



## 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. **FAA Funding Extension Expires, Forcing Shutdown.**

The U.S. Federal Aviation Administration (FAA) was forced to furlough nearly 4,000 employees, issue stop-work orders on more than 150 airport projects and stop processing \$2.5 billion in airport construction grants, after Congress failed to agree on an authorization extension. (See Section VI.) Employees paid from the FAA Operations account were not affected, thus air traffic controllers and others essential to air safety remained on the job. . . . Laws authorizing airline ticket taxes expired with FAA's operating authority. All the major airlines increased fares to take advantage of the tax lapse and were chastised by Senate Democrats. Spirit, Alaska and Hawaiian passed the savings on to customers. The American Association of Airport Executives, was critical of the airlines and noted, "every week without the federal taxes in place costs the Airport and Airway Trust Fund approximately \$200 million in foregone revenue." The Internal Revenue Service was working with airlines on issues relating to collection and payment of the taxes. . . . Transportation Secretary Ray LaHood and FAA Administrator Randy Babbitt released numerous reports of airport programs affected by the impasse and said the suspension of aviation projects could lead to more than 80,000 job losses.

### 2. **DOT to Require Airlines to Report More Ancillary Fee Data.**

The U.S. Department of Transportation (DOT) proposed a new rule requiring airlines to report 16 categories of fee revenue, in addition to baggage and reservation change fees currently submitted quarterly, as recommended in a 2010 Government Accountability Office report. (Airlines received \$3.4 billion from baggage fees and \$2.3 billion from reservation change fees in 2010.) Identification of all ancillary fees and amounts collected by each airline would help determine the impact of the increasing use of these fees on the Airport and Airways Trust Fund, said DOT. The Notice of Proposed Rulemaking also requires airlines to report number of checked bags and mishandled wheelchairs. Comments will be accepted through September 13.

### 3. **Some DOT Consumer Rules Delayed.**

DOT delayed some new consumer protection rules to January 24, following industry requests and court challenges by Spirit, Allegiant, and Southwest. Deferred are rules requiring that airlines give travelers 24 hours to cancel tickets without penalty and disclose all fees and taxes in advertised prices, and provisions on how airlines and agents advise travelers on baggage and other ancillary fees. Other portions of the rule will take effect August 23, as planned,

including increased compensation for bumped passengers and penalties for international flights with tarmac delays of at least four hours.

4. **DOT Grants Dormancy Waivers for Japan Routes.**

DOT granted American Airlines' request to temporarily suspend New York Kennedy-Tokyo Haneda service through June 1, 2012. American will suspend the service on September 4, "in an effort to help it offer service more in line with market demand, as Japan continues to recover from March's earthquake and tsunami." DOT earlier granted a comparable Detroit-Haneda dormancy waiver to Delta.

5. **Volaris Wins Extrabilateral Exemption for Mexicana Routes.**

DOT granted special authority to Volaris to operate, for one-year, three unused Mexico-U.S. routes involved in Mexicana's bankruptcy process. The routes are Monterrey-Chicago Midway, Mexico City-Las Vegas and Mexico City-Los Angeles. The extrabilateral exemption authority was made on condition that if Mexicana resumes service on these markets, Volaris must cease operating the routes. Volaris will utilize Airbus A319/A320 aircraft on the routes.

6. **Atlantic Southeast Fined.**

DOT fined Atlantic Southeast \$200,000 for violating rules protecting travelers with disabilities. Up to \$75,000 of the fine may be used to improve service to disabled passengers above levels required by DOT rules.

7. **FAA Proposes \$689,800 Civil Penalty Against FedEx.**

FAA proposed a \$689,800 civil penalty against FedEx for allegedly violating hazardous materials regulations 89 times in 2009, when pilots-in-command were not provided complete, accurate information on the nature, quantity and weight of hazardous materials loaded on their aircraft. FedEx also accepted four shipments of hazardous materials for air transportation when those materials were not accurately described and certified in accompanying shipper's documents. . . . FAA also proposed civil penalties against American Eagle (\$77,500) for alleged violations of the company's operations specification for ground de-icing/anti-icing; Atlantic Southeast (\$132,000) for allegedly operating a non-compliant Bombardier CRJ on 22 passenger flights; and Jet Aircraft Maintenance of Miami (\$66,000) for allegedly failing to perform tire changes properly on United Airbus A320s at Washington Reagan National.

8. **Scheduled Passenger Airline Employment Up 2.1% in May.**

U.S. scheduled passenger airlines employed 384,974 workers in May, 2.1% over May 2010, reports DOT, the highest employment number since July 2009 and the largest year-to-year increase since February 2008. Network airlines

employed 5,314 more workers than in May 2010 and 5,747 fewer than in May 2007. Low-cost airline employment was up 4.1% in May, the largest year-to-year increase since September 2007; the six low-cost carriers reporting employment data in both 2007 and 2011 employed 9.9% more workers in May 2011 than in May 2007. Regional airline employment was up 1.6% in May 2011; the 15 regional carriers reporting in both 2007 and 2011 employed 14.9% fewer in 2011 than in 2007.

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

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

	May '11 / '10	April '10	Full Year				
			2010	2009	2008	2007	2006
On-time arrivals %	77.1 / 79.9	75.5	79.8	79.5	76	73.4	75.4
Cancellations %	2.1 / 1.2	2	1.76	1.39	1.96	2.16	1.71
Mishandled baggage*	3.52 / 3.23	3.24	3.99	3.91	5.26	7.05	6.73
<i>Consumer complaints:</i>							
Airline service	1,062 / 799	879	10,985	8,821	10,648	13,180	8,325
Disability-related	57 / 40	54	572	519	477	488	430
Discrimination**	10 / 10	10	143	131	115	99	114

Note: U.S. airlines reported 16 total tarmac delays of more than three hours, compared to four in April.

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. DOT Tentatively Approves Delta-US Airways Slot Trade.

DOT tentatively approved the proposed Delta-US Airways slot transaction at New York LaGuardia and Washington Reagan National, under which Delta would acquire 132 slot pairs at LaGuardia from US Airways and US Airways would acquire from Delta 42 slot pairs at Reagan National and the rights to operate additional daily service to Sao Paulo, Brazil in 2015. In addition, Delta would pay US Airways \$66.5 million in cash. Approval is contingent upon the carriers divesting eight pairs of daily slots at Reagan National and 16 pairs at LaGuardia through a blind sale to airlines that currently have little or no service at these airports. Slot pairs would be sold in bundles large enough to ensure that a purchaser would have a sufficient number of slots to provide meaningful new competition. In addition, the carriers would be required to wait 90 days before beginning their new operations on a phased-in basis, in order to allow the new services to establish a foothold at the airports. Comments on FAA's proposed action are due August 29, 2011. The Department of Justice is independently reviewing the proposed transaction.

### 2. Potter Named President/CEO of MWAA.

Former Postmaster General John Potter was named President and CEO of Metropolitan Washington Airports Authority (MWAA), operator of Reagan National and Dulles. MWAA, which also operates the Dulles Toll Road and is constructing the Dulles Corridor Metrorail Project, has agreed to support an above-ground option for the airport Metrorail station after much controversy; costs for an underground station were estimated at \$562 million more than the above-ground option. The DOT Office of Inspector General has initiated an audit of MWAA management policies and processes to determine whether they are sufficient to ensure accountability and transparency of Board activities.

### 3. Report: Sites for Second Atlanta Airport Unfeasible.

A federally funded study of potential sites for a second commercial airport for Atlanta determined that none of the candidates examined were feasible, reports the *Atlanta Journal-Constitution*. The Atlanta Metropolitan Aviation Capacity Study covered a 60-mile radius and assumed the airport would need a 1,400-acre footprint and 9,000-foot runway. Obstacles included public opposition, high property costs and conflicts with existing air corridors.

4. **Tampa Flights to Cuba to Resume.**

ABC Charters secured Cuba landing rights for service from Tampa; the airport's first flight to Cuba in almost 50 years could start in September. The Tampa Bay service area has the second largest Cuban-American population in the U.S., after Miami-Dade. In March, the airport received approval from U.S. Customs and Border Protection to operate Cuba flights.

5. **Puerto Rico Airport to be Privatized.**

Puerto Rico issued a request for qualifications from interested for-profit investors in Luis Munoz Marin International Airport. Firms have until August 8 to submit documents showing financial means and technical expertise to operate and maintain the airport. Those qualified then will bid for a 40- to 50-year concession.

6. **BAA Must Sell Two Airports.**

The UK Competition Commission upheld a March 2009 decision requiring Heathrow operator BAA to divest three airports, saying "passengers and airlines would still benefit from greater competition with the airports under separate ownership, despite the current government's decision to rule out new runways at any of the London airports." BAA sold Gatwick in December 2009 to a consortium led by Global Infrastructure Partners. The Commission concluded that the Stansted sale should take place within three months, followed by sale of either Edinburgh or Glasgow. BAA, a unit of Spain's Ferrovial, is considering a judicial review of the decision.

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

#### **1. TSA News.**

The Transportation Security Administration (TSA) will conduct a pilot trusted traveler program with U.S. airlines and Customs and Border Protection (CBP). During the first phase of testing, frequent fliers and members of CBP programs, including Global Entry, SENTRI and NEXUS, will be eligible to qualify for expedited screening at checkpoints at Atlanta and Detroit (Delta) and Miami and Dallas Fort Worth (American). TSA plans to expand this pilot to include other airlines and airports. Passengers in the pilot must be U.S. citizens. TSA Administrator John Pistole said random and unpredictable security measures throughout the airport will continue and no individual will be guaranteed expedited screening. . . . Air carriers and foreign partners were briefed by TSA regarding intelligence indicating that terrorists may be pursuing ways to further conceal explosives; i.e., bombs surgically implanted in bodies. Additional security measures were put in place for passengers flying from international locations. The White House said the warning did not relate to a specific plot or threat. . . . TSA is upgrading airport screening machines to enhance privacy by eliminating passenger-specific images. Automated Target Recognition software detects items that could pose a threat using a generic outline of passengers. All currently deployed millimeter wave Advanced Imaging Technology machines at U.S. airports will be upgraded. A separate TSA officer will no longer be required to view images in a remotely located viewing room. The new software was successfully tested at Hartsfield-Jackson Atlanta, Las Vegas McCarran and Reagan Washington National. Similar software for backscatter units will be tested in the fall. . . . A federal appeals court in Washington rejected a constitutional challenge to use of full-body scans in airports, saying TSA's need to use the scanners to detect explosives outweighs passenger concerns about privacy. The lawsuit was brought by the Electronic Privacy Information Center (EPIC). The court also ruled that TSA violated federal law when it installed body scanners in airports for primary screening across the country without first soliciting public comment.

#### **2. Face Recognition Technology at Heathrow.**

BAA will introduce face recognition technology in Heathrow Terminals 1 and 5 in September. The Aurora Imaging Recognition (AIR) system, with the Passenger Authentication Scanning System (PASS 2) from Atkins, meet security standards for control of passenger access and egress to the common departure lounges at Heathrow, confirmed BAA and the UK Border Force following trials. PASS technology has been used at Heathrow since 2008 in passenger processing. PASS 2 integrates infrared (IR) facial recognition

biometric technology from Aurora in the form of the AIR biometric engine and Image+ IR cameras. Passengers will be enrolled into the system and the biometrics linked with the boarding pass on entry into the common user lounges at T1 and T5, and will then be verified against previous enrolment before boarding. Trials show average verification time of 4.7 seconds, says Aurora; “personal space is not imposed upon.”

**3. Amsterdam to Introduce New E-Gates.**

Following a successful pilot program, the Dutch Ministry of Internal Affairs selected Accenture to design and deliver Automated Border Control Systems (ABCS) at Amsterdam Schiphol. The new systems will reduce wait times by validating passenger identities and documentation using facial recognition and other biometric technologies. Accenture will deliver 36 electronic border-crossing gates initially for use this year. Accenture electronic border-crossing systems are used at international airports in the UK, Finland and Portugal.

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

### **1. United, Continental Sign Distribution Agreement With Travelocity.**

United and Continental signed a new multi-year agreement with Sabre unit Travelocity, which enables customers to purchase tickets through Travelocity's online booking sites, including Travelocity.com, Travelocity Business, Travelocity Partner Network and Travelocity.ca.

### **2. Frontier Signs with Travelport.**

Frontier signed a multi-year, full content agreement with Travelport, making all of its fares and seat inventory available to Travelport-connected travel agents globally. Frontier is a wholly owned subsidiary of Republic Airways Holdings. Travelport is comprised of the global distribution system business, which includes Galileo and Worldspan, and Airline IT Solutions; Travelport also owns 48% of Orbitz Worldwide.

### **3. US Airways Offers New Reservations Self-Service System.**

US Airways launched a voice response system that offers customers flight information, upgrade status, miles account details and other self-service capabilities. The Natural Language Understanding (NLU) Interactive Voice Response (IVR) system "converses with customers in a remarkably natural manner, understanding their verbal requests, recalling details of previous conversations and matching answers seamlessly to the transaction in question," said developer Nuance Communications. The system was implemented as US Airways returns work handled outside the U.S. to its Phoenix, Reno and Winston-Salem reservations centers; union pacts call for U.S.-originated support calls to be brought to U.S. locations by November.

### **4. Virgin America Passengers Test Google's Chromebook.**

Virgin America passengers are testing Google's new Chromebook laptop on some flights and at select airport gates through September 30. Flyers who check out a Chromebook receive a free WiFi session via the Gogo network. "With an eight-second boot time, the available Chromebooks are built for today's connected traveler," said officials. Google and Virgin America are developing a "Virgin America Traveler" Chrome app, which allows users to shop, generate packing lists, consult UrbanDaddy local content for recommendations on select Virgin America cities, and view Trip Board, which features photos from Virgin America's destinations.

## V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel, as of July 22, was \$134/barrel, up 5.5% on the month and up 51.8% year-on-year, reports IATA. Fuel price average for 2011 was \$128/barrel.

### 2. **ATA Calls EU ETS Application to U.S. Airlines Illegal.**

Arguing for its members before the European Court of Justice, the Air Transport Association of America (ATA) called for European Union (EU) application of an Emissions Trading Scheme (ETS) to be dismissed and declared illegal. "Aviation greenhouse gas emissions should be regulated on a global sectoral basis," said ATA, and "unilateral action by any country or group of countries violates international law." EU ETS has not been agreed to by countries outside the EU, yet applies EU law to third country carriers in third country airspace, said ATA. An entire U.S.-EU flight would be included, although it would be in EU airspace for only a fraction of the journey. For example, for a San Francisco-London Heathrow flight, from before the aircraft begins to taxi from the gate in San Francisco, 29% of total emissions take place in U.S. airspace, 37% in Canadian airspace, and 25% over the high seas. Only 9% of emissions take place in EU airspace. ATA outlined how levies imposed by the scheme violate provisions of the Chicago Convention and U.S.-EU bilateral air services agreement and the Kyoto Protocol, which confirms that the International Civil Aviation Organization (ICAO) has authority to establish greenhouse gas policy for international aviation. The high court is expected to issue a ruling by early 2012.

### 3. **BioJet Releasing One Billion Gallon of Renewable Jet Fuel.**

BioJet International is releasing one billion gallons of renewable jet fuel to long-term contracts, to celebrate recent approval of bio-derived jet fuel for commercial use (ASTM International revised D7566). The one-time offer had a fixed price of \$2.97 per gallon. Santa Barbara-based BioJet is involved in feedstock generation, technology, refining, logistics, sustainability certification and distribution to the transportation sector.

### 4. **EPA to Make Endangerment Finding for Aircraft Emissions.**

A federal judge ordered the Environmental Protection Agency (EPA) to determine whether greenhouse gas emissions from aircraft cause or contribute to air pollution. The ruling follows a lawsuit filed by environmental groups alleging that EPA failed to respond to petitions to make an endangerment finding for greenhouse gas emissions from aircraft, marine

vessels and other non-road vehicles and engines within the 90 days required by the Clean Air Act. The court dismissed claims related to marine vessels and non-road vehicles and engines.

**5. Noise Monitoring Enhancement for DC Airports.**

Metropolitan Washington Airports Authority selected ITT to provide flight operations data feed for noise monitoring and flight tracking systems in the Washington area at Dulles International and Reagan National airports, for one year with a two-year renewal option. The information is derived from the Automatic Dependent Surveillance–Broadcast network being deployed and managed by ITT for FAA. Data will be integrated into both airports' Noise Operations Monitoring Systems, which enable monitoring and management of aircraft noise and environmental effects on neighboring communities.

**6. Airline Carbon Footprints Studied.**

A study of more than nine billion airline passenger departures determined that “energy efficiency per passenger mile varies tenfold across the entire industry,” reports carbon accounting and offset company Brighter Planet. Factoring aircraft fuel economy, passenger load, seat density, freight share and flight distances for more than 130 million flights between 2000 and 2010, Brighter Planet found that Continental, JetBlue and Frontier topped the U.S. domestic airline energy efficiency list while regionals American Eagle, Chautauqua and Mesa ranked at the bottom. Ryanair, Singapore and Delta were at the top of international rankings, and SAS, Lufthansa and Swiss at the bottom. Overall, Ryanair placed first, American Eagle was last. The least efficient flight in three sample city pairs emits at least twice as much as the most efficient. Brighter Planet is offering a beta version of software that calculates carbon output, for companies that report their business travel footprint.

**7. Lufthansa Launches Scheduled Flights Using Biofuel.**

Lufthansa launched a six-month biofuel trial on four daily scheduled flights between Hamburg and Frankfurt. One engine on the Airbus A321 runs on a 50/50 mix of regular fuel and ASTM-approved biofuel that can be used for all aircraft types without modification to aircraft or engines. In addition to CO2 emission reductions, the trial will examine effects of biofuel on maintenance and lifespan of engines. The fuel is produced by Finnish company Neste Oil. Lufthansa expects total project costs will be €6.6 million, of which €2.5 million is government-funded.

**8. Virgin Australia Partners to Develop Unique Australian Bio-Fuel.**

Virgin Australia is in a consortium that plans to use fast pyrolysis technology to process mallees, a eucalypt tree that can be grown sustainably in many parts

of Australia, to develop aviation biofuel. Partners include Renewable Oil, Dynamotive Energy Systems and Future Farm Industries Co-operative Research Centre. A demonstration unit that will make bio-fuels for testing, certification and public trial should be operational in 2012, and a full-scale commercial plant in Western Australia by 2014.

**9. Australia Launches “Clean Energy Package.”**

Australia announced a carbon price system, effective July 2012, which, says Qantas, will have an estimated cost impact of A\$110-A115 million on Qantas Group in fiscal year ending June 30, 2013. The tax will rise 2.5% a year until 2015, when it will transition into an emissions trading scheme. “In the context of the significant challenges facing the global aviation industry, the Qantas Group will be unable to absorb the additional costs associated with the carbon price and there will be a full pass-through to customers,” said the company. International aviation fuel use is not subject to fuel tax in Australia and will not be subject to an effective carbon price.

## VI. U.S. CONGRESS

### 1. Congress Fails to Approve Funding Extension for FAA.

Congress failed to negotiate a short-term FAA funding bill, causing the agency to virtually shut down. H.R. 2553 was introduced in the House by Transportation Committee Chairman Mica (R-FL), Aviation Subcommittee Chairman Tom Petri (R-WI) and Ways & Means Committee Chairman Dave Camp (R-MI). In addition to maintaining current funding levels through September 16, the extension included a provision that would cut the Essential Air Service program by \$16 million. "House Republicans freely admit that this is simply an effort to leverage one issue to hijack the legislative process and gain the upper hand on negotiating an anti-labor provision," said Jay Rockefeller (D-WV), Chairman of the Senate Commerce Committee, referring to Republicans' desire to reverse a National Mediation Board decision that he believes provides workers "a democratic vote on union certification." Rockefeller is seeking Unanimous Consent to pass a clean extension of the FAA. "This is not an unusual request," he said. "It has been done 20 times over four years as we have sought to finalize an FAA Reauthorization package." He and several other Senate Democrats introduced legislation that would permit FAA to draw on the Aviation Trust Fund to allow furloughed employees to return to work.

### 2. EU ETS Prohibition Act Introduced.

Bipartisan House Transportation Committee leaders introduced a bill that would direct the DOT Secretary to prohibit U.S. aircraft operators from participating in the EU Emissions Trading Scheme, scheduled to take effect in 2012. The European Union Emissions Trading Scheme Prohibition Act of 2011 (H.R. 2594) instructs U.S. officials to negotiate or take any action necessary to ensure U.S. aviation operators are not penalized by any unilaterally imposed EU emissions trading scheme, and calls on EU member states to work with ICAO to develop a global approach and to withdraw the current scheme. . . . In a House Aviation Subcommittee hearing, ATA Vice President Nancy Young said the EU ETS could cost U.S. airlines more than \$3.1 billion between 2012 and year-end 2020, an outlay that could support more than 39,200 U.S. airline jobs; costs could double if the cost of carbon allowances escalates as it has in recent years.

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

### 1. **U.S.-Macedonia Reach Open-Skies Agreement.**

The United States and Macedonia reached an open skies agreement, which allows airlines of the two countries to select routes, destinations and prices for passenger and cargo service based on consumer demand and market conditions. It is the first aviation agreement between the two countries and is effective immediately.

### 2. **U.S.-India Bilateral Aviation Safety Agreement Signed.**

A Bilateral Aviation Safety Agreement (BASA) was signed by India's Civil Aviation Secretary Nasim Zaidi and FAA Administrator J. Randolph Babbitt. The signing coincided with a visit by Secretary of State Hillary Clinton to India. BASA facilitates reciprocal airworthiness certification of civil aeronautical products imported and exported between two authorities. Indian standards would be comparable to global standards and its aeronautical products would be accepted by the U.S. The pact "will pave the way for greater bilateral trade in aviation equipment and systems, improve passenger safety, and greatly expand U.S. and Indian civil aviation industries," said the U.S.-India Business Council. The next stage for both governments is to sign the implementation Procedures for Airworthiness (IPA) which provides for airworthiness technical cooperation between FAA and its counterpart in India.

### 3. **State Department Issues Global Travel Warning for Americans.**

The U.S. Department of State believes there is enhanced potential for anti-American violence given the death of Osama Bin Laden in May, and said Al-Qaida and affiliated organizations continue to plan terrorist attacks against U.S. interests in Europe, Asia, Africa and the Middle East. U.S. citizens are urged to maintain a high level of vigilance and increase their security awareness.

## VIII. EUROPE AND AFRICA

### 1. EC Probes State Aid in Air Transport; Clears Dutch Air Passenger Tax.

The European Commission (EC) is investigating public support of €7.58 million received by Marseille airport for construction of a terminal, to determine if the subsidy was necessary and proportionate to objectives pursued and whether lower fees for airlines using the terminal and discounts for start-up of new routes procured selective advantage to beneficiaries. . . . The EC is investigating a credit line and an underlying guarantee provided to Frankfurt Hahn by the Land Rheinland-Pfalz, and re-financing of loans granted by publicly owned Investitions- und Strukturbank, to determine if these measures contribute to airport operating costs. . . . In March 2009, Ireland introduced two different tax rates—€2 for domestic destinations and €10 for all others—to be paid by airlines for each departing passenger. After an internal market infringement procedure, Irish authorities modified the tax so that, as of March 2011, a single rate of €3 applies to all destinations. The EC is determining whether the lower taxes for domestic flights distorted competition. . . . The EC found that a Dutch air passenger tax that comprised two rates, in force between July 2008 and June 2009, did not result in state aid.

### 2. Air France Strike Averted.

Air France reached an agreement with cabin crew unions, averting a strike planned for the high-season weekend of July 29-August 1. In other news, Air France-KLM will suspend direct service to Chicago O'Hare from October to March due to high fuel prices and weak demand. Partner Alitalia will suspend daily Rome-Chicago service from December to April.

### 3. French Investigators Release Analysis of AF447Crash.

France's Bureau d'Enquêtes et d'Analyses (BEA) released an analysis of the 2009 crash of an Air France Airbus A330-200 over the Atlantic Ocean, en route from Rio de Janeiro Galeao to Paris Charles de Gaulle. The 12 crew members and 216 passengers aboard AF447 were killed. The report supports previous views that pilot error played a role in the crash. Among several recommendations, BEA called for a re-examination of pilot training and check programs; mandatory creation of regular specific exercises aimed at manual airplane handling and approach to and recovery from stall, including at high altitude; and additional criteria for access to the role of relief captain. Investigators recommended that regulatory authorities evaluate the relevance of requiring the presence of an angle of attack indicator directly accessible to pilots. Video cameras in the cockpit also were proposed, with strict privacy-related rules, along with mandatory activation of the Emergency Locator

Transmitter when an emergency situation is detected on board and triggering of data transmission to facilitate localization.

**4. Iberia Loses Bid to Dismiss Flight Delay Lawsuit in U.S.**

A U.S. district court in Chicago denied Iberia's motion to dismiss a lawsuit in which the carrier is accused of denying U.S. passengers EU-mandated compensation for flight delays and cancellations. The case was filed in February by Illinois residents whose flight to Athens was delayed more than 24 hours. Iberia argued that EU rules do not apply to flights originating in the U.S., under the EU-U.S. Air Transport Agreement; the judge wrote that the agreement says consumers should be protected and each party's laws should be respected. Similar suits filed in Chicago seek compensation from British Airways, Lufthansa and Delta.

**5. Shenzhen Airlines to Join Star Alliance.**

See Section IX, item 1.

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

### **1. Shenzhen Airlines to Join Star Alliance.**

Shenzhen Airlines signed a preliminary agreement to join Star Alliance and expects full membership by end of 2012. The southern China-based carrier is owned by Star member Air China (51%) and Shenzhen International Holdings (49%). Last year, Shanghai Airlines withdrew from Star to join SkyTeam with its parent, China Eastern.

### **2. Delta Begins Detroit-Beijing Nonstops.**

Delta began nonstop service between Detroit and Beijing. The five weekly flights are operated on 269-seat Boeing 777s.

### **3. American, Cathay Pacific Expand Code Share Agreement.**

American Airlines and oneworld partner Cathay Pacific expanded their code share relationship to include Cathay's new daily Chicago-Hong Kong service, and its daily service between Hong Kong and Ho Chi Minh City, starting September 1. The carriers have code shared since 2003 on trans-Pacific, U.S. domestic and intra-Asia flights. Recently, the agreement was expanded to add the Cathay code on services between Chicago O'Hare and 11 U.S. markets served by American or American Eagle.

### **4. ANA, AirAsia to Form AirAsia Japan.**

In its first airline joint venture, AirAsia will form AirAsia Japan with ANA Group. Operating under the AirAsia brand, the low-cost startup will serve domestic and international destinations from Tokyo Narita as of August 2012, subject to obtaining relevant approvals. Japan's "first official low cost carrier," Osaka-based Peach, hopes to begin Kansai operations next March.

### **5. SIA Appoints CEO for New Low-Fare Airline.**

Singapore Airlines (SIA) appointed Campbell Wilson as founding CEO of a no-frills, low-fare airline to be launched next year. Wilson has been with SIA Group for more than 15 years. He is recruiting to fill senior positions for the new airline, which will be wholly owned by SIA but managed independently; it will operate widebody aircraft on medium and long-haul routes.

### **6. Tiger Airways Australia Suspended.**

Australia's Civil Aviation Safety Authority (CASA) suspended Tiger Airways Australia operations, stating that "permitting the airline to continue to fly poses a serious and imminent risk to air safety." After a show cause notice was issued in March, CASA imposed conditions requiring the airline to improve

pilot proficiency, training and fatigue management and maintenance and airworthiness systems and to ensure appropriately qualified people fill management and operational positions. Tiger Airways Holdings President and CEO Tony Davis replaced Crawford Rix as CEO of Tiger Airways Australia. Davis' former responsibilities will be carried out by Chin Yau Seng, Executive Director of Tiger Airways Holdings. The carrier refunded passengers booked through August 4.

**7. ANZ Released From Justice Dept. Cargo Cartel Investigation.**

The U.S. Department of Justice ceased its five-year cargo cartel investigation against Air New Zealand, said the airline. ANZ was not among airlines fined by EC and South Korea regulators.

**8. JetBlue, Qatar Airways Partnership.**

JetBlue and Qatar Airways signed a new interline agreement for travel between their networks via New York Kennedy and Washington Dulles. Qatar operates daily Boeing 777 nonstops from Doha to Houston, New York and Washington and serves over 100 destinations worldwide. JetBlue has more than 150 daily departures from Kennedy and operates Washington Dulles service to Boston, New York and cities in California and Florida. In other news, Qatar launched three weekly B-777 nonstops to Montreal, which, said CEO Akbar Al Baker, "hopefully will be the start of more things to come in Canada."

**9. Turkish Airlines Joins Arab Air Carriers Organization.**

Turkish Airlines joined Arab Air Carriers Organization and intends to develop bilateral links with other AACO partners. The flag carrier already code shares with Egyptair, Etihad, Royal Air Maroc and Syrian Arab Airlines.

**10. Asiana Boeing 747-400F Crashes.**

An Asiana Boeing 747-400F crashed into waters off the southern coast of South Korea, en route from Seoul Incheon to Shanghai Pudong. The two pilots, missing and presumed dead, reported a fire before contact was lost with the aircraft.

**11. DOT Grants Dormancy Waivers for Japan Routes.**

See Section I, item 4.

## **X. AMERICAS**

### **1. AMR to Divest American Eagle, Acquire 460 Narrowbodies.**

American will divest American Eagle to ensure “competitive rates and services for its regional feed into the future [and] provide Eagle an opportunity to vie for the business of other mainline carriers.” Under new agreements, American will acquire 460 next generation narrowbodies—Boeing 737s and Airbus A320s—beginning in 2013, “the largest aircraft order in aviation history.” About \$13 billion of committed financing from the manufacturers through lease transactions covers the first 230 deliveries. American also has eight Boeing 777-300ERs scheduled for delivery in 2012 and 2013. American cancelled San Francisco-Honolulu and Los Angeles-San Salvador flights, and, with transatlantic joint business partners, is evaluating winter season adjustments. American reported a second quarter net loss of \$286 million, compared to a 2010 Q2 net loss of \$11 million.

### **2. Delta to Drop 24 EAS markets.**

Delta notified DOT of plans to adjust flying in 24 Essential Air Service (EAS) markets, “in concert with the retirement of the Saab fleet and to halt \$14 million in annual losses.” Flights in these markets on average depart with 52% of seats filled, said Delta, with some locations as low as 12%, compared to a domestic system load factor of 83% for 2010, and flights in some markets occasionally operate with no passengers. The notification allows DOT to select a new carrier to begin service in affected EAS communities within a 90-day period. Delta Connection partners will serve affected communities until DOT selects a replacement carrier and appropriate funding is available. Delta is coordinating with other carriers to bid on some routes. Delta will continue service in some subsidized and non-subsidized markets, but said the subsidy rate must be higher in order to fly larger regional jets on the routes in question.

### **3. Southwest, AirTran Pilots Reach Agreement.**

An agreement in principle was reached between the Southwest Airlines Pilots' Association and the Air Line Pilots Association, which represents AirTran pilots. Southwest acquired AirTran in May. Southwest and AirTran each released January-March schedules, as they work to coordinate operations and prepare for full integration. Southwest announced some additional routes, as well as shifts in capacity to match passenger demand and continued pruning of unproductive flying due to high fuel costs.

4. **Cambria Holdings Acquires Sun Country.**

MN Airlines sold Sun Country to private Minnesota company Cambria Holdings. Sun Country headquarters will remain in St. Paul, with no changes planned for operations or management, said President and CEO Stan Gadek. Sun Country has more than 800 employees and flies to 38 year-round and seasonal destinations in the U.S., Mexico, Caribbean and Europe.

5. **Allegiant to Operate Boeing 757 to Hawaii.**

Allegiant obtained approval from FAA to begin operating the Boeing 757-200 aircraft type and expects to gain Extended-range Twin-engine Operational Performance Standards 180 (ETOPS) certification and Flag Carrier status required for flying to Hawaii, which the company anticipates for summer 2012.

6. **Judge: Flight 3407 Families Can Pursue Unlimited Punitive Damages.**

A U.S. District judge ruled that families suing over the 2009 Colgan Air crash may pursue unlimited punitive damages from Flight 3407 operators, in accordance with New York law, where the crash occurred. Under Virginia law, where Colgan Air was then based, punitive damages are capped at \$350,000. Colgan and parent Pinnacle successfully argued that federal standards, rather than state law, should prevail in measuring aviation safety and aircraft operations. The crash of the Continental Connection flight killed 50 people and was attributed to pilot error. Of some 40 lawsuits filed in federal court in Buffalo, about 12 have been settled.

7. **International Airlines Increase Capacity Into Mexico.**

In April, 1,141,159 passengers arrived in Mexico on international flights, reports the Mexico Tourism Board, a 3.8%, year on year increase. Carriers with notable first quarter increases in number of passengers carried into key Mexican hubs include Avianca (131%), British Airways (122.2%), Air France (150%), Taca (77.7%), Delta (79.4%), United (51.5%), LAN (45.3%) and Cubana (27.9%). AeroMexico, in code share operations with Air Europa, increased flights in July from both Barcelona and Madrid to Mexico City. TAM will begin direct Sao Paulo-Mexico City flights this year, and AeroMexico will operate new flights to Brownsville, Sacramento, Fresno, Guatemala, Miami, Chicago and San Francisco. Virgin Atlantic will launch bi-weekly Boeing 747-400 service between London and Cancun in June 2012.

8. **Gol to Acquire Webjet.**

Brazil's Gol will acquire low-cost rival Webjet for about \$61 million, subject to technical and legal analysis of Webjet's activities and assets as well as approval by antitrust authorities.

9. **DOT Grants Dormancy Waivers for Japan Routes.**  
See Section I, item 4.
10. **Volaris Wins Extrabilateral Exemption for Mexicana Routes.**  
See Section I, item 5.
11. **Shenzhen Airlines to Join Star Alliance.**  
See Section IX, item 1.
12. **Delta Begins Detroit-Beijing Nonstops.**  
See Section IX, item 2.
13. **American, Cathay Pacific Expand Code Share Agreement.**  
See Section IX, item 3.
14. **JetBlue, Qatar Airways Partnership.**  
See Section IX, item 8.