



WASHINGTON AVIATION SUMMARY

July 2015 EDITION

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For further information, including documents referenced, contact:

Joanne W. Young
Kirstein & Young PLLC
1750 K Street NW
Suite 200
Washington, D.C. 20006
Telephone: (202) 331-3348
Fax: (202) 331-3933
Email: jyoung@yklaw.com

<http://www.yklaw.com>

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. **IATA: 2015 Outlook Revised to \$29.3 Billion Net Profit.**

The International Air Transport Association (IATA) revised its 2015 outlook to \$29.3 billion net profit, compared to \$16.4 billion in 2014 (re-stated from \$19.9 billion), reflecting stronger global economic prospects, record load factors, lower fuel prices and major appreciation of the U.S. dollar. A record high passenger load factor of 80.2% will result in a 4% average net profit margin. On average, airlines will retain \$8.27 for every passenger carried. But “the industry’s fortunes are far from uniform,” said Tony Tyler, IATA Director General and CEO. North American based airlines will generate over half the global profit (\$15.7 billion), with pre-tax and interest earnings exceeding 12%. Asia-Pacific carriers are expected to generate a \$5.1 billion profit for a 2.5% net margin (\$4.24/passenger); European airlines a profit of \$5.8 billion, net margin 2.8% (\$6.30/per passenger); Middle East airlines a \$1.8 billion net return, net margin 3.1% (\$9.61/passenger); Latin America airlines a \$600 million net profit, net margin 1.8% (\$2.27/passenger); and Africa airlines a net profit of \$100 million, net margin 0.8% (\$1.59/passenger).

2. **Aeromexico CEO Named IATA Chairman.**

Aeromexico CEO Andres Conesa assumed his duties as Chairman of the IATA Board of Governors for a one-year term at the 71st IATA Annual General Meeting (AGM) and World Air Transport Summit, held in Miami. Conesa is the first Mexican to hold this position. He succeeds Air Canada CEO Calin Rovinescu. Willie Walsh, CEO of International Airlines Group (IAG), will take up the chairmanship at the 2016 AGM in Dublin.

3. **IATA Carry-On Bag Initiative ‘Paused.’**

During the AGM, IATA announced Cabin OK, meant “to optimize accommodation of carry-on bags given differing sizes and airline policies,” but later “paused” the rollout amid industry concerns and planned a reassessment. Airlines for America (A4A) rejected the initiative “because it is unnecessary and flies in the face of the actions the U.S. carriers are taking to invest in the customer experience—roughly \$1.2 billion a month—including larger overhead bins.” And a bill introduced in Congress would prevent airlines from adopting the new standards, which Representative Steve Cohen (D-TN) characterized as “a transparent attempt to squeeze even more money out of passengers by forcing them to pay baggage fees to check luggage they purchased specifically to avoid those fees.” Senators wrote to 10 airline executives, urging them to “mitigate any additional costs to customers by allowing them to

check their luggage without charge,” should they reduce the size of carry-on bags allowed in the cabin. IATA clarified that Cabin OK “is a guideline for an optimally sized cabin bag, not an industry standard. Cabin OK does not seek to define a maximum size for carry-on bags, which is something each airline does individually. And no consumer will be forced into buying a new bag as a result of this voluntary initiative.”

4. IATA Urges Venezuela To Establish Fair Rate for Airlines.

Regarding the \$3.7 billion in blocked funds generated from airline ticket sales, IATA urged the Venezuelan government to establish a single and fair Bolivar (VEF) exchange rate; work with airlines to establish a realistic and achievable payment schedule to settle the blocked funds; and commit to the global best practice of consulting the industry before imposing new taxes or regulations that affect airlines. The Venezuelan government is willfully withholding the money and the issue must be resolved once and for all, said IATA Director General Tony Tyler.

5. American’s LAX-Haneda Proposal Replaces Delta Award.

The U.S. Department of Transportation (DOT) finalized its decision to permit Delta to retain authority to provide daily Seattle-Tokyo Haneda service, but Delta found the requirement to fly the route daily year-round unviable and elected to suspend flights after September 30. DOT reallocated the slot pair to American, which had been granted back-up authority for Los Angeles-Tokyo Haneda service; Hawaiian had also applied.

6. Delta Files for Nonstop Service From Brasilia to Orlando

Delta filed for regulatory approval to replace its Atlanta-Brasilia service with four new weekly nonstops between Orlando and Brasilia, beginning December 1. Delta said its “strategic alliance with GOL extends the reach of this service to 99% of Brazilian demand points and provides seamless connections at Brasilia International Airport.”

7. ICAO Confirms New E-Cigarette Restrictions.

The International Civil Aviation Organization (ICAO) amended its Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Doc 9284), prohibiting passengers and crew from carrying e-cigarettes and other battery-powered portable electronic smoking devices in checked baggage. The amendment also prohibits recharging the devices in aircraft cabins. “Several incidents have been reported involving e-cigarette heating elements being accidentally activated and resulting in fires in checked baggage,” said ICAO Council President Olumuyiwa Benard Aliu. The new requirement is applicable now.

8. FAA Proposes \$735,000 Civil Penalty Against Volaris.

The Federal Aviation Administration (FAA) proposed a \$735,000 civil penalty against Volaris of Mexico City, for allegedly operating a U.S.-registered Airbus A319 on 121 passenger flights in 2013 before bringing the aircraft into compliance with federal aviation regulations.

9. DOT Air Travel Consumer Report for April.

Based on data filed by largest reporting carriers; tarmac data filed by all carriers.

| | April '15 / '14 | March '15 | Full Year | | | | |
|----------------------|--------------------|--------------|-----------|--------|--------|--------|--------|
| | | | 2014 | 2013 | 2012 | 2011 | 2010 |
| On-time arrivals % | 81.8 / 79.6 | 78.7 | 76.25 | 78.34 | 81.85 | 79.6 | 79.8 |
| Cancellations % | 0.9 / 1.1 | 2.2 | 2.18 | 1.51 | 1.29 | 1.91 | 1.76 |
| Mishandled baggage* | 2.93 / 2.9 | 3.42 | 3.62 | 3.22 | 3.09 | 3.35 | 3.51 |
| Consumer complaints: | | | | | | | |
| Airline service | 1,415 / 1,259 | 1,733 | 15,532 | 13,176 | 15,338 | 11,546 | 10,988 |
| Disability-related | 59 / 67 | 52 | 774 | 683 | 741 | 628 | 572 |
| Discrimination** | 8 / 6 | 3 | 68 | 79 | 99 | 128 | 143 |

Note: Airlines reported one tarmac delay of more than three hours on domestic flights in April, and none of more than four hours on international flights

* Reports per 1,000 passengers.

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

II. AIRPORTS

1. United To Vacate JFK for Newark; Swaps Slots with Delta.

United will cease operations at New York Kennedy on October 25 and move its p.s.® premium transcontinental flights to Newark Liberty, with nearly hourly service to both Los Angeles and San Francisco. Subject to regulatory approval, United's Kennedy slots will transfer to Delta and Delta slots at Newark will transfer to United. United is renovating the Newark Terminal C lobby and already has invested \$2 billion on the gateway. United will move Boeing 757-200s currently allocated to transatlantic markets to p.s. flights, and will increase the number of Boeing 767s on transatlantic flights. United will retain its presence at New York LaGuardia, with 37 daily domestic departures. . . . JetBlue plans to expand its Mint service from Kennedy on October 25, adding up to six daily flights to San Francisco, and up to 10 to Los Angeles.

2. Deborah Ale Flint Leaves Oakland To Head LAWA.

Deborah Ale Flint was named Executive Director of Los Angeles World Airports (LAWA), the city department that owns and operates Los Angeles International, LA/Ontario and Van Nuys airports. She succeeds Gina Marie Lindsey, who retired on July 1. Ale Flint was with Port of Oakland since 1992, most recently as Aviation Director, responsible for operation, management and business development of Oakland International, where "she delivered the \$480-million BART Airport Rail project after years of effort and challenges; executed strategies to stabilize and reverse passenger traffic decline in a difficult market environment; redesigned OAK's customer experience to make the airport more competitive; and marketed, developed and negotiated numerous development and investment transactions in terminal renovation and hangar development."

3. Freshening for Atlanta Domestic Terminal.

Atlanta issued a request-for-proposals for exterior and interior renovations of the Hartsfield-Jackson domestic terminal, reports *Atlanta Business Chronicle*, including new steel, fabric and glass canopies at entrances and skylights.

4. Denver Begins \$46.5 Million Runway Resurfacing Project.

Denver International began a \$46.5 million project to resurface one of its six runways; with completion expected in mid-September. Airfield costs are paid through a combination of FAA grant funds and airline fees.

5. **FAA Issues \$16.8 Million Grant to BWI for Long-Term Airfield Project.**

FAA announced a \$16.8 million Airport Improvement Program grant to Baltimore Washington International (BWI) to help fund the fourth phase of a multi-phase program, which includes relocation and reconfiguration of the airport taxiway system to meet FAA safety and design standards, eliminate unclear taxiway configurations, provide a dual parallel taxiway system, and enhance airport capacity to permit unrestricted operations during low-visibility conditions. Construction on FAA-funded phase of program is expected to be completed next year; total program cost estimated at \$67 million, with \$37,644,274 in federal funds used for first four phases.

6. **Temporary Truce for Southwest, Delta at Dallas Love Field.**

Southwest, Delta and city of Dallas agreed in principle to extend Delta's use of a Southwest gate at Love Field until a court hearing on a Southwest request to block Delta's continued use of the gate. Delta has refused to vacate, citing DOT letters which say the city must accommodate an airline already operating at the airport. Southwest plans to increase its 166 weekday Love departures to 180 in August.

7. **IATA Signs MOU to Support Future Mexico City Airport.**

IATA signed a Memorandum of Understanding with Mexico's Ministry of Communications and Transportation, promising technical and operational assistance for design and construction of Mexico City's new airport, and technical and professional advice for the current Mexico City International Airport to ensure it continues to operate efficiently until the new facility is completed in 2020.

8. **Heathrow Terminal 1 Closes.**

London Heathrow's Terminal 1 closed its doors after 47 years of operation, with airlines having completed the move to other terminals.

9. **£1 Billion Investment To Double Manchester Capacity.**

Manchester Airports Group (MAG) announced a 10-year investment program to double Manchester Airport's capacity. Plans include expanding and reconfiguring Terminal 2 as the airport's primary terminal; improvement of Terminal 3; new and enlarged airside transfer facilities, including a direct link between Terminals 2 and 3; a U.S. pre-clearance facility; a new, enlarged security hall; and an improved surface access road system. Manchester is the UK's third largest airport, serving 70 airlines; direct routes include Miami, Hong Kong, Jeddah, Singapore, Atlanta, Washington and Boston. MAG also owns and operates London Stansted, East Midlands and Bournemouth.

10. China Approves Four Airport Projects.

China's National Development and Reform Commission approved feasibility reports for four airport projects in the provinces of Hainan, Heilongjiang and Xinjiang Uygur Autonomous Region, as well as an experiment base for China Academy of Civil Aviation Science and Technology, reports Xinhua. Civil Aviation Administration of China said aviation infrastructure construction will be prioritized in Xi'an, Urumqi, Nannin, Kunming and Xiamen over next five years. Chinese airlines will add 83 new international routes in coming months to meet increasing demand for outbound travel.

11. New Airport Planned for Bangkok Region.

Thailand will develop a commercial airport at a naval air base near Bangkok. According to the *Bangkok Post*, a new terminal, together with the existing terminal, will raise passenger capacity at U-Tapao from 800,000 to 3 million per year; between 2018 and 2020, capacity will increase to 5 million. U-Tapao currently handles 200,000 passengers and 400 flights yearly; most of them are charters from China and Russia. The navy will manage air traffic control (ATC) and ground services, while the Transport Ministry will improve transport systems from Suvarnabhumi and Don Mueang airports to U-Tapao.

12. \$16 Billion Airport Approved for Vietnam.

Vietnam's National Assembly approved plans to build a \$16 billion airport on a 19 square mile site in southern Dong Nai Province near Ho Chi Minh City. Construction of the Long Thanh International terminal and runways will start in 2018. Since 2011 new international airports have opened in Danang, Can Tho and Phu Quoc. In December, Hanoi's Noi Bai Airport opened a second terminal.

III. **SECURITY AND DATA PRIVACY**

1. **Peter Neffenger Confirmed as TSA Administrator.**

The Senate confirmed Coast Guard Vice Admiral Peter Neffenger to serve as the next Administrator of the Transportation Security Administration (TSA). He succeeds John Pistole, who retired from public service in December. “Vice Admiral Neffenger shares our commitment to the multi-layered approach to aviation security,” said A4A, “and we remain committed to working collaboratively with TSA under his leadership to advocate for risk-based solutions.”

2. **DHS IG Finds Security Failures at U.S. Airports.**

Secretary of Homeland Security Jeh Johnson reassigned TSA Acting Administrator Melvin Carraway, after a classified Inspector General (IG) briefing revealed that undercover investigators (Red Teams) posing as passengers had smuggled mock explosives and banned weapons through checkpoints in 95% of tests at U.S. airports. Carraway was reassigned to serve in the Office of State and Local Law Enforcement at the Department of Homeland Security (DHS) headquarters. . . . Jeh directed TSA to revise screening procedures immediately and phase in training for transportation security officers and supervisory personnel to address specific vulnerabilities identified by the IG testing, and re-test and re-evaluate airport screening equipment. He planned to meet with senior executives of contractors and directed TSA and the DHS Under Secretary for Science and Technology to examine adopting new technologies.

3. **TSA Applicant Vetting Needs Improvement.**

TSA cleared 73 people with potential terrorist ties for access to secure airport areas, found the DHS IG, which noted that current interagency policy prohibits receipt of all categories of information on the Consolidated Terrorist Watchlist, and TSA lacks effective controls for vetting applicants’ criminal history, relying on airport checks and self-reporting. In a planned pilot program, the FBI will provide automated updates for criminal history matches. TSA data also indicates that airports may not consistently verify that credential applicants possess the immigration status necessary to work in the U.S. The review also identified thousands of aviation worker records that appeared to have incomplete or inaccurate biographic information, including names, passport numbers, alien registration numbers, Social Security Numbers and aliases; “TSA has taken steps to address some of these weaknesses, and enhancements should become effective within two years,” said the IG. (In

testimony before the House Subcommittee on Transportation Security, Stacey Fitzmaurice, TSA Deputy Assistant Administrator for the Office of Intelligence and Analysis, said TSA checked the 73 workers cited in the IG report and found no links to terrorism threats.) . . . A DHS IG audit concluded that DHS “components could not talk to each other in the event of a terrorist event or other emergency.” In a November 2012 report, the IG found that less than one fourth of one percent of DHS radio users tested could access and use the specified common channel to communicate, and only 20% of those tested contained the correct program settings for the common channel. At the time, the IG recommended that DHS improve interoperable communications so that the \$430 million worth of radios purchased could be used effectively. Corrective actions have not been finalized and DHS was unable to provide a timetable for finalizing and disseminating draft communications interoperability plans and management directives.

4. **Polish LOT Cyber Attack Grounds Flights.**

LOT was forced to ground several outbound flights from Warsaw, when a cyber attack damaged the Polish carrier’s ability to create flight plans. Airline officials said aircraft systems were not affected by the attack, which a Distributed Denial of Service (DDoS); i.e., an overload of requests to a server by hackers, may have caused. LOT CEO Sebastian Mikosz warned that cyber attacks are an industry problem that requires more attention. In the U.S., FAA has formed an advisory committee to develop standards meant to prevent cyber attacks against ATC and aircraft.

IV. E-COMMERCE AND TECHNOLOGY

1. Star Alliance To Offer Sabre's Automated Round the World Fares.

Sabre has partnered with Star Alliance to offer automated Round the World (RTW) and Circle Trip (CT) airfares through its GDS. Earlier this year, Sabre partnered with Airline Tariff Publishing Company (ATPCO) to create a new industry standard for purchasing RTW and CT fares. . . . The White House announced, during talks with Brazil, that, supported by a U.S. Trade and Development Agency training grant for TAM, Sabre will provide its passenger service system to LATAM, formed in 2012 by LAN Chile and Brazil-based TAM. “LAN is a long-time Sabre customer and TAM’s migration to Sabre’s platform will represent the largest-ever implementation of a passenger service system for Latin America’s commercial aviation industry,” said officials.

2. Lufthansa To Charge for GDS Bookings.

Lufthansa will add a €16 surcharge on tickets booked through global distribution systems (GDS), effective September 1, as it develops a booking method based on IATA’s New Distribution Capability. The first NDC pilot project is being tested at Swiss and should begin at Lufthansa this year. “Innovative ancillary services and enhanced price options require suitable sales technology,” said Lufthansa, as it introduces economy fares based on ancillary services selected. . . . Lufthansa’s planned surcharge “represents a possible abuse of its dominant market position and should be investigated by Germany’s competition authority, the Bundeskartellamt, and the EC’s DG COMP,” said Business Travel Coalition which formed AirChannelChoice “to elevate the public-policy discourse regarding airline industry distribution issues and to promote travel distribution system choice.”

3. Visa Amends Rules to Reduce Card-Not-Present Fraud.

Visa will accept airline-supplied flight manifests to remedy fraud payment card chargebacks for e-ticket purchases in a card-not-present environment. Visa has accepted a flight manifest as “compelling evidence” since April 2013, but this was not considered a remedy that would result in a fraud chargeback reversal. When compelling evidence came into effect, Visa worked with the industry, including the Chargeback Subgroup of the Airlines Reporting Corporation (ARC), to evaluate remedies.

V. ENERGY AND ENVIRONMENT

1. Fuel Bill for Global Airline Industry.

Average price of aviation jet fuel, as of June 12 was \$75.3/barrel, down -6.3% on the month and down -38.8% compared to a year ago, reports the International Air Transport Association. Fuel price average for 2015 was \$73.1/barrel. Impact on 2015 fuel bill was -\$80.2 billion.

2. EPA Addressing Aircraft Greenhouse Gas Emissions.

The U.S. Environmental Protection Agency (EPA) is proposing to find, under the Clean Air Act, that greenhouse gas (GHG) emissions from commercial aircraft contribute to pollution that causes climate change and affects health. The proposal followed a lawsuit filed by environmental groups. ICAO carbon dioxide (CO₂) standards for aircraft, expected to be adopted in 2016, “lay the necessary foundation for the development and implementation of a domestic aircraft standard,” said EPA, which is seeking public input to inform future steps. “Before EPA may adopt the future international standard into U.S. law, the Clean Air Act requires the Agency to have made the proposed finding that aircraft GHG emissions ‘cause or contribute’ to the climate change effects generally posed by GHG emissions,” said A4A. “EPA made that general finding in 2009 and has been conducting the Clean Air Act-required assessments on a sector-by-sector basis in the years since.” U.S. aircraft emit 11% of GHG emissions from the U.S. transportation sector and 29% from all aircraft globally, said EPA.

3. United Purchases Stake in Fulcrum BioEnergy.

United acquired a stake in California-based Fulcrum BioEnergy for \$30 million, the single largest investment by a U.S. airline in alternative fuels; and negotiated a supply agreement with Fulcrum for 90 million gallons of sustainable fuel a year for 10 years at a cost competitive with conventional jet fuel. The drop-in fuel will meet the airline's technical requirements and specifications and will power aircraft in the same way as conventional jet fuel. The companies plan joint development of five projects located near United hubs with potential to produce 180 million gallons of fuel per year. Fulcrum expects its first alternative fuels plant to begin commercial operation in 2017; the technology converts household trash (municipal solid waste) into renewable jet fuel that is expected to provide an 80% reduction in lifecycle carbon emissions when compared to conventional jet fuel.

4. **Boeing Expands ecoDemonstrator Testing.**

Boeing and Embraer intend to collaborate to test environment-focused technologies through the ecoDemonstrator Program. The companies also jointly own a biofuel research center in Sao Jose dos Campos. . . . Boeing flew its ecoDemonstrator 757 from Seattle to NASA's Langley Research Center in Hampton, Virginia, using a blend of 95% petroleum jet fuel and 5% sustainable green diesel, a biofuel used in ground transportation. Boeing is working with the aviation industry to approve green diesel for commercial aviation by amending the HEFA biojet specification approved in 2011. This would make aviation biofuel more widely available and price competitive with Jet A including U.S. government incentives. Diamond Green Diesel in Norco, Louisiana produced the 757's green diesel from waste animal fats, inedible corn oil and used cooking oil to reduce lifecycle CO₂ emissions by up to 80% less than petroleum jet fuel. . . . Among 15 technologies on the 757, Boeing is testing solar and thermal energy harvesting to power electronic windows, as a way to reduce wiring, weight, fuel use and carbon emissions. Also, on the 757's flight deck Boeing has installed a 3D-printed aisle stand made from excess carbon fiber from 787 production to re-purpose this high-value material and reduce airplane weight and factory waste. NASA and TUI Group are collaborating with Boeing on ecoDemonstrator 757 tests. . . . In other news, Boeing opened a research and technology center in Alabama to serve as the company's hub for collaborative development with academic institutions and research partners in analytics and simulation in the Southeast United States.

5. **Europe Approves Funding for Volcanic Ash Detection System.**

The European Union (EU) approved funding for a new volcanic ash detection system for commercial aircraft developed by Israeli-based Elbit Systems and Norwegian infrared and ultraviolet specialist Nicarnica Aviation. The program is publicly financed with total budget of €1.14 billion, with support from Eurostars, Norwegian Research Council and the Israeli Chief Scientist. The project's goal is to incorporate new and advanced technologies for enhanced operational efficiency, reduction of maintenance costs and avoidance of delays in the flight schedules of commercial airlines caused by adverse ambient flight conditions.

VI. U.S. CONGRESS

1. Shuster Calls for Separation of ATC From FAA.

In remarks to Aero Club of Washington regarding FAA reauthorization, House Transportation Committee Chairman Bill Shuster (R-PA) said he wants the “transformational” bill to separate air traffic control from FAA. “In virtually every place this has been done, safety levels have been maintained or improved, ATC systems have been modernized, service has been improved, and costs have been generally reduced,” said Shuster, who favors a federally chartered, not-for-profit ATC corporation, governed by a board of system users, and funded by user fees. FAA would continue to be responsible for safety oversight and regulation. Current reauthorization expires in September.

2. FY2016 FAA Funding Bill Moves Forward.

The House approved a \$16 billion fiscal year 2016 budget for FAA, which includes full funding for all ATC personnel, including 14,500 controllers, 7,400 safety inspectors, and operational support personnel. The bill also funds NextGen at \$931 million and contract towers at \$154 million. The Senate Appropriations Committee approved similar funding. Both bills reject Administration proposals for new passenger facility and general aviation fees.

3. Senator Seeks Relief for Parents Flying With Young Children.

Senator Bob Casey (D-PA), in a letter to FAA Administrator Michael Huerta, requested action “to ensure that parents and guardians are allowed to sit next to their children on a plane without having to pay additional fees.” He cited a case in which a customer was charged \$88 to sit next to his 4-year old child on a recent flight on which multiple adjoining economy seats were available. “Prior to boarding the flight, reservation agents should make every effort to secure appropriate seating for young children and their guardian without additional fees,” wrote Casey.

4. FY2016 Homeland Security Appropriations Bill Advances to Senate.

The Senate Appropriations Committee approved the FY2016 Homeland Security Appropriations Bill, which includes \$47.09 billion for DHS, \$765 million above FY2015 enacted level and \$1.02 billion below the request; and \$11.08 billion for Customs and Border Protection. The bill provides \$4.72 billion for TSA, with “targeted investments in training and checkpoint security following recent testing by the DHS Inspector General.”

5. Senators Reintroduce Bill To Apply Rest Rules to Cargo Pilots.

A bill to extend current FAA pilot fatigue regulations to cargo pilots, the Safe Skies Act, was reintroduced in the Senate. Recent legislation limits passenger plane pilots to flying either eight or nine hours, depending on start time, and airlines are required to provide pilots with a minimum of 10 rest hours, with the opportunity for at least eight hours of uninterrupted sleep. Cargo plane pilots are on duty for up to 16 hours a day.

6. Bills Address Visa Waiver Program, Preclearance Ops.

The House Homeland Security Committee passed bills affecting the U.S. Visa Waiver Program (VWP) and U.S. preclearance operations at foreign locations. The bills next will be considered by the full House. The Visa Waiver Program Improvement Act of 2015 (H.R. 158) allows the Secretary of Homeland Security to suspend participation of countries in the VWP if they do not share terrorism and foreign traveler data with the U.S.; clarifies that the Electronic System for Travel Authorization (ESTA) is a counterterrorism tool and requires DHS to consider including additional information pertaining to terrorism threats to better screen foreign travelers; requires an annual threat assessment conducted by the Director of National Intelligence and DHS to assess information sharing between VWP countries and the U.S.; requires an annual intelligence assessment conducted by the Director of National Intelligence and DHS to assess airport, passport and travel document standards; and directs DHS to report, within 30 days, on what additional data might be necessary to improve ESTA as a counterterrorism tool to screen travelers. The Preclearance Authorization Act of 2015 (H.R. 998) allows the Secretary to establish preclearance operations in a foreign country to prevent terrorists, instruments of terrorism, security threats and other inadmissible persons from entering the U.S.; directs the Secretary to certify homeland security benefits of the preclearance operation and that at least one U.S. passenger carrier operates at that location; requires the Secretary to notify Congress days before entering into an agreement with a foreign government to establish a preclearance operation; requires that aviation security screening standards at a preclearance location be comparable to that required in the U.S. by TSA; and requires any foreign county where a preclearance operation agreement is to be established or renewed to routinely submit information to INTERPOL's Stolen and Lost Travel Document database and make that information available to the U.S. government.

7. Bill To Prohibit Guns in Airports Introduced.

A bill that would prohibit anyone other than local law enforcement and Homeland Security employees from carrying guns, concealed or otherwise, in airport terminals, lobbies, baggage claim areas, ticket counters and outside in

pick-up and drop-off areas was introduced in the House. The “Airport Security Act of 2015” would expand Homeland Security’s jurisdiction to include non-secure areas and would preempt city or state laws that allow weapons in a U.S. airport. The gun ban would include public transportation stops within airports if the gun owner departs the transit station at an airport. “Law-abiding gun owners would still be able to carry guns if they are unloaded and contained in clearly marked, locked cases,” said Hank Johnson (D-GA), a co-sponsor of the bill. Airports would be required to post signs that clearly indicate they are gun-free zones.

8. Undetectable Firearms Modernization Act of 2015 Introduced.

Following an IG report that 95% of mock explosives and banned weapons passed through TSA security checkpoints during an internal review, Representative Steve Israel (D-NY) introduced the Undetectable Firearms Modernization Act of 2015, which would make it illegal to manufacture, own, transport, buy, or sell any firearm with major components that are not detectable by a metal detector and that does not present an accurate image when put through an x-ray machine. The legislation updates the Undetectable Firearms Act to require that two major components for a handgun (the slide/cylinder and the receiver) and three major components for a long gun, such as a rifle or a shotgun (the slide, receiver and barrel), be made of detectable and non-removable metal. In 2013, Congress reauthorized the Undetectable Firearms Act, H.R. 3626, which makes it illegal to manufacture, own, transport, buy or sell any firearm that is not detectable by metal detector. It also requires that plastic guns consist of at least 3.7 ounces of metal; however, a loophole exists as the law does not specify whether the metal has to be permanently part of the plastic firearm or can be removable.

9. Bill Would Improve Safety of Consumer Drones.

Senator Dianne Feinstein (D-CA) introduced a bill, co-sponsored by Charles Schumer (D-NY), to require safety features for consumer drones and a strengthening of federal laws that govern their operation. Over a nine-month period, pilots sighted drones in more than 190 incidents, with more than 24 near mid-air collisions. Under current law, FAA does not have authority to require manufacturers of consumer drones to include technological safeguards, nor are there clear federal rules on when, where and under what conditions recreational users can operate drones. The Consumer Drone Safety Act defines consumer drones as civil unmanned aircraft manufactured for commercial distribution and equipped with an automatic stabilization system or a camera for navigation; directs FAA to regulate recreational operations of consumer drones outside the programming of a nationwide community-based organization; directs FAA to require safety features for

newly manufactured consumer drones, such as collision-avoidance software, a method for pilots and ATC to detect and identify the drone, anti-tampering safeguards, and consumer education materials; requires manufacturers to update existing consumer drones to meet these requirements where feasible, such as through an automatic software update; and allows FAA to exempt particular types of consumer drones from any requirement that is technologically infeasible or cost prohibitive if other operational precautions allow that type of drone to be operated safely.

10. Air Disasters Predicted in House Hearing On Drones.

The House Committee on Oversight and Government Reform held a hearing to discuss the challenges and economic impact of regulating unmanned aircraft systems (UAS), or drones, for personal and commercial uses, as well as privacy concerns. Citing a study commissioned by the Association for Unmanned Vehicle Systems International (AUVSI), the Oversight Committee said “every year that the integration is delayed, the U.S loses more than \$10 billion in potential economic impact. Integration delays make it very difficult for companies to developed transformative drone technology to test their ideas. As a result, groundbreaking technology may find homes in other countries. In an evolving world of technology, the right balance must be struck between privacy and safety.” Thomas Massie (R-KY) noted new privacy challenges, asking “Should there be a floor for operation of drones? Do you own the property an inch above your lawn? If you have a locked gate on your property and somebody climbs over the gate, your expectation is that they are violating your privacy. What if they fly over your gate?” John Mica (R-FL) questioned whether individual states and law enforcement, the Department of Justice or FAA would set rules for privacy. Mica also predicted fatalities “because you have so many of these things flying. I hope it doesn’t take down a big commercial aircraft. I hope it doesn’t have a lot of fatalities but I think it’s inevitable.”

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. FAA, EU Will Extend, Expand NextGen Pact.

FAA and the EU agreed to extend and expand a 2011 Memorandum of Cooperation for collaboration on deployment and implementation of NextGen activities, research on interoperability of avionics, communication protocols and procedures, and operational methods under NextGen and SESAR. FAA Administrator Michael Huerta and the EC Director General for Mobility and Transport Joao Aguiar Machado signed the Letter of Intent in Paris.

2. Etihad, Emirates Respond to Allegations in Open Skies Dispute.

Etihad and Emirates submitted formal responses to the U.S. government regarding Delta, United and American (US3)'s allegations that Qatar Airways, Etihad and Emirates (ME3) receive subsidies from Qatar and the United Arab Emirates. The US3 have asked the Departments of State, Transportation and Commerce to freeze U.S. air service for the ME3 and reevaluate Open Skies agreements. In its submission, state-owned Etihad said \$14.3 billion in equity funding and shareholder loans received from Abu Dhabi since 2003 were made "on the basis that the airline would operate commercially, deliver a long-term return on investment, repay shareholder loans and achieve sustainable profitability." Etihad said it has since raised \$11 billion through global financial markets and repaid \$5 billion in loans. . . . "Emirates is not subsidized," said President Tim Clark, calling the US3's attempts to discredit the Dubai-based carrier "repugnant." Among other remarks, Clark said, "Our global expansion is funded from our own cash flow, and debt raised in the open market through banks and financial institutions. Our success is due to superior commercial performance. To date we have paid our shareholder, the Dubai government, more than \$3 billion in dividends. All of this is laid out in our financials, audited by Pricewaterhouse Coopers. We are financially transparent, and have published fully audited accounts for over 20 years." . . . The U.S. Travel Association wrote to the Secretaries of State, Commerce and DOT, urging them to resist changes to Open Skies treaties. CEOs of Alaska, Hawaiian and JetBlue as well as heads of 21 other major corporations and industry associations signed the letter. US3 supporters countered that "U.S. Travel is rushing to defend the state-owned Gulf carriers since the U.S. hotel industry relies on Gulf state money for future growth and expansion in the Middle East."

VIII. EUROPE AND AFRICA

1. Alliance News.

Cathay Pacific CEO Ivan Chu was named Chairman of oneworld, succeeding IAG CEO Willie Walsh. Chu is also Chairman of Hong Kong Dragon Airlines and a Director of John Swire & Sons and Swire Pacific. . . . SkyTeam Chairman Leo van Wijk will retire in November, to be succeeded by Michael Wisbrun, current SkyTeam CEO and former KLM executive. . . . As of July 22, Avianca will be part of Star Alliance, adding 15 new destinations in Brazil.

2. Neeleman Wins TAP Stake.

Portugal agreed to sell a 61% stake in TAP for around €350 million to Gateway, a consortium led by David Neeleman, founder of JetBlue in the U.S. and Azul in Brazil, and Portuguese bus company Grupo Barraqueiro. Avianca owner German Efromovich also bid. The government is selling 5% of TAP to employees. Gateway agreed to purchase 53 new planes and keep the carrier's hub in Lisbon for at least 30 years.

3. Europe's Largest Airlines Form New Bloc.

CEOs of Air France KLM, easyJet, IAG, Lufthansa and Ryanair agreed to work together to lobby the EU for more competition and efficiency, as well as reduced costs from "monopoly airports and ATC providers." The CEOs confirmed support for liberalization of "the whole aviation value chain and for pro-competition policy and regulation." They oppose state aid to airlines and airports. . . . ACI Europe countered that airport charges have been regulated at the EU level since 2007. "Each year, the revenues collected from airport charges levied on both airlines and passengers fall over €3 billion short of covering airports' operating expenses," said Airports Council International; "not one cent of airport capital expenditure is paid for by airlines."

4. EU Lifts Safety Ban on All Philippine Airlines.

The EU removed all remaining Philippine carriers from an updated Air Safety List and added no new airline bans. All airlines from the Philippines were listed in 2010; Philippine Airlines (PAL) was released from the ban in 2013 and Cebu Pacific in 2014.

5. Norwegian Launches Flights from U.S. to Caribbean.

Norwegian will begin Boeing 737-800 nonstops from Boston, Baltimore and New York to Guadeloupe Islands and Martinique in December, with introductory fares starting at \$79 one way. The New York service makes the

low-cost carrier the largest foreign airline at Kennedy in terms of number of routes. Service from Las Vegas begins October 31, and from Puerto Rico and St. Croix in November. Guadeloupe and Martinique are overseas departments of France to which the U.S.-EU-Iceland-Norway Air Transport Agreement applies, noted the airline; the agreement authorizes unlimited frequencies between any points in the EU and U.S. for U.S., EU, Icelandic and Norwegian airlines. “Norwegian is fully committed to the U.S. market and we will continue to expand by offering more great nonstop destinations to American travelers and growing our U.S. crew bases,” said CEO Bjorn Kjos.

6. Air France Cuts Another €80 Million.

Amid “increased pressure on unit revenue,” Air France announced €80 million in new cost cuts, an end to loss-making routes, reduced frequency and aircraft size on “strongly impacted” routes, and possible postponement of long-haul aircraft deliveries. At end of September, the carrier will assess the financial situation, union negotiation progress and voluntary departures and “decide the actions required to safeguard the future of Air France,” stated Chairman and CEO Frederic Gagey.

7. Ryanair Ordered to Reduce Aer Lingus Stake.

The UK Competition and Markets Authority published a final order requiring Ryanair to sell down its 29.8% stake in Aer Lingus to 5%, and said it will ensure that implementation of the remedy interacts effectively with the process of IAG’s bid for Aer Lingus and assessment of the bid by the European Commission. Ryanair will appeal.

8. Alitalia To Launch Mexico Service.

Alitalia signed a Memorandum of Understanding with the Mexican government to begin Airbus A330 operations from Rome to Mexico City. The agreement outlines contributions and commitment aimed toward increasing tourism and economic growth for both countries.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. ACCC Proposes To Reauthorize Virgin Australia-Delta Alliance.

The Australian Competition and Consumer Commission is proposing to authorize Virgin Australia and Delta to coordinate U.S.-Australia operations for another five years, rather than 10 years requested; previous authorization was granted in 2009. The alliance allows Virgin and Delta to offer a single integrated network for services between Australia and the U.S. and domestic Australian and U.S. networks. Combined market share on key overlap route of Sydney to Los Angeles is around 35%.

2. American, Qantas Expand Joint Business.

American and Qantas will expand their joint business in December, pending regulatory approvals, with new American-operated Los Angeles-Sydney (Boeing 777-300ER) and Qantas-operated San Francisco-Sydney (reconfigured Boeing 747-400) services, to operate initially on peak days and rise to six weekly in January. The carriers have revenue-sharing and other agreements on routes between North America and Australia/New Zealand.

3. Delta To Resume Daily Tokyo Narita to Osaka Service.

Delta will resume daily service between Tokyo Narita and Kansai in Osaka in March, as an extended leg of the New York Kennedy-Narita flight.

4. United, Air China Expand Code Sharing.

Star Alliance partners United and Air China will expand code sharing on another 22 routes in China and U.S. markets, bringing number of shared routes to 110. Air China will place its code on United-operated flights on 12 additional U.S. domestic routes; United will place its code on Air China-operated flights on 10 additional domestic routes in China.

5. Hainan Adds Nonstops to Boston, San Jose, Seattle.

Hainan began three weekly Boeing 787 flights from Shanghai Pudong to Boston, its second Boston route, five weekly Dreamliner flights from Beijing to San Jose (Silicon Valley), and four weekly Airbus A330-200 Seattle-Shanghai services.

6. ICAO Downgrades Thailand Rating on Safety Concerns.

ICAO downgraded Thailand's Department of Civil Aviation (DCA) to Category 2, due to insufficient safety oversight to ensure effective implementation of ICAO standards. In response, Thai Airways announced that it "operates with

the highest safety standards in all operational areas,” and clarified: “a significant safety concern (SSC) does not necessarily indicate a particular safety deficiency in the air navigation service providers, airlines (air operators), aircraft or aerodrome; but, rather, indicates that the state is not providing sufficient safety oversight to ensure the effective implementation of applicable ICAO Standards.” The carrier said it has relied on other states’ civil aviation authorities to provide oversight since February 13, when ICAO first issued an SSC on Thai DCA, and has undergone additional and more frequent safety audits and station inspections by these authorities in order to continue operating regular flights to these countries.

7. **Alliance News.**

See Section VIII. item 1.

8. **EU Lifts Safety Ban on All Philippine Airlines.**

See Section VIII. item 4.

X. AMERICAS

1. United To Acquire 5% Stake in Azul.

Through a wholly owned subsidiary, United will pay \$100 million for a 5% stake in Azul, which includes a seat on the Brazilian carrier's Board. The carriers will code share on routes between the U.S. and Brazil, and to other points in North and South America, subject to government approval. United will place its code on flights in Azul's network from Guarulhos to destinations throughout Brazil, and on Azul flights to Florida; Azul plans to place its code on United routes throughout North America and the Caribbean. Azul serves more destinations in Brazil than any other Brazilian carrier, including more than 50 daily flights from Sao Paulo Guarulhos International. . . . Azul founder/CEO David Neeleman, also founder/former CEO of JetBlue, has acquired a 61% stake in TAP Portugal, which, like United, is in the Star Alliance.

2. JetBlue Adds Bag Fees.

JetBlue has added checked bag fees as part of a new fare structure, leaving Southwest as the only major that does not do so.

3. Virgin America Pilots Vote to Join ALPA.

Virgin America pilots voted for representation by Air Line Pilots Association and plan to negotiate a contract that includes enhanced work rules and benefits. Virgin America was the last major U.S. airline without a unionized pilot group; Transport Workers Union represent its flight attendants.

4. Frontier To Double Fleet.

Frontier will almost double its fleet over the next five years, with a new order for 10 Airbus A321s and two A320s added to a previous order for 89 aircraft in the A320 family. Deliveries begin in early 2016.

5. Allegiant Wins Injunction Appeal.

Allegiant won its appeal of a court ruling that had prohibited the company from changing terms and conditions of employment for its pilots. The decision held that the lower court erred in finding that Allegiant had to maintain "status quo" requirements while negotiating a contract with the pilots' representative, the Teamsters, pursuant to the Railway Labor Act.

6. Boeing Names Muilenburg CEO.

Boeing President and COO Dennis Muilenburg was named CEO, effective July 1. He succeeds Jim McNerney, who continues as Chairman. Raymond

Conner continues as Vice Chairman and as Boeing Commercial Airplanes President and CEO. . . . The company announced orders and commitments for 331 commercial airplanes worth \$50.2 billion, during the Paris Air Show, including 21 Next-Generation 737s. . . . In its 20-year outlook, Boeing predicts the commercial fleet will double, from 21,600 airplanes in 2014 to 43,560 in 2034; 58% of deliveries will be to accommodate growth. The Asia market, including China, will continue to lead the way in total airplane deliveries over the next two decades.

7. **Alliance News.**
See Section VIII. item 1.
8. **Neeleman Wins TAP Stake.**
See Section VIII. item 2.
9. **Norwegian Launches Flights from U.S. to Caribbean.**
See Section VIII. item 5.
10. **Alitalia To Launch Mexico Service.**
See Section VIII. item 8.
11. **ACCC Proposes To Reauthorize Virgin Australia-Delta Alliance.**
See Section IX, item 1.
12. **American, Qantas Expand Joint Business.**
See Section IX, item 2.
13. **Delta To Resume Daily Tokyo Narita to Osaka Service.**
See Section IX, item 3.
14. **United, Air China Expand Code Sharing.**
See Section IX, item 4.
15. **Hainan Adds Nonstops to Boston, San Jose, Seattle.**
See Section IX, item 5.