



## WASHINGTON AVIATION SUMMARY

January 2017 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 Predicts Continuing Strong Profits.

The International Air Transport Association (IATA) has reported a 2016 global airline net profit of \$35.6 billion, with a net profit margin of 5.1%, making it the highest ever generated profit by the industry. In 2017 a net profit of \$29.8 billion is expected, along with a forecast of total revenues of \$736 billion, a 4.1% net profit margin; airlines will retain an average of \$7.54 for every passenger carried. Higher oil prices will have the biggest impact on 2017. “We expect nearly 4 billion travelers and 55.7 million tons of cargo in the coming year,” said IATA Director General and CEO Alexandre de Juniac. “Governments, however, do not make aviation’s work easy. The global tax bill has ballooned to \$123 billion. Over 60% of countries put visa barriers in the way of travel. And the total number of ticket taxes wasted in direct costs and lost productivity as a result of inefficient infrastructure exceeds \$230 billion. These are only some of the hurdles which confront airlines. Our aim is to work in partnership to help governments better understand and fully maximize the social and economic benefits of efficient global air links.”

### 2. DOT Approves Norwegian Application for Foreign Carrier Permit.

The U.S. Department of Transportation (DOT) has awarded a foreign carrier permit to Norwegian Air International (NAI). The decision was announced as the European Union (EU) formally accused the United States of breaching the EU-U.S. Air Transport Agreement by failing to grant the permit, the only time arbitration has been invoked under the accord. DOT had tentatively approved the application in April and no U.S. air carrier filed in opposition to the tentative decision, but labor unions, some legislators and others continue to pose challenges, alleging the airline intends to avoid Norwegian labor and tax laws by establishing itself in Ireland. . . . Norwegian welcomed “the long overdue news,” adding, “We also now look forward to our foreign carrier permit for Norwegian Air UK (NUK) being approved next.” The carrier plans to begin low-cost services from Cork and Shannon to Boston and New York next summer, with crew from its U.S. and European bases.

### 3. Alaska Air Acquisition of Virgin America Cleared, Closed.

Alaska Air Group closed its \$4 billion acquisition of Virgin America, combining the sixth- and ninth-largest U.S. airlines, respectively, to create the fifth-largest U.S. carrier. The merger gained antitrust clearance from the Department of Justice (DOJ) when Alaska agreed to significantly reduce the scope of its code share agreement with American Airlines, particularly on routes where Virgin

and American compete and where Alaska would be likely to launch new service in competition with American. Alaska must obtain DOJ approval before selling or leasing gates or slots that were divested to Virgin, and is prohibited from transferring interest in the assets to American to ensure that American does not regain control of assets it divested to Virgin to settle the DOJ challenge to the American-US Airways merger. Together, Seattle-based Alaska and San Francisco-based Virgin America offer 289 daily flights to 52 destinations from California, including 113 daily nonstops to 32 destinations from three Bay Area airports and 105 daily nonstops to 37 destinations from four Los Angeles area airports. The combination increases Alaska Air Group access to Reagan Washington National and New York Kennedy, LaGuardia and Newark. Alaska, which includes Horizon Air, announced new flights from San Francisco to Orlando (daily), Minneapolis (twice daily) and Orange County, California (four times daily) beginning in summer 2017. Corporate headquarters will be in Seattle, with hubs in Seattle, Portland, Anchorage, San Francisco and Los Angeles. The combined company will be led by Alaska Air Group CEO Brad Tilden, who said a decision about the Virgin America brand will be made early next year. Alaska President and COO Ben Minicucci is now also Virgin America CEO. Peter Hunt, previously Virgin America Senior Vice President and CFO, is President of the Virgin America subsidiary, reporting to Minicucci. A single operating certificate from the Federal Aviation Administration (FAA) is expected in early 2018.

**4. DOT Grants Antitrust Immunity to Delta-Aeromexico Joint Venture.**

DOT issued a final order granting approvals and antitrust immunity for agreements submitted by Delta and Aeromexico, including a joint venture on U.S.-Mexico routes and coordinated network planning, pricing and sales activities. The carriers are required to divest slots to support 24 new daily services from Mexico City and four from New York Kennedy. The grant of immunity is limited to five years. When DOT issued its tentative order in November, Delta had said the conditions were “unprecedented, unwarranted, and should not be imposed,” but the carriers have conceded. “The approval represents an important milestone in the process, announced last year, to launch a cash tender offer for Delta's acquisition for up to 49% of Grupo Aeromexico capital stock,” Delta said.

**5. DOT Awards New Los Angeles-Beijing Flight to American Airlines.**

DOT finalized a November tentative decision to select American Airlines for new daily scheduled nonstop service between Los Angeles and Beijing, determining the carrier “held a clear advantage in terms of U.S. connecting points.” Delta also applied for authority to operate daily roundtrips on the route, but DOT said there were insufficient frequencies available to accommodate

both carriers' requests. The order requires American to begin the service within 90 days.

6. **Carl Icahn to Advise Trump on Regulatory Overhaul.**

Carl Icahn was selected by President-elect Donald Trump to be a special adviser for overhauling regulations. Icahn acquired TWA in 1985, took it private and, say industry analysts, saddled the iconic carrier with debt, sold valuable assets and drove it to bankruptcy. The billionaire investor is Chairman of Icahn Enterprises.

7. **DOT Ends Pricing Irregularities Investigation.**

The DOT Office of Aviation Enforcement and Proceedings closed its investigation into allegations of pricing irregularities in the Northeast Corridor following an Amtrak derailment in Philadelphia on May 12, 2015, concluding "there was no evidence of unfair manipulation of airfares or capacity, nor evidence of unconscionable increases in fares beyond normal pricing levels." Data reviewed covered 76 flight segments of American, Delta, JetBlue, Southwest and United.

8. **American Fined \$1.6 Million for Violating Tarmac Delay Rule.**

DOT fined American Airlines \$1.6 million for violating the tarmac delay rule in 2013 and 2015. The carrier allowed 20 domestic flights to remain on the tarmac for more than three hours without providing passengers an opportunity to deplane at Charlotte International in February 2013, six at Dallas/Fort Worth in February 2015, and one at Shreveport Regional in Louisiana in October 2015. The Charlotte and Dallas delays were weather-related; the delay in Shreveport was partially due to mismanagement of personnel and resources. Of the \$1.6 million assessed, \$602,000 will be credited to American for compensation provided to passengers on the affected flights, and \$303,000 for costs of acquiring, operating and maintaining a surface management and surveillance system at Charlotte and Dallas-Fort Worth to monitor the location of each aircraft on the airfield.

9. **DOT NPRM Requires Advance Disclosure of Voice Calls on Aircraft.**

A DOT Notice of Proposed Rulemaking (NPRM) would require airlines and ticket agents to disclose in advance to consumers if the operator of their flight allows passengers to make voice calls using mobile wireless devices. Current Federal Communications Commission (FCC) rules prohibit use of mobile devices on certain radio frequencies onboard aircraft, including for voice calls; but they do not cover WiFi and other means by which it may become possible to make voice calls. The proposal "will ensure that air travelers are not unwillingly exposed to voice calls, as many of them are troubled over the idea

of passengers talking on cell phones in flight,” said DOT, adding that “allowing voice calls, without providing adequate notice, would be an unfair and deceptive practice. As technologies advance, the cost of making voice calls may decrease and the quality of voice call service may increase, leading to a higher prevalence of voice calls and a greater risk of passenger harm.” DOT is seeking comment on whether disclosure is sufficient or whether it should simply ban voice calls on flights within, to, or from the United States. In response to a 2014 Advance Notice of Proposed Rulemaking regarding use of mobile wireless devices for voice calls on commercial aircraft, “a substantial majority of individual commenters expressed opposition to voice calls on the grounds that they are disturbing, particularly in the confined space of an aircraft cabin,” noted DOT.

**10. DOT Plans Measures to Improve Lavatory, IFE Accessibility.**

DOT’s ACCESS Advisory Committee, established to develop a proposed rule concerning accommodations for air travelers with disabilities, reached an agreement under which measures could result in accessible lavatories for individuals who use wheelchairs. Size of lavatory on single-aisle aircraft would not change in the short term, but airlines would be required to improve accessibility three years after effective date of a final rule, and DOT would develop improved safety and maneuverability standards for the aircraft’s on-board wheelchair. In the long term, airlines would be required to provide an accessible lavatory on single-aisle aircraft with more than 125 passenger seats, equivalent to that currently found on twin-aisle aircraft. The agreement also would require captioning or audio descriptions on certain inflight entertainment (IFE) offerings, and established deadlines for airlines to ensure that new seatback IFE systems installed on new or existing aircraft are accessible. The ACCESS Committee was not able to reach agreement on service animals, for which DOT intends to draft its own rules. The Committee included a DOT official and representatives of airlines, persons with disabilities, flight attendants, manufacturers and motion picture studios. Airlines for America commended the Committee for taking a collaborative approach to improve the flying experience for travelers with disabilities.

**11. Working Group Named for Improving Air Service to Small Communities.**

DOT named 25 members of a new Working Group on Improving Air Service to Small Communities, who will advise Congress on current and emerging priorities, issues and funding needs. The FAA extension passed in July directs the Secretary of Transportation to issue a report on the group’s recommendations to Congress by July 2017; the inaugural meeting is expected to be held in January.

**12. ICAO Launches Unmanned Aircraft Systems Toolkit.**

An Unmanned Aircraft Systems (UAS) Toolkit was launched by the International Civil Aviation Organization (ICAO) to provide consumers and remote pilots, regardless of skill and experience, with the basics of safe operation and resources. Developed in cooperation with industry and international expert partners, the toolkit can be accessed at [icao.int/rpas](http://icao.int/rpas). . . . In other news, FAA’s web-based drone registration system registered more than 616,000 owners and individual drones during its first year. . . . A DOT Inspector General (IG) report concludes that FAA is taking a reactive approach to UAS oversight and has not established a risk-based safety oversight process for civil UAS operations. . . . Amazon made its first drone delivery, dropping a package on the front lawn of a home near its UK testing center in Cambridge. “13 min—click to delivery,” tweeted CEO Jeff Bezos, who has said actual Prime Air drone delivery service will begin in 2018.

**13. DOT Air Travel Consumer Report for October.**

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

	Oct. '16 / '15	Sep. '16	Full Year				
			2015	2014	2013	2012	2011
On-time arrivals %	85.5 / 87.0	85.5	79.9	76.2	78.34	81.85	79.6
Cancellations %	1.0 / 0.5	0.3	1.5	2.2	1.51	1.29	1.91
Mishandled baggage*	2.06 / 2.45	2.23	3.24	3.61	3.22	3.09	3.35
Consumer complaints:							
Airline service	1,267 / 1,527	1,303	20,170	15,539	13,176	15,338	11,546
Disability-related	79 / 100	61	939	784	683	741	628
Discrimination**	8 / 5	6	65	68	79	99	128

Notes: In October, airlines reported two tarmac delays of more than three hours on domestic 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. Traveler Satisfaction with Airports Rises.

Traveler satisfaction with the airport experience rose five points with large airports and eight points with medium airports in 2016, according to the J.D. Power 2016 North America Airport Satisfaction Study, even as airports post a 5-6% annual increase in passenger volumes and many exceed their design limits by many millions of travelers. The study attributes rising satisfaction to improved check-in and security screening technology, baggage claim and concession experiences. Portland International ranks highest in satisfaction among large airports, followed by Tampa and Las Vegas McCarran. Indianapolis ranks highest among medium airports, followed by Buffalo Niagara and Fort Meyers/Southwest Florida. Massive construction projects at New York LaGuardia contributed to a six-point drop in overall satisfaction in 2016, while fewer weather problems helped boost satisfaction by nine points for Chicago O'Hare. Los Angeles International's redesign of Terminal 2, completed in February, and the amenities it now offers are partly responsible for a 32-point jump in overall satisfaction. With \$6 billion of redesigns planned over the next 20 years, Hartsfield-Jackson Atlanta "is feeling the strain though, with satisfaction down nine points in 2016."

### 2. Los Angeles Plans for Terminal 1.5 Advance.

The proposed Terminal 1.5 project at Los Angeles International, which will connect Terminals 1 and 2 and provide additional space for ticketing, security screening and baggage claim, was approved by the Los Angeles Board of Airport Commissioners. If approved by the City Council, Terminal 1.5 is expected to open in Summer 2019.

### 3. Louisville Completes \$9.5 Million Project.

Louisville International completed aesthetic improvements worth \$9.5 million, as part of its Terminal Enhancement Project. Improvements include new escalators connecting baggage claim to ticketing, LED lighting systems and terrazzo floor, carpet and wall treatments. Host International and Paradis-Lagardère are investing \$9.3 million combined in new or remodeled concessions.

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

#### **1. Marine Gen. John F. Kelly Nominated to Head DHS.**

General John F. Kelly (Ret.) was nominated by President-elect Donald Trump to be Secretary of the Department of Homeland Security (DHS), vowing “to stop terrorism, take back sovereignty at our borders, and put a stop to political correctness that for too long has dictated our approach to national security.” General Kelly joined the Marine Corps in 1970, and among numerous assignments has served as Special Assistant to the Supreme Allied Commander, Europe, in Belgium, was twice deployed to Iraq, and was Senior Military Assistant to the Secretary of Defense from March 2011 to October 2012 (Robert Gates and Leon Panetta).

#### **2. EU Parliament Approves EU-U.S. Data Protection Umbrella Agreement.**

The European Parliament voted to approve the EU-U.S. Umbrella Agreement, a framework for the exchange of personal data for law enforcement cooperation. Justice Commissioner Vera Jourova said the agreement would ensure that exchanges of personal data are governed by strong data protection rules, and would grant EU citizens the right to enforce their data protection rights in U.S. courts, “a right that U.S. citizens already enjoy in Europe.” The Umbrella Agreement was signed in June and will enter into force once each party has completed necessary internal procedures.

#### **3. TSA Warns Travelers of 2018 Real ID Airport Enforcement.**

The Transportation Security Administration (TSA) is posting signs at airports that effective January 22, 2018 a state-issued driver’s license or identification card may be used for boarding commercial aircraft only if they are issued by a REAL ID compliant state or a non-compliant state with an extension. The REAL ID Act establishes minimum security standards for the state-issued documents. To date, passengers with a driver’s license or ID issued by Kentucky, Maine, Minnesota, Missouri, Montana, Oklahoma, Pennsylvania, South Carolina, and Washington would require an alternate ID to fly.

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

### **1. Jury Finds Sabre Violated Antitrust Law in US Airways Contract.**

A federal jury in the Southern District of New York found that global distribution system Sabre violated antitrust laws in a 2011 contract with US Airways, by prohibiting the carrier from providing airfares to travel agents through other direct connections or offering discount fares directly to consumers on its website. The jury did not agree with a US Airways claim that Sabre colluded with Amadeus and Travelport. The jury awarded \$5.1 million in damages to US Airways, which merged with American Airlines in 2013. Sabre said it will pursue an appeal while continuing to work with American, and does “not anticipate any impact to existing offerings.” American settled a separate lawsuit against Sabre in 2012. . . . In other Sabre news, Sean Menke was named President and CEO, succeeding Tom Klein. Larry Kellner was named Executive Chairman of the Board. Menke was CEO of Frontier Airlines and held senior executive positions at Hawaiian and Air Canada, among other carriers, and at IHS Services. Kellner was Chairman of Continental Airlines.

### **2. Galileo Begins Serving the Globe.**

The Galileo satellite navigation system became operational, delivering positioning, navigation and timing information to users around the globe, reports the European Space Agency. With 18 of a planned 30 satellites in orbit, the EU is offering “free mass-market service for users with enabled chipsets in, for instance, smartphones and car navigation systems. Fully interoperable with GPS, combined coverage will deliver more accurate and reliable positioning for users.” Also available are Galileo’s Public Regulated Service, an encrypted service for government-authorized users such as civil protection, fire brigades and the police, and the Search and Rescue Service, which will reduce the time between someone locating a distress beacon when lost at sea or in the wilderness from up to three hours to just 10 minutes, with location determined to within 5 km, rather than the previous 10 km.

## V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel on December 9 was \$63.8/barrel, up 13% on the month and up 27.2% compared to a year ago, reports the International Air Transport Association. Fuel price average for 2016 was \$53.1/barrel. Impact on 2016 fuel bill was -\$19.4billion.

### 2. **IATA: EU Directive Must Prioritize Sustainable Aviation Fuels.**

A revised European Commission Renewable Energy Directive (RED) aims to accelerate deployment of low-emission and renewable energy for transport, such as advanced biofuels and electricity. These fuels will need to produce at least 70% fewer greenhouse gas emissions compared to fossil fuels. Development of advanced alternative fuels for transport will be encouraged through a blending mandate on fuel suppliers, while food-based biofuels will progressively reduce their contribution to the EU renewables target. “The largest user of renewable fuels, the road transport sector, has increasing options to move towards electrification,” noted IATA in response; “however, aviation has no technological option but to continue with liquid fuel at the present time. . . . The current challenge with sustainable aviation fuels (SAF) is to boost supply and cut costs. Greater production will help to reduce prices, and reduced prices will encourage greater demand, thus boosting production. To break into this virtuous circle, the RED must strengthen its policy framework to incentivize production of SAF.”

### 3. **UK Industry Urges Airspace Change.**

Significant environmental benefits are missed as aircraft are forced to fly longer and further than necessary “because of the failure of successive UK governments to commit to airspace modernization,” says industry coalition The Sky’s the Limit, representing airports, airlines and air traffic control. Redrawing flight paths and moving away from ground-based beacons to satellite navigation will increase air capacity, while reducing aircraft noise and cutting greenhouse gas emissions. The group is urging government to commit to delivering a stable, long-term noise and airspace policy that enables modernization and to detach it from the short-term political cycle.

## VI. U.S. CONGRESS

### 1. Short-Term Government Funding Bill Passed.

Averting a government shutdown by less than an hour, the Senate passed a bill to fund the federal government until April 28, the final major business of the 114th Congress.

### 2. Legislators Urge Trump to Reverse DOT's NAI Decision.

Over 100 members of Congress urged Donald Trump to reverse, “on Day One of your presidency,” the DOT decision to grant Norwegian Air International a foreign air carrier permit for U.S.-Europe air services. The letter maintains that “NAI has established itself in Ireland, where labor laws permit the airline to hire its pilots and flight attendants on individual employment contracts under non-European law in order to cut costs,” and warns that “other airlines are likely to follow suit and organize subsidiaries in foreign countries with lax labor laws, tax loopholes, or weak safety and security oversight,” which in turn could jeopardize the Civil Reserve Air Fleet (CRAF), under which airlines volunteer parts of their fleets for military use during national emergencies and in times of war. “If U.S. carriers find themselves unable to compete with other airlines that copy Norwegian’s flag-of-convenience business model, U.S. airlines will downsize their widebody fleets, and our ability to move troops and materiel will suffer substantially. National security, as well as American jobs, is on the line.”

### 3. Senate Commerce Committee Presses FAA on ATC Modernization.

Senate Commerce Committee Chairman John Thune (R-S.D.) asked FAA Administrator Michael Huerta for quarterly progress reports on NextGen, saying, “If key aspects of full NextGen implementation will not emerge for another decade or more, it is difficult to see how airlines, taxpayers, or the flying public will ever break even, much less realize the benefits to the U.S. economy that NextGen has promised.” Third party audits indicate that FAA is not implementing NextGen in a sufficiently timely and effective manner, said Thune. House Transportation Chairman Bill Shuster (R-Pa.) is expected to continue advocacy in the new Congress for a federally chartered air traffic control corporation.

### 4. Schumer: “Overhead Bin Should Be Free. Period.”

Senator Charles Schumer (D-NY) urged United Airlines to reverse “one of the most restrictive policies on airline passengers we have seen in a long time”: loss of use of overhead bins for travelers who purchase a Basic Economy ticket. United predicts the new plan will raise them \$1 billion by 2020,” said

Schumer, adding, “The new policy means that no customer will have access to lower prices unless they are willing to forego the convenience of the overhead bin. Those same customers who do purchase the lowest price ticket face the likely scenario of being forced to pay to check a bag that was once free to carry-on . . . a slippery slope that could negatively alter the policy on free use of the overhead bins for all fliers.” He noted also that Basic Economy passenger seats will be assigned at check-in, “which could separate family members until the FAA establishes a policy, as directed in last year’s FAA bill, to allow children to sit with a family member at no extra cost.”

**5. Senators Tackle E-Cigarettes in Cabins.**

Senator Richard Blumenthal (D-CT) asked major U.S. airlines to take immediate voluntary action to ban electronic cigarette devices in aircraft cabins, whether in carry-on luggage or otherwise, following an incident in which an American Airlines flight was forced to make an emergency landing when a passenger’s e-cigarette caught fire. DOT prohibits e-cigarettes in checked luggage and using or charging them in flight. Citing numerous incidents involving e-cigarettes causing fires in or near aircraft cabins, Blumenthal asked the Food and Drug Administration and the Consumer Product Safety Commission to recall the devices and establish clear safety standards for rechargeable lithium-ion batteries used in them. Senator Charles Schumer (D-NY) asked those agencies “to investigate and determine which e-cigarette batteries and devices are the most volatile, and require a recall,” citing 92 incidents of overheating, fire or explosion in e-cigarettes in the United States between 2009 and September of 2015.

**6. House Conservatives Issue Wish List for Trump Administration.**

Rep. Mark Meadows (R-NC) released a list of 232 regulations that the conservative House Freedom Caucus wants rolled back within the first 100 days of the Trump Administration. Among them are FAA directives that limit overland supersonic flights and the rule on small drones, which, the Caucus says, generally “are harmless toys [with] battery lives of less than 20 minutes [and that] are made with lightweight materials such as plastic and foam that pose few hazards even in catastrophic failure. And never mind that most cannot fly more than a few hundred yards from their operators.”

**7. Bottles and Breastfeeding Equipment Screening Bill Passed.**

The Senate unanimously passed the Bottles and Breastfeeding Equipment Screening bill, which directs TSA to notify air carriers and TSA and private security screening personnel of TSA's 3-1-1 Liquids Rule Exemption guidelines allowing baby formula, breast milk, purified deionized water for

infants, and juice on airlines; and include training on all special screening procedures.

8. **Bill to Establish Minimum Seat Size to Be Reintroduced.**

House members Steve Cohen (D-TN) and Adam Kinzinger (R-IL) will reintroduce the Seat Egress in Air Travel (SEAT) Act, which would establish minimum seat size and distance between rows on commercial airlines. “The average distance between rows of seats has dropped from 35 inches before airline deregulation in the 1970s to about 31 inches today. The average width of an airline seat has also shrunk from 18 inches to about 16 ½,” they said. “Planes need to be capable of rapid evacuation in case of emergency, yet appropriate testing has not been conducted by the FAA on all of today’s smaller seats. In addition, doctors have warned that deep vein thrombosis can afflict passengers who don’t move their legs during longer flights. The safety and health of passengers must come first.”

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

### **1. Boeing, Airbus Announce Agreements with Iran Air.**

Boeing and Iran Air announced an agreement for 80 aircraft, including 50 737 MAX 8s, 15 777-300ERs and 15 777-9s, valued at \$16.6 billion at list prices, with deliveries scheduled to begin in 2018. Based on a June agreement, the contract was reached within the terms of the U.S. government license issued to Boeing in September. Iran Air also signed a firm contract with Airbus for 100 aircraft, including 46 A320 Family, 38 A330 Family and 16 A350 XWBs, with deliveries scheduled to begin in early 2017. The Airbus agreement, which builds on an initial commitment signed in January 2016 in Paris, is subject to U.S. Office of Foreign Assets Control export licenses which were granted in September and November 2016, required for products containing 10% or more U.S. technology content. The sales are enabled by the 2015 international accord negotiated by the Obama Administration that lifts sanctions against Iran in return for curbs on Tehran's nuclear program; President-elect Donald Trump has criticized the pact. In February, Iran signed an agreement with ATR for 40 newest generation 72-600 turboprops, including 20 firm orders plus 20 options, with participation of Italian and French export credit agencies.

### **2. Brazil-Canada Feud at WTO Over Bombardier Funding.**

The Brazilian government said it will file World Trade Organization (WTO) proceedings against Canada regarding state support for Bombardier. In the newest trade bout between the Canadian regional jet manufacturer and Embraer, Brazil charges that Bombardier received US\$2.5 billion from Quebec in 2016 for the C Series program, and may soon receive further subsidies from the Canadian federal government. . . . In other news, the Obama Administration appealed a November WTO ruling that a Washington state tax cut granted to Boeing for production of the 777X violated subsidy rules, in the Boeing-Airbus trade battle.

## VIII. EUROPE AND AFRICA

### 1. Norwegian to Increase Frequency on U.S.-London Routes.

Norwegian will increase frequencies on routes from London Gatwick to the United States, beginning in April, including daily to Los Angeles, five weekly to Oakland, twice weekly to Fort Lauderdale and three weekly to Orlando. In August, an additional daily flight to New York begins, reaching 13 weekly. Fares start at \$195 one-way. New nonstop routes for 2017 include Copenhagen-Oakland on March 28, as well as Barcelona to Los Angeles on June 5, New York Newark on June 6, Oakland on June 7 and Fort Lauderdale on August 22. Service from Orlando to Paris begins July 31.

### 2. Virgin Atlantic Adding Third Daily London-Los Angeles Flight.

Virgin Atlantic will add a third daily Boeing 787-9 flight between London and Los Angeles International in May. Delta said the service will bring the partners' joint summer 2017 schedule to 40 peak daily nonstops.

### 3. Lufthansa, Etihad Bury the Hatchet.

Rivals Lufthansa and Etihad are going to be partners. In January, Lufthansa will place its code on Etihad nonstops from Abu Dhabi to Frankfurt and Munich, while Etihad will put its code on Lufthansa nonstops from Frankfurt to Rio de Janeiro and Bogota. In addition, Lufthansa carriers Eurowings and Austrian will wet lease 38 aircraft from airberlin, in which Etihad holds a 29% stake. Both transactions are subject to regulatory approvals. . . . Thomas Winkelmann will succeed Stefan Pichler as CEO of airberlin group, which "will focus on developing its long haul network out of Berlin and Düsseldorf, with initially 75 aircraft." Winkelmann formerly was CEO of Lufthansa unit Germanwings and the Lufthansa Hub in Munich. . . . Lufthansa Group acquired Brussels Airlines, which will become part of the Eurowings Group." . . . And, Lufthansa and its pilots' union "agreed to request arbitration in order to achieve a lasting solution."

### 4. Etihad-TUI Partnership to Include NIKI.

Etihad acquired airberlin's 49.8% stake in NIKI and said it "will not effectively control, or become a majority owner" of the Austrian airline. NIKI will be part of the proposed Etihad-TUI European leisure airline group, as will TUIfly. Subject to regulatory approvals, TUI will hold 24.8% of the Vienna-based joint venture and Etihad 25%, with remaining 50.2% held by private foundation NIKI Privatstiftung. NIKI was founded by Austrian Formula 1 world champion Niki Lauda.

5. **Etihad to Code Share With Tanzania's Precision Air.**

In a move that extends its reach across East Africa, Etihad entered into a code share agreement with Tanzanian domestic airline Precision Air. Etihad will place its code on Precision Air flights from Dar es Salaam to Kilimanjaro, Mwanza, Mtwara, Nairobi, Zanzibar and Pemba, and from Nairobi to Kilimanjaro and Zanzibar. Precision Air will place its code on Etihad's daily services between Dar es Salaam and Abu Dhabi. Etihad currently operates scheduled services to 10 destinations in Africa, including Johannesburg, Nairobi, Entebbe, Dar es Salaam, Khartoum, Casablanca, Rabat, Lagos, Cairo and Mahé in the Seychelles.

6. **Traces of Explosives Found on Human Remains of Egypt Air Flight 804.**

Egypt's Civil Aviation Ministry said traces of explosive materials were found on human remains of Egypt Air Flight 804, which crashed into the Mediterranean on May 19, and a criminal investigation will be carried out. The Airbus A320 was en route from Paris to Cairo; all 66 people on board were killed.

7. **Libyan Plane Hijacked.**

An Afriqiyah Airways Airbus A320 with 117 aboard was hijacked by two members of a pro-Gaddafi group and diverted to Malta. Maltese authorities negotiated with the hijackers, who surrendered after a peaceful release of passengers and crew.

8. **DOT Approves Norwegian Application for Foreign Carrier Permit.**

See Section I, item 1.

9. **HNA Acquires gategroup, Servair.**

See Section IX, item 2.

10. **SIA-Lufthansa Joint Venture Cleared by Singapore Regulator.**

See Section IX, item 3.

11. **Morocco to Join Emirates A380 Network.**

See Section IX, item 6.

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

### **1. China Visitation to U.S. to Reach 5 Million.**

More than 5 million Chinese travelers are expected to visit the United States by 2021, which would make China the top overseas visitation market, said the U.S. Department of Commerce's National Travel and Tourism Strategy. In 2015, 2.6 million Chinese travelers visited the United States, 18% more than in the previous year.

### **2. HNA Acquires gategroup, Servair.**

HNA closed its acquisition of gategroup, which then bought Air France-KLM's 49.99% stake in Servair. "The combination of Servair and gategroup will create "the global number one in inflight catering [with] 300 airline customers," said Air France-KLM. . . . HNA unit Hainan Airlines began Boeing 787 service from Beijing to Las Vegas, the only Chinese airline providing nonstops between the two cities, and expects to offer flights from Chengdu to Los Angeles and New York in 2017.

### **3. SIA-Lufthansa Joint Venture Cleared by Singapore Regulator.**

The proposed joint venture of Singapore Airlines (SIA) and Lufthansa Group was cleared by the Competition Commission of Singapore, after the airlines accepted voluntary commitments that include maintaining and subsequently increasing seat capacity on the Singapore-Frankfurt and Singapore-Zurich routes and carrying a minimum number of Singapore passengers on the routes. The Australian Competition and Consumer Commission has also approved the partnership, which includes SIA subsidiary SilkAir, and Lufthansa subsidiaries SWISS and Austrian Airlines. The partnership agreement, signed in November 2015, aims to expand code share ties and cooperation in key markets in Europe, Southeast Asia and Australia.

### **4. Etihad Announces Restructuring.**

Etihad announced a restructuring that will "result in a measured reduction of headcount in some parts of the business," citing "an increasingly competitive landscape, against a backdrop of weakened global economic conditions."

### **5. Qatar Airways Acquires 10% Stake in LATAM.**

Qatar Airways Investments (UK) Ltd. completed its acquisition of 10% of oneworld partner LATAM Airlines Group. In other news, Qatar Airways Cargo will launch twice weekly Boeing 777 freighter operations to Miami, Buenos Aires, Sao Paulo and Quito from Doha via Luxembourg.

**6. Morocco to Join Emirates A380 Network.**

Emirates will operate the first ever commercial Airbus A380 flight to Morocco and North Africa, when it begins service to Casablanca from Dubai on March 26, switching from the Boeing 777-300ER and offering “1,834 additional seats per week, meeting a growing demand from travelers on the route, with 14 private suites in First Class, 76 lie flat seats in Business Class and 401 seats in spacious Economy Class cabin.” In 2015, Emirates carried 260,000 passengers and 10,000 tons of cargo between Casablanca and Dubai. Emirates is the largest operator of the A380.

**7. DOT Awards New Los Angeles-Beijing Flight to American Airlines.**

See Section I, item 5.

**8. Lufthansa, Etihad Bury the Hatchet.**

See Section VIII, item 3.

**9. Etihad-TUI Partnership to Include NIKI.**

See Section VIII, item 4

**10. Etihad to Code Share With Tanzania's Precision Air.**

See Section VIII, item 5.

**11. Traces of Explosives Found on Human Remains of Egypt Air Flight 804.**

See Section VIII, item 6.

**12. Libyan Plane Hijacked.**

See Section VIII, item 7.

## **X. AMERICAS**

### **1. Consolidation Underpins Profitability, Says IATA.**

IATA predicts that North American carriers will see net post-tax profits of \$18.1 billion in 2017, down from the \$20.3 billion expected in 2016, with net margin at 8.5% and average profit of \$19.58 per passenger. Capacity is expected to grow by 2.6%, with demand growth of 2.5%. IATA said consolidation continues to underpin the region's strong profitability, even amid upwards cost pressures which include the price of fuel.

### **2. United Pays \$2.4 Million to Settle Charges in Port Authority Case.**

United agreed to pay \$2.4 million to settle civil charges related to a nonstop flight reinstated between Newark and Columbia, at the request of David Samson, then-Chairman of Port Authority of New York and New Jersey, who sought a more direct route to his South Carolina home, according to the Securities and Exchange Commission. The unprofitable route had been canceled by Continental prior to its merger with United. As former United CEO Jeff Smisek approved the route, the Port Authority approved a United lease agreement related to a Newark Liberty hangar project. Smisek resigned; Samson pleaded guilty to bribery in a criminal case announced by the U.S. Attorney's Office in New Jersey. . . . In other news, United mechanics ratified a six-year joint contract that "will see their compensation move to the top of the industry, marked improvements in leave and a unique industry reset, which will put the mechanics' package 2% above the highest compensation in the industry every two years," said Teamsters President Jim Hoffa.

### **3. Delta Pilots Ratify New Contract.**

Delta pilots ratified an amended collective bargaining agreement, effective through December 31, 2019, which provides retroactive pay increases of 18% for 2016, annual increases thereafter, and ensures that they "remain among the very top of airline pilot wage earners," said Air Line Pilots Association, Int'l (ALPA). . . . With the finalized Alaska-Virgin America merger, Delta announced it would end its code share and frequent flyer partnership with Alaska on May 1, 2017. Delta said it would focus "on creating more customer choice at its Seattle-Tacoma International Airport hub, where it now operates more than 150 peak-day flights to more than 40 destinations." . . . Delta reached an agreement with Boeing to cancel an order for 18 Dreamliners, assumed in 2008 as part of its merger with Northwest. In 2010, Delta deferred the order to a 2020 and beyond delivery timeline.

4. **Southwest Facilities Mechanics Reject Agreement.**

Southwest's Facilities Maintenance Technicians rejected a tentative agreement reached in October. The carrier said it "will take a step back to assess the results of the vote and determine how we might structure a contract that respects and serves the interests of both the company and our employees."

5. **Alaska Labor Agreements.**

Alaska Airlines reached a tentative agreement on a proposed five-year contract with mechanics that "includes significant pay increases and added job protection provisions." The ratification vote is expected to be completed by early March. The new contract would become amendable in October 2021. . . . Leaders of Alaska and Virgin America pilots voted to accept a Transition and Process Agreement with Alaska management, an important first step toward creating one pilot group, said ALPA.

6. **Cuba Update.**

U.S. airlines continued to add scheduled nonstops to Havana. United is flying daily from Newark and Saturday-only from Houston; Delta daily from Miami, New York Kennedy and Atlanta; Southwest daily from Tampa and twice daily from Fort Lauderdale; and Spirit twice-daily from Fort Lauderdale. In addition, Southwest began service to Santa Clara, and Silver Airways to Manzanillo.

7. **WestJet Pilots Endorse Long-Haul Expansion Plans.**

WestJet pilots voted in favor of company plans to expand widebody operations. WestJet currently operates four Boeing 767-300ERs in its winter schedule on nonstops to London Gatwick from Toronto and Calgary; to Hawaii from Edmonton and Calgary; and on select transcontinental routes including between Toronto and Calgary. The carrier will acquire additional widebody aircraft "to satisfy the demand for our low fares," said CEO Gregg Saretsky.

8. **Chorus Aviation Launches Aircraft Leasing Unit.**

Canadian regional carrier Chorus Aviation will establish an aircraft leasing subsidiary, under an agreement with Fairfax Financial Holdings which will invest C\$200 million in Chorus through a private placement of 200,000 convertible debt units. Halifax-based Chorus is the parent company of Jazz Aviation and Voyageur Aviation. Under a capacity purchase agreement with Air Canada, Jazz provides service throughout Canada and to certain U.S. destinations as Air Canada Express. Voyageur services include international and domestic contract flying.

9. **DOT Approves Norwegian Application for Foreign Carrier Permit.**  
See Section I, item 2.
10. **Alaska Air Acquisition of Virgin America Cleared, Closed.**  
See Section I, item 3.
11. **DOT Grants Antitrust Immunity to Delta-Aeromexico JV.**  
See Section I, item 4.
12. **DOT Awards New Los Angeles-Beijing Flight to American Airlines.**  
See Section I, item 5.
13. **Norwegian to Increase Frequency on U.S.-London Routes.**  
See Section VIII, item 1.
14. **Virgin Atlantic Adding Third Daily London-Los Angeles Flight.**  
See Section VIII, item 2.
15. **China Visitation to U.S. to Reach 5 Million.**  
See Section IX, item 1.
16. **Qatar Airways Acquires 10% Stake in LATAM.**  
See Section IX, item 3.