



## 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 Approves Star Plan to Add Continental, Establish JV.**

The U.S. Department of Transportation (DOT) granted final approval for antitrust immunity (ATI) to Continental for its participation in the Star Alliance, and allowed Air Canada, Lufthansa, United and Continental to place a portion of their international air services within a new joint venture, to be called Atlantic Plus-Plus. Under the venture, the carriers will jointly arrange capacity, sales and marketing, and share revenues in international markets. DOT concluded the joint venture would support increased levels of service in international markets served by the carriers, give consumers more travel options and shorter travel times and reduce fares. The United States has open skies aviation agreements with the home countries of the carriers involved in the decision. Following comments from the Department of Justice and other parties on its April 7 tentative decision, DOT placed new limitations (carve outs) on the immunity in several markets to preserve competition: four transatlantic markets, four U.S.-Canada markets and all U.S.-Beijing markets. Star carriers may continue to serve these routes, but will not be covered by ATI. The carriers are required to implement the new joint venture within 18 months, and provide annual reports to DOT about implementation of their alliance agreements. They remain subject to antitrust laws with respect to domestic service. DOT first granted immunity to Star partners in 1996, when it approved a United-Lufthansa alliance. Other Star members are Austrian, British Midland, LOT Polish Airlines, SAS, Swiss and TAP Air Portugal.

### **2. Delta, Virgin Blue Seek to Form Joint Venture.**

Delta and Virgin Blue Airlines Group filed ATI applications with DOT and the Australian Competition and Consumer Commission (ACCC), as they seek regulatory approval to form a joint venture. The alliance “will expand their reach between the U.S. and Australia and the South Pacific” and allow them to compete more effectively in those markets by collaborating on route and product planning, code sharing and extending frequent flyer and lounge reciprocity. Delta began daily Los Angeles-Sydney nonstops on July 1. Virgin Blue unit V Australia launched this year with service to Los Angeles from Sydney, Brisbane and, as of September, Melbourne. Direct Australia-U.S. routes previously were flown only by Qantas and United. Air New Zealand offers Australia-Los Angeles via Auckland service. Air New Zealand and Singapore’s Tiger Airways are among those asking regulators in Australia to reject the joint venture, calling it anti-competitive. ACCC earlier rejected a proposed cooperation agreement between Air New Zealand and Air Canada, as it would reduce competition.

3. **Hainan Seeks Beijing-Honolulu Route.**

Hainan Airlines, China's largest non-state owned airline, applied to U.S. and Hawaiian DOTs to operate the first nonstop scheduled service from mainland China to the Hawaiian Islands. The once weekly Airbus A340-600 service between Beijing and Honolulu would begin this fall and increase to three weekly flights as demand builds.

4. **NTSB Studies Inflight Rupture of Southwest Plane.**

The National Transportation Safety Board (NTSB) is studying a rupture in the fuselage of a Southwest Boeing 737-300; a hole measuring 17 inches by 8 inches developed during a flight to Baltimore from Nashville on July 13. NTSB said initial visual examination found no significant corrosion or obvious pre-existing mechanical damage. Flight 2294 made an emergency landing in Charleston, W.Va., and no injuries were reported. In March 2008, Southwest agreed to pay a \$7.5 million fine for safety violations that included flying jets that were found to have fatigue cracks.

5. **NTSB Issues New Bird-Strike Guidance.**

NTSB issued new bird-strike guidance to the Federal Aviation Administration (FAA). Recommendations include revising bird-strike certification requirements for transport category airplanes, so protection from inflight impact with birds is consistent across all airframe structures; and more stringent verification of airport wildlife hazard assessments and reporting of wildlife strikes.

6. **Deborah Hersman Named NTSB Chairman.**

Deborah Hersman, an NTSB Member for five years, was sworn in as the agency's 12th Chairman and confirmed for a new five-year term as Board Member. Acting Chairman and Member Mark Rosenker and Member Kathryn (Kitty) O'Leary Higgins have resigned.

7. **Judge Denies Airline Bid to Question FBI in 9/11 Suits.**

A federal judge ruled that airline industry companies being sued by families of 9/11 victims may not depose FBI agents regarding the attacks. The defendants hoped to establish that even the federal government was unable to foresee or prevent the attacks, but the judge ruled that government failures to detect and abort the terrorist plot would not affect the companies' potential liability. The defendants—United, American, Delta, Continental, AirTran and US Airways, as well as Boeing, airport authorities and security companies—are being sued for billions of dollars in damages for injuries, deaths, property damage and business losses related to the attacks.

8. **DOT Fines United for Failure to Disclose Code Sharing.**

United was assessed a civil penalty of \$80,000 by DOT for failing to disclose to consumers that flights were being operated under a code sharing arrangement, and was ordered to cease and desist from further violations. DOT made a number of telephone calls to United's reservations line in January to determine if reservations agents were advising consumers of code sharing arrangements; a substantial number failed to disclose code sharing.

9. **H1N1 Virus Update.**

Centers for Disease Control reported 43,771 confirmed and probable cases of H1N1 flu infection in the U.S. and its territories and 302 deaths, as of July 24. World Health Organization said the "pandemic has spread internationally with unprecedented speed, [but] has been characterized, to date, by the mildness of symptoms in the overwhelming majority of patients, who usually recover, even without medical treatment, within a week of the onset of symptoms." Separately, airlines that reduced Mexico flights from Newark and Kennedy due to the H1N1 virus will not be subject to the "use it or lose it" rule for their slots, reports *Travel Weekly*; the Federal Aviation Administration (FAA) extended the July 15 deadline for carriers to determine other uses for those slots to September 12. Continental and American said the impact of the H1N1 virus reduced second quarter revenue by at least \$50 million. Brazilian Gol has seen a 50% drop in passenger numbers on flights to Argentina where the virus has killed at least 60 people, said CEO Constantino de Oliveira; some chartered flights have been cancelled, he said, with no plans to reduce scheduled flights. Brazil has advised its citizens to avoid travel to Argentina.

10. **Sleep Disorders and Pilot Fatigue.**

NTSB is expected to recommend that all commercial transportation operators, including pilots, be tested for sleep apnea and other sleep disorders, reports *USA Today*. A fatal subway crash near Boston in July was among many transportation accidents attributable to sleep apnea. Last year, a Go! pilot with severe undiagnosed apnea, and his co-pilot, fell asleep for at least 18 minutes over Hawaii, as their plane carrying 40 passengers flew out to sea; the pilots woke and turned back to their destination. Routine medical exams for pilots, required by FAA, currently do not include specific screens for sleep disorders.

11. **Fatigue and the Air Traffic Controller.**

Minimal hours between shifts, scheduled overtime and on-the-job training contribute to fatigue among air traffic controllers, reported the DOT Office of Inspector General (OIG), after auditing three Chicago air traffic control facilities, among the top 10 busiest in the United States. Inadequate staffing, increased work load (i.e., traffic volume and complexity) and extended time on position or lack of position rotation, were noted by facility personnel. NTSB has

identified controller fatigue as a potential contributing factor in several operational errors. The OIG audit was conducted at the request of Illinois Senator Richard Durbin, who was concerned that staffing shortfalls, longer hours on the job, and a growing shortage of certified controllers may be causing controller fatigue. "It is likely that fatigue factors we identified exist at other large air traffic control facilities," said the OIG, which recommended to FAA actions at the national level that include increasing rest periods, rotating controllers through less demanding positions during each shift and providing fatigue awareness training. FAA has made some changes and generally concurred with OIG recommendations.

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

Based on data filed by 19 of the largest U.S. airlines

	May	April	Full Year					
	'09 / '08	'09	2008	2007	2006	2005	2004	2003
On-time arrivals %	80.5 / 79	79.1	76	73.4	75.4	77.4	78.1	82
Mishandled baggage*	3.56 / 4.6	3.79	5.26	7.05	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>								
Airline service	656 / 885	781	10,643	13,180	8,325	8,741	7,452	5,983
Disability-related	39 / 39	46	474	488	430	511	521	375
Discrimination**	13 / 13	14	115	99	114	129	118	85

\* Reports per 1,000 passengers.

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

**13. Delta Fined for Violations of Denied Boarding Compensation Rules.**

DOT assessed a civil penalty of \$375,000 against Delta for violating federal rules regarding passengers denied boarding on oversold flights. Up to \$200,000 of the penalty may be used by the carrier to implement systems not required by rules that will benefit consumers. A review of Delta's passenger complaints from January to July 2008 and of similar complaints against Delta received by DOT last year showed the carrier bumped passengers but did not follow one or more of the provisions of over-sales rules.

**14. Passenger Airline Employment Down 6.8% in May.**

U.S. scheduled passenger airlines employed 6.8% fewer workers in May 2009 than in May 2008. The seven network carriers employed 260,500 in May,

8.2% less than in May 2008; low-cost carrier employment increased by 1.2%; and regional carrier employment was down 7.7%.

**15. High-Speed Passenger Rail Funding Underway.**

DOT reports the Federal Railroad Administration has received 278 pre-applications for grant funding totaling \$102 billion. The funds will come from the American Recovery and Reinvestment Act for the High-Speed Intercity Passenger Rail competitive grant program.

## II. AIRPORTS

### 1. Airports Have Received \$1 Billion in Stimulus Funds.

The roughly \$1 billion in federal stimulus infrastructure money for airports is “out the door,” DOT Secretary Ray LaHood told *USA Today*. “There are a lot more needs in aviation,” he said, and spending for airports hasn't kept up with needs. “We're making up for lost time.” LaHood said his top FAA priority will be the Next Generation Air Transportation System (NextGen). FAA's ongoing experiment to privatize several airports may be put on the back burner. “There are other more urgent issues. It's not even on my radar,” said LaHood.

### 2. Kennedy Runway to Close for Extensive Rehabilitation.

The New York Kennedy bay runway (13R-31L) will close in March next year to undergo extensive rehabilitation. Costs will be covered by \$292 million from the Port Authority, \$84 million from FAA and \$15 million in federal economic stimulus funds. A major component of the JFK Delay Reduction Program, the upgrades are predicted to save 10,500 hours a year.

### 3. Atlanta Plans to Complete \$1.35 Billion Terminal.

Atlanta Hartsfield-Jackson will continue to build a \$1.35 billion international terminal, Airport General Manager Benjamin DeCosta told reporters, despite a 3% year-over-year drop in traffic, and intentions of its largest tenant, Delta, to cut capacity by 15% starting in September. Delta and AirTran, which represent more than 90% of the airport's traffic, have threatened to move flights to other airports if the new terminal brings higher lease costs; lease agreements expire in September 2010. “We believe the airline business is rational, and if you are going to do business this is the place to do it,” DeCosta said. The busiest passenger airport in the world, in 2008 Atlanta handled more than 90 million passengers. International passenger traffic is projected to increase to 13 million in 2015, compared to 9 million last year. Construction of the new terminal began last summer and is scheduled to be completed by 2012. DeCosta said he is confident funding to complete the project will be secured.

### 4. Ryanair to Cut Stansted Winter Capacity by 40%.

Ryanair will cut its winter schedule at Stansted by 40% starting in October, operating 24 rather than 40 aircraft, because BAA has rejected calls for deep cuts in high passenger fees at the airport and the UK in November will increase its Air Passenger Duty (APD) paid by departing passengers. Virgin Atlantic calculates the APD is due to increase by up to 113% by November 2010, with the next phased increase due in November this year. It means, says Sir Richard Branson, that the APD tax on a flight from Heathrow to Dubai

will go from £40 to £60; the tax on a premium economy ticket from Gatwick to Barbados will go from £80 to £150 and the tax on an upper class flight from Heathrow to Sydney will rise from £80 to £170. Branson said the plans to increase taxes on air passengers are out of control and will hurt passengers, the aviation industry and developing regions such as the Caribbean and Africa. "The government has been quietly increasing APD by huge amounts and claiming it is an environmental tax," he says. "Yet, there's not a shred of evidence to suggest the £2billion+ currently raised is going towards environmental or sustainable projects." Virgin Atlantic has installed an Anti-APD campaign on its Web site.

**5. Changi Takes Stake in Bengal Aerotropolis.**

Changi Airports International (CAI) has taken a 26% stake in Bengal Aerotropolis Projects Ltd. Durgapur Aerotropolis, India's first privately owned merchant airport, will include an industrial park, a logistics hub, an information technology park and a township around the greenfield airport. The project aims to attract about US\$2.5 billion of investments. CAI has in place a Technical Service Agreement to support planning and development of Durgapur Airport. An Operations and Management Agreement will involve CAI deploying a resident team in Durgapur for management of the landside, apron, commercial and operations activities of the airport, once construction is completed. Support from CAI will come in four phases spread over two years. The Durgapur Aerotropolis is CAI's first investment in an aerotropolis concept.

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

#### **1. India Files Complaint Against Continental for Protocol Breach.**

India's Bureau of Civil Aviation Security filed a complaint against Continental for subjecting a former president of India to screening as he prepared to board a Newark-bound flight from Delhi in April. India says the search of A.P.J. Abdul Kalam violated Indian rules that exempt VVIPs (very very important persons) and VIPs from pre-board security checks. The U.S. Transportation Security Administration (TSA) said India's official list of VIP's and spouses exempt from pre-board screening procedures "does not mirror U.S. requirements for passengers that are exempted from pre-board screening when traveling aboard U.S. commercial aircraft. While traveling from an international location to the U.S. on an U.S. commercial aircraft, former Heads of State, and other VIPs, are screened according to the same screening procedures as for any other passenger. If requested, private screening can be provided." Continental has issued a formal apology to Kalam.

#### **2. \$7.7 Million in Recovery Act Funds for Airport Surveillance.**

Several airports will receive about \$7.7 million in American Recovery and Reinvestment Act funding for the installation of new closed circuit television systems. They include Cincinnati/Northern Kentucky International, Reagan Washington National, Spokane International, Gerald Ford International and Boise airports. CCTV technology is used at hundreds of U.S. airports.

#### **3. PASS ID to Replace REAL ID.**

The PASS ID ("Providing for Additional Security in States' Identification") Act was approved by the Senate Homeland Security Committee. PASS ID would replace the REAL ID program, which has raised privacy and other concerns and has been rejected by law in 13 states. PASS ID would establish federal security standards for driver's licenses and identification cards and fund a \$150 million grant program to help states digitize birth records. The bill would require states to issue driver's licenses that are compliant with federal standards by 2016, and to show they are moving toward compliance by 2011.

#### **4. Registered Traveler Vendors Cease Operations.**

Remaining Registered Traveler vendors, FLO Corp. and Vigilant Solutions, ceased operations, but the National Business Travel Association (NBTA) hopes to revive the program. In June, primary RT provider, Verified Identity Pass (VIP), abruptly ended operations.

## IV. E-COMMERCE AND TECHNOLOGY

### 1. Airbus Launches Initiative to Reinforce Flight Data Recovery Capability.

Airbus launched a study for reinforcing flight data recovery, including extended data transmission for commercial airliners, so critical flight information can be recovered in the event of accidents. The company will study options for viable commercial solutions, including real-time data transmission from test aircraft. Industrial partners, research institutions and airworthiness and investigation authorities will participate in the study.

### 2. United Delays New Credit Card Policy.

United postponed by 60 days implementation of a policy that would deny certain travel agencies use of its credit card merchant accounts, after members of Congress said the action would undermine federal consumer protections. United said there will be no difference in how credit card disputes are handled. Kevin Mitchell, Chairman of the Business Travel Coalition (BTC), told United the “attempt to shift airline sales-costs to travel agencies and on to your corporate customers can only work if airlines act in concert to affect such a radical change,” and promised to bring the matter to the attention of the Justice Department's antitrust division. “We will be making the case that if UAL's drastic initiative were to be matched by other airlines it would not have been possible without competitor signaling, collusion and action,” said Mitchell. United said, “We have not made any broad or major moves, have communicated directly with a relatively small number of non-aligned agencies on the changes, and have no intention of taking the matter public.”

### 3. American Tests Mobile Customer Service Technology.

American Airlines has begun a six-week test of technology at Boston Logan that allows employees to check bags and provide gate information, flight times and boarding status from anywhere in the building. The mobile devices eventually will print boarding passes and upgrade seats.

### 4. Priceline Partners With Ticketmaster.

Priceline has partnered with Ticketmaster, which said “roughly 20-30% of tickets purchased on Ticketmaster.com are for events outside of the fan's home market.”

## V. **ENERGY AND ENVIRONMENT**

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

The price of aviation jet fuel, as of July 17, was \$71.8 per barrel, down 10.1% for the month and down 57.4% year-on-year, reports the International Air Transport Association (IATA). The fuel price average year-to-date was \$63.1 per barrel, down a total of \$42 billion from 2008.

### 2. **Connecticut Seeks to Block FAA Airspace Redesign.**

The State of Connecticut is seeking a rehearing to block an FAA airspace redesign project that routes more large planes over southwestern Connecticut. Attorney General Richard Blumenthal, with Governor M. Jodi Rell and the Connecticut Department of Environmental Protection, filed a formal request with the U.S. Court of Appeals for the District of Columbia, asking the full court to reconsider and reject a ruling by a three-judge panel. "If a rehearing is declined, I will seek review by the U.S. Supreme Court," said Blumenthal. "FAA failed to acknowledge the impact of increased noise and other environmental impacts on Connecticut residents and state parkland, negatively affecting 30 million people in the Northeast," he said. In May, an alliance of municipalities in Connecticut, New York, New Jersey and Pennsylvania argued unsuccessfully that the flight patterns be struck down, reports the *Connecticut Post*. The suit originally was filed in 2007, when a number of towns in the region formed the Alliance for Sensible Airspace Planning and sued FAA to overturn the changes. The court consolidated the case with similar actions filed in New Jersey, Pennsylvania and New York, and transferred it from New York to Washington.

### 3. **Renewable Jet-Fueled Rocket Nearly Breaks Sound Barrier.**

A new biofuel created from completely renewable crop oils, such as canola and soybeans, was successfully tested on a rocket that approached Mach 1 and reached an altitude of 20,000 feet. The test was conducted in the Mojave Desert by the University of North Dakota's Energy and Environmental Research Center. The fuel meets all screening criteria for petroleum-based JP-8 aviation fuel.

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

### **1. FAA Reauthorization Bill Passes Senate Commerce.**

The Senate Commerce Committee approved a two-year, \$35 billion FAA reauthorization bill. The House in May approved a \$53.5 billion, three-year bill. Committee Chairman Jay Rockefeller (D-W.Va.) said the two-year structure will give the Obama Administration a chance to work out a longer-term reauthorization bill. The bill includes provisions to modernize the U.S. air traffic control system, setting deadlines of 2014 for satellite technology to provide total coverage at the top 35 U.S. airports and 2018 for the entire national network; specific funding mechanisms would be developed over the next two years. It calls for pilot fatigue studies, enhanced safety oversight programs and U.S. inspections of foreign repair stations. The Senate bill does not impose new user fees, whereas the House version would increase the cap on passenger facility charges from \$4.50 to \$7. It does not contain language found in the House bill that would make it easier for FedEx workers to be unionized. Also absent is a provision found in the House bill that would sunset antitrust immunity for airline alliances every three years. Once passed by the full Senate, differences will be reconciled in a House-Senate conference, hoped for before current FAA authorization expires at the end of September. FAA has been funded through temporary budget extensions for two years.

### **2. Passenger Rights Addressed in Senate FAA Funding Bill.**

The Senate FAA funding measure includes passenger rights language requiring airlines to allow passengers the option to deplane once they have sat on the ground for three hours, and provide passengers with adequate food, drinkable water, working restrooms and comfortable cabin temperature and ventilation. Airports and airlines would be required to develop contingency plans for delayed flights, which would have to be reviewed and approved by DOT. And, a Consumer Complaint Hotline would be established within DOT, so passengers could alert the agency to delays. The proposal would allow pilots to decide whether to allow passengers to deplane, on the basis of risk to safety or security or on the belief that the flight would depart within 30 minutes. "These reasonable measures will give the airlines maximum flexibility in handling tarmac delays, but will finally force the airlines to treat their passengers as human beings and paying customers—not as cargo," said FlyersRights.org, which has lobbied vociferously for the measure. The Air Transport Association said the measure would have many unintended consequences that would increase delays and cancellations and add more customer inconvenience, as well as cost to the airlines. DOT is considering a

proposed rule that would make airline contingency plans for tarmac delays legally enforceable.

**3. Essential Air Service Funding Increased.**

The House Appropriations Subcommittee approved legislation that would give \$173 million in the upcoming budget year to the Essential Air Service, a \$53 million increase. The subsidies have been criticized as wasteful and DOT Secretary LaHood has said a program that would provide better value for passengers and taxpayers is needed.

**4. Aviation Safety Bill Would Strengthen Pilot Training.**

Legislation that would increase pilot training requirements, address pilot fatigue and make pilot records easier to obtain was introduced by the House Transportation Committee and Aviation Subcommittee. The “Airline Safety and Pilot Training Improvement Act” stems from hearings that revealed deficiencies in training, development and the working environment of pilots , particularly at regional airlines, said Committee members. The bill is meant to “ensure that all travelers can be confident that we have a uniform level of safety, no matter what plane or airline they are flying.”

**5. House Panel to Examine Airline Antitrust Immunity Process.**

A planned House Judiciary Subcommittee hearing (“Competition Concerns with International Airline Alliances: Should DOJ Co-Pilot the Airline Antitrust Immunity Process?”) was postponed. Some House Democrats propose more aggressive enforcement of antitrust laws in the airline industry, with the Department of Justice having more formal authority in approving airline alliances. FAA authorization passed by the House in May takes a tough stance on alliances, forcing airlines to reapply for antitrust immunity every three years, but the version cleared by the Senate Commerce Committee excludes the clause. Senate Commerce Chairman Jay Rockefeller (D-W.Va.) and ranking Republican Kay Bailey Hutchison (R-Tex.), in a letter to DOT Secretary Ray LaHood, said abrupt and unexpected changes to DOT’s ATI review process could jeopardize existing and future open skies agreements and adversely affect the current competitive market. House Transportation Chairman James Oberstar (D-Minn.) wrote to Lawrence Summers, Director of the National Economic Council, urging review of antitrust policies. The Star, SkyTeam and oneworld global alliances control more than 87% of transatlantic traffic, said Oberstar, who sponsored the House legislation that would limit ATI.

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

### 1. **U.S. - Syria Talks May Ease Export Ban on Aircraft Spare Parts.**

President Obama will seek to use his waiver authority under congressionally mandated sanctions to aid purchases of U.S. products deemed important to the welfare of the Syrian people, including spare parts for Syrian Arab Airlines. The sanctions were launched in 2004 in retaliation for Syria's support of Hezbollah and Hamas.

### 2. **U.S., India Discuss Expanded Technology Cooperation.**

U.S. Secretary of State Hillary Clinton and India's External Affairs Minister S.M. Krishna agreed to strengthen U.S.-India bilateral relationships. Among numerous initiatives discussed during talks in New Delhi, they agreed that high technology cooperation would include working groups to focus on new areas of common interest, including civil aviation.

### 3. **Canada Signs Pacts With New Zealand, Republic of Korea.**

Canada signed a Blue Sky air transport agreement with New Zealand, which allows any number of air carriers from either country to operate passenger and all-cargo scheduled services as frequently as desired, to and from any point in either country's territory. Air carriers of both countries will also be able to pick up traffic in each other's territory and continue to a third country en route to or from their home territory. The agreement also provides for enhanced all-cargo rights, allowing stand-alone cargo services between each other's territory and third countries, and includes a fully flexible tariff regime. This agreement replaces one that has been in force since 1985. A similar agreement was reached with the Republic of Korea.

## VIII. EUROPE AND AFRICA

### 1. EU Removes Four Indonesian Airlines From Blacklist.

The European Union (EU) has updated its list of carriers banned from European airspace. Removed were four Indonesian airlines—Garuda, Airfast, Mandala and Premiair—“because their authority ensures that they respect the international safety standards”; other Indonesian carriers remain banned. Added to the list were Ukrainian Mediterranean, Iran's Mahan Air and all airlines from Kazakhstan, except Air Astana, and Zambia. TAAG Angola remains on the list but, due to a cooperation and assistance agreement signed by civil aviation authorities of Angola and Portugal, may operate into Portugal only with certain aircraft and under very strict conditions. Carriers that have appeared on the blacklist are “subject to prioritized ramp inspections at Community airports in order to ensure their consistent adherence to the relevant safety standards.” European Commission (EC) Transport Vice President Antonio Tajani called for an international strategy that would prevent unsafe airlines from flying anywhere, saying, “Citizens have the right to fly safely everywhere in the world.” That suggestion was rejected by Roberto Kobeh Gonzalez, President of the International Civil Aviation Organization (ICAO), who told reporters, “I don't think this is the solution at the global level.”

### 2. EU: Lost Luggage Problem Still Unacceptable.

An EC inquiry found that 4.6 million bags were delayed at EU airports between January-October 2008. Worldwide, 32.8 million pieces of luggage were reported lost in 2008, and 42.4 million in 2007. Effectively, one piece of luggage has been reported missing for every 64 passengers, said EU Transport Vice President Antonio Tajani, calling the number of bags mislaid, damaged or lost during European layovers “excessive and unacceptable.”

### 3. Christoph Mueller Named Aer Lingus CEO.

Aer Lingus named Christoph Mueller as CEO, effective October 1, 2009. He replaces Dermot Mannion, who resigned in April. Mueller most recently was Aviation Director at leisure travel group TUI and has held senior positions in Daimler Benz Aerospace, Lufthansa, Sabena and DHL.

### 4. Antonio Vázquez Named Iberia Chairman/CEO.

Antonio Vázquez was named Chairman and CEO of Iberia. He replaces Fernando Conte, who resigned for personal reasons. Vázquez was an Iberia board member from 2005 to 2007. He served as Chairman of tobacco company Altadis and negotiated its acquisition by Britain's Imperial Tobacco. “I've come to Iberia with the objective of closing a deal with British Airways,”

he told *Cinco Dias*; merger talks have been underway for a year. Iberia signed a new contract with its pilots and is launching the new Vueling, the product of merger between clickair and Vueling.

**5. British Airways to Raise £600 Million.**

British Airways announced it would raise £600 million (\$1 billion) through a combination of bondholder debt and bank credit, after a first-quarter loss of £100 million. "This puts to bed any suggestion that BA is in any sort of risk in the short term," said CEO Willie Walsh. The company seeks to cut 3,700 jobs, in addition to 2,500 already cut, and is reducing capital expenditure to £580 million from £725 million. Capacity is expected to be down 3.5% (previously 2.5%) for the current April to October period, and down 5% (previously 4%) in the winter. British Airways' premium-only unit, OpenSkies, which reportedly is for sale, will suspend daily Amsterdam-New York Kennedy service on August 16, offering only Paris-Amsterdam flights.

**6. Lufthansa Outlines New Savings.**

Lufthansa will find €1 billion in savings from its passenger airline business by the end of 2011, and plans a 20% cut in personnel costs. The company posted a first quarter operating loss of €44 million. Lufthansa asked the Austrian Takeover Commission to extend to August 31 its merger with Austrian Airlines, as EC antitrust approval was unlikely to be granted by the original deadline of July 31. The EC said it will market test a new antitrust proposal made by Lufthansa to ensure that all competition concerns are met, and has yet to clear €500 million in restructuring aid the Austrian government would pay to Austrian Airlines.

**7. WestJet, Air France, KLM Launch Interline Relationship.**

Canada's WestJet, Air France and KLM will offer interline connections through WestJet's Calgary and Vancouver gateways, with the option to continue on to Vancouver, Calgary or Edmonton. Air France operates four daily Montreal-Paris flights, and KLM five weekly Calgary-Amsterdam services. Air France and KLM operate a total of 67 flights a week between Paris de Gaulle/Amsterdam Schiphol and Calgary, Montreal, Toronto and Vancouver.

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

### **1. AAPA Half-Year Passenger Traffic Down 11.5%, Freight Down 22.3%.**

Association of Asia Pacific Airlines (AAPA) said member airlines' first-half international passenger numbers were down 11.5% year-on-year; international freight traffic registered a 22.3% decline in ton kilometers. In June, member airlines carried 9.9 million international passengers, 16.5% fewer than in June 2008. International passenger traffic (revenue passenger kilometers) declined by 16% in June and average international passenger load factor deteriorated by 5.7%, to 70.5%, despite a 9.2% reduction in available seat capacity. Air cargo traffic volumes were down 17.4% from June 2008. Coupled with a 15.4% reduction in cargo capacity, average international cargo load factor for June fell 1.6% to 66.8%. AAPA airlines have been reducing capacity and trying to stimulate demand through highly competitive fares and discounted travel packages, said Director General Andrew Herdman, "but lower yields are further undermining revenues. A number of carriers have taken steps to strengthen their balance sheets through a variety of new financing initiatives, in order to ride out the prolonged economic storm."

### **2. China Eastern, Shanghai Airlines Merger Announced.**

A merger of state-owned China Eastern and city-held Shanghai Airlines was announced. Shanghai Airlines will become a wholly-owned subsidiary of China Eastern and retain its brand and independent operation. Officials said this is a major step to promote consolidation of regional airlines and facilitate building Shanghai into an international air hub. The merger will give China Eastern a 50% market share in Shanghai and create China's second largest air carrier, after Air China. The Shanghai government agreed to the takeover "as part of its broader ambition to create an international aviation hub through the city's two airports," reports *Caijing* magazine; city planners want to see combined annual passenger volume rise at Shanghai's airports to 84 million by 2010.

### **3. Chinese Cross-Strait Flights Expanded.**

China and Taiwan announced increases in direct cross-strait flights. Beginning August 31, China Airlines and its Mandarin unit will offer scheduled service from Taiwan to mainland cities of Chengdu, Xiamen, Ningbo, Zhengzhou, Shenyang, Changsha and Xian, in addition to its flights to Shanghai, Beijing, Guangzhou, Nanjing, Shenzhen and Hangzhou. China announced new allocations for its airlines for flights to Taiwan from 27 mainland cities. Taiwan's aviation authority said the cross-strait route has been the only profitable one for Taiwan airlines this year.

4. **Brett Godfrey to Leave Virgin Blue.**

Virgin Blue expects a loss of A\$165 million for the year ended June 30 and will seek to raise A\$231 million by issuing new shares; Virgin Group agreed to invest up to A\$80 million. Brett Godfrey, who co-founded the airline with Richard Branson, announced he will leave at the end of 2010.

5. **Cambodia Angkor Air Begins Service.**

Cambodia Angkor Air, a joint venture between Cambodia (51%) and Vietnam Airlines (49%), launched with ATR 72 service between Siem Reap, home of the Angkor Wat temples, and Ho Chi Minh City. Cambodia Angkor Air, capitalized at \$100 million, plans to offer Airbus A321 service to Sihanoukville and Bangkok. Cambodia's former flag carrier, Royal Air Cambodge, ceased operations in 2001.

6. **American to Code Share With Etihad.**

American Airlines and Etihad Airways announced a new code share agreement in which American will place its code on Etihad-operated services between New York Kennedy, Chicago O'Hare, Paris De Gaulle, Dublin, Frankfurt, Manchester and Milan to and from Abu Dhabi. Etihad will place its code on American-operated U.S.-Europe services between New York Kennedy and Washington National, Los Angeles and San Francisco, and between Chicago O'Hare and Washington National, Los Angeles, San Francisco and Houston. Etihad plans new service to Chicago in September.

7. **Executive Shuffle at Gulf Air, Royal Jordanian.**

Bahrain's Gulf Air named Samer Majali as CEO, a position he formerly held at Royal Jordanian. He will replace Bjorn Naf, who is leaving to pursue other interests. Royal Jordanian named Hussein Dabbas President and CEO. Dabbas has held several executive positions at Royal Jordanian since 1979.

8. **EU Removes Four Indonesian Airlines From Blacklist.**

See Section VIII, item 1.

## **X. AMERICAS**

### **1. U.S. Airline Passenger Revenue Fell 26% in June.**

U.S. airlines' passenger revenue fell 26% in June, versus same month 2008, for the eighth consecutive month, reports Air Transport Association of America. The number of passengers traveling on U.S. airlines in June fell 6.5%, while the average price to fly one mile fell 20.7%. The sharp declines surpassed even those witnessed during the 2001 recession and post-9/11 terrorist attacks, said ATA. Revenue declines extended beyond the U.S. mainland to the transatlantic, trans-Pacific and Latin markets. U.S. airlines saw cargo traffic (revenue ton miles) decline 20% year over year in May, the 10th consecutive month of declining cargo traffic. Cargo traffic in the Pacific region fell 26%. June 2009 cargo data was not yet available.

### **2. Smisek to Replace Kellner as Chairman, CEO.**

Chairman and CEO Larry Kellner will leave Continental at yearend to head Emerald Creek Group, LLC, a new private investment firm based in Houston. He will be replaced by Jeff Smisek, current President and Chief Operating Officer. Smisek has been with Continental since 1995 and earlier specialized in corporate finance and securities law. Continental posted a \$213 million second-quarter loss and will cut 1,700 jobs, in addition to a previously announced reduction of 500 reservation-agent positions. New revenue initiatives include increased service fees for domestic checked baggage and telephoned reservations.

### **3. Southwest Bids for Frontier.**

Southwest submitted a nonbinding bid of \$113.6 million for Denver-based Frontier. A \$108.75 million bid from Republic, approved by the judge presiding over Frontier's Chapter 11 bankruptcy case, provides for an auction period ending August 10, during which Frontier can seek other bids. Frontier reported a second quarter \$12.6 million net profit, compared with a year-ago-loss of \$57.7 million.

### **4. JetAmerica Launch Cancelled.**

Unable to secure slots at Newark, JetAmerica suspended sales. The Florida-based public charter operator had offered fares as low as \$9 for flights to underserved markets, such as Toledo, South Bend, Melbourne and Lansing. "We still strongly believe that there is an unmet need for affordable air service to secondary markets," said CEO John Weikle, "and we look forward to offering this option again in the near future."

5. **Air Canada Raises C\$1.02 Billion.**

Air Canada has entered into arrangements to raise a total of C\$1.02 billion in additional liquidity through a series of financings and other transactions with lenders and stakeholders. The carrier also won a pension funding moratorium and new pension deficit funding arrangements, as well as 21-month extensions to collective agreements on a cost neutral basis, all of which “will give us breathing room towards achieving sustainable profitability,” said CEO Calin Rovinescu, who promised “a fundamental repositioning of the airline with a focus on both cost management and a new approach to revenue generation to offset the dramatic erosion in yield.”

6. **American, GOL to Code Share.**

American and GOL plan to begin code sharing later this year to points in Brazil not served by American. American serves five major Brazilian cities from the United States. The carriers have begun a frequent flyer pact.

7. **Foreign Ownership of Brazil's Airlines Could Rise to 49%.**

The cap on foreign ownership of Brazil's airlines may rise to 49% from 20%, subject to approval by Congress. Brazil's Civil Aviation Council approved that draft law and also recommended that airlines apply for authorization for domestic routes, replacing the current concessionary model.

8. **WestJet, Air France, KLM Launch Interline Relationship.**

See Section VIII, item 9.

9. **American to Code Share With Etihad.**

See Section IX, item 6.