



WASHINGTON AVIATION SUMMARY

December 2012 EDITION

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

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I. **REGULATORY NEWS**

1. **Industry Reports Financial Impact of Superstorm Sandy.**

Airlines are reporting financial impact of Superstorm Sandy, which caused cancellation of some 20,000 flights in late October/early November. In October, nearly 17,000 flights were cancelled to the five most affected airports (New York Kennedy, Newark and LaGuardia, and Washington Dulles and Philadelphia), reports the International Air Transport Association (IATA). At storm's peak, on October 29, 8-9% of global capacity was grounded, equal to 1.6 billion available seat kilometers. "A conservative estimate of lost revenues as a result of the hurricane is \$0.5 billion," said IATA. "While there would be some savings from unused fuel, additional costs including those for passenger care and out-of-position crew, would have been incurred." Delta has reported October revenue loss of \$45 million, profit loss of \$20 million. JetBlue estimates total October/November revenue loss at \$40 million to \$45 million. US Airways reported October revenue loss of \$30 million, profit loss of \$15 million. United Continental reported October revenue loss of \$90 million, profit loss of \$35 million.

2. **Delta Wins Preliminary Approval for Seattle-Tokyo Haneda Service.**

The U.S. Department of Transportation (DOT) granted preliminary approval for Delta's proposal to serve Tokyo Haneda from Seattle, rather than Detroit. Delta said the Boeing 767-300ER service would begin in March. This would be the first nonstop on the route and provide several Western U.S. cities with their first one-stop connecting service to Haneda, DOT tentatively found. When Delta proposed the change in July, three other airlines filed proposals to use the opportunity for a new daily flight; American from Los Angeles, Hawaiian from Kona, Hawaii, and United from San Francisco. Delta also serves Haneda from Detroit and Los Angeles, American from New York Kennedy and Hawaiian from Honolulu.

3. **Spirit v. Department of Transportation Petition for Supreme Court Review.**

Spirit Airlines, Allegiant Air and Southwest Airlines on November 21, 2012, filed a Petition for Certiorari with the U.S. Supreme Court seeking review of the two to one decision of the Court of Appeals for the D.C. Circuit upholding the DOT full fare rule requiring that the price including all government taxes and fees be the most prominent amount displayed in any fare advertisement. The Petition also seeks review of the appeals court decision upholding a new rule requiring that all tickets sold more than a week before a flight must be fully

refundable for 24 hours. The Petition states that the full fare rule which reverses 30 years of Government policy, violates the petitioners' First Amendment rights of political and commercial free speech and both rules violate the limited rulemaking authority of DOT under the Airline Deregulation Act. The Government response and amicus briefs in support of petitioners are due on December 27, 2012. If you are interested in a copy of the Petition please email Joanne Young at jyoung@yklaw.com.

4. DOT Passenger Protection Rules Anticipated.

In anticipation of new passenger protection proposals, the Business Travel Coalition began a 30-day petition campaign urging the White House to “encourage a robust DOT rulemaking” that would restore “true air travel comparison shopping” for consumers and travel agents. A DOT Advisory Committee for Aviation Consumer Protection report to the Secretary of Transportation said DOT should ensure transparency in pricing, including ancillary fees; require travel agents, including online agents, to disclose airlines they sell and do not sell; and require disclosure on code share operations; other Committee recommendations addressed issues of service to disabled passengers, discrimination based on race and religion and consumer complaints. Airlines generally have opposed any rule that would require supplying ancillary fee information through GDSs without charge, and contend that how this information is provided should be left to private contract negotiations.

5. DOT Fines Air France, Travelzoo.

DOT fined Air France \$85,000 for violating full-fare advertising rules, saying the carrier initially hid the monetary amount frequent fliers were still required to pay, which included taxes and “also substantial fees Air France chose to label as ‘fuel surcharges’ that were included under a heading described as ‘taxes’; the fees “could amount to more than half the price of certain purchased coach tickets.” . . . DOT assessed penalties against online agents Airtrade (\$150,000) and Travelzoo (\$50,000) for failing to properly disclose to consumers when flights were being operated under a code sharing arrangement. This was Airtrade’s second violation of the code share disclosure rule in the past two years.

6. FAA Upgrades Israel to Category 1.

The Federal Aviation Administration (FAA) upgraded Israel to Category 1 from the Category 2 safety rating received in December 2008. The Category 1 rating means Israel complies with international safety standards set by the International Civil Aviation Organization (ICAO) and its airlines can now add flights and service to the United States and carry the code of U.S. carriers.

7. FAA Proposes Policy on Flight Attendant Workplace Safety.

The Department of Labor's Occupational Safety and Health Administration (OSHA) would be able to enforce standards currently not covered by FAA oversight for flight attendants, under a new policy proposed by FAA. Flight attendants could report such workplace complaints as exposure to noise and blood borne pathogens to OSHA for response and investigation. FAA and OSHA will develop procedures to ensure that OSHA does not apply requirements that could affect aviation safety. Congress has mandated that FAA develop a policy statement to outline circumstances in which OSHA requirements could apply to crewmembers working on aircraft.

8. FAA to Tighten Contract Maintenance Requirements.

FAA proposed a ruling requiring carriers that operate aircraft with 10 or more seats to develop, and include in manuals, policies, procedures, methods and instructions for performing contract maintenance. Investigations show deficiencies in the more than 70% of air carrier maintenance that is contracted out, said FAA. The rules would help ensure consistency between contract and in-house maintenance and enhance oversight capabilities of both carriers and FAA. Comments are due February 11, 2013.

9. NTSB Calls for Fire Suppression Systems in Cargo Planes.

The National Transportation Safety Board (NTSB) issued a call for FAA to require active fire suppression systems in all cargo containers or compartments of cargo aircraft, recommended improving early detection of fires within cargo containers and pallets, and urged that cargo containers provide better fire resistance. United Parcel Service (UPS) has developed and is testing systems that can prevent or contain cargo fires. FedEx has developed cargo fire suppression systems and is installing them on the long-haul fleet. Inflight fires have killed four cargo pilots over the past six years. . . . Separately, NTSB's 2013 Most Wanted List includes improvements to airport surface operations, such as cockpit moving map displays that provide a timely warning to flight crews; a system of cross-checking the airplane's location at assigned runway before preparing for takeoff; runway status lights and enhanced final approach runway occupancy signals; and flight simulator training programs for pilots that include realistic conditions. Pilots are at fault in over 62% of runway incursions, said NTSB, but air traffic controllers and ground operations staff also play a critical role. Serious runway incursions decreased from 67 in FY 2000 to seven in first 11 months FY 2011. Of about 975 runway incursions annually at U.S. airports, general aviation pilots are most prevalent contributor.

10. Industry, FAA Share Safety Information with NTSB.

FAA, airlines and labor unions will share safety information with NTSB through the Aviation Safety Information Analysis and Sharing (ASIAS) Executive Board. The data will help NTSB determine if an accident is a unique event or an indication of systemic risks. ASIAS uses aggregate, protected data from industry and government voluntary reporting programs, without identifying data source, to find safety issues, identify safety enhancements, and measure effectiveness of solutions. It connects 131 U.S. data and information sources and is integrated into the Commercial Aviation Safety Team (CAST) process, which uses a data-driven strategy to reduce the commercial aviation fatality risk. NTSB will initiate written requests for ASIAS information related to aircraft accidents involving U.S. air carriers that occur in the United States and address safety issues determined to be significant and non-routine or recurring

11. September Passenger Airline Employment Down.

U.S. scheduled passenger airlines employed 386,372 workers in September, 2,269 fewer (-0.6%) than in September 2011 and the lowest monthly total since June 2011, reports DOT. Of the five network airlines, Delta reduced employment by 1.8%, following merger with Northwest, and American by 4.4%, as it restructures during bankruptcy. Among the six low-cost carriers, Allegiant, Virgin America, Spirit and JetBlue reported an increase, with Frontier reporting fewer employees. Among the 16 regional carriers, Colgan, ExpressJet, Mesa, Horizon, Republic, Comair, SkyWest and Executive reported reduced employment levels; Pinnacle, recently merged with Mesaba, had 24.4% fewer employees than reported individually by the two airlines prior to the merger.

12. DOT Air Travel Consumer Report for September.

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

| | Sept. '12/'11 | Aug. '12 | Full Year | | | | |
|---------------------|------------------|-------------|-----------|------|------|------|------|
| | | | 2011 | 2010 | 2009 | 2008 | 2007 |
| On-time arrivals % | 83.3 / 83.9 | 79.1 | 79.6 | 79.8 | 79.5 | 76 | 73.4 |
| Cancellations % | 0.8 / 0.8 | 1.3 | 1.91 | 1.76 | 1.39 | 1.96 | 2.16 |
| Mishandled baggage* | 2.7 / 2.8 | 3.38 | 3.39 | 3.51 | 3.91 | 5.26 | 7.05 |

Washington Aviation Summary

| | | | | | | | |
|----------------------|-------------|-------|--------|--------|-------|--------|--------|
| Consumer complaints: | | | | | | | |
| Airline service | 1,075 / 973 | 1,886 | 11,545 | 10,988 | 8,821 | 10,648 | 13,180 |
| Disability-related | 73 / 54 | 73 | 630 | 572 | 519 | 477 | 488 |
| Discrimination** | 7 / 16 | 9 | 127 | 143 | 131 | 115 | 99 |

Note: Airlines reported no tarmac delays of more than three hours on domestic flights or more than four hours on international flights in September.

* Reports per 1,000 passengers.

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

II. AIRPORTS

1. ACI: Passenger Traffic Decelerates.

Global passenger traffic slowed to almost +3% for the month of September, as a result of contractions in the domestic passenger markets of Europe (-3.8%) and North America (-1%), reports Airports Council International (ACI). Major airports such as Madrid, Dallas and Las Vegas saw declines of -9.5%, -3.9% and -3% respectively. But major airports in emerging markets continued a sustained demand for air transport. Istanbul, Dubai, Jakarta and Beijing posted growth of +19.7%, +12.8%, +6.5% and +4.1% respectively. From January to September, overall year-over-year growth was at +4.5%, while freight traffic declined by -0.7%.

2. New York Airports Adding High-Speed Taxiways.

Port Authority of New York and New Jersey is adding high-speed taxiways to ease congestion at LaGuardia, Kennedy and Newark Liberty. The “gently-angled” taxiways can shave eight seconds off a landing or departure, reports *USA Today*, which for Kennedy alone could save 80 minutes each day. Kennedy has six high-speed taxiways, with three to come; LaGuardia has seven; and Newark has four, with two underway.

3. BWI Improving Runways, Terminal.

Baltimore/Washington International opened a newly repaved and extended runway. The \$40 million project is part of a \$356 million plan to refurbish all BWI runways by 2015, reports the *Baltimore Sun*. In addition, the Maryland Board of Public Works approved a \$29 million contract to expand and refurbish Concourse C, the final phase of a \$100 million renovation

4. Raleigh-Durham Customer Loyalty Program.

Raleigh-Durham Airport Authority is offering a loyalty program, in which customers can earn airline miles, cash or other rewards for every dollar spent at parking facilities, shops or restaurants.

5. EU Proposal Revises Slot Allocation Rule.

The European Union (EU) proposed a recast of the 1993 regulation on the allocation of landing and take-off slots at EU airports with capacity problems. The new draft regulation will allow airlines to sell and buy slots; introduces the possibility of charging for late return of unused slots to the slot pool; and enhances the independence of, and cooperation between, slot coordinators.

Member states could apply temporary restrictions to slot trading in some cases, subject to EC approval.

6. Chinese Fund Buys 10% Stake in Heathrow.

China Investment Corp. acquired a 10% stake in Heathrow Airport Holdings (previously BAA), reducing Ferrovial's stake in Heathrow to 44.27%. In August, Qatar Holdings acquired a 10.62% share of Ferrovial, subject to European Commission (EC) approval; that sale would bring Ferrovial's stake in Heathrow to 33.65%, with Ferrovial remaining largest shareholder. . . . A new Heathrow-released report, "One Hub or None," finds building a third runway will better assure UK competitiveness than creating an additional hub, and says lack of Heathrow capacity costs the UK economy up to £14 billion a year in lost trade, which could rise to £32 billion by 2030.

7. Narita to Cut Landing Fees.

Narita International Airport Corp. will cut landing fees for international flights by an average of 5.5% starting in April, to better compete with other Asian hubs. The operator also plans to consider incentives for new or added flights.

8. CDC: Secondhand Smoke in Airports Puts Travelers, Employees at Risk.

A Center for Disease Control and Prevention (CDC) study found that average air pollution levels from secondhand smoke outside designated smoking areas in airports are five times higher than levels in smoke-free airports. Conducted in five large hub U.S. airports, the study also showed that air pollution levels inside designated smoking areas were 23 times higher than levels in smoke-free airports; designated smoking areas in airports included restaurants, bars and ventilated smoking rooms. CDC concluded that ventilated smoking rooms and designated smoking areas are not effective; "Prohibiting smoking in all indoor areas is the only effective way to fully eliminate exposure to secondhand smoke." Five of the 29 largest airports in the United States allow smoking in designated areas that are accessible to the public. There are no federal requirements that airports be smoke-free.

III. SECURITY AND DATA PRIVACY

1. TSA Workers Ratify First Union Contract.

The Transportation Security Administration (TSA) ratified a three-year collective bargaining agreement with the American Federation of Government Employees (AFGE). The contract revises the performance pay system and, said AFGE, provides a stable, consistent process for shift bidding and movement between full- and part-time. "After over a decade of struggling for basic workplace rights, transportation security officers were finally given the opportunity to vote on a contract that ensures that their voice will be heard in the workplace," said Bennie Thompson (D-MS), ranking member of the House Homeland Security Committee. But House Transportation Chairman John Mica (R-FL) said the agreement provides few real benefits and further diverts focus from TSA's core functions of analyzing intelligence and ensuring the security of air travelers.

2. TSA Pre-Check Expands.

TSA expanded Pre-Check operations at Orlando International for U.S. citizens traveling domestically who are select Alaska, American, Delta, United and US Airways frequent travelers or members of U.S. Customs and Border Protection (CBP) Trusted Traveler programs. More than 4 million passengers have experienced TSA Pre-Check, which now is available in 29 airports.

3. TSA Orders Second-Generation Passenger Screening Systems.

TSA ordered second generation Advanced Imaging Technology (AIT) systems from L-3 Communications' Security and Detection Systems division, with a contract ceiling value of \$245 million. The Provision® 2 system has image-free threat detection capabilities and safe millimeter wave technology, says L-3. The reduced sized is useful for smaller checkpoint configurations.

4. Hearing on TSA Body Scanners.

See Section III, item 5.

5. House Hearing on TSA Impact on Passengers, Industry.

See Section III, item 6.

6. Senate Passes No-Hassle Flying Act.

See Section III, item 7.

IV. E-COMMERCE AND TECHNOLOGY

1. Online Travel Growth to Slow.

The online leisure/unmanaged business travel market grew 11% in 2012, according to PhoCusWright's U.S. Online Travel Overview Twelfth Edition, but will slow to 7% growth in 2013 and 2014. Overall U.S. travel market will grow 8% in 2012 to reach a record \$303 billion.

2. US Airways' ChoiceSeats Offered by Sabre.

Sabre Travel Network is the first global distribution system (GDS) to offer US Airways' ChoiceSeats. Sabre's Air Extras is used by airlines to sell ancillary products and services, including premium seating, lounge access and checked bags in the Sabre GDS. Airlines can tailor their ancillaries and fares to individual customers using the Sabre GDS.

3. Priceline to Acquire Kayak.

Priceline will acquire Kayak in a stock and cash transaction valued at \$1.8 billion, subject to Kayak shareholder and regulatory approvals. Current Kayak leadership will continue to manage Kayak operations independently as part of the Priceline Group.

4. Amadeus Launches Featured Results™.

Vayama is the first pilot customer for Amadeus Featured Results™, which blends price and business intelligence data to show flight options most-often booked in city pair searches for same date, and indicates route popularity, number of active reservations on a specific flight, remaining seats, and when price was last booked. Online travel agency Vayama focuses on international travel and is a unit of Netherlands-based Travix. Full availability for Featured Results is scheduled for early 2013. . . . In other news, Lufthansa sold 16.2 million shares of Amadeus IT Holding, reducing its stake from 7.61% to 4%, which will be transferred to the Lufthansa Pension Trust.

5. SeatID Launches Social Seating Service.

SeatID, which allows airline passengers to choose a seatmate on the basis of social network profiles, is seeking airline, GDS and travel website partners. The Israel-based startup captures information from social networks, allowing users to see photos and profiles of passengers who have opted in to the service. The company says strict privacy controls are built into the software.

6. Gogo Launches Next Generation Connectivity Technology.

Gogo launched its next generation connectivity technology, ATG-4, with Delta, US Airways and Virgin America. The pioneer in wireless inflight digital entertainment solutions said the service should increase capacity to the plane, allowing more passengers to access the Internet with a more consistent browsing experience. Hundreds of aircraft installations are planned by the end of 2013.

V. **ENERGY AND ENVIRONMENT**

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

Average price of aviation jet fuel, as of November 16, was \$126.6/barrel, down 5.8% on the month and down 3.6% year-on-year, reports the International Air Transport Association. Fuel price average for 2012 was \$130/barrel.

2. **EU ETS Deferred for Flights Into/Out of Europe.**

The European Union will defer the requirement under the EU Emissions Trading System (ETS) for airlines to surrender carbon allowances in April 2013 for flights into and out of Europe, until after the ICAO General Assembly next autumn; monitoring and reporting obligations will also be deferred for such flights. The decision followed discussions that suggested progress in the ICAO Council on a global market-based approach to regulating greenhouse gas emissions from aviation. But, said EU Climate Commissioner Connie Hedegaard, “let me be very clear: if this exercise does not deliver, and I hope it does, then needless to say we are back to where we are today with the EU ETS. Automatically.” She called on ICAO to engage urgently to take advantage of the window of opportunity offered by the EU. . . . European airlines will still be required to buy ETS credits for intra-EU flights. “Passengers on these flights will effectively be taxed, purportedly for environmental reasons,” said Association of European Airlines. “Since these are such a tiny proportion of worldwide CO₂, it shows the inability of a purely regional scheme to have a meaningful impact on what is a global issue. Countries such as the USA, Russia, China and India have repeatedly stated that the issue should be dealt with in ICAO. Now they have the chance to show that they mean it.” . . . European Regions Airline Association and International Air Carrier Association jointly stated, “Continuing to load cost and complexity on intra-EU operations only is not a fair solution,” and urged a moratorium for all flights. . . . Airlines for America (A4A) expressed “cautious optimism” on the EU action, as “it does not remove the threat of the EU ETS being implemented at a later date.”

3. **Civil Jet Flight Uses 100% Biofuel.**

A Dassault Falcon 20 twin engine powered only by fuel derived from oilseed flew over Ottawa. The biofuel was developed with \$2.5 million in government of Canada funding through Sustainable Development Technology Canada (SDTC), which helps commercialize Canadian clean technologies, readying them for growth and export markets. Agrisoma Biosciences developed new crop technology called Engineered Trait Loci to identify and combine specific traits in seed crop to maximize the yield of oils.

4. **Kior Opens Commercial-Scale Wood-to-Fuel Plant.**

Next-generation renewable fuels company, Kior, has opened its first commercial-scale facility to convert agricultural and industrial plant material waste into alternative fuel. The company eventually will be able to take in 500 tons of biomass per day and convert it to 40,000 gallons of gasoline and diesel. In an interview with Bloomberg, CEO Fred Cannon said the Department of Defense is testing a Kior jet fuel product.

VI. U.S. CONGRESS

1. Chairmen Named for New Congress.

In the 113th Congress, William (Bud) Shuster (R-PA) will be Chairman of the House Transportation Committee, on which he has served since 2001. He replaces John Mica (R-FL) who exits due to term-limit rules. Michael McCaul (R-TX) will Chair the House Committee on Homeland Security, replacing Peter King (R-NY). McCaul is Chairman of the Homeland Security Oversight, Investigations and Management Subcommittee; he introduced H.R. 5913, the DHS Accountability Act of 2012, which establishes an independent advisory panel to assess Department of Homeland Security management structure and capabilities and make recommendations to Congress. . . . In the Senate, Kay Bailey Hutchison (R-TX) is retiring; she is Ranking Member of the Committee on Commerce, Science, and Transportation; Chairman Jay Rockefeller (D-WV) reportedly will retire in 2014. Joe Lieberman (ID-CT) and Susan Collins (R-ME) will step down as Chairman and Ranking Member, respectively, of the Homeland Security and Governmental Affairs Committee; replacing them will be Thomas Carper (D-DE) and Tom Coburn, M.D. (R-OK).

2. House Approves EU ETS Bill.

The House approved the Senate version of the European Union Emissions Trading Scheme Prohibition Act of 2011 one day after the EU announced a postponement of EU ETS for international flights. “The proposal must not be allowed to resurface in one year like a phoenix rising again from the ashes,” said Mica; “this scheme has the appearance of nothing more than a cash grab by a struggling European Union, as there is absolutely no requirement that funds collected by EU Member States be used to reduce aviation emissions.” The Environmental Defense Fund called the bill “superfluous” and said it sets a bad precedent for U.S. foreign relations. The President signed the bipartisan measure, which allows the Transportation Secretary to direct U.S. airlines not to participate in EU ETS.

3. Hearing on Audit of Washington Airports Authority.

The House Transportation Committee conducted a hearing on a recent DOT Inspector General (IG) audit of Metropolitan Washington Airports Authority (MWAA), which found issues with contract award and procurement practices, including compliance with relevant laws; code of ethics for employees; hiring and compensation practices; and accountability and transparency of Board of Director activities. Committee Chairman Mica also cited a 2010 employee survey that urged changes to the MWAA management culture by eliminating

“corruption,” “favoritism” and “nepotism.” DOT Secretary Ray LaHood said MWAA has terminated all contracts with former board members and employees, adopted post-employment restrictions and created ethics and travel policies. DOT IG Calvin Scovel said “further actions are needed to . . . ensure fiduciary and ethical responsibility and restore public trust in the soundness of its current and future activities.” MWAA, an independent public body established by Congress, is responsible for management of Dulles and Washington National airports, the Dulles Toll Road and the Metrorail extension to Dulles Airport.

4. Congressman Threatens Antitrust Probe of Delta.

After Delta cancelled planned Memphis-Amsterdam summer service, Steve Cohen (D-TN) said he would discuss with Attorney General Eric Holder “growing evidence” that Delta is violating promises made to the Department of Justice when seeking antitrust immunity for its 2008 merger with Northwest. Delta scaled back the former Northwest year-round service to a summer season schedule last February and now has eliminated the flight altogether. “I am disappointed that Delta has once again broken a promise they made to me and the people of Memphis,” said Cohen, who is a member of the House Judiciary Committee Antitrust Task Force and the Aviation Subcommittee. He earlier spoke to the Attorney General about possible anti-competitive practices by Delta in Memphis and urged examination of “Delta’s inflated ticket prices in Memphis and possible monopolistic practices.” Cohen said he has reached out to Southwest and JetBlue to encourage them to expand operations in Memphis which would increase competition and lower prices. Delta said the flight was suspended indefinitely due to high fuel costs and lower passenger demand.

5. Hearing on TSA Body Scanners.

Following TSA’s decision to remove backscatter Advanced Imaging Technology (AIT) machines from large airports, because of malfunctioning privacy controls, the House Homeland Security Transportation Subcommittee held a hearing entitled “TSA’s Recent Scanner Shuffle: Real Strategy or Wasteful Smokescreen?” “TSA is about to warehouse 91 body scanners that cost taxpayers \$14 million,” said Chairman Mike Rogers (R-AL). “This raises serious questions about the entire process for developing this technology and how much taxpayer money is at stake.” TSA’s process for testing, evaluating and deploying backscatter technology was examined, as were the timeline for implementing Automated Target Recognition (ATR) privacy software on backscatter machines and TSA’s plans for 155 backscatter machines still deployed. Congress mandated installation of the privacy software by June, and, said Rogers, TSA still has not complied with a D.C. Circuit Court ruling to

allow for public comment on AIT, nor agreed to sponsor an independent third-party evaluation of AIT's health effects, despite bipartisan consensus that an independent study would be beneficial. "We not only have a technology problem, but a significant transparency problem on our hands," said Rogers.

6. House Hearing on TSA Impact on Passengers, Industry.

The House Aviation Subcommittee held a hearing on the impact of TSA regulations and policies on the passenger experience and free flow of aviation commerce. TSA Administrator Pistole was invited but did not appear, which Transportation Committee Chairman Mica offered as "part of the problem . . . agency officials are protecting one of the biggest government bureaucracies, which has grown now to more than 66,000 employees." In a statement, Pistole explained his decision not to testify: "The Subcommittee has no jurisdictional authority over the Transportation Security Administration [which] will continue to work with its committees of jurisdiction to pursue effective and efficient security solutions." Pistole said TSA witnesses have testified at 38 hearings and provided 425 briefings in the 112th Congress alone.

7. Senate Passes No-Hassle Flying Act.

The Senate passed the "No-Hassle Flying Act of 2012" (S. 3542), which authorizes TSA to modify screening requirements for checked baggage arriving from preclearance airports. Introduced by Amy Klobuchar (D-MN), the bill now goes to the House for legislative action.

8. Petri Calls for Tower Closures.

In an interview with Bloomberg, House Aviation Subcommittee Chairman Tom Petri (R-WI) said Congress should allow closure of underutilized air traffic facilities to save money. A recent law ordered FAA to develop, with unions and industry, a list of facilities that could be consolidated into larger centers. FAA said it is working on that plan, which would require Congressional approval. According to Bloomberg, closure of some 100 U.S. airport towers and regional radar rooms during slow periods could save \$10 million a year.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. Call for “Truly Free Market in Airline Services.”

“Travelers have gained at least \$5 billion annually as a result of lower international fares and additional flights generated by open skies agreements,” writes senior Brookings fellow Clifford Winston, in the *New York Times*. He advocates further liberalization to counter tight capacity at midsize and smaller regional U.S. airports, citing DOT reports that airlines cut domestic passenger flights by 14% from 2007 to 2012; Cincinnati, Cleveland, Memphis, Pittsburgh and St. Louis have lost 40% of scheduled flights. “Policy makers should allow foreign airlines, including discount carriers like Ryanair and global players like Qantas and British Airways, serve domestic routes in the United States,” he says. Another solution: allow foreign carriers to serve any midsize and regional airport in the United States that has lost service in the past few years.

2. Malaysia Open Skies Approved.

Malaysia agreed to sign Protocol 2 Implementation of Limited Fifth Freedom under Asean-China Air Transport Agreement (AC-ATA), which comprises intra- and extra- packages. Through intra-package pacts, passenger and cargo airlines can exercise fifth freedom rights with unlimited frequencies, capacity and aircraft types, on routes connecting 10 secondary points in Asean (Association of Southeast Asian Nations) and 28 in China. Asean points are in Brunei, Cambodia, Indonesia, Laos, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Through extra-package pacts, airlines can exercise fifth freedom rights for up to 14 passenger and cargo services a week using any type of aircraft for routes connecting 10 secondary points in Asean and 10 in China to any points outside Asean and China.

3. SARS-Like Virus Found in Saudi Arabia, Qatar, Jordan.

World Health Organization (WHO) encouraged nations “to continue surveillance for severe acute respiratory infections (SARI).” Nine laboratory-confirmed cases of infection with the novel coronavirus have been reported to WHO—five (3 fatal) from Saudi Arabia, two from Qatar and two (both fatal) from Jordan. The new coronavirus shares some symptoms of SARS (Severe Acute Respiratory Syndrome), which emerged in China in 2002.

VIII. EUROPE AND AFRICA

1. US Airways Awarded New London Heathrow Route.

US Airways was awarded operating slots for daily nonstops between Charlotte, N.C. and London Heathrow, beginning in March 2013. The Airbus A330 service will originate in Miami.

2. Virgin Atlantic Wins All Short-haul Flying From bmi.

Virgin Atlantic was offered all of the London Heathrow short-haul remedy slots made available following the acquisition of bmi by International Airlines Group (IAG). Flights will begin at the end of March with wet-leased Airbus A320s.

3. IAG to Restructure Iberia, Acquire Vueling.

International Airlines Group announced a restructuring plan for Iberia that includes a reduction of 4,500 jobs, network capacity cut by 15% in 2013, and downsizing fleet by 25 aircraft. IAG seeks a return on capital of 12% by 2015 and warned of deeper cuts if agreement with unions is not reached by January 31. Unions said workers will strike in December. . . . IAG, which owns 46% of Barcelona-based Vueling, made a €113 million bid for remaining shares. Low-cost Vueling saw net profit of €41.3 million in January-September period, twice same period 2011.

4. Continental Cleared of Criminal Charges in Concorde Crash.

A French appeals court cleared Continental and an employee of criminal wrongdoing in the 2000 crash of an Air France Concorde that killed 113 people. Continental had appealed an earlier decree that the titanium strip that fell from its DC-10 onto a Paris Charles de Gaulle runway caused the chain of events leading to the Concorde crash. The new ruling upholds a payment of one million euros in civil damages to Air France.

5. SAS Avoids Bankruptcy.

SAS averted bankruptcy after its eight unions agreed to major cost cuts and a new revolving credit facility was obtained. The SAS Board of Directors agreed to a 30% pay cut as part of a restructuring plan that will cut costs by three billion kronor annually, centralize and reduce administration, outsource work and sell assets. The carrier announced it would introduce 45 new routes in 2013, including Copenhagen to San Francisco.

6. airberlin Revamps U.S. Routes.

airberlin is restructuring its North America network, increasing nonstops to New York Kennedy, Los Angeles and Miami from May 2013, and cancelling seasonal nonstops from Düsseldorf to Las Vegas, San Francisco and Vancouver; San Francisco and Las Vegas will be accessible through code share flights with American all year. New Berlin-Chicago nonstops will be offered. The carrier said it will focus on synergies with partner Etihad and oneworld carriers, especially code share partner American Airlines. . . .Vienna-based NIKI fleet will be converted to all-Airbus in airberlin livery; NIKI has seen double-digit growth over past few years, with five million passengers this year.

7. OpenSkies to Fly as oneworld Affiliate.

British Airways subsidiary OpenSkies becomes an affiliate member of oneworld on December 1. The premium carrier offers two daily Paris Orly to New York Newark roundtrips and in March will add a daily Kennedy service.

8. TNT Airways Sold to ASL Aviation Group.

ASL Aviation Group will acquire Belgium-based TNT Airways, contingent upon completion of a merger of UPS and TNT Express, which must comply with EU foreign ownership rules. ASL also will acquire Spanish company Pan Air from TNT Express. Other ASL assets are Air Contractors (Ireland), Europe Airpost (France) and Safair (South Africa).

9. Qatar Airways to Exit Cargolux Shareholding.

Qatar Airways intends to exit its 35% share of Cargolux, due to disagreements over future direction of the Luxembourg-based carrier. Albert Wildgen stepped down as Cargolux Chairman; Richard Forson is interim President and CEO.

10. Stelios' fastjet Begins Operations From Dar es Salaam.

fastjet began operations with Airbus A319 flights from Dar es Salaam to Mwanza in Tanzania and Kilimanjaro. Sir Stelios Haji-loannou's easyGroup is a shareholder in the "European-style low-cost carrier"; CEO is Ed Winter.

11. Xiamen Joins SkyTeam; Shenzhen Joins Star.

See Section IX, item 1.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. Xiamen Joins SkyTeam; Shenzhen Joins Star.

Xiamen Airlines, China's sixth largest carrier, became the 19th member of SkyTeam. The airline flies 15 million passengers annually to 50 cities in Asia and plans flights to Europe, North America and Australasia by 2014 after introduction of the Boeing 787. Other SkyTeam carriers from greater China are China Airlines, China Eastern and China Southern. . . . Shenzhen Airlines became the second mainland airline in Star Alliance, after flag carrier Air China. Based in the fourth largest city in China, Shenzhen offers 400 daily flights to 70 destinations. In other news, Air Canada CEO Calin Rovinescu was elected Chairman of the Star Alliance Chief Executive Board, succeeding Rob Fyfe, who held the post for two years and is retiring as Air New Zealand CEO at year-end.

2. China Plans to Revive Eastern Airlines.

Commercial Aircraft Corporation of China (COMAC) plans to restore U.S.-based Eastern Air Lines, which went bankrupt in 1991, with services from Miami to Latin America. Former Eastern employees are said to be involved in the effort which must meet U.S. statutory ownership and control requirements. Eastern would be the first operator to fly COMAC jets in the United States. The announcement was made at the Zhuhai Airshow (formerly China International Aviation & Aerospace Exhibition), where state-owned COMAC unveiled 50 new orders for its C919, bringing to 380 the number of orders for the 150-seat passenger jet, which will make its maiden flight in 2014.

3. China Eastern Resumes Airbus Orders.

Shanghai-based China Eastern merged its Hebei branch with subsidiary China United to establish a new China United, based at Beijing Nanyuan. . . . China Eastern agreed to buy 60 Airbus A320s valued at about \$5.4 billion, after the EU suspended its Emissions Trading Scheme for non-EU airlines. China earlier withheld Airbus orders to protest EU ETS.

4. Etihad Seeks U.S. Expansion.

Etihad Airways will launch its third U.S. route in on March 31, with daily Airbus A340-500 nonstops to Washington, D.C., and "is keen to expand its network in the U.S.," said CEO James Hogan. "We see a demand for premium services between Washington, D.C. and Abu Dhabi," said Hogan, in a speech to the U.S.-United Arab Emirates Business Council in Washington, and "are examining a number of other destinations, particularly on the West Coast."

5. **Air Canada, Turkish Airlines to Code Share.**

An Air Canada-Turkish Airlines code sharing agreement “will leverage Air Canada's planned Toronto-Istanbul route launching this summer pending receipt of government approval.” The Star Alliance partners said Air Canada's code will be on Turkish Airlines' Toronto-Istanbul flight and destinations beyond Istanbul, in Turkey and in the Middle East and Africa region. Turkish Airlines will code share on Air Canada's new nonstop service between Toronto and Istanbul providing connections to domestic Canada and several points from Toronto to U.S destinations.

6. **Malaysia Open Skies Approved.**

See Section VII, item 2.

7. **Virgin America Defers Growth; Signs Pacts With Hawaiian, Air China.**

See Section X, item 4.

X. AMERICAS

1. AMR Wins Deadline Extension to Submit Restructuring Plan.

The deadline for American Airlines' parent AMR Corp. to file a reorganization plan was extended to January 28. US Airways reportedly met with the creditors committee regarding a potential merger. AMR then asked for another extension, to March 11, to refine its business plan and work with creditors to review strategic alternatives. Since filing for bankruptcy a year ago, AMR has spent \$200 million on bankruptcy fees and expenses. . . . American froze all defined-benefit pension plans on November 1 and will contribute to 401(k) retirement accounts in the future. . . . Allied Pilots Association President Keith Wilson urged pilots to "take the re-release flight plan and move on to our destination." Pilots are voting through December 7 on a proposal that "will level the playing field for American to compete successfully against United and Delta," Wilson said, "and recognizes the value that the profession brings to the corporation." . . . Supreme Court Justice Antonin Scalia denied a request by the airline to delay a union representation election for passenger service agents; Communications Workers of America said voting begins December 4.

2. US Airways Flight Attendants Authorize Strike.

US Airways flight attendants voted for strike authorization, reports Association of Flight Attendants-CWA (AFA), which seeks a single contract for America West and US Airways attendants before any merger with American. Two contract offers from the carrier have been rejected. Any strike action would follow release by National Mediation Board and a 30-day cooling off period.

3. Tentative Contract for United, Continental Pilots.

A tentative agreement between United Continental and Air Line Pilots Association (ALPA) allows the airline to expand its large regional jet fleet to 255 by January 2016, if certain contractual conditions are met, and to add new small narrowbodies. Pilots from both United and Continental will vote on the four-year agreement from December 1 to December 15. Integration of seniority lists will occur after ratification, independent of airline management, said ALPA. Absent an agreement, binding arbitration will be used to settle any remaining differences. The U.S. District Court prohibited pilot work actions against United. . . . United will repay \$5.6 million in tax incentives received from Chicago to redevelop its downtown headquarters, said Mayor Rahm Emanuel. United also will forgo up to \$9.7 million in city grants. The airline is consolidating operations at Willis Tower, formerly Sears Tower; a new lease

extends through 2028. . . . A U.S. District Judge in Manhattan granted a request by United to dismiss negligence claims in the 9/11 hijacking of American Airlines Flight 11. World Trade Center Properties claimed United had a legal duty and a clear chance to prevent the hijacking when two hijackers passed through the Portland, Maine, security checkpoint for which United shared responsibility. From Portland, the hijackers flew to Boston Logan, where they passed through two more checkpoints, neither operated by United, and boarded Flight 11 to Los Angeles. The plaintiff is proceeding with a separate suit against United over alleged security lapses leading to the 9/11 hijacking of United Flight 175.

4. Virgin America Defers Growth; Signs Pacts With Hawaiian, Air China.

Virgin America revised its Airbus order and will take delivery of 10 A320s, rather than 30, in 2015 and 2016. Delivery of 30 A320 neos will be deferred to 2020 through 2022 rather than 2016 through 2019. Average Available Seat Mile (ASM) growth will decelerate from the 28% annual growth rate of the past three years, to mid single-digit annually over the next several years, said the company. “With slowed growth, we will be able to focus on maximizing the value of our network, instead of managing additional capacity,” said CEO David Cush. . . . A new pact allows Hawaiian Airlines to place its code on Virgin America flights to Boston, Dallas, Fort Lauderdale, Washington Dulles; New York Kennedy; Las Vegas; Los Angeles; Chicago; Philadelphia; Portland, Oregon; Seattle and San Francisco. . . . A new interline agreement with Air China will allow seamless connections from a Virgin America city to Beijing and beyond via San Francisco, Los Angeles and New York Kennedy.

5. Delta Moves Latin America/Caribbean Headquarters to Brazil.

Delta is relocating its Latin America and Caribbean headquarters from Atlanta to Sao Paulo, Brazil.

6. GOL to Shut Down Webjet Operations.

Brazilian low-fare airline GOL will end operations of recently acquired Webjet and discontinue the brand. Some 850 employees will be laid off and GOL will return 20 Boeing B-737s to lessors. GOL CEO Paulo Kakinoff said earnings deterioration led to a process of rationalization.

7. Azul Takeover of Trip Approved by Anac.

Brazil’s civil aviation regulator Anac approved the takeover of Sao Paulo-based Trip by Azul, the airline founded by JetBlue founder David Neeleman. The combined carrier will have a 16% market share and unified brand, subject to antitrust approval.

8. **Mazatlan Offers Incentives to U.S. Airlines.**

Mexico Tourism Board research on air connectivity, airline efficiency and air capacity from major American markets, in particular, shows that Mazatlan needs more air seats to keep up with growing demand. Consequently, the government invested in a strategic partnership with Cal Jet, which will offer service from Houston, San Antonio, Denver, Los Angeles and Oakland, operated by XTRA Airways, from January 9 to April 9. In addition, U.S. Airways will increase frequency and seat capacity from Phoenix and American will restore a direct route from Dallas. Mazatlan will continue promotional activity with Delta, Alaska and Sun Country, as well. The Mazatlan Tourism Board predicts an investment of \$10 million in tourism promotion by year-end.

9. **US Airways Awarded New London Heathrow Route.**

See Section VIII, item 1.

10. **Continental Cleared of Criminal Charges in Concorde Crash.**

See Section VIII, item 4.

11. **Xiamen Joins SkyTeam; Shenzhen Joins Star.**

See Section IX, item 1.

12. **China Plans to Revive Eastern Airlines.**

See Section IX, item 2.

13. **Etihad Seeks U.S. Expansion.**

See Section IX, item 4.

14. **Air Canada, Turkish Airlines to Code Share.**

See Section IX, item 5.