



## 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. IATA Calls for Major Structural Changes to the Industry.

The International Air Transport Association (IATA) released scheduled traffic results for December and full-year 2008. In December global cargo traffic plummeted by 22.6% compared to December 2007, while passenger traffic fell 4.6% with load factor at 73.8%. For full-year 2008, international cargo traffic was down 4%, passenger traffic increased 1.6% and international load factor was at 75.9%. The collapse in air freight business reflects 20%-30% declines in export and import volumes across Asia, North America and Europe amid the global recession, said IATA. Airlines registered a \$5 billion loss in 2008. For 2009 IATA forecasts a loss of \$2.5 billion based on fuel price of \$60 per barrel, a 3% decline in passenger volumes, a drop of 5% in cargo traffic and yield deterioration of 3%. Industry revenues are expected to contract by \$35 billion (from \$536 billion in 2008 to \$501 billion in 2009). IATA called for major structural changes to the industry. "We don't want bail-outs," said Giovanni Bisignani, Director General and CEO. "But we need to change the ownership rules. Almost every other business has the freedom to access to global capital and the ability to merge across borders where it makes sense. To manage in this crisis, airlines need the same management tools."

### 2. LaHood Confirmed as DOT Secretary.

Ray LaHood won unanimous Senate confirmation to head the Department of Transportation. In his confirmation hearings, the former Congressman (R-Ill.) said he opposed Bush Administration plans for slot auctions as a means to manage congestion at New York-area airports. He also said a top priority will be to settle labor disputes between FAA and air traffic controllers and vowed to manage the effective use of economic stimulus funds for transportation projects. LaHood said he would like to see realistic benchmarks set for NextGen within the next five years.

### 3. Osmus Named FAA Acting Administrator.

Lynne Osmus was named Acting Administrator of the Federal Aviation Administration (FAA) by the Bush Administration, replacing Robert Sturgell who resigned. Osmus has been with FAA since 1979 and served as Chief of Staff for former Administrator Jane Garvey, who was on the Obama transition team for transportation matters.

### 4. JetBlue CEO Represents Airline Industry at White House.

JetBlue CEO Dave Barger represented the airline industry at a corporate round table with President Barack Obama on the economic stimulus proposal.

"The aviation industry needs increased federal investment in our nation's air traffic control infrastructure," said Barger, "and seeks a significant investment, as part of the stimulus bill, to enable a Next Generation Air Traffic Control System. In addition to retaining and creating jobs, investment in NextGen would enhance capacity and energy efficiency, thereby reducing recent record delays and congestion in our nation's busiest airports, improve the global competitiveness of U.S. airlines, and reduce the environmental impact of aircraft operations."

**5. Aviation Assigned Grade D in Infrastructure Report.**

Aviation won a "D" grade from the American Society of Civil Engineers (ASCE) in its 2009 Report Card for America's Infrastructure, down from a "D+" in 2005. "Travelers are faced with increasing delays and inadequate conditions as a result of the long overdue need to modernize the outdated air traffic control system and the failure to enact a federal aviation program," says ASCE, which noted a five-year investment need of \$2.2 trillion for overall U.S. infrastructure from all levels of government and the private sector.

**6. LAN Cargo, Aerolinhas Brasileiras, EL AL Fined for Price-Fixing.**

LAN Cargo, Aerolinhas Brasileiras (ABSA) and EL AL Israel Airlines agreed to plead guilty and pay criminal fines totaling \$124.7 million for conspiring to fix air cargo prices, said the U.S. Department of Justice. LAN Cargo, a Chilean company, and ABSA, a Brazilian company that is substantially owned by LAN Cargo, agreed to pay a single criminal fine of \$109 million, and EL AL agreed to pay \$15.7 million. To date, 12 airlines and three executives have pleaded guilty or agreed to plead guilty in the Department's investigation into price fixing in the air transportation industry. More than \$1 billion in criminal fines have been imposed and executives have been sentenced to serve a total of 20 months in jail.

**7. Airlines Sue FAA Over Crew-Rest Regulations.**

Several U.S. airlines filed a joint lawsuit against FAA opposing enhanced crew-rest and other safety requirements on ultralong-haul routes, saying the regulations are ineffective and impose substantial burdens and costs on carriers. The complaint says FAA failed to follow required public comment and federal rulemaking procedures and lacks authority to impose the requirements, since broader pilot scheduling rules have been pending since 1995. Led by American and Continental, the suit also includes United, JetBlue, US Airways and two small cargo carriers. Delta has voluntarily reached a crew rest agreement for the longest international flights. In related news, the International Civil Aviation Organization (ICAO) is rewriting pilot fatigue rules, replacing standards based on flight time with fatigue risk management

systems, with the support of pilot groups and air safety organizations. Pilot fatigue is said to be a factor in one-fifth of all fatal crashes.

**8. U.S. System Traffic Down 7.1% in October.**

U.S. airline system traffic declined by 7.1% in October 2008 from October 2007, with 7.5% fewer domestic and 3.6% fewer international passengers. This was the eighth consecutive monthly decline and the lowest October number since 2003. For the first 10 months of 2008, system traffic declined by 2.6% from same period 2007; with 3.3% fewer domestic and 2.6% more international passengers. System load factor of 80% for January through October was down 0.5 points from last year's record for the 10-month period. U.S. carriers operated 8.6 million domestic and international flights in first 10 months; domestic down 4% and international down 0.8%.

**9. U.S. Passenger Airline Employment Down 6.5% in November.**

U.S. scheduled passenger airlines employed 392,185 workers in November, 6.5% fewer than in November 2007 and the lowest total since 1993. The seven network carriers had 6.2% fewer employees in November; employment declined by 2.8% for low-cost carriers and fell 6% for regionals.

**10. DOT Enforcement of Airline Rules Declined in 2008.**

DOT filed 20 passenger complaint cases against airlines and travel companies in 2008, compared to an average 31 in the previous five years, reports the *Wall Street Journal*. Fines totaled \$1.2 million, compared to a five-year average of \$4.3 million. Enforcement activity peaked in 2003 and 2004, with fines of more than \$8.1 million in 2003 and 38 enforcement cases in 2004. DOT cited a staffing deficit and higher priorities.

**11. DOT Reviewing Tarmac Delay Data.**

DOT removed tarmac delay data from its Web site after problems with airline reporting were found. The agency began publishing the information in December, in response to consumer group pressure, and plans to resume when a review is completed. In related news, a proposed DOT rule would allow passengers to sue an airline for breach of contract if their flight is delayed too long on the tarmac. The rules would require each airline to include written contingency plans for tarmac delays in their contracts of carriage; failing to follow those plans would constitute grounds for a lawsuit. In addition, a chronically delayed flight could be classified as an "unfair and deceptive practice," exposing the carrier to civil penalties.

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

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

	Nov. '08/'07	Oct. '08	Full Year				
			2007	2006	2005	2004	2003
On-time arrivals %	83.3 / 80	86	73.4	75.4	77.4	78.1	82
Mishandled baggage*	3.75 / 4.90	3.55	7.03	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>							
Airline service	532 / 810	627	13,168	8,325	8,741	7,452	5,983
Disability-related	28 / 41	40	480	430	511	521	375
Discrimination**	7 / 3	10	99	114	129	118	85

Note: Aloha Airlines ceased operations in April, 2008, reducing the number of reporting carriers from 20 to 19.

\* Reports per 1,000 passengers.

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

**13. US Airways Crew Action Called a “Miracle.”**

The National Transportation Safety Board confirmed that US Airways flight 1549, which ditched into the Hudson River adjacent to Manhattan on January 15, was the victim of a bird strike. Recovered black boxes revealed the plane lost power in both engines after hitting a flock of birds at 3,200 feet. Organic material, including a feather, was found in the right engine and on wings and fuselage; the left engine was recovered a week later. All 150 passengers aboard the Airbus A320, en route to Charlotte from LaGuardia, were safely removed from the plane and quickly rescued by nearby boats. US Airways mailed \$5,000 to each passenger. Captain Chesley “Sully” Sullenberger, who calmly maneuvered the plane to the emergency river landing, became an international hero, as amateur videos of the “miraculous” event were posted on the Internet and televised worldwide. The three flight attendants, each over 50 years old, have a combined 92 years of experience; Sullenberger, 58, and co-pilot Jeffrey Skiles, 49, have a combined 50 years at the airline.

## II. AIRPORTS

### 1. DOT Finalizes Plan for LaGuardia Schedule Reductions.

Airlines were to inform DOT by February 2 which New York LaGuardia flights they would voluntarily give up, as operations there are reduced from an average 75 per hour to 71, from May 31 to October 24. Though plans to hold slot auctions at the three major New York-area airports were stayed by court order, former DOT Secretary Mary Peters, in a final order, said slots airlines voluntarily return by February 2 will be credited toward any required reductions if the auctions proceed; slots returned or withdrawn for non-use after February 2 will be retired to meet the new hourly cap, and carriers will not receive credit for those returns. The Air Transport Association (ATA) petitioned new Secretary of Transportation Ray LaHood to “immediately issue a notice withdrawing the [slot auction] rules pursuant to your authority and the department’s procedural rules.”

### 2. Delta-MAC Agreement Approved.

The Metropolitan Airports Commission (MAC) voted in favor of an agreement in which Delta would maintain 10,000 Minnesota jobs and 400 daily departures from its Minneapolis-St. Paul hub. The new agreement is part of renegotiated repayment terms for about \$245 million in bonds that MAC issued for use by Delta subsidiary Northwest in 1992. A requirement that Northwest maintain a corporate headquarters in Minnesota has been exchanged for: an increase in daily flight commitments from an original 187 to 400; shortening bond repayment period to 2016 from 2022; and exceeding original bond covenants and specific job functions that will stay in Minnesota. Delta will place other management functions in Minnesota, including headquarters for Delta North and Delta Connection and a relocation of Compass Airlines headquarters from Virginia to Minnesota.

### 3. Dallas-Fort Worth to Offer Increased Incentives to Airlines.

A proposal that would offer incentives of up to \$8 million a year for airlines starting new long-haul international routes at Dallas-Fort Worth and up to \$3 million a year for new domestic passenger service was given preliminary approval by an airport committee.

### 4. Love Field Upgrade Proposed.

Dallas Love Field will undergo a \$520 million improvement program, reports the *Dallas Morning News*, financed mostly by primary tenant Southwest. Modernization plans proposed include a revamped terminal and 20-gate

concourse, drive-through check-in and luggage drop-off and valet service. Southwest would increase fees at Love from \$1.50 per passenger to \$5.

**5. Ryanair Considers Niagara Falls Service.**

The Niagara Frontier Transportation Authority reportedly held talks with Ryanair about potential service from Dublin to Niagara Falls. Ryanair has expressed interest in establishing a no-frills transatlantic operation. A \$29.7 million improvement project is underway at Niagara Falls International Airport, with a new terminal scheduled to open in July.

**6. Heathrow Third Runway, Sixth Terminal Approved.**

The British government approved a third runway and sixth terminal for London Heathrow, saying the \$13 billion project would provide new jobs and ensure that Britain's economy can cope with 21st century transport demands. Despite green conditions for the project, environmental groups are expected to take legal action to prevent construction and Greenpeace has acquired land on the site to try to delay development. A proposal to use mixed-mode, the same runway for takeoffs and landings, was rejected to alleviate noise concerns, meaning no increase in capacity at Heathrow until the third runway is built. The government will create a new company, High Speed 2, to review potential for high-speed rail between Scotland and London and to create a proposal for a new line between London and West Midlands that could link to Heathrow and Crossrail.

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

#### 1. **Obama Administration Homeland Security Pledges.**

The Barack Obama Administration has pledged to secure the homeland against 21st century threats. Among stated goals: Improve airline security. Invest in critical infrastructure projects, including aviation. Mandate standards for securing personal data, require companies to disclose personal information data breaches, institute a common standard for securing data across industries and protect the rights of individuals. Give real authority to the Privacy and Civil Liberties Board.

#### 2. **Janet Napolitano Confirmed as DHS Secretary.**

Former Arizona Governor Janet Napolitano was confirmed as Secretary of Homeland Security. Among issues the Obama Administration has pledged to address, she said, is to create “a unified vision” for the agency; to streamline communications; to recruit, train and retain “the best and the brightest”; and to build relationships with other “federal agencies whose information, skill and expertise is essential to execution of a coordinated, fully functioning homeland security strategy.” Once in office, Napolitano ordered several reports by January 28, including current strategies, plans and programs for transportation security, with a comparison of the threat environment, resources and personnel devoted to each sector.

#### 3. **Jane Holl Lute Named DHS Deputy Secretary.**

President Obama nominated Jane Holl Lute as Deputy Secretary of the Department of Homeland Security (DHS). Lute has served on the White House National Security Council staff and in numerous executive positions with the United Nations. She headed the Carnegie Commission on Preventing Deadly Conflict, was a senior public policy fellow at the Woodrow Wilson International Center for Scholars and was in the U.S. Army, including service in the Gulf during Operation Desert Storm.

#### 4. **JetBlue, TSA Workers Settle in T-Shirt Case**

JetBlue Airways and two Transportation Security Administration (TSA) officials paid \$240,000 to settle illegal discrimination charges, one of the largest such settlements since 9/11. They were charged with barring an Iraqi-born U.S. resident from boarding a 2006 flight out of New York Kennedy, on the basis of his ethnicity and Arabic writing on his T-shirt. The American Civil Liberties Union (ACLU) and the New York Civil Liberties Union filed the federal civil rights lawsuit. ACLU called the case “a victory for free speech and a blow to the discriminatory practice of racial profiling.” JetBlue denied wrongdoing.



**5. AirTran Removes Nine Muslims from Flight; Congress to Review.**

Nine Muslim travelers were escorted from a New Year's Day AirTran flight at Washington National by law enforcement officials and detained for questioning, after passengers reported to flight crew alleged inappropriate comments made by one of the group. All passengers were deplaned, a sweep of the aircraft was performed, then all passengers, crew and baggage were rescreened; the flight departed two hours late. AirTran later refused to rebook the Muslim group, saying it had not received clearance from authorities. AirTran said one of the group made inappropriate comments, and they were escorted away by local law enforcement officials. AirTran later apologized, but said it had complied with all TSA, law enforcement and Homeland Security directives and had no discretion in the matter. The airline refunded fares of the nine detained passengers and agreed to reimburse them for expenses for taking another airline. The Council on American-Islamic Relations (CAIR) filed a complaint with DOT and "is working with the Muslim passengers and the airline to deal with the civil liberties issues resulting from the incident." Congresswoman Eleanor Holmes Norton (D-DC) said AirTran's explanations for removing the passengers were "ignorantly off the mark." She is requesting a Congressional hearing on airline practices since reports of similar incidents "demonstrate wholesale confusion about how to judge hearsay and other impressions from passengers and airline personnel about risks to security, and how to respond." Norton is a member of the House Homeland Security Committee and the Aviation Subcommittee.

## IV. E-COMMERCE AND TECHNOLOGY

### 1. Travelocity: Spring Airfares at Low Point.

Travelocity reports average domestic airfare for spring is down \$24, compared to same period 2008, from \$393 to \$369. "All 10 of the nation's most popular destinations have at least some decline in airfare," said the online travel company, due to lower jet fuel prices and weakening demand. Domestic destinations with year-over-year declines of 10% or more include: Denver (-13%), Los Angeles (-16%), Salt Lake City (-16%), San Francisco (-15%), Seattle (-10%), Chicago (-17%), Atlanta (-10%), Jacksonville (-13%), San Antonio (-16%) and Tucson (-11%).

### 2. Orbitz Names New President/CEO, Brings Cost Cuts to \$40 Million.

Barney Harford was named President and CEO of Orbitz Worldwide, succeeding Steve Barnhart who will remain with the company through early April in an advisory role. Harford formerly was with Expedia. Orbitz is implementing measures to lower its cost structure by an estimated additional \$20-25 million annually, in addition to \$20 million in annual cost reductions announced in November 2008.

### 3. TripAdvisor Enters Multi-Year Agreement with ITA.

TripAdvisor Media Network entered a multi-year agreement with travel industry software provider ITA to create "innovative air travel solutions" for travelers and advertising partners. TripAdvisor, an Expedia unit, said 32 million travelers each month rely on its brands "for the truth in travel information." Sites include airfarewatchdog, bookingbuddy, frequentflyer, seatguru and smartertravel.

### 4. Wataniya Signs With Travelport GDS.

Travelport GDS announced a new multi-year, content agreement with Wataniya Airways, a new premium Kuwait carrier, to provide Galileo and Worldspan connected travel agents worldwide with access to the airline's fares and inventory. The airline began Airbus A320 operations in January to Dubai and plans service to Beirut and Bahrain from March; Chairman is Abdul Salam Al Bahar, CEO is George Cooper.

## V. ENERGY AND ENVIRONMENT

### 1. Continental Conducts Successful Biofuel-Powered Flight.

Continental successfully conducted the first biofuel-powered demonstration flight of a U.S. commercial airliner in January and the first using a two-engine aircraft. The 50-50 biofuel blend used in one of the two CFM56-7B engines on the Boeing 737-800 included components derived from algae and jatropha plants, sustainable fuel sources that have no impact on food crops or water resources and do not contribute to deforestation.

### 2. Green Project Design at Sea-Tac Approved.

The Port of Seattle Commission approved funds to design a pre-conditioned air project for Seattle-Tacoma International Airport that would reduce emissions by more than 69,000 metric tons per year and save airlines nearly \$400,000 in the first year. The project would allow aircraft hookups to pre-conditioned air at each gate, and the shutting down of auxiliary power units that spew CO<sub>2</sub> gases and waste fuel. Cooled or heated air would be piped into the aircraft from a central utility plant at the airport. The project is estimated to cost just over \$33 million, with \$22 million covered by the FAA Voluntary Low Emissions (VALE) Grant Program and the rest through airport development funds and a cost per enplanement increase to airlines of \$0.12. Airline operating costs could decrease \$19 million over the life of the project, based on fuel costs of \$2 per gallon, said officials. Complete design is scheduled by January 2010 with start of construction anticipated in July 2010 and full completion by December 2012.

### 3. Japan Airlines Launches Carbon Offset Program.

Japan Airlines (JAL) has teamed with Recycle One, the Japanese agency of the CarbonNeutral Company, to offer passengers a voluntary carbon offset program. As of February, passengers can go to JAL's Web site to link to a site provided by Recycle One to calculate CO<sub>2</sub> emissions generated by their journey. Calculations are estimated amounts derived from a formula established by the International Civil Aviation Organization (ICAO) which has been adopted by airlines worldwide. Passengers choose a sustainable development project they would like to support, purchasing 'credits' to offset all or part of the CO<sub>2</sub> emissions generated by their planned journey.

## VI. U.S. CONGRESS

### 1. Senate Letter Addresses Airline Alliances.

Members of the Senate Judiciary Committee expressed concern about pending transatlantic airline alliances, in a December letter to then Attorney General Michael Mukasey and DOT Secretary Mary Peters. Such alliances, if not properly scrutinized, could undermine free-market competition and lead to higher prices for air travelers, wrote Committee Chair Patrick Leahy (D-Vt.), who urged the Justice Department to take a more active role in the review process. DOT is reviewing proposed alliances of American with British Airways/Iberia, and Continental with United//Lufthansa/other Star Alliance members. The letter asked regulators to grant antitrust immunity sparingly and only in extraordinary cases.

### 2. Senate Bills Address Data Breaches, Privacy Protection.

Legislation on data breaches and privacy protection was introduced in the Senate by Dianne Feinstein (D-Calif.). The Notification of Risk to Personal Data Act would require a federal agency or business entity to notify an individual of a security breach involving personal data without unreasonable delay. It would require notice to the Secret Service if records of more than 10,000 individuals are obtained or if the database breached contains more than one million entries, is owned by the federal government, or involves national security or law enforcement. The Social Security Number Misuse Prevention Act, co-sponsored by Judd Gregg (R-N.H.) and Olympia Snowe (R-ME), would prohibit federal, state and local governments from displaying Social Security numbers on public records posted on the Internet or from printing them on government checks; prevent inmates from employment that would give them access to Social Security numbers; and provide limits on when businesses can ask customers for their Social Security numbers.

### 3. Senators Seek End to Perimeter Rules for National, La Guardia.

A bill to repeal the prohibition against nonstop flights between Reagan Washington National and any airport more than 1,250 statute miles away was introduced in the Senate by John McCain (R-Ariz.) and John Ensign (R-Nev.). The Abolishing Aviation Barriers Act would also prohibit the obligation of federal funds to enforce the Port Authority of New York and New Jersey banning flights more than 1,500 statute miles from arrival or departure at New York LaGuardia. The perimeter rules, established in 1966 to promote traffic at nearby airports, are no longer relevant, said McCain, and reduce consumer options for convenient flights and competitive fares.

4. **Airports Ask Congress for \$3 Billion in Stimulus Bill.**

During a hearing on “Infrastructure Investment: Ensuring an Effective Economic Recovery Package,” airport officials urged the House Transportation Committee to designate \$3 billion for airport capital improvement projects in the proposed economic stimulus plan. “Federal funding distributed through the Airport Improvement Program (AIP) program will ensure shovels in the ground at large and small airports across the country in as little as 30 to 45 days after the enactment of economic stimulus legislation,” said John Clark, Chairman of Airports Council International-North America.

5. **Passenger Rights Legislation Reintroduced.**

Passenger rights legislation was reintroduced in the Senate by Barbara Boxer (D-Calif.) and Olympia Snowe (R-Maine) and in the House by Mike Thompson (D-Calif.). The bills would require airlines to provide passengers with basic necessities during a ground delay, offer an option to deplane every three hours and create a DOT-administered complaint hotline. Passenger rights provisions were included in the stalled FAA reauthorization bill last year and DOT has issued guidelines. FlyersRights.org, formerly the Coalition for an Airline Passengers Bill of Rights, urged Congress to pass a “comprehensive, enforceable Airline Passengers' Bill of Rights that would modernize and improve airline industry standards for customer service.” A new consumer rights group, the Association for Airline Passenger Rights (AAPR), “flew onto the national stage aiming to change the nature of domestic air travel by improving customer service and pursuing a federal ‘Passenger Bill of Rights’ in the United States Congress.” According to the American Consumer Satisfaction Index (ACSI), said AAPR, the Big Six legacy airlines rate the lowest of all sixteen industries surveyed in the first quarter of 2008.

## VII. BILATERAL AND STATE DEPARTMENT NEWS

### 1. Venezuela, Argentina to Open New Routes.

The Presidents of Venezuela and Argentina, Hugo Chavez and Cristina Fernandez, respectively, signed a collaboration agreement in which newly nationalized Aerolineas Argentinas and Conviasa, the Venezuelan state-owned airline, will open new routes between the two nations. They also approved the creation of a bilateral fund to bolster industrial development in both nations.

### 2. EU-Japan Develop Aviation Relations.

The EU and Japan agreed to “further develop and strengthen their aviation relations.” This includes recognition of the European designation of carriers in bilateral agreements with EU Member States; seeking a cooperative solution in relation to security restrictions on liquids; and strengthened cooperation concerning reciprocal acceptance of certification of aeronautical products of the European Aviation Safety Agency (EASA), which may also cover air traffic management and the SESAR program.

### 3. Singapore Signs Open Skies Pacts with Iceland, Czech Republic.

Singapore concluded open skies agreements with Iceland and the Czech Republic. The Iceland pact allows for unlimited hubbing or seventh freedom rights for passenger and cargo services of airlines from both countries, without restrictions on destination, frequency or capacity. The pact with Czech Republic allows carriers of both countries to operate any number of flights between both countries and beyond, although there currently are no direct flights between Singapore and Czech Republic.

## VIII. EUROPE/AFRICA

### 1. EU News.

The European Union approved a short-term €200 million rescue loan for Austrian Airlines, saying Austria complied with EU state aid rules because it offered a loan guarantee based on market rates and limited to that needed to manage the company; CEO Alfred Otsch resigned “to enable a new beginning at the company.” An EU review of a Lufthansa bid for Austrian is underway. European antitrust authorities are investigating the proposed bid by Lufthansa for Brussels Airlines, since initial review indicated potential monopoly on routes from Brussels to Frankfurt, Hamburg and Munich and substantially reduced competition on the Brussels to Berlin route. Iberia won EU clearance to acquire Vueling and Clickair, on condition that the new company cede Barcelona and Madrid airport slots. Vueling is to merge with Clickair, and Iberia will acquire control of the new entity.

### 2. New Alitalia Takes Flight With Air France-KLM as Partner.

The new Alitalia took flight on January 13 after investment group Compagnia Aerea Italiana (CAI) completed a takeover of Air One. Roberto Colaninno is Chairman of Alitalia and Rocco Sabelli is CEO. Other investors include Air One CEO Carlo Toto. Air France-KLM acquired a 25% equity interest in the new entity and will have three seats out of a total 19 on the Board of Directors and two seats on the Executive Committee. Subject to approval by shareholders and EU and other competition authorities, the strategic partnership will be based on a multi-hub strategy—Paris de Gaulle, Amsterdam Schiphol, Rome Fiumicino and Milan Malpensa. Synergies achieved over the next three years should amount to some €720 million for Alitalia. Wildcat protests at Rome and Milan airports marred the launch and a union representing flight attendants, ground workers and pilots staged the first scheduled strike a week later. The European Low Fares Airline Association (ELFAA) in a formal complaint to the European Commission charged unlawful state aid to Alitalia and CAI. The company will receive about €100 million a year over a seven-year period due to an airport tax of €3 per passenger imposed by the Italian government from October 2008, said ELFAA. “This tax not only ensures a constant flow of unlawful aid to CAI/Alitalia, but also offloads the cost of the subsidies onto CAI’s competitors.”

### 3. British Airways-Iberia Merger Questionable.

The proposed British Airways-Iberia merger may be threatened due to current unacceptable market valuations, British Airways CEO Willie Walsh said, according to *Financial Times*. In other news, British Airways postponed further

expansion of its venture to operate direct services between leading European airports and North America, bypassing London Heathrow, and will sell aircraft in its mainline fleet that had been earmarked for its OpenSkies subsidiary.

4. **Malev Acquired by Russian Bank.**

Malev was acquired by Russian state-owned bank VEB, which said Aeroflot would become a strategic partner of the Hungarian airline. Malev was majority-owned by Russian Boris Abramovic, who also owned bankrupt KrasAir and who Hungarian officials said failed to meet conditions of the Malev privatization contract.

5. **France Plans Loan Guarantees for Airbus.**

France will guarantee up to €5 billion in loans to allow bank financing of export contracts in the aeronautical sector and maintain production during the current credit crunch. The U.S. Export-Import Bank plans to increase guarantees for sales of Boeing jets by nearly 50%, to up to \$9 billion, this year. Boeing and Airbus have long waged a dispute over illegal state subsidies at the World Trade Organization, which now warns that state aid packages meant to forestall financial crises need to be implemented so they do not violate global trade rules or discriminate against foreign companies.

6. **Irish Government Rejects Ryanair Bid for Aer Lingus.**

The Irish government rejected Ryanair's €748 million offer for its 25% stake in Aer Lingus. Transport Minister Noel Dempsey said the bid, declared in December and due to expire February 13, greatly undervalues true asset worth. He also expressed concern that the acquisition would create a monopoly that would not be in the best interests of Irish consumers. Ryanair, which already holds a 30% stake in Aer Lingus, has until January 30 to raise its offer. In other news, Aer Lingus CEO Dermot Mannion gave up a clause of his contract that would have awarded him up to €2.8 million if he resigned following a Ryanair takeover. Ryanair had exposed existence of the clause and sought censures for breach of Irish law, i.e., failing to seek shareholder approval for employment contract amendments.

7. **Aer Lingus, United Announce Transatlantic Partnership.**

Aer Lingus and United will offer code share service between Washington Dulles and Madrid, as of March 2010, and plan to add routes in Summer 2011. The partnership "may develop into a broader and deeper joint venture," said United, as it takes advantage of commercial opportunities made possible by the U.S.-EU Open Skies agreement. The carriers will share commercial and operating benefits and risk, with Aer Lingus managing operational aspects of the new partnership services and United managing revenue generation. Aer Lingus and United launched Ireland-U.S. code share services in October.



8. **United to Offer Washington-Moscow Service.**

United will begin its first-ever nonstop service from Washington Dulles to Moscow on March 29.

9. **Government Selling Czech CSA.**

The Czech government plans to sell its 91.51% stake in CSA airline in a two-round public tender to be completed by September, and also plans to privatize Ruzyne International Airport in Prague.

10. **Nordic Airways Ceases Operations.**

The operating license of Stockholm-based Nordic Airways was revoked due to financial problems. The Swedish Transport Agency official said the airline could no longer fulfill its commitments and obligations toward its passengers. Nordic, which in January launched Copenhagen-Baghdad flights, had its permanent license replaced with a time-restricted temporary permit in October, after it had applied for reconstruction due to financial difficulties; that license was due to expire on February 15.

11. **FlyLAL-Lithuanian Grounded.**

FlyLAL-Lithuanian Airlines ceased operations, as a court froze its assets at creditors' request and its operating license was suspended. The Transport Ministry announced it suspected the carrier's leadership had knowingly mismanaged the company in order to drive it into bankruptcy. FlyLAL earlier announced it had been sold for \$1 million to Swiss Capital Holdings, a Zurich-based group acting for Middle Eastern investors, then voided the sale.

12. **Virgin Nigeria Suspends Long-Haul Flights.**

Virgin Nigeria suspended flights to London Gatwick and Johannesburg, as part of an operational review, saying "our focus is on consolidating and continuing to expand our profitable domestic and regional flight operations."

13. **Western Europe-Iraq Air Links Resume.**

See Section IX, item 7.

14. **Aeroflot Offers Regular Service to Eilat.**

See Section IX, item 8.

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

### **1. Asia Pacific December and 2008 Traffic Results.**

Members of the Association of Asia Pacific Airlines (AAPA) carried 141.5 million international passengers in 2008, 1.8% fewer than record levels achieved in 2007. Revenue passenger kilometers were down by 1%. Capacity growth for the year was 1.7%, while average load factor fell two percentage points to 75.1%. Freight ton kilometers declined by 6.1% from the 2007 record. Member airlines reduced cargo capacity accordingly, but the average cargo load factor for the year still fell by one percentage point to 65.6%. December cargo volumes were down 24%, compared to December 2007.

### **2. China Update.**

In further moves to help the industry navigate the current economic crisis, China approved three-year exemptions of an airline fuel tax, retroactive to January 1, 2008, which, said the Civil Aviation Administration of China (CAAC), will save airlines a combined \$366 million through 2010. The government also agreed to \$26 billion in loans to manufacturer Aviation Industry Corporation of China. Despite the Olympics, the number of travelers to China dropped by 2 million in 2008, the first decline since the 2003 SARS outbreak; causes included tightened pre-Olympics visa restrictions and a May earthquake that resulted in 90,000 casualties. China's airlines lost \$1.04 billion in the first 11 months of 2008.

### **3. ACCC Denies Authority for Air New Zealand/Air Canada Pact.**

The Australian Competition and Consumer Commission (ACCC) refused to authorize a proposed cooperation agreement between Air New Zealand and Air Canada, saying it would reduce competition. Under the agreement the airlines would share revenue from Air Canada's direct Sydney-Vancouver route and Air New Zealand's direct Auckland-Vancouver route.

### **4. ANA Names New President and CEO.**

ANA Senior Executive Vice President Shinichiro Ito was named President and CEO, effective April 1. He succeeds Mineo Yamamoto, who will become Vice-Chairman of ANA Group, working with Chairman and former President and CEO, Yoji Ohashi. Ito has been with the company for 35 years.

### **5. SIA Cancels Hundreds of Flights.**

Singapore Airlines (SIA) will suspend 14 all-business flights to Los Angeles and New York from February 17 to March 25. The carrier canceled 214 mostly regional flights until the end of March, and will reduce service to New Delhi,

Hyderabad and Mumbai. Some flights to Bangkok and London will be suspended. Service to Kuwait and Cairo will be increased.

**6. Thai Airways Seeks \$1 Billion in Loans.**

Thai Airways is seeking nearly \$1 billion from financial institutions, for working capital and refinancing short-term loans. The government-owned carrier is recovering from airport closures in 2008 due to political protests and now is battling the global economic crisis. Thai is drafting a restructuring plan and has reached agreements with Airbus to postpone payments or delay deliveries.

**7. Western Europe-Iraq Air Links Resume.**

Commercial air links between Iraq and Europe opened for the first time since the United Nations imposed sanctions on Iraq after Saddam Hussein's 1990 invasion of Kuwait. A Nordic Leisure charter carried 150 passengers, mostly Iraqis, and the now-grounded Swedish carrier planned to operate one flight a week between Copenhagen and Baghdad. Other international flights followed. Air France-KLM and Iraq's transport ministry signed a preliminary accord, which would allow Iraqi Airways to fly to European destinations. Iraq recently resumed some control of its skies from the U.S.

**8. Aeroflot Offers Regular Service to Eilat.**

Aeroflot began twice-weekly A320 service from Moscow to the Israeli resort city of Eilat. The new service will give residents of both countries additional possibilities for traveling, particularly taking into account the removal of visas between Russia and Israel, said Aeroflot.

**9. Iraq to Pay Kuwait Airways \$300 Million in Gulf War Reparations.**

The Iraqi government said it will pay \$300 million in compensation to Kuwait Airways for claims related to Saddam Hussein's 1990 invasion of Kuwait. Iraq called it a final and comprehensive settlement, but the state-owned airline said its total claim is \$1.3 billion including interest.

## **X. AMERICAS**

### **1. Delta to Cut 2,000 Jobs.**

Delta reported a \$1.4 billion fourth-quarter loss, largely due to a noncash charge related to its purchase of Northwest, and said lower fuel prices, capacity discipline and merger synergies would bring profits this year. The carrier offered an early retirement package in anticipation of capacity reductions of 6% to 8%, with about 2,000 cuts expected. Delta is expanding worldwide cargo operations and its maintenance services to offset the decline in passenger traffic.

### **2. United to Earn \$1.2 Billion in Bag, Other Charges in 2009.**

United reported a pre-tax loss of \$1.3 billion in fourth quarter 2008, compared with a year-earlier pre-tax loss of \$98 million. The carrier plans to continue cutting capacity by up to 15% in the first quarter and expects overall capacity to be down between 8.5% and 9.5% for the full year, slightly more than forecast in October. The airline expects to generate about \$1.2 billion from fees and ancillary revenue in 2009, up about \$300 million from 2008, and said it will further reduce the number of salaried and management employees by approximately 1,000 positions this year, in addition to 1,500 positions previously announced, a nearly 30% reduction since the beginning of 2008.

### **3. Southwest Reports Record Q4 Operating Revenues.**

Southwest reported record fourth quarter revenues of \$2.7 billion, up 9.7% from fourth quarter 2007; net income of \$61 million was down 30%, primarily due to higher fuel costs. Full year 2008 net income was \$178 million, compared to \$645 million for full year 2007. Record fourth quarter operating revenues were up 8.8% per available seat mile. Results for 2008 included \$1.3 billion of fuel hedging cash settlement gains. "While we remain cautious about 2009 growth and plan to reduce available seat miles by about 4% versus 2008," said CEO Gary Kelly, "we remain well-positioned to respond quickly to favorable market opportunities, such as our launch into Minneapolis-St. Paul in March and our bid to acquire rights to 14 slots at New York LaGuardia."

### **4. JetBlue Expands Latin America, Caribbean Service.**

JetBlue began nonstop daily service from Orlando to both Bogota and Nassau, Bahamas, with daily service to San Jose, Costa Rica to begin March 26. New York Kennedy service to Montego Bay will begin May 21, subject to receipt of government operating authority.

5. **Canada's Largest Airlines Form New Council.**

Air Canada, Air Transat, Jazz Air and WestJet have created the National Airlines Council of Canada (NACC), a trade association focused on promoting public policy and legislation related to the Canadian commercial airline industry. "Air passengers and airlines are forced to carry the burden of rules, fees and levies unlike other sectors in the transportation industry," said NACC, which "is committed to securing the regulatory changes essential to ensuring that safe, sustainable and competitive air travel is available to Canadians." The airlines broke from Air Transportation of Canada last April because it represented too many aviation-related interests.

6. **Aeromexico, Mexicana Add International Destinations.**

Aeromexico will add international service from Mexico City, including two weekly flights to Las Vegas and daily to San Francisco in February, and daily to Toronto and Denver in March. The airline is considering a suspension of flights to China. Mexicana plans a new daily flight between Mexico City and Madrid starting in February.

7. **Chile's LAN 2008 Reports 16% 4Q Profit.**

Chile's LAN said net profit rose 8.9% in 2008 and 16.1% in the fourth quarter, as demand for passenger and cargo services offset fuel costs. Fourth-quarter profit was \$117.1 million, up from \$100.8 million for same period 2007; full year profit of \$335.7 million was up from \$308.3 million. In December, LAN Ecuador received authorization to operate domestic routes in Ecuador and will initiate A320 service in March.

8. **Aer Lingus, United Announce Transatlantic Partnership.**

See Section VIII, item 7.

9. **United to Offer Washington-Moscow Service.**

See Section VIII, item 8.

10. **ACCC Denies Authority for Air New Zealand/Air Canada Pact.**

See Section IX, item 3.