



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. President Signs Four-Year FAA Reauthorization Bill.

President Obama signed into law a bill that provides \$63.4 billion for the Federal Aviation Administration (FAA) through the end of fiscal year 2015, including \$13.4 billion for the Airport Improvement Program, \$38.3 billion for FAA Operations, \$672 million for Research, Engineering & Development, and \$10.9 billion for Facilities & Equipment. The bill includes provisions to modernize the nation's air transportation system and ensure that FAA implements the Next Generation Air Transportation System (NextGen) in a timely and effective manner. It mandates development of precision navigation procedures at the largest 35 airports by 2015. The bill preserves the Essential Air Service program and authorizes eight additional round-trip flights from Washington National Airport to beyond-perimeter locations. It rejects an effort to repeal the National Mediation Board rule that ensures that only votes cast in a union election are counted. The bill reaffirms the U.S. position that the European Union (EU) should not extend its emission trading scheme (ETS) to non-EU airlines, and calls for the U.S. government to ensure the scheme is not applied to U.S. carriers. . . . Airlines for America (A4A) commended Congress for passing a responsible bill that holds the line on federal aviation taxes and fees paid by airlines and their customers, promotes the sharing of safety data by airlines with FAA and establishes a risk-based inspection system for overseas repair stations. . . . "After a five-year delay and 23 temporary extensions, this measure is key to advancing the nearly 8% of our nation's economy impacted by the aviation industry," said House Transportation and Infrastructure Committee Chairman John Mica (R-FL).

2. Proposed DOT Budget Adds \$100 Per-Flight User Fee.

The Department of Transportation (DOT) fiscal year 2013 budget request of \$74 billion, up 2% from enacted 2012 levels, includes \$15.172 billion for FAA, a \$728 million decrease. The Administration would offset a proposed cut to Airport Improvement Program grants by asking Congress to grant large and medium hub airports authority to increase Passenger Facility Charges. The FY 2013 budget includes more than \$1 billion for NextGen, \$99 million more than appropriated for 2012. A proposed \$100 per-flight user fee would help pay for air traffic control operations, with a portion going toward deficit reduction. The user fee "is the wrong approach and counter to leveraging commercial aviation—a key enabler of job growth and U.S. economic activity," said Airlines for America, urging the government to hold the line on federal aviation taxes paid by airlines and their customers.

3. FAA to Raise Airline Pilot Qualifications.

FAA proposed a rule that would require first officers (co-pilots) who fly for U.S. passenger and cargo airlines to hold an Airline Transport Pilot (ATP) certificate, requiring 1,500 hours of pilot flight time. Currently, they are required to have only a commercial pilot certificate, which requires 250 hours of flight time. The proposal also would require first officers to have an aircraft type rating, which involves additional airplane-specific training and testing. The rule would also require a minimum 1,000 flight hours as a pilot in air carrier operations that require an ATP prior to serving as a captain for a U.S. airline, and enhanced training for an ATP certificate, including 50 hours of multi-engine flight experience and completion of a new FAA-approved training program. Pilots with fewer than 1,500 hours of flight time, but who have an aviation degree or military pilot experience, would be able to obtain a “restricted privileges” ATP certificate; they could serve only as a first officer. Former military pilots with 750 hours of flight time would be able to apply for an ATP certificate with restricted privileges. Graduates of a four-year baccalaureate aviation degree program would be able to obtain an ATP with 1,000 hours of flight time, if they also obtained a commercial pilot certificate and instrument rating from a pilot school affiliated with the university or college. The proposal meets a requirement in the Federal Aviation Administration Act of 2010 and addresses recommendations from an Aviation Rulemaking Committee, the National Transportation Safety Board, and the FAA’s Call to Action to improve airline safety.

4. A4A Unveils Details of National Airline Policy.

A National Airline Policy has been proposed by Airlines for America, which would “address long-overdue structural changes needed.” A4A advocates: repeal of the jet-fuel tax and no increases in Passenger Facility Charges and the passenger security fee; regulatory reform to ensure that existing, pending and future rules are based on sound science and vigorous cost/benefit analyses; federal competition policy that would continue opposition to the EU Emissions Trading Scheme, remove limits on cross-border investment and address unfair practices faced by U.S. airlines in global markets; modernize and reform infrastructure with a focus on the most cost-beneficial projects that can deliver immediate results with equipment airlines already have on their aircraft, and reduce wait times for passenger security screening through a risk-based strategy; and work to curb speculation in the oil futures market, promote commercially viable, sustainable alternative fuels and bolster domestic fuel supplies in an environmentally sound manner.

5. ICAO Panel Calls for Tougher Rule on Lithium Batteries.

The recently passed FAA authorization bill directs DOT to ensure that most U.S. regulations governing air shipment of lithium batteries are harmonized with standards written by the International Civil Aviation Organization (ICAO). The legislation also covers products that contain or are packed with lithium ion or lithium metal batteries. The ICAO Dangerous Goods Panel now has called for tougher inspections and detailed labeling of air shipments of lithium batteries. Under the proposed ICAO standards, which if approved go into effect on January 1, 2013, all lithium battery shipments will have to be labeled as hazardous material.

6. DOT Air Travel Consumer Report for December and 2011.

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

	Dec. '11 / '10	Nov. '11	Full Year				
			2011	2010	2009	2008	2007
On-time arrivals %	84.4 / 72	85.3	79.6	79.8	79.5	76	73.4
Cancellations %	0.8 / 3.7	0.7	1.91	1.76	1.39	1.96	2.16
Mishandled baggage*	3.37 / 4.72	2.72	3.39	3.51	3.91	5.26	7.05
<i>Consumer complaints:</i>							
Airline service	710 / 756	873	11,545	10,988	8,821	10,648	13,180
Disability-related	58 / 38	45	630	572	519	477	488
Discrimination**	7 / 14	9	127	143	131	115	99

Note: Airlines reported no tarmac delays of more than three hours on domestic flights or more than four hours on international flights in December.

* Reports per 1,000 passengers.

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

II. AIRPORTS

1. \$3.6 Billion LaGuardia Project Garners 15 Proposals.

Port Authority of New York and New Jersey received 15 responses to a request for information for a \$3.6 billion redevelopment program at LaGuardia, which will include a new \$2.4 billion terminal and \$1.2 billion in associated infrastructure. The firms outlined concepts and plans to design, construct, operate, maintain and finance the new 1.3 million-square-foot Central Terminal Building, which currently houses half of the airport's 72 gates. Respondents include investors, entities specializing in airport construction and development, facility operations and management firms and concession developers; about half have an international presence. A similar public-private process will replace the outdated Terminal A at Newark Liberty, with a request for information for that project expected this year.

2. Airlines Plan Beyond-Perimeter Washington National Nonstops.

DOT opened a proceeding to release four additional round-trip flights from Reagan Washington National to beyond-perimeter points, as a result of a provision in the FAA reauthorization bill. Applications are due by March 12 for airlines that do not currently serve or have only limited service at the airport. One additional beyond perimeter round trip was awarded to each of the four incumbents—American, Delta, United and US Airways. American will launch nonstops to Los Angeles International in June, Delta to Salt Lake City in June and United to San Francisco in May. The four incumbents were each required to discontinue one inside perimeter round trip before instituting the new service.

3. JetBlue Announces New LaGuardia, Washington Service.

JetBlue will nearly double service from New York LaGuardia and Washington National by this summer, utilizing slots made available through the recent FAA auction for slots surrendered as part of the Delta/US Airways slot exchange. At LaGuardia, JetBlue will begin daily Florida service to Fort Myers, Sarasota and Tampa in June, and add flights to Orlando, Fort Lauderdale and West Palm Beach. At Washington, services to Boston, Fort Lauderdale and Orlando will increase and a new daily flight to Tampa will be offered.

4. US Airways Objects to Philadelphia International Expansion.

US Airways in a filing objected to the \$6.4 billion runway and terminal expansion at Philadelphia International, due to an increase in rates and fees,

reports the *Philadelphia Inquirer*, and warned it might move business to another hub. The airline transports 70% of the airport's passengers.

5. Brazil Awards \$14 Billion in Airport Contracts.

Brazil awarded \$14 billion in contracts for improvements at three airports to accommodate rising passenger traffic and prepare for the 2014 World Cup and the Olympic Games in 2016. The concession to upgrade and operate Sao Paulo Guarulhos International was won by Brazilian companies Invepar and OAS with South Africa's ACSA, at a bid nearly five times the minimum value set by the government. Brazil's Triunfo Participacoes and France's Egis Airport Operation won the concession to expand Viracopos, near Sao Paulo. Brazil's Engevix and Argentina's Corporacion America won the concession for a new terminal in Brasília. The airports will be operated with state agency Infraero.

6. UK Appeal Tribunal Affirms BAA Must Sell Stansted.

The UK Competition Appeals Tribunal rejected the latest appeal by airport operator BAA against the Competition Commission's requirement to sell Stansted airport. BAA sold Gatwick to Global Infrastructure Partners in 2009 and is selling Edinburgh. In other news, Ferrovial unit BAA announced its airports served 7.5 million passengers in January. Heathrow handled 5.2 million passengers, a record for January and up 2.3% on the same month last year. Traffic was down 6.6% at Stansted, 0.9% at Southampton, 0.4% at Glasgow and 4.4% at Edinburgh.

7. Abu Dhabi Terminal Approved.

Abu Dhabi Airports Company (ADAC) won government approval to build a Midfield Terminal Complex at Abu Dhabi International. Tenders were received in November. Construction of the 700,000-square-meter midfield terminal will begin in second quarter 2012, with completion expected in 2017; the facility initially will handle 27-30 million passengers per year. A parallel plan to develop the East Midfield is underway that would include facilities for cargo handling, inflight catering and ground handling. The airport has "significant land reserves and free trade zone status," said ADAC, which is also "working with private investors to develop complementary commercial activities. Current projects include a new hotel linked to Terminal 3, a retail link and a business park." The airport handled 12.4 million passengers in 2011. Scheduled passenger aircraft movement grew by 6.2% (90,281 movements), with national airline Etihad recording 61.4% of the total aircraft traffic. Cargo traffic, at 481,500 tonnes, increased 10%. December saw "a 17.8% uplift in total passenger traffic," said James Bennett, CEO of ADAC, "the sixth consecutive month where we recorded more than a million passengers."

III. **SECURITY AND DATA PRIVACY**

1. **DHS FY2013 Budget Request Adds Passenger Fees.**

In its fiscal year 2013 budget request, the Department of Homeland Security (DHS) proposes to restructure the passenger security fee. Passengers would pay \$5 per one-way trip beginning fourth quarter FY2013, rising to \$7.50 by 2018. Currently, a \$2.50 per enplanement fee is capped at \$5. Of the additional \$317 million in new collections in 2013, \$117 million would be used to offset the cost of federal aviation security operations and \$200 million would contribute to federal deficit reduction. Airlines for America said “the proposal to offset the deficit on the backs of airline customers by adding even more tax increases, would impact demand for air travel and ultimately cost jobs and service to communities.” The budget proposal total of \$39.5 billion, down 0.5% from enacted 2012 levels, requests funds for 1,250 Advanced Imaging Technology screening units and 155 new Explosives Detection Systems.

2. **Cargo Co. Fined \$1 Million for Screening Non-Compliance.**

The U.S. Department of Justice announced a \$1 million fine against OHL Solutions, formerly ActivAir, “for shirking their responsibility to screen cargo for explosives destined for passenger aircraft prior to December 2010.” A Transportation Security Administration (TSA) investigation found that employees of the New York-based company’s Indianapolis facility “engaged in a systemic pattern of record-keeping violations by failing to properly screen for explosives 100% of air cargo [and allegedly] continued to certify that the air cargo had been screened.” This is the largest regulatory fine ever assessed by TSA against a cargo entity for intentionally violating security requirements. Three employees agreed to plead guilty and face up to of 5 years in prison and \$250,000 fines.

3. **PreCheck Pilot to Expand to Busiest U.S. Airports.**

TSA expanded PreCheck to additional airports across the country, following success at seven pilot locations. The initiative provides expedited screening for travelers who volunteer information about themselves prior to flying. PreCheck is currently operating with American Airlines at airports in Dallas, Miami, Las Vegas, Minneapolis and Los Angeles, and with Delta at airports in Atlanta, Detroit, Las Vegas, and Minneapolis. US Airways, United and Alaska Airlines are opting in new passengers and will begin operations later this year. Eligible participants include certain frequent flyers from participating airlines, and members of Customs and Border Protection’s (CBP) Trusted Traveler programs who are U.S. citizens and fly on a participating airline. . . . Chip

Barclay, President of the American Association of Airport Executives (AAAE), said, "Airport executives want the program expanded to accommodate as many additional travelers as possible in an airport-centric, community-based effort," noting that AAAE and individual airports worked with TSA to implement Registered Traveler, which in one year enrolled 250,000 travelers at 24 airports. . . . DHS published a final rule that replaces CBP's Global Entry pilot with a permanent program. The initiative allows expedited clearance for pre-approved travelers through biometric identification. Currently available at 20 U.S. international airports, Global Entry reduces average wait times by 70%, says DHS, with more than 75% of users processed in under five minutes.

4. **Known Crewmember Program to Expand.**

Known Crewmember will be expanded to include more U.S. airports this year, following a successful test at seven hubs. An initiative of Airlines for America, Air Line Pilots Association and TSA, Known Crewmember enables TSA officers to verify identity and employment status of airline pilots, who already undergo criminal background and other checks as a condition of their employment. TSA has been urged to include flight attendants in the future.

5. **U.S. No-Fly List Doubles in Past Year.**

The U.S. no-fly list grew from 10,000 known or suspected terrorists to 21,000 in the past year, according to the Associated Press; about 500 people are Americans. The government made significant changes in how it assembles the list after the failed Christmas 2009 bombing of a Detroit-bound jetliner.

6. **Security Strategy for the Americas and The Caribbean.**

Twenty ICAO member states from North America, Central America, the Caribbean and South America unanimously adopted a strategy aimed at improving passenger and cargo security, as part of a common effort to counter threats to civil aviation worldwide. They agreed to facilitate communication between national security agencies, share threat information on a timely basis, and urge ICAO to continue to address threats to the global air cargo system.

7. **Need for Air Marshal Program Questioned.**

See Section VI, item 1.

8. **Bill Would Require Passenger Advocates at Major Airports.**

See Section VI, item 2.

IV. E-COMMERCE AND TECHNOLOGY

1. United Continental, Orbitz Extend Relationship.

A new multi-year agreement will give Orbitz.com, CheapTickets.com and OrbitzforBusiness.com customers access to all United and Continental fares, schedules and inventory. The companies will also work together on merchandising and promotional programs. Both United and Continental were investors in the launch of Orbitz in 2001.

2. Travelport Signs Agreements with Lufthansa, Swiss, Yemenia.

Travelport, operator of Galileo, Apollo and Worldspan reservation systems, announced new, multi-year global content agreements with Lufthansa and Swiss, under which GDS surcharges will continue to be waived for Travelport-connected travel agencies who choose to participate in the carriers' Preferred Fares programs that operate in Germany, Austria Switzerland and Liechtenstein. Travelport also signed an upgraded agreement with Yemen's national carrier, Yemenia, implementing technology to ensure that travel agents have real-time connectivity to the carrier's fare inventory, including seat maps, last-seat availability, immediate booking confirmations, current pricing, instant schedule updates and full e-ticketing capabilities.

3. Southwest Renews Sabre Agreement.

Southwest renewed its reservations system agreement with Sabre Airline Solutions. The agreement supports ongoing integration of AirTran. . . . In other news from Sabre, GetThere Mobile now allows travelers to book reservations within company policy and preferences; bookings can be integrated into Sabre's TripCase. . . . Sabre Travel Network will offer real-time access to 1,200 high definition public video communication rooms in 550 cities, under a new relationship with Regus, global provider of flexible workplaces.

4. Amadeus Acquires airconomy.

Amadeus acquired Frankfurt-based airconomy, which provides demand data for worldwide city-pairs, including number of passengers booking certain routes with itinerary and airline.

V. ENERGY AND ENVIRONMENT

1. Fuel Bill for Global Airline Industry.

The average price of aviation jet fuel, as of February 10, was 133.9/barrel, up 2% on the month and up 13.4% year-on-year, reports the International Air Transport Association. Fuel price average for 2012 was \$129.7/barrel.

2. Nations Sign 'Moscow Joint Declaration' Against EU ETS.

A group of 23 countries meeting in Moscow adopted the “Joint Declaration of the Moscow Meeting on Inclusion of International Civil Aviation in the European Union Emissions Trading Scheme (EU-ETS),” which outlines the position that the EU and its member states must cease application of the directive. Participants decided to: urge EU member states to work within ICAO on a multilateral approach to address international civil aviation emissions; exchange information on measures adopted and to be adopted by each non-EU member state; and continue common efforts to make progress at ICAO to address international civil aviation emissions. Countries also decided to consider taking measures outlined in an attachment to the Joint Declaration, which include: initiating proceedings under Article 84 (settlement of disputes) of the Chicago Convention; barring participation of airlines and operators in EU ETS; assessing whether EU ETS is consistent with World Trade Organization Agreements; and imposing additional levies on EU carriers and aircraft operators as a form of countermeasure. Undersecretary of State Robert Hormats told reporters the United States has not decided on a specific course of action. Russia’s Deputy Minister of Transport Valery Okulov said his nation might cease issuing permits to EU airlines for Siberian overflights. “We intend to get the EU’s carbon trading measures either canceled or postponed,” said the former Aeroflot CEO. EU Climate Commissioner Connie Hedegaard continued to stand firm on the legislation and challenged opponents to come up with a concrete, constructive alternative to curb emissions from aviation. EU officials warned against introducing or enforcing discriminatory measures that harm EU companies, heightening concerns about a trade war. “This situation is totally unacceptable,” said Association of European Airlines Secretary General Ulrich Schulte-Strathaus. “Airlines must not become a target for retaliatory action, triggered by a battle of sovereignty over European policy. We urgently need both sides to focus on the core objective—managing global aviation emissions—rather than on winning a battle of sovereignty.”

3. China Bans Airlines From Paying EU Carbon Tax.

The Civil Aviation Administration of China barred its airlines from paying carbon emissions taxes imposed by the EU on flights into and out of Europe and prohibited airlines from charging customers extra because of the scheme. The government has denounced EU ETS as an unfair trade barrier. China Air Transport Association estimates the scheme could cost Chinese airlines \$117.39 million in 2012.

4. White House Announces New Funding for Biofuel Research.

The Department of Energy will make \$14.3 million available to support research and development into biofuels from algae, as part of a White House initiative to reduce U.S. reliance on foreign oil. The Department already supports more than 30 algae-based biofuels projects, representing \$85 million in total investments, and through the new funding announcement, will seek proposals from small businesses, universities, and national laboratories to modify existing facilities for long-term algae research and test new production processes that could lead to commercial biofuels made from algae. Specifically, the new projects will establish and operate research test beds for algal biofuels that can facilitate development, test new approaches to algae production, and discover innovative ways to minimize the water and nutrients needed to mass produce algae for commercial biofuels. The awards represent the first phase in a total \$30 million investment in algal biofuels in FY 2012.

VI. U.S. CONGRESS

1. Air Marshal Program Probed.

The House Transportation Security Subcommittee questioned whether the Federal Air Marshal Service (FAMS), which has a \$1 billion annual budget, is capable of preventing current and future terrorist threats and what new efficiencies can be gained to reduce the cost of the program. “The reality is the terrorists have adapted to our security measures and changed their tactics,” said Chairman Mike Rogers (R-AL). Regarding recently announced reorganization plans, including consolidating FAMS management functions, Rogers said he does not want “to set the air marshals back in any way, particularly with respect to training, operations, or adding unnecessary layers of bureaucracy.” A recent Inspector General report documented problems with the program that included a hostile work environment, favoritism, discrimination and mistrust.

2. Bill Would Require Passenger Advocates at Major Airports.

A bill mandating that TSA post passenger advocates at every U.S. airport was introduced by Senator Charles Schumer (D-NY), who was responding to increased complaints that “range from inappropriate and harassing behavior toward female passengers undergoing body scans to obstacles for female passengers boarding planes because of a lack of female officers for pat downs.” Schumer said he asked TSA to voluntarily implement passenger advocates at airports, without success. The Restoring Integrity and Good Heartedness in Traveler Screening Act would call for TSA to train existing officers in dispute resolution and resolve passenger complaints in real-time at airports, and would require signage at each gate explaining that a TSA passenger advocate can be summoned if a passenger believes that a TSA employee has mistreated them on the basis of a medical condition, disability, age, race, color, religion, sex and national origin.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. New WTO Ruling in Airbus-Boeing State-Aid Dispute.

The World Trade Organization sent both sides a confidential ruling on a EU appeal against U.S. government aid to Boeing. Details of the ruling are expected to be released by mid-March. An EU trade official said that only EU-US negotiations at the highest political level can lead to a real solution in the seven year state-aid dispute between Boeing and Airbus, reports AFP.

2. U.S. Widens Mexico Travel Warning.

The U.S. Department of State is advising Americans against travel to all or part of 14 Mexican states, in light of increased drug-related violence. According to the Mexican government, 47,515 people were killed in narcotics-related violence in Mexico between December 1, 2006 and September 30, 2011, with 12,903 narcotics-related homicides in the first nine months of 2011 alone. The number of U.S. citizens murdered in Mexico in 2011 was 120, including 34 in Tijuana. U.S. government employee travel has been restricted since July 2010. No advisories are in place for top tourist destinations, such as Cancun and the Riviera Maya and Cabo San Lucas and Puerto Vallarta, and visits from the U.S. at the end of 2011 were up substantially over 2010, according to Travel Market Report.

3. Union Dispute Puts Israel-EU Open Skies on Hold.

Under union pressure, Israel's Civil Aviation Authority placed the signing of an open skies agreement with the EU on hold, after Transportation Minister Yisrael Katz said his office needs to examine the effect it would have on Israel's airlines. *Haaretz* reports unions of the three commercial airlines—El Al, Arkia and Israir—claim the pact would open the Israeli market to unfair and unequal competition from foreign airlines, and want provisions that give Israeli airlines slots at foreign airports and allow them to participate in global airline alliances. The Histadrut labor federation, which declared an official labor dispute, noted that Israeli airlines bear an unfair burden of high security costs. Talks on a new pact, which would replace bilateral aviation agreements with EU countries with a single Israel-EU agreement, have been ongoing for several years; the next round is scheduled for March 20.

VIII. EUROPE AND AFRICA

1. Malev Terminates Operations.

Malev Hungarian Airlines ceased operations due to an “unsustainable” financial situation and was declared insolvent by the Metropolitan Court of Budapest, which appointed a liquidator. Budapest Airport planned a 20% to 25% staff cut—Malev carried 3.2 million passengers last year—and a freeze on planned investments and development projects for 2012, worth over €60 million; and the government is seeking a modified contract with airport owners, a group of investors led by German Hochtief. Ryanair announced it would return to Budapest with 32 destinations, Wizz Air will open 10 new routes and LOT Polish Airlines will increase capacity and frequency from Warsaw.

2. Air Zimbabwe Suspends Flights.

Air Zimbabwe suspended all flights indefinitely. The national airline has massive debt and has been unable to pay its pilots. “We are waiting for the government which is our major shareholder to intervene,” CEO Innocent Mavhunga told AFP. “Our issue is in the domain of cabinet.”

3. Commission Opens Aviation Investigations in Germany, Austria.

The European Commission will investigate whether financial arrangements between public authorities and the airports of Saarbrücken, Zweibrücken, Lubeck-Blankensee (Germany) and Klagenfurt (Austria), as well as rebates and marketing agreements with airlines, are in line with EU state aid rules. Investigations into additional airports in France, Germany and Sweden have also been launched this year, as the Commission deepens scrutiny of state aid in the air transport sector; new guidelines will be adopted covering airlines and financing of airport infrastructure.

4. EASA Mandates Further A380 Inspections.

The European Aviation Safety Agency published an airworthiness directive to mandate high frequency eddy current inspections of the wings of Airbus A380s in service, the second interim measure to address the discovery of cracks by Qantas and other operators. Airbus has established a repair scheme for the cracks, and “a long-term fix” is expected to be defined by summer.

5. Alitalia Names Andrea Ragnetti as CEO.

Alitalia named Andrea Ragnetti to replace Rocco Sabelli as CEO, effective March 5. Ragnetti was CEO of Philips’ Consumer Lifestyle sector and a member of the Dutch multinational’s Management Board.

6. TNT Express Rejects Unsolicited Offer From UPS.

TNT Express rejected an unsolicited €9 per-share takeover offer from United Parcel Service (UPS), but said discussions continue. CEO Marie-Christine Lombard said the Dutch company will reduce fixed costs by €150 million by the end of 2013, reduce exposure to fixed intercontinental capacity through cooperation agreements with leading airlines, and explore partnership opportunities for activities in Brazil and China.

7. KLM, Kenya Airways Launch Joint Freighter Service.

Kenya Airways, through its KQ Cargo unit, and KLM jointly launched freighter service between mainland China and Africa. The twice-weekly Amsterdam-Guangzhou-Sharjah-Nairobi-Lagos-Nairobi-Amsterdam services will use a Boeing 747-400F owned by Air France KLM subsidiary Martinair.

8. Stelios Plans Low-Cost West Africa Airline.

EasyJet founder Stelios Haji-loannou plans to invest in a low-cost African airline based in Accra. Fastjet would carry 5 million passengers each year to 10 or 15 different countries in West Africa, reported Bloomberg.

9. JAL Offers San Diego Service; Partners With IAG.

See Section IX, item 8.

10. Etihad to Serve Washington, Acquires Stake in Air Seychelles.

See Section IX, item 12.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. Air Australia Ceases Operations.

Air Australia (formerly Strategic Airlines) ceased operations and entered into voluntary administration. “It is highly unlikely that there will be any flights in the short to medium term,” said officials; aircraft were returned to lessors, precluding any hope of a restart for the international and domestic airline.

2. Qantas Announces New Cuts.

Qantas CEO Alan Joyce announced a reduction in capital expenditure of \$700 million over 2011/12 and 2012/13; about 500 “structurally redundant” positions will be affected. Savings will come from reductions in non-aircraft expense, deferral of Boeing 787-8s due to manufacturer delays, and domestic capacity growth reductions. A review of heavy maintenance facilities is underway, with “a pre-decision consultation process with the relevant unions on the future of the heavy maintenance footprint”; Melbourne and Sydney centers will be consolidated in Sydney. “Qantas International remains a weakness and a key focus,” said Joyce, and a five year plan is being implemented. Among network changes to adjust capacity to market conditions and route performance: Santiago will replace Buenos Aires in March, Bangkok/Hong Kong and London will be eliminated via a partnership with British Airways, and Singapore-Mumbai and Auckland-Los Angeles will end in May. Premium Los Angeles-New York service with upgraded B747s will increase.

3. Jet Airways, Jetstar Create India-Asia Pacific Link.

Qantas unit Jetstar and India’s Jet Airways announced an interline agreement covering India and Jetstar destinations across much of Asia Pacific.

4. Kingfisher’s oneworld Entry “on Hold.”

India's Kingfisher’s entry into oneworld was “put on hold to give it time to strengthen its financial position,” said the alliance; implementation had been planned for February 10. Bank accounts of the airline were frozen by authorities over non-payment of taxes, said Kingfisher owner Vijay Mallya, who continued to seek new funds. Despite ongoing flight disruptions and crew resignations, the UB Group Chairman said he will not shut down the carrier. . . . In other news from India, Aviation Minister Ajit Singh announced proposals to allow up to 49% foreign investment in Indian carriers; airline companies said to be considering a stake in Kingfisher are IAG and Ethiad. A debt restructuring for Air India also was proposed, and the Ministry said it would encourage

airlines to use maximum permissible bilateral flying rights and code share with foreign airlines.

5. **Virgin Australia Proposes New Structure for International Business.**

With foreign ownership levels close to the 49% cap, Virgin Australia Holdings has proposed a new unlisted entity, Virgin Australia International Holdings Pty Ltd (VAIH), to hold VAH's international airlines and "facilitate overseas institutional investment in the domestic business" for which there is no foreign ownership cap. Both domestic and international businesses will continue to operate as an integrated airline under one brand. The company reported a 118% improvement in net profit for half-year ended December 31, on prior corresponding period, to \$51.8 million; total revenue increased 18% to \$2 billion.

6. **Delta Expands Partnership With China Eastern, China Southern.**

Delta expanded code shares with SkyTeam partners China Eastern and China Southern to cover Delta-operated flights to Beijing from Seattle and Detroit. The initial pact allows China Eastern to code share on Delta's Detroit-Shanghai flight and Delta to code share on China Eastern-operated flights from New York and Los Angeles to Shanghai, and China Southern's service between Los Angeles and Guangzhou. Delta and China Eastern will provide code share service to 34 cities within the U.S and China, Delta and China Southern to 18 cities in the two nations. Later this year, Xiamen Airlines, whose major shareholder is China Southern, will join SkyTeam.

7. **American to Code Share With Hainan.**

American Airlines won DOT approval for a reciprocal code share agreement with Hainan, China's fourth largest carrier. Hainan may display American's code on its U.S.-China flights (currently Seattle-Beijing) and within China beyond American's Beijing and Shanghai gateways. American may display Hainan's code on its U.S.-China flights (currently Chicago-Beijing, Chicago-Shanghai and Los Angeles-Shanghai) and within the U.S. beyond Hainan's Seattle gateway.

8. **JAL Offers San Diego Service; Partners With IAG.**

Japan Airlines (JAL) will launch nonstop Boeing 787-8 Dreamliner service from Tokyo Narita to Boston in April and to San Diego in December, the first nonstops linking San Diego with Asia. The San Diego service is part of the transpacific joint business agreement between JAL and oneworld partner American Airlines, which is scheduled to code share on the route. . . . In other news, JAL and International Airlines Group (IAG) are seeking antitrust

immunity from relevant authorities for a new JAL–British Airways joint business on flights between Europe and Japan.

9. JetBlue Partners With JAL, Korean Air.

JetBlue announced interline partnerships with Korean Air for connections between its network in The Americas and Korean's network throughout Asia Pacific; and with JAL for combined travel through New York Kennedy and Los Angeles International, within its network in North America and JAL's network throughout Asia Pacific.

10. ANA Group to Expand International Network.

ANA Group announced a 22% increase in international operations in fiscal years 2012 and 2013; an increase in operating income to 110 billion yen in FY2012 and 130 billion yen in FY2013; adoption of a multi-brand strategy; and a switch to a holding company structure. Planned efficiency measures should reduce costs by 100 billion yen. . . . ANA's joint venture with AirAsia received an Air Operators' Certificate (AOC) from Japanese authorities; AirAsia Japan, the first low-cost carrier based at Tokyo Narita, will serve the Japanese domestic market, South Korea and Taiwan.

11. United to Introduce Daily New York-Istanbul Service.

United plans to launch daily Boeing 767-300 nonstops between New York Newark and Istanbul, effective July 1, subject to government approval.

12. Etihad to Serve Washington, Acquires Stake in Air Seychelles.

Etihad will launch daily Airbus A340-500 passenger and cargo nonstops from Abu Dhabi to Washington, D.C. from March 31, 2013, subject to regulatory approvals. . . . Etihad agreed to acquire a 40% stake in Air Seychelles for \$20 million, matched by the Seychelles government, and provide a \$25 million loan to meet working capital requirements and support network development. The strategic alliance provides for a five-year management contract for Etihad, and Etihad executive Cramer Ball was named Air Seychelles CEO. A code share agreement was signed, and the Abu Dhabi carrier will increase flights to Mahé from four per week to daily. Etihad CEO James Hogan said future airline investments could include Aer Lingus and Virgin Australia; in January, Etihad increased its investment in airberlin.

AMERICAS

13. U.S. Airlines Post Lower Earnings in 2011 Due to Rising Costs

The largest U.S. airlines earned a combined \$390 million in 2011, reports Airlines for America, an 86% drop from the \$2.7 billion net profit earned in 2010. Operating revenue grew 12.6% but expenses increased 15.5%. Fuel costs jumped 36.1%, and remained the industry's largest cost at about 35% of total operating expenses, up from 30% in 2010.

14. American Airlines Bankruptcy Update.

American Airlines outlined a business plan targeting annual financial improvement of more than \$3 billion by 2017, including \$2 billion in cost savings and \$1 billion in revenue enhancements. Additional savings will be realized by restructuring debt and leases, grounding older planes, improving supplier contracts and other initiatives. The plan includes outsourcing some maintenance, closure of the Fort Worth Alliance maintenance base and removing labor restrictions on code sharing and regional flying. The company would cut 13,000 employees, including a previously announced 15% reduction in management positions, introduce work rule changes to increase productivity, and seek bankruptcy court approval to terminate its defined benefit pension plans and discontinue subsidizing future retiree medical coverage for current employees. American called for immediate concessions from labor groups, in order to emerge from Chapter 11 in the near term, and dismissed requests for buyouts from the Transport Workers Union and the Association of Professional Flight Attendants. With an aim "to enhance the prospects of a consensual agreement" in restructuring negotiations, Allied Pilots Association (APA) filed an action for declaratory judgment with the bankruptcy court asking for clarification on how the Railway Labor Act and Section 1113 of the U.S. Bankruptcy Code interrelate. Since its collective bargaining agreement with the airline expired in 2008, notes APA, the two sides have been negotiating "under federal labor law provisions that prohibit airline management from changing rates of pay, rules and working conditions until the National Mediation Board finishes mediating toward an agreement." AMR, parent of American Airlines and the American Eagle, filed for Chapter 11 in late November. The company recorded consolidated net losses of \$1.1 billion for fourth quarter 2011 and \$2 billion for fiscal 2010.

15. Tilden to Succeed Ayer as Alaska Airlines CEO.

Bill Ayer will retire as CEO of Alaska Air and Horizon Air, effective May 15, to be succeeded by company President Brad Tilden. Ayer will continue to serve as Chairman of the Board.

16. New PEOPLExpress Files for Service.

Low-cost startup PEOPLExpress Airlines hopes to launch regularly scheduled Boeing 737-400 service from Newport News/Williamsburg International this summer to Pittsburgh and other markets currently underserved by major carriers, and plans to soon file initial certification paperwork with FAA and an application with DOT. President Michael Morisi worked for the original PEOPLExpress, which was acquired by Continental. "We will eliminate most fees for items such as checked bags and seat assignments," said Morisi. "Passengers will be seated in a single cabin with 158 seats with a pricing structure that is significantly more affordable than regional service provided by feeder airlines." The airline's Chairman, William Stockbridge, was on the startup teams of Presidential Airways and PEOPLExpress.

17. Global Aviation Files for Bankruptcy Protection.

Georgia-based Global Aviation Holdings filed for bankruptcy protection with affiliates including World Airways and North American Airlines, citing a decline in flights to Iraq, anticipated withdrawal of troops from Afghanistan and a reduction in rates paid by the military. The company plans to relocate North American from New York Kennedy to Peachtree, renegotiate labor contracts with unionized employees, expand government contracts and reject 16 of 30 aircraft leases.

18. Mexicana Expects to Fly Again In April.

A \$300 million investment in Mexicana was approved by a bankruptcy judge and the airline hopes to re-launch in April, subject to authorizations and debt restructuring. Med Atlantica, a private company led by Christian Cadenas, will acquire Mexicana and subsidiaries Mexicana Click and Mexicana Link, and also will invest \$300 million in hotels that can be packaged with air travel and has set aside \$50 million for contingencies. Since Cadenas is Spanish, at least 80% of the capital by law comes from Mexican investors. A Mexicana official told the *Wall Street Journal* the airline will begin operating with seven planes and can recover airport slots temporarily ceded to other airlines. A union leader said Mexicana will re-launch with 2,500 employees and negotiate severance packages with its remaining 5,500 employees. Mexicana declared bankruptcy and ceased operations in August 2010.

19. **Delta Expands Partnership With China Eastern, China Southern.**
See Section IX, item 6.
20. **American to Code Share With Hainan.**
See Section IX, item 7.
21. **JAL Offers San Diego Service; Partners With IAG.**
See Section IX, item 8.
22. **JetBlue Partners With JAL, Korean Air.**
See Section IX, item 9.
23. **United to Introduce Daily New York-Istanbul Service.**
See Section IX, item 11.
24. **Etihad to Serve Washington, Acquires Stake in Air Seychelles.**
See Section IX, item 12.