



## WASHINGTON AVIATION SUMMARY

March 2013 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. **American Airlines, US Airways Agree to Merge.**

The Boards of Directors of American Airlines parent AMR Corp. and US Airways Group agreed to a merger conditioned on approval by the U.S. Bankruptcy Court for the Southern District of New York, regulatory approvals, approval by US Airways shareholders, other customary closing conditions, and confirmation and consummation of the bankruptcy plan. The combination is expected to be completed in third quarter 2013. (For merger details, see Section X, item 1.)

### 2. **Sequester Looms.**

As automatic, across-the-board cuts in government spending, known as the sequester, were set to take effect March 1, Transportation Secretary Ray LaHood warned of a severe impact on the American travel industry. The Department of Transportation (DOT) must cut \$1 billion, \$600 million of which will come from the Federal Aviation Administration (FAA), with 47,000 FAA employees furloughed for one or two days per pay period through the end of the fiscal year. Layoffs, tower closures and airport delays could begin by April 1. "Travelers should expect delays," said LaHood. "Flights to major cities like New York, Chicago, and San Francisco and others could experience delays of up to 90 minutes during peak hours because we have fewer controllers on staff. Delays in these major airports will ripple across the country." . . . In Senate testimony, Janet Napolitano, Secretary of the Department of Homeland Security (DHS), said sequestration's mandated reductions would require the Transportation Security Administration (TSA) to furlough its frontline workforce and reduce airport operations, substantially increasing passenger wait times at security checkpoints. TSA would need to initiate a hiring freeze in March, eliminate overtime, and furlough its 50,000 officers for up to seven days.

### 3. **FAA Reviews Boeing Proposal on B-787 Battery Issues.**

FAA said it will closely analyze a Boeing proposal regarding B-787 lithium-ion battery issues, after senior executives from the company briefed Deputy Transportation Secretary John Porcari, FAA Administrator Michael Huerta and other agency officials on potential solutions. "The safety of the flying public is our top priority and we won't allow the 787 to return to commercial service until we're confident that any proposed solution has addressed the battery failure risks," said FAA. . . . All 50 delivered 787 Dreamliners were grounded in January, after a battery caught fire in a Japan Airlines (JAL) 787 parked at

Boston Logan, and an All Nippon Airways (ANA) 787 with a smoking battery was forced to make an emergency landing in Japan. The National Transportation Safety Board (NTSB) and Japan's Transport Safety Board are investigating those failures and FAA is conducting a comprehensive review of the 787's critical systems, including the aircraft design, manufacture and assembly. . . . Eight airlines currently operate the 787 and Boeing has orders for another 800. ANA removed its 17 Dreamliners from the schedule through May, including service to Seattle and San Jose. JAL removed its seven 787s from the schedule through March 30, including Narita to Boston and San Diego. United removed its one 787 until June and postponed a new Denver-Tokyo Narita route, which was to begin March 31. Chile's LAN, a LATAM unit, removed three 787s through June, including Santiago-Los Angeles; LAN has 32 Dreamliners on order. LOT Polish Airlines removed its two 787s from the schedule through October, and said it is losing \$50,000 a day due to the grounding. All 787 operators are expected to seek compensation from Boeing. . . . The International Civil Aviation Organization (ICAO) approved a measure that prohibits carriage of lithium ion aircraft batteries as cargo on passenger planes, temporarily rescinding a provision that became effective in January, which gives airlines "operational flexibility to transport aircraft batteries as cargo on passenger aircraft in special circumstances."

4. **U.S. Airlines Eke Out Narrow Profit in 2012.**

The 10 U.S. airlines reporting full-year 2012 results to date earned a combined \$152 million or 21 cents of net profit for every passenger enplaned, reports Airlines for America (A4A). "U.S. airlines eked out another year of meager profitability as expenses grew faster than revenues with record-setting fuel prices serving as a primary driver," said A4A, spending "\$50 billion to fuel their flights despite using half a billion fewer gallons in 2012 than in 2011."

5. **Jeff Shane Appointed IATA General Counsel.**

Jeffrey Shane was named General Counsel of the International Air Transport Association (IATA), effective April 2; he will be based at IATA headquarters in Montreal. A former DOT Undersecretary of Transportation for Policy, where his tenure encompassed the signing of the U.S.-European Union (EU) open skies agreement, Shane also served as DOT Assistant Secretary for Policy and International Affairs and Deputy Assistant Secretary for Transportation Affairs at the U.S. Department of State. Shane succeeds Gary Doernhoefer, who is leaving IATA.

6. **Delta Wins Final Approval for Seattle-Tokyo Haneda Route.**

DOT granted final approval to Delta for nonstop operations to Tokyo Haneda from Seattle. The new flights will begin June 1, 2013.

7. **DOT Fines United for Violating Tarmac Delay Rule.**

DOT fined United \$130,000 for violating federal rules in May 2012 by not informing passengers on an aircraft delayed at Chicago O'Hare that they could leave the plane as it sat at the gate with the door open amid mechanical problems.

8. **Passenger Rights Common Approach on IATA Agenda.**

The proliferation of passenger rights regulations "is a growing and costly mess," and finding a common approach among governments is among IATA's priorities for 2013, said Managing Director Tony Tyler, in remarks to the IATA Legal Symposium in Berlin. The Montreal Convention 1999 establishes basic principles and responsibilities and has been adopted by 103 states as the global standard for an airline's liability to its customers, but governments are creating their own rules and regulations "and such national developments are wreaking havoc on the global system." In 2000, the IATA Annual General Meeting (AGM) endorsed a Global Customer Service Framework, but this discussion faded in the aftermath of 9/11.

9. **IG Report Finds Slow Progress by FAA on Some Safety Needs.**

FAA and industry are advancing the Airline Safety and FAA Extension Act, but challenges remain to achieve its full measure, according to the DOT Office of Inspector General (OIG). In an audit report requested by House and Senate aviation leaders, the IG found that FAA has not provided sufficient attention to smaller carriers for meeting new safety standards, or encouraged large airlines to consistently share safety information and best practices with their regional partners. Among other findings, FAA is experiencing lengthy delays and considerable industry opposition in issuing and finalizing rules to enhance pilot qualification and training standards; and developing a long-term strategy for transitioning to a new pilot records database, including addressing privacy concerns. The IG made five recommendations, with which FAA concurred or partially concurred, and asked the agency to submit more information.

10. **December Passenger Airline Employment Down 2.6%.**

U.S. scheduled passenger airlines employed 379,571 workers in December, down 2.6% or 10,157 from December 2011 and the lowest monthly total for any month since December 2010, reported DOT. The five network airlines reported 3.3 % fewer workers in December, the six low-cost carriers reported a 0.4% increase, and seven of the 14 regionals reported reduced levels.

**11. DOT Reports on Tarmac Delays.**

Dot reports that for year 2012, there were 42 tarmac delays longer than three hours on U.S. domestic flights, down from 50 in 2011 and 693 from May 2009 to April 2010, the 12 months before the tarmac delay rule took effect. In December, airlines reported 16 tarmac delays of more than three hours on domestic flights, 14 of which were at Dallas-Fort Worth amid a snow and ice storm; one of more than four hours occurred on international flights.

**12. DOT Air Travel Consumer Report for December.**

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

	Dec. '12/'11	Nov. '12	Full Year				
			2012	2011	2010	2009	2008
On-time arrivals %	76.6 / 84.4	85.7	81.85	79.6	79.8	79.5	76
Cancellations %	1.6 / 0.8	1.0	1.29	1.91	1.76	1.39	1.96
Mishandled baggage*	4.15 / 3.22	2.64	3.09	3.35	3.51	3.91	5.26
Consumer complaints:							
Airline service	901 / 711	987	15,335	11,546	10,988	8,821	10,648
Disability-related	35 / 59	55	743	628	572	519	477
Discrimination**	3 / 7	7	99	128	143	131	115

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. ACI-NA Releases 2013 Capital Needs Survey

U.S. airports need \$71.3 billion worth of essential infrastructure projects by 2017, including major runway and terminal expansions to keep pace with growth forecasts, according to Airports Council International-North America (ACI-NA). Available funding falls far short of that amount, says ACI-NA, advocating an increase in the Passenger Facility Charge, the value of which “has declined dramatically in inflation adjusted terms since Congress imposed the PFC ceiling in 2000.” FAA predicts one billion air travelers per year in the U.S. by 2024, and the Obama Administration has set a goal of attracting 100 million overseas visitors by 2021.

### 2. Orlando Proposes \$2.1 Billion Expansion Plan.

Greater Orlando Aviation Authority presented a \$2.1 billion plan for airport improvements through 2018, including \$1.3 billion for a south terminal complex and new 16-gate terminal, and \$114 million for improvements to international traffic flow. Some \$746 million would come from future airline fees, reports the *Orlando Business Journal*. The airport handled a record 3.7 million international passengers in 2012. Since 2009 international traffic has grown by more than 27%.

### 3. LAWA Approves LAX Runway Plan.

The Los Angeles Board of Airport Commissioners (LAWA) approved the final environmental impact statement and conceptual plans for proposed Los Angeles International (LAX) improvements. The \$4.76 billion proposal includes a controversial project that will move a runway closer to nearby homes, terminal additions, people mover, passenger facilities upgrades, new parking areas, consolidated car rental facility and light rail station. Construction would be completed by 2025, if approved by FAA and other decision-making bodies. The separation of two northern runways would allow for a taxiway and facilitate handling of very large aircraft; currently, the Airbus A380 requires special handling. Community opponents point to an increase in noise, air pollution and traffic congestion; LAWA officials said measures will be taken to reduce environmental effects.

### 4. Addition of 11 Gates Continues Delta's JFK Investment.

A \$175 million project at Kennedy International will add 11 gates and 75,000 square feet to Terminal 4's Concourse B and replace Delta's current Terminal 2 regional jet operation, announced Delta, Port Authority of New York and

New Jersey and Schiphol unit JFK International Air Terminal (JFKIAT). Delta committed another \$5 million for information technology enhancements. . . . The previously announced \$1.2 billion redevelopment at Terminal 4, set to open in May, features nine new and seven renovated international gates.

**5. Alaska May Fly From Paine Field.**

Alaska Airlines is considering serving Paine Field, near Everett, Washington which was approved for passenger flights by FAA in December and said it would serve if other airlines begin passenger service there. A proposed schedule to FAA includes 14 weekly Boeing 737-800 roundtrips to Las Vegas, Honolulu and Maui; and 21 weekly Bombardier Q400 roundtrips to Portland. By fifth year of operations, Alaska would fly 49 weekly roundtrips, adding Los Angeles, Phoenix and San Diego. "Our flights at Sea-Tac and Bellingham best serve the Puget Sound region's needs for affordable air travel," said the airline, but if "other airlines begin operations at Paine Field, we would commence service." No commercial service could begin until a passenger terminal is constructed.

**6. Private Company to Operate Puerto Rico Airport.**

Aerostar Airport Holdings won FAA approval to lease and operate San Juan Luis Munoz Marin International (SJU) in a public-private partnership with Puerto Rico Port Authority (PRAA). A joint venture of New York-based Highstar Capital and Mexican airport operator ASUR, Aerostar will invest \$1.4 billion over the 40-year lease "to transform SJU into a world-class airport gateway," with an initial \$615 million leasehold fee, followed by up to \$240 million in first three years. Unions and legislators oppose the transaction, saying it will lead to lost jobs, reduced wages and higher passenger costs; however PRAA lacks means to pay looming debt or invest in SJU, which is the Caribbean's busiest airport, handling 8.4 million passengers last year. FAA approval is subject to certain conditions, among which PRAA cannot use revenue from other airports to compensate Aerostar.

**7. Quito Airport Moved.**

Ecuador's Mariscal Sucre was moved from the capital to a site 12 miles northeast of Quito. The new facility occupies 12 times the area of the old one, has a 4,100-meter runway and can handle 290 flights a day.

**8. Non-EU Airports Post Strong 2012 Performance.**

ACI Europe reported 2012 passenger traffic at European airports increased 1.8% over 2011, +0.2% at EU and +8.8% at non-EU airports, led by Turkey, Russia, Georgia, Iceland and Moldova. Freight traffic decreased by 2.8%.

Since 2008, passenger traffic increased 2.5% at EU and 38% at non-EU airports. Nearly flat growth is expected this year.

**9. Heathrow, Gatwick Propose New Investment, Fee Hikes.**

Heathrow Ltd. announced a new £3 billion investment and requested authority to increase airline fees to help fund the project; the Civil Aviation Authority (CAA) will publish a final decision next January. . . . London Gatwick proposed a £1 billion investment between 2014 and 2019 and “bilateral, tailored contracts” with airlines to replace CAA-regulated fees.

**10. Rome Airports to Receive Major Investment.**

More than €3.1 billion will be invested over the next 10 years, and €12 billion through 2044, to modernize Rome’s airport system and create “one of the main tourist destinations at world level,” said Italian holding company Gemina, parent of airport operator ADR. For the 2013-2016 period, ADR will seek authorization to spend €1.2 billion to improve terminal facilities, runways and taxiways, in an effort to increase traffic, down 10% in January from a year ago.

**11. Singapore Changi to Combine Budget, Full-Service Terminals.**

Changi Airport Group will develop Terminal 4 to serve both full service and low-cost carriers, at a cost of S\$600 million, and will spend another S\$680 million on airfield infrastructure, security, airport systems, ancillary buildings and road and drainage works. The project primarily will handle narrow body aircraft, raising handling capacity to 82 million a year. “T4 will offer what passengers wanted more of in the Budget Terminal—passenger-friendly facilities and attractive commercial offerings,” including aerobridges at boarding gates, said Changi. Construction will begin this year with completion expected in 2017.

**12. World’s First A380 Facility Fully Open for Business.**

The world’s first facility built for the Airbus A380 opened at Dubai International after a five-week phase-in. Built for Emirates Airlines, the 528,000 square meter, 11-floor facility has 20 A380-capable gates and first and business class lounges with direct access to boarding gates. Emirates has a current fleet of 31 A380s and 59 on order. Concourse A boosts Dubai capacity from 60 million to 75 million passengers per year, and is part of a \$7.8 billion plan to increase capacity to 90 million by 2018.



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

#### 1. **Efforts to Strengthen Cybersecurity for U.S. Critical Infrastructure.**

The Departments of Homeland Security and Commerce signed a Memorandum of Agreement to improve synchronization and mutual support of their efforts to improve cybersecurity while protecting privacy and civil liberties. The move followed the signing by President Obama of an Executive Order on Improving Critical Infrastructure Cybersecurity and a Presidential Policy Directive on Critical Infrastructure Security and Resilience. The actions are meant to strengthen the security and resilience of critical infrastructure against evolving threats through an updated and overarching national framework. Critical infrastructure includes distributed networks, varied organizational structures and operating models (including multi-national ownership), interdependent functions and systems in both physical space and cyberspace, and governance constructs that involve multi-level authorities, responsibilities, and regulations. Critical infrastructure faces a variety of risks to its security and ability to function, including manmade acts of terror, extreme weather events, other natural disasters and cyber attacks.

#### 2. **TSA Seeks Concepts to Expand PreCheck.**

A Transportation Security Administration (TSA) initiative to rapidly increase the number of Americans eligible for prescreening under its PreCheck trusted traveler system asks private firms to submit concepts through April 1, reports *Homeland Security Today*. Processes are needed that use non-governmental data for risk analysis of applicants, said TSA. Test and evaluation will follow, then live prototyping. . . . TSA announced five more airports will offer PreCheck by April 1, bringing total number of participants to 40.

#### 3. **TSA Explosives Detection Canine Program Needs Better Analysis.**

TSA has not fully analyzed data collected in its Canine Website System, reports the Government Accountability Office (GAO), such as amount of time spent on training the bomb-sniffing dogs and monitoring effectiveness. Such analyses could help determine canine team proficiency, inform future deployment efforts and help ensure that taxpayer funds are used effectively. The Department of Homeland Security concurred with GAO recommendations to comprehensively assess effectiveness of passenger screening canines and deploy them to highest-risk airport locations. TSA's National Canine Program is composed of 760 deployed explosives detection canine teams.

4. **Passengers Leave \$531,000 at Airport Checkpoints in 2012.**

TSA collected about \$531,000 in loose change left behind by passengers at airport security checkpoints in 2012, reports *The Hill*, compared to \$488,000 in 2011 and \$409,000 in 2010. Under federal law, the agency can use unclaimed money for its operations, although there are attempts in Congress to allocate it to United Service Organizations (USO), which support members of the military.

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

### **1. Online Travel Spending Surpasses \$100 Billion for First Time.**

U.S. travel e-commerce sales rose 9% in 2012 to \$103 billion. Air travel rose 10% and accounted for nearly two-thirds of all travel spending. Southwest led airline sites in 2012 with 20% of page views, followed by Delta with 15.5%, United at 14.7%, American at 13.2% and US Airways at 3.4%. Expedia, which includes Hotwire, ranked first among online travel agents with 31.6% of all category page views, followed by Priceline (17.3%), Orbitz Worldwide (12.9%), Fareportal Media, which includes CheapoAir (9.2%), Travelocity (7.6%) and Kayak (6.9%).

### **2. Judge Denies Orbitz Claim in American Dispute.**

A judge ruled against Orbitz Worldwide's claim that it had tentatively settled its antitrust lawsuit with American Airlines, but did not have a signed agreement. The court is disinclined to enforce anything short of a final, signed agreement, said U.S. District Judge Terry Means in Fort Worth. . . . In American's dispute with Travelport, Southwest told the court that American's motion to obtain certain distribution documents from Southwest is a ploy to obtain trade secrets.

### **3. Travelport Launches New Fare Management Tool.**

Travelport introduced Net Fare Manager, which allows travel agents to "manage, mark-up and control the onward distribution of their airline filed private fares." From a single screen, new and updated negotiated fares are displayed for redistribution to any travel agency location worldwide. Travelport global distribution systems include Galileo and Worldspan.

### **4. Study Finds Airline Fee Changes Confuse Travelers.**

Airline fees comparison tool TravelNerd reports that U.S. airlines changed 52 different fees in 2012. Of those, 36 were direct fee increases and the rest were a result of bundling/unbundling, increasing fee ranges and redefining fee policies. A new trend for carriers that TravelNerd said is more confusing for travelers and complicates price comparison is bundling and tiering services. TravelNerd compared fees (including announced upcoming fee changes) of 14 major U.S. airlines in January 2013 to those reported in 2012.

### **5. "Take Travel Back" Campaign to Reward Designing Travelers.**

"Take Travel Back," a campaign "aimed at solving the pain points and large-scale problems associated with modern day travel," was launched by

transportation design firm Teague. A \$500 award goes to website visitors who present the most original and compelling ideas to improve the travel experience.

**6. Farelogix Launches Product with Full Mobile Optimization.**

Airline Commerce Gateway, a distribution platform introduced by Farelogix, enables airlines to ensure uninterrupted customer engagement throughout the trip, from check-in, to seat upgrade or purchase of inflight Wi-Fi or other flight or airport-related services. The Gateway is the first technology platform to enable Passenger Name Record self-service, including ticket changes and exchanges, ancillary purchases, and airline-generated passenger recovery options. Travelers can change flights on smartphones or tablets, and airlines can announce pending disruptions on a mobile device and offer such actions as canceling a reservation or selecting a new flight. The airline-controlled commerce environment combines XML Host Connectivity (Direct Connect), an independent pricing engine (Virtual Fare Store), a merchandising system (FMS2), a distribution rules engine (Distribution Manager), and an XML API (Gateway API).

## V. ENERGY AND ENVIRONMENT

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

Average price of aviation jet fuel, as of February 15, was \$138.3/barrel, up 6.5% on the month and up 2.5% year-on-year, reports the International Air Transport Association. Fuel price average for 2013 was \$133.7/barrel.

### 2. ICAO Progress on New Aircraft CO2 and Noise Standards.

Certification procedures supporting a new CO2 standard for aircraft and a new global noise standard were agreed upon by the ICAO Committee on Aviation Environmental Protection. The noise standard will be 7EPNdB below ICAO's current standard and applicable to new-design aircraft entering into service from 2017 and from 2020 for lower weight aircraft. EPNdB is a measure of human annoyance due to aircraft noise, taking into account perceived noise level and duration. The new noise standard follows a review of technological, environmental and economic factors involved and will be presented to the ICAO Council after formal state consultation.

### 3. Panel Backs Freeze of EU ETS for Intercontinental Flights.

The European Parliament Environment Committee backed a Commission proposal to suspend the EU Emissions Trading System (EU ETS) for intercontinental flights for one year. The Committee said the suspension could extend beyond a year if clear and sufficient progress is made by ICAO on a global agreement to regulate carbon dioxide emissions. Full parliamentary acceptance is expected in April.

### 4. FAA and Spain Cooperate in Alternative Aviation Fuels

FAA and the Spanish Aviation Safety and Security Agency signed a Declaration of Cooperation to promote development and use of sustainable alternative aviation fuels in the U.S. and Spain. Cooperation will include exchange of information about research results, publications, funded research and development activities. The parties will share best practices in alternative jet fuel conversion research, development and deployment. Other possibilities for cooperation include researching life-cycle effects from alternative fuel emissions on the atmosphere, and research leading to reductions in cost of producing alternative aviation fuels.

### 5. EU Initiative to Support Biofuel Research.

An initiative to speed deployment of advanced sustainable biofuels in Europe was announced by CEOs of British Airways, Chemtex, BTG, Chemrec,

Clariant, Dong Energy and UPM. Second-generation biofuels (2GAB) can reduce greenhouse gas emissions by at least 65% and do not compete with food, said Leaders of Sustainable Biofuels, while first-generation biofuels, made from corn, wheat, soy or palm, provide only modest reductions and can push up food prices. The group intends to stimulate EU policy “toward accelerated industrial research and innovation into emerging biofuel technologies, including algae and new conversion pathways, supported by public and private policies promoting deployment.”

**6. Russian Tender for Alternative Jet Fuels.**

Russia’s Industry and Trade Ministry is offering \$20 million to develop cryogenic fuels and biofuels for use in aircraft, reports Bloomberg. The tender also calls for studying use of natural gas and alternative energy sources in aviation, including solar power, microwaves and lasers.

## VI. U.S. CONGRESS

### 1. Senate Aviation Subcommittee Named.

Maria Cantwell (D-WA) was named Senate Commerce Aviation Subcommittee Chair for the 113th Congress. Kelly Ayotte (R-NH) is Ranking Member. Members include Democrats Barbara Boxer, Bill Nelson, Frank Lautenberg, Mark Pryor, Amy Klobuchar, Mark Warner, Mark Begich, Brian Schatz and William Cowan, and Republicans Roger Wicker, Roy Blunt, Marco Rubio, Dean Heller, Tim Scott, Ted Cruz, Deb Fischer and Ron Johnson. Chairman of the Senate Commerce Committee is Jay Rockefeller (D-WVA); Ranking Member is John Thune (R-SD).

### 2. Senate Weighs in on American-US Airways Merger.

Senate Judiciary Antitrust Subcommittee Chair Amy Klobuchar and Ranking Member Michael Lee are holding hearings on the American Airlines-US Airways combination to “ensure that an additional merger of this magnitude would not lead to higher passenger fares, result in diminished service to regional markets, or allow for coordinated conduct among rivals.” Commerce Committee Chairman Jay Rockefeller said, “any further airline merger must be carefully evaluated to make sure it is in the best interest of the travelling public by creating more competition, more options, and lower fares.” Industry consolidation has created stronger, more financially viable airlines, necessary for our long-term economic growth, but has also resulted in fewer choices for consumers, higher air fares, and reduced service to small and medium sized communities, said Rockefeller.

### 3. House Transportation Leaders Briefed on Boeing 787 Review.

House Transportation leaders received a briefing by FAA Administrator Michael Huerta on the agency’s review of the Boeing Dreamliner battery incidents. In a joint statement, Committee Chairman Bill Shuster (R-PA), Ranking Member Nick Rahall (D-WV), Aviation Subcommittee Chairman Frank LoBiondo (R-NJ) and Subcommittee Ranking Member Rick Larsen (D-WA) said they will continue to monitor the situation closely; they asked FAA to “share any lessons learned as a result of their review so that we can continue to ensure the U.S. civil aviation system remains the safest in the world.”

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

### **1. Transatlantic Trade and Investment Partnership Planned.**

The United States and European Union will initiate internal procedures to launch negotiations on a Transatlantic Trade and Investment Partnership that would address regulatory and other non-tariff barriers. In a joint statement, U.S. President Barack Obama, European Council President Herman Van Rompuy and European Commission (EC) President José Manuel Barroso said, “The transatlantic economic relationship is already the world’s largest, accounting for half of global economic output and nearly one trillion dollars in goods and services trade.” The parties hope “to contribute to the development of global rules that can strengthen the multilateral trading system.”

### **2. Delta, Others Sue Export-Import Bank Over Aircraft Subsidies.**

Delta, Hawaiian and Air Line Pilots Association sued the Export-Import Bank of the United States in U.S. District Court in Washington, DC, over loan guarantees provided to foreign airlines for purchasing aircraft manufactured by U.S. companies. The suit alleges that new Export-Import Bank procedures for conducting economic analysis are illegal and asks that they be blocked before they take effect in April.



## VIII. EUROPE AND AFRICA

### 1. Report: Sacking UK APD Would Create 60,000 Jobs.

A PricewaterhouseCoopers study says abolishing the UK Air Passenger Duty (APD) would provide the UK economy with a much needed boost creating 0.46% GDP in first year and £16bn in first three years, and would result in 60,000 new jobs, said the CEOs of British Airways, Virgin Atlantic, Ryanair and easyJet, who commissioned the report. “Should APD be abolished, the aviation industry would be able to move quickly to add new flights in and out of the UK or invest in new products and services,” they said. . . . Citing the report, Ryanair urged the Irish government to scrap its travel tax; passenger numbers at Irish airports fell from 30 million in 2007 to 22.8 million in 2012.

### 2. EC Blocks Ryanair Takeover of Aer Lingus.

The European Commission blocked the proposed takeover of Aer Lingus by Ryanair, saying a merger would harm consumers by creating a dominant position on 46 routes, and a monopoly on 28 of those routes. Remedies proposed by Ryanair “were simply inadequate to solve the very serious competition problems which this acquisition would have created,” said Competition Policy Vice President Joaquín Almunia. Ryanair had proposed ceding some London airport slots to British Airways for Ireland routes, and divesting Aer Lingus operations on 43 overlap routes to Flybe. “We were not convinced that Flybe would have the experience and the ability to maintain and develop this business as a viable and active force, capable of competing with Ryanair,” said Almunia. Ryanair refuted the decision, called it “a political decision to pander to the vested interests of the Irish Government,” and said it will appeal. This was the low-cost airline’s third attempt to acquire the flag carrier. Separately, the UK Competition Commission is reviewing Ryanair’s 29.8% shareholding of Aer Lingus.

### 3. Air France KLM 2012 Financials Improve.

Air France-KLM reported an operating loss of €300 million for 2012, compared to a €353 million 2011 loss. Revenue rose 5.2% to €25.63 billion, while net debt fell to €6 billion from €6.5 billion. Passenger traffic rose by 2.1%, capacity by 0.6%, with load factor at 83.1%. Revenues per available seat rose by 5.9%. Cargo traffic was down 6.3%. The company last June announced a plan to cut €2 billion in costs, reduce debt and return to profit by end of 2015. Since then, said Chairman Jean-Cyril Spinetta, “our fundamentals were restored, working practices overhauled, industrial projects determined for each of our businesses, while reducing costs and improving our financial position [and] in

2013 we will maintain strict discipline in terms of capacity management, investments and costs.” . . . Camiel Eurlings was named President/CEO of KLM, effective July 1, succeeding Peter Hartman who will retain his seat on the Air France KLM Board until he retires on January 1, 2014. Eurlings joined the KLM Board in July 2011.

**4. Alitalia CEO Resigns.**

The Alitalia Board of Directors and Andrea Ragnetti “mutually agreed to terminate their relationship,” and Ragnetti resigned as CEO of Alitalia and Air One, as well as Managing Director of Alitalia. Chairman Roberto Colaninno was granted interim power until a new CEO is appointed. Alitalia reported a 2012 net loss of €280 million, compared to €69 million in 2011, with revenues at €3.6 billion up 3.3%. Air France-KLM holds a 25% stake in Alitalia, with the remainder held by Italian financial institutions and companies.

**5. Iberia Plan to Cut 3,800 Workers Leads to Strikes.**

Iberia ground staff and cabin crews began 15 days of strikes, to take place over three periods in February and March, to protest planned cuts of 3,800 workers, pay freezes and reductions, and new productivity measures. Iberia, a unit of International Consolidated Airlines Group, lost €262 million in first nine months 2012, “obliging the company to take drastic measures to reduce costs and improve unit revenues in order to remain in business.” Negotiations with unions continue.

**6. Thomas Cook Reorganizes Airline Business.**

Thomas Cook is reorganizing its airline business “into a single, cohesive operating structure,” from March 1, merging its Belgian, German (Condor) and UK airlines under a new structure and leadership team. Thomas Cook Scandinavia will not be included in the new structure, but will coordinate across all functional areas, while exploring ways to integrate more fully.

**7. Transatlantic Trade and Investment Partnership Planned.**

See Section VII, item 1.

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

### **1. ACCC Approves Virgin Australia Acquisition of Skywest.**

The Australian Competition and Consumer Commission (ACCC) will not oppose the proposed acquisition of Perth-based regional Skywest by Virgin Australia, since direct overlap is limited to a single route between Perth and Broome. . . . In a preliminary review of Virgin Australia's proposed purchase of 60% of Tiger Airways Australia, ACCC saw a risk to competition due to "reduction in number of airline groups within Australia from three to two (excluding regional airlines), the loss of Tiger Australia as an independently owned discount competitor, and increased ability on the part of Qantas/Jetstar and Virgin Australia/Tiger Australia to coordinate activities once Tiger Australia is no longer operating as an independent low-cost carrier."

### **2. JetBlue Links With Aer Lingus, Asiana.**

JetBlue and Aer Lingus expanded their partnership to code share on the Irish carrier's transatlantic flights and on JetBlue routes in North America, subject to government approval. Aer Lingus will move its New York Kennedy operations from Terminal 4 to JetBlue's Terminal 5 in April. . . . JetBlue and Asiana signed an interline agreement for transfers from Kennedy and Los Angeles International, where the South Korean carrier arrives daily from Seoul.

### **3. Korean Air Increases Frequency to U.S.**

Korean Air will begin Airbus A380 service from Seoul to Atlanta in August, the first airline to fly the superjumbo to Hartsfield-Jackson. A380s eventually will replace most Boeing 777s used on the route. Korean Air A380s feature a 94-seat all-business class upstairs with full flat beds, bars and duty free showcase. The carrier will increase summer service to the Americas; five weekly flights to Seattle, Dallas and Toronto will increase to daily and three weekly flights to Las Vegas to four weekly. Flights to Los Angeles via Tokyo Narita will go to Honolulu instead.

### **4. Malaysia Joins oneworld, Code Shares With American.**

Malaysia Airlines was welcomed into the oneworld alliance. In related news, American and Malaysia agreed to codeshare on Malaysia's nonstops between Kuala Lumpur and Southeast Asia destinations, and on flights to the carriers' European gateways such as Paris and London, beginning March 1, subject to government approvals.

**5. AirAsia Proposes Indian Joint Venture.**

Malaysia-based AirAsia signed an initial agreement with Tata Sons and Arun Bhatia of Telestra Tradeplace to establish a budget airline in India. Subject to approval by India's Foreign Investment Promotion Board, Air Asia will hold 49% of the proposed joint venture, Tata Sons 30% and Bhatia 21%. In September, India opened the aviation sector to investment by foreign carriers. The airline would operate from Chennai. . . . India will make Kingfisher's slots and foreign flying rights available to other operators; the debt-ridden airline has been grounded since October.

**6. Etihad 2012 Net Profit Jumps 200%.**

Etihad reported a 200% jump in profit, from \$14 million in 2011 to \$42 million in 2012. Revenue increased 17% to \$4.1 billion, on passenger numbers up 23% to 10.3 million. Equity partnerships and codeshares (41 partners) delivered more than \$600 million in total revenue, said James Hogan, President/CEO of the Abu Dhabi-based carrier, which has investments in airberlin, Air Seychelles, Virgin Australia and Aer Lingus. Cargo tonnage grew 19% to 367,837 tonnes.

**7. Bahrain Air Suspends Operations.**

Bahrain Air suspended operations and filed for voluntary liquidation, due to "considerable financial losses as a result of the unstable political and security situation," and a failure to win new routes. The privately run airline, rival to state-owned Gulf Air, said it has received no compensation from the state, which has struggled with unrest since 2011. The Minister of Transportation is a Gulf Air board member.

**8. Delta Wins Final Approval for Seattle-Tokyo Haneda Route.**

See Section I, item 6.

## **X. AMERICAS**

### **1. American Airlines, US Airways Agree to Merge.**

A definitive merger agreement was reached by the Boards of Directors of American Airlines parent AMR Corp. and US Airways Group, under which the companies will combine to create a carrier with combined equity value of \$11 billion based on the price of US Airways stock as of February 13, 2013. American Chairman/President/CEO Thomas Horton will serve as Chairman and representative to the oneworld Alliance, of which he is currently Chairman, and to IATA, through the first annual shareholder meeting. US Airways Chairman/CEO Doug Parker will serve as CEO and on the Board, and will become Chairman at conclusion of Horton's service. The Board initially will have three representatives from American, four from US Airways and five from AMR creditors. Headquarters will be in Dallas-Fort Worth, with significant corporate and operational presence in Phoenix. Unions representing American's pilots, flight attendants and ground employees and US Airways' pilots have agreed to terms for improved collective bargaining pacts effective upon merger close; US Airways flight attendants reached a tentative agreement that includes support for the merger. Unions are working on representation and single agreement protocols. The transaction could generate more than \$1 billion in annual net synergies in 2015, including \$900 million in network revenue synergies; estimated cost synergies of \$150 million are net of impact of combined labor contracts. One-time transition costs are expected to be \$1.2 billion, spread over three years. The combined airline will: operate under the American Airlines name; offer 6,700 daily flights to 336 destinations in 56 countries from current hubs; have \$40 billion in revenues based upon each company's projected 2013 performance; take delivery of 600 new aircraft in the next decade. Regional carriers—AMR's American Eagle and US Airways' Piedmont and PSA—will continue to operate as distinct entities. The merger is conditioned on approval by the U.S. Bankruptcy Court for the Southern District of New York, regulatory approvals, approval by US Airways shareholders, other customary closing conditions, and confirmation and consummation of the bankruptcy plan. The combination will create the largest airline in the world. Completion expected in third quarter 2013.

### **2. United, IAM Reach Tentative Agreements.**

United Continental Holdings reached tentative agreements on new joint collective bargaining agreements with the International Association of Machinists (IAM) for fleet service, passenger service and storekeeper workgroups at United, Continental, Continental Micronesia and MileagePlus subsidiaries. The agreements are subject to ratification by IAM members.

**3. Southwest, AirTran Connecting Networks.**

The networks of Southwest and subsidiary AirTran are being combined. After an initial phase in five markets in January, Southwest launched shared itineraries in 39 cities in February and expects to fully connect the networks in April. "The transition to a single ticketing system is a large and complex process that is expected to be completed by the end of 2014," said Southwest, which acquired AirTran in May 2011.

**4. Spirit Reports Fourth Consecutive Year of Profitability.**

Spirit reported a record \$103.8 million net income for full year 2012; operating margin was 12.6%. Total operating revenue increased 23.1% to \$1.3 billion, compared to same period 2011; total operating expense was \$1.1 billion, up 23.5%, largely driven by fuel and expenses associated with capacity increasing by 21.3% year-over-year. The company estimates a \$25 million negative revenue impact (\$24 million pre-tax income, \$15 million after tax) from Hurricane Sandy. With 45 aircraft in its fleet currently, Spirit has nine scheduled for delivery in 2013, seven new Airbus A320s and two used A319s.

**5. Island Air Acquired by Larry Ellison.**

Island Air was acquired by newly formed holding company Lawrence Investments, owned by Oracle co-founder and CEO Larry Ellison. The regional carrier offers 224 weekly flights among the Hawaiian islands and code shares with United. There are no planned staff changes, said Island Air President Les Murashige, and the carrier will continue operations as usual while developing plans for additional planes, routes and services.

**6. Mexican Investors Acquire Stake in Aeromexico.**

A group of Mexican investors, led by Eduardo Tricio and Valentin Diez-Morodo, acquired an additional 20.19% stake in Aeromexico from Citigroup unit Banamex, which retains 17.91%. Tricio will be Chairman of Aeromexico, succeeding Jose Luis Barraza Gonzalez, and will have a personal stake of more than 10%. Diez-Morodo will be Vice-Chairman and Andres Conesa will remain CEO. Tricio is currently Chairman of Grupo Lala, Mexico's largest milk producer, which in 2009 acquired Dallas-based National Dairy, with brands such as Borden.

**7. LAN, TAM Lose Bolivian Rights.**

LATAM units LAN and TAM-Mercosur were notified by Bolivia's air transport regulator that they are no longer authorized to provide service there. They will formally seek to renew their licenses, with the objective of continuing to regularly operate their flights, reports Reuters; flights for which customers

already hold tickets will operate normally and will not be affected by the resolution.

8. **Delta Wins Final Approval for Seattle-Tokyo Haneda Route.**  
See Section I, item 6.
9. **JetBlue Links With Aer Lingus, Asiana.**  
See Section IX, item 2.
10. **Korean Air Increases Frequency to U.S.**  
See Section IX, item 3.
11. **Malaysia Joins oneworld, Code Shares With American.**  
See Section IX, item 4.