



WASHINGTON AVIATION SUMMARY

June 2020 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. IATA: Airline Debt Could Rise to \$550 Billion by Year-End.

Airline industry global debt could rise to \$550 billion by year-end, reports the International Air Transport Association (IATA), \$120 billion more than debt levels at the start of 2020. The new debt is composed of government loans (\$50 billion), deferred taxes (\$5 billion), loan guarantees (\$12 billion), commercial loans (\$23 billion), capital market debt (\$18 billion), debt from new operating leases (\$5 billion), and accessing existing credit facilities (\$6 billion). . . . Even after the COVID-19 pandemic is under control, “individual and corporate travelers are likely to carefully manage travel spend and stay closer to home,” said Alexandre de Juniac, IATA Director General and CEO. In an April survey of recent air travelers, 86% were somewhat or very concerned about being quarantined while traveling, and 69% would not consider traveling if it involved a 14-day quarantine period. . . . IATA’s newly published “Biosecurity for Air Transport: A Roadmap for Restarting Aviation” foresees the need for governments to collect passenger data in advance of travel, including health information, and robust contact tracing; restricting terminal access to airport/airline workers and travelers, with exceptions; temperature screening by trained government staff at terminal entry points; physical distancing; face coverings; self-service options for check-in; congestion-reducing efforts; hand luggage limitations; and sanitization of high touch areas. Inflight measures should include face coverings for passengers and crew; simplified cabin service and pre-packaged catering; reduced congregation of passengers; and enhanced and more frequent deep cleaning of the cabin. As part of its newly announced five principles, IATA supports COVID-19 testing, when scalable, accurate and fast results are available, at the start of the travel process, which would create a ‘sterile’ travel environment that would reassure travelers and governments. IATA also supports development of immunity passports to segregate no-risk travelers, backed by medical science and recognized by governments. . . . Revenue passenger kilometers are expected to decline by around 50% this year, with a return to 2019 levels in 2023, said IATA. The International Civil Aviation Organization (ICAO) forecasts 1.5 billion fewer international air travelers this year.

2. COVID-19 Aviation Recovery Task Force Established.

A COVID-19 Aviation Recovery Task Force (CART) was formed by the ICAO Council to identify and recommend strategic priorities and policies for states and industry operators. Representatives from the aviation industry, World Health Organization (WHO), World Tourism Organization (UNWTO) and

aviation administrations “will leverage all available government and industry data toward solutions to the immediate challenges being felt sector-wide, and priorities to be addressed to reboot the network for a post-COVID world.” . . . Government-imposed “extensive and inconsistent border restrictions” have “severely disrupted the supply chain in delivery of essential medical supplies needed to respond to the pandemic,” said ICAO. To ensure continued flight operations while preventing the spread of COVID-19 and protecting health and safety of crew and passengers, a Public Health Corridor, initially for cargo, was recommended by the ICAO Collaborative Arrangement for the Prevention and Management of Public Health Events in Civil Aviation (CAPSCA). Guidance addressing humanitarian, repatriation and scheduled passenger flights is in development. CAPSCA was set up in 2006 after the SARS crisis.

3. DOT Allows Service Exemptions for CARES-Covered Airlines.

Air carriers receiving financial assistance under the Coronavirus Aid, Recovery, and Economic Security (CARES) Act, enacted in March, are required to maintain scheduled service to any point served before March 1, 2020. However, “in light of ongoing challenges,” the Department of Transportation (DOT) is allowing airlines covered by CARES to adjust service obligations. Airlines may apply to remove either 5% of covered points from their routes or five points, whichever is greater. DOT reserves the right to deny a request if the exemption would result in inadequate capacity or connectivity. Exemptions are effective through September 30, 2020.

4. DOT Issues Enforcement Notice Regarding Ticket Refunds.

DOT issued a second enforcement notice regarding refunds to ensure airlines and ticket agents are complying with consumer protection requirements. Complaints and inquiries soared to more than 25,000 in March and April compared to 1,500 in a typical month. DOT asked airlines “to revisit their customer service policies and ensure they are as flexible and considerate as possible to the needs of passengers who face financial hardship during this time.” . . . Democratic Senators urged airlines to issue full cash refunds to customers who cancel flights during the COVID-19 crisis, and to American citizens who encounter flight cancellations while stranded in countries that implemented travel restrictions. They estimated that airlines could be “holding onto over \$10 billion of hard-earned money from American travelers.”

5. New Acting DOT IG Named.

Howard “Skip” Elliott was named Acting Inspector General (IG) of the DOT Office of Inspector General; he is also Administrator of the Federal Pipeline and Hazardous Materials Safety Administration (PHMSA). Deputy Inspector

General Mitch Behm had held the position since January, when Calvin Scovel III retired.

6. FAA Issues Exemption for Transporting Cargo on Airplane Seats.

The Federal Aviation Administration (FAA) issued an exemption, effective through Dec. 31, 2020, that allows U.S. airlines to carry cargo on seats in airplane cabins when no passengers are being transported. Airlines must receive authorization from FAA and observe conditions and limitations.

7. FAA to Mandate Safety Management Systems for Manufacturers.

FAA responded to recommendations from the Special Committee to Review the FAA's Aircraft Certification Process, convened after the Lion Air and Ethiopian Airlines Boeing 737 MAX accidents. FAA will develop a rule requiring that aircraft manufacturers use Safety Management Systems (SMS), which the Committee said foster a holistic assessment of whether combinations of actions such as design, procedures, and training work together to counter potential hazards; Boeing stated that it is working with FAA to implement a safety management system. Among other plans, FAA will examine assumptions made about pilot responses in emergencies, explore ways to improve safety assessments and assessments of human-machine interaction, and consider the capabilities of flight crews outside the U.S. when it looks at cockpit design and pilot training. The Committee recommended that FAA continue to delegate most of the certification process to Boeing; FAA welcomed that endorsement but identified areas for improvement, such as pressuring of Boeing employees by managers to limit safety analysis and testing to meet schedule and keep down costs. Members of Congress are planning legislation to address problems in FAA's oversight authority.

8. Industry Leaders Named to Women in Aviation Advisory Board.

Former U.S. Air Force Secretary Heather Wilson was named chair of the Women in Aviation Advisory Board, established under the FAA Reauthorization Act of 2018 to develop strategies to encourage women and girls to enter the field of aviation, and assess education, training, mentorship, outreach and recruitment; 30 board members were appointed.

II. AIRPORTS

1. ACI World Publishes Guidance for Restart, Recovery.

Airports Council International (ACI) World published “Aviation Operations during COVID-19—Business Restart and Recovery,” which urges coordination between governments, clear definition of responsibilities, good communication to the travelling public, and possible regulatory change. New processes should be adapted to changing data and medical evidence. New measures need to evolve through phases of recovery until industry arrives at “the new normal” in terms of the end-to-end passenger journey. The publication builds on IATA’s principles of restart and recovery to cover all aspects of airport management and operation and is a product of collaboration between ACI World and Regions, member airports and partners in the aviation industry. . . . ACI World estimates that in 2020 airports will suffer a reduction of more than 4.6 billion passengers and a decline in revenue of more than \$97 billion. In 2019, passenger traffic at the world’s top 20 busiest airports grew by 1.7%. . . . ACI–North America urged the U.S. government to adopt guidelines for use of facial coverings by all individuals in public areas of passenger airport terminals, and convened an Airport Industry Recovery Advisory Panel to assess operational needs of airports, and considerations to ensure passenger safety and limit the spread of COVID-19

2. FAA Awards Over \$1 Billion in Grants to 439 Airports.

FAA will award \$1.187 billion to 439 airports in 50 states. The total includes \$731 million in Airport Improvement Program (AIP) grants and \$455 million in supplemental discretionary grants, available under the CARES Act. Projects to be funded include purchasing aircraft rescue and firefighting equipment, constructing and repairing runways and taxiways, installing aircraft lighting and signage, conducting airport master plan studies, and installing airport perimeter fencing. The CARES Act includes \$10 billion for eligible U.S. airports; it provides funds to increase the federal share to 100% for AIP and supplemental discretionary grants already planned for fiscal year 2020.

3. Nav Canada Proposes 29.5% Increase in Service Charges.

Nav Canada proposed an increase in customer service charges averaging 29.5% in base rates, effective September 1, due to “significantly reduced” liquidity amid the pandemic. The proposal, subject to a 60-day consultation period, would “defer the fiscal 2021 cash impact of the increases to customers, over a five-year period.” The private, non-profit Nav Canada provides air traffic

control, airport advisory services, weather briefings and aeronautical information services for Canadian domestic and international airspace.

4. Alaska Airport Briefly Ranks as Busiest in U.S..

Ted Stevens Anchorage International has ranked as busiest U.S. airport several times during the pandemic, and even the world's busiest, as cargo operators carrying medical equipment stop there to refuel. Anchorage is less than 9.5 hours from 90% of the industrial world and in April landed 263,000 metric tons of cargo, a 17% increase over April 2019.

5. Unauthorized Pedestrian Killed on Austin-Bergstrom Runway.

The death of an unauthorized individual on an Austin-Bergstrom runway is under investigation by FAA; the National Transportation Safety Board (NTSB) delegated authority to the Austin Police Department to lead the investigation. Southwest pilots reported to local air traffic controllers that they maneuvered their aircraft to avoid the man, taxied to the gate and deplaned safely with no reports of onboard injuries.

6. Mineta San Jose Expansion Plans Move Forward.

The master plan for expansion of Mineta San Jose International Airport in San Jose, California was approved by city leaders. A final nod from the city council is required before the project moves forward. The plan includes a new concourse with 14 gates, a 330-room hotel and a 5,000-space parking garage.

7. Airports Maintain Social Distancing, Test Technologies.

Airports are taking steps to maintain social distancing and help prevent disease transmission. At Akron-Canton, for instance, acrylic shields and social distancing markers and signs were installed in high-traffic areas. Seating has been reduced, blocked off or spaced apart in gate and dining areas, workstations and employee break rooms. Airport and airline employees, TSA officers and tenants are required to wear face coverings. Hand sanitizers are available throughout the airport and frequency of airport cleaning has increased, using hospital-grade disinfectant on hard surfaces. Pittsburgh International deployed autonomous robotic cleaners with integrated ultra-violet (UV) lights, in collaboration with Carnegie Robotics, to clean floors. The robots have been used in hospitals to disinfect and kill microorganisms. Heathrow is testing UV sanitation, facial recognition thermal screening technology to accurately track body temperature, and contact-free security screening equipment to reduce person-to-person contact. Results could form the basis of a Common International Standard for health screening at global airports. London Stansted Airport is conducting temperature screening trials with a thermal camera on staff and passengers, and said "the results will not be

communicated to customers or used to influence whether a customer can travel.” . . . Among other technologies, Veovo’s Virtual Queueing enables airports to evenly distribute passengers across checkpoints. Travelers pre-book time slots for processing; available slots are adjusted in real-time, based on queue wait times, changing arrival patterns and processing capacity so that passengers show up at the optimum time. Veovo’s Passenger Density Management solution monitors crowding zones like check-in, security, gates and concessions, triggering tailored alarms and automated actions if thresholds are exceeded. Recommendations to limit crowding can include capping entry to busy escalators or stairwells, adjusting security lane openings, changing call-to-gate times, updating digital signage, or distributing gate and baggage belt allocations.

8. Airports Using Downtime to Expedite Improvements.

With traffic severely reduced during the pandemic, many airports are using the down time to accelerate improvement plans. New York will fast-track construction at LaGuardia. Tampa International projects include widening the main entrance and exit road, a roof replacement, modernizing ticketing counters and restrooms, and security enhancements. Paine Field, near Seattle, suspended service through July 31 and expedited plans to complete aircraft ramp maintenance and repairs. Currently, Paine Field has five scheduled daily departures, down from 24 before the pandemic, said Brett Smith, CEO of Propeller Airports, which designed, built and financed the terminal through a public-private partnership with Snohomish County.

9. Drive-In Movie Theater at Vilnius Airport.

Vilnius International in Lithuania became the first airport to function as a drive-in movie theater, when it hosted the Vilnius International Film Festival in an apron area in May. The airport “has quieted down while waiting for international travel restrictions to be lifted,” said officials, creating “a brilliant opportunity to screen films while movie theatres are closed.”

10. TAV to Acquire Almaty Airport.

A consortium formed by TAV Airports and VPE Capital will acquire Almaty International, in Kazakhstan. The asset will be fully consolidated into TAV accounts, said Groupe ADP, which holds a 46.12% stake in TAV.

III. SECURITY AND DATA PRIVACY

1. TSA Updates Security Procedures.

The Transportation Security Administration (TSA) is implementing screening process changes that limit physical contact and increase distance to help prevent the spread of COVID-19. Travelers place the boarding pass on a reader, instead of handing it to a TSA officer, and there are visual reminders on checkpoint floors to ensure social distancing. TSA officers at checkpoints are wearing masks and gloves and optionally wear eye protection and clear plastic face shields at some locations; gloves are changed after each pat-down. . . . On May 18, TSA confirmed that 577 federal employees had tested positive for COVID-19; 361 had recovered, and six had died as a result of the virus, as had one screening contractor. On May 17, TSA reported total traveler throughput at 253,807 compared to 2,620,276 on the same day a year ago. . . . TSA reportedly is preparing to check passenger temperatures at some airports. U.S. airlines support the initiative, said A4A, but members of Congress do not. “I cannot find any law that gives TSA the authority to perform temperature checks as reported,” said House Homeland Security Chairman Bennie Thompson (D-MS); “the health and safety of our Transportation Security Officers have already been put at great risk and should not be put in further danger in order to provide passengers a potential false sense of safety.” And Senate Minority Leader Chuck Schumer (D-NY) urged TSA and other relevant agencies to brief Congress before getting too far along in the planning stages. In a letter to TSA Administrator David Pekoske, Schumer asked how air travelers will be informed of temperature screenings, where they will be sent if they have a fever, what might constitute a ‘fever,’ how will safety of agents be ensured, and what steps are being considered to incorporate contact tracing for passengers and/or agents into the effort.

2. TSA Releases Insider Threat Roadmap.

The TSA Insider Threat Roadmap was released, with a focus on “promoting data-driven decision making to detect threats; advancing operational capability to deter threats; and maturing capabilities to mitigate threats to the transportation sector.”

IV. TECHNOLOGY AND EQUIPMENT

1. Lufthansa- Sabre Agreement Canceled.

Lufthansa and Sabre terminated their distribution agreement effective June 30, and are engaged in talks. Lufthansa said it is evaluating alternatives.

2. Sabre-Farelogix Merger Agreement Expires.

The UK Competition and Markets Authority (CMA) prohibited the merger of Sabre and Farelogix, and the agreement expired at midnight on April 30. “We continue to believe that the transaction was not anti-competitive, a result confirmed by the U.S. federal district court’s decision in Sabre’s favor,” said Sabre President and CEO Sean Menke.

3. UberJets Claims 280% Increase in Booking Interest.

Private charter UberJets claims it has seen a 280% increase in booking interest amid the COVID-19 pandemic, and first quarter sales rose 79%. The Hail-A-Jet application has been available throughout North America since 2018, after earlier launches from Teterboro, NJ; Van Nuys, CA; and Palm Beach, FL. UberJets is not affiliated with other companies doing business as Uber.

V. ENERGY AND ENVIRONMENT

1. Fuel Bill for Global Airline Industry.

The average price of aviation jet fuel on May 15 was \$30.38/barrel, up 13.6% on the month and down 65.5% compared to a year ago, reports IATA. Jet fuel price average for 2020 was \$48.6/barrel. Impact on 2020 fuel bill was down \$64.9 billion.

2. Av Emissions Dropped 60% in April.

The largely grounded global aviation industry saw a 60% decline in emissions in early April compared to 2019, according to Nature Climate Change, equivalent to 1.7 megatons of carbon dioxide. The peak daily decline on April 7 was due to the high levels of lockdown in China, the U.S., and all other major carbon-emitting countries.

3. New Sustainable Aviation Fuel Pathway Added.

A seventh annex to ASTM International's sustainable aviation fuel (SAF) specification was published, which will further enable use of SAF by U.S. airlines, said Airlines for America. Annex A7 establishes criteria for production and use of a type of synthesized paraffinic kerosene from hydroprocessed hydrocarbons, esters, and fatty acids (HC-HEFA-SPK); the fuel may be blended at up to 10% by volume with conventional jet fuel. This fuel pathway was the first to receive expedited review under ASTM's "fast track" process and benefitted from guidance from a clearinghouse established by FAA.

4. Lufthansa Group to Collaborate on Sunlight-Induced SAF.

Lufthansa signed a joint Letter of Intent for cooperation on SAF with Swiss Federal Institute of Technology Zurich (ETH Zurich) and its spin-offs Climeworks and Synhelion. Researchers and engineers at ETH Zurich have developed processes that make it possible to extract CO₂ from the atmosphere and, together with water and the help of concentrated sunlight, convert it into a synthesis gas that can be used to produce jet fuel. The fuel releases only as much CO₂ as previously extracted from the atmosphere.

VI. U.S. CONGRESS

1. Senate Commerce Holds “State of the Aviation Industry” Hearing.

The Senate Commerce Committee convened a hearing titled, “The State of the Aviation Industry: Examining the Impact of the COVID-19 Pandemic.” . . . In his testimony at the May 6 hearing, Nicholas Calio, President and CEO of Airlines for America (A4A), said passenger volumes were down 96% in late April “to a level not seen since the 1950s, before the dawn of the jet age,” after growing steadily in January and February. A4A carriers average 17 passengers per domestic and 29 per international flight; over 3,000 aircraft, nearly 50% of the active fleet, have been grounded; and U.S. airlines “are collectively burning more than \$10 billion of cash per month.” Once demand recovers, it will take years to retire newly accumulated debt and address the sizable interest accrued, thereby limiting carriers’ ability to reinvest in people and products. “History has shown that air transport demand has never experienced a V-shaped recovery from a downturn.” . . . Todd Hauptli, President and CEO, American Association of Airport Executives, said U.S. airports will lose \$23.3 billion as a result of the pandemic and will need additional federal assistance, at least as large as the initial amount provided in the CARES Act, as they continue to make bond payments with significantly less incoming revenue and with increasing coronavirus-related operational and infrastructure. Hauptli urged Congress to allow airports to use federal funds for operations, debt service, maintenance, terminal projects, and other necessary lawful expenses in any future coronavirus relief packages, among other requests, and to increase funding for Essential Air Service and expand eligibility for the Small Community Air Service Development Program. . . . Senator Maria Cantwell (D-WA), Commerce Committee Ranking Member, called for uniform national policies to be implemented to protect passengers and workers. DOT guidance “should clearly lead the airlines to either keep middle or adjacent seats open, or limit capacity of aircraft to a level that allows adequate social distancing,” she maintains. . . . Dr. Hilary Godwin, Dean of the University of Washington School of Public Health, said in her written testimony, “While most public health measures are left to the discretion of states, it would be extremely difficult to communicate and enforce a patchwork set of regulations and guidance for travelers going from one state to another or entering the U.S. and passing through different states,” Godwin said.

2. House Passes “Heroes Act.”

The House passed the “Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act,” the fourth relief package related to the COVID-19 pandemic. The legislation includes provisions related to aviation, mandating

that during the pandemic airlines provide employees with personal protective equipment and require flight crew and passengers to wear face coverings. It extends the prohibition on involuntary furloughs of employees of airlines or contractors that receive financial assistance under the CARES Act through full exhaustion of such assistance. It ensures aircraft and enclosed facilities are cleaned, disinfected, and sanitized frequently in accordance with Centers for Disease Control and Prevention (CDC) guidance. It provides \$75 million for FAA operations for additional janitorial services at air traffic control towers and other facilities; hazard and overtime pay to prevent, prepare for, and respond to coronavirus; and a study on mitigating pathogens in airplane cabin air. It improves transparency of the Treasury Department's issuance of payroll grants to airlines and contractors under the CARES Act by requiring Treasury to publish descriptions of each issued grant, including grant recipient and amount, on Treasury's website. Treasury would be required to submit this information to Congress. It requires DOT to develop a national aviation preparedness plan for communicable disease outbreaks. . . . Separately, House Transportation Committee Chair Peter DeFazio (D-OR) urged FAA Administrator Dickson to require face coverings for crew and passengers during the pandemic, and planned to contact TSA about requiring face coverings for all individuals before they are allowed to pass through security. "I will not back down until this becomes a Federal requirement," he said. DeFazio also called on U.S. airlines "to make better efforts to apply social distancing policies," after reports of increasingly full commercial flights.

3. "Cash Refunds for Coronavirus Cancellations Act" Introduced.

Senate Democrats introduced legislation requiring major airlines and third-party ticket sellers to offer full cash refunds for all canceled tickets during the pandemic, regardless of whether the airline or passenger canceled. The bill would permit them to offer travel vouchers as an alternative to cash refunds, if they are valid indefinitely and the offer includes clear and conspicuous notice of the flyer's right to a cash refund. It would allow airlines to pay for cash refunds with emergency money made available by Congress, except for CARES Act grants designated for supporting worker payroll expenses and benefits. It would establish that the new right is retroactive to any flight on or after March 1, 2020, so that passengers who previously received a travel voucher, but not used it, can ask for a cash refund. Cash refunds would be available until 180 days after the end of nationwide COVID-19 emergency declarations.

4. Democrats Chastise JetBlue, Delta for Cutting Employee Hours.

Senate Democrats sent letters to JetBlue and Delta expressing concern about their plans to cut employee hours; the CARES Act provided JetBlue with \$935

million and Delta with \$5.4 billion, with the condition that they “refrain from conducting involuntary furloughs or reducing pay rates and benefits until September 30, 2020.” United reversed plans to cut hours after a union-led lawsuit and is allowing employees to volunteer to reduce hours.

5. “Restoring Safety in the Skies Act” Introduced.

The “Restoring Safety in the Skies Act of 2020” was introduced by Senators Edward Markey (D-MA.) and Richard Blumenthal (D-CT.), members of the Senate Commerce Committee. The bill would instruct the Departments of Health and Human Services, Homeland Security and Transportation to convene a joint task force to provide emergency plans and guidelines and recommend requirements to address logistical, health, safety and security issues arising from continued air travel during the coronavirus pandemic, and resumption of full operations at airports and increased passenger air travel after the current emergency ends. The task force would represent airport operators, airlines, aircraft manufacturers, labor unions, public health experts, consumer and passenger rights organizations, privacy and civil liberty organizations, and manufacturers of passenger screening technologies. Within six months, “the task force would be required to submit a final report detailing recommendations for safe and secure air travel in light of the longer-term and permanent effects of the coronavirus.”

6. Status of “CARES Act” Assistance Requested.

U.S. Secretary of the Treasury Steven Mnuchin was asked about implementation of CARES Act assistance for the air transportation industry by Senators Roger Wicker (R-MS.), and Mike Crapo (R-ID), Chairmen, respectively, of the Commerce and Banking Committees. “This information will allow us to monitor the allocation of taxpayer funds and the effectiveness of these loans in stabilizing the air transportation industry,” they wrote, requesting a detailed report on the status of the Payroll Support Program (PSP), which authorizes Treasury to provide direct assistance to air carriers and their airport-based contractors. Information was also requested on status of the program allowing Treasury to provide loans to carriers; maintenance, repair, and overhaul businesses; and airline ticket agents, as authorized under the CARES Act, including total amount offered to recipients. Mnuchin was asked to characterize the overall scope of warrants, equity, or debt instruments Treasury utilized for carriers and other eligible aviation businesses.

7. Bipartisan “Registered Traveler Act” Introduced in Senate.

The “Registered Traveler Act of 2020” was introduced by Senate Commerce Committee members. The bipartisan bill would modernize the Registered Traveler (RT) program, authorized by the Aviation and Transportation Security

Act in 2001 and launched by TSA in 2005, with several iterations since. S. 3730 would solidify authorization for the RT program, define TSA's role in approving and supervising RT programs, and grant RT providers access to technology and information to improve security and traveler experience at airport checkpoints. "Looking toward a post-COVID-19 world, we need to rethink how we can infuse private sector innovation into vitally-important aviation security measures and identify ways to better facilitate safe and reliable air travel," said sponsors.

8. "COVID-19 Consumer Data Protection Act" Introduced.

Senate Republicans introduced the "COVID-19 Consumer Data Protection Act," which would require companies under the jurisdiction of the Federal Trade Commission to obtain consent from individuals to collect, process or transfer their personal health, device, geolocation or proximity information for purposes of tracking the spread of COVID-19, and to opt out. It would direct companies to disclose to consumers at point of collection how their data will be handled, to whom it will be transferred, and how long it will be retained; ensure companies adopt technical and legal safeguards to protect consumer data from being re-identified; direct companies to provide transparency reports to the public describing data collection activities related to COVID-19; establish data minimization and data security requirements for personally identifiable information; require companies to delete or de-identify personally identifiable information when no longer used for the public health emergency; and authorize state attorneys general to enforce the Act.

9. Democrats Call for Coordinated Coronavirus/Aviation Effort.

Democratic leaders of the House Homeland Security and Transportation & Infrastructure Committees asked DOT Secretary Elaine Chao and Acting Homeland Security Secretary Chad Wolf to establish an interagency working group to develop robust, coordinated plans to address COVID-19 in aviation operations. "Health, safety, and security standards are necessary to restore public confidence in travel," they wrote. "In the absence of coordinated federal leadership, a patchwork of standards and requirements have emerged . . . some airports and airlines are requiring passengers to wear masks or face coverings, and some employers are requiring employee temperature checks. . . . frontline workers and airline passengers, subject to varying requirements, continue to congregate in public areas, secure areas, and finally on aircraft. Inconsistency creates uncertainty and limits the effectiveness of the actions taken." The working group should include FAA, TSA and U.S. Customs and Border Protection, working in collaboration with CDC, industry and labor. Areas of focus should include planning for possible second wave and future pandemics, protocols for queuing and security screening, boarding and

deplaning, airplane seating arrangements and inflight services, baggage handling, and privacy and civil liberty implications of passenger health screenings and health monitoring.

10. “Airport Infrastructure Resources (AIR) Security Act” Introduced.

A bipartisan “Airport Infrastructure Resources (AIR) Security Act,” (H.R. 6917) introduced in the House prohibits federal airport improvement funds from being used to purchase passenger boarding bridges and other airport infrastructure “from our adversaries, namely China, and their state-sponsored enterprises,” that aim “to infiltrate critical systems and carry out espionage and intellectual property (IP) theft.” CIMC-Tianda, a Chinese-owned company “with a history of industrial and cyber espionage against the United States,” has repeatedly tried to partner with major U.S. transportation hubs, including Houston, Dallas, Miami and Boston, to sell its passenger boarding bridges, said bill sponsors.

11. Legislation to Preserve Jobs in Aviation Manufacturing.

A bipartisan bill that would create a private-public partnership between the federal government and aviation manufacturers was introduced by Senate Aerospace Caucus co-chairs Jerry Moran (R-KS) and Mark Warner (D-VA). Designed to prevent more layoffs and allow the industry to make a faster recovery once the COVID-19 crisis has passed, the legislation calls for the federal government to provide up to 50% of total compensation for at-risk employee groups so long as a company commits to continuing their employment. “This common-sense, targeted proposal to assist the aerospace and defense industry will help ensure the U.S. retains enough of the skilled workforce necessary to compete globally and support national security needs,” said Tom Gentile, President and CEO of Spirit AeroSystems, a major supplier to Boeing, Airbus and other manufacturers.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. U.S. Adds Brazil to List of Travel Restricted Countries.

The United States suspended entry of foreign nationals who were in Brazil during the preceding 14-day period; the new restrictions do not apply to the flow of commerce between the two countries. American citizens, legal permanent residents, and their immediate families who are returning home after recently visiting Brazil or other travel-restricted countries may reenter by going through a process for enhanced medical screenings at 15 specially designated U.S. airports.

2. U.S.-China Aviation Dispute.

Responding to the failure of China to approve applications by United and Delta to resume U.S.-China routes in early June, DOT issued an order requiring Chinese airlines flying to the United States to file flight schedules with the U.S. government, so DOT can determine whether those operations are contrary to applicable law or adversely affect the public interest. Chinese carriers include Air China, China Eastern, China Southern and Hainan; the filing deadline was May 27.

3. U.S. Condemns PRC Proposal to Curb Hong Kong Demonstrations.

The U.S. State Department condemned a proposal by China for a national security law for Hong Kong, which would ban treason, secession, sedition and subversion, saying “the decision to bypass Hong Kong’s well-established legislative processes and ignore the will of the people of Hong Kong would be a death knell for the high degree of autonomy Beijing promised for Hong Kong under the Sino-British Joint Declaration, a UN-filed agreement.” Bipartisan legislation to defend Hong Kong’s autonomy was introduced in Congress. . . . Pro-democracy demonstrations in Hong Kong over the past year had a severe impact on Cathay Pacific. Now the company reports a “bleak” financial outlook due to COVID-19. “Year-to-date up to April, we made an unaudited loss of HK\$4.5 billion at the full-service airline level,” said Ronald Lam, Chief Customer and Commercial Officer.

4. U.S. DOT Finalizes U.S.-Havana Charter Allocation Regime.

The U.S. Department of Transportation issued a final order establishing a cap of 3,600 roundtrip charter flights between the U.S. and Havana for the year 2020/2021, with 3,000 trips allocated to Swift Air, and 256 allocated to Caribbean Air d/b/a World Atlantic. Carriers may apply to operate remaining flights beginning June 4. The order finalizes an allocation regime consisting of

advanced allotments of up to 90% of the cap to incumbent carriers, and a remaining pool reserving 10% of the cap.

In January, DOT suspended all charter flights to points in Cuba other than Havana, relying on the State Department's policy, which aims to apply "economic pressure on the Cuban regime to respect human rights and fundamental freedoms for all in Cuba and to cease its unconscionable support for the illegitimate and totalitarian regime of former President Maduro in Venezuela," Secretary of State Mike Pompeo wrote to Secretary of Transportation Elaine Chao.

VIII. EUROPE AND AFRICA

1. European Guidance Issued on Resuming Travel.

The European Union Aviation Safety Agency (EASA) and European Centre for Disease Prevention and Control (ECDC) jointly issued guidance to assure health safety as regular flight schedules resume, recommending physical distancing where possible, medical face masks and scrupulous and frequent hand hygiene. Passengers will be asked to provide contact information to allow for “track and trace” if someone on a particular flight later tests positive for COVID-19. “Filtered air on airplanes is safer and cleaner than many of us breathe on the ground,” they advised. The “blueprint for safe air travel” covers arrival at the departure airport to leaving the airport at the destination. Airlines and airport operators need to adapt to the guidelines. . . . European Commission guidance proposes a phased lifting of restrictions between areas or member states with similar epidemiological situations. Vouchers should be protected against insolvency of the issuer and tracing apps must be voluntary, transparent, temporary, cybersecure and inter-operable across borders and operating systems. . . . Airlines for Europe urged authorities to start temperature checks and said “physical distancing is unnecessary, ineffective and simply impractical given the same desired result can be achieved by wearing face masks in an already sterile cabin environment.”

2. UK Proposes 14-Day Quarantine for Inbound Travelers.

The UK proposed 14 day quarantine measures for inbound travelers, effective June 8, to guard against a second wave of coronavirus infections. A breach would be punishable with a £1,000 fixed penalty notice in England or potential prosecution and unlimited fine. “An open-ended quarantine, with no set end date, will make an already critical situation for UK aviation, and all the businesses we support, even worse,” wrote UK aviation CEOs represented by Airlines UK, in a letter to Prime Minister Boris Johnson. “People will simply choose not to travel to and from the UK, at the same time as economies in Europe and around the world begin opening up their borders and removing their own quarantines—making the UK aviation sector unable to compete.”

3. IAG Plans Possible 12,000 Job Cuts at British Airways.

IAG plans to resume flights in July, subject to travel restrictions, with passenger capacity down 50% and demand not expected to return to previous levels until 2023. The company seeks to defer deliveries of 68 aircraft. IAG had €10 billion of liquidity available at end of April, but, said CEO Willie Walsh, “group-wide restructuring is essential in order to get through the crisis and

preserve an adequate level of liquidity. We intend to come out of the crisis as a stronger group.” IAG plans to cut up to 12,000 jobs at British Airways, which, said the Unite union, is a “betrayal of Britain and your cynical use of this crisis as cover for your corporate greed.” . . . Walsh will remain as IAG CEO until September 24; he was to have retired in March, with Iberia Chairman and CEO Luis Gallego succeeding him.

4. Germany Offers €9 Billion Lifeline to Lufthansa.

Lufthansa negotiated a stabilization package with Germany that provides for measures and loans of up to €9 billion and the government taking a stake in the company, subject to approval by the airline’s supervisory board, the European Commission and competition-related conditions. Lufthansa, Swiss and Eurowings will expand service in June, with around 1,800 weekly roundtrips planned to 130 destinations worldwide. Lufthansa will offer flights from Frankfurt to New York Newark and Chicago, and Munich to Chicago and Los Angeles. Swiss plans to offer Zurich to New York Kennedy and Chicago. Resumption of Austrian Airlines service in June is being considered; Brussels Airlines plans to resume operations from June 15.

5. Air France-KLM to End A380 Ops.

Air France-KLM Group announced “the definitive end of Air France Airbus A380 operations”; the write down is estimated at €500 million and will be booked in second quarter 2020. The A380 will be replaced by new generation aircraft, including the A350 and Boeing 787. . . . Loans backed by the French state “for enabling the Air France-KLM Group and Air France to weather the crisis and prepare for the future” were approved by the European Commission. They include a €4 billion loan granted by a syndicate of nine banks and a €3 billion subordinated shareholder loan. KLM is pursuing additional Dutch support. The Dutch government owns a 14% stake in Air France-KLM and France owns 14.3%. . . . Through the end of June, subject to travel restrictions being lifted, Air France plans a gradual increase in frequencies and destinations. The schedule will be equivalent to 15% of capacity usually deployed at this time of year and will be operated by 75 of 224 aircraft in the fleet. Additions planned include Atlanta, Boston (cargo only), Chicago, New York, Los Angeles, Mexico City and Montreal. Air France requires that passengers wear face masks; temperature checks have been implemented on departure of each flight.

6. Virgin Atlantic to Cut 3,150 Jobs.

“We have weathered many storms since our first flight 36 years ago, but none has been as devastating as Covid-19,” said Virgin Atlantic CEO Shai Weiss, announcing a reduction of 3,150 jobs across all functions. The airline hopes to

increase passenger flying in second half 2020, and in 2021 to fly to 24 destinations around the world from London Heathrow, Manchester, Glasgow and Belfast. Gatwick operations will move to Heathrow. Sir Richard Branson, who holds a 51% stake in Virgin Atlantic, is selling a stake in Virgin Galactic and will use proceeds to support Virgin businesses. He also offered his Caribbean island as collateral for a UK loan for Virgin Atlantic.

7. Ryanair Closes Lauda's Vienna Base.

Ryanair closed Lauda's Vienna base after failing to reach agreement on cost reductions, resulting in the loss of 300 jobs. Other Lauda bases are Stuttgart, Dusseldorf and Mallorca. . . . Ryanair plans to return to 40% of normal flight schedules from July 1, subject to government restrictions on intra-EU flights being lifted, and effective public health measures being put in place at airports. The airline is meeting pilot and cabin crew unions across Europe to finalize up to 3,000 job cuts and 20% pay cuts. About 250 jobs were reduced in Dublin, Stansted, Madrid and Wroclaw through a combination of probation/fixed term contract ends, resignations and redundancies.

8. Norwegian Finalizes Recapitalization, Secures State Aid.

Norwegian has restructured, secured a state loan guarantee and "converted NOK 12.7 billion of debt to equity and laid a solid foundation for the future," said CEO Jacob Schram. A "New Norwegian" will emerge when travel restrictions are lifted and demand returns.

9. South African Government Urged to Provide Financial Relief to Aviation.

South Africa was asked to provide aviation-specific relief instruments including direct financial support to passenger and cargo carriers, financial relief on airport and air traffic control (ATC) charges and taxes, and reductions, waivers and deferrals of statutory taxes and user-fees imposed on flights and passenger tickets. The "urgent financial support" was request by IATA, Airlines Association of Southern Africa (AASA) and the Board of Airline Representatives of South Africa (BARSA), as South African Airways struggles. IATA estimates that revenues generated by airlines in the South African market will fall by \$3 billion in 2020, 56% below 2019 levels.

10. British Airways-Qatar Airways Australian Coordination Authorized.

See Section IX, item 4.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. Pakistan A320 Crashes Near Karachi.

An Airbus A320 operated by Pakistan International Airlines crashed near Karachi Airport on May 22. The airline said 91 passengers and eight crew were on the flight from Lahore. Airbus is providing full technical assistance to the Bureau d'Enquête et d'Analyse of France and Pakistani authorities in charge of the investigation. Technical support is also being provided by the airline and engine manufacturer CFM. Flight recorders were recovered.

2. Virgin Australia Bids Due June 12.

Virgin Australia administrators at Deloitte reportedly have short-listed potential buyers Bain Capital, BGH Capital, Indigo Partners and Cyrus Capital Partners; binding offers are due June 12.

3. Air New Zealand Postpones Auckland-New York.

Air New Zealand postponed Auckland-New York nonstops to late 2021. Los Angeles-London flights will not be resumed; exit had been planned for October 2020. Auckland-Buenos Aires flights, currently suspended, will not resume. ANZ is operating a limited international network through June 30 for essential travel and cargo movement on key trade routes. . . . CEO Greg Foran reduced his executive team from nine to six. . . . ANZ will operate 20% of pre-COVID-19 domestic capacity with an empty seat between customers travelling alone.

4. British Airways-Qatar Airways Australian Coordination Authorized.

Australian Competition and Consumer Commission (ACCC) granted authorization to British Airways and Qatar to coordinate passenger services between four Australian cities and the UK/Europe via Doha. The five-year duration of the authorization covers a period in which a return to more stable conditions is expected, said ACCC, which “may reconsider authorization if the relevant markets become significantly less competitive in future.”

5. U.S.-China Aviation Dispute.

See Section VII, item 2.

6. U.S. Condemns PRC Proposal to Curb Hong Kong Demonstrations.

See Section VII, item 3.

X. AMERICAS

1. A4A, Boeing Promote Health Initiatives.

“Carriers are working around the clock to sanitize cockpits, cabins and key touchpoints, including tray tables, armrests, seatbelts, buttons, vents, handles and lavatories, with EPA-approved disinfectants [and] have increased the frequency of deep cleaning procedures for both domestic and international flights,” said A4A, as it launched a “Fly Healthy. Fly Smart” campaign. A4A said its member airlines have aircraft equipped with HEPA filters, which help generate hospital-grade air quality; have implemented back-to-front boarding; adjusted food and beverage services to help allow for distancing; require passengers and customer-facing employees to wear a face mask throughout the journey; and are attempting to leave some seats open for distancing between travelers when feasible. In the airport, they are sanitizing counters and kiosks and have installed plexiglass shields over counters and marked floors to ensure appropriate distance is maintained. A4A member airlines have encouraged TSA to conduct temperature screenings. . . . “Air travel is coming back,” said Boeing, as it launched a “Confident Travel Initiative,” with a goal to work with regulators, industry, passengers, infectious disease experts and behavioral specialists to establish safety recommendations. The team is also advising operators on existing, approved disinfectants that are compatible with flight decks and cabins and testing other sanitizers.

2. Delta to Resume Numerous Passenger Routes in June.

Delta will resume numerous passenger routes in June, allowing customers more flexibility to change plans and capping seating at 50% to 60%. Domestically, schedule increases primarily will be in Atlanta, New York and between hubs. International service resumes to Canada, Latin America, the Caribbean, Europe and Asia. . . . CEO Ed Bastian said Delta is burning about \$50 million every day and will stem the bleeding over the next two to three years with a smaller network, fleet and operation in response to substantially reduced customer demand. The company will permanently retire its 18 Boeing 777s by yearend; Airbus A330s and A350-900s will perform long-haul flying as demand returns. Bastian said Delta has refunded more than \$1.2 billion to customers since the pandemic began. More than 41,000 employees have taken voluntary leaves of absence.

3. Scott Kirby Takes Over as United CEO; Brett Hart Named President.

United CEO Oscar Munoz transitioned to Executive Chair, President Scott Kirby became CEO, and Brett Hart became President, in accordance with a

succession plan announced in December. United reported first quarter net loss of \$1.7 billion and “expects daily cash burn to average between \$40 and \$45 million during second quarter of 2020.” The company rolled back plans to cut employee hours, amid widespread opposition.

4. LATAM Files for Bankruptcy, Signs JV Agreement with Delta.

LATAM Airlines Group filed to reorganize under Chapter 11 protection in the United States, saying it “will continue to operate as travel restrictions and demand permit.” . . . Delta and LATAM signed a Joint Venture Agreement that, once necessary regulatory approvals are granted, will combine route networks between North and South America. Code share agreements between Delta and LATAM affiliates in Peru, Ecuador, Colombia and Brazil, effective since last September, allow customers to purchase flights and access onward destinations in their respective networks and will be expanded to cover long-haul flights between the United States/Canada and South America, as well as regional flights. Delta and LATAM’s affiliates in Chile and Argentina also plan to sign code share agreements.

5. Avianca Files for Bankruptcy.

Avianca Holdings filed for Chapter 11 bankruptcy in New York, saying current air travel restrictions coupled with substantial financial obligations makes it necessary to reorganize operations and restructure debt. Avianca intends to wind down operations in Peru to focus on core markets upon emergence from court-supervised reorganization. The 100-year-old airline has been controlled by Kingsland Holdings, an independent third party of United Airlines, since May 2019.

6. ALTA Names New Executive Director.

José Ricardo Botelho was named Executive Director and CEO of the Latin American and Caribbean Air Transport Association (ALTA), effective June 1, 2020. He was Director President of the National Civil Aviation Agency of Brazil for four years and served as Brazil’s Alternate Diplomatic Delegate to ICAO.

7. Boeing Cuts More Than 12,000 U.S. Jobs.

Boeing announced involuntary layoffs of 6,770 employees in the U.S., following more than 5,500 voluntary buyouts announced in April. These job losses plus 400 in Winnipeg, Canada, and 230 in Melbourne, Australia, bring the company-wide workforce reduction to almost 13,000 people, reports the Seattle Times. “The COVID-19 pandemic’s devastating impact on the airline industry means a deep cut in the number of commercial jets and services our customers will need over the next few years, which in turn means fewer jobs on our lines and in our offices,” said Boeing President and CEO Dave

Calhoun. “We have done our very best to project the needs of our commercial airline customers over the next several years as they begin their path to recovery.”

8. U.S. Adds Brazil to List of Travel Restricted Countries.

See Section VII, item 1.

9. U.S.-China Aviation Dispute.

See Section VII, item 2.

10. U.S. Condemns PRC Proposal to Curb Hong Kong Demonstrations.

See Section VII, item 3.

11. Air New Zealand Postpones Auckland-New York.

See Section IX, item 3.