



## WASHINGTON AVIATION SUMMARY

September 2008 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. “We are in a perfect storm”: IATA.

Cargo and passenger traffic continued to slow in June, reports the International Air Transport Association (IATA). Cargo contracted by 0.8% compared to June 2007 and passenger demand growth fell to 3.8%, compared to 7.4%. Capacity growth of 5.5% outstripped demand, pushing the passenger load factor down to 77.6%, compared to 78.8% last June. For North American airlines, international passenger traffic growth fell in June to 4.4%; for European airlines, 2.1%; for Asia Pacific airlines, 3.2%; for Middle Eastern carriers, 9.6%; and for Latin American carriers, 12.5%. While airlines posted a \$5.6 billion profit in 2007, their first profit after six years of losses that exceeded \$40 billion, losses this year could reach \$6.1 billion. In 2002 oil was \$25 per barrel and the industry fuel bill was \$40 billion. This year, while fuel fell to around \$110 a barrel in August, it exceeded \$140 in July, and, said IATA “even a \$1 increase adds \$1.6 billion to industry costs.” “We are in a perfect storm of uncontrollable fuel costs and falling demand,” said Giovanni Bisignani, IATA Director General and CEO. “Some 25 airlines in our financial systems have gone bust—greater than immediately following 9/11—and we are bracing for more.”

### 2. American, British Airways, Iberia Request Antitrust Immunity.

American, British Airways and Iberia agreed to cooperate on flights between the United States, Mexico and Canada, and the European Union (EU), Switzerland and Norway, while continuing to operate as separate legal entities, and will expand their code shares on flights within and beyond the EU and U.S. They have applied for antitrust approval, with oneworld partners Finnair and Royal Jordanian, from the U.S. Department of Transportation (DOT) and notified EU authorities, saying the relationship will enable more effective competition with immunized SkyTeam and Star airlines. Earlier alliance attempts by American and British Airways would have required their ceding Heathrow slots to other airlines, and there may be a similar demand again. The applicants contend as a result of the U.S. – EU Open Skies agreement there is now greater access by other alliances and carriers to slots at Heathrow. However, Virgin Chairman Sir Richard Branson says the alliance would allow what normally is “illegal—namely, fix prices and schedules and share crucial marketing and operational data.” The alliance would control nearly half of the 480,000 takeoff and landing slots at London Heathrow, compared to bmi’s 58,000 or Virgin Atlantic’s 17,000, said Branson, and would have dominant market shares on Heathrow routes in terms of capacity: New York Kennedy-63%; Chicago-66%; Boston-82%; Miami-72%; Los Angeles-

49%; Dallas Fort Worth-100%. In letters to Senators Barack Obama and John McCain, Branson wrote, "Airlines everywhere are struggling with the current price of oil, but the solution to their problems should not lie in an anti-competitive agreement, which will inevitably lead to less competition and higher fares."

**3. FAA Seeks \$7.1 Million in Penalties Against American Airlines.**

The Federal Aviation Administration (FAA) announced actions totaling \$7.1 million in civil penalties against American Airlines for improperly deferring maintenance on safety-related equipment and deficiencies with its drug and alcohol testing programs and exit lighting inspections. Calling the penalties "excessive," American said it does not agree with FAA's findings and characterizations.

**4. Southwest Ordered to Pay \$10.2 Million Fine.**

After review of the \$10.2 million fine proposed in March against Southwest for alleged safety violations, FAA upheld the civil penalty as appropriate and said it would turn the matter over to the Department of Justice should payment not be received by August 29. The record fine was proposed after FAA found that Southwest had failed to inspect Boeing 737s for structural cracks and continued to fly those aircraft after missing a deadline to complete the work. Southwest claims it acted appropriately and never compromised flight safety.

**5. Antitrust Review Sought for DHL-UPS Partnership.**

The Department of Justice was asked by the Senate antitrust subcommittee to review a proposed agreement that would shift DHL's North American air lift from ABX Air and Astar Air Cargo, both in Ohio, to UPS. Senators say the plan would cede the U.S. air package delivery market to just UPS and FedEx. UPS estimates the new business, which would move to Louisville hub, could generate \$10 billion over 10 years. Concerned about potential job losses among 8,000 ABX and Astar employees, Ohio Congressional delegates in a letter asked German President Angela Merkel to urge DHL to reconsider; DHL is a subsidiary of Deutsche Post World Net. Outsourcing to UPS is key to saving Deutsche Post's U.S. business and its 43,000 jobs, said the German company's CEO; Frank Appel told the *Wall Street Journal* that the only alternative is "more serious cuts to the whole operation" to stem losses of \$5 million a day.

**6. Rosenker Appointed NTSB Vice Chairman.**

President Bush appointed Mark Rosenker to serve as Vice Chairman of the National Transportation Safety Board (NTSB) for a two-year term beginning August 9, 2008. Rosenker has served as NTSB Chairman since August 11, 2006. The NTSB has five members, each nominated by the President and

confirmed by the Senate to serve five-year terms. A member is designated by the President as Chairman and another as Vice Chairman for two-year terms. The Chairmanship requires separate Senate confirmation. When there is no designated Chairman, the Vice Chairman serves as Acting Chairman.

**7. Airlines Request Delay for Drug-Testing Rule.**

New DOT procedures for conducting workplace drug and alcohol tests were to take effect on August 25. They require employees to raise or lower clothing to allow an observer to “check for devices designed to beat the drug test.” The Air Transport Association and Regional Airline Association have requested a delay, saying airlines need more time to hire and train test observers who are the same gender as those being tested.

**8. DOT Air Travel Consumer Report for June.**

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

|                             | June<br>'08/'07 | May<br>'08 | Full Year |       |       |       |       |
|-----------------------------|-----------------|------------|-----------|-------|-------|-------|-------|
|                             |                 |            | 2007      | 2006  | 2005  | 2004  | 2003  |
| On-time arrivals %          | 70.8 /68.1      | 79         | 73.4      | 75.4  | 77.4  | 78.1  | 82    |
| Mishandled baggage*         | 5.15 /7.94      | 5.94       | 7.03      | 6.73  | 6.64  | 4.91  | 4.19  |
| <i>Consumer complaints:</i> |                 |            |           |       |       |       |       |
| Airline service             | 881 /1,097      | 885        | 13,168    | 8,325 | 8,741 | 7,452 | 5,983 |
| Disability-related          | 27 / 48         | 39         | 480       | 430   | 511   | 521   | 375   |
| Discrimination**            | 8 / 6           | 13         | 99        | 114   | 129   | 118   | 85    |

Note: Aloha Airlines ceased operations in April, reducing the number of reporting carriers from 20 to 19.

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. Airport Bond Ratings Lowered to Negative.

Fitch Ratings lowered its outlook for U.S. airport bond ratings to negative from stable, saying medium- and small-size facilities likely will be hardest hit as U.S. airlines cut domestic flights by about 10% and shift capacity to more lucrative routes. Hard-hit airports include Oakland, which lost bankrupt Aloha, Skybus and ATA in April and is losing American and Continental service. To retain business some airports are reducing fees, but airlines say passenger demand determines their decisions. Dallas-Fort Worth predicts 7% fewer passengers over the coming year, but the subsequent \$15 million loss of revenue from parking, rental cars and concessions will be offset by millions earned from selling rights to drill for natural gas on airport property and future royalties. Los Angeles International will raise landing fees by 15% to offset an expected loss of 160,000 passengers.

### 2. FAA Delays Auction of Newark Liberty Slots.

FAA's planned auction of two Newark Liberty slots was delayed in response to intense airline and other opposition. The Air Transport Association had sued FAA, charging the agency with exceeding its statutory authority and for unauthorized regulatory action disguised as property management. Area airport operator Port Authority of New York and New Jersey had proposed to bar airlines from using takeoff and landing slots acquired in the auction, to which FAA had threatened to cut off federal aid. Other opponents to the auction included Airports Council International, New York Senator Charles Schumer and members of the Senate Commerce Committee and Aviation Subcommittee, and the governors of New York and New Jersey. New York Mayor Michael Bloomberg proposed an auction plan, in which the City would work with the federal government and Port Authority to develop a limited pilot program, similar to that proposed for Newark, to determine if it would encourage airlines to utilize larger aircraft at peak hours. The two slots, formerly allocated to now-bankrupt Eos Airlines, were to be auctioned for a five-year lease on September 3. A comment period ended on August 18 and an invitation to bid was published August 25. DOT had said the small-scale auction would determine interest and slot market value, before introduction of a broader auction system at both Newark and New York Kennedy.

### 2. UK Competition Commission May Require BAA to Sell Three Airports.

A UK Competition Commission report proposed that BAA sell three of its seven UK airports—two in London and one in Scotland—as part of measures to increase competition in the sector and ease “capacity constraints that are strangling air travel expansion.” The Commission did not rule out a forced sale

of London Heathrow, but said a sale of Gatwick and Stansted is more likely. BAA, a unit of Grupo Ferrovial, said a call for airport sales could delay building new runways. A final ruling will be issued in first quarter 2009. The regulator plans to overhaul the regulatory framework of the sector and review government policy, including airport expansion plans. Airlines generally supported the recommendations but labor unions said they would resist a BAA break-up, since it could threaten jobs. Those expressing interest in an airport sale include Manchester Airports Group, London City Airport co-owner Global Infrastructure Partners, Germany's Fraport and Hochtief and Australia's Macquarie.

**3. Macquarie Acquires Stake in Asur.**

Sydney-based Macquarie Airports plans to sell its minority stakes in Copenhagen Airports and Brussels Airport to Macquarie European Infrastructure Fund 3 to gain funds to acquire a small stake in Asur, which operates nine airports in southeastern Mexico, including Cancun.

**4. \$2 Billion Bangkok Airport Expansion Planned.**

Airports of Thailand will invest more than \$2 billion to develop the second phase of Bangkok Suvarnabhumi Airport beginning next year, subject to government approvals, with project completion in 2014.

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

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

The Transportation Security Administration (TSA) suspended Verified Identity Pass (VIP) after an unencrypted VIP laptop containing records of 33,000 Clear® Registered Traveler (RT) applicants was reported missing from San Francisco International. VIP operates RT programs under the brand name Clear. TSA said results of a forensic review of the recovered laptop are under review. Enrollment resumed after a third party audit verified that VIP had encrypted the computers. TSA will conduct random audits of Clear operations at U.S. airports and asked VIP for a status report of all security features associated with the Clear program. While conducting routine checks to ensure that American Eagle planes parked overnight at Chicago O'Hare were secure, a TSA inspector used sensitive devices mounted on nine aircraft to hoist himself up from the ground. "Such unorthodox inspection techniques required additional maintenance inspections per FAA procedures, causing delays to approximately 40 flights and inconveniencing hundreds of customers," said the airline. TSA is preparing to expand aviation security to include private planes that weigh more than 12,500 pounds, reports *USA Today*, and may require measures such as checking flight crew backgrounds, parking planes in secure areas and inspecting planes. Background checks of passengers on private planes into the U.S. and tighter security for small airports and businesses that operate on them have been discussed. TSA now allows passengers to leave their laptops in "checkpoint friendly" bags designed to produce a clear and unobstructed image during airport X-ray screening.

#### 2. **Challenge to No-Fly List Reinstated.**

A challenge to the U.S. government's "no-fly" list was reinstated by the Ninth U.S. Circuit Court of Appeals in San Francisco. The case, which will proceed in a federal trial court, involves a student who in 2005 was detained and handcuffed after a United employee saw her name on the list, then held in custody before being released by orders of the FBI; she was permitted to fly the next day. The ruling opens the way for individuals to demand information from the government, present evidence on why they should not have been on the list and take the case to a jury, said case attorneys.

#### 3. **Alaska Air Customers Bilked in Payment Card Diversion.**

Payment card information provided by about 1,500 Alaska and Horizon customers was "misused" by a former call center employee who, between August 2006 and June 2008, processed requests but diverted payments to a

personal account. Alaska Air Group notified law enforcement authorities and is cooperating with their investigation.

**4. Mandatory Data Breach Disclosure Laws Proposed for Australia.**

The Australian government was urged to introduce mandatory data breach disclosure laws, in a privacy report published by the Australian Law Reform Commission (ALRC). "A notification scheme gives individuals the information and opportunity to protect themselves against fraud and identity theft," said ALRC, and "will provide a strong incentive for agencies and organizations to ensure that they secure their databases." The 2,700-page report makes 295 recommendations to existing privacy laws and practices that the government said will be addressed in two stages: stage one reforms will be in place within the next 12-18 months; data breach disclosure laws fall into the second stage.

**5. Companies Slow to Respond to Data Breaches.**

A survey completed by 768 data protection, IT security and compliance professionals found that only 9% of respondents rated their organization's overall performance "A" or excellent in responding to a data breach incident; 80% believe their organizations experienced loss of customers after the incident; half said most data breach incidents are caused by employee negligence, followed by third-party negligence, then external penetration (hackers) and other criminal activity; most said their companies have had multiple data breaches; more than 36% have between one and four data breach incidents involving 100 or more records each year, 32% have between five and eight and 31% have nine or more. The survey was conducted by Hilb Rogal & Hobbs, an insurance company, and the Ponemon Institute, a privacy research firm, which together have launched the Privacy Breach Index (PBI), a benchmark tool they say can improve a company's procedures and safeguards for data breach prevention, determine vulnerable areas and benchmark response against other companies.

**6. Senate Bill Addresses Terrorist Watch List Misidentifications.**

See Section VI, item 3.

**7. Committee Calls for Overhaul of Terrorist Watch List.**

See Section VI, item 4.



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

### **1. American Launches Inflight Internet Service.**

American Airlines launched inflight e-mail, Web and other online services on 15 Boeing 767-200 flights from New York Kennedy to Los Angeles, San Francisco and Miami. Available for \$12.95 per flight, Aircell's Gogo service has been tested by American since June. Delta is installing the Gogo system on its domestic fleet of 330 mainline aircraft, with completion by next summer. Aircell expects all major U.S. airlines will offer wireless Internet on domestic flights by 2010; Aircell's system does not work over water. Southwest is planning satellite-based wireless service. JetBlue offers free Wi-Fi service on one aircraft through its LiveTV subsidiary and Continental plans to use LiveTV.

### **2. Americans Divided on Plane Cell Phone Use.**

Americans are divided on whether cell phones should be allowed during flights, with those over 65 more likely to oppose their use than those between 18 and 34, according to a DOT special report. Four out of 10 U.S. residents surveyed (39.7%) said passengers should be allowed to use cell phones if there were no interference issues with aircraft communications systems. Slightly less than half (45.2%) said they should not be used. The remaining 15% weren't sure. The report used data from a survey about transportation issues conducted in November 2006 and November 2007.

### **3. Ryanair Bans Third-Party Web Bookings.**

In an attempt to direct passengers to its own site, Ryanair said it would cancel reservations made at price comparison Web sites that "screen-scrape" the carrier's site. Ryanair said the sites breach copyright rules, levy unjustified and unnecessary handling charges, and fail to provide passengers with the carrier's terms and conditions or current flight or change information. After the announcement, reservations made through the sites dropped to about 50 a day from 450, said Ryanair CEO Michael O'Leary. Travel agencies and consumer groups were concerned about stranded passengers who were booked through third parties. The Spanish government opened an investigation into whether Ryanair's decision harms consumers; Spain's eDreams, Rumbo and Atrapolo are among e-bookers affected.

### **4. House Committee Votes to Ban Inflight Cell Phone Usage.**

See Section VI, item 2.

## V. ENERGY AND ENVIRONMENT

### 1. Crude Projections Adjusted as Supply/Demand Balance Eases.

Average crude price projections for this year were adjusted to \$124 a barrel, down from \$133 projected in July, by Paris-based International Energy Agency (IEA). Global supply/demand balance has pushed oil prices roughly 20% lower than their record high in early July of more than \$147, said IEA, but cautioned against complacency. Near-term speculation in oil is unlikely, former U.S. Federal Reserve Chairman Alan Greenspan told the *Financial Times*, and there is little prospect of a renewed spike in oil prices while cyclical weakness continues. However, he said, the underlying supply/demand balance suggests we will not go back to \$80 or lower; once the current economic downturn ends, oil could go back to \$150 or higher unless producers significantly increase capacity. As August oil prices hovered near \$112 a barrel, still up more than 50% from a year ago, some analysts predicted airlines could return to profitability.

### 2. Green Asphalt Runway for Boston Logan.

The Massachusetts Port Authority approved a \$6.3 million runway repaving project for Boston Logan, to begin in the fall, that could result in the reduction of 2,000 tons of carbon dioxide, diesel fuel savings of 200,000 gallons and energy savings of about 26.4 billion BTUs. The “warm mix” asphalt to be used requires 20% less energy to make, produces 20% fewer greenhouse emissions when applied, and allows use of a higher percentage of recycled asphalt pavement in the final product. Warm mix asphalt has been used at European airports and was tested at Logan on a taxiway and apron areas with FAA oversight before the airport received permission to use it on a runway.

### 3. States to Sue EPA for Failing to Regulate Aircraft Emissions.

A coalition led by California Attorney General Jerry Brown released a notice of intent to sue the Environmental Protection Agency (EPA) “for continuing to wantonly ignore its duty to regulate greenhouse gas pollution from ships, aircraft, and construction and agricultural equipment.” Joining Brown in his suit are Connecticut, Oregon, New York City, the California Air Resources Board and the South Coast Air Quality Management District; national environmental groups filing similar petitions include Earthjustice and the Western Environmental Law Center. The groups want EPA to require airlines to use more fuel-efficient aircraft and cleaner fuels and in December filed a petition asking the EPA to determine whether greenhouse gas emissions from domestic and foreign aircraft endanger public health and welfare. Under the Clean Air Act, EPA has six months to respond with appropriate regulatory

action, or, warned Brown, “we have to follow this judicial pathway.” California is challenging the EPA in federal court over a 2007 decision to prohibit the state from imposing its own emission standards on vehicles.

**4. International Joint Venture to Advise Airlines on Fuel.**

Three aviation fuel management companies formed a joint venture to advise airlines on how to save money on fuel and prepare for EU carbon emission standards that will go into effect in 2010. Flight Sciences Global Partners, comprised of Flight Services International of the United States, Sabena Flight Academy Consulting of Belgium and BMB Fuel Consulting Services of Canada, will be headquartered in Brussels. The group will utilize fuel data from aircraft to determine efficiency measures.

**5. Synthetic Jet Fuel Plant Operating.**

Los Angeles-based Rentech opened a synthetic diesel and jet fuel plant in Commerce City, Colorado, the first of its kind in the nation. The demonstration plant is designed to produce 420 gallons a day of natural gas-based fuel, which will be sold to the Department of Defense and private companies for further testing.

**6. Congress Recesses Without Energy Policy.**

See Section VI, item 1.

## VI. U.S. CONGRESS

### 1. Congress Recesses Without Energy Policy.

Congress began its five-week August recess without passing legislation to address high fuel prices. Under Senate consideration was an energy speculation bill with a Republican proposal to lift a moratorium on offshore oil and gas drilling; Democrats preferred a package to renew expiring tax breaks, including incentives for renewable energy, such as wind and solar power. House Republicans blocked an anti-speculation bill that would give the Commodity Futures Trading Commission greater power to control energy speculation, because the measure did not open more offshore areas to oil drilling. As fuel prices showed a steep decline, the Air Transport Association said it “continues to urge Congress to act in a bipartisan fashion to craft a comprehensive, balanced national energy policy.”

### 2. House Committee Votes to Ban Inflight Cell Phone Usage.

A bill to make permanent the current FAA and Federal Communication Commission (FCC) ban against inflight use of cell phones on domestic passenger airliners was approved by the House Transportation Committee, along with an amendment that would provide an exemption for law enforcement officers and provide flexibility with foreign carriers as a result of open sky agreements. Sponsors of the Halting Airplane Noise to Give Us Peace (HANG UP) Act said inflight voice communications “pose a potential revenue source for airlines both because they could charge passengers to sit in a non-talking section and charge people to use their phones” and “Cell phone users should not be able to disrupt the comfort of an entire airplane cabin.” John Mica (R-Fla.) said courtesy cannot be legislated. The bill would prohibit voice communications but passengers would still be able to access the Internet, e-mail and send text messages as these technologies become available. The EU is moving to allow passengers inflight use of cell phones.

### 3. Senate Bill Addresses Terrorist Watch List Misidentifications.

A bill that would require the Department of Homeland Security (DHS) to create “a one-stop-shop” to protect U.S. travelers from experiencing unnecessary delays caused by federal terrorist watch list misidentifications was introduced by Senators Amy Klobuchar (D-Minn.) and John Thune (R-S.D.) The legislation would require DHS to establish a timely and fair redress process for individuals who believe they have been wrongly identified as a threat on the terrorist watch list. Key provisions would establish an independent DHS office to maintain a Comprehensive Cleared List of individuals who’ve been misidentified and should not be on the watch list, and require the Secretary of

Homeland Security “to enhance information sharing between DHS and other federal agencies that use the terrorist watch list.” Several other Senators are sponsoring similar legislation, and the FAST Redress Act of 2008 was passed in the House in June.

**4. Committee Calls for Overhaul of Terrorist Watch List.**

The House Science and Technology Subcommittee on Investigations and Oversight called for an investigation of “Railhead,” a planned upgrade to the federal terrorist watch list database that provides data to the TSA no-fly list. “The program appears to be on the brink of collapse after an estimated half-billion dollars in taxpayer funding has been spent on it,” said Subcommittee Chairman Brad Miller (D-N.C.).

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

### **1. UAE, Brazil Sign MoU.**

Brazil and the United Arab Emirates (UAE) agreed to a phased increase of 28 weekly passenger or combination flights and 21 weekly all cargo flights, to be operated with any type of aircraft, and additional fifth freedom traffic rights for passenger and cargo services. The Memorandum of Understanding (MoU) was signed in Rio de Janeiro by the National Civil Aviation Agency of Brazil and the UAE General Civil Aviation Authority, which also agreed to further liberalize their bilateral air transport framework.

### **2. Malta, Singapore Sign Open Skies Agreement.**

An open skies pact signed by Malta and Singapore will allow carriers from both countries to operate as many flights as desired between the nations and beyond, said the Civil Aviation Authority of Singapore,. The pact will take effect on December 1, 2010.

## VIII. EUROPE/AFRICA

### 1. Crashes Kill More Than 200.

A Spanair MD-82, code shared with Lufthansa, crashed during liftoff from Madrid for the Canary Islands, killing more than 150 of the 172 passengers and crew. An earlier takeoff had been aborted by the pilot due to mechanical problems. Spanair pilots earlier had threatened a strike to protest cuts proposed by Spanair parent SAS. In other news, an Itek Air Boeing 737 bound for Tehran crashed after takeoff from Bishkek, the capital of Kyrgyzstan, killing at least 65 of the 90 on board; all Kyrgyz airlines are on the EU blacklist.

### 2. Alitalia Rescue Plan Underway.

The Italian government amended bankruptcy and antitrust regulations to enable a new rescue plan for Alitalia. Under the plan, a new company formed from unprofitable units of the flag carrier would be declared bankrupt, then liquidated. Italian business leaders would invest €1 billion in the new, debt-free company, which would merge with domestic carrier Air One. Piaggio executives Roberto Colaninno and Rocco Sabelli reportedly would be Chairman and CEO, respectively, of the new Alitalia. The search for an international partner has resumed. The EU is reviewing the scheme.

### 3. Austrian Bidding Begins.

Austria invited potential bidders for its 43% stake in Austrian Airlines to express interest by August 24; the sale will preserve a 25% core held by Austrian shareholders. Responding airlines included Lufthansa; Air France-KLM; Turkish; Russian airline S7, aka Sibir; and Air China. In related news, Austrian Airlines said it would proceed with issuing 20% of its stock to Saudi Arabian investor Mohamed Bin Issa al Jaber, who has refused to move forward with the transaction.

### 4. Individuals Charged with Price-Fixing.

The UK Office of Fair Trading (OFT) charged four individuals, all of whom were British Airways executives, with cartel offenses, alleging they fixed prices on fuel surcharges with Virgin Atlantic. The charge carries a maximum sentence of five years in prison and/or an unlimited fine. Virgin avoided prosecution by alerting OFT to the scheme. In related news, SAS is being sued by several major Swedish companies for losses resulting from price-fixing on air freight services; SAS agreed with the U.S. Department of Justice on a \$52 million fine; an EU investigation is underway.

5. **Georgia Seeks \$1-2 Billion for Reconstruction.**

Flights into and out of Tbilisi International were cancelled during the Russia-Georgia conflict in August and there were conflicting reports of damage after Russian planes dropped a bomb near the airport. The World Bank sent a mission to Georgia to assess economic damage and the U.S. Agency for International Development said the Georgian government is seeking \$1 billion to \$2 billion in aid to repair infrastructure and for development.

6. **Branson's Virgin Nigeria Stake for Sale.**

Sir Richard Branson announced the sale of most of Virgin Atlantic's 49% equity stake in Virgin Nigeria, launched in 2005, after the Nigerian government forced a relocation of the carrier's domestic operations from the international wing of Lagos Airport to Terminal 2 prior to a court hearing on the matter scheduled for October. The carrier is 51% owned by Nigerian investors. Reportedly, Virgin Atlantic shareholder Singapore Airlines has been pressuring Branson to unload the loss-making Virgin Nigeria.

7. **American, British Airways, Iberia Request Antitrust Immunity.**

See Section I, item 2.



## IX. ASIA/PACIFIC / MIDDLE EAST

### 1. Mesa to Sell Stake in Chinese Joint Venture.

Mesa Air Group intends to sell its interest in Chinese joint-venture Kunpeng Airlines to majority owner Shenzhen Airlines and wrote down its investment by \$1.3 million. Kunpeng will continue to lease five regional jets from Mesa. The announcement came as Mesa reported a \$3.7 million third quarter loss, compared to a \$2.6 million profit in the year-ago period.

### 2. China Southern Executives Sentenced for Embezzlement.

A former China Southern official was sentenced to death, with a two-year reprieve, for embezzling \$220 million between August 2001 and April 2003; another received a five-year prison sentence. Three people were accused in the case, which included bribery and theft related to transactions with Hantang Securities, reported *Guangzhou Daily*.

### 3. SIA Begins All-Premium Service to Los Angeles.

Singapore Airlines (SIA) launched three weekly all-business class nonstops to Los Angeles, with daily flights to begin September 21, after earlier introducing the Airbus A340-500 service to New York Newark. In other news, SIA's proposed strategic investment in China Eastern expired on August 9; SIA "continues to be optimistic about the prospects for China's airline industry [and] will explore other means of developing the relationship."

### 4. JAL Restructures Network.

Japan Air Lines requested government approval to raise its fuel surcharge by up to 10% on some international flights in the fourth quarter. The company announced major network changes, including lifting capacity on high-growth, profitable routes and suspending or introducing smaller, more fuel-efficient aircraft on some international routes.

### 5. Cathay Pacific Shifts Capacity.

Cathay Pacific announced a "second wave of redeployment," with no change in planned capacity. The carrier will suspend some service to Los Angeles and Vancouver. Eight new flights to Australia will be added and aircraft for 14 weekly European flights will be upgraded.

### 6. Qantas Safety Review Follows Serious Incidents.

Australia's Civil Aviation Safety Authority conducted a review of Qantas' maintenance operations after several serious incidents, which labor has charged are due to staffing shortages and cost-cutting. As the carrier

grounded six Boeing 747-300s, CEO Geoff Dixon said, “We will work through these issues and implement any changes that may be required, but our commitment to safety should never be questioned.” Qantas reported a 44% rise in net profit for the year ended June 30.

**7. US Airways Proposes Philadelphia-Tel Aviv Service.**

US Airways plans to operate daily, year-round nonstops between Philadelphia and Tel Aviv from July 2009, subject to DOT and Israeli government approval, using longer-range A330-200 aircraft set for delivery in spring 2009. The route will be US Airways’ first service to the Middle East.

**8. Qatar to Upgrade Doha-New York to Daily Nonstops.**

Qatar Airways will replace its six weekly flights between Doha and New York Newark via Geneva with daily Boeing 777-300 ER nonstops to Kennedy, effective October 26, shaving close to three hours off the current 17-hour flying time. Doha-Geneva will become a dedicated service, using an Airbus A330 on four weekly flights; additional frequencies to Zurich and Geneva will be offered from 2009. In December, Qatar will launch Doha-Houston nonstops.

**9. Malta, Singapore Sign Open Skies Agreement.**

See Section 7, item 2.

## X. AMERICAS

### 1. Airfares Reached Record Levels in Q2 2008.

The average fare paid for North American-based domestic and international flights increased in the second quarter, as high fuel prices led many airlines to make capacity reductions and tighten ticketing restrictions, reports American Express Business Travel Monitor. The average domestic fare increased 10% year-over-year; international fares were up 11%. The seven-year high in average airfare paid by business travelers motivated many companies to tighten travel spending. During the quarter, 89% of tickets purchased were domestic discount coach purchased in advance, saving 17% or more in some cases. In the first six months, companies purchased 8-14 days in advance rather than 0-7 days, saving an average of \$49 per segment. The percentage of international business class tickets purchased, 49%, was the lowest since third quarter 2004.

### 2. Proposed Delta-Northwest Merger Progresses.

The proposed Northwest-Delta merger received unconditional clearance from the European Commission (EC), which said its investigation found no impediment to European or transatlantic competition. Delta and Northwest pilots approved a joint contract, to be applicable upon closing of the merger, expected by yearend subject to approvals of stockholders and the U.S. Department of Justice. Meanwhile, Northwest received government approvals to code share with Delta on its transpacific flights from Detroit, Minneapolis/St. Paul and Honolulu and its flights between Tokyo Narita and three Asian destinations, as of August 30, and on Delta's daily Atlanta-Tokyo flight. An existing transpacific code share covered flights from Portland, Seattle, San Francisco and Los Angeles. Delta borrowed the entire amount of its \$1 billion revolving credit facility and amended its credit card processing agreement to extend it through 2011, to ensure full financial flexibility to move forward with the merger and the alignment of the two airlines' credit agreements.

### 3. United Sues ALPA, Furloughs Attendants.

United is seeking a preliminary injunction against the Air Line Pilots Association (ALPA) and four named pilots for organized sick leave abuse in opposition to the company's plan to reduce its fleet size and furlough pilots and to pressure United into renegotiating terms of a collective bargaining agreement that remains in effect through 2009. The lawsuit also seeks an end to a public campaign of intimidation that discourages pilots from picking up additional flying, effectively engaging in a slowdown. As a result of the slowdown, more than 300 flights were canceled in July, said United. In related

news, the carrier will lay off 1,500 (10%) active flight attendants, as part of 7,000 job reductions companywide planned by the end of 2009. Pilots and flight attendants are calling for the resignation of United CEO Glenn Tilton, saying he and his team have mismanaged the airline.

**4. Frontier Accepts Republic Financing Offer.**

Frontier received a \$30 million installment of \$75 million in debtor-in-possession (DIP) financing from a group of its largest unsecured creditors led by Republic Airways Holdings. Republic was Frontier's regional partner until Frontier broke their contract after filing for bankruptcy in April. The remaining \$45 million is contingent upon certain performance requirements and union concessions. Frontier accepted this offer over one from Washington-based investment firm Perseus, which wanted to acquire an 80% stake in the carrier. Frontier CEO Sean Menke said the Republic agreement "offers immediate access to greater liquidity under more favorable terms." Frontier also said it will realize approximately \$80 million in net proceeds from aircraft sales and leaseback transactions.

**5. Virgin America Year-One Progress.**

Virgin America will begin Las Vegas-New York Kennedy nonstops on September 4. The one-year-old San Francisco-based carrier says it has served 1.7 million passengers since launch, and has 1,300 employees, 80 daily flights to seven destinations, 460,000 members in its loyalty program and a 24-aircraft Airbus A320-family fleet. But the carrier does not file traffic and financial data publicly, an abuse of DOT procedures, charged Alaska Air Group Chairman CEO William Ayer, in a letter to Transportation Secretary Peters. Ayer urged DOT to either eliminate the filing requirement for all carriers, reported *Air Transport World*, or deny Virgin America's appeals to submit its data confidentially.

**6. Mexico Update.**

Regulators gave low-cost Alma de Mexico approval and incentives to begin daily roundtrips from Ciudad Victoria to Toluca, to promote tourism and business. And low-cost Interjet began flights to Cancun, Monterrey and Guadalajara from Mexico City, where it took over operating rights from Aerocalifornia; the government recently suspended operations of several low-cost airlines, including Aerocalifornia, for non-payment of fees. Mexicana and Click Mexicana will offer oneworld's round-the-world fare from September, ahead of attaining full membership in the alliance next year.

**7. Gol Reduces Capacity, Eliminates Dividend.**

With a second-quarter net loss of \$106 million, Gol will slow capacity growth and suspend quarterly dividends for the remainder of 2008, steps necessary

“to set the stage for the next phase of growth,” said CEO Constantino de Oliveira, “in line with our strategy of profitable expansion through our low-cost structure.” The Brazilian airline plans to replace older aircraft with next-generation Boeing 737s by yearend.

**8. Copa Announces Expansion Plans.**

Copa announced five new destinations in the Americas, aircraft acquisitions and support of a new terminal at Panama’s Tocumen International Airport, headquarters of the Hub of the Americas. CEO Pedro Heilbron said Copa will close out the year with a fleet of 28 Boeing 737 Next Generation and 15 Embraer jets, one of the youngest fleets in the Americas.

**9. American, British Airways, Iberia Request Antitrust Immunity.**

See Section I, item 2.

**10. UAE, Brazil Sign MoU.**

See Section VII, item 1.

**11. Mesa to Sell Stake in Chinese Joint Venture.**

See Section IX, item 1.

**12. SIA Begins All-Premium Service to Los Angeles.**

See Section IX, item 3.

**13. US Airways Proposes Philadelphia-Tel Aviv Service.**

See Section IX, item 7.

**14. Qatar to Upgrade Doha-New York to Daily Nonstops.**

See Section IX, item 8.