



## WASHINGTON AVIATION SUMMARY

### November 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. DOT Grants Tentative Approval of Hawaiian-JAL Joint Venture.**

The U.S. Department of Transportation (DOT) tentatively approved a joint venture of Hawaiian Airlines and Japan Airlines, but refused to grant the antitrust immunity that would allow them to coordinate prices and schedules. Hawaiian Airlines said the tentative decision prevents a small U.S. carrier from being able to compete on equal footing with major global airline alliances that enjoy antitrust immunity, and planned to dispute the decision. If the ruling is made final, the joint venture would cover flights between Japan and Hawaii and from Hawaii via Japan to other nations in Asia.

### **2. Boeing 737 MAX Update.**

Indonesia's National Transportation Safety Committee (KNKT) issued a final report on the October 29, 2018 loss of Lion Air Flight 610, assigning blame to the design and certification process of the Boeing 737 MAX Maneuvering Characteristics Augmentation System (MCAS), as well as Lion Air maintenance procedures and pilot training. The report also faults U.S. Federal Aviation Administration (FAA) oversight of the supplier of Angle of Attack (AOA) sensors; FAA revoked the repair station certificate of Florida-based Xtra Aerospace on October 25, 2019, the day the KNKT report was released, following an investigation begun in November 2018 that found irregularities dating back to November 2009. In response to the KNKT report, Boeing said it has redesigned the way AOA sensors work with MCAS flight control software and is updating crew manuals and pilot training.

The Joint Authorities Technical Review (JATR) submitted observations of the MAX certification process to FAA. Chaired by Chris Hart, a former chairman of the National Transportation Safety Board (NTSB), the group included technical representatives from FAA, National Aeronautics and Space Administration (NASA) and nine civil aviation authorities. Boeing had designee authority over parts of the certification project, but, the JATR team concluded, shortfalls in FAA's Boeing Aviation Safety Oversight Office and other resources may have contributed to inadequate FAA involvement in MAX certification. Among other findings, the team recommended that FAA work with other civil aviation authorities to revise the harmonized approach to the certification of changed products. "Changed Product Rules and associated guidance should be revised to require a top-down approach whereby every change is evaluated from an integrated whole aircraft system perspective. These revisions should include criteria for determining when core attributes of an existing transport category

aircraft design make it incapable of supporting the safety advancements introduced by the latest regulations and should drive a design change or a need for a new type certificate.”

Boeing separated the roles of Chairman and CEO to allow Dennis Muilenburg “to focus full time on running the company.” Muilenburg now is CEO, President and a Director, and David Calhoun is Non-Executive Chairman. Kevin McAllister stepped down as President and CEO of Boeing Commercial Airplanes and Stan Deal succeeded him. Boeing “continues to work with FAA and global civil aviation authorities to complete remaining steps toward certification and readiness for return to service,” said Muilenburg.

Muilenburg and Boeing VP and Chief Engineer John Hamilton testified before the Senate Commerce Committee on October 29, on the one-year anniversary of the Lion Air Flight 610 accident. They were joined by JATR Chair Hart and Robert Sumwalt, Chair of the NTSB. Family members of the crash victims also attended. Muilenburg and Hamilton also testified before the House Committee on Transportation and Infrastructure on October 30.

The October 29 Senate hearing was the CEO’s first public appearance on Capitol Hill since the two accidents. Senators questioned the attendees on recently released text messages and emails given to FAA on October 17, and asked Muilenburg if Boeing hid information about potential issues with MCAS from regulators. Muilenburg denied withholding any relevant information and stated Boeing is working to overcome other mistakes. He said Boeing has pledged \$100 million to help meet financial needs of the communities and families affected by the accidents. Hamilton defended Boeing’s relationship with FAA, denying any impropriety. Muilenburg met privately with family members of the victims after the Senate hearing.

In planning the October 30 hearing by the House Committee on Transportation and Infrastructure, Chairman Peter DeFazio said “[i]t’s clear that reforms will be needed to ensure that future safety-critical systems don’t create single points of failure that bring down new commercial aircraft designs.” He “will be introducing legislation at the appropriate time to ensure that unairworthy commercial airliners no longer slip through our regulatory system.” In the hearing, DeFazio presented partially-redacted Boeing employee emails from 2015 raising concerns about MCAS malfunctioning and potential cockpit alerts, as well as documents from 2018 citing other MCAS concerns, complaints of employee fatigue, and safety concerns on the production line. The crisis has cost Boeing approximately \$8 billion so far.

American Airlines expects MAX cancellations will negatively impact full-year 2019 pre-tax income by approximately \$540 million and has removed MAX flying from the flight schedule through January 15. Southwest estimated operating income reduction from the MAX groundings at \$435 million for nine months ended September 30; the MAX has been removed from the flight schedule through February 8. Southwest Airlines Pilots Association (SWAPA) sued Boeing for “deliberately misleading pilots” about MAX airworthiness. The grounding has caused elimination of more than 30,000 scheduled Southwest flights, said the union. “This is expected to reduce the airline's passenger service 8% by the end of 2019, resulting in compensation losses for SWAPA pilots in excess of \$100 million.”

European Union Aviation Safety Agency (EASA) Executive Director Patrick Ky said a return to service would be coordinated with FAA; there may be a difference of a couple of weeks, he said, which would be due mostly to process or administrative technicalities. EU flight tests are planned for mid-December and Ky expects EASA will approve a return to service in January. FAA has not set a deadline for approving MAX return to service.

**3. FAA Certifies UPS Flight Forward Drone Ops as Air Carrier.**

UPS Flight Forward received FAA’s first full Part 135 Standard certification for a drone airline. The company initially will support U.S. hospital campuses and, in the future, will transport items for customers in many industries and regularly fly drones beyond the operators’ visual line of sight. “UPS Flight Forward’s certificate permits the company to fly an unlimited number of drones with an unlimited number of remote operators in command,” said the company. “This enables UPS to scale its operations to meet customer demand. Part 135 Standard also permits the drone and cargo to exceed 55 pounds and fly at night, previous restrictions governing earlier UPS flights.”

**4. Drones Transport FedEx Deliveries Directly to Homes.**

The first scheduled, commercial residential drone delivery in the United States was conducted by Wing Aviation, in collaboration with FedEx Express, as part of DOT’s Unmanned Aircraft Systems Integration Pilot Program (IPP). For the duration of the trial, Wing drones will transport select FedEx packages to qualifying homes in Christiansburg, Virginia, demonstrating the benefits of drone delivery for last-mile delivery service. Wing’s pilot program also includes collaboration with Walgreens, allowing program participants to order products through Wing’s delivery app. FedEx is also participating in the IPP in conjunction with Memphis Shelby-County Airport Authority, conducting drone operations on airport property to generate data to help inform future UAS policymaking.

**5. DOT Proposes Changes to Tarmac Delay Regulations.**

DOT issued a Notice of Proposed Rulemaking on its tarmac delay rules, with the intent of “reducing the number of tarmac delays that are subject to enforcement... while still maintaining important consumer protections.” The proposed changes would formalize DOT’s current enforcement policy. The tarmac delay “clock” will stop when an aircraft begins to return to a suitable disembarkation point, which is further explained in the NPRM. Other changes will reset the tarmac delay clock if a carrier can show passengers had the opportunity to deplane even after the aircraft doors are closed. The changes are intended to give carriers more flexibility in handling delays, as well as some “relief” when delays are due to circumstances outside of their control.

## II. AIRPORTS

### 1. FAA Awards \$157 Million in Infrastructure Grants to 34 Airports.

The sixth allotment of a total \$3.18 billion in FAA Airport Improvement Program (AIP) funding was awarded to 34 airports. The \$157 million granted includes \$15.5 million for Fayetteville Regional/Grannis Field in North Carolina to expand the terminal building, and \$7.7 million for Salt Lake City International to construct an apron for aircraft parking.

### 2. Atlanta, Paris Partner to Stimulate Economic Growth.

Atlanta Hartsfield-Jackson and Paris Charles de Gaulle announced a new partnership meant to promote economic growth for both airports, reports the *Atlanta Journal-Constitution*. And, Aerotropolis Atlanta Alliance signed a memorandum of understanding with Beijing New Aerotropolis.

### 3. ADP to Manage New York Stewart International.

Future Stewart Partners, a joint venture of Groupe Aeroports de Paris (ADP) and AvPORTS Management, signed a 10-year agreement to manage New York Stewart. Port Authority of New York and New Jersey said the new pact covers “operations, maintenance, concessions management and strategy to attract new international carriers and improve customer experience.” Port Authority said Norwegian Air’s successful two years of service at Stewart, “torpedoed following the grounding of their 737 MAX fleet,” warrants “major initiatives to recruit another international air carrier” at the Hudson Valley airport. ADP develops and manages airports in Paris, including Charles de Gaulle, Orly and Le Bourget, and elsewhere through its ADP International subsidiary. AvPORTS currently operates Albany, Republic and Westchester airports in New York and Teterboro in New Jersey. A federal inspection area is expected to open next summer, among other Stewart projects meant to provide incentives for international carriers.

### 4. Global Infrastructure Partners Invests in Paine Field.

Global Infrastructure Partners (GIP) has become an investor in Everett-based Paine Field Passenger Terminal. The airport serves the northern Seattle area with Alaska and United flights to West Coast business centers and connecting hubs. GIP, which owns major stakes in Gatwick and Edinburgh Airports and previously was majority owner of London City Airport, is managing the investment on behalf of the Washington State Investment Board. Propeller Airports developed and operates the Paine Field terminal, which, said CEO Brett Smith, surpassed 600,000 passengers in six months.

5. **Structural Work Begins for Memphis Modernization Project.**

Structural work began on Memphis International's B Concourse modernization project. The multi-year, multi-phase plan will consolidate all airline, retail and food/beverage businesses into the remodeled concourse, and include wider corridors, moving walkways, larger boarding areas, higher ceilings and increased natural lighting.

6. **ACI: Innovation Key to Sustainable Growth of African Airports.**

With a compound annual growth rate of 4.7% forecasted from 2018 to 2023 in Africa, and passenger traffic expected to exceed 450 million by 2040, "airport leaders are faced with pressure to manage performance and growth, without constantly adding infrastructure and cost, while striving for environmental sustainability and robust security," said Airports Council International (ACI) Director General Angela Gittens, at the 28th ACI Africa Annual General Assembly and Regional Conference and Exhibition, in Accra. Gittens emphasized the importance of innovation and "regulatory support, which includes a partnership approach between industry and government, and a flexible, adaptable regulatory framework."

7. **AirAsia Sues Malaysia Airports for Negligence.**

Malaysia Airports was sued by AirAsia and AirAsia X for losses and damages caused by "negligence in the management, operation, maintenance and provision of airport services and facilities" at Kuala Lumpur International Airport 2 (klia2). The RM480 million (\$115 million) claim was filed "as we were left with no other recourse to protect our interests," said AirAsia CEO Riad Asmat and AirAsia X CEO Benyamin Ismail, noting that the dispute began "when Malaysia Airports filed a civil suit against us over Passenger Service Charges (PSC) after rejecting our offer to go for mediation."

8. **Indonesia's Largest Terminal Project Approved.**

Indonesia's largest terminal will be constructed at Jakarta's Soekarno-Hatta International, announced state-owned airport operator Angkasa Pura II, with completion expected by 2024. The Rp 11 trillion (US\$777 million) Terminal 4 will bring total passenger capacity to around 110 million per year. Cargo facilities will be moved into a single cargo hub.

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

#### **1. New Members Appointed to Aviation Security Advisory Committee.**

Transportation Security Administration (TSA) chief David Pekoske announced the current Aviation Security Advisory Committee (ASAC), including the appointment of two new members and reappointment of 12 members. ASAC provides recommendations for improving aviation security methods, equipment and procedures. It was established in 1989 in the wake of the crash of Pan Am 103 over Lockerbie, Scotland. The mandated membership categories include Air Carriers, All-Cargo Air Transportation, Indirect Air Carriers, Labor Organizations, Aircraft Manufacturers, Airport Operators, General Aviation, Privacy Organizations, Travel Industry, Airport-Based Businesses, Aeronautical Repair Stations, Passenger Advocacy Groups, Aviation Security Technology Industry, Victims of Terrorist Acts Against Aviation, Law Enforcement, and Airport Construction and Maintenance Contractors.

#### **2. Miami Unveils New Automated Baggage Screening System.**

A new fully automated baggage handling system at Miami International doubles the speed and efficiency of screening and delivery for flights in the airport's Central and South terminals. The \$324-million system was funded in part by a \$101.2 million grant from TSA. In addition to nearly nine miles of conveyor belt and 12 new CTX 9800 explosive detection machines, the upgraded system features 102 mobile inspection tables (MIT) in an 18,000-square-foot baggage reconciliation area, one of the world's largest airport installations of automated guided vehicle technology. The MITs autonomously receive bags that require additional screening and deliver them via a guided floor track to 52 TSA inspection stations, eliminating lifting and pulling by TSA officers, improving tracking accuracy, reducing noise pollution, and increasing overall speed of the bag screening process. The new facility, which began first phase of operations in July, can screen and transport more than 7,000 bags per hour. Eighteen airlines are already using the new system, with 30 more scheduled to make the transition between now and mid-2020.



## IV. TECHNOLOGY AND EQUIPMENT

### 1. Direct New York-Sydney Qantas Flight Tests Human Stamina.

Qantas flew the first non-stop commercial flight from New York to Sydney in 19 hours 16 minutes in the air, in an initiative dubbed Project Sunrise which runs experiments to assess health and well-being of those aboard. Tests ranged from monitoring pilot brain waves, melatonin levels and alertness, to exercise classes for passengers. Cabin lighting and in-flight meals were adjusted in ways expected to help reduce jetlag, according to medical researchers and scientists who partnered with Qantas. Data from the 49 passengers and crew on the initial flight will be used to help shape crew rostering and customer service of any future Qantas ultra long-haul flights. “Our regular, one-stop New York to Sydney service (QF12) took off three hours before our direct flight but we arrived a few minutes ahead of it, meaning we saved a significant amount of total travel time by not having to stop,” said Qantas Group CEO Alan Joyce. Two more research flights are planned as part of the Project Sunrise evaluations, London to Sydney in November and another New York to Sydney in December. Emissions from all research flights will be fully offset.

### 2. Amadeus, Sabre to Display ATPCO Rich Content.

Amadeus and Sabre signed agreements with ATPCO (Airline Tariff Publishing Co.) that enable them to distribute ATPCO’s Routehappy Rich Content. This includes flight product attributes such as legroom and Wi-Fi; fare benefits and restrictions, e.g. baggage and seat selection; a new toolkit that helps systems create UTAs (Universal Ticket Attributes) with ATPCO pricing and rule data; and visual and descriptive content such as photos and videos.

## V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel on October 11 was \$80.12/barrel, up 4.5% on the month and down 16.3% compared to a year ago, reports IATA. Jet fuel price average for 2019 was \$79.8/barrel. Impact on 2019 fuel bill was down \$9.4 billion.

### 2. **Natural Gas, Solar Energy to Power Pittsburgh Intl.**

Pittsburgh International will be the first major U.S. airport to be powered by its own microgrid, an independent electricity source that can operate autonomously while maintaining a connection to the traditional grid. Starting in 2021, power will be generated through onsite natural gas wells and 7,800 solar panels across eight acres, increasing reliability and public safety while achieving savings on electricity costs for the airport and tenants. The airport will remain connected to the traditional electrical grid as an option for emergency or backup power when needed, such as in extreme weather events or other grid interruptions. “Airports across the country have been exploring ways to increase power reliability after several high-profile power outages resulted in thousands of cancelled flights and passenger disruptions,” said officials.

### 3. **San Francisco Intl. to Build 10-Mile Sea Wall to Offset Climate Change.**

San Francisco International will build a \$587 million sea wall around the airport’s 10-mile perimeter, in preparation for rising bay waters that could flood runways and buildings, due to climate change. The airport is currently protected by sea walls that provide about three feet of protection from flooding; runways are about 10 feet above sea level. San Francisco Bay has risen eight inches since 1900 and is projected to rise another foot by 2050 and another three feet or more by 2100. Environmental studies begin next fall, with construction starting in 2025. . . . At nearby Oakland International, construction begins next year on a \$46 million project to raise a four-mile earthen dike by two feet to guard runways against rising bay waters.

### 4. **Climate-Change Activists Disrupt London City Flights.**

Extinction Rebellion activity at London City Airport disrupted travel, as the environmental group continued to protest government support for airport expansion. Activity included an individual delaying an Aer Lingus flight; another climbing on a British Airways jet causing the airline to re-book passengers, and many glued to the airport floor. . . . A major Extinction

Rebellion backer is UK billionaire Sir Christopher Hohn, who reportedly acquired a £630 million stake in Heathrow parent Ferrovial; via his Children's Investment Fund Foundation, Hohn is a large investor in airport owner Aena.

**5. IAG Backs Net Zero Emissions by 2050.**

International Airlines Group (IAG) announced initiatives for achieving net zero carbon emissions by 2050, which is a UK government goal. Among them, British Airways will offset CO<sub>2</sub> emissions for domestic flights from 2020 by investing in solar energy and forestation programs; invest \$400 million in sustainable aviation fuel; and replace older aircraft over the next five years. IAG is exploring carbon capture technology with U.S.-based Mosaic Materials via start-up accelerator Hangar 51. Management incentives are being developed for employees to reduce CO<sub>2</sub> emissions across IAG. British Airways' CO<sub>2</sub> emissions on international flights will be capped under CORSIA (Carbon Offsetting and Reduction Scheme for International Aviation), the ICAO initiative that will enable airlines to cut CO<sub>2</sub> emissions by 2.5 billion tonnes between 2020 and 2035 through investments in carbon reduction projects.

**6. UK Committee Recommends Ban on Frequent Flyer Programs.**

A report from the UK Committee on Climate Change suggests a ban on frequent flyer reward programs, since they stimulate air travel demand. Frequent flyers should be penalized via an air miles levy, which would encourage short-haul rather than long-haul flights, shift demand from planes to trains, and fund research into low-carbon aviation technology, said the report, which notes that 15% of Britons take 70% of flights, and 50% do not fly at all in a given year.

**7. EU Develops Cabin Waste Program.**

The Life Zero Cabin Waste project, which aims to create an integrated model to reduce, reuse and recycle (including energy recovery) waste collected on airplanes, is being developed by Iberia, Ecoembes, Gate Gourmet Spain, Ferrovial and ESCI-UPF. The project, co-funded by the EU, is being piloted at Gate Gourmet's Madrid's Barajas unit, where around 6,000 tons of waste are accumulated per year. The focus is on recoverable waste, such as light packaging plastics, cans, cartons, glass and paper and municipal solid waste, from both international and EU flights. Objectives are to achieve a 5% reduction of waste generated in flight, reducing 4,340 tons of CO<sub>2</sub> emitted to the atmosphere and to demonstrate that the amount of waste dumped into landfills could potentially be reduced to zero with modifications to current legislation. . . . In an onboard test, different designs of compartmentalized trolleys allowed waste to be separated into recyclable and non-recyclable.

After each flight, the quantity and quality of the separated waste was recorded and analyzed and sent to a recycling plant. Also, seven waste compactors separate waste generated in the cabin and at Gate Gourmet facilities into organic material and other non-recyclable waste, packaging, paper and cardboard. The new waste sorting methodology will be tested at London Heathrow in 2020. “We believe that the standards developed as an outcome of the project will become standard practice in the future,” said Gate Gourmet. . . . A UNESCO research group worked with the project team to analyze 8,400 pounds of garbage on 145 flights into Madrid and found that 33% was food waste, 28% was cardboard and paper waste, and about 12% was plastic. IATA conducted a small study at London Heathrow and estimated that airlines generated about 6.7 million tons of cabin waste last year. . . . deSter, gategroup’s provider of innovative food packaging and service ware concepts, is addressing packaging development. And, British design firm PriestmanGoode has redesigned the economy meal tray, replacing plastic with renewable materials such as coffee grounds, banana leaves and coconut wood. The items are featured in an exhibit, “Get Onboard: Reduce. Reuse. Rethink,” at the Design Museum in London through February 9.

## VI. U.S. CONGRESS

### 1. Aviation Safety Legislation Introduced.

Legislation that addresses “challenges related to increased automation in commercial aircraft cockpits, as well as how pilots respond to flight deck alerts and ‘uncommanded’ flight control inputs,” was introduced in the Senate by Commerce Committee Ranking Member Maria Cantwell (D-WA) and Senator Tammy Duckworth (D-IL). The bill would codify recommendations from NTSB, the DOT Office of Inspector General (DOT IG) and the International Civil Aviation Organization (ICAO). In September, NTSB released seven safety recommendations related to the two B-737 MAX crashes. In 2016, the DOT IG released recommendations aimed at helping airlines and aerospace manufacturers address the challenge of a growing reliance on automation in commercial aircraft. In 2013, ICAO recommended civil aviation authorities require aerospace manufacturers to adopt safety management systems (SMS) to identify and control risks. The bill would also create an FAA Center of Excellence focused on flight automation and human factors in commercial aircraft.

### 2. Hearings on Boeing 737 MAX Accidents.

See Section I, item 2.

### 3. Senate Commerce Hearing on Improving Airport Security.

The Senate Commerce Subcommittee on Security held a hearing on Improving America’s Airport Security to examine stakeholder perspectives. In his responses to questions by Ranking Subcommittee Member Ed Markey (D-Mass.) about TSA’s use of “invasive” facial recognition technology, Denver International COO Chris McLaughlin said collection of biometric information at airports should always be voluntary, that TSA should enact enforceable rules and ensure that biometric data it collects is secure, and that its use of biometric technology does not disproportionately burden or misidentify people of color. . . . In her testimony, U.S. Travel Association official Tori Barnes warned that 57% of Americans are unaware that October 1, 2020 is the deadline for having a REAL ID-compliant driver’s license, or an acceptable alternative such as a U.S. passport, to board a domestic flight, and that some 99 million Americans are currently without any kind of REAL ID-compliant identification. U.S. Travel’s policy proposals include accepting CLEAR and TSA Precheck membership as alternatives to REAL ID; allowing application for REAL IDs online; accelerating implementation of biometrics as a means to securely identify travelers; and developing procedures for screening

passengers who arrive at the airport without a REAL ID. “Turning travelers away at the checkpoint is not an option,” Barnes said. . . . Markey addressed TSA’s “abrupt and disruptive” changes to requirements for the Known Crewmember (KCM) expedited screening program without consulting flight attendants and pilots or providing advance notice, resulting in widespread uncertainty. In a letter to TSA Administrator David Pekoske, Markey wrote, “these employees are our eyes in the skies and serve on the frontlines of aviation security and safety. I urge you to commit to proactively consulting and notifying these communities about any future changes to the KCM or related programs.”

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

### 1. **WTO Authorizes U.S. to Levy Tariffs on \$7.5 Billion of EU Exports.**

The World Trade Organization (WTO) authorized the United States to levy tariffs on \$7.5 billion of exports from the European Union (EU), following its ruling that the EU and Airbus-producing states failed to remove subsidies for Airbus, which had caused harm to Boeing. The award is the largest in WTO history. . . . U.S. Trade Representative Robert Lighthizer said the bulk of the tariffs will be applied to imports from France, Germany, Spain and the UK, the countries “responsible for the illegal subsidies,” and “at this time the tariff increases will be limited to 10% on large civil aircraft and 25% on agricultural and other products.” EU Trade Commissioner Cecilia Malmström said “applying countermeasures now would be short-sighted and counterproductive,” since both the EU and the U.S. have been found at fault by the WTO; “in the parallel Boeing case, the EU will in some months equally be granted rights to impose countermeasures against the U.S. as a result of its continued failure to comply with WTO rules.” Both sides say they favor negotiations to resolve the 15-year-old dispute.

### 2. **EC Investigates Proposed Boeing-Embraer Joint Ventures.**

The European Commission (EC) is investigating two joint ventures proposed by Boeing and Embraer to ensure that they “do not significantly reduce effective competition on prices and product development.” In one, Boeing would take over Embraer's global commercial aircraft business (product development, production, marketing, services), owning 80% of the new company, to be named Boeing Brasil-Commercial; Embraer would hold the remaining 20%. Embraer shareholders approved the partnership in February, and, following an assessment by the U.S. Federal Trade Commission, it received clearance to close in the United States. Embraer is the third largest global competitor in the highly concentrated commercial aircraft industry, noted the EC. “Potential entrants from China, Japan and Russia seem to face high barriers to entry and expansion and may be unable to replicate within the next five or even 10 years the competitive constraint currently exerted by Embraer. The transaction may therefore result in higher prices and less choice.” The announcement surprised many analysts as the EC approved the Airbus acquisition of the Bombardier C series aircraft. In the other joint venture, marketing of the Embraer KC-390 military aircraft, Embraer would own a 51% stake and Boeing the remaining 49%. The first KC-390 recently was delivered to the Brazilian Air Force, and the first international purchase was announced by Portugal.

## **VIII. EUROPE AND AFRICA**

### **1. Norwegian, China Leasing Intl. Joint Venture Planned.**

Norwegian reached an agreement with China Leasing International Corporation (CCBLI) to establish a joint venture for an initial 27 Airbus A320 NEOs, to be delivered from 2020 to 2023. CCBLI, a subsidiary of China Construction Bank Corporation, the world's second largest bank by asset value, will also provide financing for aircraft within the JV. CCBLI will hold a 70% share of the JV, with Norwegian, through its Arctic Aviation Assets subsidiary, holding the remaining 30%. The JV will reduce Norwegian's committed capital expenditure by approximately \$1.5 billion based on the initial 27 aircraft. "The JV is one of many important initiatives that need to be realized to deliver on our strategy of moving from growth to profitability," said Norwegian Acting CEO Geir Karlsen, and "is an important first step in building a strong strategic partnership between our two companies."

### **2. Virgin Atlantic to Join Air France/KLM/China Eastern JV.**

The Air France/KLM/China Eastern joint venture will include Virgin Atlantic. Scheduled to enter into force in spring 2020, the cooperation will offer increased flights and itineraries between Europe and China, mutual code sharing and "competitive joint commercial propositions." . . . Marcel de Nooijer, Executive Vice President Air France-KLM Cargo and Managing Director at Martinair, was named CEO of low-cost unit Transavia, effective January 1.

### **3. Flybe to Rebrand as Virgin Connect.**

Flybe, which was acquired by Connect Airways earlier this year, will become Virgin Connect next year. Connect is 40% owned by Cyrus Capital Partners, 30% by Stobart Group, and 30% by Virgin Atlantic Limited, the holding company of Virgin Atlantic Airways and Virgin Holidays. Connect Airways CEO is Mark Anderson.

### **4. Extension Granted for Alitalia Relaunch.**

Italy authorized an extension for a business plan to be presented for the relaunch of bankrupt Italian carrier Alitalia. Stefano Patuanelli, Italy's Economic Development Minister, set a new November 21 deadline with two conditions: the deadline is subject to a discussion between special administrators and the bidders, and a daily update on progress. Would-be investors include Ferrovie dello Stato (FS), a state-owned holding company; infrastructure group Atlantia; and U.S. carrier Delta Airlines. Alitalia filed for bankruptcy in May 2017 after failing to withstand competition from low cost



carriers and high-speed rail, as well as economic uncertainty and rising costs. The Italian government wants to use a relaunched Alitalia as the “cornerstone of a multimodal transport strategy also geared to boosting Italian tourism.”

**5. EU Approves €380 Million German Rescue Aid to Condor.**

EU competition regulators approved Germany's plan to grant a temporary €380 million loan to Condor, saying “the measure will contribute to ensuring the orderly continuation of air transport services and avoid disruptions for passengers, without unduly distorting competition in the Single Market.” The airline was a unit of Thomas Cook Group, which entered into liquidation in September. The Commission said the loan will have to be repaid after six months or Condor will have to restructure to ensure its long-term viability.

**6. Fastjet Mozambique Suspends Operations.**

Fastjet Mozambique suspended flight operations, due to “oversupply of available seats by other carriers on all routes and the negative financial impact this is having on our business.” The code share agreement held by LAM Mozambique Airlines and fastjet Mozambique ceased on October 26. fastjet Zimbabwe continues to operate.

**7. UK Lifts Restrictions on Flights to Sharm El-Sheikh.**

See Section IX, item 8.

**8. Iraqi Airways Seeks European Wet-Lease Services.**

See Section IX, item 9.

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

### **1. Gov't Aids Hong Kong Travel Sector.**

“Maintaining aviation connectivity is critical to Hong Kong,” said the International Air Transport Association (IATA), as local and foreign airlines cancelled or reduced service amid continuing massive protests. “The government should consider financial relief measures to support the 330,000 jobs and 10.2% of GDP dependent on the aviation and tourism sector.” . . . The Hong Kong government announced measures to help the travel and tourism and other sectors. Travel agents will receive a cash incentive of HK\$120 per inbound tourist staying overnight, and HK\$100 per outbound tourist, with a maximum of 500 tourists per agent, meaning, said officials, that from November to end of March 2020, a travel agent can earn up to HK\$60,000 extra from the government scheme, which is administered by the Hong Kong Tourism Board and the Travel Industry Council of Hong Kong. . . . Cathay Pacific and subsidiary Hong Kong Dragon carried 7.1% fewer passengers in September, compared to September 2018; load factor fell 7.2% to 73.6%. In first nine months 2019, number of passengers rose 1.3%, year on year. Cargo and mail tonnage dropped 4.4% in September, compared to September 2018; load factor fell by 3.7% to 65.5%. In first nine months 2019, tonnage fell by 6.8%. Transit traffic via Hong Kong remained relatively stable. “We continue to see a significant shortfall in inbound bookings for the remainder of 2019,” said officials, “felt most strongly with bookings from mainland China and our other Asian markets.” The company is realigning capacity for the winter season. . . . “A survey of member companies by American Chamber of Commerce in Hong Kong found that 46% are pessimistic about long-term prospects, up from 34% in July; 61% consider moving from Hong Kong, making contingency plans, or have difficulties hiring people from overseas while experiencing a talent drain; and 82% regularly discuss crisis management, staff handling to cope with social divide and distress, and adjustments to operational and investment strategies.

### **2. American, Qantas Expand Code Sharing.**

Qantas and American expanded their code share partnership, adding 28 new destinations to the Qantas network in the U.S. American Airlines routes operated by Qantas now include Los Angeles and Dallas-Fort Worth to Sydney; San Francisco to Melbourne and Brisbane; and Chicago to Brisbane. Numerous Australian domestic city pairs were also added. Improved frequent flyer benefits include higher earn rates for points and status credits on each

other's networks. DOT recently granted final approval of Qantas and American Airlines' joint business.

3. **United, Air New Zealand to Offer First New York-Auckland Nonstops.**

Air New Zealand and United will launch the only nonstop service between New Zealand and the U.S. East Coast in October 2020, subject to regulatory approvals and landing slot confirmation. Flight time on the year-round, three weekly Boeing 787-9 flights between New York Newark and Auckland will be approximately 17 hours and 40 minutes southbound and 15 hours 40 minutes northbound. ANZ code share service will be offered on 90 flights across the U.S. for connections to Auckland via Newark. The joint venture partners announced new year-round nonstop service between Chicago and Auckland in 2018. ANZ will withdraw from daily Los Angeles-London service, which began in 1982; market dynamics have affected performance, said the company, and less than 7% of airline travelers between Auckland and London chose to fly via Los Angeles last year.

4. **Walmart Executive Appointed Air New Zealand CEO.**

Greg Foran was appointed CEO of Air New Zealand, effective first quarter 2020. He currently is President and CEO of Walmart U.S. "We are thrilled to have attracted a world class Kiwi back home," said ANZ Chairman Therese Walsh; he "has an impeccable track record in delivering strong commercial performance, outstanding customer focus and in building teams that can take a business to the next level." CFO Jeff McDowall has been Acting CEO since August, replacing Christopher Luxon, who resigned in June.

5. **Qatar, LATAM Expand Code Sharing.**

Qatar announced an expanded code share agreement with LATAM Airlines Brazil, with immediate effect, which will provide Qatar Airways passengers with connections to destinations throughout Brazil and South America. LATAM passengers can travel on Qatar flights between Sao Paulo and Doha, and onward to destinations in the Middle East, East Africa and South Asia, including Vietnam, Malaysia and Singapore.

6. **Etihad, Air Arabia Jointly Launch Low-Cost Carrier.**

Etihad Aviation Group and Air Arabia agreed to launch Air Arabia Abu Dhabi, a joint venture that will operate as a low-cost passenger airline from Abu Dhabi International. Low-cost carriers accounted for 17% share of seat capacity to and from the Middle East in 2018.

7. **Spicejet to Create Dubai Base.**

Indian low-cost carrier Spicejet plans to create a base and develop a medium-haul airline at Ras Al Khaimah (RAK) Airport, near Dubai. “This is our first international hub,” said Spicejet Chairman Ajay Singh, noting it will be “a stepping stone into European destinations [and] a port of entry into the UAE and North Africa.” SpiceJet, the second-largest airline in India, conducts freighter operations into RAK and hopes to create a logistics hub there.

8. **UK Lifts Restrictions on Flights to Sharm El-Sheikh.**

The UK lifted restrictions on flights to the Egyptian resort of Sharm el-Sheikh, suspended after a bomb downed a Russian passenger plane over Sinai in 2015, killing all on board; the Islamic State claimed responsibility. “Improvements in security procedures at the airport, and close co-operation between the UK and Egypt on aviation security, mean commercial airlines can now be allowed to operate routes to and from the airport,” said UK Transport Minister Grant Shapps; the government “will work closely with airlines who wish to resume flights to and from the airport.”

9. **Iraqi Airways Seeks European Wet-Lease Services.**

Iraqi Airways invited bids from European operators to conduct wet-leased scheduled flights on its behalf to European destinations. The carrier, which has been on the EU blacklist for several years, seeks candidates that hold a valid European air operator certificate, average fleet age should not exceed six years, and training should be provided to qualify Iraqi Airways crews to EASA standards.

10. **Norwegian, China Leasing Intl. Joint Venture Planned.**

See Section VIII, item 1.

11. **Virgin Atlantic to Join Air France/KLM/China Eastern JV.**

See Section VIII, item 2.

## **X. AMERICAS**

### **1. American Adds International Service.**

American will increase service from Miami to Lima on April 7, and to Santiago and São Paulo next winter, subject to government approval. New daily service from Boston to London Heathrow begins March 29. American is also extending seasonal service on routes including New York-Rome, Dallas-Fort Worth-Dublin, and Chicago-Barcelona, by one month.

### **2. JetBlue, Norwegian Announce Partnership Intent.**

JetBlue and Norwegian signed a Letter of Intent for an interline agreement for connecting 60 U.S. and 40 Caribbean and Latin American cities to Norwegian's network via New York Kennedy, Boston and Fort Lauderdale. Launch is planned for early Summer 2020, with bookings to begin first half 2020. "JetBlue is the largest airline at several of our key gateways in the United States," said Norwegian Acting CEO Geir Karlsen, "and this partnership will create a plethora of new route connections for customers on both sides of the Atlantic." JetBlue CEO Robin Hayes said, "Norwegian shares our belief that customers benefit when we can bring competition and low fares to the transatlantic market currently dominated by joint ventures, legacy alliances and sky-high ticket prices." . . . JetBlue will end Mexico City service in January, to free capacity for more profitable routes. The company reported third quarter ancillary revenue, up 17% year-over-year, is now at \$33.60 per customer. . . . Norwegian will add U.S.-Europe service for summer 2020 season, with Los Angeles-Paris increasing to 10 weekly flights, New York-Paris to nine weekly, and San Francisco-London to daily. Other expansions include Los Angeles to Barcelona, Madrid and Rome; San Francisco-Barcelona; Austin-London; Denver-London; and Boston-Paris.

### **3. Spirit to Move Headquarters to Fort Lauderdale Area.**

Spirit Airlines submitted site plans to the City of Dania Beach for a campus of up to 500,000 square feet at Dania Pointe, a mixed-use development near Fort Lauderdale-Hollywood International Airport. The company plans to move 1,000 Miramar-based employees to the new campus by mid-2022 and add 225 positions. Total capital outlay for the project is estimated at \$250 million over the next 36 months. The development will include corporate offices and a crew training facility with flight simulators. . . . Spirit will begin operating new nonstops to Cancun from Pittsburgh, Cleveland, Austin, Nashville and Philadelphia in February and March, bringing Cancun service to eight daily. . . . Spirit signed a memorandum of understanding with Airbus for purchase of

100 new Airbus A320neo family aircraft, with an option for up to 50 more, with delivery through 2027. The airline currently operates 138 Airbus A320-family aircraft and has seven Airbus A320neo aircraft scheduled for delivery from Mobile, Ala., by year-end, bringing fleet count to 145. In 2020 and 2021, Spirit anticipates taking delivery of 48 A320neo aircraft. In December, Spirit will unveil an aircraft cabin redesign that includes ergonomic seating.

4. **American, Qantas Expand Code Sharing.**

See Section IX, item 2.

5. **United, Air New Zealand to Offer First New York-Auckland Nonstops.**

See Section IX, item 3.

6. **Qatar, LATAM Expand Code Sharing.**

See Section IX, item 5.