



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. Ray LaHood Named Secretary of Transportation.

Ray LaHood was selected by President-Elect Barack Obama to be the next Secretary of Transportation. The seven-term Congressman (R-Ill.) served on the House Appropriations Committee and is expected to play a key role in obtaining bipartisan support for infrastructure revitalization programs planned by the new Administration. Obama selected Arizona Governor Janet Napolitano to be Secretary of Homeland Security, saying, "She will be a leader who can reform a sprawling department while safeguarding our homeland." Napolitano earlier served as U.S. Attorney for Arizona and as Arizona's first female Attorney General. Cabinet nominations are subject to Senate confirmation.

2. Delta Protests Continental-United Alliance.

Delta filed a protest with the U.S. Department of Transportation (DOT) seeking to block the alliance of Continental with United, Lufthansa, Air Canada and other Star members, saying it would allow Continental to dominate routes to Brazil and China. Continental completed its application for global antitrust immunity (ATI) with the Star Alliance carriers and will exit SkyTeam by the fourth quarter to join Star. Meanwhile, Continental and United, which in the past have tried and failed to merge, are discussing cooperative cost-saving measures and already offer some reciprocal lounge access.

3. DOT Requests More Information on American-British Airways Link.

DOT requested details from American, British Airways and Iberia for their ATI application, including potential impact on competition, particularly at London Heathrow; plans for Pacific and Latin American markets; and how pricing and capacity decisions could be affected by mergers of British Airways and Iberia and of British Airways and Qantas, although the latter pair said their merger talks have ended. DOT's move followed requests by Virgin Atlantic, Air France-KLM, American Society of Travel Agents and Interactive Travel Services Association, representing Web-based agents for more information. American's pilot union, Allied Pilots Association, urged DOT to proceed with caution and cited "the importance of crafting public policy that preserves American jobs during the ongoing economic downturn."

4. Southwest Seeks U.S.-Canada Route Authority.

Southwest applied for international route authority to operate U.S.-Canada flights, in preparation for full implementation of its code share with Canadian carrier WestJet and possibly operating flights to Canada with its own planes.

Southwest and WestJet plan to announce shared schedules by yearend for seamless travel to U.S. and Canadian destinations.

5. Northwest Requests Delays in New China Service.

Delta subsidiary Northwest requested DOT approval to defer the start of Detroit-Shanghai and Seattle-Beijing service, citing a 30% year-over-year drop in U.S.-China bookings. Detroit-Shanghai service would start June 3, 2009, instead of March 25, with initial frequency reduction from a planned seven to four; the remaining three frequencies would be added by March 25, 2010. Seattle-Beijing service would begin in March 2010 instead of March 2009. DOT has granted deferrals of China service to other airlines.

6. FAA Urges Airlines, Pilots to Keep Voluntary Reporting.

The Federal Aviation Administration (FAA) urged carriers and unions to resolve differences and keep reporting programs in place. American, Delta and US Airways have discontinued FAA's Aviation Action Safety Program (ASAP), following union complaints that the voluntary reports would be used to punish individual pilots. "Using safety as a chip at the bargaining table is unconscionable," said FAA Acting Administrator Robert Sturgell. The National Transportation Safety Board and Flight Safety Foundation also urged airlines not to drop ASAP, which, says FAA, "may be critical to identifying potential safety issues. [The data] are thoroughly analyzed and resolved through corrective action without fear of punishment."

7. Israel's Safety Rating Changed to Category 2.

FAA changed Israel's safety standard rating to Category 2, meaning Israeli air carriers may not establish new service to the United States until the safety oversight system of the civil aviation authority of Israel "fully complies with standards and practices set by the International Civil Aviation Organization (ICAO)." Israeli aviation regulators are moving aggressively to respond to the downgrade, FAA said.

8. U.S. High-Speed Rail Effort Launched.

DOT is requesting proposals for development of a high-speed rail service between Washington, DC and New York City and in 10 other corridors that include Florida, California and Chicago. The effort has support from Congressman John Mica (R-Fla.), Ranking Member on the House Transportation Committee. A recent rail law authored by Mica and James Oberstar (D-Minn.) and signed into law provides a framework for DOT to move the high-speed initiative forward. Costs are estimated at \$18 to \$40 billion and trains could be running in the 2012-2020 period. A timetable issued by Mica says proposals must be submitted to DOT by September 2009. DOT must then establish Commissions of stakeholders—including governors, mayors,

labor and railroads—to evaluate proposals for each corridor. By April 2010, DOT must evaluate the Commissions' recommendations and submit its recommendations to Congress, beginning with proposals for the Washington, DC-to-New York corridor. Finally, Congress must take necessary action to begin work on selected proposals.

9. Global Cargo Down 13.5% in November.

A 13.5% drop in cargo in November was reported by the International Air Transport Association (IATA). It was the largest decline since 2001, post-9/11, said Giovanni Bisignani, IATA Director General and CEO, "showing the rapid fall in global trade and the broadening impact of the economic slowdown." Global passenger traffic fell 4.6%, with load factors at 72.7%. IATA predicted deep fourth quarter losses. While the price of fuel slipped to below \$40 a barrel in December, "falls in demand and capacity cuts are not keeping pace," said Bisignani. "The industry is back in intensive care. Improving efficiency everywhere will be theme for 2009."

10. U.S. System Traffic Down 8.4% in September.

U.S. airline scheduled systemwide passengers dropped by 5 million to 54.2 million in September, said DOT, down 8.4% from September 2007; domestic passengers dropped 8.9%, the steepest monthly decrease since August 2002, and international by 5%, the first monthly year-to-year decrease since August 2003. For first nine months 2008, systemwide passengers dropped by 12.3 million to 570.4 million, down 2.1% from the 2007 period, with 2.8% fewer domestic passengers and 3.2% more international. U.S. carriers operated 789,600 scheduled systemwide flights in September, down 9.4% from September 2007; domestic flights decreased 9.6% and international 7.3%. In first nine months 2008, U.S. carriers operated 7.8 million systemwide flights, down 3.1%; domestic flights decreased 3.4% and international 0.3%.

11. U.S. Airline Third-Quarter System Financial Data.

The six largest U.S. network airlines collectively reported an operating loss margin of 5.8% in third quarter 2008, said DOT, the fourth consecutive quarterly loss margin since third quarter 2007; only Delta reported an operating profit. They posted a combined operating loss of \$1.7 billion, with 36% of operating expenses going to fuel. The total industry collected \$350 million in excess baggage fees in third quarter, up from \$178 million in the second and \$122 million in third quarter 2007.

12. U.S. Airline Employment Drops to 1993 Levels.

U.S. scheduled passenger airlines employed 394,300 workers in October 2008, reports DOT, 5.7% fewer than in October 2007 and the lowest total since 1993. The seven network carriers employed 266,608 in October (67.6%

of passenger airline total), while low-cost carriers employed 61,361 (15.6%) and regionals employed 57,992 (14.7%).

13. DOT Actions on Passenger Rights, Tarmac Delays.

DOT raised the minimum limit airlines may set on lost baggage liability from \$3,000 to \$3,300 per passenger, and raised the maximum civil penalty for most violations of aviation economic regulations and statutes, such as failure to make required refunds, from \$25,000 to \$27,500. A new DOT proposal would require airlines to adopt contingency plans for lengthy tarmac delays and incorporate them in their contracts of carriage; many carriers already have such plans, but under the proposed rule passengers could sue a carrier for breach of contract. DOT now requires airlines that file on-time data to provide tarmac delay information; in October, 50 out of 554,325 scheduled flights by 19 reporting airlines were delayed on the tarmac for three hours or more.

14. DOT Air Travel Consumer Report for October.

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

	Oct. '08/'07	Sept. '08	Full Year				
			2007	2006	2005	2004	2003
On-time arrivals %	86 / 78.2	84.9	73.4	75.4	77.4	78.1	82
Mishandled baggage*	3.55/5.37	3.86	7.03	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>							
Airline service	627/1,099	684	13,168	8,325	8,741	7,452	5,983
Disability-related	40 / 58	40	480	430	511	521	375
Discrimination**	10 / 11	10	99	114	129	118	85

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

* Reports per 1,000 passengers.

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

II. AIRPORTS

1. Slot Auction Plan Blocked.

DOT's slot auction plan for New York LaGuardia, Kennedy and Newark airports has been blocked for now. A three-judge panel on the U.S. Court of Appeals for the District of Columbia said airport operator Port Authority of New York and New Jersey had "satisfied stringent standards required for a stay pending court review." The Air Transport Association, which also had filed for a stay of the auction rules, said the ruling halts an "ill-advised, illogical [and] ideological experiment that would have resulted in higher fares, less service and confiscation of airline property." New York Senator Charles Schumer said the decision "should buy enough time for the next Administration and Congress to put slot auctions on the shelf for good and then craft a new, workable plan to reduce flight delays and give New York's airspace and airports the upgrade they need and deserve."

2. New LaGuardia Caps Announced.

DOT proposed voluntarily caps to reduce scheduled LaGuardia operations from 75 per hour to an average of 71, which would be in effect from April to October 24, 2009. The move could reduce delays by up to 41%, said DOT, saving up to \$178 million in related costs a year. In 2007 and 2008, LaGuardia ranked last among the 32 major U.S. airports in on-time arrivals, with a rate of 61%, and 28th for on-time departure performance over the first 10 months of 2008.

3. Southwest Wins ATA's LaGuardia Slots.

Southwest won U.S. Bankruptcy Court approval to purchase ATA Airlines' 14 slots at New York LaGuardia for \$7.5 million. ATA ceased operations after filing for Chapter 11 bankruptcy on April 2, 2008.

4. Bradley, Pittsburgh Get Delta International Service.

Pittsburgh International will spend up to \$600,000 to help market a Delta nonstop to Paris, the city's first transatlantic route since 2004; Delta reportedly could also receive up to \$9 million in subsidies if revenues fail to meet estimates. Delta will resume flights to Amsterdam from Hartford Bradley through its Northwest subsidiary, beginning June 2; the five weekly, 160-seat, Boeing 757-200 flights will be Bradley's only nonstop to Europe. Separately, Pittsburgh expected to end 2008 with fewer than 8.7 million passengers, its lowest rate in 16 years of operation.

5. **AirTran Opts for Branson Airport.**

AirTran will be a launch airline for Branson Airport, set to open for commercial service in May. Located on 922 acres in Taney County, Missouri, Branson is the first privately-financed and operated U.S. commercial airport. Among advantages of being privately funded, say owners: "airport can grant initial development rights to airlines; business model not hindered by municipal process; and airport can strike creative, unique deals with vendors and concessionaires, including the ability to offer naming rights and brand extensions." Initial projections were for 500,000 passengers annually and 1.5 million within five years. The \$155 million (private equity and bonds) project includes a 7,140 foot-long/150 foot-wide runway with partial parallel taxiway, 58,000 square foot terminal and general aviation facility.

6. **Orange County to Proceed With \$652 Million Project.**

Despite traffic declines, Orange County's John Wayne Airport will proceed with a \$652 million project that includes a 250,000 square-foot terminal and 2,000-space parking structure and renovation of two existing terminals, with construction to begin in mid-2009 and completion expected by 2011. Officials say the project, the first major improvement since 1990, will set the stage for international traffic, reports the *Los Angeles Times*. The airport handled 10 million passengers in 2007 and 7.7 million in first 10 months 2008.

7. **Metrorail to Dulles Wins Federal Transit Approval.**

An extension of Washington's Metrorail system to Dulles International was approved by the Federal Transit Administration and, reports the *Washington Post*, final government approvals are expected. The \$5 billion project, planned for more than 40 years, earlier was deemed unqualified for funding due to cost overruns, delays and concerns about management. Metropolitan Washington Airports Authority, which operates Dulles and Reagan National airports and the Dulles toll road, is managing rail line construction for Virginia. Separately, the Authority's Board of Directors received new travel guidelines, after it was found their annual expenses of about \$1 million included first-class airfare, meals with spouses and luxurious hotel accommodations booked beyond conference dates. Travel expenses doubled from 2005 to 2008, reports the *Post*. Funds come from concessions and passenger fees; Board members are not paid for service.

8. **BAA to Sell Gatwick, Stansted, Edinburgh.**

The UK Competition Commission proposed that BAA be required to sell London Gatwick and Stansted and Edinburgh airports. Under separate ownership, airport operators will have a much greater incentive to be far more responsive to airlines and passengers, said the Commission. BAA, which has already opened a sale of Gatwick, would retain Heathrow, airports in

Aberdeen and Southampton and possibly Glasgow. Colin Matthews, CEO of BAA, a unit of Grupo Ferrovial of Spain, said the Commission failed to provide compelling evidence to support its view that selling Stansted as well as Gatwick will increase competition, nor its view that Edinburgh and Glasgow would compete under separate ownership. "We believe there is no justification for specifying which of these airports should be sold," said BAA, and "will continue to make our case." The Commission also proposed measures to ensure that investment and service levels at Heathrow, and possibly Gatwick and Stansted, effectively meet needs of airlines, passengers and other airport users. Among recommendations to the Transport Department, the Commission suggested license-based economic regulation for airport owners and a change in its own role to that of an appeal body.

9. EU Court Backs Ryanair in Charleroi Dispute.

The European Court of First Instance ruled that Ryanair does not have to repay funds granted by Brussels Charleroi airport, annulling a 2004 European Commission (EC) decision that a portion of the incentives amounted to state aid. Although the airport is controlled by the Walloon region of southern Belgium, special concessions granted to attract Ryanair should have been considered in the same way as a private transaction to secure business, the Court said. Ryanair called the decision a victory for efforts by small, regional airports to compete with large hubs. In other Charleroi news, Venice airport operator SAVE secured exclusive talks for a 27.65% stake in the airport. Wallonia owns 95% of Charleroi, which handled 3 million passengers in 2008.

III. SECURITY AND DATA PRIVACY

1. Washington Airspace Restrictions Made Permanent.

Airspace restrictions implemented post-9/11 around Washington, DC have been made permanent. The secure airspace is comprised of two concentric rings. The interior ring, or Flight Restricted Zone (FRZ), a 15-nautical-mile radius around Reagan Washington National Airport, is restricted to flights authorized by FAA and the Transportation Security Administration (TSA). For the outer ring, or Special Flight Rules Area (SFRA), a 30-nautical-mile radius around the airport, pilots must file flight plans, establish two-way radio communications with air traffic control and operate the aircraft transponder on an assigned transponder code.

2. US-VISIT Biometric Categories Expanded.

The U.S. Department of Homeland Security (DHS) expanded categories of non-U.S. citizens required to provide digital fingerprints and a photograph upon entry to the United States through the US-VISIT program. The additions include lawful permanent U.S. residents and some Canadian citizens, as well as persons who seek admission on immigrant visas as refugees and asylees, are paroled into the United States, or are applying for admission under the Guam Visa Waiver Program. Those exempt from US-VISIT procedures include non-U.S. citizens under age 14 and over age 79.

3. Yahoo! to Obscure Data After 90-Days.

To address concerns from privacy advocates and regulators, Yahoo! will obscure some elements in data records after 90 days, including page and ad views and clicks, and the persistent user identifier (cookie) related to each search log. The Internet search engine will strip out personal information, like name, phone number, address or Social Security number, from a query. Part of the Internet Protocol (IP) address, a digital tag that identifies a specific computer, will be deleted, although experts maintain partial deletion will not guarantee privacy. Yahoo! will retain system specific data in identifiable form for up to six months “for fraud, security and legal obligations.”

4. UK Identity Card Secondary Legislation Proposed.

Proposals covering regulations, orders and a code of practice were issued for secondary legislation under the UK's Identity Cards Act 2006. The cards will store fingerprints and a facial scan and allow holders to travel within Europe without a passport. The National Identity Scheme for British citizens and European Economic Area nationals will start this year with voluntary applicants and airside employees at some airports. UK human rights group Liberty

(National Council for Civil Liberties) said the ID cards threaten dignity and privacy. A November survey of 2,000 adults, conducted by the Home Office, the lead UK department for immigration and passports, revealed declining support for the cards.

5. New UPS Shanghai Hub Features Customs Risk Management System.

UPS collaborated with Shanghai Customs to deploy an industry-first customs risk management system at its new Shanghai Pudong facility. By merging UPS information with Customs to identify high-risk items for inspection, the system minimizes unnecessary checks and expedites shipment clearance. A “Shipper Build Area,” also an industry first, allows customers to perform on-site packaging before goods are loaded on the aircraft, eliminating the processing of goods at a separate facility, and of use to customers who ship items requiring special handling, such as precise instruments. Designed for simultaneous rapid processing of heavy freight, the UPS hub also features 47 docking bays and has a package sorting capacity of 17,000 pieces per hour. Pudong is the world’s third largest airport by cargo tonnage, with annual growth of 11.5%, said Chinese officials.

6. Congress to Press for Limited Searches of Personal Electronics.

See Section VI, item 2.

IV. E-COMMERCE AND TECHNOLOGY

1. Delta Offers Inflight Internet on Shuttle.

Delta introduced GoGo, an Internet service operated by Aircell, on its Shuttle routes, New York LaGuardia-Boston Logan and LaGuardia-Washington Reagan. The Wi-Fi service will be on Delta's entire mainline domestic fleet by the end of 2009. American and Virgin America also are offering GoGo. JetBlue is testing text message/e-mail service with its entertainment subsidiary, LiveTV, and Aircell.

2. Europe Pressures Airlines on Web Sales Legal Compliance.

The European Commission stepped up pressure on EU airlines selling tickets online to fully comply with all requirements of EU law. Airlines received a 30-point checklist of consumer rights for comment, which eventually will be consolidated, and were ordered to amend Web sites to ensure full compliance and post a user-friendly version of the checklist for consumers. Following a "health check" of the sector, a compliance report will be published in May 2009. An ongoing EU investigation has resulted in 60% of sites with irregularities being corrected.

3. Travelocity Tool Provides On-Time Performance Statistics.

Travelocity launched a booking tool that allows passengers to view airline on-time performance statistics. FlightStats provides a thermometer-like visual showing the percentage that a flight is on time. Travelers click on the percentage to get more details. Multi-sourced, real-time, historical data are provided for every flight displayed, said the company.

4. Orbitz Survey: Corporate Travel Policies Focus on Cost Efficiencies.

A year-end survey of 612 business travelers found that 71% traveled more or the same in 2008 as in 2007, 79% felt pressure to curb travel expenses and 55% had to make further cuts in the last three months of the year. Some 6% of respondents' companies had implemented a freeze on travel. The survey, conducted by Orbitz for Business, found that 50% of respondents had tried videoconferencing. In response to airline capacity cuts and new fees, 47% now book further in advance when possible and 11% drive more frequently; 34% said employers will not allow upgrades, such as window seats, as a business expense.

V. ENERGY AND ENVIRONMENT

1. Carbon Offsets to be Offered at SFO Kiosks.

San Francisco International will begin offering travelers the opportunity to purchase carbon offsets at airport kiosks this spring. The airport will spend \$163,000 on the experimental program, which is led by 3Degrees, a local provider of renewable energy and carbon offset solutions. Officials told the *San Francisco Chronicle* that offset projects could include renewable energy ventures in developing countries, agriculture and organic waste capture, coal mine methane capture, and sustainable forestry. A portion of each offset purchase will go to the San Francisco Carbon Fund, which supports local projects such as energy-efficiency programs and solar panel installations for low-income housing, and efforts to convert waste oils into biodiesel fuels. Costs for offsets are not determined yet, but as an example, offsetting a trip to Europe would cost \$36.

2. Air New Zealand Biofuel Test Flight Successful.

The world's first commercial aviation test flight powered by a sustainable second-generation biofuel was successfully completed. A joint initiative of Air New Zealand, Boeing, Rolls-Royce and Honeywell's UOP, with support from Terasol Energy, the two-hour flight took off from Auckland with a biofuel blend of 50:50 jatropha and Jet A1 fuel powering one Rolls-Royce RB211 engine on an Air New Zealand Boeing 747-400. Tests were completed at various altitudes and under a variety of operating conditions to measure the biofuel's performance through the engine and fuel system. Additional tests are planned.

3. Environmentalists Stage Security Breach at Stansted.

An environmental group, Plane Stupid, staged a 3 a.m. break-in at London Stansted and occupied the airport's only runway. The action, meant to protest the government's decision to allow expansion of the airport and "prevent release of thousands of tons of greenhouse gas emissions into the atmosphere," raised security concerns, as the group had sliced the perimeter fence with bolt cutters. More than 50 flights were canceled or delayed before the protesters were arrested.

VI. U.S. CONGRESS

1. Industry Proposes Av Needs for Economic Stimulus Program.

In a joint letter to House Speaker Nancy Pelosi and House and Senate leaders, industry groups requested consideration for aviation infrastructure projects in upcoming economic stimulus funding decisions. They proposed: \$1 billion for the Airport Improvement Program; \$3 billion to equip 20,000 aircraft for NextGen operations; elimination of alternative minimum tax on airport private activity bonds; extension of bonus depreciation provision for aircraft purchases; acceleration of increase in domestic manufacturing deduction; and making R&D tax credit permanent. Associations signing the letter include Air Transport, Aerospace Industries, Airport Consultants Council, National Business Aviation and Regional Airlines. In related news, American CEO Gerard Arpey told a Dallas business group, "The airline industry should be at the top of the list of industries that are deserving of economic stimulus as it relates to infrastructure because we have let the infrastructure in aviation deteriorate"; Arpey ruled out direct aid to airlines. Air Transport Association CEO James May wrote in the *National Journal*, "Airlines believe that in order to help jump-start the economy, our track record as a 'jobs multiplier' and our essential role in moving people, goods and services efficiently make a strong case for wise, strategic investments." May earlier told the National Aeronautic Association the current FAA funding extension should be further extended to allow for development of innovative funding mechanisms. FAA reauthorization expired in 2007; the House passed a funding bill, but the Senate has yet to agree on its version.

2. Congress to Press for Limited Searches of Personal Electronics.

Bills to limit searches of travelers' personal electronic devices, including laptops, cell phones and digital cameras, will be debated by the new Congress. Department of Homeland Security policy states that federal agents can search and detain documents and electronic devices, but privacy advocates and some lawmakers say the contents of these devices are different than those of a suitcase. "You can't put your life in a suitcase, but you can put your life on a computer," said Ron Wyden (D-Ore.), who co-sponsored a Senate bill that would restrict such searches. Other measures have been sponsored by Sen. Russell Feingold (D-Wis.) and Rep. Eliot Engel (D-N.Y.).

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. U.S.-EU Open Skies Challenges.

An Open Aviation Area, as desired by the EU, including unlimited cabotage, unlimited rights for each side's citizens to own and control airlines of the other side and extensive regulatory convergence, "is not going to happen in the near term," said John Byerly, U.S. State Department Deputy Assistant Secretary for Transportation Affairs. Such changes would require statutory amendment and consensus among labor, airlines, airports, the incoming Administration and Congress. In remarks at an Airports Council International-NA seminar in Washington, Byerly summed up expectations for U.S.-EU open skies second-stage negotiations. Two rounds of talks have been held and a third will be scheduled once the new Administration and Congress "have had an opportunity to consider the important policy questions before us." The U.S. seeks: full seventh freedom cargo rights for U.S. carriers, to match unlimited cargo seventh EU carriers enjoy under the first-stage agreement; stronger guarantees that EU Member States will take a balanced approach on noise restrictions, including night curfews; and use of second-stage of negotiations to explore the issue of ownership and control. Meanwhile, a "discussion draft" of a multilateral convention focused on surmounting barriers posed by the traditional nationality clause in bilateral air services agreements to cross-border investment in, and cooperation in the management of, airlines has had a positive initial response, Byerly said, and an IATA initiative to develop a multilateral declaration of principles could foster rapid progress.

2. EU-Canada Open Skies Pact to Include Investment.

An EU-Canada agreement allows all EU airlines to operate direct flights to Canada from anywhere in Europe and removes all restrictions on routes, prices or the number of weekly flights between Canada and the EU. Other traffic rights will be liberalized gradually with the opening of investment opportunities, said the EU, and EU nationals will be able to establish operations in Canada and freely invest in Canadian airlines and vice versa. The agreement "envisages mutual recognition of standards and one-stop security." The EU also signed aviation agreements with Israel and Armenia.

VIII. EUROPE/AFRICA

1. Alitalia Launch Set for January.

Compagnia Aerea Italiana (CAI) officially took possession of Alitalia's profitable assets and plans to launch a new streamlined carrier on January 12. CAI CEO Rocco Sabelli said the new Alitalia will serve 70 destinations, with 148 aircraft. Piaggio CEO Roberto Colaninno, who leads CAI, said a foreign investor would take a minority stake in the airline of up to 25%. Talks have been held with Air France-KLM and Lufthansa. British Airways CEO Willie Walsh said he is considering a commercial accord that eventually could lead to a stake in Alitalia.

2. Lufthansa to Acquire Austrian Airlines.

Lufthansa will acquire a 41.6% stake in Austrian from state holding company OIAG, subject to EC approval. Under the agreement, the Austrian government would assume up to €500 million of the carrier's debt. Air France-KLM, which had bid for Austrian, lodged a complaint with the EC, saying the transaction does not follow instructions imposed on it during the bidding process. Separately, Virgin Atlantic and Lufthansa held talks about bmi; Lufthansa is increasing its 30% stake in bmi to 80%. Also, Lufthansa reportedly resumed talks on acquiring a stake in SAS, which is 50% owned by the governments of Sweden, Norway and Denmark.

3. SAS Selling airBaltic, Spanair.

SAS agreed to sell its 47.2% holding in airBaltic to the management of airBaltic, in a cash sale that will close by January 31. SAS also agreed to sell parts of its Spanair unit to tourism group Consorci de Turisme de Barcelona and private equity group Catalana d'Iniciatives, subject to completion of final negotiations; SAS will remain the core shareholder in Spanair.

4. KLM Becomes Full Owner of Martinair.

The EC approved the acquisition of Martinair by KLM, which formerly held a 50% stake in the Maersk Group carrier. Separately, KLM will celebrate its 90th anniversary this year, making it the oldest airline in the world still operating under its original name.

5. Aer Lingus Rejects New Ryanair Bid.

Ryanair made a new €750 million bid for Aer Lingus, two years after a previous bid failed. The Aer Lingus Board unanimously rejected the offer, saying it "significantly undervalues Aer Lingus and would see Ryanair establish a monopoly on air travel / connectivity to and from Ireland." Aer Lingus Chairman Colm Barrington said the carrier will seek a friendly investor

to take a majority stake in the airline and stave off the Ryanair bid. Aer Lingus is 25.4% government-owned, and Ryanair already holds a 29.8% share.

6. EU Court Rules for Passenger Compensation.

The European Court of Justice established that as a general rule air carriers are obliged to compensate passengers for cancellations due to aircraft technical problems. The judgment was handed down in a case in which an Austrian citizen sued Alitalia for refusing to pay compensation for a flight from Vienna to Brindisi via Rome. The decision places passenger rights ahead of passenger safety, said the European Regions Airline Association (ERA); "Airlines are now faced with additional commercial pressures. There will be some occasions, in marginal conditions, where knowledge and experience would otherwise dictate that it would be more prudent not to fly."

7. Continental to Offer London Heathrow Service from Cleveland.

Continental will operate daily nonstops between Cleveland and London Heathrow, from May 2 through September 26, replacing current seasonal service between Cleveland and London Gatwick. The carrier will end seasonal service from Cleveland to Paris de Gaulle Airport, "due to economic challenges."

8. American to Launch Daily Dallas-Madrid Flights.

American will begin daily nonstops between Dallas/Fort Worth and Madrid on May 1, with 225-seat Boeing 767-300s in two-class configuration. American CEO Gerard Arpey said the venture's success is contingent upon DOT approval of its alliance with British Airways and Iberia, which would enable connections beyond Madrid. An earlier attempt to tie Dallas to Madrid failed. The new service will generate more than \$107 million annually for the North Texas economy, said airport officials.

9. Air Canada to Resume Nonstops to Rome from Montreal, Toronto.

Air Canada will reintroduce Montreal-Rome nonstops on June 20. The seasonal 211-seat Boeing 767-300 ER service, featuring 24 lay flat bed suites, will link with Air Canada's Quebec and Atlantic Canada network and major Eastern U.S. cities, and in Italy via Air One to destinations including Bari, Milan, Palermo and Venice. Air Canada's Toronto-Rome nonstops are set to resume in February.

10. Europe Accelerates High-Speed Train Service.

Across Europe high speed train service got a boost from the European Union (EU), with over €1.7 billion in financing. EU Transport Vice President Antonio Tajani signed 11 financing decisions for the 2007-2013 period for railway works in Italy, Austria, France, Germany, Slovenia and Hungary, saying

“Investing in key European transport infrastructure today is a demonstration that the EU can respond to the economic crisis, in the short term by accelerating infrastructure projects, and in the medium term by creating the core rail network that will sustain Europe's competitiveness and meet the challenge of climate change.” In related news, Italy launched its fourth high-speed train service, cutting travel time between Milan and Bologna to 65 minutes. Service between Rome and Milan, to begin next year, will cut travel time by 25% to three hours, said Italy's state railway operator Ferrovie dello Stato. CEO Mauro Moretti hopes to gain a 60% share of the travel market over the route over the next two years, but said the service will not hurt a re-launched Alitalia.

11. **BAA to Sell Gatwick, Stansted, Edinburgh.**
See Section II, item 8.
12. **EU Court Backs Ryanair in Charleroi Dispute.**
See Section II, item 9.

IX. ASIA/PACIFIC / MIDDLE EAST

1. Asia Pacific Airlines Report Steep Declines in Passengers, Freight.

The number of international passengers carried by Association of Asia Pacific Airlines members fell by 9.8% to 10.9 million in November. In revenue passenger kilometer (RPK) terms, international passenger traffic declined by 8.5% and average international passenger load factor deteriorated by 4.6%, to 72.0%, as a 2.7% reduction in seat capacity failed to match reduction in demand. International freight ton kilometers (FTKs) declined by 15.5% compared to November 2007. Even with an 8.9% reduction in cargo capacity, average international cargo load factor for the month fell by almost 5% to 64.3%. For first eleven months 2008, international passenger traffic declined by 0.3% in RPKs and international freight traffic by 4.3% in FTKs.

2. Consolidation Planned for China's Airlines.

Civil Aviation Administration of China (CAAC) urged state-owned airlines to cancel or delay 2009 orders for new aircraft to cope with weaker demand and encouraged them to return leased aircraft from overseas firms, ground or sell planes and retire old aircraft. CAAC will exercise caution in approving new aircraft orders and will not approve new airlines before 2012. The government also will refund some infrastructure fees from second half 2008, exempt airlines from infrastructure fees and some taxes for first half 2009, and guide and push forward unification and reorganization in the sector. A move of China Southern Chairman Liu Shaoyong to China Eastern reportedly is a precursor to a merger between China Eastern and Shanghai Airlines; an Air China executive will be the new president of China Eastern. Cash subsidies were received by China Southern and China Eastern from the central government and by HNA Group, parent of Hainan Airlines and Grand China Express, from the Tianjin municipal government. Tianjin-based Okay Airways, China's first private airline, suspended passenger service after airports demanded cash for fuel; Okay cargo operations, which partner with FedEx, are expected to continue.

3. Qantas Ownership Rules May be Relaxed.

Australia released a proposal that would remove current ownership caps for Qantas of 25% on individual foreign airlines and 35% on aggregate foreign airline interests, while maintaining the requirement for majority Australian ownership of Australia's international airlines. News of Qantas-British Airways merger talks then surfaced, but the carriers were not able to agree on a Qantas demand for more than 50% of the business. Malaysia Airlines said it was in talks with Qantas and other airlines about potential joint ventures, code

shares and interlining partnerships; and Qantas declined to comment on reports it is discussing a merger of its low-cost units, Melbourne-based Jetstar and Singapore-based JetstarAsia, with Kuala Lumpur-based AirAsia.

4. **V Australia Los Angeles Flights to Begin February 27.**

V Australia confirmed a new launch date of February 27 for its inaugural flight from Sydney to Los Angeles, subject to regulatory approval. Originally set for December 15, 2008, the launch was delayed due to industrial action at Boeing, which slowed down delivery of B-777-300ERs. The airline initially will operate three weekly direct services before ramping up to daily flights from March 21, following the delivery of additional aircraft. April 8 is the revised launch date for three weekly direct Brisbane-Los Angeles flights.

5. **Delta to Offer Sydney Nonstops from Los Angeles.**

Delta will begin daily Boeing 777-200LR nonstops between Los Angeles and Sydney on July 1, subject to foreign government approval.

6. **Australia Begins Court Proceedings Against SIA Cargo.**

Australia's Competition and Consumer Commission began legal proceedings against Singapore Airlines (SIA Cargo) for alleged price fixing in the air cargo industry between 2001 and 2005. A hearing is set for February 12 in Sydney's Federal Court. The Commission is suing for unspecified penalties and costs, and expects to finalize investigations with other airlines soon. Qantas and British Airways earlier were fined for colluding with other air cargo carriers to fix the price of fuel and security surcharges applied to cargo carried to and from Australia.

7. **New Zealand to Prosecute 13 Airlines For Alleged Price-Fixing**

The New Zealand Commerce Commission initiated court proceedings against 13 airlines, alleging "extensive and long-term cartel activity in the air cargo market." The Commission said airlines around the world colluded to raise cargo prices in and out of New Zealand via fuel surcharges imposed between 2000 and 2006. The price-fixing affected revenue of NZ\$2.9 billion until it stopped in 2006, said the government.

8. **El Al Plans Direct Flights to Brazil**

El Al plans to launch direct flights to Sao Paulo in the spring, its first new destination in 10 years, subject to regulatory approvals. President Haim Romano said the company has set a target of expanding mainly on long-distance flights.

9. **United, Egyptair Announce Code Share.**

Under a new code share arrangement, to begin in summer 2009, United will place its code on Egyptair flights linking New York Kennedy and London Heathrow with Cairo, while Egyptair will place its code on United flights from New York Kennedy to Los Angeles and San Francisco, and on flights from London Heathrow to Chicago, Los Angeles, San Francisco and Washington. The Star Alliance partners will also enhance reciprocal frequent flyer benefits.

10. **Northwest Requests Delays in New China Service.**

See Section I, item 5.

X. AMERICAS

1. Delta-Northwest News.

A tentative agreement with Minneapolis-St. Paul operator Metropolitan Airports Commission allows Delta to retain financial benefits enjoyed by Northwest. In exchange the company will maintain a Delta North headquarters there, retain 10,000 employees and operate at least 400 daily flights. Among other terms, Delta's regional operations will be managed at Delta North; Northwest subsidiary Compass Airlines, currently based at Washington Dulles, will move to Minneapolis. In a multiyear contract extension, Delta received from American Express "an immediate \$1 billion boost to its liquidity from a purchase of SkyMiles" with an additional \$1 billion through 2010. In return, AmEx will offer expanded booking options and increased merchant acceptance in the U.S. Midwest, as Northwest and Delta mileage programs are integrated. An arbitrator issued a decision on integrating Delta and Northwest pilot seniority lists, effective immediately; a combined labor contract was already in place. Shuttle America-operated Embraer E-175s will be phased in from January for Delta's New York-Washington shuttle flights, replacing Delta-operated MD-88s, to conform with demand. And, after announcing extensive new international service, Delta said it would delay new flights to China, Paris, Tel Aviv and Gothenberg. Executives reportedly told employees systemwide capacity would be decreased by 6 to 8%, in response to the recession, and offered voluntary severance pay.

2. JetBlue Enhances Boston Schedule.

JetBlue will add new or expanded service from Boston Logan to 12 U.S. and Caribbean destinations, including San Francisco, Chicago, Los Angeles (Long Beach), Washington (Dulles), New York (Kennedy), St. Maarten and San Juan. Boston is JetBlue's second-largest base of operations, with service to 31 cities in seven countries.

3. Virgin America Opts for Boston, Chicago a No-Go.

Virgin America dropped plans for Chicago flights due to an inability to gain gate space at O'Hare. Chicago would have been the carrier's first Midwest destination. Instead, Virgin America will start daily service to Boston Logan, on February 12, from its San Francisco home and Los Angeles International. Virgin America is also seeking slots at Orange County's John Wayne Airport.

4. Spirit to Fly to Medellin and Armenia, Colombia.

Spirit will begin daily nonstops from Fort Lauderdale to Medellin, Colombia on March 1. The "ultra low cost" carrier filed an application with DOT requesting

authorization to begin nonstops between Fort Lauderdale and Armenia, Colombia by this summer.

5. **WestJet, Mokulele to Partner; Mesa Moves to Co-opt Aloha Name.**

Canada's WestJet and Hawaii's Mokulele announced a partnership giving WestJet passengers inter-island connections and "providing the people of Hawaii greater access to WestJet's network of 51 destinations." In other news, Mesa's attempt to re-brand its go! planes with the Aloha name was temporarily blocked by a federal Bankruptcy Court judge. The judge angrily condemned Mesa and Yucaipa, the acquirer of Aloha's intellectual property rights, for being insensitive to victims of the Aloha bankruptcy. Private investment firm Yucaipa was Aloha's controlling shareholder.

6. **Tilton to Chair ATA Board.**

The Air Transport Association of America (ATA) appointed United Chairman, President and CEO Glenn Tilton as Chairman of the ATA Board of Directors, effective immediately. He succeeds former Northwest Chairman and CEO Douglas Steenland and will serve a two-year term. Tilton was an oil industry executive before taking the helm of United in 2002.

7. **Neeleman's Brazilian Airline, Azul, Takes Flight.**

Azul Linhas Aereas Brasileiras was launched by JetBlue founder David Neeleman, providing point-to-point domestic service with Embraer 195s and 190s leased from JetBlue. Azul plans to serve 25 cities in Brazil with 16 aircraft this year; 78 Embraers are on order. Azul's aircraft are furnished with ultra-leather, two-across seats with a 31-inch seat pitch—the first five rows of each cabin offer 34-inch pitch—and by yearend it will be the first Latin American airline to offer individual Live TV monitors. In addition to JetBlue, Neeleman co-founded Morris Air, which was sold to Southwest, and helped start WestJet.

8. **State to Expropriate Aerolineas Argentinas.**

Argentine legislators approved a bill to expropriate Aerolineas Argentinas from Spanish travel group Marsans. The bill calls for the state to present a business plan within six months, with steps to improve chronic delays and flight cancellations. Marsans had offered the carrier and subsidiary Austral for up to \$500 million to the government, which claimed the sale had a negative value of some \$600 million. Marsans said it invested \$900 million in Aerolineas while the government initiated tax and labor moves that pushed it into debt and plans to take the case to a World Bank court.

9. **New Bolivian State Airline Set for January Takeoff.**

Boliviana de Aviacion (BoA), Bolivia's new state airline, will begin domestic service in January and may provide international flights in the future. BoA will replace privatized flag carrier Lloyd Aereo Boliviano, which suspended operations in early 2007 due to excessive debt and operating deficiencies. BoA awarded the contract for its global distribution system to Travel Technology Interactive (France) and said an ICAO technical and operational review found the airline ready for service.

10. **American to Launch Daily Dallas-Madrid Flights.**

See Section VIII, item 8.

11. **Continental to Offer London Heathrow Service from Cleveland.**

See Section VIII, item 7.

12. **V Australia Los Angeles Flights to Begin February 27.**

See Section IX, item 4.

13. **Delta to Offer Sydney Nonstops from Los Angeles.**

See Section IX, item 5.

14. **El Al Plans Direct Flights to Brazil**

See Section IX, item 8.

15. **United, Egyptair Announce Code Share.**

See Section IX, item 9.