



WASHINGTON AVIATION SUMMARY

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The Kirstein & Young law firm specializes in representing U.S. and foreign airlines, airports, leasing companies, financial institutions and aviation-related companies before U.S. Government agencies, Congress, the courts and in commercial and financing matters.

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I. **REGULATORY NEWS**

1. **DOT Proposes to Approve Delta-Virgin Australia Antitrust Immunity.**

The U.S. Department of Transportation (DOT) proposed to approve an application for antitrust immunity made by Delta and affiliates of Virgin Blue Group, now known as Virgin Australia, for joint U.S.-Australia services. The carriers revised their application after DOT tentatively denied an earlier request last September, addressing concerns that immunity would provide only limited benefit to consumers. In the new application, Virgin Australia would serve more passengers and upgrade its reservation system to ensure compatibility with Delta's system. In addition, the carriers would serve more cities and offer more capacity at the start of their alliance than originally proposed. The joint venture must begin within 18 months of a final order. Delta and Virgin Australia said they will collaborate through code sharing, coordinating route and product planning, and reciprocal frequent flyer and lounge benefits. Virgin Australia has alliances with Etihad, Air New Zealand and Australian carrier Skywest.

2. **American, Qantas Seek Approval for Joint Business.**

American and Qantas are seeking regulatory approval for a joint business agreement (JBA) on services between Australia/New Zealand and the United States, within these regions, and beyond to third countries. Qantas has applied for authorization of the JBA with the Australian Competition and Consumer Commission and the New Zealand Minister of Transport; DOT will also review the agreement. Qantas currently offers 41 weekly roundtrips between Australia/New Zealand and the U.S, including 33 to Los Angeles, four to Honolulu and four to Dallas/Fort Worth, as well as six to New York via Los Angeles. In March, the carriers announced a code sharing expansion.

3. **FAA Revises Proposal to Enhance Air Carrier Training Programs.**

The Federal Aviation Administration (FAA) proposed an overhaul of air carrier crew training, which reflects "a significant shift in training philosophy designed to produce qualified and capable crewmembers and dispatchers ready to face current and future aviation challenges." The supplemental Notice of Proposed Rulemaking (SNPRM) addresses comments from the January 2009 proposal and provisions in the Airline Safety and FAA Extension Act of 2010. Under the proposal, flight crews would have to demonstrate, not just learn, critical skills in "real-world" training scenarios. Pilots would be required to train as a complete flight crew, coordinate actions through Crew Resource Management, and fly scenarios based on actual events; ground and flight training would be required to teach pilots how to recognize and recover from stalls and aircraft

upsets; and remedial training would be required for pilots with performance deficiencies. Flight attendants would be required to complete hands-on emergency drills every 12 months and dispatchers would have enhanced training. Like the original proposal, the SNPRM would require use of flight simulation training devices and special hazard training for pilots. The SNPRM also contains requirements derived from voluntary FAA-approved alternative training regimens such as Advanced Qualification Programs, and clarifies that the economic impact on carriers that conduct training under such programs, and the time used for flight simulator training, would be minimal. The comment period closes on July 19, 2011.

4. FedEx Settles Billing Practices Lawsuit.

FedEx agreed to pay the federal government \$8 million to settle a whistleblower lawsuit that alleged the company and its affiliates violated the federal False Claims Act, reports the U.S. Department of Justice. The lawsuit was filed by an employee who observed that, in the wake of 9/11, couriers used “exception codes” to reflect that government facility security measures were causing delivery delays, in order to excuse their own failures and avoid obligation to reimburse government customers under a company guarantee. The False Claims Act permits individuals to bring whistleblower lawsuits on behalf of the United States and receive a portion of the proceeds of a settlement or judgment; in this case the whistleblower will receive \$1.44 million. “Companies contracting with the government must be held accountable for the misconduct of their employees,” said the Acting Inspector General for the Justice Department.

5. DOT Fines Online Agents for Code Share Disclosure Violations.

DOT fined several online ticket agents for code share disclosure violations. Those fined include: Airtrade International (\$50,000), Fareportal (\$50,000), American Travel Solutions (\$45,000), Flythere4less.com (\$40,000), AirGorilla (\$30,000), Wholesale Travel Center (\$30,000) and Automobile Club of New York (\$20,000). In their responses, the agents said Global Distribution System (GDS) providers failed to identify flights that involved code share segments. DOT is looking into the role that the GDSs played, reports *Air Transport World*.

6. DOT IG Activities.

The DOT Office of Inspector General (OIG) will conduct a follow-up review of FAA and industry efforts to enhance safety in response to the 2009 fatal crash of Colgan Air flight 3407, at the request of the House Transportation Committee and Aviation Subcommittee. Several safety initiatives were introduced following the crash through FAA’s Call to Action on Airline Safety and Pilot Training and subsequently became requirements under the Airline Safety and FAA Extension Act of 2010. Audit objectives are to examine FAA

and industry progress in implementing elements of the Act and identify challenges to completing these actions. . . . The OIG will investigate the increase in errors reported by air traffic controllers, at the request of House and Senate members; separation errors rose 81% from 2007 to 2010. A review of FAA plans to provide critical facilities with appropriate controller staffing, training resources, and other support necessary to ensure continuity of facility operations is underway.

7. DOT Awards \$2 Billion for High-Speed Rail.

DOT announced \$2.02 billion in funding to 15 states and Amtrak for 22 high-speed passenger rail projects, as part of a nationwide network that will connect 80% of Americans to high-speed rail in 25 years. The Northeast Corridor (NEC) will receive \$795 million for upgrades that will increase speeds from 135 to 160 miles per hour on critical segments. In the Midwest, a grant of \$404.1 million is for newly constructed segments of 110-mph track between Detroit and Chicago and upgrades to the Chicago to St. Louis corridor. A \$336.2 million grant is for locomotives and rail cars for California and the Midwest. A \$300 million investment in the planned 220-mph Los Angeles to San Francisco system will extend the current 110 mile segment an additional 20 miles to advance completion of the Central Valley project. Thirty-two states and the District of Columbia are currently laying the foundation for high-speed rail corridors. The American Recovery and Reinvestment Act of 2009 and annual appropriations have, to date, provided \$10.1 billion “to put America on track”; of that, \$5.8 billion dollars has already been obligated for rail projects.

8. March 2011 Passenger Airline Employment Rose 1.5%.

U.S. scheduled passenger airlines employed 382,796 workers in March 2011, 5,535 (1.5%) more than in March 2010, reports DOT, and the highest employment number since August 2009. The six network airlines employed approximately 68% of the total, the seven low-cost carriers employed 17% and the 18 regionals employed 14%. The highest number of employees was recorded by Delta among network airlines, by Southwest among low-cost airlines and by American Eagle among regionals. Network airlines employed 3,950 more workers in March 2011 than in March 2010 and 3,660 fewer than in March 2007; low-cost airline employment was up 2.3% in March over a year earlier and up 10.4% from March 2007; regional was up 1.8% over March 2011 and down 14.6% compared to 2007. . . . By job category, scheduled passenger airlines employed 4.9% more pilots and 1.1% more maintenance workers in 2010 than in 2009, while total industry jobs declined by 0.5%. Network carriers employed 1.3% fewer pilots and 2.3% more maintenance workers in 2010 than in 2009; the seven largest low-cost carriers employed 11.2% more pilots and 1.5% more maintenance workers; and regionals employed 4.9% more pilots and 3.3% fewer maintenance workers.

9. **DOT Air Travel Consumer Report for March.**

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

	March '11 / '10	Feb. '10	Full Year				
			2010	2009	2008	2007	2006
On-time arrivals %	79.2 / 80	74.5	79.8	79.5	76	73.4	75.4
Cancellations %	1.3 / 1.5	4.9	1.76	1.39	1.96	2.16	1.71
Mishandled baggage*	3.32 / 3.66	3.59	3.99	3.91	5.26	7.05	6.73
<i>Consumer complaints:</i>							
Airline service	803 / 964	687	10,985	8,821	10,648	13,180	8,325
Disability-related	50 / 47	40	572	519	477	488	430
Discrimination**	10 / 15	10	143	131	115	99	114

Note: The largest U.S. airlines reported no flights in March with tarmac delays of more than three hours, compared to 25 in March 2010; there were 16 canceled flights with tarmac delays of more than two hours, down from 35 in March 2010.

* Reports per 1,000 passengers.

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

10. **Justice Department Investigating GDS Companies.**

See Section IV, item 1.

II. AIRPORTS

1. ACI: Airport Traffic Returns to Pre-Crisis Levels.

Traffic at the world's airports has returned to pre-economic crisis levels, reports Airports Council International (ACI). For first quarter 2011, global traffic rose by 4% compared to Q1 2010. March passenger traffic rose by only 2% worldwide, due to the impact of natural disasters and a sharp drop in North Africa traffic (-18%) due to political events. Latin America-Caribbean reported the strongest regional growth (+10%). Freight worldwide grew by 3.1% in Q1 2011; in March, domestic freight growth was strong in Asia Pacific (+6.7%) and North America (+5.5%). Following Japan's earthquake and tsunami, Tokyo Narita passenger numbers declined by 29%, Haneda by 19%. Political uncertainty caused declines in Egypt (Cairo, -37%; Sharm-el-Sheikh, -68.5%; Hurghada, -79%), and in Tunisia and Bahrain. In Europe, Athens' numbers were down by 16%. . . . Angela Gittens, ACI Director General, in a speech to International Civil Aviation Organization (ICAO) Council members, said 40 U.S. airports lost commercial air service during the 2007-2010 economic downturn, while others suffered significantly from the effect of carrier mergers and network consolidations. "The increasingly diversified portfolio of airport revenues served as a lifeline, a clear sign that airport entrepreneurship is critical in our very competitive global airport market," Gittens said. With few governments able to make major outlays for new infrastructure, ACI expects a new wave of private sector investment, and Gittens called on regulators to contribute as well. ACI has moved its world headquarters to Montreal.

2. Delta, US Airways File New DC/New York Slot Swap Agreement.

Delta and US Airways filed a new agreement with FAA to transfer takeoff and landing rights at New York LaGuardia and Washington Reagan National, which revises a 2009 transaction approved by DOT, but under terms not acceptable to the carriers and never completed. Under the new agreement, Delta would acquire 132 slot pairs at LaGuardia from US Airways; US Airways would acquire from Delta 42 slot pairs at Reagan National and the rights to operate additional daily service to Sao Paulo, Brazil in 2015; and Delta would pay US Airways \$66.5 million in cash. In addition, the transaction could result in the divestiture of up to 16 slot pairs at LaGuardia and eight at Reagan National to airlines with limited or no service at those airports. The carriers noted that the competitive landscape in both cities has changed significantly since the 2009 proposal. According to the applicants, new entrants and smaller carriers, including AirTran, JetBlue and Southwest, have gained considerable access to slots at LaGuardia and Reagan National and expanded service at these and other airports in the New York and Washington regions. They Also, note that mergers between United and Continental and

Southwest and AirTran have dramatically sharpened competition on the East Coast generally and particularly in the New York and Washington regions. The airlines dismissed their appeal of the DOT order regarding the original 2009 transaction that is currently pending in the U.S. Court of Appeals in Washington. Dismissing the appeal clears the way for DOT to consider the revised application.

3. United, Houston Announce \$1 Billion Redevelopment Project.

Construction on the first phase of a \$1 billion redevelopment project at Bush Intercontinental will begin by the end of the year and is expected to be completed in late 2013. Phase one of the three-phase project will create a new \$161 million Terminal B south concourse dedicated to domestic regional jet operations, replacing existing south side flight stations with a 225,000 square foot facility to accommodate United's fleet of regional aircraft. Plans for future phases, over the next seven to 10 years, include redevelopment of the central Terminal B lobby and baggage claim areas, a new international-capable north concourse for mainline and regional jet flights, a new Terminal B Federal Inspections Services (FIS) facility and infrastructure improvements. The project is partnered by Houston Airport System and United, which is extending its lease on Terminal C to 2027.

4. Schiphol Opens World's First Airport Park.

Amsterdam Schiphol has opened the world's first Airport Park. The area, behind D Gates, offers indoor images of "peace and greenery," as well as an outdoor terrace. Among innovations, travellers can recharge mobile phones while pedaling a bicycle used to generate energy.

5. Study: European Slot Allocation Rules Need Review.

Up to 28 million additional passengers could travel each year with more efficient use of European airport slots, according to a new study ordered by the European Commission, and net economic benefits of reforming EU slots rules could be in excess of €5 billion over the 2012-2025 period. EC Transport Vice President Siim Kallas said he "will bring forward legislation this autumn to tackle this issue." Currently, there are some 26,000 flights daily in Europe's sky and passenger numbers are forecast to grow by up to 4.5% annually.

III. **SECURITY AND DATA PRIVACY**

1. **Air Travel and the Death of Osama bin Laden.**

The Transportation Security Administration (TSA) asked travelers to be “vigilant and report any suspicious activity to the authorities,” following the May 1 killing of Osama bin Laden, but did not announce specific changes to screening measures. In related news, transaction settlement service ARC reported that refunds for airline tickets sold by U.S. travel agents, including travel websites, increased to 33,518 on Monday, May 2 and Tuesday, May 3, compared to 24,146 on Monday and Tuesday of the prior week (2.6% of 1.3 million outstanding air tickets, versus 1.9% of 1.2 million).

2. **U.S., EU Revise Passenger Data Agreement.**

The United States and the European Union have negotiated a revised passenger data sharing agreement, which, reported *The Guardian*, would allow the U.S. Department of Homeland Security (DHS) to store the data for 15 years, rather than the five years allowed in the EU's passenger name record (PNR) scheme. A data sharing agreement signed in 2007 and intended to remain in effect until 2014 has been the subject of civil liberties debate in the U.S. and Europe. The revised proposal, which must be approved by the European Parliament, would “mask” or “depersonalize” individual identities after six months on the U.S. database. The PNRs would be transferred to a dormant database after five years and held for another 10 years, but identities could be restored for particular law enforcement operations. Airlines would supply passenger lists up to 96 hours before takeoff, compared to the current 72, and names would be checked against terrorist and immigration watch lists. Those wrongly identified as a threat would have the right to petition for judicial review. Sensitive personal data could be used in exceptional circumstances. European Parliament members say the proposal violates fundamental constitutional principles of European states. The U.S. Senate passed a resolution saying it could “accept no changes to the agreement that could limit our ability to identify and arrest terrorists.”

3. **TSA News.**

TSA said new tests show that the level of radiation emitted by full-body scanners, or backscatter units, used for passenger screening in U.S. airports, is within applicable national safety standards; earlier checks found some anomalies. . . . In remarks to the 83rd Annual AAAE Conference & Exposition, TSA Administrator John Pistole said the United States must evolve its approach to aviation security to become more risk-based and is developing ways to conduct more identity-based screening that could eventually change

the flying experience for most travelers. While these changes are not ready to be rolled out fully, he said, “in the coming months we expect to be ready to move forward with some smaller concrete steps that will begin to move us away from what can seem like a one-size-fits-all approach.” A new identity-based crewmember screening system will enable security officers to verify identity and employment status of pilots against airline employee databases, rather than screening them for standard prohibited items. Long-term concepts would focus limited resources on higher-risk passengers, while speeding and enhancing the passenger experience for those deemed “low-risk” after volunteering information ahead of time. . . . Transportation Security Officers have until June 21 to cast votes in a runoff election for union rights, with results to be announced June 23. None of the choices in earlier balloting won a majority of the votes cast.

4. **DHS Appropriations Bill Does Not Fund Additional Body Scanners.**

See Section VI, item 4.

IV. E-COMMERCE AND TECHNOLOGY

1. Justice Department Investigating GDS Companies.

The U.S. Department of Justice is investigating possible anti-competitive practices in the Global Distribution System (GDS) industry. American, Delta and US Airways are among airlines that have received requests for documents, as have GDS companies, including Travelport and Sabre. Airlines have argued in recent civil cases that GDS operators are monopoly providers, violating federal antitrust laws through pricing actions and exclusion of technology alternatives.

2. Travelport Files Motion to Dismiss American Airlines' Antitrust Suit.

Travelport filed a motion to dismiss American Airlines' antitrust lawsuit, claiming the airline is using the complaint to gain control in contract negotiations. "It is an opportunistic lawsuit brought by a large and powerful company seeking to enhance its already substantial commercial bargaining leverage," the GDS provider told a federal court in Fort Worth. "Travelport's conduct has harmed not only American, but also U.S. consumers, and is in violation of the federal antitrust laws," said the airline. American sued Travelport and Orbitz in April, claiming the GDS was retaliating for the airline's desire to use its own direct connect technology and was working with Orbitz to exclude competition.

3. United Terminates Planned Move to Amadeus.

United terminated plans to migrate its reservation system to the Amadeus Altea platform in 2013, and instead will adopt Continental's system.

4. Online Ticketing Fraud Rate Down.

Airlines reported a loss of about \$1.4 billion to online payment fraud in 2010, according to a survey by Visa unit CyberSource, a 31% improvement over 2008. Changes made by airlines in the last two years include higher use of fraud detection tools in automated screening and rejection of more bookings due to suspicion of payment fraud. The Airline Online Fraud Survey finds that airlines with less than three years of online selling experience have higher fraud loss rates and higher reject rates. Only 3% of airlines surveyed used public record searches to validate bookings. Device fingerprinting and third-party fraud scoring models were among top tools merchants cited as considerations for future use. CyberSource markets fraud detection algorithms for its Decision Manager system, created for the travel industry. The survey was fielded between November 17, 2010 and January 31, 2011; 72% of 142 respondents indicated their airline had total revenues over \$500 million.

5. American Tests Streaming Inflight Entertainment.

American Airlines is testing inflight streaming video on two Boeing 767-200s in transcontinental service and plans to begin customer testing early this summer. The Aircell product enables passengers to wirelessly stream content such as movies and TV shows from an inflight library to personal Wi-Fi-enabled devices during flight. A roll out on Wi-Fi-enabled aircraft will start this fall pending FAA certifications. American will work with Aircell to expand inflight Wi-Fi to all of its domestic aircraft.

6. DOT Fines Online Agents for Code Share Disclosure Violations.

See Section I, item 5.

V. ENERGY AND ENVIRONMENT

1. Fuel Bill for Global Airline Industry.

The average price of aviation jet fuel, as of May 20, was \$126.1/barrel, down 9.7% on the month and down 52.7% year-on-year, reports the International Air Transport Association (IATA). New fuel price average for 2011 was \$127.4/barrel.

2. Environmental Groups Urge Airlines to Drop EU ETS Lawsuit.

Several environmental groups urged the Air Transport Association of America (ATA) and member airlines to drop a lawsuit challenging the European Emissions Trading Scheme (EU ETS). The Environmental Defense Fund, Center for Biological Diversity and Earthjustice have intervened in the litigation in support of the EU, as part of a transatlantic coalition of environmental groups. Oral argument for the case is expected this fall. In letters to American Chairman and CEO Gerard Arpey and United Continental Holdings President and CEO Jeffrey Smisek, the cosigners—which also include Environment America, Natural Resources Defense Council and Sierra Club—criticized the airlines for “spending customers’ money on lawyers and lobbyists in an effort to thwart a crucial anti-pollution program.” In its response, ATA said its members “are part of a broad group of the aviation industry that is seeking to address aircraft greenhouse gas emissions at a global level, through legal measures rather than through a patchwork of differing measures of dubious legality.” ATA said the industry’s plan “will achieve zero emissions growth and, ultimately, real reductions in emissions, without resorting to an uneconomic emissions trading scheme unilaterally imposed in violation of well-recognized international law.”

3. China’s Airlines Confront EU ETS.

The China Air Transport Association and its airline members warned they will strongly recommend that the Chinese government take harsh counter-measures against flights in and out of China operated by airlines from EU member countries if the EU insists on carrying out its Emissions Trading Scheme. China's airlines will pay 800 million yuan (\$123 million) to the EU in 2012, more than 3 billion yuan in 2020 and a total amount in the next nine years of 17.6 billion yuan, said the group, whose members include Air China, China Eastern, China Southern and HNA Group. They note the EU plan to extend ETS to non-EU airlines without consultation violates international civil aviation conventions, in which measures taken in one country or market cannot be implemented unilaterally. China supports all measures that directly result in energy saving and emission reduction, said the group. Airlines' fuel consumption per ton-kilometer dropped by 3% on average year-on-year in the

past decade, compared to the 2% goal set by ICAO, said the Civil Aviation Administration of China; every percentage point of decrease in fuel consumption means 170,000 tons of fuel is saved.

4. Ontario to Produce Renewable Jet Fuel.

In Canada, Ontario selected alternative energy developer Rentech to build a biomass plant in White River to turn timber into renewable jet fuel. Los Angeles-based Rentech will convert up to 1.3 million tons per year of forest waste and unsalable wood fiber into 23 million gallons annually of renewable and certified low-carbon RenJet fuel. The Olympiad Project, scheduled to be in service in 2015, will also produce 13 million gallons annually of renewable naphtha, a chemical feedstock. Rentech submitted an application to Sustainable Development Technology Canada NextGen Biofuels Fund for up to C\$200 million for project development and construction costs.

5. Researchers Test Emissions of Idling Jets at Airports.

In the first on-tarmac measurements of their kind, a Carnegie Mellon team found that sunlight transforms oil droplets emitted by idling jet engines into potentially toxic particles tiny enough to penetrate the lungs and brain, reports *Science News*. Jet engines operating at full power produce mostly solid particles. The new data clarify how aircraft emissions impact local and regional air quality, said scientists.

VI. U.S. CONGRESS

1. 19th FAA Funding Extension Approved.

As House and Senate negotiators continued to work out a long-term spending bill, Congress approved the 19th short-term extension, which funds FAA programs through June 30, 2011.

2. Hearing on Air Traffic Control Safety Oversight.

Maria Cantwell (D-Wash.), new Senate Aviation Subcommittee Chairman, presided over a hearing on Air Traffic Control Safety Oversight, following widely reported episodes of controller work violations. Cantwell expressed concern about “the 53% increase in reported operational errors between fiscal year 2009 and 2010 . . . 1,200 in 2009 to 1,900 last year. The errors were of varying degrees.” In his testimony, FAA Administrator Randy Babbitt said the “upward trend” reflects greater reporting of errors; he recapped recent efforts made regarding ATC safety. DOT Inspector General Calvin Scovel III said “sustained oversight and commitment are needed to identify the root causes of ATC incidents and address longstanding concerns. Until FAA takes action to develop comprehensive data (such as accurately capturing all operational errors), conduct astute trend analyses, and develop timely action plans to address controller workforce risks and vulnerabilities, FAA cannot ensure it has a sufficient number of alert, competent, and certified controllers needed to effectively manage the challenges of the next generation of air traffic control.” Dr. Greg Belenky, Director of the Sleep and Performance Research Center, Washington State University, said sanctioned, scheduled, on-shift napping is “an effective way to sustain operational performance and well-being in air traffic controllers working the night shift” and should be tested. Paul Rinaldi, President, National Air Traffic Controllers Association, said “the impact of fatigue on safety is clear: since 1993, over 14 accidents resulting in 263 fatalities had fatigue as a causal or contributing factor.”

3. Committee Reviews NMB Reversal of Labor Elections Rule.

The House Committee on Oversight and Government Reform is investigating the June 2010 National Mediation Board (NMB) decision to alter the 75-year old Railway Labor Act, which held that only a majority of employees could select a union for their representation. Citing the case of Delta/Northwest union activity, Committee Chairman Darrell Issa (R-Calif.) and Dennis Ross (R-Fla.), Chairman of the Oversight Subcommittee on Labor Policy, said labor union political influence may have compromised independence of NMB, which “was established to keep our nation's airlines and railroads functioning by acting as a fair third party in business-labor relations. That trust, however, is

not a free ticket to conduct a political end run around due process.” Applauding the investigation, Delta said it was targeted by the Association of Flight Attendants (AFA) and the International Association of Machinists (IAM) and two NMB members “in a coordinated attempt to influence the outcome of union elections by changing to a minority rules voting process. Union elections for Delta flight attendants and ground employees were delayed until new voting rules were implemented . . . the majority of voters said no to representation by the pre-merger Northwest unions. Today, Delta people are still waiting for their vote to count.” The Committee will also investigate actions involving the National Labor Relations Board and Boeing.

4. DHS Bill Would Not Fund Additional Body Scanners.

The House Appropriations Committee proposed fiscal year 2012 Department of Homeland Security (DHS) Appropriations bill includes \$7.8 billion for the Transportation Security Administration, an increase of \$125 million over last year’s level, and \$293 million below the President’s request. These funds would sustain the current cap level of 46,000 full-time screening personnel, and explosive detection systems, security enforcement, cargo inspections, Federal Air Marshals and other TSA activities. The bill includes an additional \$10 million to address air cargo threats. The proposed bill does not provide \$76 million requested by the President for 275 additional advanced inspection technology (AIT) scanners nor the 535 staff requested to operate them.

5. \$5 Billion DOT Infrastructure Fund Proposed.

Leaders of the Senate Commerce Committee proposed a fund that would encourage private investment in transportation infrastructure through loans, loan guarantees and grants. The American Infrastructure Investment Fund Act of 2011 authorizes \$5 billion in fiscal 2012 and 2013, and establishes investment grants for DOT projects to restore or build new transportation infrastructure.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. United States, Colombia Sign Open Skies Agreement.

U.S. Under Secretary of State William Burns and Colombian Foreign Minister Maria Angela Holguin signed a new air transport agreement which, following an exchange of notes, will establish a bilateral open skies relationship. The pact will increase the number of passenger and cargo flights between the two countries.

2. WTO Ruling on Illegal European Subsidies to Airbus.

The Appellate Body of the World Trade Organization (WTO) confirmed that subsidies provided for more than 40 years by European Union (EU) member states to Airbus, totaling \$18 billion, are inconsistent with WTO rules, said the U.S. Trade Representative (USTR). Last year, a WTO panel found that launch aid provided for new Airbus aircraft and other subsidies challenged by the United States had caused adverse effects to U.S. interests, including lost sales and market share for Boeing. Following adoption by the WTO Appellate Body, by mid-June, the WTO will recommend that the EU and the member states that back Airbus take appropriate steps to remove adverse effects or withdraw the subsidies. WTO rules contemplate such action being taken within six months. "In either case, should the EU and relevant member states fail to comply with these recommendations by the deadline, the U.S. could seek the right to impose countermeasures," said the USTR. The EU Trade Commissioner said the WTO Appellate Body Report dismissed in its entirety the U.S. central claim that Airbus received prohibited export subsidies. "Most importantly," said the European Commission, "the Appellate Body found that support provided by Germany, Spain and the UK for the launch of Airbus' A380 aircraft is not a prohibited export subsidy under WTO Law. It also rejected the U.S. appeal that other instances of Repayable Launch Investment (RLI) were export subsidies." Airbus said it will continue to partner with governments on future development programs. Boeing said the report was a clear final win for fair trade and U.S. workers. The dispute, which reportedly has cost over \$100 million to date, remains unresolved.

VIII. EUROPE AND AFRICA

1. Iceland Volcano Disrupts 900 Flights.

An eruption of Grimsvotn, Iceland's most active volcano, disrupted flights in Scotland, northern England, Germany and parts of Scandinavia. Eurocontrol said of 90,000 planned flights over the three-day period, about 900 were canceled. Though more powerful than the six-day 2010 volcanic ash crisis, which stranded millions of people and cost airlines \$1.8 billion in lost revenues, the latest eruption caused far less chaos because of new procedures that allow airlines to conduct risk assessments prior to flight in any ash affected area using modeling of the Volcanic Ash Advisory Center.

2. British Airways Strike Averted.

British Airways reached an agreement with Unite that restores cabin crew travel benefits lost in an earlier strike, establishes pay raises over a two-year period, and, said the airline, "involves acknowledgement by the union that cost-saving structural changes made in cabin crew operations are permanent." If approved by employees, the agreement will begin to take effect on July 1.

3. JetBlue, Icelandair Form Interline Partnership.

JetBlue and Icelandair are interlining on flights between JetBlue U.S. and Caribbean gateways and Icelandair destinations in Europe, via Reykjavik. In related news, Icelandair launched Washington Dulles-Reykjavik nonstops in May and will expand services from Boston and New York Kennedy to twice daily on June 1.

4. EU News.

Austria, Bosnia & Herzegovina, Croatia, Czech Republic, Hungary, Slovak Republic and Slovenia agreed to create a Functional Airspace Block – Central Europe (FAB CE). The FAB creates the framework, general conditions and governance under which contracting states intend to ensure air traffic management and the provision of air navigation services in the context of the Single European Sky legislation. This is the fourth FAB in Europe, with nine planned. . . . The European Aviation Safety Agency (EASA) wants detailed inspections and potential replacement of cracked nuts installed on primary structural elements of some Airbus A319, A320 and A321 planes. If not corrected, the condition could impair structural integrity and have long-term consequences, said EASA. The proposed Airworthiness Directive (AD) would require inspections for suspect nuts located in fuel tank areas within 12 years of first flight.

5. **Delta-Air France KLM-Alitalia to Reduce Transatlantic Capacity.**

The Delta-Air France KLM-Alitalia joint venture announced a year-over-year 7% to 9% passenger capacity reduction between Europe and the U.S. and Canada, due to high fuel prices and fluctuating seasonal demand. The airlines will reduce frequency on selected routes during the fall and winter seasons, while introducing seasonal flying to warm weather destinations.

6. **Lufthansa Brings Superjumbo to San Francisco.**

Lufthansa became the first carrier to bring regularly scheduled Airbus A380 service to San Francisco; Air France is scheduled to begin superjumbo service to San Francisco on June 8. . . . Germany's competition authority is investigating whether contracts between Lufthansa and its corporate customers required that they provide the airline with information about competitor pricing structures, possibly distorting competition; the contracts specified that the firms would not receive discounts unless data on price and discounts from other airlines were provided. Lufthansa has denied it engaged in any practices that might hurt competition in the airline industry. . . . Lufthansa posted a first quarter net loss of €507 million after €292 million in charges related to hedging fuel costs; in Q1 2010, the airline recorded a net loss of €298 million. Operating income improved to a profit of €103 million from a loss of €227 million in the year-earlier period. Revenues rose to €6.4 billion from €5.8 billion. The carrier expects a year-on-year increase in revenues and operating results.

7. **Air France Flight 447 Data Recorders Retrieved.**

France's Bureau of Investigations and Analyses (BEA) published an initial chronology of the final moments of Air France Flight 447, following recovery of the plane's flight data and cockpit voice recorders. The Airbus A330-200 crashed in the Atlantic en route from Rio de Janeiro to Paris two years ago, killing all 228 aboard. Investigators say the autopilot disengaged and the aircraft stalled. Air France said the three pilots demonstrated a totally professional attitude and were committed to carrying out their task to the very end. Airbus alluded to pilot error.

8. **Ireland to Axe Air Travel Tax, Cut Airport Levies.**

The Irish government will permanently abolish a €3 per passenger air travel tax, as part of a move to enhance tourism, and reduce the value added tax rate from July 1, 2011 to December 31, 2013. . . . Ireland's Commission for Aviation Regulation published a draft determination on Aviation Terminal Services Charges (ATSCs) that the Irish Aviation Authority (IAA) may levy on airlines for aircraft arriving and departing from Cork, Dublin and Shannon airports in the 2012-2015 period. The 2012 starting cap will drop 28% from this year's level, then 5% annually through 2015. The Commission said "projected

revenues the IAA is expected to collect in 2015 broadly correspond to those collected in 2006/07, when terminal traffic was last close to the level foreseen for 2015.”

9. Estonian Air President, CEO Resigns.

Estonian Air President and CEO Andrus Aljas has resigned, effective June 1, 2011.

10. U.S., EU Revise Passenger Data Agreement.

See Section III, item 2.

11. WTO Ruling on Illegal European Subsidies to Airbus.

See Section VII, item 2.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. Virgin Rebrands Australia, Pacific Operations.

Virgin Blue Holdings is rebranding Australian domestic and short-haul international carrier Virgin Blue and international units Pacific Blue and V Australia to "Virgin Australia." CEO John Borghetti said business class enhancements are aimed at gaining a 20% share of the Australian corporate travel market.

2. Delta, Virgin Australia Expand Code Share Flights.

Delta and Virgin Australia expanded their code sharing arrangement. Delta customers can connect in Sydney on Virgin Australia flights to Brisbane, Melbourne, Perth, Adelaide and Canberra in Australia, and on Pacific Blue to Auckland and Christchurch. V Australia customers can connect in Los Angeles to Delta flights to San Francisco, Las Vegas, Atlanta, Detroit, New York Kennedy and Orlando.

3. United Launches Daily Los Angeles-Shanghai Nonstops.

United launched daily Boeing 777 nonstops between Los Angeles and Shanghai Pudong. The carrier flies 11 daily nonstops to Beijing, Hong Kong and Shanghai from Chicago, Los Angeles, New York, San Francisco and Washington.

4. ANA, Continental Expand Code Share Flights.

ANA and Continental are expanding the number of code share routes to include United's Narita-Houston, Narita-New York and Japan-Guam flights. The two airlines have been operating code share flights since March 2010.

5. JAL to Offer Tokyo-Boston Dreamliner Nonstops.

Japan Airlines will offer service to Boston Logan from Tokyo Narita starting April 22, 2012. The airline plans to operate the Boeing 787-8 configured with business and economy class cabins on this route, making Boston the first destination named by JAL to utilize the Dreamliner.

6. Air China, Cathay Pacific Consolidate Cargo Business.

Air China and Cathay Pacific will consolidate their cargo businesses to create Air China Cargo. Air China will hold a 51% share, while Cathay Pacific holds 25% of the shares and 24% of economic interests in Air China Cargo. The Board of Directors of the Shanghai-based carrier will include four Air China members and three Cathay Pacific members. The fleet will include 12 Boeing B747-400s.

7. SIA to Establish Low-Fare Unit.

Singapore Airlines intends to establish a no-frills, low-fare airline operating widebody aircraft on medium and long-haul routes. Operations are expected to begin within one year. The airline will be wholly owned by Singapore Airlines, operating independently and managed separately from SIA. “Low-fare airlines help stimulate demand for travel,” said CEO Goh Choon Phong, “and we expect this will also prove true for longer flights.”

8. Emirates Profit Rose 51.9% in 2010-11.

Emirates Airline profits rose 51.9%, during fiscal year ending March 31, to \$1.5 billion; revenues grew by 25% to \$14.8 billion. Passenger numbers increased 14.5% to 31.4 million. Load factor was at 80%, with increase in seat capacity (ASKMs) of 13%. Fuel prices accounted for 34.4% of total operating costs, which rose 22.7%. Fiscal year aircraft orders included 32 new Airbus A380s and 30 Boeing 777-300ERs, with a combined value of \$13.4 billion; total number of aircraft on order yearend was 193, worth over \$66 billion. One new B-777-300ER and seven A380s were delivered. Emirates Group reported a 26.4% rise in revenue to \$15.6 billion, with cash balance of \$4.4 billion; international expansion included Plane Handling and caterer Alpha Flight Group acquisitions. “Despite unforeseen challenges in the form of political instability and shocking natural disasters we have managed, through sheer determination, nimbleness and quick thinking, to produce our best ever result,” said Chairman and CEO Sheikh Ahmed bin Saeed Al Maktoum.

9. DOT Proposes to Approve Delta-Virgin Australia Antitrust Immunity.

See Section I, item 1.

10. American, Qantas Seek Approval for Joint Business.

See Section I, item 2.

X. AMERICAS

1. Southwest Closes Acquisition of AirTran.

Southwest closed on its purchase of AirTran, a transaction valued at \$3.2 billion. Net annual synergies are estimated to exceed \$400 million by 2013. Bob Jordan, Southwest Executive Vice President of Strategy and Planning, will serve as President of AirTran during integration and Bob Fornaro, who was AirTran Chairman, President and CEO, is now “a full-time consultant for the integration of the two airlines.” Southwest headquarters will remain in Dallas, with plans for AirTran's operations and presence in both Orlando and Atlanta still under review. The airlines will operate separately until a Single Operating Certificate is obtained from FAA, expected in first quarter 2012. It will take several years to fully transition AirTran into Southwest to become one airline. “The acquisition is an opportunity to extend our network into key markets we don't yet serve, such as Atlanta and Washington, via Reagan National,” said Southwest Chairman Gary Kelly, “expand our presence at New York LaGuardia, Boston Logan, Milwaukee and Baltimore/Washington, and extend our service to smaller domestic cities that we don't serve today and leisure markets in the Caribbean and Mexico.”

2. Spirit Begins Trading on NASDAQ.

Spirit Airlines common stock began trading on the NASDAQ Global Select Market in May under the symbol “SAVE.” The Florida-based ultra-low fare carrier announced new nonstops with fares as low as \$9 each way. New services include twice daily from Dallas/Fort Worth to both Las Vegas and Fort Lauderdale, and five new routes from Myrtle Beach including daily nonstops to Washington Reagan National, three weekly to both Charleston, WV and Plattsburgh, NY, and four weekly to both Niagara Falls and Latrobe/Pittsburgh. Spirit also resumed daily seasonal service to Atlanta.

3. Bradford Rich Named President of SkyWest, Inc.

In a restructuring, Bradford Rich was named President of SkyWest, Inc., effective immediately. As Chief Financial Officer of the company since 1991, he led negotiations for the Atlantic Southeast and ExpressJet acquisitions. Russell “Chip” Childs, President and COO of SkyWest Airlines, and Bradford Holt, President and COO of Atlantic Southeast, will report directly to Rich. Former President Jerry Atkin will remain Chairman and CEO.

4. Delta Increases Atlanta-Brasilia Service.

Delta launched a sixth Boeing 757-200 nonstop between Atlanta and Brasilia. Delta currently offers 32 weekly U.S.-Brazil nonstops and code share service

and frequent flier program reciprocity with GOL between Sao Paulo, Rio de Janeiro and Brasília and 15 Brazilian destinations; that number is expected to increase to more than 30 by summer, pending government approvals.

5. **Brazil Convicts U.S. Pilots For 2006 Crash.**

A Brazilian court convicted two American pilots for their role in the 2006 crash over the Amazon rain forest that killed 154 people, but the judge commuted four-year sentences to community service to be served in the United States. The pilots were flying a private jet that collided with a GOL-operated Boeing 737.

6. **DOT Proposes to Approve Delta-Virgin Australia Antitrust Immunity.**

See Section I, item 1.

7. **American, Qantas Seek Approval for Joint Business.**

See Section I, item 2.

8. **United States, Colombia Sign Open Skies Agreement.**

See Section VII, item 1.

9. **JetBlue, Icelandair Form Interline Partnership.**

See Section VIII, item 3.

10. **Delta-Air France KLM-Alitalia to Reduce Transatlantic Capacity.**

See Section VIII, item 5.

11. **Lufthansa Brings Superjumbo to San Francisco.**

See Section VIII, item 6.

12. **Delta, Virgin Australia Expand Code Share Flights.**

See Section IX, item 2..

13. **United Launches Daily Los Angeles-Shanghai Nonstops.**

See Section IX, item 3.

14. **ANA, Continental Expand Code Share Flights.**

See Section IX, item 4.