



# WASHINGTON AVIATION SUMMARY

## May 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. FAA Establishes MAX Joint Authorities Technical Review.**

The U.S. Federal Aviation Administration (FAA) established the Boeing 737 MAX Joint Authorities Technical Review (JATR) to conduct a 90-day review of the certification of the aircraft and its Maneuvering Characteristics Augmentation System (MCAS). The MAX was grounded worldwide in March following the second of two crashes which in total killed 346 people; a preliminary report suggested that in both flights the MCAS activated in response to erroneous angle of attack (AOA) data. The JATR is chaired by former National Transportation Safety Board (NTSB) Chairman Chris Hart and comprised of experts from FAA, NASA and the civil aviation authorities of Australia, Brazil, Canada, China, the European Union, Japan, Indonesia, Singapore and the United Arab Emirates. They will evaluate the MCAS design and pilots' interaction with the system. FAA has also scheduled a May 23 meeting with global regulators to provide the "safety analysis that will inform its decision to return the 737 Max fleet to service in the U.S. when it is made." . . . A draft report from FAA's Flight Standardization Board for the MAX noted that pilots need training on the MCAS, but do not need additional time in flight simulators. Meanwhile, Boeing is awaiting certification for a MCAS software update that will "provide additional layers of protection if the AOA sensors provide erroneous data [and] reduce the crew's workload in non-normal flight situations and prevent erroneous data from causing MCAS activation."

### **2. American, LATAM Seek Antitrust Immunity.**

American Airlines and LATAM Airlines Group renewed a request to the U.S. Department of Transportation (DOT) for antitrust immunity (ATI) and approval of a joint business agreement (JBA) that would operate to and from Brazil, Chile, Colombia, Paraguay, Peru and Uruguay. The airlines signed the JBA in 2016 and filed for ATI, but DOT suspended the procedure as a U.S.-Brazil Open Skies agreement was not yet in place; that pact took effect in 2018. The JBA has been approved in Brazil, Uruguay and Colombia.

### **3. First U.S. Air Carrier Certificate Awarded to Drone Delivery Company.**

The first air carrier certificate for commercial drone delivery service in the U.S. was awarded by FAA, paving the way for Wing Aviation to begin commercial package delivery in Blacksburg, VA. Part of Google parent Alphabet, Wing partnered with the Mid-Atlantic Aviation Partnership and Virginia Tech in DOT's Unmanned Aircraft Systems Integration Pilot Program. Wing demonstrated that it met FAA's safety requirements to qualify for an air carrier

certificate “based on extensive data and documentation, as well as thousands of safe flights conducted in Australia over the past several years,” said DOT.

4. **DOT to Act on Airline Restroom Accessibility.**

DOT stated in a legal filing it intends to issue a proposed rule in December on making airplane restrooms accessible for travelers with disabilities. The filing was in response to a lawsuit brought by Democracy Forward on behalf of Paralyzed Veterans of America (PVA), challenging DOT for its “unjustified and unlawful” delay of such rulemaking. In July 2016, Congress gave DOT a one-year deadline to propose the new rules. In 2016, PVA, disability advocates and airline industry representatives presented a negotiated rule to DOT to issue for public comment. DOT removed the rule from the priority agenda for Spring 2018.

5. **Chao to Maintain 1500-Hour Rule for Pilots.**

In a meeting with the ‘Families of Continental Flight 3407,’ at DOT headquarters in Washington, Secretary Elaine Chao said that nothing would be done under her watch to alter the requirement that passenger airline pilots have 1,500 hours of experience. This requirement was put in place in 2014 in response to the 2009 Colgan Air crash near Buffalo; Flight 3407 was operating as Continental Connection. The group also asked for action on a Pilot Records Database (PRD), mandated by Congress in 2010 to provide carriers with information on training, certifications, qualifications and employment history, so they can make informed pilot hiring decisions. Pilot knowledge, training and professionalism were among deficiencies cited in the NTSB Flight 3407 accident report. Acting FAA Administrator Daniel Elwell also attended the meeting.

6. **FAA 2019-2039 U.S. Carrier Forecast.**

U.S. carrier domestic passenger growth over the next 20 years will average 1.8% per year, according to the newly released FAA Aerospace Forecast 2019-2039. System traffic in revenue passenger miles (RPMs) is projected to increase by 2.2% a year. Domestic RPMs are forecast to grow 1.9% a year, and international RPMs at 3%. System capacity, measured by available seat miles (ASMs), is forecast to grow in line with increases in demand. The number of seats per aircraft is growing, especially in the regional jet market, where 50 seat regional jets will fall to just a handful by 2030, replaced by 70-90 seat aircraft. Operations at FAA and contract towers are forecast to grow 0.9% a year, with growth in U.S. airline and business aviation activity the primary driver. Since the end of the 2007-09 recession, U.S. airlines revamped business models to minimize losses by lowering operating costs, eliminating unprofitable routes, and grounding older, less fuel-efficient aircraft. To

increase operating revenues, they charged separately for services that historically were bundled in the ticket price. The result of these efforts and an unprecedented period of consolidation with three major mergers in five years resulted in 10 consecutive years of profitability. “Looking forward, there is confidence that U.S. airlines have finally transformed from a capital intensive, highly cyclical industry to an industry that generates solid returns on capital and sustained profits,” said FAA.

**7. DOT Air Travel Consumer Report for February.**

Based on data filed by U.S. scheduled carriers.

	<b>Feb. '19 / '18</b>	<b>Jan. '19</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>	<b>2014</b>
On-time arrivals %	73.8 / 78.9	78.4	79.4	80.2	81.4	79.9	76.2
Cancellations %	3.1 / 1.9	3.1	1.6	1.5	1.2	1.5	2.2
Mishandled baggage*	N/A	N/A	2.78	2.41	2.70	3.13	3.61
Consumer complaints:							
Airline service	1,067 / 1,047	878	15,541	18,156	17,908	20,175	15,539
Disability-related	59 / 53	48	828	850	865	944	784
Discrimination**	14 / 5	7	96	98	95	65	68

Note: In February 2019, airlines reported 16 tarmac delays of more than three hours on domestic flights, during a major snowstorm at Seattle. There were no international flights with tarmac times of more than four hours in February.

\* DOT plans to publish revised 2019 mishandled baggage data in May.

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

## II. AIRPORTS

### 1. Lead Designer Selected for O'Hare Expansion.

City of Chicago selected Studio ORD to lead the design of the 2.2 million square foot Global Terminal and Concourse at O'Hare; a second team will be selected from four shortlisted finalists to design two satellite concourses to be built west of Terminal 1. Upon contract award, Studio ORD will work with the city and airlines to design the \$2.2 billion terminal; construction is expected to begin in 2023. Studio ORD is a joint venture comprised of Corgan Associates, Milhouse Engineering and Construction, STL Architects, Solomon Cordwell Buenz & Associates, and Studio Gang Architects.

### 2. New Passenger Terminal Proposed for LAX.

Los Angeles World Airports proposed a 12-gate international and domestic passenger terminal for LAX, to be built before the city hosts the 2028 Summer Olympic Games. Terminal 9 and a new 11-gate concourse east of Terminal 1 would replace remote gates to be eliminated by a proposed taxiway extension. Current LAX projects include a landside access modernization program, terminal improvements and an automated people mover.

### 3. Jewel Complex at Singapore Changi Opens.

The new Jewel complex at Singapore's Changi Airport opened to reveal a forest and the world's tallest indoor waterfall, the 130-foot HSBC Rain Vortex, in addition to 280 stores and restaurants, an 11-screen IMAX theater and multiple play attractions. The 10-story, US\$1.25 billion project, designed by architect Moshe Safdie, was built on the site of the former Terminal 1 open air carpark. A Skytrain links Terminals 1, 2 and 3 and passenger services include early check-in counters and kiosks, a baggage storage service and a 150-seat lounge with shower facilities for passengers connecting to and from cruise and ferry services. The first YOTELAIR property in Asia will offer rooms for daytime layovers or overnight stays, with self-check-in kiosks. Terminal 1 has also been expanded to increase the airport's total capacity to 85 million. The world's seventh busiest airport for international traffic, Changi handled a record 65.6 million passengers in 2018.

### 4. ADP to Invest €6 Billion in Paris Airports.

Groupe ADP proposed an investment of €6 billion over the 2021-2025 period for Paris airports, including launch of construction of Terminal 4 at Charles de Gaulle. Passenger traffic is estimated to increase by an average 2.6% during that time (3.5% for international). Groupe ADP also manages Paris Orly and

Le Bourget. In 2018, the group handled through its brand Paris Aeroport 105 million passengers and 2.3 million metric tonnes of freight and mail at de Gaulle and Orly, and 176 million passengers in airports abroad through its subsidiary ADP International. A move is underway to reduce the state's holding in ADP to less than 50%.

**5. Five Bids Received in Sofia Airport Tender.**

Bulgaria's Transport Ministry confirmed that five bids were received for a 35-year concession to operate Sofia Airport and build a new passenger terminal. The bids include consortiums Manchester Airport Group and Beijing Construction Engineering Group; Meridiam and Munich Airports; Copenhagen Airports and SSB Sauernwein & Schaefer; Fraport Bulgaria; and Aeroports de Paris.

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

#### 1. **Homeland Security Secretary Nielsen Replaced by CBP Veteran.**

Secretary of Homeland Security Kirstjen Nielsen resigned and was replaced by Acting Secretary Kevin McAleenan, who has held leadership positions at U.S. Customs and Border Protection (CBP) and currently is CBP Commissioner. Transportation Security Administration (TSA) administrator David Pekoske was designated Senior Official Performing the Duties of the Department of Homeland Security (DHS) Deputy Secretary”; Pekoske is a former Coast Guard Vice Commandant. BP COO John Sanders was named Senior Official Performing the Functions and Duties of the Commissioner of CBP.

#### 2. **Qatar Airways, Edelweiss Join TSA PreCheck.**

Edelweiss Air and Qatar Airways were added to the TSA PreCheck expedited screening program, bringing the total number of airlines participating to 67. . . . TSA requested modifications to a passenger screening system that renders images that pose privacy risks, according to a recent federal contracting document reviewed by Quartz. . . . Full-body scanners at U.S. airports frequently give false alarms for Afros, braids, twists and other hairstyles popular among black women, reports ProPublica. After a complaint five years ago, TSA pledged to improve oversight and training for workers regarding intrusive hair pat-downs, and last year asked vendors for ideas to improve screening of headwear and hair in compliance with the Civil Rights Act. The number of complaints filed with TSA by passengers alleging racial discrimination in hair pat-downs rose from 73 in 2017 to 105 in 2018, said ProPublica, adding that a quarter of the nation’s 46,000 airport screeners are black and 23% are Hispanic, according to Office of Personnel Management.

#### 3. **TSA Awards Contract for 300 Computed Tomography Systems.**

TSA awarded a \$96.8 million contract for 300 Computed Tomography (CT) systems and associated equipment and services over five years to Smiths Detection, of Edgewood, Md. CT technology “will vastly enhance threat detection capabilities for carry-on baggage and overall effectiveness at airport security checkpoints across the U.S.,” said TSA, which has conducted pilot programs since 2017. Deployment begins this summer, with completion in 2020. Concurrently, CT units unrelated to this procurement will be deployed “to further develop enhanced algorithms that improve operational efficiency and automated detection.”

4. **ACI World Publishes Insider Threat Handbook.**

Airports Council International (ACI) World published the “Addressing Insider Threat Handbook,” which “explores the current global threat and offers different measures and solutions.” This handbook was released at the ACI Asia-Pacific/World Annual General Assembly, Conference and Exhibition, held at the AsiaWorld-Expo in Hong Kong, hosted by Hong Kong International Airport. “Recent events show that terrorists continue to try to exploit aviation to do harm, not only from outside the system but also from inside it,” said ACI World Director General Angela Gittens. “The insider threat is posed by people who, willingly or not, facilitate these attacks, where their position of trust and understanding of the system allows them to exploit any vulnerabilities.” In 2018, ACI published the “Landside Security Handbook.”

5. **GAO Audits TSA Covert Testing of Airport Vulnerabilities.**

TSA uses covert testing to identify vulnerabilities in checkpoint and checked baggage screening systems at U.S. airports. Following an audit, the Government Accountability Office (GAO) recommended that TSA use a risk-informed approach for selecting covert test scenarios, take steps to improve the quality of airport covert test results, and establish time frames and milestones for key steps in its vulnerability management process.

## **IV. TECHNOLOGY & EQUIPMENT**

### **1. Guillaume Faury Named CEO of Airbus.**

Guillaume Faury was appointed Airbus CEO. He was President of Airbus's commercial aircraft business since February 2018, CEO of Airbus Helicopters from 2013 to 2018, and from 1998 to 2008 was Executive Director for Research and Development at Airbus' helicopter business, known then as Eurocopter. The former flight-test engineer presided "over significant advances in Peugeot's lower-emissions hybrid-engine technology and the overhaul of the company's product range, among other accomplishments" from 2009 to 2013. Airbus appointed a new Executive Committee to support Faury. . . . In other Airbus news, Japan's Ministry of Land, Infrastructure, Transportation and Tourism issued type certification for the Airbus A350 XWB, enabling Japan Airlines to operate the widebody, powered by Rolls-Royce engines. JAL ordered 31 A350 XWBs in 2013, its first Airbus order; deliveries begin this year for service on major domestic routes starting with Haneda-Fukuoka in September. At end of March, Airbus had received 890 firm orders from 50 customers for the A350 XWB.

### **2. Embraer Selects New President, CEO.**

Francisco Gomes Neto will succeed Paulo Cesar de Souza e Silva as President and CEO of Embraer. He currently is President of Marcopolo and has held CEO positions in the automotive industry in Brazil and the United States. . . . In other Embraer news, the company received simultaneous type certification for the E195-E2 from ANAC (Brazilian Civil Aviation Agency); FAA and EASA (European Aviation Safety Agency). The E195-E2 is the largest Embraer commercial aircraft, with 120 seats in two classes, or up to 146 in single class, "ideal for growing regional business and complementing existing low-cost and mainline fleets," said John Slattery, Embraer Commercial Aviation President and CEO. Slattery will lead the pending Boeing-Embraer joint venture made up of the commercial aircraft and services operations of Embraer; Boeing will hold an 80% ownership stake in the new company and Embraer 20%. The companies also agreed to terms of a joint venture to promote and develop new markets for Embraer's KC-390 heavy-lift military aircraft.

### **3. Aireon Begins Trial ADS-B Operations Over North Atlantic.**

Aireon is testing its global air traffic surveillance system over the North Atlantic. The space-based Automatic Dependent Surveillance Broadcast (ADS-B) system provides real-time surveillance and tracking to ADS-B

equipped aircraft worldwide, compared to traditional ground-based surveillance, which covers 30% of the globe and requires position updates every 10-14 minutes from aircraft outside of radar coverage. The Aireon system is expected to reduce flight safety risks by 76% in the North Atlantic according to a joint analysis by NAV CANADA and NATS, the first Air Navigation Service Providers to use the service. Improved visibility and control over previously un-surveilled airspace, especially across oceanic regions, will allow airlines to fly routes at optimal speeds and levels, with expected cost savings of up to \$300 per transatlantic flight. Analysis conducted by NATS and the International Civil Aviation Organization (ICAO) suggests a reduction in carbon dioxide emissions by two tonnes per flight; over 95% of North Atlantic traffic is ADS-B equipped so fuel savings, along with reduced carbon dioxide emissions will be attained very quickly, said NAV CANADA CEO Neil Wilson. Regulations mandating ADS-B equipage on aircraft have been implemented throughout the world, going into effect in the United States in January 2020 and in Europe in June 2020. Aireon's ADS-B payloads are hosted on the Iridium NEXT satellite constellation.

**4. Etihad, Panasonic Introduce Wellness Solution.**

Etihad and Panasonic Avionics will jointly develop and trial wellness solutions for travelers, beginning with the Jet Lag Adviser. Developed in collaboration with Detalytics, and integrated into the airline's passenger app, the solution takes passenger inputs including chronotype, circadian rhythms, height, weight, nature of travel, flight times, routes and zones and uses artificial intelligence to produce personalized jet lag plans.

## V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel on April 12 was \$84.55/barrel, up 4.6% on the month and down 2.8% compared to a year ago, reports International Air Transport Association (IATA). Jet fuel price average for 2019 was \$79.7/barrel. Airlines' 2019 fuel bill was down \$7.7 billion Y over Y.

### 2. **O'Hare Tower Awarded LEED Gold Certification.**

The South Air Traffic Control Tower (SATCT) at Chicago O'Hare is the sixth LEED-certified facility at O'Hare and one of the first LEED Gold-certified towers in the U.S. The SATCT, one of O'Hare's three FAA-operated towers, consumes no natural gas. A green roof reduces heating and cooling demands and the overall urban heat island effect of the airport and aids in stormwater retention. And a geothermal system utilizes constant temperatures below the earth's surface to generate energy and optimize efficiency of heating and cooling systems.

### 3. **Airports Deploy Battery-Powered Buses.**

San Francisco International purchased six 40-foot battery-electric zero-emission buses to replace six aging diesel buses, eliminating more than 23.7 million pounds of greenhouse gas tailpipe emissions over their lifetime. With batteries built to last the entire daily route on a single charge, the Proterra Catalyst E2 buses can be fully charged overnight in under 4.5 hours, with a range of up to 231 miles. Lower fuel prices and reduced vehicle maintenance costs are anticipated to save \$4.5 million over the lifespan of the 27-seat buses. . . . Half of the shuttle bus fleet at the three major regional airports will be converted from diesel to all-electric by summer, said Port Authority of New York and New Jersey. Twelve already are in operation—six at Newark Liberty and six at Kennedy, with another six coming to LaGuardia by end of June. A 100% electric shuttle bus fleet is expected in 2020. "The buses in the first deployment phase will save approximately 269 tons of greenhouse gas emissions and approximately 40,000 gallons of diesel fuel at each airport each year," said the Port Authority. The battery-operated buses are 40 feet long and have an estimated range of 250 miles per charge, with each charge taking less than four hours.

## VI. U.S. CONGRESS

### 1. Bill Would Prohibit Mfrs. from Charging Extra for Safety Features.

The “Safety is Not for Sale Act” was introduced by Senate Democrats, in response to reports that Boeing 737 MAX 8 aircraft involved in the Lion Air and Ethiopian crashes lacked safety features that could have helped pilots and mechanics recognize false readings from sensors connected to the aircraft’s new MCAS system. FAA and other regulators “did not require these features to come standard on the 737 MAX 8 and 9, and Boeing treated these systems as optional features that airlines could purchase for an additional fee,” said Edward Markey (D-Mass.). The bill, supported by unions, would prohibit aircraft manufacturers from charging extra for safety-critical systems, ensuring, “that all safety-enhancing equipment is never sold as a la carte add-ons.”

### 2. Schumer Tells FAA to Suspend Boeing from ARAC.

In a letter to Acting FAA Administrator Daniel Elwell, Senate Minority Leader Charles Schumer (D-NY) demanded that Boeing’s place on the Aviation Rulemaking Advisory Committee (ARAC) be suspended. He also requested details about ARAC, which he termed “clandestine,” including identities of all airline and industry members, and minutes of every meeting since the Trump Administration took office. Schumer called for a commitment to reform ARAC by examining the member selection process, transparency and potential conflicts of interest, “so the public and Congress know who is making regulatory decisions at the FAA and for what reasons.”

### 3. Committee Investigates FAA ASI Training, Certification.

Allegations from whistleblowers suggest that FAA Aviation Safety Inspectors (ASI), including those involved in the Aircraft Evaluation Group (AEG) for the MAX, had not received proper training and valid certifications, said Roger Wicker, Chairman of the Senate Commerce Committee, which is investigating the matter. Some possibly were participants on the Flight Standardization Board (FSB), which was formed by the AEG to evaluate the MAX to determine requirements for pilot type ratings, develop minimum training recommendations, and ensure initial flight crew member competency. “Specifically, the Committee is concerned that such potential lack of training and certification of FAA ASI, and participation of those ASI on the FSB, may have led to an improper evaluation” of the MCAS, wrote Wicker, in a letter to Acting Administrator Dan Elwell. “FAA may have been notified about these deficiencies as early as August 2018. Furthermore, the Committee is led to

believe that an FAA investigation into these allegations may have been completed recently.”

4. **DOT IG Asked to Investigate Training of Foreign Pilots.**

The DOT Inspector General was asked to investigate international pilot training standards and training for commercial pilots operating outside of the United States, including training for the Boeing 737 MAX, by leaders of the House Transportation Committee and the Aviation Subcommittee. The IG was asked to focus on how FAA implemented recent cockpit automation management requirements to ensure that pilots are capable of flying aircraft when automation fails or is deactivated; and to provide recommendations to improve international pilot training standards and training requirements for commercial pilots operating U.S. certificated aircraft outside the United States. The IG is also investigating FAA’s aircraft certification processes related to the MAX.

5. **Committee Approves Aviation Bills.**

The House Transportation Committee approved the “Aviation Funding Stability Act of 2019,” which protects FAA programs and persons in the event of a future lapse in agency appropriations. Also cleared was the “Notice to Airmen Improvement Act of 2019,” which requires FAA to establish a task force composed of representatives from airlines, labor and general and business aviation, as well as aviation safety and human factors experts, to review existing methods for presenting Notices to Airmen (NOTAMs) and ensure their accuracy and completeness. An Air Canada near miss incident at San Francisco International Airport in July 2017 “highlighted the need to improve the antiquated NOTAM system,” said Mark DeSaulnier (D-CA); “clear and effective communication of important safety information to flight crews is critical to the safety of flight crews and the flying public.”

6. **Cabin Air Safety Act Introduced.**

The “Cabin Air Safety Act” was introduced in the House and Senate. H.R. 2208 would protect passengers and crew from toxic fume events which occur when air contaminated by engine exhaust, fuel fumes, de-icing fluids, and ozone enters the aircraft cabin through the jet engine intake, said sponsors Richard Blumenthal (D-CT) and John Garamendi (D-CA), senior members of the Senate Commerce and House Transportation Committees respectively. “Exposure to even low levels of these contaminants can incapacitate passengers and crew, and long-term exposure could lead to serious, debilitating health issues,” they added. The bill would mandate training for flight attendants, pilots, technicians and first responders on identifying toxic fumes, and include education on sources and types of fumes, symptoms,

appropriate responses, and how to report incidents. It would require FAA to develop a standardized form/system to record airline crew reports of toxic fumes; and to conduct investigations, in cooperation with airlines and labor unions, after a toxic fume event to study the cause and prevent future events. The bill directs manufacturers and carriers to install and operate carbon monoxide detectors that alert crew if levels exceed national air quality standards. H.R.2208 is endorsed by Air Line Pilots Association, Association of Professional Flight Attendants, and other unions.

**7. Passenger Privacy Protection Act Introduced.**

A bill that would safeguard passengers' privacy in the air was introduced in the Senate by Jeff Merkley (D-OR) and John Kennedy (R-LA). The Passenger Privacy Protection Act of 2019 would prohibit airlines from having cameras or microphones embedded in inflight entertainment systems on any of their aircraft. The Senators also pressed 16 major international carriers for information about current and potential uses of cameras, microphones or sensors to monitor passengers.

**8. House Appropriations Hearing on DOT FY '20 Budget Request.**

At a hearing on the fiscal year 2020 DOT budget request, House Appropriations Committee Chair Nita Lowey (D-NY) criticized cuts proposed by the Administration, including \$9 million in cuts to FAA, as threats to safety, among other things. In her testimony, DOT Secretary Elaine Chao noted that the request for \$1.4 billion in resources specifically dedicated to NextGen initiatives is the highest request for NextGen in DOT history. Referring to the Boeing MAX 8 and FAA's certification and inspection process, Subcommittee Chairman David Price (D-NC) told Chao that "DOT must undertake a massive effort to recruit and retain staff who are qualified and knowledgeable about automation and human behavior. If the Department lacks the expertise to safely regulate these emerging technologies, the results will be catastrophic not only for consumers and passengers but also for the businesses and industries that drive innovation."

**9. DHS Appropriations Hearing on TSA Budget Request.**

At a hearing on the TSA fiscal year 2020 budget request, House Homeland Security Appropriations Subcommittee Chair Lucille Roybal-Allard expressed disappointment that the Administration proposed a reduction in TSA funding. "Many of the cuts are repeats from the past two years based on the elimination of activities that the Congress has repeatedly voted to continue: the Visible Intermodal Prevention and Response (VIPR) teams; the Law Enforcement Officer reimbursement program; and TSA staffing at exit lanes. There is also a disconcerting mismatch between the budget and the expected growth in

travelers, and once again the budget relies on a proposal to increase the passenger security fee, which is outside of the jurisdiction of this Committee and is unlikely to be enacted.” In his testimony, TSA Administrator David Pekoske said “cost-savings and efficiencies were identified in order to pursue top funding priorities,” such as additional CT Scanners and screening personnel. Among other remarks, Pekoske said the Administration proposal to raise the Passenger Security Fee by one dollar, from \$5.60 to \$6.60 per one-way trip, in FY 2020, and then from \$6.60 to \$8.25 in FY 2021, “would generate \$599 million in new revenue in FY 2020 and close to \$23 billion over the next ten years.”

**10. Bill Would Rename Visa Waiver Program.**

Legislation to change the name of the Visa Waiver Program (VWP) to the Secure Travel Partnership was introduced in the House. The VWP allows pre-screened, pre-approved travelers from participating countries to travel to the United States, after a DHS approval process, for stays of up to 90 days. “Unfortunately, the program’s name is misleading, and not indicative of the traveler vetting and other security enhancements that the VWP actually provides,” says U.S. Travel Association, in support of the legislation. “The U.S. and 38 allies have partnered to secure the travel process through a host of bilateral security enhancements that not only keep travelers safe, but also support our economy. In 2017, 23 million travelers arrived in the U.S. through the VWP, generating \$190 billion in economic activity. Renaming the VWP the Secure Travel Partnership would more accurately describe the program’s benefits.”

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

### **1. Pompeo Addresses Qatar's Alleged Open Skies Violations.**

Secretary of State Mike Pompeo was asked by members of the Senate Foreign Relations Committee about efforts to ensure that U.S.-Qatar Open Skies and other agreements are enforced, in light of increasing U.S. service by Air Italy, which is 49% owned by Qatar Airways. “We are working to make sure every party to those agreements complies with every element of those agreements,” Pompeo responded and noted plans to engage with several of the parties. . . . The questioning followed a charge that Qatar Airways is “using Air Italy as a proxy to undermine the U.S. airline industry,” by the Partnership for Open & Fair Skies (American, Delta, United and unions), which has long charged Gulf carriers with receiving state subsidies in violation of Open Skies terms. . . . The CEOs of FedEx, Atlas Air Worldwide and JetBlue (the Open Skies Coalition) called the claim “wholly unsubstantiated,” in a letter to Pompeo and DOT Secretary Elaine Chao, adding: “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 7th 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.” . . . Air Italy, which has a fleet of 13 aircraft, five of which can operate long-haul service, said: “While we pride ourselves on our flair and world-class service, we are puzzled (but slightly flattered) that the three very largest U.S. carriers—which between themselves operate a fleet of more than 2,500 aircraft—claim to be threatened by us.” Air Italy began four weekly nonstops from Milan Malpensa to Los Angeles and San Francisco in April, with Toronto to be added in May. Services from Milan to New York Kennedy and Miami were launched last year. Qatar Airways noted it does not code share on Air Italy flights to the United States and has no plans to do so.

### **2. Aircraft Subsidies Row Escalates.**

The World Trade Organization (WTO) Appellate Body upheld EU and Airbus claims that the United States did not stop all subsidies when asked to do so, and that Boeing continued to receive a tax break from Washington state resulting in lost sales for Airbus. The long-running trade dispute took a new turn, with the Office of the U.S. Trade Representative and the European Commission each proposing countermeasures in the form of additional duties

applied on exports, including products in the civil aviation sector. Both sides expressed a preference for dialogue to bring an end to the dispute.

3. **Visa-Free Travel for British Citizens after Brexit.**

The European Parliament voted in favor of visa-free travel for British passport holders even with a no-deal Brexit. Under the arrangement, contingent upon reciprocity, UK citizens can visit and stay in the European zone for up to 90 days in a given 180-day period as currently applies to Australian, American and Japanese visitors to EU or Schengen countries. . . . The EU and UK agreed to further delay Brexit until October 31.

## **VIII. EUROPE AND AFRICA**

### **1. Europe Addresses Inflight Unruly Behavior.**

A “Not on My Flight” campaign launched by the European Aviation Safety Agency and International Air Transport Association draws attention to the safety impact of unruly behavior on flights. According to operator reports, every three hours the safety of a flight within the EU is threatened by passengers demonstrating unruly or disruptive behavior. At least 70% of incidents involve aggression. At least once a month the situation results in an emergency landing. Examples of unruly behavior include excessive drinking and/or use of drugs or mixing them with alcohol during or before the flight, non-compliance with crew instructions, verbal and physical violence and distracting cabin crew from their duties.

### **2. EU Air Safety List Updated.**

TAAG Angola and Angola’s Heli Malongo, operating under restrictions since November 2008, were removed from the EU Air Safety List. Carriers from Moldova, except Air Moldova, Fly One and Aerotranscargo, were added, due to lack of safety oversight by Moldova’s civil aviation authority. Dominican Republic and Belarus are under heightened scrutiny because of signs of decreased safety oversight. A total of 120 airlines are banned from EU skies.

### **3. EU Adopts Air Transport Fair Competition Law.**

The EU Council adopted a regulation “to address unfair commercial practices that may emerge in the air transport sector from companies located in non-EU countries.” The law gives the Commission powers to carry out an investigation and take financial or operational measures if a non-EU airline uses a market-distorting practice that causes or threatens to cause injury to an EU air carrier.

### **4. Virgin Atlantic to Offer Gatwick to Boston, New York with Delta.**

Virgin Atlantic is expanding at London Gatwick with new routes to Boston Logan and New York Kennedy, operated with Delta, from summer 2020. With the new services, the transatlantic partnership will offer up to 18 daily flights between the UK and Boston and JFK and see Delta return to Gatwick for the first time in eight years. . . . Virgin Atlantic also announced new routes from London Heathrow to Tel Aviv (September 2019) and Sao Paulo (in 2020).

### **5. Delta, Kenya Airways Offer Code Share Flights.**

Delta entered into a code share partnership with Kenya Airways on flights to and from Nairobi’s Jomo Kenyatta International Airport. Effective August 11,

Delta's code will be placed on Kenya Airways' flights from Amsterdam, Paris, London and Accra to Nairobi, providing one-stop seamless travel from the United States. In addition, Delta will place its code on Kenya Airways' services to cities in Africa, including Addis Ababa, Lilongwe, Maputo, Johannesburg, and Djibouti City. Delta and Kenya Airways are SkyTeam members.

**6. United to Offer New York Newark-Cape Town Seasonal Nonstops.**

United plans to begin new seasonal service between New York Newark and Cape Town in December, subject to government approval. The three weekly nonstops will be operated with the Boeing 787-9. United also announced nonstops from Newark to Prague, Naples, Stockholm, Geneva and Munich; San Francisco-Amsterdam; Denver-Frankfurt; and Washington Dulles-Tel Aviv, among 31 new and returning international summer routes.

**7. Air France, KLM Add U.S. Services.**

Air France is offering up to five weekly Airbus A330 summer season flights to Dallas-Fort Worth from Paris Charles de Gaulle. . . KLM added three weekly A330 flights to Boston from Amsterdam to its twice daily services operated by Delta, Air France-KLM joint-venture partner on transatlantic routes. . . . Under a new agreement, Air France and KLM customers can book a single ticket on round trip services connecting Paris Charles de Gaulle or Amsterdam Schiphol to 24 Greek destinations operated by Greek regional Sky Express, on continuation from Athens.

**8. Norwegian Adds U.S. Service, Names Deputy CEO.**

Norwegian began Boston-Rome, Miami-London and San Francisco-London service, as well as Hamilton, Ontario to Dublin and London to Rio de Janeiro service. . . . Geir Karlsen was appointed deputy to CEO Bjorn Klos, after serving as CFO for a year. Niels Smedegaard will replace Bjorn Kise as nominated Chairman. Smedegaard, President and CEO of Scandinavian ferry firm DFDS, has held leading positions with Gate Gourmet Group, Swissair and SAS. Norwegian reached agreement with Airbus for rescheduling part of the order book, including A320neos and A321LRs, reducing capital expenditure commitments by \$570 million for 2019/2020.

**9. JetBlue Announces Guayaquil, London Service.**

See Section X, item 3.

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

### **1. Jet Airways Suspends Operations.**

Jet Airways canceled all flights after being informed by the State Bank of India that lenders were unable to consider a request for funding. With a reported \$1.2 billion in debt, the 25-year old airline was unable to pay for fuel or other critical services. Jet Airways founder and Chairman Naresh Goyal stepped down under pressure in March. Lenders are taking bids from potential investors for a controlling stake of up to 75% in the airline; Etihad holds a 24% stake; foreign ownership is capped at 49%.

### **2. Asiana to Suspend Chicago Route, Amid Restructuring.**

Asiana is restructuring and suspending unprofitable routes, including Incheon-Chicago, in preparation for a sale. The South Korean finance minister said creditors plan to provide \$1.4 billion in support, and major shareholder Kumho Industrial moved to divest its stake.

### **3. Hong Kong Airlines Offers Pilots Transfers to Other Carriers.**

Hong Kong Airlines (HKA) stated on its website that “current issues have no impact on our operations and we will continue to run our business as normal despite media attention.” Board members are wrangling over control, reports the South China Morning Post, amid claims and counterclaims of financial mismanagement, theft of proprietary documents and break-ins at headquarters. The city’s third largest airline lost US\$380 million last year, has cut staff and fleet, and has offered its pilots transfers to other carriers, mostly affiliated with HNA Group, which is the controlling shareholder of HKA. Emirates reportedly hired about a fifth of HKA pilots to fly its Airbus A380s.

### **4. Mark Powers Leaves Etihad.**

Etihad Aviation Group CFO Mark Powers left the company, having decided to return to the United States for personal reasons. Senior finance executive Adam Boukadida was appointed Interim Group CFO. Powers is a former JetBlue executive.

## **X. AMERICAS**

### **1. Impact on Airlines of Boeing 737 MAX Grounding.**

Southwest reported more than 10,000 flight cancellations arising from the Boeing 737 MAX grounding, in its first quarter 2019 results. "We have proactively adjusted our published flight schedules for the next several months and removed all MAX flights through August 5th," said Chairman and CEO Gary Kelly. The MAX 8 represents less than 5% of Southwest's daily operation. . . . American estimates the grounding of its 24 MAX 8s and associated cancellations impacted first quarter pre-tax income by \$80 million. Although these aircraft represent a small portion of the total fleet, said the airline, "the financial impact is disproportionate as most of the revenue from the cancellations is lost while the vast majority of the costs remain in place." American extended MAX cancellations through August 19, approximately 115 flights per day, and anticipates a \$350 million impact on 2019 pre-tax earnings. . . . Air Canada said it has protected 96% of planned flying since Transport Canada grounded its 24 MAX aircraft by optimizing the current fleet, consolidating flights on larger aircraft and extending leases on aircraft planned to exit the fleet. "By leveraging our deep, global network and through arrangements with Star Alliance partner Lufthansa and other airlines to provide capacity, we now have secured sufficient additional capacity," said the company. Air Canada was to receive another 12 MAX aircraft in July; those deliveries are currently suspended. Air Canada has removed 737 MAX flying from its schedule until at least August 1. . . . Boeing first-quarter guidance does not reflect 737 MAX impacts. "Due to the uncertainty of the timing and conditions surrounding return to service of the 737 MAX fleet, new guidance will be issued at a future date," said the company. The 737 MAX is the fastest-selling airplane in Boeing history with about 5,000 orders from more than 100 customers worldwide, according to the company website.

### **2. Hawaiian Airlines Begins Flights to Boston**

Hawaiian began five-times-a-week Airbus A330 nonstops between Honolulu and Boston. Hawaiian is code sharing with JetBlue on connections from Boston to Washington, D.C., Pittsburgh, Philadelphia, Baltimore, Cleveland and Detroit. . . . Since Southwest began flying from California to Hawaii in March, the average fare among carriers flying between the two states has dropped, compared with the same time last year, reports the Los Angeles Times, in what is known as "the Southwest effect." An analysis by booking site Kayak found that average fares offered by all carriers from California to Honolulu, Maui, Kauai and the big island of Hawaii have dropped by 17% in the first half of the year, compared with same period last year.

**3. JetBlue Announces Guayaquil, London Service.**

JetBlue will operate a daily Airbus A321neo nonstop between New York Kennedy and Guayaquil, Ecuador, starting December 5, pending government approval. This is JetBlue's longest route by more than 200 nautical miles. The existing New York-Guayaquil market suffers from high fares and limited connecting flight choices, said JetBlue, which will offer the only nonstop service by a major U.S. airline between the two cities. . . . JetBlue intends to launch multiple daily Airbus A321LR flights from New York and Boston to London in 2021, its first European destination, and is evaluating which London airports it will serve. "It's time for regulators here in the U.S. and across Europe to create conditions where smaller carriers and new entrants can thrive, instead of letting the giant airlines get even bigger through joint ventures," said President and COO Joanna Geraghty. "Given a chance to compete, JetBlue can have a tremendous effect on lowering fares and stimulating traffic."

**4. Spirit Reports \$56.1 Million Q1 Profit; 82.6% On-Time Performance.**

Spirit Airlines reported a 2019 first quarter net income of \$56.1 million, compared to a net loss of \$44.9 million in Q1 2018. "We also ran a great operation during the quarter," said President and CEO Ted Christie, "improving our completion factor by 70 basis points to 98.9 percent despite more weather disruptions than the year prior and delivering an on-time performance of 82.6 percent, which was among the best in the industry." Spirit took delivery of five new aircraft (one A320ceo and four A320neo), ending the quarter with 133 aircraft in its fleet.

**5. Allegiant to Offer Scheduled Service to Mexico.**

Allegiant filed an application with DOT to offer scheduled service between the United States and Mexico, its first scheduled international service. Dates and locations for commencement of service will be announced as the process moves forward.

**6. U.S. Startups Planned.**

Andrew Levy, a former United Executive Vice President and CFO and a co-founder of Allegiant, is planning to launch a budget airline that would serve second-tier airports. Last year Levy acquired Florida-based charter XTRA Airways, which has one Boeing 737-400 and Part 121 certification, and he reportedly plans to lease five aircraft by the end of 2019 and 45 by the end of 2023. . . . Moxy, a startup led by JetBlue founder David Neeleman, would also serve secondary airports. Neeleman has ordered Airbus A220s, with deliveries

to begin in 2021; he also started Azul in Brazil and is a major stakeholder in TAP Air Portugal.

7. **Avianca Brazil Aircraft Repossessed, Routes Suspended.**  
Azul pulled out of a non-binding agreement with bankrupt Avianca Brasil that would have assumed control of 30 Airbus A320s and 70 airport slots, after LATAM and GOL presented a recovery plan backed by creditor Elliott Management, that would split the airline into separate units. Aircastle and other lessors repossessed 28 aircraft, leaving Avianca with a fleet of 17 and unpaid airport debts. Avianca canceled hundreds of flights.
8. **Virgin Atlantic to Offer Gatwick to Boston, New York with Delta.**  
See Section VIII, item 4.
9. **Delta, Kenya Airways Offer Code Share Flights.**  
See Section VIII, item 5.
10. **United to Offer New York Newark-Cape Town Seasonal Nonstops.**  
See Section VIII, item 6.
11. **Air France, KLM Add U.S. Services.**  
See Section VIII, item 7.
12. **Norwegian Adds U.S. Service, Names Deputy CEO.**  
See Section VIII, item 8.
13. **Asiana to Suspend Chicago Route, Amid Restructuring.**  
See Section IX, item 2.
14. **Mark Powers Leaves Etihad.**  
See Section IX, item 4.