



## **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. DOT Proposes Approval of oneworld ATI Application.**

The U.S. Department of Transportation proposed to grant antitrust immunity (ATI) to American Airlines and oneworld partners British Airways, Iberia, Finnair and Royal Jordanian to form a global alliance. The alliance would include a “metal neutral” joint venture among American, British Airways and Iberia, enabling those carriers to operate the most efficient schedules without regard to which carrier they select to operate the flight. As a condition of approval, DOT proposed that the applicants make four pairs of slots available to competitors for new U.S.-London Heathrow service. DOT also would require changes to the agreement to ensure capacity growth, and require that carriers submit traffic data and implement the proposed alliance within 18 months of a final decision. In its show-cause order, DOT tentatively found that granting ATI to oneworld would provide travelers and shippers with lower fares on more routes, increased services, better schedules and reduced travel and connection times; and the alliance would create competition with the Star and SkyTeam alliances, which already have been granted immunity. The February 13 notice provides 45 days for objections. ATI approval is still under review by the European Union (EU), which said it has received commitments from British Airways, American and Iberia to alleviate competition concerns. Sir Richard Branson, Virgin Atlantic Chairman and tenacious foe of the oneworld request for ATI, called the DOT decision a “kick in the teeth” for consumers.

### **2. American, JAL Apply for ATI on Transpacific Routes.**

American Airlines and Japan Airlines (JAL) filed an application with DOT for ATI on transpacific routes, and notified Japan's Ministry of Land, Infrastructure, Transport and Tourism of the transaction. An immunized Joint Business Agreement (JBA) will improve customer choice by giving the oneworld Alliance strong hub operations at Tokyo,” said American's Chairman and CEO Gerard Arpey, “thus allowing more vibrant competition with other global alliances in northeast Asia and beyond.” Under an immunized JBA, American and JAL will coordinate fares, services and schedules, while continuing to operate as separate legal entities. The JBA will be “metal neutral,” meaning American and JAL will benefit from a customer's ticket purchase regardless of which one carries the passenger, as the airlines will share revenue on all JBA flights. The United States and Japan reached an open skies agreement in December 2009. American and JAL also have requested that DOT consolidate for consideration their application with the ATI application filed by All Nippon, United and Continental last December. The

Star carriers do not object as long as consolidation does not delay consideration of their application.

**3. DOT FY 2011 Budget Requests.**

DOT's FY 2011 budget proposal includes \$1.1 billion for NextGen air traffic control technology, an increase of \$275 million (32%) over FY 2010 enacted levels, and \$14 million for the Federal Aviation Administration (FAA) to hire 82 new safety and certification inspectors and safety technical specialists. The Administration again proposed increasing passenger security fees, by \$7 billion from 2012 through 2015, but the budget request does not contain a user fee proposal for air traffic control. DOT also requested \$1 billion for high-speed rail, in addition to an earlier announced \$8 billion in Recovery Act funds for states to develop high-speed intercity passenger rail service.

**4. Airlines Seek Extension for On-Time Data Compliance.**

U.S. airlines asked DOT for a 90-day extension of the April 29 deadline to comply with an order to disclose on their Web sites, at the time of booking, historical on-time and cancellation data and code share information. The passenger protection rules, announced in December, also limit tarmac delays.

**5. NTSB Adds Pilot Proficiency Oversight to Most Wanted List.**

Airline Pilot Proficiency is among items listed by the National Transportation Safety Board (NTSB) on its 2010 Most Wanted List of Transportation Safety Improvements. The new issue area contains two 2005 recommendations calling on FAA to require airlines to obtain histories of flight check failures by pilot applicants and to require special training programs for pilots who have demonstrated performance deficiencies. Other items on the list are: Require Image Recorders, Improve Runway Safety, Reduce Dangers to Aircraft Flying in Icing Conditions, and Crew Resource Management for Part 135 Carriers. In related news, NTSB reported that pilot error caused the Colgan Air crash of February 12, 2009. The captain inappropriately responded to the activation of the stick shaker, which led to an aerodynamic stall from which the airplane did not recover; additional flight crew failures were causal to the accident. The Bombardier DHC-8-400, operating as Continental Connection Flight 3407, was on an instrument approach to Buffalo-Niagara International Airport, when it crashed into a residence, killing 49 passengers and crew and one person on the ground. NTSB is planning public forums to explore pilot and air traffic control standards and code sharing.

**6. FAA Proposes \$2.9 Million Civil Penalty for American Eagle.**

FAA proposed a \$2.9 million civil penalty against American Eagle for operating more than 1,000 flights between February and May 2008, using four Bombardier jets with main landing gear doors that had not been repaired in

accordance with an Airworthiness Directive (AD) that became effective in August 2006. The AMR unit said the proposed fine does not involve a safety of flight issue, but rather the airline's technical compliance with the wording of a mandatory AD, and plans to appeal the fine. FAA also proposed a separate \$2.5 million civil penalty against American Eagle for allegedly using incorrect takeoff weights on more than 150 flights. FAA also is investigating American Airlines maintenance failures on wiring repairs to McDonnell Douglas MD-80s.

**7. DOT OIG Faults FAA Oversight of American Airlines Maintenance.**

A DOT Office of Inspector General (OIG) report finds that FAA oversight of American Airlines' maintenance programs lacks rigor. The report addresses issues identified in a complaint filed in February 2008 that operational reliability of American's planes had diminished and previously reliable aircraft systems were regularly failing. Specifically, FAA failed to assess systems for monitoring maintenance programs, identify root causes of maintenance deferrals, ensure properly trained mechanics performed required inspections, and ensure prompt responses to safety recommendations and service bulletins. In addition, FAA's internal reviews of the allegations were not comprehensive. As a result, FAA missed opportunities to identify potential maintenance issues and put corrective actions in place. OIG recommended actions to enhance FAA's oversight in key maintenance areas at American and at other air carriers, and its processes for assessing industry-wide safety allegations. FAA generally concurred with the recommendations, said OIG.

**8. FAA Reviewing Southwest, Maintenance Contractor.**

FAA is investigating violations of safety directives by Southwest governing the maintenance of aging aircraft, reports the *Dallas Morning News*, the third such probe in two years. Inspectors say Southwest and Aviation Technical Services, a Seattle-area repair station, failed to follow federally approved procedures when replacing skin panels on Southwest's Boeing 737s.

**9. DOT Air Travel Consumer Report for December 2009.**

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

	Dec. '09 / '08	Nov. '09	Full Year				
			2009	2008	2007	2006	2005
On-time arrivals %	72 / 65.3	88.6	79.5	76	73.4	75.4	77.4
Mishandled baggage*	5.18 / 6.96	2.78	3.91	5.26	7.05	6.73	6.64

<i>Consumer complaints:</i>							
Airline service	692 / 702	552	8,819	10,648	13,180	8,325	8,741
Disability-related	38 / 34	36	517	477	488	430	511
Discrimination**	12 / 7	11	132	115	99	114	129

Note: There was one flight with a tarmac delay of four hours or more in December.

\* Reports per 1,000 passengers.

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

**10. December 2009 Employment Down 3.3%.**

U.S. scheduled passenger airlines employed 3.3% fewer workers in December 2009 than in December 2008, reports DOT. The December full-time employment total of 379,100, the lowest total for any month since 1993, was 12,900 below December 2008. The seven network airlines employed 258,100 in December, 68.1% of the passenger airline total, while low-cost carriers employed 16.5% and regionals employed 13.9%.

**11. U.S. Airlines Apply for Tokyo Haneda Slots.**

See Section II, item 2.

**12. DOT Tentatively Grants Delta/US Airways Slot Waiver.**

See Section II, item 3.

## **II. AIRPORTS**

### **1. December Global Passenger Traffic Up 5%, Freight Up 23%.**

Airport traffic worldwide surged in December, reports Airports Council International, as passenger traffic rose by 5.3% over December 2008 and freight by 23.3%. For the full year, global traffic results finished at -2.6% for passenger and -8% for freight.

### **2. U.S. Airlines Apply for Tokyo Haneda Slots.**

Five carriers applied to DOT for four pairs of slots available to U.S. airlines at Tokyo Haneda, which has been opened to international service under the U.S.-Japan open skies treaty. American requested two daily slot pairs for Boeing 777 service from New York Kennedy and Los Angeles International, starting October 1, 2010. Continental and Continental Micronesia would provide nonstops from New York Newark (B-777) and Guam (B-767-400), beginning in late 2010. Arguing that its SkyTeam alliance is the only global network without the ability to compete at Haneda, Delta applied for all four daily frequencies, and would offer nonstops from Seattle (Airbus A330-300) and Detroit, Los Angeles and Honolulu (all B-747-400), beginning October 31, 2010. United would offer daily B-777-200 nonstops from San Francisco, and Hawaiian would introduce nonstop, twice-daily, flights from Honolulu (B-767-300ER and A330-200). There has been no scheduled service between the U.S. and Haneda since Narita opened in 1978. Haneda, 30 minutes from Tokyo, is the fourth busiest airport in the world, with almost 70 million annual passengers.

### **3. FAA Tentatively Grants Delta/US Airways Slot Waiver.**

In a proposed decision on a permanent slot exchange requested by Delta and US Airways at New York LaGuardia (LGA) and Washington Reagan National (DCA), the Federal Aviation Administration (FAA) said approval of USAirways transfer of its LGA slots to Delta is contingent on the airlines' selling some of their slot interests to carriers with no or limited service at the two airports, in order to lessen harm to consumers. US Airways agreed in August to transfer 125 slot pairs to Delta at LGA, in exchange for which Delta agreed to transfer 42 slot pairs to US Airways at DCA, along with route authorities for Sao Paulo and Tokyo. FAA wants the airlines to divest 20 of the 125 slot pairs at LGA and 14 of the 42 slot pairs at DCA. The Notice published in the Federal Register on February 18 requires public comments to be filed by March 22, 2010. "If this order is implemented as proposed the transaction will not go forward and significant consumer benefits will never be realized," said the airlines in a joint statement.

**4. LAX Begins \$1.55 Billion Bradley Renovation.**

Construction has begun on the \$1.55 billion Bradley West project at Los Angeles International Airport (LAX). The project will add 1.25 million square feet of building area to Bradley International Terminal, which is used by 8.6 million passengers annually. In other news, a study by aviation experts, working with NASA, concluded that LAX's north airfield is "extremely safe" even under aircraft operation levels projected for 2020. Commissioned by the airport, "the study assumes high effectiveness for new technologies installed [by FAA] during recent years at LAX" that address the issue of runway incursions." FAA has long urged the airport to reconfigure its northern runways to avoid ground collisions.

**5. Philadelphia Opens \$45 Million Terminal E.**

Philadelphia International completed a \$45 million Terminal E expansion, which includes seven new Southwest gates and a 500-seat waiting area. Southwest acted as general contractor for the project.

**6. Chicago Begins Cemetery Relocation Process.**

City of Chicago was granted title and possession of St. Johannes Cemetery, needed to complete construction on a runway at O'Hare International Airport. The city paid \$630,000 to acquire the cemetery and will pay costs associated with grave site relocation. In other news, major airlines have threatened to withdraw support for O'Hare modernization, due to city plans to retroactively raise 2010 airport usage fees, from January 1. Chicago media report that rents would rise 15% to 17%, and landing fees by 38%; \$63 million of the landing fee increase would help prepay bonds issued in 2005.

**7. Chicago Wins Extension for Midway Privatization Plan.**

Chicago won a three-month extension from FAA to finalize plans to privatize Midway, having missed a February 1 deadline.

**8. Fraport, Airlines Agree on 2.9% Annual Increase in Fees.**

Fraport and airlines agreed on an annual fee increase of 2.9% for the years 2012-15 at Frankfurt. If passenger figures develop faster than expected, said Fraport, airlines will be reimbursed one third of the additional revenue.

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

#### **1. DHS 2011 Budget Request.**

In its \$56.3 billion fiscal year 2011 budget request, the Department of Homeland Security (DHS) asked for an increase of \$214.7 million to procure and install 500 advanced imaging technology (AIT) screening machines; 75% of high-risk airports will get new body scanning technology, and 60% of second-tier airports. Other requested increases include: \$218.9 million for personnel to operate additional AITs at airport checkpoints, \$85 million for additional Federal Air Marshals (FAMs), \$60 million to purchase 800 portable explosive trace detection (ETD) and associated checkpoint consumables, \$71 million to fund an additional 275 proprietary explosives detection canine teams, and \$20 million for 3,350 behavior detection officers (BDOs).

#### **2. TSA Expands Use of Explosive Trace Detection Technology.**

The Transportation Security Administration (TSA) has increased random use of ETD technology at U.S. airports, since the Christmas Day failed attack. The technology is being utilized in the checkpoint queue and boarding area, as well as the security checkpoint.

#### **3. More Airports to Receive Full Body Scanners.**

TSA in March will begin installing the first of 150 full body scanners approved last May as part of the federal stimulus plan, reports Associated Press. Boston and Chicago were selected to receive the first scanners, based on risk and ability to install the machines and provide screeners to operate them; the rest will be in place by the end of June. Currently 40 full body scanners are operating in 19 U.S. airports.

#### **4. EPIC Asks White House to Suspend Whole Body Scanning Program.**

The Electronic Privacy Information Center (EPIC), in a letter asked President Obama to suspend deployment of body imaging devices until "a comprehensive evaluation of the devices' effectiveness, health impacts, and privacy safeguards is completed by an independent board of review." Experts say the devices are ineffective, health risks have not been assessed, and TSA has misrepresented privacy safeguards, said the letter, which was co-signed by consumer advocate Ralph Nader.

#### **5. Airport Scanners Thought to Violate Muslim Law.**

The Fiqh Council of North America (FCNA) said use of full body scanners at airports violates "the teachings of Islam, natural law and all religions and cultures that stand for decency and modesty," and advised Muslims to opt for

“the alternate provision of pat-down search (when needed).” Indiana-based FCNA supports “necessary measures for the safety and protection of all passengers,” and recommends that software be designed “to produce only the picture of questionable materials on an outline of the body,” and use of other technologies that “detect the presence of explosives without infringing on modesty.”

**6. AFGE Files to Represent TSA Employees.**

The American Federation of Government Employees (AFGE) filed a petition with the Federal Labor Relations Authority (FLRA) to be the exclusive union representative for Transportation Security Officers (TSOs). The group said more than 30% of about 40,000 TSOs have expressed interest. AFGE has represented TSOs informally since the TSA was formed. The National Treasury Employees Union is also vying to represent TSOs.

**7. Group Wants Officers to Carry Firearms on Planes.**

The Federal Law Enforcement Officers Association asked President Obama to consider issuing an Executive Order to authorize law enforcement officers, active and retired, and certified by the Law Enforcement Officers Safety Act (LEOSA), to carry firearms aboard all domestic flights, to augment the Federal Air Marshal Service. Following the failed Christmas Day bomb attempt, the President elected to divert some air marshals to U.S.-bound international flights. The group says LEOSA-certified officers accrue invaluable field experience, have received thousands of hours of firearms training, and are skilled in surveillance techniques to identify potential criminals or terrorists.

**8. UK Human Rights Commission Questions Use of Body Scanners.**

Britain’s Equality and Human Rights Commission (EHRC) said use of body scanners at UK airports may breach human rights laws. The technology is in use at London Heathrow and Manchester. In a letter to UK Transport Secretary Andrew Adonis, the EHRC expressed concern about an absence of safeguards to ensure the scanners are operated in a lawful, fair and non-discriminatory manner. The Transport Department has published an interim code of practice addressing privacy concerns, and said passengers who are randomly selected for screening will not be chosen because of any personal characteristics.

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

### **1. Travelocity Poll: Traveler Confidence Increases.**

Travelocity's second Traveler Confidence Poll finds 49% of respondents plan to increase travel in 2010, compared to 21% six months ago. Another 44% plan to travel "about the same." The number of travelers planning to decrease travel is down 7%, compared to 34% one year ago and 24% six months ago. Travelocity is a Sabre Holdings unit with annual gross bookings of more than \$10 billion.

### **2. Member-Only European Travel Site Has U.S. Launch.**

Voyageprive, a European member-only travel site, is now available to U.S. residents. The agency focuses on elite travel packages that are available only on a first-come, first-served basis, said CEO Denis Philipon. Founded in 2004, voyageprive.com operates in France, Britain, Italy and Spain and has four million members.

### **3. Budget Center Launches Budgetairlines.com**

A new site, budgetairlines.com, utilizes Kayak.com's embedded travel search engine to source the lowest fares for online travel shoppers; planned features include reviews and testimonials and travel news and blogs. Budgetairlines.com (Budget) is owned by Budget Center Inc. (BCI), which launched budgethotels.com in December and plans to develop numerous "budget" brand domains in the online travel and related services industries.

### **4. Court Overturns \$21 Million Claim Against Online Travel Companies.**

A Los Angeles Superior Court judge rejected City of Anaheim claims that online travel companies, such as Travelocity and Orbitz, owe hotel occupancy taxes and set aside a ruling that they owed \$21 million in back taxes. Because online travel companies do not own, manage or operate hotels, they are not liable for hotel occupancy taxes, the court found.

## **V. ENERGY AND ENVIRONMENT**

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

The price of aviation jet fuel, as of February 12, was \$81.2/barrel, down 7.7% for the month and up 46.6% year-on-year, reports the International Air Transport Association. Fuel price average year-to-date was \$84.7/barrel.

### **2. Airlines Sign on for Camelina-Based Renewable Jet Fuel.**

Major airlines led by the Air Transport Association (ATA) agreed to negotiate the purchase of up to 750 million gallons of renewable jet fuel and diesel derived from camelina and produced by Seattle-based AltAir Fuels. The renewable fuel, to be produced at a new facility in Anacortes, Wash., would replace about 10% of the petroleum fuel consumed annually at Seattle-Tacoma International, reducing carbon emissions by about 14 billion pounds over 10 years. Participating airlines include American, Air Canada, Alaska, Atlas Air, Delta, FedEx Express, Hawaiian, Jet Blue, Lufthansa, Mexicana, Polar Air Cargo, United, UPS and US Airways. The camelina oil will be sourced from Montana-based Sustainable Oils, which has the largest camelina research program in North America and production contracts with farmers and grower cooperatives. The refining technology was developed by Honeywell unit UOP. AltAir said the renewable jet fuel and diesel will be fully compatible with existing transportation fuel infrastructure and require no special handling. Camelina is the most heavily tested and proven renewable fuel feedstock, having already powered two commercial aviation test flights—Japan Airlines and KLM—in 2009. Production is expected to begin in late 2012.

### **3. British Airways to Establish Sustainable Jet Fuel Plant.**

British Airways will establish Europe's first sustainable jet fuel plant and plans to use the low-carbon fuel to power part of its fleet from 2014. Waste biomass, destined for landfill, will be converted into 16 million gallons of green jet fuel through a process that offers lifecycle greenhouse gas savings of up to 95% compared to fossil-fuel derived jet kerosene. The fuel's reduction in carbon emissions would be the equivalent of taking 48,000 cars off the road per year. The facility will be built in east London by Solena Group, a Washington DC-based advanced bio energy and bio fuels company.

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

### **1. Oversight Hearing on Airline Safety and Pilot Training.**

The House Subcommittee on Aviation held its second oversight hearing on FAA's Call to Action, a voluntary effort by government, industry and labor meant to enhance aviation safety. FAA launched the initiative after the February 12, 2009 Colgan Air crash near Buffalo, New York, which killed 50 people and revealed a possible lower level of safety for smaller regional feeder airlines. Colgan Air was operating the flight for Continental. The National Transportation Safety Board said pilot error caused the crash.

In his testimony, DOT Inspector General Calvin Scovell said the Call to Action plan is a good first step, but FAA has fallen behind schedule or failed to meet goals on eight of 10 promised measures, including new regulations to prevent pilot fatigue and better inspection of training for regional airline pilots. At the request of Congress, the OIG is also reviewing other pilot performance issues to determine their potential impact on safety. These include pilot domicile, differences in pilot training and hiring, and pilot experience and pay.

FAA Administrator J. Randolph Babbitt responded that pilot fatigue issues are incredibly complex and initial deadlines may have been overly ambitious. Among his remarks: A Notice of Proposed Rulemaking (NPRM) on pilot flight time, rest and fatigue was not issued, as promised, by the end of 2009, but could be issued by this spring. Due to FAA inspections, all carriers now have some component of a remedial training program. An NPRM issued in January 2009 to enhance pilot training programs by requiring simulation devices resulted in over 3,000 pages of comments and a supplemental proposal is to be issued in coming months. Guidance materials on how to conduct a comprehensive training program review and surveillance are in development. An Advanced NPRM considers alternative requirements for pilot experience, such as an endorsement on a commercial license to indicate specific qualifications, rather than "simply increasing the minimum number of hours required for a pilot to fly in commercial aviation." Carriers were asked to immediately implement a policy of asking pilot applicants to voluntarily disclose FAA records, including notices of disapproval for evaluation events; 66% of the 80 responding carriers already require full disclosure and 15% plan to implement the policy.

### **2. Oberstar, Costello Call for Code Share Study.**

Leaders of the House Transportation Committee requested a DOT IG study of safety issues that may arise in airline code sharing arrangements. "This is

particularly important given that the majority of air travelers are unaware when they purchase a ticket from a mainline airline that they may actually fly on a regional airline," said Committee Chairman James Oberstar and Aviation Subcommittee Chairman Jerry Costello. They asked the IG to investigate legal authority of DOT and FAA to review agreements between mainline carriers and their regional partners; how mainline carriers ensure that their regional partners operate at the same level of safety; and whether the flying public has adequate information about code sharing arrangements to make informed decisions when purchasing a ticket.

**3. ATC, Flight 253 Pilots Initially Unaware of Christmas Day Terror Attempt.**

In testimony before the House Aviation Subcommittee about the Christmas Day bomb attempt over Detroit, FAA Administrator Randy Babbitt said Flight 253 pilots and air traffic control initially were not aware of the seriousness of the event. Flight crew had put out a fire in the cabin and detained the suspect, who, they reported, had attempted to set off firecrackers. When it became clear that someone had tried to set off an explosive device, the plane was isolated and all air carriers in the country were notified about the situation. A Committee member called for a congressional hearing to determine whether FAA protocols were followed properly.

**4. House Oversight Calls for Probe of FAMS Discrimination.**

The House Oversight and Government Reform Committee called for an independent investigation into allegations of discrimination, retaliation and other inappropriate conduct at the Cincinnati and Orlando Federal Air Marshal Service (FAMS) field offices. In a letter to Homeland Security Secretary Janet Napolitano, Committee Chairman Edolphus Towns (D-NY) requested a DHS review of FAMS employment practices to determine the extent of the reported problems, whether they are limited to the Cincinnati and Orlando field offices and whether additional steps should be taken to ensure that FAMS is fully complying with all Federal anti-discrimination laws. In a separate letter, Towns asked DHS Inspector General Richard Skinner to conduct an inquiry into allegations that Orlando management "made a game of targeting African Americans, Hispanics, females, veterans and men and women of alleged homosexual sexual orientation."

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

### **1. U.S.–EU Talks Held in Madrid.**

The United States and the EU held three days of second stage open skies negotiations in Madrid, the seventh meeting of the second round. Participants said they made progress, but key sticking points include the relaxing of U.S. airline ownership rules and the EU trading scheme for aircraft emissions. Spain's Minister of Public Works and President of the EU Transport Council José Blanco and U.S. Secretary of Transportation Ray LaHood participated in the talks.

### **2. U.S., Iraq to Cooperate in All Areas of Transportation.**

The United States and Iraq agreed to promote cooperation in all areas of transportation. The Memorandum of Cooperation was signed by DOT Secretary Ray LaHood and Iraq's Minister of Transport Amer Abdul-Jabbar Ismael. The meeting marked the first visit by an Iraqi Minister of Transportation to the United States in over 20 years. Cooperation will take place through the exchange of scientific and technical information on subjects of mutual interest; the exchange of specialists, delegations, scientific and technical personnel; joint organization of symposia, seminars, and other meetings; and joint research in transportation science and technology, said DOT.

### **3. U.S. Lifts Syria Travel Advisory.**

The United States lifted an advisory that warned American travelers about security concerns in Syria, as both sides take steps to improve relations. The White House named Robert Ford as Ambassador to Syria; if confirmed by the Senate, he will be the first American ambassador in Damascus in five years. Syria remains under American sanctions for support for terrorism and pursuit of unconventional weapons and other activities, including efforts to undermine American operations in Iraq.

## **VIII. EUROPE AND AFRICA**

### **1. Europe Beset by Transport Strikes.**

Transport strike activity in Europe included a five-day walkout by French air traffic controllers to protest EU plans to integrate ATC systems under a Single European Sky, with a potential loss of jobs and civil servant benefits. France's civil aviation authority ordered airlines to cancel 25% of their flights at Paris Charles de Gaulle and 50% at Orly; smaller provincial airports were closed. A 24-hour general strike in Greece grounded flights, as workers protested EU-prescribed tax increases and pay cuts that could reduce the country's steep deficit. Lufthansa filed a request for a temporary injunction against a four-day walkout by its pilots, who suspended the strike after one day, until March 9, and resumed talks; the airline was forced to operate on a reduced schedule and had estimated the strike could cost €25 million per day. Lufthansa pilots seek increased work security and want German labor conditions to apply to foreign Lufthansa pilots, in an effort to prevent the airline from relocating jobs. British Airways won a legal battle in which the Unite union had tried to overturn cost-cutting changes; British Airways called a new strike vote "completely unjustified."

### **2. American to Offer New York to Madrid, Manchester Nonstops.**

American Airlines will offer daily Boeing 757 nonstops from New York Kennedy to both Madrid and Manchester, in May. The carrier begins five weekly Boeing 757 services to San Jose, Costa Rica from Kennedy in April.

### **3. OpenSkies to Offer Washington-Paris Service.**

British Airways premium unit OpenSkies will introduce five weekly B757-200 flights between Washington Dulles and Paris Orly on May 3. The all business class airline also provides New York Newark to Paris Orly service.

### **4. Ryanair to Establish \$140 Million Hub in Lithuania.**

Irish budget airline Ryanair will spend \$140 million to establish a major hub in Kaunas in May, its first in Central and Eastern Europe, with 18 routes. Kaunas is Lithuania's second largest city. The new base, Ryanair's 40th, will deliver up to one million passengers annually and sustain 1,000 jobs at Kaunas with over 120 weekly flights, said Ryanair, which is "in continuous negotiation with four other Central European airports to open bases and give consumers a choice and much lower fares than the high fares being charged by Air Baltic, WizzAir and other Central European airlines."

**5. Aegean, Olympic Air to Merge.**

Aegean Airlines and Olympic Air agreed to a merger, subject to approval by the EU Competition Commission. Olympic Handling and Olympic Engineering will be subsidiaries of the new company, which ultimately will carry the Olympic Air name and logo. The main shareholder of Aegean (Vassilakis Group) and the sole shareholder of Olympic Air (Marfin Investment Group) will have equal shareholdings in the combined entity.

**6. EU Investigating Freight Cartel.**

The European Commission is investigating allegations that companies in the air freight forwarding business fixed prices by colluding on the imposition, level, timing and application of surcharges. The unnamed companies, which provide services from Europe to and from China and from Europe to the United States, were sent official statements and may request an oral hearing.

**7. South Africa Investigates Airline Collusion.**

The Competition Commission of South Africa initiated an investigation against British Airways/Comair, South African Airways (SAA), 1Time, SA Airlink, Mango and SA Express, for allegedly colluding on prices and pricing strategies to be adopted during the World Cup tournament, to be held June 11-July 11 in nine South African cities. SAA applied for leniency from prosecution in exchange for full cooperation and provided email correspondence between the airlines, in which there are indications that the airlines might adjust air fares ahead of the World Cup. The Commission said the email suggests that since there is no indication as to which flights will represent peak demand flights, airlines have the option to either not provide any inventory for sale until such time, or price all inventory at peak time rates until such time as they have greater certainty, and that airfares will have to be raised in order to cover various anticipated additional costs.

**8. SAA Appoints New CEO.**

Siza Mzimela was named CEO of South African Airways, replacing Acting CEO Chris Smyth. She formerly was CEO of domestic airline SA Express.

**9. DOT Proposes Approval of oneworld ATI Application.**

See Section I, item 1.

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

### **1. Intra-Asia Market Eclipses North America.**

Intra-Asia Pacific air travelers numbered 647 million in 2009, compared to 638 million who travelled within North America (including domestic markets), reports IATA. By 2013, an additional 217 million air travelers are expected within Asia-Pacific. Asia-Pacific carriers expect to see their losses shrink from \$3.4 billion in 2009 to \$700 million in 2010. There are three aircraft seats per year for each of the 300 million people who live in the U.S., while China's population of 1.3 billion is served by only 0.3 seats per person and India's 1.1 billion population has only 0.1 seats available per person. The global air transport industry will triple in size when travel by Asians rises to that of the U.S., said Giovanni Bisignani, IATA Director General. In related news, India approved a \$173 million cash infusion for Air India, part of an expected \$432 million company bailout, and China Southern Airlines will receive 1.5 billion yuan in rescue funds from China's Ministry of Finance.

### **2. JAL Opts to Remain With oneworld.**

Japan Airlines (JAL) elected to strengthen its partnership with oneworld ally American Airlines and the carriers jointly applied to U.S. and Japanese authorities for approval of antitrust immunity (ATI) on transpacific routes (see Section I). JAL said "it will seize the opportunity presented by this partnership to strengthen its network and further improve its offerings" as it "undergoes the process of reorganization," and "will also fortify its relationships with other partners in the oneworld alliance." Delta had tried to lure JAL to SkyTeam with an offer of \$1 billion in financial aid. American and oneworld partners, including British Airways and Cathay Pacific, had offered JAL \$1.4 billion to prevent a move to SkyTeam. JAL since has been rescued by state-backed Enterprise Turnaround Initiative Corp of Japan (ETIC), which has said it would not seek outside investors. And, a U.S. bankruptcy court in Manhattan granted Japan Airlines Chapter 15 protection, a shield against U.S. lawsuits during reorganization. JAL has asked eight labor unions to accept a 5% pay cut and plans to eliminate fiscal 2010 bonuses.

### **3. Kingfisher to Join oneworld.**

Kingfisher Airlines signed a memorandum of understanding as its first step towards full membership in oneworld, subject to Indian regulatory approval. Kingfisher would add 58 Indian cities to the oneworld map.

**4. EVA Air, US Airways Expand Code Share Services.**

Taiwan-based EVA Air and US Airways expanded their code share relationship, under which EVA passengers traveling through Los Angeles and San Francisco can connect to US Airways hubs in Las Vegas and Phoenix. The EVA code now is carried on US Air-operated flights between the West Coast and additional major cities. EVA-operated flights from Los Angeles, San Francisco and Seattle to Taiwan carry the US Air code.

**5. AirAsia Takes 30% Stake in VietJet Air.**

AirAsia purchased a 30% share in Hanoi-based VietJet Air, with Vietnamese conglomerate Sovico and its chairman, Thanh Hung, holding 51% and 19% of the joint venture, to be known as VietJet AirAsia. Malaysia-based AirAsia has ownership in Thai AirAsia, Indonesia AirAsia, AirAsia X and AirAsia Bhd, and is in an alliance with Qantas subsidiary Jetstar Airways.

**6. DOT Proposes Approval of oneworld ATI Application.**

See Section I, item 1.

**7. American, JAL Apply for ATI on Transpacific Routes.**

See Section I, item 2.

## **X. AMERICAS**

### **1. U.S. Airline Passenger Revenue Rose in January.**

The Air Transport Association of America (ATA) reported that passenger revenue rose 1.4% in January versus same month 2009, reversing 14 consecutive months of declines. About 0.4% fewer passengers traveled on U.S. airlines in January, while the average price to fly one mile rose 0.6%, the first such increase since November 2008. Growth was strongest on transatlantic routes, where passenger revenue rose 3.4%. In related news, airline executives speaking at the 2010 Reuters Travel and Leisure Summit said airlines are on the road to recovery. Lower capacity and added revenue streams will provide the industry with some stability, said US Airways Chief Financial Officer Derek Kerr; US Airways expects to take in \$500 million in ancillary revenue for 2010, a 25% increase over last year. Both Kerr and United CFO Kathryn Mikells said their airlines are open to mergers. United would consider merging with either a foreign or domestic carrier, while US Airways is looking for a domestic merger partner.

### **2. Skycap Legal Action Against American Escalates.**

A federal judge ruled that skycaps at 85 U.S. airports may join a Massachusetts class-action suit against American Airlines. Skycaps say they lost tip income after American imposed a \$2 charge for curbside bag checks. In 2008, a jury in Boston awarded nine current and former American Airlines skycaps at Logan International \$325,000 for lost tips; the airline dropped the baggage fee and is appealing that award. Other airlines have been named in similar suits. Separately, a Fort Worth federal judge dismissed a class-action lawsuit against American for allegedly confining passengers on airplanes for periods in excess of three hours in December 2006, in poor to deplorable conditions, because of bad weather. The suit, which was filed in December 2009 and sought over \$5 million in damages, was not filed within the two-year statute of limitations.

### **3. United Finalizes Boeing 787 Order.**

United finalized an order for 25 Boeing 787 Dreamliners, valued at \$4.2 billion, with the opportunity to purchase another 50. The order will provide the opportunity to open new profitable markets and serve a broader range of international destinations, said United President John Tague. The Dreamliner, currently in flight test, will provide greater fuel efficiency, allowing airlines to add new, nonstop city pairs and the additional frequencies that passengers prefer, said Boeing.

**4. American Eagle to Introduce First Class Service.**

First class seating will be introduced on American Eagle Bombardier CRJ-700s, for travel starting July 2. The American Airlines regional affiliate will offer the service from its Chicago and Dallas/Fort Worth hubs. Reconfigured CRJ-700s will have 54 or 56 seats in the main cabin and nine in first class.

**5. Atlantic Southeast, ExpressJet Sign United Express Contracts.**

Atlantic Southeast (ASA) and ExpressJet signed agreements with United to provide regional jet service. SkyWest unit ASA offers eight weekday United Express flights from Chicago O'Hare and 15 from Washington Dulles. The ExpressJet agreement finalizes a previously announced bid to replace flying by other United Express partners whose contracts have expired, and covers ERJ-145s; ExpressJet issued a warrant to United for the purchase of 2.7 million shares of common stock with an exercise price of \$0.01 per share.

**6. Chautauqua to Operate O'Hare Regional Flights for American.**

Chautauqua Airlines will operate commuter flights out of Chicago O'Hare under the American Connection brand, reports the *Chicago Tribune*. American plans a 13% increase in Chicago flights this summer, mostly regional. American Eagle pilots say the plan violates their contract; American says it is cost-effective for serving nearby communities. St. Louis-based Chautauqua is a Republic Airways subsidiary flying Embraer and Bombardier regional jets.

**7. Continental Ground Workers Opt for Teamsters.**

Continental fleet service employees, including ramp, operations and cargo agents, voted in favor of representation by the International Brotherhood of Teamsters. In other news, Continental will eliminate 600 reservation-agent jobs (23%) in April, due to a 15% drop in call volume, as customers increasingly use the Internet to book fares.

**8. UPS Starts Pilot Furlough Process**

UPS plans to furlough at least 300 of its 2,800 pilots, beginning in May, but continues to negotiate with the Independent Pilots Association to find other measures that would mitigate the need for layoffs. A company-wide, \$1.4 billion cost-cutting effort included a freeze on management salaries in 2009, trimming capital expenditures, and retiring older aircraft. This year, UPS announced it was eliminating 1,800 management and administrative positions in its domestic small package structure. In other news, in a partnership with the U.S. Department of Commerce, UPS will use shipping data to identify small- and medium-sized U.S. companies that export to just one foreign country. It will then suggest new export markets for those companies based on factors such as industry, geography, currency and market opportunities. Less

than 1% of America's 30 million companies export, significantly less than in other developed countries, said the Commerce Department.

**9. American Resumes Flights to Haiti – Other Carriers to Start Soon.**

American Airlines flew the last commercial service from Haiti, after the January 12 magnitude 7 earthquake, and in mid-February was the first carrier to reinstate commercial flights. The Boeing 737 carried 136 passengers from Miami to Toussaint L'Ouverture Airport, which was damaged in the quake and has been operating with U.S. technical aid. Other airlines that provided scheduled service before the earthquake, including Spirit, Delta and COPA expect to resume service in early March.

**10. Spirit Provides Fuel Cost Breakout.**

Spirit Airlines customers can view a table on the company Web site that illustrates the amount of fuel used for various trip lengths, the current price of fuel and how much this translates per one-way passenger. "Everyone sees the effect of oil price movements when they fill up their car, but rarely do customers have any idea how much of their fare is comprised of fuel cost," said the low-fare carrier.

**11. Republic to Phase Out Lynx Aviation.**

Republic will phase out Lynx Aviation operations by mid-September. Regional service operated by Lynx Bombardier Q400 turboprops will transition to Republic-flown Embraer 170 and 190 jets.

**12. Avianca-Taca Merger Completed.**

The merger of Colombia's Avianca and El Salvador's Grupo Taca has been approved. Avianca-Taca Ltd., domiciled in the Bahamas, is owned by Synergy Aerospace Corp. (67%) and Kingsland Holding (33%). Roberto Kriete is President of the Board of Directors, Fabio Villegas is CEO. Grupo Taca includes Taca International and shares in Lacsa, Taca Peru, Aviateca, Sansa, La Costeña, Aeroperlas and Islena airlines. Avianca includes Avianca, SAM and Tampa; Synergy has purchase options for Aerogal (Ecuador) and Oceanair (Brazil). The carriers jointly generate annual revenues of nearly \$3 billion, serve more than 100 destinations worldwide (including 75 cities in Latin America), and operate 129 aircraft of short, medium and long range. The joint venture seeks to create "the largest and most comprehensive passenger and cargo service network in Latin America, developing new markets from their hubs in Bogotá, El Salvador, San José de Costa Rica and Lima." No name or brand changes are foreseen in the short term, said the company.

**13. Pinera Offers Cuetos LAN Stake.**

Chilean President-elect Sebastian Pinera agreed to sell an 8.56% share of LAN, worth about \$500 million, to Chile's Cueto family. The remaining shares will be sold by March 9; Pinera takes office on March 11.

**14. DOT Proposes Approval of oneworld ATI Application.**

See Section I, item 1.

**15. American, JAL Apply for ATI on Transpacific Routes.**

See Section I, item 2.

**16. American to Offer New York to Madrid, Manchester Nonstops.**

See Section VIII, item 2.

**17. OpenSkies to Offer Washington-Paris Service.**

See Section VIII, item 3.

**18. EVA Air, US Airways Expand Code Share Services.**

See Section IX, item 4.