



## 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. **Airline Loss Forecast Increases to \$9 Billion.**

The global airline industry is expected to lose \$9 billion this year, reports the International Air Transport Association (IATA), nearly double the March estimate of a \$4.7 billion loss. IATA also revised its 2008 loss estimate of \$8.5 billion to -\$10.4 billion. Revenues are forecast to decline an unprecedented 15% (\$80 billion), from \$528 billion in 2008 to \$448 billion in 2009. Air cargo demand is expected to decline by 17%. In 2009, airlines are forecast to carry 33.3 million freight tons, compared to 40.1 million tons in 2008. Passenger demand is expected to contract by 8% to 2.06 billion, compared to 2.24 billion in 2008. Revenue impact of falling demand will be further exaggerated by large falls in yields—11% for cargo and 7% for passenger. Losses forecast for carriers worldwide: North American, -\$1 billion; European, -\$1.8 billion; Asia-Pacific, -\$3.3 billion; Middle East, -\$1.5 billion; Latin American, -\$900 million; and African, -\$500 million.

### 2. **FAA Fast Tracks Regional Airline Safety.**

After a May National Transportation Safety Board (NTSB) hearing on the February Colgan Air crash revealed, among other things, problems of pilot fatigue and training at regional airlines, Transportation Secretary Ray LaHood and FAA Administrator Randy Babbitt convened a “Call to Action” with airline safety executives and pilot unions to strategize on how best to reduce risk at regionals while promoting major airline best practices. FAA then announced it will establish an Aviation Rulemaking Committee by July 15 to develop recommendations for a new flight time and rest rule by September 1. Also by July 15, FAA inspectors will complete a review of airline procedures for identifying and tracking pilots who fail evaluations or demonstrate repetitive need for additional training. Carriers were urged to: immediately adopt policy to ensure pilot applicants release records held by FAA to the hiring carrier; have in place Flight Operations Quality Assurance and Aviation Safety Action Programs; and develop programs to share safety data with regional partner airlines. FAA also plans to expedite a final rule on proposed upgraded training standards for pilots, flight attendants and dispatchers, when the comment period closes on August 10.

### 3. **Justice Opposes Broad ATI for Star Alliance.**

The U.S. Department of Justice (DOJ) opposed granting broad antitrust immunity (ATI) to Star Alliance members United, Lufthansa and Air Canada and pending member Continental, citing concerns about domestic competition and higher fares on many international routes. Many benefits from immunized

alliances can be achieved through traditional cooperation, said DOJ, in its filing with the U.S. Department of Transportation (DOT). DOJ also said Star member claims that they would not expand their alliance without immunity are not credible. DOT missed the May 31 deadline for a final decision on the Star ATI application. In related news, Senate Judiciary Committee members asked DOT Secretary LaHood and U.S. Attorney General Eric Holder to hold final decisions on alliances until completion of a joint review of airline competition by European Commission (EC) and U.S. authorities. ATA asked the Senate Commerce Committee members to support ATI for international airline alliances, as they draft FAA reauthorization legislation; a House-passed reauthorization bill would review existing airline ATI every three years. And DOT issued a final order requiring SkyTeam carriers Delta, Air France KLM, Czech and Alitalia, which last year won ATI, to file annual reports to better ensure they are producing benefits for consumers.

**4. WHO Raises H1N1 Alert to Phase 6.**

The World Health Organization (WHO) raised its pandemic alert for H1N1 (swine) influenza to Phase 6, which indicates sustained human-to-human transmission in multiple countries. Neither WHO nor the Centers for Disease Control and Prevention (CDC) suggested avoidance of air travel, except when people are ill. Airlines are following official recommendations and procedures, which include monitoring and reporting cases of communicable disease onboard aircraft, said ATA. About 60,000 cases of H1N1 have been reported worldwide, said WHO, with more than 260 deaths; the United States has reported about 21,500 cases with about 90 deaths. IATA estimates the impact of H1N1 on global passenger traffic was a 1% drop in May, with a nearly 40% drop in Mexico, where the virus initially was most widely reported.

**5. Gulfstream Disputes FAA Findings.**

Gulfstream International Airlines filed a detailed response to FAA's findings from a 2008 inspection, saying it was in compliance with relevant regulations. FAA has proposed a \$1.3 million civil penalty against the Ft. Lauderdale-based regional for improper maintenance and pilot scheduling. Gulfstream said payroll records and other information presented to FAA could be subject to differences in interpretation, and it has since changed recordkeeping processes.

**6. NTSB Holds Hearing on US Airways Hudson River Landing.**

A three-day public hearing on the landing of US Airways Flight 1549 in the Hudson River on January 15 was held by NTSB. Expert testimony revealed inadequacies in such areas as crew training and safety equipment and examined bird strike prevention measures and technology. The Airbus A320's engines were heavily damaged by large geese. In related news, New York-

area government agencies are removing up to 2,000 geese from facilities within five miles of airports, by euthanasia and other means, despite citizen protests, and began a bird radar trial program at Kennedy Airport.

**7. United Sued by EEOC for Disability Discrimination.**

United is being sued by the Equal Employment Opportunity Commission (EEOC) for discriminating against employees who became disabled. The suit claims United failed to provide transfers to vacant positions for the workers, despite their qualifications, as required by the Americans With Disabilities Act (ADA) The suit seeks monetary damages, a court order to require the airline to change policies to comply with the ADA, and ensuring the employees are reassigned to work in vacant jobs for which they are qualified. During Fiscal Year 2008, disability discrimination charge filings with EEOC increased by 10% to 19,453, the highest level in 14 years.

**8. DOT Air Travel Consumer Report for April.**

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

	April '09 / '08	March '09	Full Year					
			2008	2007	2006	2005	2004	2003
On-time arrivals %	79.1/77.7	78.4	76	73.4	75.4	77.4	78.1	82
Mishandled baggage*	3.79/4.99	4.12	5.26	7.05	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>								
Airline service	781 / 1,112	705	10,643	13,180	8,325	8,741	7,452	5,983
Disability-related	46/35	37	474	488	430	511	521	375
Discrimination**	14/8	6	115	99	114	129	118	85

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. North American Airport Traffic Down 3.1% in 2008.

Nearly 1.55 billion passengers arrived and departed from North American airports in 2008, a 3.1% decrease from 2007, reports Airports Council International-North America. Cargo decreased by 7.6%, while total operations decreased by 5.8%. Atlanta Hartsfield-Jackson sustained its dominant position with over 90 million passengers, followed by Chicago O'Hare (69 million), and Los Angeles International (59 million). Memphis remained the largest cargo airport, handling 3.7 million metric tons, down 3.8% from 2008. Anchorage International ranked second with a 17.2% decrease in its cargo movements to nearly 2.3 million metric tons. Atlanta had the highest number of total operations at 978,824 movements, a 1.6% decrease. Chicago posted a 4.9% decrease in operations at 881,566 movements. Dallas/ Fort Worth reported 656,310 movements, a decrease of 4.3%. Toronto Pearson reported 32.3 million passengers, up 2.8%; total cargo at 483,975 metric tons, a 3.7% decrease; and total movements at 430,558, up 1.2%.

### 2. FAA to Move Ahead With New York Airspace Redesign.

A federal appeals court ruled that FAA can move ahead with the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign, striking down legal challenges filed by the State of Connecticut, towns and counties in New York, New Jersey, Pennsylvania, Delaware and Connecticut and a citizens group. The lawsuits, filed in 2007, claimed FAA failed to properly perform an environmental impact study of changes in air traffic patterns in the redesign. The court found that "FAA's environmental impact analysis was procedurally sound and substantively reasonable." FAA is implementing the second of four redesign stages, with completion expected in 2012.

### 3. Airline Industry Protests UK Tax Plan.

British carriers launched newspaper ads to protest the UK's planned passenger tax, warning the tax during a recession could lead to a 10% drop in flights. The UK Airport Operators Association has written to Transport Secretary Geoff Hoon that the increase will threaten survival of some airports. The U.S. government has asked Prime Minister Gordon Brown to reconsider and the U.S. Air Transport Association has charged that the taxes will raise revenue under the guise of environmental protection, in violation of the Chicago Convention. Ryanair froze growth at its nine UK bases, saying a "£10 tourist tax, combined with the BAA Monopoly's high airport charges have caused the loss of over 4.5 million passengers at the BAA UK airports in the first five months of the year . . . the UK economy [could] lose 10 million

passengers, 10,000 airport jobs and £2.5billion in tourism spending in 2009 alone, with the Government losing at least £350 million in VAT receipts.” Ryanair will grow by 15%, said CEO Michael O’Leary, but “the UK will not share in any of this growth.”

**4. New \$3 Billion Terminal Planned for Incheon.**

The South Korean government will build a second passenger terminal at Incheon International by 2015. With the new \$3 billion terminal, the government expects annual passenger handling capacity to reach 62 million per year, compared to the current 44 million. An expansion of the cargo terminal is also planned, with cargo capacity expected to increase to 5.8 million tons, from the current 4.5 million.

**5. \$1.17 Billion Contract Awarded for Muscat International.**

A \$1.17 billion contract to expand Muscat International Airport (formerly Seeb), in Oman, was awarded to a joint venture comprised of Turkey's TAV Construction and Athens-based Consolidated Contractors Co. The expansion includes a 240,000-sq.-meter terminal, runway, control tower and rail link to the existing terminal. A first phase will increase the airport’s handling capacity to 12 million passengers annually; further expansions planned in three subsequent phases will ultimately boost capacity to 48 million by 2050.

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

#### **1. ACLU Sues DHS Over Unreasonable TSA Searches, Detention.**

The American Civil Liberties Union (ACLU) is suing the Department of Homeland Security (DHS) on behalf of a traveler who was detained at Lambert-St. Louis International Airport on March 29 and interrogated by Transportation Security Administration (TSA) officials for nearly half an hour. The traveler was carrying \$4,700 in cash in connection with his duties as Director of Development for a political organization. ACLU said he “repeatedly asked the agents to explain the scope of their authority to detain and interrogate him and received no explanation. Instead, the agents escalated the threatening tone of their questions and ultimately told him he was being placed under arrest.” He recorded the audio of the entire incident with his iPhone. “Allowing TSA screeners to conduct general purpose law enforcement searches violates the Constitution while diverting limited resources from TSA’s core mission of protecting safety,” said ACLU; “these unlawful searches should stop.” The ACLU’s lawsuit, filed against DHS Secretary Janet Napolitano, also charges that “unconstitutional searches and detention by TSA agents have become the norm.” In a response, TSA said the metal box that held the cash alarmed the X-ray machine, triggering the need for additional screening; “because the box contained a number of items [that] needed to be removed to be properly screened, it was deemed more appropriate to continue the screening process in a private area.” Regarding the audio recording, TSA said “the tone and language used by the TSA employee was inappropriate and proper disciplinary action was taken.”

#### **2. TSA Blocks Delta Flights to Nairobi, Monrovia.**

TSA blocked Delta’s launch of service from Atlanta to Nairobi, via Dakar, due to security vulnerabilities in and around Nairobi. The Kenyan government summoned the U.S. Ambassador to explain the move, saying it amounted to a travel advisory against the country. Delta service to Liberia also was blocked, because, said TSA, Roberts International Airport in Monrovia did not meet international security standards and appropriate recommended practices established by the International Civil Aviation Organization (ICAO). Delta rebooked passengers on connecting flights offered by Air France-KLM and other SkyTeam partners through European hubs. New Delta service from New York to Abuja via Dakar was cleared after TSA conducted threat assessments.

#### **3. Clear Ceases Operations.**

Verified Identity Pass (VIP) ceased operating Clear, a fee-based program initiated in 2005 that operated dedicated airport security lines. On its Web site,

the company said it had been unable to negotiate an agreement with its senior creditor to continue operations, and would not refund membership fees “because of its financial condition.” VIP assured members personal information is secured in accordance with TSA Security, Privacy and Compliance Standards. A “triple wipe process” ensures that “each hard disk at the airport . . . has now been wiped clean of all data and software.” Information in central databases and corporate systems is protected by Lockheed Martin, lead systems integrator for Clear, and may not be used for any purpose other than a Registered Traveler program operated by a TSA authorized service provider, according to the VIP Web site.

**4. Airports Awarded ARRA Funding.**

DHS awarded American Recovery and Reinvestment Act (ARRA) funding to several airports for new inline baggage handling systems. San Francisco International will receive \$15 million for one new system, Philadelphia International will receive \$26 million for two, Jackson Hole Airport will receive \$6 million for one and Orlando International will receive \$15 million for two. DHS has obligated 20% of its ARRA funds to date, and is on track to obligate more than 50% by the end of September. ARRA, enacted in February, committed more than \$3 billion for homeland security projects. Of the \$1 billion allocated to TSA for aviation security projects, \$700 million is dedicated to screening checked baggage and \$300 million is allocated for checkpoint explosives detection technology.

**5. TSA Authorization Act Passes House.**

See Section VI, item 3.

**6. Carry-On Limitations Would Expedite Security Screening.**

See Section VI, item 4.

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

### **1. Tribunal Rules on IATA-Amadeus Ticketing Dispute.**

An International Chamber of Commerce arbitration tribunal found that IATA's use, in its PaxIS (Passenger Intelligence Services) product, of electronic ticketing information transmitted by Amadeus, constitutes a breach of contractual agreements with Amadeus. It also infringes on Amadeus' rights under the European Union (EU) Database Directive, i.e., the holder of database rights may prohibit extraction or re-use of all or part of the database. The tribunal ordered IATA to cease using ticketing information transmitted by Amadeus for the purpose of developing, marketing and selling PaxIS or similar reports for any purpose except orderly operation of billing and settlement plans. IATA said it would comply.

### **2. Microsoft Launches Bing Travel With Price Predictor.**

Microsoft has combined technology from recently acquired Farecast with MSN Travel content to create Bing Travel. The site offers blog and community insights, comparison shopping, planning tools and a price predictor.

### **3. CheapOair Launches RSS Feeds.**

CheapOair launched an RSS feed feature, which gives customers the ability to check airline fares "up to the minute, multiple times with the option to customize their feeds by origin and destination." The online booking agency says its portfolio includes over 300 million airfare combinations on over 300 airlines, low airfare guarantees and the technological foundation to deliver affordable tickets to every region in the world. RSS (Really Simple Syndication) is a family of Web feed formats used to publish frequently updated works in a standardized format.

## V. ENERGY AND ENVIRONMENT

### 1. 2009 Industry Fuel Bill to Decline by \$59 Billion.

The global industry fuel bill is forecast to decline by \$59 billion to \$106 billion in 2009, reports IATA. Fuel will account for 23% of operating costs with average price of oil at \$56 per barrel (Brent). By comparison, the 2008 fuel bill was \$165 billion (31% of costs) at an average price of \$99 per barrel.

### 2. Synthetic Jet Fuel Specification Approved.

A new specification that details the properties and criteria necessary to control the manufacture and quality of alternative fuels for safe use in aviation was endorsed by the Aviation Fuels Subcommittee of the American Society for Testing and Materials (ASTM) International. If approved by the full ASTM committee later this year, the specification will enable use of synthetic fuels from multiple feed stocks in combination with conventional jet fuel up to a 50% blend. The group plans follow-on work building on the new specification to enable approval of a number of jet fuel options in the next few years. The subcommittee is supported by the FAA-industry sponsored Commercial Aviation Alternative Fuels Initiative (CAAFI). FAA will continue to participate actively to ensure that any new fuel specification approved meets or exceeds current standards for safety and performance.

### 3. Study Shows Biofuels Perform Effectively as Jet Fuel.

Fuels derived from sustainable biomass sources meet aviation requirements, reports a new study endorsed by Boeing and an industry team. Laboratory, ground and flight tests conducted between 2006 and 2009 indicated test fuels performed as well as or better than typical petroleum-based Jet A. Testing included commercial airplane engine types using blends of up to 50% each of petroleum-based Jet A/Jet A-1 fuel and sustainable biofuels. The fuel blends met or exceeded technical parameters for commercial jet aviation fuel, including freezing point, flash point, fuel density and viscosity, with no adverse effects on engines or components. The study showed that the fuels have greater energy content by mass than typical petroleum-derived jet fuel, which potentially could lower fuel consumption per mile.

### 4. Biofuel Blend Performed Well in Continental Demonstration Flight.

A biofuel blend performed as well as or better than traditional jet fuel in a January biofuel demonstration flight, displaying a 1.1% increase in fuel efficiency and an estimated 60% to 80% reduction in greenhouse gas emissions. The 90-minute Continental flight was conducted in partnership with Boeing, GE Aviation/CFM International and Honeywell's UOP. The biofuel

blend included components derived from algae and jatropha plants; no modifications were necessary to aircraft or engine, and after inspections the aircraft returned to regular revenue service the next day.

**5. EU to Begin Clean Sky R&D.**

Europe's Clean Sky initiative issued a first call for proposals for aeronautical research and development, covering Green Regional Aircraft, Green Rotorcraft, Sustainable and Green Engines, SMART Fixed Wing Air, and Systems for Green Operations. The private-public Clean Sky partnership will invest €1.6 billion by 2014 to demonstrate and validate technology needed to reach by 2020 a 50% reduction of CO2 emissions through drastic reduction of fuel consumption, an 80% reduction of nitrogen oxide emissions, and a 50% reduction in external noise.

**6. JAL Extends UPR Trials to Australia**

Japan Airlines (JAL) extended its User Preferred Route (UPR) trial to two Japan-Australia routes. UPR allows an airline to fly along what it judges to be the most efficient route for each type of aircraft used, instead of predetermined routes set by air traffic controllers. The system helps improve operational efficiency by providing each aircraft with an optimal flight path and shortening flight times. JAL estimates it can save up to 1 million lbs. of fuel, which translates to a decrease in CO2 emissions by 1,400 tons on the once-daily Australian roundtrips, potentially reducing fuel costs by 24 million yen. Japan's Ministry of Transport and FAA have been conducting continuous safety examinations of UPR usage on Japan-Hawaii routes since 2007. In related news, since May 7 JAL has used the CDA (Continuous Descent Arrival) method for late-night and early-morning landings at Osaka Kansai, reducing use of engine thrust and consequently the amount of fuel used. JAL estimates 560,000 lbs. of fuel can be saved per year using CDA on three daily flights during the applicable time belt, reducing CO2 emissions by 800 tons, and saving 13 million yen in fuel costs.

**7. FAA to Move Ahead With New York Airspace Redesign.**

See Section II, item 2.

**8. House Passes Clean Energy Bill.**

See Section VI, item 1.

## VI. U.S. CONGRESS

### 1. House Passes Clean Energy Bill.

The House of Representatives passed the American Clean Energy and Security Act, sponsored by Henry Waxman and Edward Markey. The bill reduces carbon emissions from major U.S. sources by 17% by 2020 and over 80% by 2050 compared to 2005 levels. “This cap-and-trade bill creates an onerous fuel tax on the airline industry,” said ATA, calling the Waxman-Markey bill a “punitive one-size-fits-all approach.” Authorizing and funding a modernized air traffic control system would be the most productive step Congress could take to reduce the greenhouse gas footprint of aviation, said ATA. Language in the final House bill says the U.S. should continue to promote development of a global framework within ICAO for regulation of greenhouse gas emissions from civil aircraft that recognizes the uniquely international nature of the industry and treats commercial aviation industries in all countries fairly; and work with foreign governments toward a global agreement that reconciles foreign carbon emissions reduction programs to minimize duplicative requirements and avoids unnecessary complication for the aviation industry, while still achieving the environmental goals.

### 2. Senate Holds Aviation Safety Hearings.

The Senate Aviation Subcommittee held safety hearings, in the wake of a May NTSB hearing on the February Colgan Air crash, which uncovered issues of pilot training and qualifications, flight crew fatigue, and inconsistency of safety standards and compliance. FAA regulations require regional air carriers to operate under the same rules and at the same level of safety as major airlines, noted FAA Administrator Randy Babbitt. Mark Rosenker, Acting NTSB Chairman, said human fatigue has long been on the NTSB Most Wanted List. In 1995, FAA issued a notice of proposed rulemaking that addressed human fatigue issues, later withdrew it due to considerable opposition, and has not proposed further revisions to existing flight and duty time regulations, said Rosenker. FAA later announced expedited measures to address these issues (see *Section I, item 2*). In a discussion of airline pay scales, ATA CEO James May said salaries determined through collective bargaining can be \$50,000 to \$70,000 higher at major airlines. “Neither legislation nor regulation can effectively peg what is the right compensation in such a system of negotiated wages, benefits, and working conditions,” May said.

### 3. TSA Authorization Act Passes House.

The House passed the first measure to fully authorize TSA since its post-9/11 establishment in 2001. The bill authorizes over \$15.6 billion in appropriations

for FY 2010 and FY 2011. It would require that TSA convert Registered Traveler into a risk-management tool, using a threat-assessment program for applicants, and develop alternative screening procedures for members with top security clearances. An amendment introduced by Jason Chaffetz (R-Utah) would limit use of whole body imaging (WBI) at airport checkpoints to secondary screening. Chaffetz believes the machines are an invasion of privacy, but Acting TSA Administrator Gale Rossides said the agency took great measures to protect privacy concerns and passengers can choose walk-through metal detectors. WBI images are viewed in a remote location, the face of a passenger is blurred and the machine cannot save, print or transmit images. Once a screener deletes an image from the device, it cannot be retrieved. The ACLU says WBI images are humiliating and an assault on passengers' dignity. The House also approved the fiscal 2010 Homeland Security appropriations bill, which includes \$10 billion for U.S. Customs and Border Protection and \$7.7 billion for TSA, including \$1.1 billion to equip airports with explosives detection systems, almost double current funding.

**4. Carry-On Limitations Would Expedite Security Screening.**

A proposed House bill seeks to set one enforceable standard for all bags carried onboard U.S. commercial aircraft, instead of allowing each carrier to determine its own size requirements. The bill requires that TSA install a template that would prevent items that exceed the prescribed dimensions from passing through luggage conveyor belts. Dan Lipinski (D-IL) introduced the bill as increasing numbers of passengers carry luggage aboard to avoid airline fees for checked bags. The Association of Flight Attendants-CWA supports the bill and said the revised guidelines will expedite security screening and boarding processes and ultimately result in fewer delays.

## VII. BILATERAL AND STATE DEPARTMENT NEWS

### 1. U.S.-India Aviation Talks Held in Washington.

India and the United States, meeting in Washington, agreed to increase cooperation in aviation. India's Directorate General of Civil Aviation received a \$371,700 grant from the U.S. Trade and Development Agency to help establish more efficient and reliable processes for engineering and maintaining aerospace products. Training to be conducted by firms in the U.S.-India Aviation Cooperation Program will cover airworthiness, FAA requirement compliance and quality management. A separate grant will be made for helicopter safety and regulatory frameworks. A U.S.-India Aviation Summit will be held in Washington by yearend.

### 2. U.S. Warns EU on Airbus Subsidies.

U.S. Trade Representative Ron Kirk said the U.S. would file a new complaint against the EU at the World Trade Organization (WTO) if Airbus is given state aid for A350 development. Airbus CEO Tom Enders recently said government subsidies for a third of the €11 billion program are needed to "level the playing field with our competitor [Boeing]." Kirk said a WTO ruling on existing U.S. and EU complaints about state subsidies for aircraft development is expected in August.

### 3. EC Concerned about U.S. Travel Promotion Bill.

The EC expressed concerns about the Travel Promotion Act of 2009, pending before Congress, which would establish a non-profit corporation to communicate U.S. entry policies and promote travel to the United States, to be funded by a \$10 fee for foreign visitors. The fee would be paid with an application for an Electronic Travel Authorization (ESTA), required for every visitor traveling to the U.S. under the Visa Waiver Program. "The imposition of the fee is a change in the understanding under which ESTA was established as a security program," said John Bruton, head of the EC Delegation to the United States. The EC would have to re-examine if ESTA can be considered as a visa in disguise, he said, with potentially negative implications on reciprocal visa-free EU-U.S.travel. Also, unlike exit taxes levied in other countries that apply to all travelers, including citizens of the country concerned, this tax will only apply to non-Americans coming to the United States and is thus discriminatory, said Ambassador Bruton.

## VIII. EUROPE AND AFRICA

### 1. 228 Killed in Air France Airbus A330-200 Crash.

An Air France Airbus A330-200 flying from Rio de Janeiro to Paris de Gaulle crashed in the Atlantic off the Brazilian coast on June 1, in turbulent weather. Onboard were 216 passengers and 12 crew members. French aviation accident investigation authority BEA is working with a team that includes NTSB and FAA. Search operations recovered 51 bodies and airplane debris, but flight data recorders have not been found. The European Aviation Safety Agency (EASA), as certification authority for the A330 type, said all Airbus aircraft types are airworthy and safe to operate, but, "as a precautionary measure," issued a bulletin reminding operators of procedures to be applied in the event of loss of or unreliable speed indication. "With regard to reports about a possible malfunctioning of the air speed indication system," EASA is "analyzing data with a view to issuing mandatory corrective action, without prejudging the outcome of the accident investigation." Air France support to the bereaved includes a permanent group of 1,800 people to ensure long-term assistance and an initial €17,500 per victim. Some families have created the Association for Truth, Aid and Defense of Victims of Flight 447.

### 2. Aer Lingus to Suspend Washington, San Francisco Service.

Aer Lingus altered its long-haul winter schedule due to declining yields, as average fares fell by 19% in the first quarter. Seat capacity will be reduced by 25%. Among schedule changes, direct services from Dublin to Washington and San Francisco will be suspended; daily one-stops will continue to be offered with Jetblue and United. Four direct Shannon-Boston services will be maintained, but Shannon-Chicago flights will be suspended. Pilots and cabin crew were offered unpaid leave, with broader cost reduction planned. Chairman Colm Barrington said steps to effectively manage capacity will include adding short-haul frequency and routes at Shannon and Gatwick and reducing capacity in Dublin and Belfast. The Irish government holds a 25% stake in Aer Lingus, 14% is held by employees and 30% by Ryanair, which has lodged unsuccessful takeover bids for the flag carrier.

### 3. Lufthansa to Acquire bmi.

Lufthansa reached an agreement with bmi co-founder Sir Michael Bishop that paves the way for acquiring bmi. As of July 1, UK-based LHBD Holding company will own Bishop's entire stake of 50% plus one share in bmi for £48 million. LHBD is a UK-based company, in which Lufthansa will have a 35% stake. Initially, bmi will remain UK-owned. After obtaining necessary traffic rights, Lufthansa, which already owns 30% less one share of bmi, expects to

acquire 100% of LHBD. SAS has said it wants to sell its 20% share in bmi. Virgin Atlantic reiterated interest in acquiring bmi, which controls 11% of take-off and landing slots at London Heathrow.

4. **EC Clears Lufthansa Takeover of SN Brussels.**

The EC approved Lufthansa's acquisition of SN Brussels, conditional upon implementation of remedies to alleviate competition concerns on the Brussels-Frankfurt, Brussels-Munich, Brussels-Hamburg and Brussels-Zürich routes. A slot allocation mechanism will allow new entrants to operate flights on each of the four routes. Under terms of the purchase, Lufthansa will take an initial 45% stake in SN Brussels, with an option for a full takeover in 2011.

5. **SESAR Injects €1.9 Billion into ATM Research.**

The SESAR Joint Undertaking (SJU) launched creation of Europe's future air traffic management (ATM) system with agreements signed by 16 firms, institutes or airports and the SESAR partnership between the EC and Eurocontrol. The total amount of €1.9 billion (EC: €700 million, Eurocontrol: €700 million, €500 million from members) will cover a period of seven years. The program will unify Europe's ATM systems, create capability to handle a threefold increase in traffic, improve safety by a factor of 10, and reduce by 10% the environmental impact per flight. SESAR components and procedures will be implemented from 2012 to 2020.

6. **Virgin Nigeria to be Re-Branded.**

Virgin Nigeria (VNA) named former banker Dapo Olumide Managing Director, as Virgin Atlantic seeks a buyer for its 49% stake in the Nigerian flag carrier. In January, VNA suspended flights to the UK and South Africa to focus on operations within West Africa. Now, Olumide and the government hope to tap tourism as "a major source of foreign earnings to the nation" and have called for "greater private and public sector collaboration in driving the message of the huge potential in the tourism sector."

7. **TSA Blocks Delta Flights to Nairobi, Monrovia.**

See Section III, item 2.

8. **U.S. Warns EU on Airbus Subsidies.**

See section VII, item 2.

9. **EC Concerned About U.S. Travel Promotion Bill.**

See section VII, item 3.

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

### **1. JAL Begins “Drastic Reformation.”**

JAL is planning a “drastic reformation” to its business model that does not overly rely on economic recovery, but “looks within the company and implements sweeping cost cuts.” Measures include suspension of annual bonuses, adjustments to wage and pension systems and an early retirement scheme. Overall fleet size will be reduced as JAL continues the switch to smaller, more fuel-efficient aircraft. More emphasis will be placed on routes with higher profitability. JAL suspended six international and seven domestic routes. The government reportedly will extend up to \$2 billion in emergency financing to the airline through state-owned Development Bank of Japan.

### **2. Virgin Atlantic, ANA to Code Share.**

Virgin Atlantic and All Nippon Airways (ANA) signed a new code sharing agreement, to take effect in August, for services between Tokyo and London. The carriers have offered frequent flier reciprocity since 2003.

### **3. V Australia, Virgin America Sign Interline Agreement.**

Virgin Blue unit V Australia and Virgin America signed an Australia-U.S. interline agreement offering seamless travel on the networks of each carrier and across the trans-Pacific route. V Australia flies from Brisbane and Sydney to Los Angeles, with Melbourne-LAX flights scheduled for September; destinations for San Francisco-based Virgin America include Seattle, New York, Boston and Washington DC. “We may be newcomers to our respective markets, but we’re keen to inspire an industry revolution to benefit travelers and invigorate trans-Pacific travel,” said Virgin Blue CEO Brett Godfrey.

### **4. Qantas to Increase A380 Services to Los Angeles.**

Qantas will increase Sydney-Los Angeles A380 service on August 6 from three to four weekly, and plans to operate 34 weekly A380 flights between Australia and the U.S. and UK by yearend. The Qantas superjumbo is configured with 450 seats across four classes. In other news, Qantas expanded its North American and European networks via code shares with oneworld partners American and Iberia. Qantas will code share on select American-operated domestic flights connecting with existing Qantas code share flights from Los Angeles and San Francisco via American’s Dallas and Chicago hubs.

**5. China Eastern, Shanghai to Merge.**

China Eastern and Shanghai Airlines have begun restructuring procedures for a merger, reports Xinhua News Agency. China Eastern executive Liu Shaoyong, who heads a joint working team established to handle related issues, said China Eastern remains open to foreign investors despite the proposed merger, but is not currently in talks with potential investors. China Eastern posted a loss of \$2 billion last year and Shanghai reported a loss of \$183.8 million. The merger could give the new group 50% market share in Shanghai, headquarters of both carriers. Major rivals are Air China and China Southern. In other news, China Eastern plans to form a joint-venture airline with the government of southwestern China's Yunnan province, a prime tourism destination.

**6. HNA Group Launches Tianjin Airlines.**

Hainan Airlines parent HNA Group launched Tianjin Airlines in the northern China port city of Tianjin. Formerly named Grand China Express, the new joint venture has a registered capital of \$190 million. HNA Group holds a 83.15% share, Hainan Airlines a 1.47% stake and Tianjin Port Free Trade Zone Investment Co. the remaining 15.38% stake. HNA said Tianjin Airlines would double its fleet size to more than 100 by 2012 and provide service to 100 domestic and overseas cities. Global financier George Soros has invested \$50 million in Hainan Airlines.

**7. China's Budget Airlines to Offer International Service.**

China's budget airlines are poised to introduce service to Hong Kong, Macao, South Korea and Japan, which could trigger a price war. But, said Shanghai-based Spring Airlines, by providing more choices for diversified customers, we hope to co-exist with traditional flights that are targeted at business and high-end travelers.

**8. US Airways, Qatar Airways Announce Code Share Agreement.**

US Airways and Qatar Airways implemented a code share agreement, under which Qatar's code is on flights operated by US Airways to Charlotte and Philadelphia from London Gatwick, Manchester, Milan, Madrid, Athens and Stockholm. The US Airways code is on services operated by Qatar to Doha from those European cities.

**9. Dubai Launches flydubai.**

Dubai's first low-cost airline launched with service to Beirut, Amman, Damascus, and Alexandria. flydubai will fly to underserved airports, using a model in which customers pay for services such as seat selection and extra legroom. Ticket price includes all taxes and one piece of hand baggage.

Checked baggage is booked in advance on a space available basis. “Low cost travel in this region could be as little as 2% of all air travel, as opposed to more than 20% in Europe and America,” said CEO Ghaith Al Ghaith; “it is clear that there is a lot of untapped potential in these markets.”

**10. CIAF-Leasing Formed to Serve MENA.**

An aircraft leasing company to serve the Middle East and Northern Africa (MENA) has been formed by Civil Aviation Finance Holding (CIAF Holding), an Egyptian corporation, and U.S. lessor Aviation Capital Group (ACG). Shareholders in the joint venture—Civil Aviation Finance and Operating Leases Co. (CIAF-Leasing)—include CIAF, ACG and Egypt’s Civil Aviation Support and Development Fund. The Egyptian entities own 90% of the joint venture and ACG has a 10% stake. CIAF initially will concentrate on new and younger narrow-body aircraft. Operations are expected to begin in the fourth quarter. ACG will serve as manager under a five-year agreement with renewal options.

**11. U.S.-India Aviation Talks Held in Washington.**

See section VII, item 1.

## X. AMERICAS

### 1. Republic to Acquire Frontier, Midwest.

Republic Airways Holdings made a \$108.75 million bid for Frontier, subject to bankruptcy court approval and potential higher offers. Upon its emergence from Chapter 11, Frontier and its Lynx Aviation unit would become wholly owned subsidiaries of Republic and maintain their brands and normal operations. Republic also announced it is acquiring Midwest Airlines from private equity firm TPG Capital, subject to regulatory approvals. Republic will acquire 100% of Midwest equity and TPG's \$31 million secured note from Midwest. Consideration will be \$6 million in cash and a \$25 million, five-year note, which may be converted to Republic stock at \$10 per share. TPG will have the right to nominate a member to the Republic Board of Directors. Midwest will become a wholly owned subsidiary of Republic, with the Midwest brand continuing. Midwest's Boeing 717s will be replaced with Embraer 190 aircraft. Republic Airways Holdings owns Chautauqua Airlines, Republic Airlines and Shuttle America.

### 2. U.S. Airline Passenger Revenue Fell 26% in May.

U.S. airline passenger revenue fell 26% in May versus May 2008, reports ATA. The number of passengers traveling on U.S. airlines in May fell 9.5%, while the average price to fly one mile fell 17.6%. Revenue declines extended beyond the mainland to trans-Atlantic, trans-Pacific and Latin markets. May results reflect the impact of the H1N1 (swine) influenza outbreak. Cargo traffic (revenue ton miles) declined 22% year over year in April; May figures were not yet available.

### 3. Delta Further Reduces Capacity.

"Declining revenues will overtake the more than \$6 billion in total benefits we expected this year from lower year-over-year fuel prices, merger synergies and capacity reductions," said Delta executives. Consequently, the airline will reduce system capacity by 10%, compared to 2008, beginning in September. Among service suspensions are Atlanta to Seoul and Shanghai, Cincinnati to Frankfurt and London Gatwick, and New York Kennedy to Edinburgh. Delta asked DOT for a dormancy waiver for five weekly New York-Buenos Aires frequencies until December 2010.

### 4. Additional Capacity Reductions for American.

Among steps American is taking in response to a "difficult demand environment" are additional mainline capacity reductions, resulting in a 7.5% decline in mainline domestic capacity in second half 2009, compared to

second half 2008, and a 5.5% decline in international capacity. American will modify its Boeing 767-200s, reconfigure 757s for international use and replace its narrowbody fleet with Boeing 737-800s, which are 35% more fuel efficient per seat than MD-80s they will replace.

**5. Delta Denies American's Claims of Trade Secrets Theft.**

American Airlines filed a lawsuit alleging that a former employee, before moving to new employment at Delta, misappropriated documents that contained trade secrets. Delta countered the suit, in which American is seeking more than \$75,000 in damages. A New York judge initially granted American's request for a temporary restraining order that severely restricted what the employee could do at Delta, but later denied American's motion for a preliminary injunction, noting that American could have offered the salesman a contract containing a covenant against post-employment competition.

**6. JetBlue Launches Los Angeles Service.**

JetBlue launched Los Angeles International service with twice daily Airbus A320 flights from both New York Kennedy and Boston. New JetBlue services planned include Baltimore Washington (September 9), Barbados (October 1), Saint Lucia (October 26) and Kingston, Jamaica (October 30). The carrier also flies to Burbank and Long Beach.

**7. Spirit Launches Fort Lauderdale-Santiago, Dominican Republic Flights.**

Fort Lauderdale-based Spirit Airlines started ultra-low-cost nonstops to Santiago, Dominican Republic, bringing to 24 its Latin American and Caribbean destinations.

**8. ILFC Sale Underway.**

AIG (American International Group) reportedly selected a group led by Onex and Greenbriar as preferred bidder for Los Angeles-based International Lease Finance Corp. (ILFC). The private-equity firms would keep the world's largest aircraft leasing company intact and retain ILFC founder and CEO Steven Udvar-Hazy. Separately, Udvar-Hazy told reporters ILFC will increase orders by up to 30% due to significant replacement and fleet modernization demand.

**9. Air Canada Secures C\$100 Million Aeroplan Loan.**

Air Canada concluded a secured revolving loan agreement with Aeroplan, which will provide the airline with up to C\$100 million; Aeroplan operates Air Canada's frequent flyer program. Air Canada reached tentative pension funding agreements with its Canadian based unions, and concluded agreements on labor stability.

10. **More Canadian Carriers to Serve Mexico.**  
Transport Canada changed allocations for scheduled services between Canada and Mexico. WestJet has added service from 17 Canadian cities to Cancun, Puerto Vallarta, Mazatlan and Cabo San Lucas; Air Transat will add service to Cancun and Cozumel, and Air Canada to Cancun and Mazatlan.
11. **Mexican Airlines Seek Financial Relief Fom Flu Losses.**  
Aeromexico will receive \$37.9 million from investors to cover losses resulting from the H1N1 flu outbreak; load factors dropped to 50% in May, despite capacity reductions. Mexicana requested a credit line from a state bank to cover losses resulting from the flu outbreak.
12. **TSA Blocks Delta Flights to Nairobi, Monrovia.**  
See Section III, item 2.
13. **U.S.-India Aviation Talks Held in Washington.**  
See section VII, item 1.
14. **U.S. Warns EU on Airbus Subsidies.**  
See section VII, item 2.
15. **EC Concerned About U.S. Travel Promotion Bill.**  
See section VII, item 3.
16. **Aer Lingus to Suspend Washington, San Francisco Service.**  
See Section VIII, item 2.
17. **V Australia, Virgin America Sign Interline Agreement.**  
See Section IX, item 3.
18. **Qantas to Increase A380 Services to Los Angeles.**  
See Section IX, item 4.
19. **US Airways, Qatar Airways Announce Code Share Agreement.**  
See Section IX, item 8.