



# WASHINGTON AVIATION SUMMARY

## August 2019 EDITION

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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. Dickson Confirmed as FAA Administrator.**

Stephen Dickson was confirmed as Administrator of the Federal Aviation Administration (FAA) for a five-year term. Acting Administrator Dan Elwell will continue to serve as FAA Deputy Administrator due to a legislative waiver allowing two former military officers to fill top FAA positions simultaneously. Dickson is a pilot and former senior executive at Delta.

### **2. DOT Grants Antitrust Immunity for American-Qantas JV.**

The U.S. Department of Transportation (DOT) gave final approval to an application by American and Qantas to operate a joint venture between North America, Australia and New Zealand. A 2016 application was rejected by the Obama Administration. American and Qantas intend to introduce two new routes from Brisbane to Chicago and San Francisco served by Qantas Boeing Dreamliners by the end of April 2020; they also will add code share services to their existing flights between Australia and the United States. Delta and Virgin Australia and United and Air New Zealand also operate joint ventures between the U.S., Australia and New Zealand.

### **3. Boeing 737 MAX Update.**

Boeing announced \$100 million in funds to address family and community needs of those affected by the Lion Air Flight 610 and Ethiopian Airlines Flight 302 crashes. The funds will support education, hardship and living expenses for families of the victims, community programs, and economic development in impacted communities. Boeing will partner with local governments and non-profit organizations to address these needs. Boeing dedicated \$50 million of the fund to provide near-term financial assistance to families of the victims. Kenneth Feinberg and Camille Biros, experts in establishing and overseeing victims' compensation funds, were retained to ensure that "affected families receive needed assistance as quickly and efficiently as possible," said Dennis Muilenburg, Boeing Chairman, President and CEO. . . . "Regulatory authorities will determine the process for certifying the MAX software and training updates as well as the timing for lifting the grounding order," stated Boeing in its second quarter financial analysis, in which it reported a record \$2.9 billion loss. But Muilenburg said a return to service is expected late this year. "If that timeline changes significantly," he said, we might need "a temporary shutdown of the Max production." "There is no timeline," said Dan Elwell, then FAA Acting Administrator, to reporters, adding that the airplane will be returned to service when it is safe to do so.

**4. UPS to Operate Part 135 Drone Flights.**

UPS applied to FAA for Part 135 certification to operate commercial drone flights under a subsidiary business. The new company, UPS Flight Forward, will develop and operate unmanned aircraft systems (UAS) for revenue-generating deliveries. Currently, UPS operates drone healthcare deliveries in a specific use-case under FAA Part 107 rules. In March, UPS initiated the first FAA-sanctioned use of a drone for routine revenue flights involving transport of a product. The FAA approval was for a contractual delivery agreement at WakeMed's flagship hospital and campus in Raleigh, N.C. In this program, the company delivers medical samples via unmanned drones, supplementing ground courier service. UPS intends to expand its drone delivery service to other hospitals or campus settings. . . . In other drone news, the Blue Ribbon Task Force on UAS Mitigation at Airports released an interim report which includes lessons learned from London Gatwick's December 2018 UAS incursion incident, and recommendations to industry and government on steps that should be taken to safeguard airports from UAS incursions. Recommendations focus on: remote ID rulemaking and technology, incentivizing voluntary compliance and making data available real-time to airport operations and public safety professionals; communication and response planning, UAS incursion response plan coordination; risk assessment; response management, long-term airport closure planning and establishing clear lines of responsibility for reopening an airport after a UAS incursion; standardization, testing and design, more technology testing and eventual standards, better data collection, recording and sharing, and geofencing; and education and enforcement, knowledge tests and robust enforcement. A final report, to be released this year, will also cover privacy, liability, lines of authority, and future delegation of counter-UAS authority, and also offer a template for airports to follow as response protocols are developed. The Task Force, with members from the U.S. and Canada, was commissioned in April by the Airports Council International-North America and Association for Unmanned Vehicle Systems International. Former FAA Administrator Michael Huerta and Los Angeles World Airports CEO Deborah Flint are Co-Chairs.

## II. AIRPORTS

### 1. Munich Airport to Operate Newark Terminal One.

Munich Airport International (MAI) will operate and maintain the \$2.7 billion Terminal One, under construction at Newark Liberty, according to the Port Authority of New York and New Jersey. Scheduled to be fully operational by 2022, the facility will accommodate 13.6 million passengers annually on three levels and have 33 common-use gates. MAI is also involved with joint venture Reach Airports, which will manage the new Terminal One project at New York Kennedy. Total investment in modernization projects underway at Newark, LaGuardia and Kennedy is about \$28 billion, through private and public financing sources. . . . MAI and Meridiam, jointly with STRABAG, were awarded the Sofia Airport Concession after a tender process conducted by the Bulgarian government with support of the World Bank; the Commission for Protection of Competition will now proceed with its review.

### 2. SFO Opens Harvey Milk Terminal 1.

San Francisco International Airport opened the first nine-gate section of Harvey Milk Terminal 1, with Southwest and JetBlue flights. The \$2.4 billion project will be completed in 2022.

### 3. Atlantic City to Construct \$1 Million Deicing Containment Facility.

Atlantic City International will receive a grant of over \$1 million to construct a deicing containment facility, as part of \$477 million in airport infrastructure grants awarded by FAA. A total of 276 grants to 264 airports in 44 states, the Pacific Islands, and the District of Columbia are included in this third allotment of \$3.18 billion in Airport Improvement Program (AIP) funding.

### 4. Gatwick to Use Standby Runway for Departures by Mid-2020.

Gatwick published a final master plan that brings the existing standby runway into routine use for departures only by mid-2020. The plan recommends that planning policy continue to safeguard land should a new runway be required in the longer-term; the airport is no longer actively pursuing plans for an additional runway. The standby runway plans will be privately financed, with no compulsory purchase of residential properties required. Gatwick next must carry out surveys and preparation of detailed environmental information on the standby runway plans, which will then be subject to public consultation, followed by further updates to the plans and an eventual decision. A 50.01% stake in Gatwick was acquired by VINCI Airports in May; Global Infrastructure Partners manages the remaining 49.99% interest.

**5. Milan Linate Closed for Refurbishment Projects.**

Milan Linate Airport is closed through October for an €18 million refurbishment, including runway repairs, a redesign of the terminal façade and reconstructing baggage claim and arrival areas. Airport operator SEA Group said flights will be transferred to Milan Malpensa and Milan Bergamo during the three-month period.

**6. EC Issues Evaluation of Airport Charges Directive.**

The European Commission (EC) published an evaluation of the effectiveness of the 2009 Airport Charges Directive (ACD). . . . The report “does not validate airlines’ tired allegations that airports exhibit excessive profitability levels, that they overcharge for the use of their facilities and that the ‘dual till’ system reflects excessive market power,” said ACI Europe Director General Olivier Jankovec. “It identifies key drivers of increasing airport competition, from the development of low-cost carriers and their move up market into primary airports, to multi-hub strategies of full-service carriers and their alliances, and the expansion of non-European carriers “which are courted by airports globally.” . . . The analysis “confirms that we need stronger and fully independent national regulators, as well as clear requirements for airports to meaningfully consult airlines and be transparent about their costs,” said Airlines for Europe (A4E) Managing Director Thomas Reynaert, who called for the Commission “to expedite the ongoing impact assessment of policy options to improve the current framework as soon as possible.” . . . “Nearly 60% of passengers in Europe pass through just 25 airports,” said the International Air Transport Association (IATA). “The risk of airports abusing their significant market power remains, as demonstrated in cases where market power assessments have been conducted, for example in Ireland, the Netherlands and the UK.” The report concludes that the ACD has had a positive impact on the airport charges setting process, said IATA, but that “there is a clear case for further strengthening it to fully achieve its objectives.”

**7. Vienna Airport Begins Terminal 2 Renovation.**

Vienna Airport broke ground on a €500 million renovation of Terminal 2, with completion scheduled for end of 2020. Construction of a 70,000 square meter additional building, the “T3 Southern Enlargement,” will begin in 2020, with operations to begin mid-2023; the facility will provide leisure areas and Non-Schengen connections.

**8. Tel Aviv Terminal 3 Expansion Approved.**

Israel’s Transport Ministry approved an \$840 million expansion plan for Ben Gurion Terminal 3, which will add about 80,000 square meters of floor space, up to 90 new check-in counters, and four new baggage claim areas. The duty-

free area, border control and parking facilities will also be expanded, in preparation for an expected rise in passengers to 30 million annually.

**9. AirAsia Ordered to Pay Unpaid Airport Fees.**

The Kuala Lumpur High Court ordered AirAsia to pay RM40.73 million (\$10 million) to Malaysia Airports, a wholly-owned subsidiary of Malaysia Airports Holdings (MAHB), for fees unpaid because of operational issues at Kuala Lumpur International Airport Terminal 2 (KLIA2). AirAsia X CEO Benjamin Ismail said problems include frequent unplanned runway closures, uneven aprons and taxiways, and poor airport design. The decision will be appealed, said AirAsia Group CEO Tony Fernandes. “I’m so disappointed and frustrated,” he tweeted. “All we have ever asked is for MAHB to understand our model and help us to create more jobs.”

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

#### 1. **TSA Tests Advanced Technology at Las Vegas McCarran.**

The Transportation Security Administration (TSA) is testing advanced technology at Las Vegas McCarran Terminal 3. Passengers selected to bypass traditional checkpoints on the terminal upper level can access the 'Advancing the Checkpoint Environment' program (ACE) facility on the lower level. The Las Vegas program initially is limited to United domestic flights for a few hours a day. Several 3D computed tomography bag scanners and a new type of full-body scanner are being tested, said TSA, which eventually wants to add biometric technology.

#### 2. **Star Alliance, NEC to Partner on Biometric Platform.**

Star Alliance and NEC will develop a biometric data-based identification platform that allows passengers to pass through airport curb-to-gate touchpoints, such as check-in kiosks, bag-drop, lounges and boarding gates, which traditionally require both a passport and boarding pass, by using facial recognition technology. When customers enrolled in a Star frequent flyer program opt in, their biometric data can then be used at biometric touchpoints of any participating airport when they travel with a Star member airline. Personal data, such as a photo and other identification details, are encrypted and stored. The Star release noted: "The system has been designed in compliance with applicable data protection laws making use of the latest facial recognition technology. Personal data will only be processed with the consent of the passenger. Passengers may be required to show their passport during security and immigration procedures." The first biometric solution at a Star Alliance airport hub is expected by first quarter 2020.

#### 3. **Norwegian Using Biometric Boarding at LAX.**

Norwegian began boarding passengers at Los Angeles International using facial recognition from Vision-Box, joining Air France, British Airways, Cathay Pacific, Finnair, KLM, Korean Air, Lufthansa, Qantas and Singapore. Los Angeles World Airports has been running a biometric self-boarding solution since 2017, in the scope of the U.S. Biometric Exit trial program and following a partnership with Vision-Box and U.S. Customs and Border Protection (CBP). The passenger's facial image is captured at an eGate and sent to the CBP Traveler Verification Service, which conducts a matching process with the stored digital facial token, captured at the initial immigration process or from the U.S. passport. Within seconds the system reconciles the passenger identity and eligibility to enter the flight. A positive match of both verifications

opens the eGate and the passenger can board the airplane. Vision-Box “processes around 700 million passengers per year at over 80 international airports.”

**4. IG Finds Deficiencies in Global Entry Processes.**

Ineligible, potentially high-risk members may be in CBP's Global Entry Program, said the Department of Homeland Security Inspector General (DHS IG), after finding four unqualified applicants in a random sample of FYs 2016-2017. The IG report says CBP officers did not always comply with policies when reviewing applications, nor do policies sufficiently help them determine an applicant's level of risk; during the airport arrival process, officers granted some Global Entry members expedited entry without verifying authenticity of kiosk receipts; and, CBP does not effectively monitor Global Entry to ensure members continue to meet program requirements. CBP has initiated corrective actions to address the findings.

**5. Sensor-Filled Hallways Could Speed Airport Scanning.**

Researchers at Northeastern University are developing an airport scanner that will allow passengers to pass through a hallway with sensors on each side that create a 360-degree body image. Challenges include how to lower the costs of a technology that could speed up waits at airports by allowing “someone to just walk normally or stand on a moving walkway as they approach a gate or an airport and be scanned.”

**6. FedEx Offers Expedited U.S. Passport Services.**

Expedited U.S. passport services are being offered by FedEx and RushMyPassport, as U.S. State Department routine passport processing time has increased to up to eight weeks. Services include rushed passport processing and overnight shipping for applications and government-compliant passport photos.



## IV. TECHNOLOGY AND EQUIPMENT

### 1. British Airways Fined for Breach of Customer Data.

British Airways is facing a fine of £183.39 million (\$223.97) for the theft of customer data from its website last year, as required under the EU General Data Protection Regulation. The UK Information Commissioner's Office blamed the breach on the company's "poor security arrangements." British Airways Chairman and CEO Alex Cruz said the company "responded quickly to a criminal act to steal customers' data" and has "found no evidence of fraud/fraudulent activity on accounts linked to the theft." Willie Walsh, CEO of International Airlines Group (IAG), said its British Airways unit will appeal.

### 2. Alternative Travel Payment Methods Gaining.

Travel payment alternatives now account for 51% of e-commerce spend worldwide, reports Amadeus, which, with cross-border payment specialist PPRO, is offering "The Travel Payments Guide" for travel merchants. According to their analysis, e-Wallets are twice as popular as cards in China, accounting for 49% of the country's \$155 billion digital travel spend. In the U.S., e-Wallets may replace cards in popularity by 2025, having gained an additional 4% of market share in last 12 months. PPRO is integrated with Amadeus' Payment Platform, allowing companies to "rapidly add and experiment with a new payment method."

### 3. Boeing Tests New Technologies on ecoDemonstrator.

Boeing will use a B-777 in its 2019 ecoDemonstrator program, Starting this fall, technologies to be tested include sharing digital information between air traffic control, the flight deck and an airline's operations center to optimize routing efficiency and safety; an electronic flight bag app that uses next-generation communications to automatically provide rerouting information to pilots when weather conditions warrant; connected cabin technologies that make galleys and lavatories smart, and monitor cabin conditions; and cameras to provide more passengers with a view outside the airplane. ecoDemonstrator programs since 2012, on a 737-800, 787-8, 757, Embraer E170 and 777 Freighter, have tested 112 technologies. Those in use include iPad apps that provide real-time information to pilots, enabling them to reduce fuel use and emissions; custom approach path information to reduce community noise; and a camera system on the 777X that will help pilots avoid ground obstacles.

## V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel on July 12 was \$82.90/barrel, up 9.8% on the month and down 5.9% compared to a year ago, reports IATA. Jet fuel price average for 2019 was \$80.50/barrel. Impact on 2019 fuel bill was down \$7.8 billion.

### 2. **France Proposes Aviation Eco-Tax.**

France proposed an eco ticket tax of €1.5 to €18 for departing flights, to begin in 2020; €180 million raised annually will be invested in cleaner transport infrastructure. Flights to Corsica and French overseas departments, which are dependent on air travel, will be exempt. . . . “This tax would represent an additional cost of over €60 million per year,” said Air France, and “significantly penalize competitiveness.” IATA said the “misguided” tax will put at risk €100 billion that aviation generates for the French economy, and vowed to hold France to account “to spend this tax on accelerating aviation sustainability, especially prioritizing more efficient air traffic control and promoting sustainable fuels.”

### 3. **EC Transport Chief: Sustainability Number One Aviation Challenge.**

“Sustainability as the new number one challenge for aviation will be clearly expressed in the priorities and actions of the new European Commission and European Parliament,” said Henrik Hololei, EC Director General for Mobility and Transport, in a speech to the International Aviation Club in Washington DC. Among his remarks: “The global response of the industry has so far been timid and complacent. Arguing that CORSIA is a sufficient tool is not enough anymore.” “Even though the aviation sector’s emissions make up just 2% of global emissions, it is nevertheless one of the few sectors where emissions continue to grow.” “We are currently working on proposals to incentivize use of sustainable aviation fuels, including proposing concrete blending mandates. This measure can help to reduce emissions through gradual substitution of kerosene over time.” He noted that European aviation “has reached new heights with 1.2 billion passengers in 2018 and more than 11 million flights in European airspace; with an additional 300,000 flights forecasted for this year.”

## VI. U.S. CONGRESS

### 1. House Hearing on “State of Aviation Safety.”

The House Aviation Subcommittee held a hearing on the “State of Aviation Safety,” with emphasis on the Boeing Max crashes. Among those providing testimony were families of Ethiopian Airlines Flight 302 victims. A Canadian man who lost five family members said FAA “recklessly left Boeing to police itself,” and noted “a shameful pattern of behavior” by airplane manufacturers of shifting blame for crashes to pilots. In this case, he said, the term “foreign-pilot-error” is “utter prejudice and a disrespect to pilots and Boeing customers across the world.”

### 2. FAA Asked for Close Review of International Pilot Training.

House Republicans urged Dan Elwell, then FAA Acting Administrator, “to carefully consider changes to airline pilot training requirements.” Sent as the International Civil Aviation Organization (ICAO) hosted a pilot licensing review, the letter requested that FAA “provide our staff with a briefing on the events and discussions of this week, as well as future planned efforts at ICAO on these issues.” Transportation Committee Republican leaders said global regulators must focus on training and experienced pilots need to be able to recognize when a highly-automated aircraft is not operating as expected, how to respond in such situations, and how to operate the aircraft when automated systems fail; and emphasis should be on competency-based training rather than simply amassing unrelated flight hours. An earlier bipartisan effort requested a DOT IG investigation of international pilot training standards and training for commercial pilots operating outside of the United States, including training related to the Boeing 737 MAX.

### 3. “Fair and Open Skies Act” Introduced in House.

The “Fair and Open Skies Act” was introduced in the House. The legislation requires DOT to ensure that any new foreign air carrier permit issued to a European airline “is consistent with the fair labor standards and fair competition requirements of the U.S.-EU-Norway-Iceland Air Transport Agreement,” said sponsors, including House Transportation Chairman Peter DeFazio (D-OR). The bill prohibits DOT from issuing a permit to any foreign airline to serve the United States unless DOT determines the airline is not exploiting a “flag of convenience” by establishing itself in a country other than that of its majority owner to avoid regulations or otherwise undermining labor standards. A similar bill was introduced by DeFazio after DOT issued a foreign air carrier permit to Norwegian Air in 2016. . . . This unnecessary bill “placates

a narrow segment of the U.S. aviation industry by claiming to address a problem that does not exist [and] invites retaliation by our international Open Skies partners,” said U.S. Airlines for Open Skies, a coalition of Atlas Air Worldwide, FedEx, JetBlue and the Cargo Airline Association.

**4. Bill Would Remove Cap on Passenger Facility Charge.**

“Investing in America: Rebuilding America’s Airport Infrastructure Act” was introduced in the House. H.R. 3791 removes the federal cap on the airport passenger facility charge (PFC), giving airports more flexibility and local control to finance major construction projects,” said sponsors Thomas Massie (R-KY) and Earl Blumenauer (D-OR). “This pro-market approach will give all airports the flexibility they need to address the nearly \$130 billion worth of infrastructure needs they face over the next five years to increase capacity, enhance security, promote competition among the airlines, and improve the overall passenger experience,” said Airports Council International - North America. Airlines vigorously oppose efforts to raise the PFC cap. Airlines for America (A4A) says \$200 billion has been invested in airport improvement projects since 2008; the \$7 billion Airport and Airway Trust Fund, projected to hit \$47.7 billion in the next ten years, could be spent on airport infrastructure; and PFC revenue was a record \$3.5 billion in 2018.

**5. Hearing on DHS Use of Facial Recognition Technology.**

The House Homeland Security Committee held a hearing on DHS use of facial recognition and other biometric technologies and the safeguarding of data collected. “The accuracy of certain biometric technology is in question,” said Chairman Bennie Thompson (D-MS), who cited studies showing that facial recognition systems in particular are not as accurate for women and darker skinned individuals. In one test, software incorrectly matched 28 members of Congress with individuals who had criminal records, and nearly 40% of the false matches were people of color. . . . In his testimony, CBP official John Wagner said facial comparison technology is able to match travelers at a rate of greater than 97%. He added that its use “facilitates legitimate trade and travel”; as it automates the manual identity verification process, “it allows CBP and its stakeholders to make quicker and more informed decisions.” . . . The Electronic Privacy Information Center (EPIC) continued to recommend a suspension of facial recognition at U.S. airports, and, with a coalition of 35 organizations, urged Congress to halt use of the technology on the general public, as it “poses serious risks to privacy and civil liberties” and “has been implemented without proper safeguards or explicit Congressional approval.” Bias is also a significant problem with the identification technique, said EPIC.

**6. House Transportation Leaders Address FAA Remote ID Rule Delay.**

Concern about the delayed rule requiring remote identification for unmanned aircraft systems (drones) was expressed in a letter to DOT Secretary Elaine Chao, FAA Acting Administrator Daniel Elwell, and Acting Director of the Office of Management and Budget (OMB) Russell Vought. “Failure to complete this effort poses serious risks to the National Airspace System, its users, and the Nation’s most critical and sensitive facilities and assets,” wrote House Transportation leaders. “Delays also stifle innovation, preventing the U.S. commercial UAS industry from reaching its full potential.”

**7. Senators Urge Airlines to Immediately Carry EpiPens Onboard.**

Senators Charles Schumer and Tammy Duckworth urged Airlines for America and then FAA Acting Administrator Daniel Elwell to immediately require that epinephrine and EpiPens be included in standard Emergency Medical Kits on each U.S. flight. They were required until a four-year exemption began in 2016, due to a product shortage. The Senators said a June 2019 study in the Journal of Allergy and Clinical Immunology found that “equipping all commercial aircraft with auto-injectors (EpiPens) would cost the airlines about \$2 million a year, or about 8 cents per passenger.” The request followed a highly publicized event on a Delta flight, in which a doctor onboard used a multi-step method to save a passenger having a serious allergic reaction; the EpiPen provides immediate relief. FAA said airlines have been required to carry injectable epinephrine since at least 2003, but experts say the average person would not know how to give patients the proper dosage without an EpiPen.

## VII. BILATERAL AND STATE DEPARTMENT NEWS

### 1. U.S. Treasury Warns Against Dealing with Iranian Airlines.

“The Iranian regime uses commercial airlines to further the destabilizing agenda of terror groups,” said the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC). An Advisory informs the civil aviation industry of potential exposure to U.S. enforcement actions and economic sanctions for engaging in or supporting unauthorized transfers of aircraft or related goods, technology or services to Iran or to designated Iranian airlines. Potentially sanctionable activities could include financial services, reservations and ticketing, freight booking and handling, procurement of aircraft parts and equipment, maintenance, ground services, catering, interline transfer, code share agreements, and refueling contracts.

### 2. Flights to Cairo Briefly Canceled Amid Security Concerns.

British Airways and Lufthansa temporarily halted flights to Cairo, after the British government warned of a “heightened risk of terrorism against aviation.” A U.S. State Department advisory warns against travel to the Sinai Peninsula (with the exception of Sharm El-Sheikh by air) and the Western Desert due to terrorism, and to Egyptian border areas due to military zones. In March, FAA warned of risk to civil aviation operating into, out of, within, or over the Sinai Peninsula in the Cairo Flight Information Region, noting, “Although MANPADS have not been used to target civil aircraft in the Sinai, extremists/militants could potentially do so at any time with little or no warning.” In 2015, ISIS claimed responsibility for an improvised explosive device (IED) attack destroying a Russian passenger aircraft enroute to St. Petersburg, shortly after departing Sharm el-Sheikh in the southern Sinai. The group claimed the IED was placed aboard the aircraft prior to departure, raising concerns about potential insider threats at the airport.

### 3. Trump, U.S. Airline CEOs Discuss Gulf Carrier Issues.

U.S. airline executives met with the President and Vice President to resume discussions on whether Gulf carriers Etihad, Emirates and Qatar are unfairly advantaged by government subsidies. American, United, Delta and unions contend that they are. They also claim that “by investing in a failing regional Italian airline and rebranding it as Air Italy, which is now being used as a proxy for new subsidy-backed routes between the U.S. and Italy,” Qatar has violated understandings negotiated last year to “mandate financial transparency and restore fair competition.” . . . The CEOs of JetBlue, FedEx and Atlas Air in an April letter to Secretary of State Mike Pompeo and DOT Secretary Elaine

Chao, called that claim “wholly unsubstantiated,” stating: “This false characterization of Air Italy’s flights as ‘de facto’ 7th freedom flights is contrary to established international aviation law. The Air Italy flights in question would be legally permitted 3rd and 4th freedom flights operated by an EU carrier under the U.S.-EU Open Skies agreement. If one were to accept this logic, Delta’s 49% investment in Virgin Atlantic would mean that Virgin’s flight from London to Dubai is a Delta 7<sup>th</sup> freedom flight. Further, American Airlines’ investment in state-owned and state-supported China Southern would turn China Southern’s flights from Beijing to Guangzhou into cabotage by American.” . . . Qatar Airways CEO Akbar Al Baker also attended the White House meeting, which reportedly was inconclusive. . . . The Emir of Qatar also met with Trump at the White House and witnessed the signing of orders for U.S.-made equipment. Five Boeing 777 freighters, valued at \$1.8 billion at current list prices, “will enable Qatar Airways Cargo to grow to become the number one global cargo carrier this year in both fleet and network and is a demonstration of our ongoing commitment to U.S. manufacturing,” said Al Baker. Agreements were signed with GE Aviation for the GEnx engine to power Boeing 787-9 and 777X aircraft, as well as service, valued at over \$5 billion. And a \$1 billion order was signed for 18 Gulfstream aircraft for Qatar Airways Group’s corporate jet division, Qatar Executive.

4. **U.S., Israel Agreements Address Aviation Security.**

During meetings in Washington, Acting Secretary of Homeland Security Kevin McAleenan and Director of the Israeli Security Agency (ISA) Nadav Argaman signed agreements that “will bolster partnership and cooperation in aviation security, border security, cyber security, information sharing, investigations, and science and technology.”

## VIII. EUROPE AND AFRICA

### 1. Shapps Succeeds Grayling as UK Transport Secretary.

Boris Johnson succeeded Theresa May as UK Prime Minister and appointed Grant Shapps to succeed Chris Grayling as Secretary of State for Transport. Grayling had held the post since 2016. Separately, Ursula von der Leyen was elected President of the European Commission. She will succeed Jean-Claude Juncker.

### 2. British Airline Pilots Plan August Strike.

The British Airline Pilots Association (BALPA) plans to engage in strike action in August, having successfully defended an application for a High Court injunction brought against it by the airline. “Our proposed pay offer of 11.5% over three years is fair, and the Unite and GMB trade unions, which represent nearly 90% of British Airways staff, have already recommended this offer to their members,” said the airline. “We’re pursuing every avenue to find a solution to protect your travel plans and we urge BALPA to return to talks as soon as possible.”

### 3. Ryanair Expects MAX Delivery Delays to Slow Growth.

Ryanair forecasts a decrease in summer 2020 growth rate to 3% from an expected 7%, while full year traffic growth for year to March 2021 will be cut from 162 million passengers to 157 million, due to uncertainty over new deliveries of the Boeing 737 MAX. The shortfall will necessitate base cuts and closures, said CEO Michael O’Leary. “We are starting a series of discussions with our airports to determine which of Ryanair’s underperforming or loss-making bases should suffer these short-term cuts and/or closures from November 2019. We will also be consulting with our people and our unions in planning and implementing these base cuts and closures.”

### 4. Norwegian CEO Bjørn Kjos Steps Down.

After 17 years as Norwegian CEO, Bjørn Kjos, a founder of the airline, has stepped down. During his tenure, the company developed from a small domestic operation to a global low-cost airline with more than 11,000 employees and 170 aircraft. CFO Geir Karlsen is interim CEO; Kjos will serve as an advisor to Chairman Niels Smedegaard. . . . Several U.S. routes have been cut, said the company, which will focus on more profitable operations, “such as Asia, and also look into growing our South America network.”. . . Norwegian expects the grounding of its 18 MAX aircraft to have a negative impact on 2019 results of NOK 700 million.



**5. Air Italy Confirms Summer 2020 U.S. Service.**

Air Italy will resume summer Airbus A330-200 service from Milan Malpensa to Los Angeles (4xweekly) and San Francisco (4xweekly) next March. Year-round services to New York and Miami continue.

**6. Commission Approves Acquisition of Flybe by Connect Airways.**

The European Commission approved the acquisition of UK regional Flybe by Connect Airways, a consortium founded by Virgin Atlantic, Stobart Aviation and Cyrus. Through the consortium, the three companies will jointly control Flybe, Propius and Stobart Air following the merger. To address competition concerns, Connect will release five daily slot pairs at Amsterdam Schiphol and three at Paris Charles de Gaulle to competing airlines.

**7. Icelandair Has Record Summer Traffic.**

Icelandair transported a record number of passengers in May and June compared to same months last year, and bookings for July to October travel increased by 20% compared to same period last year. The airline changed its flight schedule through October due to suspension of MAX aircraft and is operating five leased aircraft. Total seat capacity from September 16 to October 26 will decrease by 4% from estimates. “The financial impact of the suspension of the Boeing 737 MAX aircraft is still uncertain as, among other things, the amount of compensation from the aircraft manufacturer is still under review,” said the airline. In other news, Icelandair Group sold a 75% stake in Icelandair Hotels and related real estate to Berjaya Property Ireland, valued at \$136 million.

**8. WOW Air Assets Acquired.**

Former WOW Air executives Arnar Már Magnússon and Sveinn Ingi applied for an operating license for a startup tentatively called WAB (We Are Back). WOW ceased operations in March. . . . Meanwhile, U.S. businesswoman Michele Ballarin has purchased WOW assets with the aim of resurrecting the low-cost airline, according to press reports.

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

### **1. Pakistan Lifts Overflight Restrictions.**

Pakistan reopened its airspace to civil aviation, bringing relief to local and international airlines that had been re-routing or canceling flights since February military clashes with India. The expensive detours affected hundreds of passenger and cargo flights each day.

### **2. United to Resume Newark to Delhi, Mumbai Flights.**

United is resuming service from New York Newark to Delhi and Mumbai; the daily Boeing 777-300 nonstops begin September 6. Seasonal daily Boeing 787-9 Dreamliner service between San Francisco and Delhi begins December 5. . . . Delta announced in April that it will offer Boeing 777-200LR year-round service from New York Kennedy to Mumbai from December 22, saying it suspended U.S.-Mumbai service in 2009 “as illegally subsidized Middle East carriers made the route untenable.”

### **3. American Returns Rights for Chicago-China Service.**

American Airlines returned 14 weekly frequencies used for flights from Chicago to Beijing and Shanghai, after suspending them last year. The airline told DOT in a filing it is unable to resume the services in the near future and is making them available for use by other carriers.

### **4. China Southern Receives \$4 Billion Capital Injection.**

China Southern Air Holding (CSAH) has entered into a capital increase agreement that involves injection of 30 billion yuan (\$4 billion) from three investors, as part of the country’s efforts to diversify ownership structures among state-owned firms. The airline will use the funds to improve transport and infrastructure related to China’s Belt and Road Initiative and support development in the southern province of Guangdong. CSAH remains a state-owned enterprise and the controlling shareholder of China Southern.

### **5. Virgin Australia, Virgin Atlantic to Partner on Australia-UK Flights.**

The Australian Competition and Consumer Commission (ACCC) granted interim authorization for Virgin Australia to cooperate with Virgin Atlantic on flights between Australia and the UK/Ireland, via Hong Kong, Los Angeles and any other future mutual connecting points. They already code share, but now can jointly manage prices, inventory, and marketing strategies. They currently do not operate flights on any of the relevant routes.

**6. Emirates to Launch Services to Mexico City via Barcelona.**

Emirates begins daily Boeing 777-200LR service from Dubai to Mexico City, via Barcelona, on December 9. “Due to the high altitude of Mexico City airport, it is not possible to operate a non-stop flight from Dubai,” said President Tim Clark, “and Barcelona was a natural choice for a stopover.”

**7. U.S. Treasury Warns Against Dealing with Iranian Airlines.**

See Section VII, item 1.

**8. Flights to Cairo Briefly Canceled Amid Security Concerns.**

See Section VII, item 2.

**9. Trump, U.S. Airline CEOs Discuss Gulf Carrier Issues.**

See Section VII, item 3.

**10. U.S., Israel Agreements Address Aviation Security.**

See Section VII, item 4.

## **X. AMERICAS**

### **1. American's Mechanics Ordered to Resume Normal Operations.**

A federal judge approved American Airlines' request for a modified temporary restraining order, advising maintenance workers to immediately "resume normal working schedules and practices," and telling Transport Workers Union and International Association of Machinists to fine members whose actions cause flight delays or cancellations. Talks between the two unions representing mechanics from American and pre-merger US Airways were suspended in April. American has cancelled thousands of flights allegedly because of mechanics' actions. . . . American reported second quarter pre-tax profit of \$882 million and net profit of \$662 million, up more than 5% to \$1.1 billion and \$810 million, respectively, excluding net special items. MAX flying has been removed from the schedule through November 2; related flight cancellations will negatively impact full year 2019 pre-tax earnings by approximately \$400 million.

### **2. Southwest Plans 2020 Return of MAX, Will Leave Newark.**

Southwest saw "remarkably strong" second quarter net income of \$741 million, said Chairman and CEO Gary Kelly, but the impact of the MAX grounding reduced operating income by \$175 million; some 20,000 flights were canceled. "We currently are assuming regulatory approval of MAX return to service during fourth quarter 2019. With this in mind, we will proactively extend the MAX-related flight schedule adjustments through January 5, 2020, [since] it will take us one to two months to comply with prospective FAA directives, including all necessary pilot training." Annual capacity will decrease year-over-year, rather than nearly 5% growth previously expected. To mitigate damages and optimize aircraft and resources, the carrier will cease operations at New York Newark, where financial results have been below expectations, and consolidate its New York City presence at LaGuardia, effective November 3.

### **3. Atlas Announces Leadership Transition Plan.**

President and CEO Bill Flynn will retire from Atlas Air Worldwide Holdings, after a 13-year tenure, and become Chairman, effective January 1. Current EVP and COO John Dietrich will succeed him. The company signed a long-term lease for a new facility near Cincinnati/Northern Kentucky International, expected to open in 2021.

**4. WestJet Shareholders Agree to Onex Takeover.**

WestJet shareholders voted in favor of a \$3.5-billion takeover by Toronto-based Onex Corp. The original per-share price of \$35.75 was cut to \$31 due to uncertainties that included the grounding of WestJet's 13 Max aircraft. The transaction is expected to close this year, subject to regulatory approvals. WestJet and regional airline WestJet Encore offer scheduled service to destinations in North America, Central America, the Caribbean and Europe. President and CEO is Ed Sims. . . . In other news from Canada, Transat urged shareholders to vote in favor of a friendly takeover by Air Canada in an August 23 election, as the flag carrier has proven ability, skills, experience and expertise and will preserve Transat jobs and brand. The \$13 share price initially was outbid by Groupe Mach, but the Montreal-based real estate developer dropped out of the process. . . . And startup Canada Jetlines is hiring, as it prepares to offer ultra low-cost Airbus A320 flights across Canada and to the United States, Mexico and the Caribbean, subject to completion of the airline licensing process, receipt of applicable regulatory approvals and completion of financing. CEO is Javier Suarez, who previously held executive positions with VivaAerobus, Vueling, Qatar Airways and Iberia Regional AirNostrum. COO Jyri Strandman held senior positions with Spirit Airlines, Indian low-cost carrier GoAir, Virgin America and American Eagle.

**5. Norwegian CEO Bjørn Kjos Steps Down.**

See Section VIII, item 4.

**6. Air Italy Confirms Summer 2020 U.S. Service.**

See Section VIII, item 5.

**7. United to Resume Newark to Delhi, Mumbai Flights.**

See Section IX, item 2.

**8. American Returns Rights for Chicago-China Service.**

See Section IX, item 3.

**9. Emirates to Launch Services to Mexico City via Barcelona.**

See Section IX, item 6.