



# WASHINGTON AVIATION SUMMARY

June 2009 EDITION

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

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## I. REGULATORY NEWS

### 1. Randy Babbitt Confirmed as FAA Administrator.

President Obama's choice to lead the Federal Aviation Administration (FAA), Randolph Babbitt, was confirmed by the Senate. A former Air Line Pilots Association President, Babbitt said his priorities as FAA Administrator would include funding the Next Generation Air Transportation System (NextGen); resolving air traffic controller labor disputes; and improving landing techniques that would reduce fuel consumption, noise and congestion. The Senate also approved John Porcari as Deputy Secretary of the Department of Transportation (DOT); he has served as Secretary of Maryland DOT.

### 2. Regional Airline Safety Questioned.

The National Transportation Safety Board (NTSB) held a three-day public hearing on the February 12 crash of a Bombardier Dash 8-Q400 operated by Pinnacle unit Colgan Air. The Continental Connection flight crashed during an instrument approach to Buffalo-Niagara International Airport, killing all 49 people on board and one on the ground. The plane was destroyed by impact forces and post-crash fire. Cockpit voice recorder transcripts, flight data recorder data and other documents revealed issues with icing; cold weather operations; crew experience, compensation and training; and fatigue management. The Regional Airline Association said its members will assess safety systems and procedures. The Senate Aviation Operations, Safety and Security Subcommittee will hold hearings beginning June 10 and has asked the DOT Inspector General to review FAA standards, regulations and program oversight; airline policies regarding fatigue issues and crew rest requirements; and any relationship between commercial aviation accidents, pilot experience and pilot compensation.

### 3. FAA Proposes \$1.3 Million Penalty for Gulfstream Airlines.

FAA proposed a \$1.3 million civil penalty from Florida-based Gulfstream International Airlines, for alleged violations that include improper scheduling of flight crew duty time, and installation of unapproved air conditioner compressors and improperly maintained vent blowers on the airline's fleet of 27 BE-1900-D aircraft.

### 4. FAA, NATCA Begin Mediation Talks.

Mediation talks between FAA and the National Air Traffic Controllers Association (NATCA) began, with both parties signing a process agreement that provides for extensive sessions and binding resolution of unresolved issues, guaranteeing a new collective bargaining agreement. Transportation

Secretary Ray LaHood appointed former FAA Administrator Jane Garvey to lead the mediation, as part of a three-member panel that also includes Richard Bloch and George Cohen. Previous negotiations broke down in 2006, and the Bush Administration imposed pay and work rules on controllers. LaHood said the issue is one of his highest priorities and that he has had several discussions with NATCA President Patrick Forrey.

**5. LaHood Considers Federal Bank for Aviation Projects.**

DOT Secretary LaHood is open to a government-backed bank that would finance upgrades to the air traffic control system and airport infrastructure. In remarks made at a U.S. Chamber of Commerce aviation summit, he noted the Administration has earmarked \$1 billion in economic stimulus funds for airport enhancements and will make NextGen a priority. An infrastructure bank has been proposed by the Administration and a proposed Senate bill would create the bank, which would use a mix of tax dollars and private investment. Referring to a meeting held by Administration economic adviser Lawrence Summers with airline industry officials, LaHood told the Aero Club of Washington he expects the White House to “rally some dollars” for NextGen.

**6. Comment Period on Oneworld ATI Ends.**

The public comment period ended on the antitrust immunity request by oneworld airlines for cooperation on transatlantic flights. In its latest filing, Virgin Atlantic said “the application is structured primarily to protect ‘Fortress Heathrow’ and to discourage, not encourage, the introduction of new capacity and innovative fares.” But ATI applicants American Airlines, British Airways, Iberia, Finnair and Royal Jordanian filed hundreds of letters of support from airports, nonprofits and business groups, “demonstrating the benefits global antitrust immunity will provide to consumers and communities in the United States and beyond.” After calling alliances “life-savers for airlines,” DOT Secretary LaHood removed himself from the case when his impartiality was questioned by opponents of the oneworld alliance. DOT is expected to make a decision by the end of October.

**7. ATC System Vulnerable to Attacks.**

Web applications used in supporting air traffic control (ATC) systems operations are not properly secured to prevent attacks or unauthorized access, reports the DOT Office of Inspector General (OIG). During an audit, OIG staff gained unauthorized access to information stored on Web application computers and an ATC system, and confirmed system vulnerability to malicious code attacks. They found also that FAA had not established adequate intrusion-detection capability to monitor and detect potential cyber security incidents at ATC facilities. Intrusion-detection systems have been deployed to only 11 (out of hundreds of) ATC facilities. Also, cyber incidents

detected were not remediated in a timely manner. The report was requested by members of the House Transportation Committee and its Aviation Subcommittee. Hackers have been able to access FAA systems, but to date these attacks have not resulted in any serious damage.

**8. ASAP Probed.**

A DOT OIG inspection found that “FAA’s ineffective implementation and inadequate guidance have allowed inconsistent use and potential abuse” of the Aviation Safety Action Program (ASAP). ASAP is meant to allow aviation employees to self-report safety violations to carriers and FAA without fear of reprisal. “ASAP, as currently implemented, is a missed opportunity for FAA to enhance the national margin of safety,” reports the OIG; FAA access to reports is often delayed and repetitive reports of the same problem can be filed with no follow-up to correct the underlying issue. OIG recommendations include revising ASAP guidance to clarify which incidents should be excluded, emphasizing to employees that ASAP is not an amnesty program, requiring inspectors to examine repetitive reports of ASAP-related safety concerns to ensure effective corrective actions, and developing a central database of all air carriers’ ASAP reports that FAA can use for trend analysis at a national level.

**9. Summer Traffic to Decline 7%.**

Air Transport Association of America (ATA) forecasts that 7% fewer passengers will travel on U.S. airlines from June 1 through August 31, compared to last summer, due to ongoing global recession. . . . U.S. airlines saw cargo traffic decline 21% year-over-year in March, reports ATA. . . . U.S. Commerce Department said international travel to the United States will decline by 8% this year, then rebound with 3% growth by end of 2010, followed by 5% annual increases through 2013. This year, 24 of top 25 arrival markets are estimated to decline, including Ireland (-13%), Spain (-12%) and Mexico (-11%); and the UK, France and Italy (-10% each). The U.S. hosted a record 58 million international visitors in 2008, with 64 million expected by 2013. . . . Globally, premium travel fell 19% in March, year-over-year, reports International Air Transport Association, compared to 21% decline in February, as overall passenger numbers declined 9.3%.

**10. Baggage Fee Revenue Jumps 301%.**

U.S. airlines collected \$498.6 million in excess baggage fees in fourth quarter 2008, reports DOT, up 42% from Q3 and up 301% from Q4 2007. The seven largest network airlines reported a Q4 operating loss margin of 6.7%; only Alaska Airlines reported an operating profit. Low-cost and regional airlines groups both reported Q4 operating profit margins; only low-cost Virgin America and regional ExpressJet reported loss margins. Virgin America with Q4 revenue exceeding \$100 million is included in this data for the first time.

Network airlines spent 30.2% of operating expenses on fuel. Q4 passenger revenue declined \$4.2 billion from Q3. Top Q4 passenger revenue yields were reported by regionals Comair, Horizon and American Eagle; Continental reported the highest passenger yield of any network carrier. In April this year, passenger revenue fell 18%, year-over-year, reports ATA, with passenger counts down 6.3%; the average price to fly one mile fell 12.6%.

**11. March Passenger Airline Employment Down 5.7%.**

U.S. scheduled passenger airlines employed 5.7% fewer workers in March 2009 than in March 2008, reports DOT, with a 6.7% decrease at the seven network carriers, a 0.1% increase at low-cost carriers and a 4.9% decrease at regional carriers.

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

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

	March	Feb.	Full Year					
	'09 / '08	'09	2008	2007	2006	2005	2004	2003
On-time arrivals %	78.4/71.6	82.6	76	73.4	75.4	77.4	78.1	82
Mishandled baggage*	4.12/6.66	3.56	5.26	7.05	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>								
Airline service	705/1,011	576	10,643	13,180	8,325	8,741	7,452	5,983
Disability-related	37 /44	33	474	488	430	511	521	375
Discrimination**	6/6	3	115	99	114	129	118	85

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. DOT to Cancel Slot Auctions for New York-Area Airports.

DOT is proposing to rescind plans for slot auctions at New York-area airports, saying the rulemaking was highly controversial and heavily opposed. DOT also noted that circumstances have changed since the rules were issued last October, including changes in the economy. The comment period on the proposed rescinding of the rule will end June 13.

### 2. Branson Airport Opens With AirTran, Sun Country Service.

Branson Airport, near Branson, Mo., the first privately-financed and operated commercial airport in the United States, opened for business with AirTran nonstops to Hartsfield-Jackson Atlanta and Mitchell International in Milwaukee, and Sun Country nonstops to Minneapolis-St. Paul and Dallas-Ft. Worth. The \$140 million airport has a 7,140-ft. runway and a 58,000 square ft. terminal that ultimately will have capacity to handle more than 1 million enplanements annually. Tourist mecca Branson receives more than 8 million visitors a year.

### 3. EU Loosens Slot Rules for Summer Season.

The European Parliament agreed to loosen “use-it-or-lose-it” rules that require airlines to use their slots at busy airports at least 80% of the time for the Summer 2009 season or face losing them the following season. Large airlines argued that flying nearly empty to protect slots is neither economically nor environmentally responsible. Budget airlines and airports oppose the decision. ACI Europe said “the suspension will result in an inefficient use of scarce capacity at congested airports and . . . late cancellations of air services in particular on regional routes. It will also create an artificial barrier to market access for new entrants.”

### 4. BAA Appeals Competition Commission Ruling.

Airports operator BAA is appealing a UK Competition Commission March ruling that it sell London Gatwick and Stansted and either Edinburgh or Glasgow. BAA asked the Competition Appeal Tribunal to review the ruling on grounds it “is affected by apparent bias . . . because of links between a member of the Competition Commission panel and an organization interested in acquiring the airports that BAA is required to sell”; and on grounds that the Commission “failed to take into account the adverse financial impact of introducing competition [in] the current financial and economic circumstances.” BAA parent Ferrovial received offers for Gatwick in second-round bids from Global Infrastructure Partners (GIP), owner of London City Airport; Lysander Gatwick Investment Group, comprising Citi Infrastructure Partners, Vancouver

Airport Services and John Hancock Life Insurance; and Manchester Airports Group, Borealis and Greater Manchester Pension Fund.

**5. EU Approves Berlin Brandenburg Funding.**

The European Commission (EC) cleared the financing of construction of Berlin Brandenburg International (BBI) airport through capital increases of €654.5 million, a 100% guarantee for up to €2.4 billion from the public shareholders of airport operator Flughafen Berlin Schönefeld and a €74 million infrastructure grant. The proposed project will replace Schönefeld, Tegel and Tempelhof with a single airport with two parallel runways, eventual capacity for 45 million passengers a year and a new terminal with a starting capacity of up to 25 million passengers on the site of Berlin Schönefeld. “By concentrating aviation activity at one single airport outside the city, the impact of noise and emissions on the population will be reduced as there will be no need to fly over densely populated areas in the city,” said the EC, and increased energy efficiency of buildings at the new state-of-the-art airport will lead to a reduction of carbon dioxide emissions.

**6. Proposal to Waive Spanish Airport Fees.**

Spain proposed €240 million in annual support to airlines, waiving airport charges if airlines equal or increase 2008 passenger volumes. Prime Minister Jose Luis Rodriguez Zapatero made the proposal among other economic stimulus measures. Passenger traffic at Spain's airports fell by 18.9% in March year-on-year.

**7. Macquarie to Sell Japan Airport Stake.**

Macquarie is selling its 19.9% stake in Tokyo Haneda site operator Japan Airport Terminal (JAT). The Australian investment bank will offer its shares to JAT for purchase.

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

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

As it assumes from air carriers the function of matching passenger names against terrorist watch lists, the Transportation Security Administration (TSA) initiated the first public phase of its Secure Flight program. Passengers now are asked to enter their full name exactly as it appears on a government-issued ID when making airline reservations, said TSA, and should strive to obtain name consistency to avoid misidentification on watch lists. As of August 15, passengers will be required to enter date of birth and gender when booking flights. The government will fully assume watch list matching from airlines on all domestic commercial flights by early 2010 and on all international commercial flights by the end of 2010, as airlines add capability to capture increased passenger data in their individual systems. . . . TSA is dismantling a \$36 million program designed to detect bomb residue on clothing, reports *USA Today*; the “puffer” machines, glass portals passengers enter for checkpoint screening, proved unreliable at airports. . . . TSA launched a new ad campaign that explains airport security procedures to passengers, in an effort to evoke more cooperation. . . . A report from the Government Accountability Office (GAO) finds that Secure Flight has minimized false positive matches to watch lists while protecting passenger privacy, but TSA has not yet developed plans to periodically assess the performance of the system's name-matching capabilities.

#### 2. **Information Sharing Review Board Urged for DHS.**

A new report urges the Department of Homeland Security (DHS) to strengthen information sharing agreements with external organizations “in a manner that both protects privacy and furthers the DHS mission.” Prepared by the DHS Data Privacy and Integrity Committee (DPIAC), the draft report calls for creation of an Information Sharing Review Board (ISRB) to develop, manage and oversee the DHS information sharing process, and would require auditing standards and protocols to measure compliance with information sharing rules. DPIAC advises on DHS issues that relate to personally identifiable information (PII), as well as data integrity and other privacy-related issues.

#### 3. **DOJ: Watch List Lapses Create Risk to Security.**

An audit of Federal Bureau of Investigation (FBI) terrorist watch list nomination practices, conducted by the Department of Justice (DOJ) Office of the Inspector General (OIG), found almost 24,000 names retained without current or proper justification. The list fails to include people who are subjects of terrorist investigations, however, creating a risk to national security, said the



OIG. The watch list contains some 400,000 names, 1.1 million with aliases. The OIG made 16 recommendations to the FBI, including establishing timeframe requirements to process watch list nominations, modifications, and removals; creation of a process to modify and remove known or suspected terrorists placed on the watch list; and re-evaluation of watch list records that are not sourced to a current terrorism case. The FBI concurred with the recommendations and is taking appropriate actions, reported the OIG.

**4. EC Proposes Framework to Regulate Aviation Security Charges.**

The European Commission adopted a proposal for a directive that would ensure transparent, non-discriminatory and strictly cost-related security charges at EU airports, with airline consultation and establishment of an independent supervisory authority in each member state. The EC aims to ensure fair and undistorted competition between airlines and between airports. "At present," said the EC, "recovery of aviation security costs is regulated at national level. However, information to passengers on these costs can be inadequate and airlines are not systematically consulted at all EU airports. This situation hinders the existence of a true playing field for airports and air carriers alike, which is particularly critical in a very challenging environment for the entire aviation sector."

**5. France Adopts One-Stop Security.**

France is adopting One-Stop Security, in which passengers who already have been screened at a European airport do not need to be screened a second time when making flight connections. The procedure is used by most EU countries to screen passengers and their hand luggage, says the International Air Transport Association (IATA); exceptions include the UK and Ireland. In France, One-Stop Security will be applied to individual airports this year, starting with Lyon and selected terminals at Paris Charles de Gaulle; IATA estimates this will impact 6 million passengers and save \$30 million a year with no compromise on the quality of security. The International Civil Aviation Organization (ICAO) is working on developing the concept of One-Stop Security on a global scale; common recognition of standards is needed.

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

### **1. EU: Airlines Remedy Irregular Online Ticketing Policy.**

The EC reported its investigation of irregular ticket selling practices on Web sites has shown a “step change” in terms of compliance with consumer protection rules. The EC said 115 Web sites out of the 137 investigated in 15 EU states and Norway have ended these practices. An additional “health check” process in March on 67 major airlines, involving independent mystery shopping, showed that 52 airlines have either been given a “clean bill of health” and undertaken to maintain the same standards or immediately responded with undertakings to remedy outstanding issues. The process checked Web sites against a 14-point checklist, which was previously agreed to by the airline industry. The EC is working toward an industry-wide agreement to provide a level playing field for airlines across the EU and to maintain sites to a high standard. Misleading advertising and unfair sales practices targeted include unclear pricing, hidden or confusing contract terms, currency variations, fees not revealed until the end of the booking process, and optional expenses preselected for the consumer. It is up to national enforcement authorities to formally investigate infringements.

### **2. AirTran, Virgin America Offer Fleet-Wide Wi-Fi.**

AirTran and Virgin America each announced they would be the first major airline to offer passengers wireless, broadband Internet access on every flight. AirTran, partnering with Aircell, says access will be available on its fleet of 136 Boeing 737 and 717 aircraft by late July, and has conducted a promotional test flight with the Gogo Wi-Fi service. Virgin America is offering Gogo on its 100 daily Airbus 320 flights and launched the service with an air-to-ground Skype video call with Oprah Winfrey on her popular TV show. Neither AirTran nor Virgin America plan to allow Voice-Over-IP (VoIP) products like Skype routinely, due to concerns about maintaining a quiet cabin environment. Charges for the Gogo service top off at \$12.95 for flights of three hours or longer. Other airlines are in the process of installing Wi-Fi capability on all or some of their fleets.

### **3. Airlines Offer Special Fares on Twitter.**

Airlines are offering special fares on social networking site Twitter. United calls them “Twares” (Twitter+fares). Southwest, American and Alaska are also “tweeting.”

4. **Ryanair Chooses Momondo.com.**

Momondo.com won access to Ryanair.com's timetable and pricing information, in a licensing agreement subject to a €100 charitable donation. The Denmark-based price comparison search engine links users to suppliers but does not sell tickets. Ryanair continues to fight against "ticket-tout screenscrapers which are reselling Ryanair seats without authorization and are overcharging consumers with inflated fares and fictitious fuel surcharges."

5. **Sabre, Lufthansa Sign New Global Distribution Agreement.**

Sabre and Lufthansa signed a new four-year global agreement, providing agencies and corporations with continued access to the airline's full content via the Sabre global distribution system (GDS).

6. **Virgin Atlantic to Distribute Full Content Through Travelport GDS.**

Travelport's GDS business announced a new multi-year full content agreement with Virgin Atlantic, giving all Galileo- and Worldspan-connected travel agents access to the airline's full published fares and inventory. The agreement also includes access to the airline's lowest Internet fares. Travelport, which also owns 48% of online travel company Orbitz Worldwide, announced weak first quarter results, with net revenue down 17% compared to first quarter 2008.

## V. **ENERGY AND ENVIRONMENT**

### 1. **Fuel Prices Top \$60/Barrel.**

Airline executives are turning to hedging again, due to the recent 25% rise in oil prices. American CEO Gerard Arpey and Southwest CEO Gary Kelly told reporters price spikes are caused by speculators. Market fundamentals, including a glut of crude oil on the world market, do not support current prices near \$60 a barrel. "I don't understand why oil went to \$150 a barrel last year," Arpey said, "and I can't imagine in a global recession the circumstances that would drive oil back to those levels again." Oil dropped to a low of \$33 a barrel in February.

### 2. **House Committee Passes Clean Energy Bill.**

The House Energy and Commerce Committee approved a bill that would cut U.S. greenhouse gases that contribute to global warming by 17% compared to 2005 levels by the year 2020, by 42% in 2030, and by 83% in 2050. A cap-and-trade system would require companies that release emissions above their limit to buy permits from less polluting companies. A vote in the full House is expected by August. The Obama Administration is seeking closure of a cap-and-trade initiative prior to the signing of a new international climate change pact in December in Copenhagen. President Obama said passage of the bill brings the U.S. one step closer to delivering on the promise of a clean energy economy that will make America less dependent on foreign oil.

### 3. **U.S. Aviation CO2 Emissions Standards Coming.**

The proposed Clean Energy bill mandates the U.S. Environmental Protection Agency to set CO2 emissions standards for new aircraft and engines by 2012, said Jake Schmidt, in a speech at the Eco-Aviation Conference, presented in Washington by *Air Transport World* and Leeham Co. Schmidt is International Climate Policy Director at the National Resources Defense Council. Air Transportation Association (ATA) CEO James May said the bill would add \$5 billion per year to airline fuel costs in 2012, rising to \$10 billion in 2020. May said ATA does not support goals of the Aviation Global Deal Group (AGD), which has presented a draft policy framework for the next global climate scheme, because it "doesn't direct funding back into aviation." ATA supports efforts to address aviation CO2 emissions in a "global, sector-specific approach." AGD is a partnership of Air France KLM, British Airways, Cathay Pacific, Virgin Atlantic, Qatar Airways, Finnair and UK airport operator BAA.

4. **Cap and Trade = Cap and Tax?**

In a letter to the *Dallas Morning News*, Southwest CEO Gary Kelly said a cap and trade mandate does not fit the airline industry. “Cap and trade is an incentive to change behavior. But the only way airlines today can change behavior is to stop flying. Since that is not a viable alternative, cap and trade really just means cap and tax.” A satellite-based air traffic control system, fuel-efficient airplanes and alternative jet fuels would reduce greenhouse gases more than any cap and tax solution, he wrote.

5. **Boeing Targets Environmental Progress.**

In its 2009 Environment Report, Boeing targets improving the fuel efficiency of each new generation of commercial airplane by at least 15%, compared to the airplanes they replace. In 2008, the company conducted sustainable biofuel demonstration flights with Virgin Atlantic, Air New Zealand, Continental and Japan Airlines; focused on accelerating market viability of advanced-generation sustainable biofuels that do not compete with food crops or for water resources; helped demonstrate air traffic management concepts, such as Tailored Arrivals, that significantly reduce fuel consumption, emissions and noise; achieved ISO 14001 environmental certification at all of its major manufacturing facilities; and received approval from the U.S. Environmental Protection Agency's Climate Leaders program for its five-year greenhouse gas emissions reduction target.

6. **Jatropha as Biofuel Revisited.**

Early findings of an environmental assessment of jatropha as a biofuel show that while the tree can grow on lands with minimal water and poor nutrition, it will grow far more productively on higher quality land with more rainfall or irrigation. Several countries have seen the “biofuel tree” push aside food crops in the competition for arable land, reports *The Guardian*, in the same food-versus-fuel debate we've seen with biofuel from corn.

## **VI. U.S. CONGRESS**

### **1. House Approves FAA Reauthorization.**

The House approved the FAA Reauthorization Act, which provides \$53.5 billion for FAA capital programs for Fiscal Years 2010-2012, including \$12.3 billion for the Airport Improvement Program; \$10.1 billion for Facilities & Equipment; \$30.3 billion for Operations; and \$794 million for Research, Engineering & Development. The bill provides funds to accelerate implementation of NextGen, directs FAA to hire more safety inspectors, creates an independent Whistleblower Investigation Office within FAA, provides funding for runway safety programs, increases taxes on fuel used by corporate and private aircraft, increases annual funding to subsidize air service to rural communities from \$127 million to \$200 million, and authorizes studies of pilot training and flight-crew fatigue. The bill would make it easier for FedEx employees to unionize by shifting jurisdiction of unionization rules to the National Labor Relations act. It requires airlines and airports to develop contingency plans for handling passengers whose flights are delayed for hours on tarmacs. It calls for increased inspection of overseas aircraft repair stations, and foreign workers would have to submit to the same drug and alcohol testing and criminal background checks that apply to U.S. workers (the EU has threatened to withdraw from pending international aviation pacts, if the provision on overseas repair station becomes law). The legislation still must pass the Senate, which allowed a similar bill to die in 2007.

### **2. Travel Promotion Act Passed by Senate Commerce Committee.**

The Senate Commerce Committee unanimously passed the Travel Promotion Act of 2009, which would establish a public-private partnership to promote travel to the United States. "International travel to the United States is down 10% year-to-date and is not expected to improve in 2009," testified U.S. Travel Association CEO Roger Dow, on behalf of the \$740 billion travel industry. Overseas visitors spend an average of \$4,500 per person, per trip in the United States. Travel groups say the legislation would attract 1.6 million new international visitors annually, create \$4 billion in new spending and nearly 40,000 new American jobs and drive \$321 million in new federal tax revenue.

### **3. House Committee Passes Clean Energy Bill.**

See Section V, item 2.

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

### **1. U.K. Official Urges Liberalizing Foreign Ownership in Airlines.**

Speaking before the International Aviation Club in Washington, Geoff Hoon, UK Secretary of State for Transport, urged completion of the next stage of EU-US open skies negotiations by June 2010, “with the objective of liberalizing all foreign ownership in airlines to give European and American air carriers a bigger home market and the ability to operate like any other competitive international company.” The EU has made open investment the first priority for the next phase of negotiations. Hoon called for endorsement of an EU-U.S. agreement that would simplify the process of certifying aerospace products and services, and urged an end to talk of banning the use of foreign maintenance facilities. Hoon also called for EU-U.S. agreement on a clear approach to climate change in aviation.

### **2. EU-Canada Sign Aviation Pact.**

Canada and the European Union (EU) agreed to liberalize airline travel, in a pact that replaces existing aviation bilaterals between Canada and European states. Effective immediately, airlines may fly point-to-point between the two regions, without restrictions on the number of flights, and may initiate code sharing. In later phases, cargo operators will receive seventh freedom rights and, contingent upon updated laws, European investors will be able to own up to 49% of a Canadian carriers' voting equity, investors on both sides will be able to set up and control new airlines in each others' markets and passenger airlines will be able to fly beyond to third countries.

## VIII. EUROPE AND AFRICA

### 1. Air France KLM, Delta Sign Transatlantic Joint Venture Agreement.

Air France KLM and Delta signed a joint venture agreement, with annual revenues estimated at \$12 billion on some 200 flights and 50,000 seats daily, and annual savings of about \$150 million each as they consolidate capacity. The JV represents about 25% of total transatlantic traffic, said executives, and will be a key success factor in competing with other major alliances in the market. Geographic scope includes all flights between North America and Europe, between Amsterdam and India and between North America and Tahiti. The JV will not lead to higher ticket prices, said executives, and should not be blocked by EU or other competition authorities; the U.S. Department of Transportation granted the SkyTeam partners expanded antitrust immunity in 2008. The JV, retroactive to April 1, has no predefined end date, but can be cancelled with a three year notice, after an initial term of 10 years. It replaces existing Air France-Delta and KLM-Northwest agreements; the latter was the first transatlantic JV between two carriers.

### 2. British Airways Offers Daily Heathrow-Las Vegas Flights.

British Airways is launching daily service from London Heathrow to Las Vegas on October 25; the Boeing 777 nonstops will feature fully flat beds in premium class. The company reported a record £220 million operating loss for year ended March 31, after a prior year profit of £712 million. "The prolonged nature of the global downturn makes this the harshest trading environment we have ever faced and, with no immediate improvement visible, market conditions remain challenging," said CEO Willie Walsh.

### 3. S7 to Join oneworld; Aegean Signs With Star.

Russian airline S7 will join oneworld, with British Airways as its sponsor through an 18-month implementation program; S7 now is part of the oneworld round-the-world program offered by members and other selected carriers. Star Alliance accepted the membership application of Aegean Airlines of Greece, with integration estimated to take around 12 months.



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

### **1. AAPA April 2009 Traffic Results.**

The Association of Asia Pacific Airlines (AAPA) reports its members carried 11.1 million international passengers in April, 5.8% fewer than in the same month last year. Revenue passenger kilometers fell by 8.2%. With overall seat capacity being reduced by 5.4%, average international passenger load factor fell by two percentage points to 72.3%. Air cargo demand remained depressed in April, with international freight ton kilometers down 21.9%, year-on-year; load factor was five percentage points lower, at 62.8%. For the first four months of the year, AAPA international air cargo traffic was down 24% compared to the same period last year. Mainland China is seeing a strong rebound in domestic travel after a weak performance in 2008, said AAPA Director General Andrew Herdman.

### **2. Australian News.**

The Civil Aviation Safety Authority (CASA) is strengthening oversight across northern Australia with additional safety inspectors; “Northern Australia has unique aviation safety challenges,” said CASA CEO John McCormick, due to vast distances and a wide variety of aviation operations. . . . Qantas will introduce fees of up to \$160 for emergency exit row seats in economy class on international flights, will remove first-class sections from some long-haul routes and will suspend first-class fares for some routes. . . . Perth Airport ceased handling services for Ozjet, due to arrears of hundreds of thousands of dollars, reports *The Australian*. Ozjet said it had not been paid by Indojet Asia for operating flights to Bali, and authorities would not allow it to add cargo aircraft to its air operator certificate. Ozjet parent, Sydney-based Heavylift Cargo, reportedly said it no longer supports Ozjet.

### **3. Staggering Losses Reported by SIA.**

Singapore Airlines (SIA) announced fourth quarter net profit fell 92% year-on-year, due to declines in passenger and cargo traffic. SIA will reduce capacity by 11% across the network by March 2010.

### **4. S7 to Join oneworld; Aegean Signs With Star.**

See Section VIII, item 3.

## X. AMERICAS

### 1. American Launches One-Way Flex Awards.

American introduced One-Way Flex Awards, enabling frequent fliers to use miles on a one-way basis at half the round-trip mileage requirement, and said it is the first major domestic airline to offer this type of program; customers can also combine different types of mileage awards on a single ticket. American has begun flying reconfigured Boeing 757s on some transatlantic and Latin American routes; upgrades include new seats and cabin interiors and updated inflight entertainment systems.

### 2. US Airways Offers Rio de Janeiro Service.

US Airways will launch its first service to South America with daily Boeing 767 nonstops from Charlotte to Rio de Janeiro, beginning December 2, pending final approval from the Brazilian government. The flight will originate in Philadelphia.

### 3. Southwest Reaches Labor Agreements.

Southwest flight attendants ratified a contract that is active through May 31, 2012. A tentative four-year agreement reached with customer-service employees includes pay and benefit increases in exchange for scheduling flexibility and productivity improvements. Southwest, which reported its first losses ever over the past three quarters, is offering early-out incentives to most of its 35,000 employees.

### 4. Frontier Wins Reorganization Plan Extension.

Frontier Airlines won an extension to October 9 to present its plan for exiting Chapter 11. Frontier filed for bankruptcy protection in April 2008.

### 5. Ruling Blocks Mesa Attempt to Use Aloha Name.

A bankruptcy judge denied an effort by Mesa to use the Aloha name for its Hawaiian interisland subsidiary go!, citing the role played by Mesa in Aloha's demise. Aloha's former majority shareholder, Yucaipa Cos., has attempted to bid for rights to the defunct carrier's name and other intellectual property with plans to license the name and logo to Mesa for 10 years for a minimum of \$6 million. If Yucaipa stood alone and had no connections to Mesa, said the judge, there would be no apparent cause to deny Yucaipa the ability to bid. Yucaipa will seek to overturn the ruling.

**6. A New Low Fare Air Service.**

JetAmerica will take off in July, offering low-cost domestic service to small and mid-sized cities with fares as low as \$9 plus a \$5 convenience fee for bookings made on the carrier's website. The startup will receive subsidies from South Bend, Toledo and Melbourne airports, which received grants from the federal Small Community Air Service Development Program. JetAmerica is a charter tour operator and not an airline. The air transportation is being provided with Boeing 737-800s operated by Miami Air International. JetAmerica's CEO is Skybus founder John Weikle.

**7. Air Canada Secures New Credit Card Processor Terms.**

Air Canada secured an agreement with a principal credit card processor that reduces its minimum required cash balance by about \$100 million. CEO Calin Rovinescu said the agreement is an "important step in providing financial stability during this challenging period." Air Canada posted a \$400 million loss in the first quarter, after a \$1 billion loss in 2008.

**8. Orbitz Campaigns to End U.S. Travel Ban to Cuba.**

Internet travel site Orbitz launched a Web site, "OpenCuba.org," which enables users to petition the U.S. government to end the ban on travel to Cuba for all Americans. The Obama Administration recently eased travel restrictions for Cuban-Americans. Those who sign the Orbitz petition will receive a \$100 coupon redeemable on Orbitz for a vacation to Cuba, if and when the ban is lifted, and as soon as Orbitz is able to offer such travel on its site. Addressed to President Obama, Vice President Biden and Members of the U.S. Senate and House of Representatives, the petition gives "travelers the opportunity to get directly involved in a grassroots effort," said Orbitz. According to a survey conducted by Orbitz and market research company Ipsos, 67% of Americans favor allowing all Americans to travel to Cuba and allowing U.S. travel agents, such as Orbitz, to book vacation travel to Cuba, and 72% say expanding U.S. travel to Cuba would positively impact the lives of the Cuban people.

**9. Air France KLM, Delta Sign Transatlantic Joint Venture Agreement.**

See Section VIII, item 1.

**10. British Airways Offers Daily Heathrow-Las Vegas Flights.**

See Section VIII, item 2.

**11. S7 to Join oneworld; Aegean Signs With Star.**

See Section VIII, item 3.