



## 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. Fire at Chicago Air Traffic Facility Stalls Flights Nationwide.

A fire in a telecommunications room at the Chicago En Route Center in Aurora, IL resulted in thousands of flight cancellations and delays across the nation. An employee was charged with arson, and the Federal Bureau of Investigation and Bureau of Alcohol, Tobacco, Firearms and Explosives are investigating. The Federal Aviation Administration (FAA) said its Command Center in Warrenton, VA worked with airlines that serve Chicago-area airports to minimize disruptions. Chicago Center controllers assisted at Chicago Terminal Radar Approach Control (TRACON) in Elgin, IL and at high-altitude air traffic centers near Minneapolis, Kansas City, Indianapolis and Cleveland to manage Chicago air traffic flows. The Center is replacing fire-damaged equipment, and full service is expected by October 13. FAA is conducting a 30-day review of contingency plans and security protocols for its major facilities. Members of Congress from Illinois asked the Department of Transportation Inspector General to conduct an immediate investigation into FAA emergency protocol and mitigation measures at Chicago air traffic control facilities.

### 2. Al Qaida Cell Threatens U.S.-Bound Airliners.

As U.S. airstrikes in Syria targeted an al Qaida cell known as the Khorasan Group, officials revealed that the group is constructing explosive devices that can pass undetected through airport security, and seeking recruits who hold U.S. or European passports. Attorney General Eric Holder said a Department of Homeland Security ban earlier this year on uncharged laptops, cellphones and other electronic devices on some U.S.-bound flights was based on knowledge of Khorasan Group plans. (See also Section VI, item 2.)

### 3. DOT Dismisses NAI Exemption Application; Review Continues.

The U.S. Department of Transportation (DOT) dismissed Norwegian Air International's (NAI) request for an exemption to launch low-cost flights to the U.S. from Europe. "Because of the extensive record, which reflects the novel and complex nature of this case," DOT said it "does not find that a temporary exemption is appropriate or in the public interest," and will continue to review the application. Parties that submitted comments in support of the application include airport and travel groups, as well as the European Commission (EC), which notes that under EU-U.S. Open Skies, NAI should be allowed to access the market. Airline and labor groups are opposed; NAI is registered in Ireland, which, says Air Line Pilots Association, Int'l (ALPA), allows it to avoid

Norway's employment laws and use Thailand-based pilots who "work under individual employment contracts that contain compensation and benefits substantially below that of the Norway-based pilots who fly for NAI's parent company"; i.e., Norwegian Air Shuttle, which continues to operate to the U.S. under existing DOT authority.

4. **DOT Approves Azul U.S. Flights.**

DOT approved David Neeleman's Brazilian airline Azul's application to launch U.S. service. Azul plans to launch daily service from Sao Paulo to Fort Lauderdale and Orlando this year, and daily to New York Kennedy next year. Neeleman was a JetBlue founder.

5. **IG Audits DOT Oversight of Frequent Flyer Programs.**

The DOT Office of Inspector General is auditing DOT oversight of airline compliance with frequent flyer program disclosure requirements. Rep. Alan Grayson (D-Fla.) requested the review, due to concern about lack of transparency for consumers when airlines change program terms and conditions. The audit will determine whether airline websites show government fees, taxes or mandatory carrier charges.

6. **DOT Urged to Act on Consumer Rights NPRM.**

Business Travel Coalition (BTC) urged DOT Secretary Anthony Foxx to move forward quickly on the Notice of Proposed Rulemaking (NPRM), published in May, that covers transparency of ancillary fees and other consumer protection issues. "The concern is that the ancillary-fee rule may well become entangled with a raft of knotty issues arising from the other proposals consequently pushing a decision deep into 2015, or even halting the process indefinitely," wrote BTC. The coalition alleges that airlines withhold ancillary fee data from ticket agents, and wants fee data in a format that allows purchase of ancillary services in the same transaction as the base ticket. 63 "major consumers and sellers of airline services" signed the letter. . . . Ancillary revenue has allowed the world's airline industry to "tilt into the column of profitability," says IdeaWorksCompany, which in 2007 identified \$2.45 billion in ancillary revenue at 23 airlines. In 2013, the fees earned \$20.4 billion for the top 10 earners of 59 airlines. Non-ticket fees in 2013 accounted for 10.2% of U.S. industry revenue, with United's at \$5.7 billion.

7. **FAA Fines.**

FAA proposed civil penalties for alleged violations of Hazardous Materials Regulations against British Airways (\$195,000), for offering a cardboard box containing a chemical oxygen generator to American Airlines for shipment aboard a passenger aircraft; and against FedEx (\$65,000), for accepting a

cardboard box containing cans of paint for shipment by air. . . . It proposed a \$60,000 civil penalty against American Eagle for failing to follow approved de-icing procedures for flights out of Sioux Falls in 2013. . . . Alaska Airlines agreed to pay \$500,000 in civil penalty claims related to a 2010 electrical fire in the cockpit of a Boeing 737-400 parked at Anchorage; under the settlement, Alaska denies all legal responsibility. . . . FAA also proposed a \$425,000 fine for Gulfstream Aerospace Corp., for failing to comply with regulations related to training aircraft mechanics; and \$417,000 for Tecom Industries, for failing to provide adequate drug and alcohol testing for safety-sensitive employees, among other violations of federal drug and alcohol regulations.

**8. NTSB Finds Mismanaged Approach Led to UPS Birmingham Crash.**

The National Transportation Safety Board (NTSB) determined a mismanaged approach caused the 2013 crash of a UPS Airbus A300-600, on approach to Birmingham International. Flight crew fatigue contributed to the accident, in which both pilots died. NTSB recommendations to FAA, UPS, Independent Pilots Association and Airbus include: ensure operations and training materials include clear language on abandoning an unstable approach; provide recurrent dispatcher training; provide all relevant weather information to pilots in dispatch and en route reports; improve fatigue awareness and management; and increase awareness among pilots and operators of limitations of terrain awareness. . . . The findings reinforce calls to bring all-cargo pilots under the same pilot fatigue regulations that currently protect pilots who fly passengers, said Air Line Pilots Association (ALPA). Former NTSB executives Jim Hall and Peter Goelz agreed, wrote in *USA Today*, “If the FAA is unwilling or unable to resist the political pressure to keep its fatigue rules from applying to all pilots, including those from cargo airlines, then Congress needs to step in to restore one level of safety to our skies.”

**9. NTSB Study on Drug Use in Aviation Shows Upward Trend.**

In a study on prevalence of drug use by pilots who died in crashes, NTSB found an upward trend in use of potentially impairing medications and illicit drugs. Most crashes (96%) were in general aviation. The study analyzed toxicology results for 6,677 pilots who died in aircraft accidents between 1990 and 2012. None of the pilots who died in large airline accidents had recently used illicit drugs, though some had been using potentially impairing medications, most commonly was a sedating antihistamine (diphenhydramine) found in cold and allergy medications and sleep aids. Illicit drug use increased from 2.4% of pilots who died in accidents in the 1990s to around 4% by 2012, largely due to increasing marijuana use.

**10. July Passenger Airline Employment Data**

U.S. scheduled passenger airlines employed 386,243 workers in July, 4,944 (1.3%) more than in July 2013, reported DOT. The five network and six low-cost airlines reported slight increases. Among the 13 regional carriers, Chautauqua, Endeavor, Envoy and Shuttle America reported reduced employment levels; the others reported increases. United employed the most workers (79,800) in July among network airlines, Southwest the most (45,523) among low-cost airlines, and Envoy the most (10,996) among regionals.

**11. DOT Air Travel Consumer Report for July.**

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

	July '14 / '13	June '14	Full Year				
			2013	2012	2011	2010	2009
On-time arrivals %	75.6/73.1	71.8	78.34	81.85	79.6	79.8	79.5
Cancellations %	1.6 / 1.7	2	1.51	1.29	1.91	1.76	1.39
Mishandled baggage*	3.55/3.65	3.79	3.22	3.09	3.35	3.51	3.91
Consumer complaints:							
Airline service	1,653 / 1,605	1,396	13,168	15,338	11,546	10,988	8,821
Disability-related	71 / 88	85	679	741	628	572	519
Discrimination**	7/12	5	79	99	128	143	131

Note: In July, airlines reported two tarmac delays of more than three hours on domestic flights and none of more than four hours on an international flight.

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. LAX Terminal 1 Construction Begins.

The \$508-million Terminal 1 Modernization Program at Los Angeles International (LAX) began with a groundbreaking ceremony with Southwest and city officials in attendance. The project includes a new 12-lane security checkpoint; automated checked-baggage inspection and sortation system; new and expanded dining and retail; refurbished arrival/baggage claim area; replacement of passenger boarding bridges; renovations to airline support office space; modernized aircraft parking-apron pavement and hydrant fueling system; improvements to the building facade; and relocation of main terminal entrances to the west end of the building to ease traffic congestion. Completion of phased construction is expected in 2018. Southwest is the only carrier operating out of Terminal 1, and in 2013 was the fourth busiest airline at LAX, with 7.4 million passengers, or 11.1% of the airport's total passenger volume. When finished, Terminal 1 will accommodate 13 of Southwest's larger Boeing 737-800s. The work is part of LAX's \$7.3 billion capital improvement program, projected to last through 2019.

### 2. United Plans Major Enhancement of Newark Hub.

United plans a major enhancement of its Terminal C hub at Newark Liberty, with a \$120 million capital investment provided by OTG, which replaces HMSHost. The 18-month project will feature 55 new dining options, expanded retail and technology upgrades that include 10,000 outlets and USB interfaces and 6,000 iPad tablets available to the public "to track their flight, order from chef-created menus, and purchase travel amenities for delivery directly to their seat in the terminal while browsing the internet."

### 3. Massport Approves \$30 Million for Boston Terminal E Improvements.

Massachusetts Port Authority approved a \$30 million partial budget to create and/or reconfigure 130,000 square feet at Boston Logan's Terminal E to provide services to accommodate the Airbus A380. Part of a \$100 million program announced earlier this year, the project will enable the addition of two new jet bridges, departure level holding rooms and deplaning areas; modification of aircraft taxi lanes; and renovations of the Immigrations and Customs area. Carriers that fly into Logan that have purchased or ordered A380s are Air France, British Airways, Lufthansa, Emirates and Virgin Atlantic.

**4. Mexico City Plans New \$9 Billion Airport.**

The contract for a new \$9 billion Mexico City airport was awarded to Foster + Partners, in collaboration with Mexican architect Fernando Romero (FR-EE) and Netherlands Airport Consultants (NACO). The airport is planned for a new site, initially with three runways, and eventually six run ways as part of an expansion plan through 2062. In his annual state-of-the-nation address, Mexican President Enrique Peña Nieto said the 555,000 square-meter facility eventually will handle 120 million passengers a year. “Designed to be the world’s most sustainable airport, the compact single terminal uses less materials and energy than a cluster of buildings,” said Foster. “The design ensures short walking distances and few level changes, it is easy to navigate, and passengers will not have to use internal trains or underground tunnels – it is a celebration of space and light.”

**5. Inner Thames Estuary Airport Proposal Ruled Out.**

Construction of a large airport in the Thames estuary did not make the shortlist of options for providing new capacity around London by 2030. “Economic disruption would be huge and there are environmental hurdles,” said Sir Howard Davies, Chairman of the government-appointed Airports Commission. “While we recognize the need for a hub airport, we believe this should be a part of an effective system of competing airports to meet the needs of a widely spread and diverse market like London’s.” The commission is still appraising proposals for additional runways at Gatwick and Heathrow, and an extension to the existing northern runway at Heathrow to operate as two separate runways. Confederation of British Industry (CBI) urged the Commission “to deliver recommendations that make a strong political and economic case for action in the next Parliament, with a clear schedule that delivers spades in the ground by 2020 [and] a clear timetable for the consideration of additional capacity beyond 2030 to prevent another capacity crunch in the future.”

**6. Teachers' Becomes Sole Owner of UK's Bristol Airport.**

Macquarie European Infrastructure Fund sold its 50% shareholding in Bristol Airport to its co-shareholder, Ontario Teachers' Pension Plan (Teachers'), making Teachers' the sole owner. Bristol is the ninth largest airport in the UK, with passenger numbers exceeding six million in 2013. Teachers' is the largest single-profession pension plan in Canada.

**7. Fraport Wins Ljubljana Privatization.**

Fraport and a consortium headed by Slovenian Sovereign Holding (SDH) reached agreement for the purchase of Ljubljana Airport, under which the Frankfurt-based airport manager will take a 75.5% stake for €177.1 million, financed from current liquid funds. As part of the privatization process, Fraport

intends to acquire 100% of the Ljubljana airport company and will submit a takeover bid to remaining shareholders, in accordance with legal and statutory requirements. Ljubljana handled about 1.3 million passengers last year, up from 1.2 million in 2012. Slovenia joined the European Union (EU) in 2004 and the euro zone in 2007.

**8. \$32 Billion Dubai Airport Expansion Plan Approved.**

Sheikh Mohammed bin Rashid Al Maktoum, Vice-President and Prime Minister of the United Arab Emirates and Ruler of Dubai approved a \$32 billion expansion of Al Maktoum International at Dubai World Central. The two-phase, 56 sq. km. project ultimately will accommodate 200 million passengers a year. Phase one, to take six to eight years to complete, includes two satellite buildings that collectively can handle 120 million passengers annually and receive 100 Airbus A380s concurrently. The new facilities “will revolutionize the airport experience on an unprecedented scale,” said Dubai Airports CEO Paul Griffiths. Passenger traffic is expected to reach 100 million at Dubai International by end of 2020.

**9. China Building Airports on Reclaimed Land.**

A \$4.3 billion, 21 sq. km. airport, Jinzhou International, is under construction on reclaimed land off the coast of Dalian, in China's Liaoning province, despite environmental, cost and safety concerns. The city's existing Zhoushuizi airport, China's 17th busiest, handled 14 million passengers in 2013, up 5.6% from a year earlier, and is operating at full capacity. The new airport will have four runways and A380 handling capability. The artificial island is near China's only national nature reserve for spotted seals. Officials say there will be no damage to the marine environment; two bridges will connect island and mainland and water flow around the island will resume. . . . A proposal for an airport on reclaimed land is being considered for Sanya, a popular tourist destination in China's south. Officials hope to build the new airport between the Tianya Haijiao resort and the Nanshan Buddhism Cultural Zone, and link it to existing Phoenix International, which has reached capacity due to the increase in tourism to Hainan.

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

1. **Airline Catering Kitchens, Carts Vulnerable to Security Threats.**

Unauthorized individuals can access airline catering kitchens and trucks, said 24% of 400 catering workers responding to a survey by Unite Here, a union representing 12,000 airline catering workers nationwide, which provided a report to the Transportation Security Administration (TSA). The same percentage warned that someone could place contraband on a food cart. Major caterers assured *USA Today*, which released results of the survey, that TSA and airlines established rigorous security measures that may not be visible to workers. Those surveyed worked at 13 kitchens serving 10 U.S. airports; not all are on airport property. Among other findings, 44% of kitchen sites viewable on Google Street View showed open gates or unattended trucks; 50% of drivers reported incomplete or rushed inspections of trucks and cargo leaving the caterer; and subcontractors are not monitored as closely as airline contractors. The Unite Here report recommends a TSA presence in any kitchen where meals are prepared or plated, a requirement that subcontractors be certified, and an immediate halt to temporary labor in the industry; and calls for TSA to assess and update catering security regulations.

2. **GAO: TSA's Secure Flight Effectiveness, Privacy Oversight Questioned.**

Government Accountability Office (GAO) issued two reports about the Secure Flight program, related to screener performance at airport checkpoints, the redress process and privacy protections. Among GAO recommendations: TSA should systematically document the number and causes of Secure Flight system matching errors, regularly evaluate root causes of screening errors at checkpoints, and document and track key Secure Flight privacy issues. The Department of Homeland Security concurred with the recommendations.

3. **Al Qaida Cell Targets U.S.-Bound Airliners.**

See Section I, item 1.

4. **House Hearings on Threat of Terrorists With Western Passports.**

See Section VI, item 2.

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

### **1. U.S. Travel Agency Sales Up 4.68%.**

Consolidated dollar value of airline tickets sold by U.S.-based travel agencies rose 4.68% year-over-year in first eight months, compared to same period 2013, totaling \$63.1 billion versus \$60.3 billion, reports Airlines Reporting Corporation . Sales for August were up 1.04%, at \$7.1 billion compared to August 2013. Results based on monthly sales data ending August 30, 2014, from 13,336 U.S. retail and corporate travel agent locations, satellite ticket printing offices and online travel agencies. Results do not include sales of tickets purchased directly from airlines. Total sales equal to total amount paid for a ticket, which includes taxes and fees.

### **2. Farelogix Launches NDC-Xpress.**

Farelogix launched NDC-Xpress, enabling airlines to implement New Distribution Capability (NDC) in less than six months. NDC-Xpress delivers airline-controlled merchandising, pricing and API distribution in a SaaS model, says Farelogix, a provider of technology to the travel industry.

### **3. United, Amadeus Launch NDC-XML Solution in North America.**

Amadeus and United announced the successful launch of Amadeus' Airline Ancillary Services Solution using NDC-XML (v1.0) connectivity, the industry's first NDC-XML solution in the travel agency channel in North America. Amadeus's integrated ancillary services solution enables agents to offer and book United's Economy Plus seats.

### **4. Gogo, T-Mobile Offer Free Inflight Texting, Voicemail.**

Passengers can send and receive text and picture messages and visual voicemail using their own smartphone and phone number over Gogo's inflight Wi-Fi system, free of charge, under a new Gogo partnership with T-Mobile. To access the services, T-Mobile customers need a Wi-Fi Calling-enabled phone in airplane mode and be connected to Gogo Wi-Fi.

### **5. Congress Urges FCC to Maintain Ban on Inflight Cellphone Calls.**

77 Members of Congress signed a letter to the heads of the Departments of Transportation, Homeland Security, Justice and Federal Communications Commission (FCC), urging the FCC to maintain the ban on cellphone calls on commercial aircraft. Among concerns: passengers would miss important safety briefings by flight crews if distracted by voice calls, and phone conversations could lead to confrontations among passengers annoyed by

others' phone conversations. Arguments already start over issues like seat selection, reclining seats and overhead bin space, said the letter, and the volume and pervasiveness of voice communications would only exacerbate and escalate these disputes.

**6. EASA Allows Use of PEDs Inflight.**

The European Aviation Safety Agency (EASA) said European airlines can decide to allow use of portable electronic devices (PEDs) throughout the flight, without the need to be in 'Airplane Mode.' Since the airline will ensure aircraft systems are not affected by transmission signals from the PEDs, there may be differences among airlines whether and when PEDs can be used, said EASA. "This is the latest regulatory step towards enabling the ability to offer 'gate-to-gate' telecommunication or WiFi services. Use of mobile phones is allowed following the aircraft landing.

**7. Flight Tonight Compares Immediate Flight Options.**

Hopper Flight Explorer launched Flight Tonight, an app that allows travelers to do a single search for the most affordable domestic or international flight leaving from a nearby airport in the next 24 hours. Hopper, based in Boston and Montreal and founded in 2007, notifies users of daily flight deals, ranks fares and offers comparison shopping by destination.

## V. **ENERGY AND ENVIRONMENT**

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

Average price of aviation jet fuel, as of September 12, was \$114.7/barrel, down 4.9% on the month and down 9.8% compared to a year ago, reports the International Air Transport Association. Fuel price average for 2014 is \$122.9/barrel.

### 2. **Airline Industry Commits to Climate Action at UN Climate Summit.**

The International Civil Aviation Organization (ICAO) and the airline industry announced a commitment on climate action at the United Nations Climate Summit, expanding on work already undertaken across the global sector to reduce emissions. Governments working through ICAO and with industry, expect to “stabilize the sector's net carbon dioxide (CO<sub>2</sub>) emissions from 2020,” said ICAO Council President Dr. Olumuyiwa Benard Aliu. Currently, aviation operations produce around 2% of human CO<sub>2</sub> emissions, a figure set to increase as more people travel by air, particularly in emerging economies.

### 3. **EPA Reviews Aircraft Greenhouse Gas Emissions.**

The Environmental Protection Agency (EPA) submitted a timeframe to ICAO for initiating the U.S. regulatory process for addressing greenhouse gas emissions from aircraft under the Clean Air Act. This lays the groundwork for adopting international standards ICAO is developing, and responds to a D.C. District Court ruling requiring EPA to determine whether greenhouse gas emissions from aircraft cause or contribute to air pollution that may endanger public health. EPA intends to propose its findings in April 2015, with final determinations expected in spring 2016.

### 4. **Orange County Airport Commission Approves John Wayne Expansion.**

Orange County Airport Commission voted to support a proposed John Wayne Airport expansion project, to begin after 2020. Total passenger levels could increase from a current 10.8 million to a maximum 12.5 million in 2026, and large aircraft departures could rise to 85 daily from 75. Early-morning and late-night noise curfews established in 1971 will remain until 2035. The proposal is subject to approval by the Orange County Board of Supervisors.

### 5. **Southwest to Purchase Low Carbon Renewable Jet Fuel.**

Southwest signed an agreement with Red Rock Biofuels (RRB) to annually purchase three million gallons of low carbon renewable jet fuel made with forest residues, which will help reduce the risk of destructive wildfires in the

Western United States. The blended product will be used at Southwest's Bay Area operations, with first delivery expected in 2016. RRB's first plant will convert 140,000 dry tons of woody biomass feedstock into at least 12 million gallons per year of renewable jet, diesel and naphtha fuels.

6. **South Bend Wins \$2 Million Grant for Airport Emissions Reduction.**

South Bend International won a \$2 million grant to reduce emissions and improve air quality by installing a geothermal heating and cooling system, through FAA's Voluntary Airport Low Emission (VALE) program. This will reduce the airport's natural gas operating needs by four million cubic feet per year, resulting in estimated emission reductions of 140 tons of ozone over the 20-year lifespan of the system. Through VALE, airport sponsors can use Airport Improvement Program (AIP) funds and passenger facility charges to help acquire low-emission vehicles, refueling and recharging stations, and gate electrification, and achieve other airport-related air-quality improvements.

7. **Lufthansa Conducts Test Flight Using Sugar-Based Biofuel.**

Lufthansa operated a test flight from Frankfurt to Berlin Tegel using a 10% blend of new biofuel component farnesan, the first scheduled flight in Europe to run on this fuel mix. Farnesan is a sugar-based bio-kerosene the TOTAL oil group and U.S.-based biotech company Amyris jointly developed, which in April received RSB (Roundtable on Sustainable Biomaterials) certification. Lufthansa also uses jatropha, an oil-bearing plant that grows in tropical and sub-tropical regions, and has signed a Memorandum of Understanding with German energy company JatroSolutions to make jatropha production commercially viable.

8. **Finnair Uses Recycled Cooking Oil to Power Flight to New York.**

Finnair operated a scheduled Airbus A330 flight from Helsinki to New York using a biofuel mixture containing cooking oil recycled from restaurants, provided by SkyNRG Nordic, a joint venture between SkyNRG and Statoil Aviation. The demonstration flight coincided with the UN Climate Summit.

## **VI. U.S. CONGRESS**

### **1. House-Passed Bill Limits TSA Fees.**

The House unanimously passed legislation to limit TSA-imposed passenger security fees to \$5.60 per one-way trip and \$11.20 per round trip. TSA had eliminated the cap on round trip travel, misinterpreting the intent of Congress to simplify the fee structure, and is collecting fees beyond the increase authorized, said bill sponsor Richard Hudson (R-NC); H.R. 5462 corrects the misinterpretation. “Even with this notable improvement,” said U.S. Travel Association, “the current TSA fee fails to meet a critical criterion for acceptable travel user fees. As designed by Congress, a limited portion of the funds raised go to fund TSA operations, with the rest available for use on unrelated projects. That violates our core principle that user fees must, in their entirety, benefit the users who pay them.”

### **2. House Hearings on Threat of Terrorists With Western Passports.**

Amid concern that members of the Islamic State in Iraq and Syria (ISIS) and other groups hold U.S. or European passports, The House held several hearings on the subject. At a House Homeland Security Committee hearing, entitled “Worldwide Threats to the Homeland,” DHS Secretary Jeh Johnson said 2,000 of some 15,000 foreign fighters in Syria are Westerners and more than 100 are Americans. Among Johnson’s comments: the FBI has arrested individuals seeking to travel from the U.S. to support terrorist activities in Syria; many countries in the U.S. Customs and Border Protection (CBP) Visa Waiver Program (VWP) have large numbers of citizens who are Syrian foreign fighters; and DHS has enhanced passenger and baggage screening at about 25 overseas airports with direct flights to the U.S. Committee Chairman Michael McCaul (R-TX) said more needs to be done to gain intelligence on radicalized Westerners who “represent an exceptionally grave threat to the U.S. homeland because of their militant training, extremist connections, ease of travel, and intimate knowledge of the West.” . . . At a Border Security Subcommittee hearing, entitled “One Flight Away: An Examination of The Threat Posed by ISIS Terrorists With Western Passports,” McCaul expressed concern that unknown terrorists, with no criminal record or intelligence traces, could enter and exit the United States using a valid U.S. passport or the VWP. In their testimony, CBP officials said they are reviewing the collection of additional data on individuals in the VWP that would “help us paint a better picture of a traveler.” . . . And, at a Transportation Security Subcommittee hearing, “Safeguarding Privacy and Civil Liberties While Keeping Our Skies Safe,” Chairman Richard Hudson (R-NC) said TSA’s Secure Flight program,

which matches passenger data from airlines against the U.S. government's Terrorist Watch List, "is crucial." Acknowledging privacy concerns, Hudson said, "our aviation security is only as strong as its weakest link. We must identify individuals who pose a threat, such as extremists with Western passports who have joined the fight in Iraq or Syria, and take the necessary steps to protect the homeland."

**3. Shuster Calls for "Transformational" FAA Reauthorization.**

House Transportation and Infrastructure Committee Chairman Bill Shuster (R-Pa.) called for a "transformational" FAA reauthorization that will "lay the groundwork for the future of U.S. aviation," in remarks at a symposium presented by *The Hill* and sponsored by Airlines for America. The current \$63 billion bill, which passed in 2012 after more than 20 temporary extensions, is set to expire in September 2015. Rep. Sam Graves (R-Miss.) said the Republican-led House should take the lead on drafting a new FAA funding bill to avoid a standoff like the one that resulted in a two-week partial shutdown of the agency in 2011. Regarding mergers, industry officials said consolidation was inevitable. "We couldn't continue to go with the massive losses that we were incurring and the negative impact that had on every stakeholder," said a United official. But despite current profits, ALPA President Lee Moak said, "We still only have one investment grade airline, Southwest Airlines."

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

### **1. State Department Travel Alerts and Warnings.**

The U.S. Department of State issued new and updated Travel Alerts and Warnings to U.S. citizens in September. All travel to Yemen should be deferred and U.S. citizens should depart due to terrorist activities and civil unrest. It ordered a reduction of U.S. government personnel from Yemen , and restricted embassy officers in their movements by prohibiting them from travelling outside of Sana'a and limiting movement within the city. Due to the fluid security situation, State may further constrain movement within Sana'a. The security threat level in Yemen is extremely high. . . . Travel to Lesotho should be deferred due to continued concerns regarding the security situation; family members of U.S. Embassy personnel in Maseru were ordered to depart and the U.S. Peace Corps has taken steps to ensure safety of staff and volunteers. . . . U.S. citizens should not travel to Eritrea due to ongoing security concerns and increasing possibility they will not receive requisite exit permits from Eritrean authorities. . . . State issued a Travel Alert through October 31 for U.S. citizens traveling to or residing in Mozambique, due to general elections to be held on October 15.

### **2. Obama at UN: Ebola An Epidemic of Unprecedented Proportions.**

“The Ebola outbreak afflicting West African countries is now an epidemic of unprecedented proportions,” said U.S. President Barack Obama at the United Nations. Among U.S. efforts, military troops are in Liberia to build treatment centers and train healthcare workers and are creating an air bridge in Sierra Leone to move health workers and medical supplies to the region faster. The UN announced an Ebola Emergency Response mission, and many nations have joined efforts to stop the epidemic, which has killed about 3,000 people; Doctors Without Borders has been the primary international resource. Ebola treatments will be tested in West Africa in an international initiative to fast-track trials of promising drugs, supported by a £3.2 million grant from the Wellcome Trust. . . . The State Department in August alerted U.S. citizens to travel considerations due to the Ebola outbreak in Guinea, Liberia, Nigeria and Sierra Leone. In September the U.S. Centers for Disease Control and Prevention (CDC) urged U.S. residents to avoid nonessential travel to Liberia, Guinea and Sierra Leone, where public health systems have collapsed. . . . World Health Organization (WHO) said confirmed and suspected Ebola cases could reach 20,000 by November if the spread of the disease is not contained.

## VIII. EUROPE AND AFRICA

### 1. Lufthansa Pilots Continue Strike Actions.

German pilots' union Vereinigung Cockpit announced that negotiations with Lufthansa over retirement provisions had collapsed, and continued walkouts were scheduled for long-haul flights departing Frankfurt. The carrier appealed to the union to return to the bargaining table.

### 2. Air France Pilots End Two-Week Strike.

Air France pilots staged a two-week strike after the company announced plans to expand its no-frills Transavia brand with new bases in Europe. As losses from the strike climbed to an estimated €20 million daily, management offered to withdraw the Transavia Europe plan, but said it would continue accelerated development of Transavia in France, with separate remuneration and working conditions. Pilots called for an independent mediator; the government, which holds a 16% stake in the airline, refused. Pilots ended the strike to enable talks to proceed in a calmer climate.

### 3. Alitalia Names New CEO.

Silvano Cassano will become CEO of the “New Alitalia,” after the close of the alliance with Etihad if approved by the European Commission which is expected to announce its decision on November 3. The two companies expect that the EC will approved the deal. Cassano has held senior management roles across many industries. Alitalia's current CEO, Gabriele Del Torchio, told the press he is ready to leave, as his task was to lead the company to an alliance. Current Chairman Roberto Colaninno also is expected to step down. Etihad plans to acquire a 49% interest in Alitalia, in return for a total €1,758 million investment, subject to final regulatory approvals.

### 4. EU Court Determines Checked-Bag Fees Legal.

The EU Court of Justice determined that Spanish law requiring airlines to carry checked baggage without a surcharge infringes EU law, since “the processing and storing of checked-in baggage is likely to lead to additional costs for the airline.” The court overruled Spain's decision to uphold a complaint against IAG unit Vueling.

### 5. Virgin Atlantic Increases U.S. Service.

With joint venture partner Delta, Virgin Atlantic plans to increase services from London Heathrow to Detroit, New York Kennedy, Los Angeles, Atlanta, San Francisco and Miami. In addition, Virgin Atlantic will fly daily between

Manchester and Atlanta; and Delta will fly an existing Virgin Atlantic Heathrow-Newark service, and launch daily Manchester-New York Kennedy service. “To maximize these opportunities,” Virgin Atlantic will withdraw services to Tokyo, Cape Town, Mumbai and Vancouver. “Transatlantic flying has always been at the heart of our network and our most financially successful region,” said Virgin Atlantic CEO Craig Kreeger, adding that the airline also will focus on “other critical global destinations that are most important to our customers.” A £300 million investment in “customer experience” is underway. Delta last year acquired a 49% stake in Virgin Atlantic; Sir Richard Branson retains a 51% share.

6. **British Airways to Fly A380 to San Francisco.**

British Airways will begin daily Airbus A380 flights between San Francisco and London Heathrow from April 2015, the first A380 service on the route. British Airways currently flies the superjumbo to Los Angeles and Hong Kong, with Washington DC service beginning October 2 and Singapore on October 28.

7. **ANA-Lufthansa Cargo Joint Venture Obtains Antitrust Immunity.**

All Nippon Airways (ANA) and Lufthansa Cargo will launch a strategic air cargo joint venture for shipments from Japan to Europe in winter 2014/2015 and shipments from Europe to Japan mid-2015, having won antitrust immunity from the Japanese Ministry of Land Infrastructure and Transport and “been positively assessed by external counsel for compliance with relevant EU antitrust regulations.” The joint venture includes network planning, pricing, sales and handling. Lufthansa and ANA also have a joint venture covering passenger operations.

8. **Dutch Safety Board Reports on Flight MH17 Crash Over Ukraine.**

See Section IX, item 1.

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

### **1. Dutch Safety Board Reports on Flight MH17 Crash Over Ukraine.**

In a preliminary report on the July 17 crash of Malaysia Airlines Flight MH17 over Ukraine, the Dutch Safety Board determined that the Boeing 777-200 broke up in the air probably as the result of structural damage caused by a large number of high-energy objects that penetrated the aircraft from outside. In cockpit voice recorder and flight data recorder records, radio communications with Ukrainian air traffic control and the pattern of wreckage on the ground, there are no indications that technical fault or by actions of the crew caused the crash. . . . Russia called for a meeting of the UN Security Council to discuss the report, saying it lacks convincing information about circumstances of the crash, and requested an investigation carried out with UN participation. A UN official said the Dutch-led inquiry has been conducted in accordance with ICAO standards. . . . Relatives of German victims of MH17 are suing Ukraine and its President, Petro Poroshenko, for manslaughter by negligence in 298 cases, with compensation of up to €1 million per victim. Under international law, Ukraine should have closed its airspace if it could not guarantee the safety of flights, said attorneys for three families. . . . Malaysian Airline System extended the contract of Managing Director/Group CEO Ahmad Jauhari Yahya for an additional year, through September 19, 2015, as Khazanah, the state fund that now controls the airline, works to revive it.

### **2. American Hopes to Operate First Dallas/Fort Worth-Beijing Nonstop.**

American filed an application with DOT for the right to operate the first nonstop connecting Beijing and Dallas/Fort Worth. The Boeing 777-200ER service would begin next summer, operating as part of American's joint business agreement with fellow oneworld member Japan Airlines.

### **3. JetBlue, EL AL to Code Share.**

EL AL plans to place its code on select JetBlue-operated flights to New York Kennedy and Newark, where customers can connect to 35 JetBlue destinations, subject to DOT approval. The airlines have been interline partners since 2010.

### **4. Air New Zealand Increases North American Service.**

Air New Zealand will increase service between Auckland and Los Angeles in April through October, from twice daily to three times a day, three days a week, representing a 20% boost in total capacity. Auckland-Vancouver service

will operate five times per week from June to September (currently mid-July to late August).

**5. AirAsia Extra Receives AOC From Indonesia.**

AirAsia Extra (IAAX) received an Air Operator's Certificate (AOC) from Indonesia's Directorate General of Civil Aviation and will proceed with its application for an operating permit and airport slots for its intended international routes. The joint venture of Malaysia's AirAsia X and Indonesia's PT Kirana Anugerah Perkasa is the first long-haul, low-cost carrier in Indonesia.

**6. ANA-Lufthansa Cargo Joint Venture Obtains Antitrust Immunity.**

See Section VIII, item 7.

## **X. AMERICAS**

### **1. American Airlines Update.**

The National Mediation Board (NMB) certified Allied Pilots Association (APA) as the bargaining agent for pilots at the new American Airlines, initiating the process by which US Airways pilots will become APA members and elect representatives at their new domiciles. NMB also certified Association of Professional Flight Attendants (APFA) as the union representing the combined flight attendant workgroup, and the parties reached a tentative agreement on a new joint collective bargaining agreement. American's passenger service agents voted for union representation for the first time, and the Communications Workers of America and International Brotherhood of Teamsters, which represented US Airways agents, will jointly represent them. . . . American discontinued its frequent flyer relationship with EL AL, effective October 31. . . . American reportedly has restricted ticket sales to Argentina to reduce exposure to an unstable peso.

### **2. United Recalls Furloughed Flight Attendants.**

United is recalling flight attendants on voluntary and involuntary furlough, and will offer lump sum payouts of up to \$100,000 for attendants who apply for an enhanced early out program. Separately, the company's 48 maintenance instructors, represented by the International Association of Machinists Aerospace Workers (IAM) ratified a new joint labor agreement. United has achieved joint collective bargaining agreements with pilots, dispatchers, fleet service, passenger service, reservations and storekeeper work groups, and is engaged in expedited negotiations with the Association of Flight Attendants and in mediation with IBT, representing United's technicians. . . . United amended its agreement with Shuttle America, to add 50 E175s beginning July 2015. The regional's parent, Republic Airways Holdings, will determine which of its carriers will operate the new 76-seat aircraft under the United Express brand. The new aircraft will replace large turboprops and older, less-efficient aircraft. They will complement the 70 E175s whose deliveries began this year for other carriers to operate as United Express. United extended an agreement with Shuttle America on 38 E170s, with new expiration dates beginning in September 2019 and continuing through December 2022. It will begin removing, in 2015, 31 Bombardier Q400s operated by Republic Airlines. Republic will sublease 24 of the Q400s to UK airline Flybe, with the rest to be sold, leased or returned to the lessor after removing them from United's service.

3. **JetBlue Announces CEO Succession.**

JetBlue President Robin Hayes will succeed Dave Barger as CEO, on February 16. Prior to joining JetBlue in 2008, Hayes was with British Airways for 19 years. Barger's decision was "determined by the strong state of the company and my absolute confidence in Robin's leadership."

4. **PEOPLExpress Suspends Service.**

PEOPLExpress suspended service after one of its leased Boeing 737s was damaged by a truck, and plans to resume flights on or about October 16. From its Newport News base, Vision Airlines dba PEOPLExpress offers service to Atlanta, Boston, Newark, New Orleans, Pittsburgh, St. Petersburg and West Palm Beach, "demonstrating the need for additional non-stop air service to underserved markets as a result of airline industry consolidation." Charleston, W.Va., and Orlando flights are planned to begin on October 16.

5. **UPS Hiring 95,000 Seasonal Employees.**

UPS expects to hire 90,000 - 95,000 seasonal employees to handle the anticipated e-commerce-driven holiday delivery surge from October through January. Positions include sorters, loaders, delivery helpers and drivers.

6. **Virgin Atlantic Increases U.S. Service.**

See Section VIII, item 5.

7. **British Airways to Fly A380 to San Francisco.**

See Section VIII, item 6.

8. **American Hopes to Operate First Dallas/Fort Worth-Beijing Nonstop.**

See Section IX, item 2.

9. **JetBlue, EL AL to Code Share.**

See Section IX, item 3.

10. **Air New Zealand Increases North American Service.**

See Section IX, item 4.