	488	430	511	521	375
Discrimination**	17 / 9	10	115	99	114	129	118	85

Note: There were 29 flights with tarmac delays of at least four hours in July.

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. O'Hare Warned on Safety Violations.

Chicago O'Hare received a letter of correction from FAA regarding major violations in airfield safety issues, ranging from debris on runways to excessive amounts of tall grass and weeds that attract birds and other wildlife. In addition, reports the *Chicago Tribune*, the notice says the Chicago Department of Aviation's "daily self-inspection records do not reflect actual conditions in the field, violations have not been noted on the self-inspection records that are evident in the field." Most of the violations have been corrected, and the rest, involving the training of workers driving on the airfield and filing accurate self-inspection reports, will be resolved by the end of November, said the Aviation Department.

### 2. FAA Approves New Orleans' Preliminary Bid to Privatize.

New Orleans Armstrong International Airport (MSY) received FAA approval for a preliminary application to participate in the airport privatization program. Airport officials are seeking private investors willing to assume a long-term lease and hope to submit a final application in 2010. MSY handled 3.9 million passengers in 2008, up 6% from 2007, and 131,197 aircraft operations. Airlines providing scheduled passenger service at MSY are Southwest, Continental, American, Delta, United, US Airways, AirTran, JetBlue and Northwest.

### 3. Dulles Completes First Phase of International Arrivals Facility.

The Metropolitan Washington Airports Authority completed the first phase of a major expansion project at the Washington Dulles International Arrivals Building (IAB), adding 206,000 square feet to the existing facility. U.S. Customs and Border Protection (CBP) officers have 50 booths in which to process 2,400 passengers per hour, nearly doubling former capacity. The IAB was built in 1991 when the airport served about 1.4 million international passengers per year. In 2008, Dulles served a record 6.2 million international passengers. The first phase also includes new parking areas for the legendary Dulles mobile lounges that transport passengers from aircraft gate areas. Future phases will include a new baggage handling facility, with completion of the entire project expected in 2011. Dulles also opened a new passenger security screening area and is testing the AeroTrain, an underground airport train system.

4. **SFO Offers Passengers Carbon Offsets**  
See Section V, item 6.

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

#### 1. **TSA News.**

President Obama will nominate Erroll Southers as Assistant Secretary for the Transportation Security Administration (TSA). The former FBI agent serves as Los Angeles World Airports Police Department Assistant Chief for Homeland Security and Intelligence and has served as Deputy Director of Homeland Security for the State of California. ...TSA awarded a \$3.7 million contract to Dynamics Research Corp. for one year of project management for the National Explosives Detection Canine Team Program (NEDCTP), which prepares dogs and handlers to locate and identify or rule out explosive materials. ...TSA is deploying powder explosives detection kits to U.S. airports for use when X-ray technology determines that substances require additional screening.

#### 2. **DHS Awards \$35.4 Million in AARA Funds for Airport Security Projects.**

The Department of Homeland Security (DHS) announced \$35.4 million for airport security projects funded by the American Recovery and Reinvestment Act (ARRA), including \$30 million for reduced-size Explosive Detection Systems (EDS) at airports nationwide; \$4.1 million for a closed circuit television system at Oklahoma City's Will Rogers World Airport; and \$1.3 million to design an EDS at an existing off-site facility at Orlando International. Of the \$1 billion in ARRA funds allocated to TSA for aviation projects, \$700 million is dedicated to screening checked baggage and \$300 million for checkpoint explosive detection technology. DHS was on track to obligate more than 50% of ARRA funds by the end of September.

#### 3. **DHS Addresses Privacy Concerns.**

The annual DHS privacy report to Congress indicates increased efforts to quickly resolve public complaints and fulfill requests under the Freedom of Information Act (FOIA), in response to mandates from Congress and the White House. FOIA requests have doubled since January when federal agencies were directed to make presumptions in favor of disclosure. DHS privacy officers have assisted with resolution of 77% of privacy incidents during the report period (July 2008 to June 2009); all branches of DHS are required to name privacy officers by October.

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

### **1. IATA Initiatives Reduce Credit Card Fees and Fraud.**

New IATA initiatives aim to help airlines reduce costs and manage risk associated with credit card operations. The IATA CreditCard Optimisation Service will reduce commission rates and service charges, improve speed and method of payment and create a single point of contract for all credit card negotiations. An online database, IATA Perseuss, allows airlines to legally share data about fraudulent credit card transactions, which are estimated to cost the industry \$1.4 billion annually.

### **2. Report on Airline Use of Social Media.**

“Some airlines have moved quickly and effectively to exploit social media,” say authors of a new report, “The Airline Industry & Social Media,” which is a product of Innovation Analysis Group, TheTravelStrategist.com and CAPA (Centre for Asia Pacific Aviation). “Low-cost airlines tend to be the innovators in this area,” says CAPA Chairman Peter Harbison, in his introduction to the study, “but—perhaps in a sign of the changed times—many full service airlines have strongly bought into the social media sites too. The early movers are seeing some positive spin-offs from their activity. JetBlue for example has almost 1.2 million followers on Twitter.” Separately, British Airways social media site Metrotwin.com attracts 23,000 unique visits a month and another 37,000 registered users regularly contribute recommendations and ratings; 146,000 nominations have been logged on the ‘I love this place’ tool—recommendations on what to do and where to go.

### **3. Mexico to Allow Inflight Use of Cell Phones.**

Mexico's Ministry of Communications and Transport overturned a law that generally prohibited passenger use of cell phones inflight, and now permits use on planes that have been fitted with appropriate equipment. Aeromexico said its flight attendants will halt use of the phones if necessary.

### **4. Asian Carriers Purchase ARINC Airport Network Service.**

Air China, Air Macau, Asiana, Cathay Pacific, China Southern, Dragonair and Korean Airlines are now using AviNet Airport wide-area network service to support their international passenger operations. The ARINC solution can network traditional and modern operating applications with a single connection and support applications ranging from ticketing to flight information.

## V. **ENERGY AND ENVIRONMENT**

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

The price of aviation jet fuel, as of September 18, was \$78.5/barrel, down 2% for the month and down 37.1% year-on-year, reports the International Air Transport Association. Fuel price average year-to-date was \$66.7/barrel.

### 2. **Airlines Present Climate Change Proposals to UN.**

IATA presented proposals for climate change talks to the UN Secretary General's Summit on Climate Change in New York, in advance of the United Nations Framework Convention on Climate Change (UNFCCC), to be held in Copenhagen in December. The aviation sector presented commitments to three sequential targets: 1) improving carbon efficiency with a 1.5% average annual improvement in fuel efficiency to 2020; (2) stabilizing emissions with carbon-neutral growth from 2020; and (3) emissions reductions with a 50% absolute cut in emissions by 2050 compared to 2005. The industry urged world leaders to retain a global sectoral approach to reducing aviation emissions under the leadership of the International Civil Aviation Organization (ICAO), in cooperation with IATA. "Mechanisms designed for ground-based polluters will not work effectively for aviation which can emit CO<sub>2</sub> across borders and over the high seas even on a single flight," said Giovanni Bisignani, IATA Director General and CEO. "And already uncoordinated national and regional schemes are creating a patchwork of punitive taxes that fill government coffers, but do little or nothing to effectively manage aviation's emissions." British Airways CEO Willie Walsh said, "Our proposals represent the most environmentally effective and practical means of reducing aviation's carbon impact. They are the best option for the planet, and we urge the UN to adopt them."

### 3. **EPA Finalizes Rule on Greenhouse Gas Reporting.**

The U.S. Environmental Protection Agency (EPA) finalized a rule requiring large emitters of heat-trapping emissions to begin collecting greenhouse gas data under a new reporting system. Aircraft engine manufacturers will have to report carbon dioxide emission rates in 2011 for models in production using existing data; no new testing will be required. Separately, proposed EPA regulations would require airports to capture at least some runoff created by de-icing. Environmentalists say de-icing chemicals create dead zones for aquatic life in waterways.

4. **Boston First U.S. Airport to Use “Green” Asphalt on Runway.**

Boston Logan is the first U.S. airport to use environmentally friendly asphalt to completely repave a runway. The \$12.5 million project received federal stimulus funding. The runway, 7,000 feet long and 150 feet wide, was repaved with “warm mix” asphalt which is heated to between 250 and 275 degrees, some 75 to 50 degrees less than traditional “hot mix” asphalt. The project will result in reduction of 4,000 tons of carbon dioxide, savings of 400,000 gallons of diesel fuel, and energy savings of 53 billion BTUs. “Warm mix uses 20% less energy to fabricate, produces 20% fewer greenhouse emissions, and allows us to use more recycled asphalt pavement in the final product,” said airport officials. Other advantages are better work environment for crews installing the new pavement, reduced thermal and air emissions on site and at the production plant, and reduced dust and NOx emissions. The warm mix was tested at Logan on a taxiway and apron areas with FAA oversight before the airport received permission to use it on the outer 37.5 feet of the edges of the runway.

5. **Frankfurt First Airport to Become Airport Carbon Accredited.**

Frankfurt became the first airport to receive carbon accreditation, meaning it has achieved a substantial reduction in carbon emissions over the last three years, based on effective carbon management procedures and comprehensive reporting of its carbon footprint. Frankfurt aims to reduce CO2 emissions per passenger and per 100 kilogram of freight by 30% by 2020. The Airport Carbon Accreditation program is overseen by an independent advisory board made up of representatives of the European Commission, ECAC (European Civil Aviation Conference) Eurocontrol and UNEP (United Nations Environmental Programme). ACI Europe said over 30 airports, accounting for 26% of European airport traffic, will soon become formally accredited.

6. **SFO Offers Passengers Carbon Offsets**

San Francisco International Airport (SFO) has announced a new “Climate Passport” program, enabling travelers to easily calculate and reduce the carbon footprint of their air travel by contributing to carbon offset projects based in San Francisco and California. Travelers can access the Climate Passport through kiosks located in the international terminal and terminal 3 or on SFO’s website and determine the amount of carbon offsets needed to address the greenhouse gas impact. An offset for a 600 mile trip would cost approximately \$3, while an offset for a 6,000 mile trip would cost approximately \$34. When the amount is set, [3Degrees](#), a local San Francisco carbon and renewable energy marketing firm that manages the Climate Passport kiosks, sources carbon offsets from The Conservation Fund’s Garcia River Forest Project and the San Francisco Carbon Fund, to ensure an equivalent amount of greenhouse gases has been reduced. “We happily

support this program that offers our passengers a way to take action and reduce their carbon footprint,” said John L. Martin, Director of San Francisco International Airport. “This is one of many projects at the Airport that will have real, substantive impact on reducing greenhouse gases.”

## **VI. U.S. CONGRESS**

### **1. FAA Extension Approved.**

The House and Senate each approved a three-month extension for FAA program and funding authority, providing operating authority through the end of the year. In addition, continuing funding resolutions cover all agencies, including FAA, that did not have appropriations bills passed before fiscal 2009 ended on September 30. FAA has been funded by temporary extensions since its authorization expired on September 30, 2007. The House passed a three-year, \$53.5 billion reauthorization bill in May. The Senate is considering a two-year, \$40 billion proposal.

### **2. Passengers Conduct Hill Hearing.**

Passenger rights advocates conducted a "Passenger Rights Stakeholder Hearing" in the Rayburn House Office Building, sponsored by Senator Barbara Boxer (D-Calif.). Boxer is a co-sponsor of a passengers' rights bill that would require airlines to allow passengers to deplane after three hours on the tarmac, if deemed safe to do so by a captain. Former American Airlines Chairman Robert Crandall spoke in favor of a three-hour limit, but warned that, due to capacity cuts, passengers who opt to deplane may have difficulty finding seats on other planes and be delayed longer than if they had waited on a runway. He recommended beginning with a four-hour cap until the beginning of 2011, when it would drop to three hours. Most aviation executives agree that keeping people involuntarily confined aboard airplanes for extended periods of time is unacceptable, said Crandall. Airports Council International-North America also spoke in support of limits to runway and tarmac delays, calling on Congress and DOT to determine specific deadlines and hold airlines accountable for adhering to the predetermined deadlines.

### **3. House Hearing Examines Pilot Experience, Safety Enforcement.**

The House Aviation Subcommittee received testimony on FAA's "Call to Action on Airline Safety and Pilot Training." Speakers included Air Line Pilots Association President John Prater, who said regional airlines are continuing practices that jeopardize safety despite the February crash of Continental Connection Flight 3407, which brought to light issues of training, pay and working conditions of pilots at smaller carriers; the crash killed 50 people. Other pilots testifying called for standardized training and better entry-level salaries and cited a dramatic drop in experience level of new-hire pilots. ATA CEO James May said federal regulations stress that commuter airline management is responsible for safety, but, "responsibility can't be delegated or assumed by others." FAA's goal of "one level of safety" for the entire

industry translates into “one level of enforcement,” May said. FAA has proposed legislation calling for new standards in training and monitoring of pilot fatigue and is urging mainline carriers to take a greater role in improving safety practices at their commuter partners. FAA Administrator J. Randolph Babbitt said recommendations for a science-based approach to fatigue management are under review and outlined other initiatives in process, including forced inspection, which requires FAA inspectors for part 121 carriers to conduct a focused program review of flight crewmember training, qualification and management practices.

**4. Senate Passes Travel Promotion Act.**

The Senate passed the Travel Promotion Act (TPA), which creates an office within the Department of Commerce to promote the United States as a premier international travel destination and communicate U.S. security and entry policies. The TPA specifies that travel promotion will be paid for by private sector contributions and a \$10 fee on foreign travelers who do not pay for a visa to enter the United States. The House passed a similar measure in 2008 and is currently considering a companion bill. “Ever-changing security policies and negative foreign press coverage have deterred foreign travelers from visiting the United States since 9/11,” says the U.S. Travel Association. The United States had 634,000 fewer overseas visitors in 2008 than in 2000, despite 56 million more global overseas travelers worldwide. Overseas visitors spend an average of \$4,500 per person, per trip in the United States. Supporters say a well-executed promotion program would attract 1.6 million new international visitors and generate \$4 billion in new economic stimulus and \$321 million in new federal tax revenue each year. The Congressional Budget Office estimates TPA would reduce the federal budget deficit by \$425 million over ten years.

## VII. BILATERAL AND STATE DEPARTMENT NEWS

### 1. U.S.-Japanese Talks Held in Washington.

U.S. and Japanese negotiators held three days of talks in Washington and agreed to meet again on October 26, as they work to replace a 1952 aviation agreement. The U.S. hopes for a tentative open skies pact by year end.

### 2. WTO Ruling on Airbus Subsidies Said to Favor Boeing.

A preliminary report by the World Trade Organization (WTO) found that Airbus received illegal subsidies for the A380 superjumbo jet and other airplanes. The confidential finding is a response to a complaint filed by the United States on behalf of Boeing. The European Union (EU), however, was not determined to have systematically abused global trade rules, said the *New York Times*, and European officials said the WTO panel rejected 70% of the claims in the U.S. complaint, a figure disputed by U.S. officials. A formal ruling is expected by the end of the year, followed by appeals and a final outcome next year. A counterclaim by the EU, under review by a separate WTO panel, contends that Boeing has received at least \$24 billion in subsidies through federal military and space contracts and tax breaks; an interim report on that case is expected next year.

### 3. Family Visits to Cuba Expanded.

New U.S. measures “promote greater contact between separated family members in the United States and Cuba,” said the U.S. Department of the Treasury. Travelers may visit close relatives who are nationals of Cuba; there is no limit on the duration or frequency of those visits. Cuban-Americans previously had been allowed to travel to the island only once a year.

## VIII. EUROPE AND AFRICA

### 1. Airbus: Demand for 25,000 New Aircraft by 2028.

Some 25,000 new passenger and freighter aircraft valued at \$3.1 trillion will be delivered from 2009 to 2028, forecasts Airbus, which said, "Compared to timescales for aircraft investment and fleet turnover, economic down cycles are relatively short and a strong underlying demand for air travel will drive growth." A 2% decline in 2009 in revenue passenger kilometers is expected to be followed by a 4.6% rise in 2010, and a 4.7% increase per year in the next 15 years. Airfreight ton kilometers will increase annually by 5.2%. Combined with fleet renewal, this creates a demand for 3,440 freighters; more than 850 of these are new aircraft valued at \$210 billion, with the remainder converted from passenger aircraft. The greatest demand for passenger aircraft will be from airlines in Asia-Pacific and emerging markets. The region that includes the People's Republic of China and India accounts for 31% of the total, followed by Europe (25%) and North America (23%). In terms of domestic passenger markets, India (10%) and China (7.9%) will have the fastest growth over the next 20 years. The largest by volume of traffic, will remain domestic U.S. Airbus foresees demand for Very Large Aircraft (VLA) seating more than 400 passengers, like the A380, at above 1,700. Valued at \$571 billion, this represents 19% by value of passenger and freighter aircraft deliveries, or 7% of aircraft units. More than half of the world's VLAs will be operated by airlines in the Asia Pacific region.

### 2. American to Offer Boston-Brussels via London.

American Airlines will begin daily Boeing 767-300 service between Brussels and Boston, via London Heathrow, on November 19.

### 3. JetBlue, Lufthansa Code Share Approved.

JetBlue and Lufthansa received approvals to code share. Initially, they plan to offer connecting service between 12 JetBlue destinations in the U.S. and Puerto Rico and Lufthansa destinations in Europe, the Middle East, Africa and Asia. JetBlue customers can connect via New York Kennedy or Boston to Lufthansa flights. Lufthansa holds a 19% stake in JetBlue.

### 4. Lufthansa Confirms New Job Cuts.

Lufthansa completed its takeover of Austrian Airlines and expects a result by the end of 2009 on its bid for the 20% stake in bmi held by SAS; Lufthansa owns 80% of bmi, which reportedly has attracted other suitors, including British Airways and Virgin Atlantic. In addition to a planned €1 billion cost-cutting program, Lufthansa will cut 15% of administrative staff through attrition

by 2012, and freeze administrative management salaries in 2009 and 2010. Lufthansa had a first-half net loss of €216 million, as sales declined 16% to €10.2 billion, and its debt rating was cut to junk by Moody's Investors Service, due to declining profitability in passenger and cargo units.

**5. Air France-KLM Capacity Reductions.**

Air France-KLM will reduce capacity by 2% for the winter season, compared with winter 2008, and -3.6% compared with winter 2007. Long-haul rationalization includes reduced frequencies to New York, Dubai and Johannesburg, with no change in available seats due to use of Airbus A380s and "the optimization of transatlantic services thanks to the joint venture with Delta." In North America, Air France will operate services to Detroit with one daily instead of five weekly flights; the flight previously operated by Northwest was suspended in January 2009. Delta will operate Boeing B757-200 Paris-Philadelphia service, and will continue to run Paris-Pittsburg service. Air France will introduce Premium Voyageur Class, between economy and business class, on most long-haul aircraft, which will feature a reclining wider seat within a fixed shell, priority check-in and baggage delivery and a baggage allowance. In other news, Air France is assessing internal safety practices, with Delta reportedly involved in the audit. Air France pilots have complained about safety standards since the June 1 crash of an Air France Airbus A330-200 on a flight from Rio de Janeiro to Paris, in which all 228 passengers and crew were killed.

**6. British Airways Begins London City-New York All-Premium Flights.**

British Airways launched service to New York Kennedy from London City airport, the first ever long-haul route from London City. The business class-only service uses Airbus A318s configured with 32 seats that convert to fully flat beds, and stops at Shannon for refueling and to permit passengers to clear U.S. Customs and Immigration; return flights are non-stop, as Kennedy's full-length runways allow the aircraft to take off with sufficient fuel for the entire transatlantic crossing. In other news, British Airways will introduce a fee for more than one bag on routes to the United States, and will charge passengers for selecting seats up to 355 days before flight; seats currently can be selected only in the 24 hours before departure, at no charge.

**7. SkyEurope Suspends Operations.**

SkyEurope filed for bankruptcy and suspended flights after the restructuring trustee determined the company did not have sufficient funds for sustaining operations. "This has come about after recent actions of suppliers and reduced passenger bookings and traffic revenue," said the Slovakia-based discount airline, which "tried to set up a bridge financing facility to remedy the liquidity shortfall, but this facility was not funded in the last moment."

8. **Olympic Air, Delta to Code Share.**

Olympic Air, owned by Greek and United Arab Emirates investment group Marfin, took over most of the flights previously operated by Olympic Airlines. Olympic Air signed a code sharing pact with Delta for Athens-New York flights and expects to sign agreements with Air France-KLM, Cyprus Airways and Etihad Airways for flights to Canada, France and the Netherlands. CEO is Antonis Simigdalas.

9. **Ryanair Offers Smokeless Cigarettes Inflight.**

Ryanair is selling “smokeless” cigarettes to passengers who require a “nicotine hit without breaking the law.” Ryanair said over 24,000 passengers in a recent survey said they would like to smoke during flights.

10. **Virgin Nigeria Renamed Nigerian Eagle Airlines.**

Virgin Nigeria changed its name to Nigerian Eagle Airlines, is seeking investors and has signed a technical partnership with Ethiopian Airlines. Virgin Atlantic is trying to sell its 49% stake in Virgin Nigeria.

11. **WTO Ruling on Airbus Subsidies Said to Favor Boeing.**

See Section VII, item 2.

12. **Air Arabia, Travco to Launch Low Cost Carrier in Egypt.**

See Section IX, item 6.

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

### **1. AAPA August Traffic Results.**

Members of the Association of Asia Pacific Airlines (AAPA) carried 11.9 million international passengers in August, 2.9% fewer than in August 2008. With passenger capacity reduced by 6.7%, average international passenger load factor rose 1.5% to 77.9% for the month. International cargo traffic fell 12.2% from August 2008. Matched by a 12.9% reduction in cargo capacity, average load factor was 66.9% for the month. For the first eight months, international passenger numbers were down 10% on the same period last year, while international cargo traffic was almost 20% lower.

### **2. JAL to Be Reorganized by Government.**

Japan Airlines (JAL) will be reorganized under a government plan meant to avert a bankruptcy; a JAL proposal was deemed insufficient and a bailout request was denied. JAL reportedly is in separate discussions with Delta, American and other airlines about a share sale and cooperation. The airline posted a \$1 billion loss in fiscal first quarter.

### **3. ACCC Charges Garuda With Cargo Price Fixing.**

The Australian Competition and Consumer Commission (ACCC) instituted court proceedings against PT Garuda Indonesia, alleging that between 2001 and 2006, Garuda agreed with other international air cargo carriers to fix fuel and security surcharges. The arrangements were reached in Indonesia and Hong Kong. ACCC is seeking declarations, injunctive relief, pecuniary penalties and costs. Garuda is the tenth airline charged with alleged price fixing in the air cargo industry by ACCC; the court has ordered a total of \$41 million in penalties against respondent airlines.

### **4. Boeing: Asia Pacific to Invest \$1.1 Trillion in New Airplanes by 2028.**

Boeing forecasts that the Asia Pacific region will be the world's largest aviation market over the next 20 years, requiring 8,960 new commercial jets valued at approximately \$1.1 trillion. Asia Pacific air travel will grow from 32% of the world market to 41% by 2028, when 40% of the world's airline traffic will begin, end or take place within the region. Boeing predicts the region's long-term global air cargo market will outpace the global average growth annual rate of 5.4% over the next 20 years, "despite an unprecedented contraction during 2008 and 2009." Asian carriers will add 750 freighters, about 27% of the world requirement, second only to North America.

5. **China Unveils Medium-Range C919.**

China unveiled a mockup of the short- to medium-range, single-aisle C919, which is scheduled to take flight in 2014. The 200-seat jet, manufactured by state-backed Commercial Aircraft Corp. of China (COMAC), will be cheaper to operate and use 12% to 15% less fuel than the Boeing 737 and Airbus A320, a COMAC official told the Associated Press. Shanghai-based COMAC is also building a 70- to 110-seat passenger jet, designed for the local market.

6. **Air Arabia, Travco to Launch Low Cost Carrier in Egypt.**

Low-cost Air Arabia and Egypt-based travel and hospitality group Travco signed a joint venture agreement to launch a low-cost carrier based in Egypt. The new carrier will serve Europe, the Middle East and Africa. Air Arabia serves 57 destinations in Europe, the Middle East, Africa and Asia from hubs in Sharjah and Morocco with a fleet of 20 new Airbus A320s, and has a confirmed order for 44 additional A320s.

7. **U.S.-Japanese Talks Held in Washington.**

See Section VII, item 1.

## X. AMERICAS

### 1. Carriers Seek Liquidity.

As cash reserves dwindle, airlines are seeking ways to increase liquidity. Delta, for example, closed \$2.1 billion of financing transactions, addressing more than 40% of 2010 maturities and generating an incremental \$600 million after refinancing \$1.5 billion from Northwest's bank credit and revolving credit facilities. The transactions are secured by liens against Delta's Pacific route authorities, slots and gate leaseholds. Delta expected unrestricted liquidity at September 30 was \$5.6 billion. American completed an offering of 48.5 million shares of common stock and \$460 million of 6.25% convertible senior notes due 2014, adding \$830 million to its cash position. American obtained \$2.9 billion in additional liquidity and new aircraft financing, including \$1 billion in cash from the advance sale of frequent flyer miles to Citi and \$280 million in cash under a loan facility from GE Capital Aviation Services (GECAS) secured by owned aircraft, and \$1.6 billion in sale-leaseback financing commitments from GECAS for previously ordered Boeing 737s. US Airways Group closed a common stock offering of more than 29 million common shares, netting \$137.3 million to be used for general corporate purposes.

### 2. Travel to U.S. Declines Further in July.

International visitors spent \$9.6 billion on travel to, and tourism-related activities within, the United States during the month of July, nearly 24% less than in July 2008. This was the ninth straight month in which U.S. travel and tourism-related exports declined, reports the U.S. Department of Commerce.

### 3. American Airlines Wins Racial Profiling Suit.

A U.S. District Court judge ruled in favor of American Airlines in a lawsuit by five men of Iraqi descent who claimed their nationality caused a captain to cancel a flight to Chicago in 2007. The pilot was not acting in an "arbitrary and capricious" way when he returned his jet to the gate in San Diego due to "odd" behavior of the five passengers. "The suspicious conduct at issue was not, as plaintiffs' counsel characterized it at oral argument, 'innocent' or 'completely silly,'" the judge wrote; "the fact that the individuals who engaged in the suspicious conduct were of Middle Eastern/Iraqi descent does not support the conclusion that the decision to return to the gate was race-based rather than fact-based."

### 4. American Airlines Employees Arrested for Drug Trafficking.

Nine American Airlines employees were among 23 arrested by agents of the U.S. Drug Enforcement Administration (DEA) for alleged distribution of and

conspiracy to distribute illegal drugs. The arrests were made in San Juan, Puerto Rico, where American has a hub.

**5. Southwest Charges for Early Check-In.**

Southwest is adding \$10 to the price of a one-way fare for customers who opt for an early boarding position prior to general check-in. U.S. airlines collected \$3.8 billion during the first half of 2009 in ancillary fees, including checked bags, canceling or rebooking flights, carrying pets and assigning seats, reports DOT, up \$1.5 billion from same period last year; checked bag fees alone brought in \$1.24 billion. In 2008, ancillary revenue worldwide rose 345% to \$10.25 billion, according to IdeaWorks, which publishes "The Guide to Ancillary Revenue and a la Carte Pricing."

**6. Frontier, Midwest Begin Code Share Partnership.**

Frontier and Midwest began a code share agreement. Midwest Airlines is a wholly owned subsidiary of Republic Airways Holdings, which expects to close on its purchase of Frontier by October 1 when Frontier emerges from bankruptcy.

**7. US Airline Pilots Sue Pension Benefit Guaranty Corp.**

The US Airline Pilots Association (USAPA) filed a lawsuit against the Pension Benefit Guaranty Corp. (PBGC) in federal court seeking removal of the PBGC as trustee of US Airways pilots' pension plan. USAPA says the PBGC has refused to perform on behalf of pension plan beneficiaries since 2003. The suit also requests the appointment of a temporary trustee to investigate the management of the retirement fund. The PBGC assumed control of the pilots' pension on March 31, 2003, when US Airways terminated the plan during its bankruptcy proceedings.

**8. Mexicana to Become Part of Oneworld.**

Mexicana membership in oneworld takes effect on November 10; its subsidiaries MexicanaClick and MexicanaLink will become affiliate members. Alliance members include American, British Airways, Cathay Pacific, Finnair, Iberia, Japan Airlines, LAN, Malev Hungarian, Qantas and Royal Jordanian, plus about 20 affiliated airline. Russian domestic carrier S7 is to join during 2010. The networks of Mexicana and its subsidiaries cover 67 destinations and 14 countries in Central, North and South America and Europe, including 37 points in Mexico.

**9. TAM Sees International Market Share Record of 89.4%**

TAM announced its international market share reached 89.4% in August and load-factor was 73.7%, compared to a market average of 68.9%. Domestically, said the Brazilian carrier, "We have observed the return of business

passengers due to the end of vacations as well as the absence of holidays in the month of August. However, we have seen this return in a modest way, an indication that the industry still is impacted by the global economic crisis.”

10. **Airlines Oppose Higher APHIS Fees**  
See Section I, item 2.
11. **U.S.-Japanese Talks Held in Washington.**  
See Section VII, item 1.
12. **WTO Ruling on Airbus Subsidies Said to Favor Boeing.**  
See Section VII, item 2.
13. **Family Visits to Cuba Expanded.**  
See Section VII, item 3.
14. **American to Offer Boston-Brussels via London.**  
See Section VIII, item 2.
15. **JetBlue, Lufthansa Code Share Approved.**  
See Section VIII, item 3.
16. **British Airways Begins London City-New York All-Premium Flights.**  
See Section VIII, item 6.
17. **Olympic Air, Delta to Code Share.**  
See Section VIII, item 8.