



## WASHINGTON AVIATION SUMMARY

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For further information, including documents referenced, contact:

Joanne W. Young  
Kirstein & Young PLLC  
1750 K Street NW  
Suite 200  
Washington, D.C. 20006  
Telephone: (202) 331-3348  
Fax: (202) 331-3933  
Email: [jyoung@yklaw.com](mailto:jyoung@yklaw.com)

<http://www.yklaw.com>

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. **International Travel to U.S. to Rebound in 2010.**

International travel to the United States will “regain its footing” in 2010, predicts the U.S. Department of Commerce. Reflective of the current global economic environment, international travel is expected to decline by 8% this year, with a 3% rebound projected for the U.S. by the end of 2010, followed by 5% annual increases through 2013. This year, 22 of the top 25 arrival markets will post declines, with the largest from Taiwan (-17%), Ireland (-14%), Sweden (-13%), Mexico (-12%), United Kingdom (-12%), and Netherlands (-10%). The U.S. hosted a record 58 million international visitors in 2008. International arrivals are predicted to reach 64 million by 2013.

### 2. **DOT Delays Alliance Antitrust Ruling.**

The U.S. Department of Transportation (DOT) was not expected to issue its preliminary ruling on a proposed alliance of American Airlines, British Airways and Iberia, by the statutory deadline of October 31. The oneworld partners have applied to authorities in the U.S. and the European Union (EU) for antitrust immunity. The EU reportedly will require the applicants to surrender slots and is concerned about competition on seven transatlantic routes. In the U.S., the Department of Justice and members of Congress have expressed competition concerns about airline alliances.

### 3. **FAA Proposes Penalties Against United, US Airways.**

The Federal Aviation Administration (FAA) proposed a \$3.8 million civil penalty against United for allegedly operating a Boeing 737 on more than 200 flights after the carrier had violated its own maintenance procedures on one of the plane’s engines. A \$5.4 million civil penalty was proposed against US Airways for allegedly operating eight aircraft on 1,647 flights, while not in compliance with certain airworthiness directives or the airline’s maintenance program.

### 4. **FAA Revokes Licenses of Northwest Flight 188 Pilots.**

FAA revoked the licenses of two Northwest pilots who were out of contact with air traffic controllers for 91 minutes and overflew their destination airport for about 150 miles, on October 21. There were 144 passengers and three flight attendants on board Flight 188, en route from San Diego to Minneapolis/St. Paul (MSP). Amid wide conjecture they had fallen asleep, NTSB said the pilots separately told investigators: they were not fatigued and did not fall asleep; they were distracted by a discussion, which began at cruise altitude, and did not monitor the airplane or ATC calls or notice messages sent by company dispatchers; they lost track of time; they accessed and used their personal

laptops (use of personal computers on the flight deck is prohibited by company policy). When a flight attendant called the cockpit five minutes before scheduled landing to ask for estimated time of arrival, the pilots made contact with ATC and were given vectors back to MSP. Northwest parent Delta relieved the pilots from active flying pending completion of the investigation. The FAA revocations cite violations of federal regulations that include failing to comply with ATC instructions and clearances and operating carelessly and recklessly. There were reports that the White House monitored the plane, fearing a terrorist attack, and that fighter jets were put on alert, but the military said ATC waited more than 40 minutes to report loss of radio contact, violating FAA policy of reporting a potential emergency within about 10 minutes; FAA said a review is under way.

**5. Labor Board May Ease Union Organizing.**

The National Mediation Board (NMB) is proposing to allow workers to form unions with majority approval of those voting, rather than requiring support of most workers in a class, reports Bloomberg, making it more difficult for airlines to block union organizing. “We do not believe the NMB has the authority to change these long-standing rules,” said Delta, the least unionized major U.S. airline. “Nor do we believe a minority union should be allowed without giving employees a similar process to vote out a union.” The Association of Flight Attendants-CWA and International Association of Machinists and Aerospace Workers made requests to NMB that would pave the way for an election at Delta. Both are part of the AFL-CIO, which has lobbied for the proposed change. The Obama Administration added a former flight attendant union leader to the three-member NMB in May, replacing a former Northwest lobbyist; another board member is a former pilot union official.

**6. FAA Issues Lithium Battery Safety Advisory.**

An advisory on safe transport of lithium batteries on passenger and cargo aircraft was published in the Federal Register by the Pipeline and Hazardous Materials Safety Administration, in coordination with FAA. Of particular concern are undeclared shipments of lithium batteries and bringing enforcement action against those responsible for offering them in transportation, said DOT. Since 1991, more than 40 air transport-related incidents involving lithium batteries and devices powered by lithium batteries have been identified; in August and September of this year three fires on U.S. airplanes were started by lithium batteries. The Air Line Pilots Association wants a total ban on air shipments of lithium batteries. The International Civil Aviation Organization (ICAO) is seeking an international solution.

**7. August Passenger Airline Employment Down 5.5%.**

U.S. scheduled passenger airlines employed 384,396 full-time equivalent (FTE) workers in August, 5.5% fewer than in August 2008 and the 14th consecutive decrease from the same month of the previous year. The seven network airlines employed 258,569 FTEs in August, 67.3% of the passenger airline total. Low-cost carriers employed 16.3% and regionals 14.6%.

**8. Airlines May Not Limit Reimbursements for Mishandled Baggage.**

Airlines may not arbitrarily limit compensation for passengers who purchase necessities because their baggage is lost or delayed, said DOT. Carriers with policies stating they will reimburse passengers only for buying necessities purchased more than 24 hours after arrival, and limiting such reimbursements to outbound legs of trips, are violating DOT regulations, which require that airlines cover all expenses caused by lost or delayed baggage up to \$3,300 per passenger on domestic flights. DOT said it will monitor compliance and take enforcement action if necessary.

**9. DOT Air Travel Consumer Report for August.**

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

	August '09 / '08	July '09	Full Year					
			2008	2007	2006	2005	2004	2003
On-time arrivals %	79.7 / 78.4	77.6	76	73.4	75.4	77.4	78.1	82
Mishandled baggage*	4.04 / 4.98	3.98	5.26	7.05	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>								
Airline service	888 / 1,006	827	10,643	13,180	8,325	8,741	7,452	5,983
Disability-related	47 / 41	53	474	488	430	511	521	375
Discrimination**	16 / 16	17	115	99	114	129	118	85

Note: There were six flights with tarmac delays of four hours or more in August.

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. FAA Funding for Low-Priority Airport Projects Analyzed.

The federal government funded 3,100 airport construction and rehabilitation projects costing \$2 billion from 2005-2009, though their priority ratings were far below the FAA threshold for projects consistent with national goals and objectives, according to Subsidyscope, an initiative of the Pew Economic Policy Group. The findings were culled from a new database of FAA-assigned National Priority Ratings (NPRs) for every airport that received a grant under the Airport Improvement Program (AIP) over the last five years. The database also includes information on funds committed under the 2009 stimulus plan. Of more than \$1 billion in federal stimulus AIP grants awarded from March 16-September 18, more than 90 projects encompassing more than \$270 million had NPRs well below FAA's stated minimum ratings for stimulus funding, representing nearly 27% of such funding. Subsidyscope analysis finds that small airports that accommodate as few as one paying passenger each year received significant amounts of federal funding from AIP. Funded principally by revenue from ticket and fuel surcharges, and therefore largely by passengers using large commercial airports, the AIP program disbursed \$3.5 billion in grants last year. However in fiscal year 2007, large and medium hubs received 33% of AIP funding, while small commercial and general aviation airports received 64%. General aviation alone received nearly 25%. Los Angeles received \$280 million through the AIP during the five-year period, followed by Chicago O'Hare (\$262 million), Seattle-Tacoma (\$235 million) and Hartsfield-Jackson Atlanta (\$209 million).

### 2. Airports to Install Debris Detection Equipment.

A new FAA advisory circular contains minimum performance specifications that airports can use to procure foreign object debris (FOD) detection equipment to enhance runway safety. XSight Systems, an Israeli company, installed and tested an FOD system at Boston Logan. Airports can apply for federal grants to buy approved systems.

### 3. Delta Extends Atlanta Lease to 2017.

Delta agreed to extend its 30-year lease at Atlanta Hartsfield-Jackson, scheduled to expire next year, to 2017. The new agreement, subject to approval by the city and Delta's board, clears the way for the airport to continue construction of a \$1.3 billion international terminal, to be completed in 2012. But FAA is concerned that a clause in the lease that gives Delta the right to approve major airport projects could limit new entrants or expansion by existing carriers.

4. **Contracts Totaling \$1.26 Billion Approved for LAX Project.**

Two contracts totaling \$1.26 billion to reconfigure the Tom Bradley International Terminal at Los Angeles International have been awarded, contingent upon city approval. Airport officials said Bradley West, the largest public works project in the city's history, could create 4,000 construction-related jobs during the four-year project schedule.

5. **Southwest to Serve New Northwest Florida Airport.**

Southwest intends to offer at least two daily nonstops from Northwest Florida-Panama City International Airport, which begins operations in May 2010.

6. **Susan Baer Heads Aviation at Port Authority of N.Y. and N.J.**

Susan Baer was named Director of Aviation for the Port Authority of New York and New Jersey, replacing William DeCota, who died suddenly in September. The first woman to hold the post, Baer has managed each of the three major commercial airports in the New York City area. In addition to Kennedy, LaGuardia and Newark Liberty, she now assumes oversight of Stewart International and Teterboro airports. In 2008, Port Authority airports handled more than 107 million passengers and 2.4 million tons of cargo.

7. **Rhonda Hamm-Niebruegge Named Lambert St. Louis Director.**

Rhonda Hamm-Niebruegge was named Director of Lambert St. Louis, effective January 3, replacing retiring Richard Hrabko. She has been managing director for St. Louis operations of American Airlines since 2002, and earlier was TWA Vice President for North American operations and Manager of the St. Louis hub.

8. **Port Columbus to Share Revenue with Airlines.**

Ohio's Port Columbus airport reached a tentative five-year operating and lease pact that holds rent and landing fees near current levels and shares airport income with airlines. Port Columbus has delayed plans for a new terminal, but announced signs of recovery. Year-over-year passenger numbers increased by 3% in September; year-to-date, passengers numbers are down 12.4%. The airport provides 151 daily departures, operated by 10 airlines and their regional affiliates.

9. **San Bernardino to Handle International Flights.**

San Bernardino airport in California broke ground for a 40,000-square-foot Customs and Border Protection facility that will allow the airport to handle international flights. The airport is on the site of former Norton Air Force Base.

**10. Cancun to Add Second Runway in \$67 Million Infrastructure Project.**

Cancun Airport unveiled a \$67 million infrastructure project that includes an additional runway, a new control tower and a taxiway bridge. The project will increase capacity to 28 million passengers per year; five airlines added Cancun to their flight schedules this year. Cancun will become Mexico's first international airport to have the capacity to handle simultaneous takeoffs and landings on two runways. The 315-foot high control tower will be among the 20 tallest in the world.

**11. BAA Sells Gatwick Airport.**

BAA agreed to sell its interest in Gatwick Airport to an entity controlled by Global Infrastructure Partners (GIP) for £1.51 billion. Proceeds primarily will be used to repay part of BAA's existing debt. The sale is subject to EU merger regulation and other clearances, with completion scheduled for December. GIP has a 75% ownership interest in London City Airport.

**12. Queen Alia Airport to Build \$750 Million Terminal.**

Jordan's Queen Alia International, part of the Airport International Group, will build a \$750 million, 86,000 square meter passenger terminal. Phase I will be ready by early 2012, with capacity to handle 9 million passengers. Phase II will be able to handle another 12 million passengers. The airport this year has had a 15% increase in flight volume and a 4% increase in passengers.

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

#### **1. Settlement Reached in Case of Detained Imams.**

The Metropolitan Airports Commission (MAC), together with US Airways and an FBI agent, reached a global settlement with six Islamic clerics (imams) removed from US Airways Flight 300 on November 20, 2006. Flight 300 was scheduled to take off from Minneapolis-St. Paul International bound for Phoenix. Before the flight departed, however, airport police removed six imams from the aircraft at the request of flight crew, which had received a report from a passenger about suspicious behavior. Airport police notified the FBI. The imams were detained, questioned by the FBI and Secret Service and released. No charges were filed. The imams filed a civil suit in U.S. District Court, claiming unlawful detainment. "Law enforcement officials did what they believed was appropriate to ensure the safety of travelers based on the information available at the time," said MAC officials. "We will continue to be vigilant in maintaining the security of Minneapolis-St. Paul International Airport and the safety of travelers who use it." The MAC's liability insurance policy limits potential financial exposure in such cases to \$50,000 and the insurer exercised its right to assume control of the defense or settlement of claims. The Council on American-Islamic Relations, which represented the imams, called the settlement a victory for civil rights.

#### **2. DHS Reaches Settlement in Sikh's Wrongful Termination Suit.**

The Department of Homeland Security (DHS) agreed to pay a former employee, a Sikh who wears a beard and turban in accordance with his religious beliefs, monetary damages for his wrongful termination in 2005, announced the Sikh Coalition. Sikhs will be allowed to wear beards and turbans with their Homeland Security uniform under the legal settlement. The advocacy group called the decision a landmark civil rights victory for the Sikh community; it is the first time a federal law enforcement agency changed policy to accommodate Sikh articles of faith.

#### **3. Manchester Suspends Body Scanning for Children.**

Manchester Airport officials decided not to subject children under 18 to body scanning technology, after UK child protection experts warned they may be violating the law by creating indecent images of juveniles. The airport continues voluntary tests of the RapiScan machine on adults.



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

### **1. Court Supports IATA in PaxIS Dispute.**

Amsterdam District Court denied an application by Travelport for an injunction to block use by the International Air Transport Association (IATA) of airline data stored in Travelport databases for PaxIS. PaxIS is an airline business intelligence product based in part on data it collects through billing and settlement plans (BSP), some of which is stored in third party databases. Travelport sought a preliminary injunction against IATA's use of BSP data in PaxIS, arguing that the EC database directive gave it the right to control use of data it retrieves from its database and transmits to IATA's BSP settlement systems on behalf of airline clients.

### **2. Lufthansa Re-Launches Inflight Internet.**

Lufthansa will re-launch onboard broadband service in mid-2010 and will equip part of its long-range fleet with FlyNet within the first year of operation. In addition to such services as Web surfing, email and file transfer, wide bandwidth will enable future applications such as telemedicine for transmission of a patient's vital parameters to a ground station. Lufthansa offered FlyNet from 2004-2006 through defunct pioneer Connexion by Boeing. Panasonic's eXConnect and AeroMobile are providing the new services.

### **3. Airlines Testing Ad-Supported Wi-Fi.**

Mobile media company JiWire has partnered with Row 44 to deliver the first ever inflight, ad-supported Wi-Fi service. The service is being tested on some planes operated by Southwest and Alaska, which are equipping their fleets with Row 44's satellite broadband Internet access system. JiWire offers Wi-Fi advertising across more than 30,000 hotspots including airports and hotels. The inflight ad campaigns are enabled through Row 44's Skytown portal, a content and virtual shopping mall provided free to airline passengers.

### **4. Sabre Survey: Customer Loyalty, Retention Key to Success.**

A survey conducted by Sabre Airline Solutions of 90 airlines worldwide revealed that while fuel cost instability and revenue management are among top challenges over the next 18 months, 86% of respondents view customer loyalty and retention efforts as having the most positive impact on business. Customer experience was ranked by nearly half as the primary issue related to customer loyalty and retention. Customer satisfaction with airlines was down this year, in part because of ancillary costs and fees, according to a J.D. Power study released in June. Other survey findings: Managing revenues (44%) and distribution mix (12%) are the top two tactics survey respondents

plan to use to increase revenues, and 11% planned to increase ancillary revenues. Government regulations were identified by 55% as problematic; especially airport and passenger security (21%) and environmental standards and regulation (21%). The online survey was conducted from August 26 to September 7, 2009, among 192 respondents in a variety of job roles.

## V. **ENERGY AND ENVIRONMENT**

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

The price of aviation jet fuel, as of October 16, was \$84.8/barrel, up 10.2% for the month and down 5.9% year-on-year, reports the International Air Transport Association. Fuel price average year-to-date was \$67.7/barrel.

### 2. **EPA Issues Final Aircraft Drinking Water Rule.**

The U.S. Environmental Protection Agency (EPA) issued a final rule requiring airlines to test for coli form bacteria and disinfect tap water served to passengers and used in plane lavatories. The rule stems from earlier EPA findings that 15% of water from 327 planes tested positive for coli form; 20% showed no chlorine, indicating it had not been treated. Airlines have up to 24 months to comply with the rule, which applies to onboard water systems only. The Food and Drug Administration regulates airport watering points that include water cabinets, carts, trucks, and hoses from which aircraft board water. EPA and states regulate public water systems that supply drinking water to airport watering points. The rule only addresses aircraft within U.S. jurisdiction; EPA supported an international effort led by the World Health Organization to develop international guidelines for aircraft drinking water.

### 3. **Airlines Pledge to Improve Fuel, CO2 Efficiency.**

The aviation industry pledged to improve fuel and CO2 efficiency by an average of 1.5% annually to 2020; make growth of industry emissions carbon neutral from 2020; and achieve a 50% net reduction in carbon emissions by 2050, compared to 2005. The goals were presented at an ICAO meeting in Montreal, in preparation for a December meeting in Copenhagen where a post-Kyoto climate agreement will be developed. The industry proposal urged governments to move forward with modernization of air traffic control systems and investments in research and development and sustainable alternative aviation fuels. In related news, the European Union (EU) will call for a 10% reduction in aviation emissions by 2020, compared with 2005 levels, at the Copenhagen talks.

### 4. **Southwest Tests 'Green Plane.'**

Southwest is outfitting a Boeing 737-700 cabin with carpet and other items that together equate to a weight savings of five pounds per seat, thus saving fuel and reducing emissions. The "Green Plane" also features recyclable elements. Southwest is introducing a co-mingled onboard recycling program.

**5. Japan Joins Green Asia and Pacific Aviation Partnership.**

Japan became the newest partner in the Asia and Pacific Initiative to Reduce Emissions (ASPIRE), joining FAA, Airservices Australia and Air New Zealand. ASPIRE goals include identifying and sharing procedures that produce environmental benefits, quantifying green enhancements in the region over the last decade, and establishing fuel and emission baselines for current operations, along with future performance benchmarks. A Japan Airlines Honolulu to Osaka demonstration flight utilized the most efficient, advanced technologies and procedures, such as just-in-time fueling, using preferred routes over the ocean, optimizing speed and altitude and using a tailored-arrival approach to the destination airport. An Air New Zealand Boeing 777 flying from Auckland to San Francisco last September saved 7,700 pounds of fuel and 27,700 pounds of carbon dioxide. A Qantas Airbus A380 flying from Los Angeles to Melbourne last October saved 19,600 pounds of fuel and 61,700 pounds of carbon dioxide. And a United B-747 flying from Sydney to San Francisco last November saved 10,500 pounds of fuel and 33,100 pounds of carbon dioxide.

**6. Qatar Completes First Passenger Flight on Fuel Made From Natural Gas.**

A Qatar Airways Airbus A340-600 completed the world's first commercial passenger flight powered by fuel made from natural gas. The flight from London Gatwick to Doha took over six hours and was powered by Rolls-Royce Trent 556 engines. Shell developed and produced the 50-50 blend of synthetic Gas to Liquids (GTL) kerosene and conventional oil-based kerosene fuel, which burns with lower sulfur dioxide and particulate emissions than pure conventional oil-based kerosene, making it attractive for improving local air quality at busy airports. The State of Qatar is set to become the world's leading producer of GTL kerosene when it is put into commercial production from 2012, and is expected to produce around one million tons per annum, enough to power a typical commercial airliner for half a billion kilometers (equivalent to carrying 250 passengers around the world 4,000 times) when used in a 50% blend to make GTL Jet Fuel. The blend was approved as safe for use in civil aviation by ASTM International (formerly American Society for Testing and Materials) in September.

**7. Mexico-Sourced Sustainable Aviation Biofuels Studied.**

Boeing, Mexico's airports agency and Honeywell's UOP are collaborating to identify, research and further the development of a commercially viable market for Mexico-sourced sustainable aviation biofuels. They are assessing potential for large-scale production of aviation fuels made from sustainable biomass systems such as halophytes, algae, jatropha, castor and other next-generation biomass-for-energy systems. Halophytic plants, which can be highly productive sources of biomass energy, will be the first research target.

Halophytes thrive in arid land and can be irrigated with sea water waste streams, making them suitable for biofuels development in arid ecosystems with little competing land use potential. With improved plant science and agronomy, early test results indicate halophytes have potential to deliver very high yields per unit of land. Study elements will include evaluating aquaculture management and practices, assessing land use and energy requirements and identifying potential adverse ecological or social impacts associated with using halophytes for energy development, specifically for aviation biofuels. Results are expected to be available in late 2010.

## VI. U.S. CONGRESS

### 1. House Approves Bill Raising Pilot Training Standards.

The House of Representatives approved legislation that mandates a single level of safety for regional and mainline carriers. All airline pilots will be required to hold an Airline Transport Pilot (ATP) certificate and to have a minimum of 1,500 flight hours, rather than the current minimum of 250 flight hours. The ATP certificate requires additional aeronautical knowledge, crew resource management training and greater flight proficiency testing. The Airline Safety and Pilot Training Improvement Act of 2009 also addresses fatigue issues; implements certain NTSB recommendations; establishes new pilot training, screening, mentoring and professional development standards; establishes a pilot records database; orders a study of flight schools, flight education and pilot academic training; and requires the DOT Inspector General to determine whether the number and experience level of safety inspectors assigned to regional airlines is commensurate with that of mainline airlines. The legislation was developed as a result of the February Colgan Air crash near Buffalo, New York, which killed 50 people. While large passenger aircraft in the United States have not had a fatality since November 2001, several commuter crashes since January 2003 have taken 155 lives, with pilot performance frequently cited as a contributing factor. The bill also mandates that Internet airline ticket sellers disclose on the first page of the site the air carrier that operates each segment of the flight. A companion bill has been introduced in the Senate.

### 2. Final FY'10 DHS Spending Bill Approved.

The House and Senate approved a \$43 billion FY 2010 funding bill for the Department of Homeland Security for the fiscal year that began October 1. The final agreement includes more than \$1 billion for airport explosive detection equipment; \$2.76 billion for TSA screener personnel; \$128.7 million for checkpoint technology, with a requirement that TSA submit to Congress a strategy for ensuring privacy related to use of whole body imaging (WBI) technology; and \$123 million for air cargo security, with the aim of meeting an August 2010 deadline for 100% screening of cargo on passenger aircraft. The bill provides \$374 million for US-VISIT, including \$50 million to implement biometric exit capability; and \$860 million for the federal air marshal program. The measure provides a three-year extension for the electronic employment verification program and \$137 million for operations; the voluntary E-Verify program, which allows employers to check Social Security numbers of current and prospective employees to determine validity, is meant to reduce illegal immigration.

**3. House Passes Travel Promotion Act.**

The House approved the Travel Promotion Act, which creates a public-private partnership to promote the United States as a premier travel destination and better explain U.S. security policies. The Senate passed identical legislation in September, but procedural dynamics require an additional Senate vote, said the U.S. Travel Association. Once enacted into law, the program could create 40,000 U.S. jobs, drive \$4 billion in new consumer spending, according to Oxford Economics, and reduce the federal budget deficit by \$425 million in the next ten years, according to the Congressional Budget Office. Overseas visitors spend an average of \$4,500 per person, per trip in the United States. The Travel Promotion Act is modeled after state-level programs and funded through a matching program featuring up to \$100 million in private sector contributions and a \$10 fee on foreign travelers who do not pay \$131 for a visa to enter the United States. The fee is collected once every two years in conjunction with the DHS Electronic System for Travel Authorization.

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

### **1. U.S., EU Hold Open Skies Talks.**

The U.S. and the EU held three days of Stage 2 open skies negotiations in Washington, and agreed to expand the current pact to include flights in and out of Norway and Iceland, which are not EU states. They agreed to meet again in November in Brussels. EU chief negotiator Daniel Calleja said the two sides have decided to hasten the pace of negotiations, and remain committed to having a second stage open skies agreement in place by the end of 2010. A key sticking point is the EU's desire to see a loosening of U.S. restrictions on foreign investment and control of its airlines; foreign ownership today is limited to 25% and Congress is moving toward further control. Lead U.S. negotiator John Byerly, U.S. Deputy Assistant Secretary of State for Transportation Affairs, added labor concerns and legislative changes to key issues that need to be addressed.

### **2. U.S.-Japan Open Skies Progress.**

The U.S. and Japanese made enormous progress on an open skies memorandum of understanding in their latest round of talks, according to negotiators. Discussions resume in December.

### **3. EU, Georgia Start Talks on Common Aviation Area Agreement.**

The EU and Georgia began negotiations on a Common Aviation Area agreement, which would open respective markets and integrate Georgia into European aviation structures. Georgia will harmonize its legislation with European standards and implement EU aviation rules. Air traffic between the EU and Georgia has grown about 14% annually since 2004. Similar agreements have been concluded between the EU and the Western Balkan countries and between the EU and Morocco; similar negotiations are underway with Ukraine, Jordan and Israel.



## VIII. EUROPE AND AFRICA

### 1. EC Proposes Rules for Civil Aviation Accident Investigation.

The European Commission (EC) adopted a proposal to establish a European Network of Civil Aviation Safety Investigation Authorities to coordinate training activities and investigation resources, among other things. Establishment of a European database of safety recommendations is proposed, as is a rule to strengthen rights of victims of air accidents and their families.

### 2. Lufthansa Acquires bmi.

Lufthansa acquires SAS's 20% stake in bmi on November 1, bringing its ownership in bmi to 100%. Wolfgang Prock-Schauer was named CEO of bmi; he has held executive positions at Austrian Airlines, recently acquired by Lufthansa, and has acted as Chairman of the Star Alliance Management Board. He most recently was CEO of India's Jet Airways. bmi CEO Nigel Turner will be Deputy Chairman of the bmi Board . . . On November 11, Lufthansa and JetBlue will begin operating code shared flights from New York and Boston to 12 U.S. destinations and Puerto Rico; Lufthansa has a 15.6% stake in New York-based JetBlue . . . Lufthansa reported a nine-month net loss of €32 million compared with restated net income of €529 million a year earlier; sales fell 13% to €16.2 billion . . . Lufthansa is doubling services to oil-producing countries in West and Central Africa.

### 3. Air France to Begin Paris-New York A380 Service.

Air France will begin Airbus A380 service from Paris to New York in November, Europe's first airline to offer transatlantic flights on the superjumbo.

### 4. British Airways Downsizes Heathrow Cabin Crews.

British Airways will cut 1,000 full-time jobs and place another 3,000 employees in part-time work; cabin crews operating out of London Heathrow will be downsized. The company reported September passenger capacity at 3.7% below September 2008, and traffic down by 0.8%, resulting in a passenger load factor increase of 2.4% to 81.3%. Premium traffic fell by 7.9%. Cargo fell by 2.6%. British Airways expects to record a significant loss for the current fiscal year, the first time it will report a loss for two consecutive years.

### 5. Iberia Strategic Plan Includes New Feeder Airline.

Due to an 18% drop in income in the first half of this year, Iberia introduced a new strategic plan. The company will create a Madrid-based feeder airline by 2011 that will distribute traffic to its long-haul network, expand routes connecting Europe and Latin America, and reduce seat supply on short-and

medium-haul routes. Cost-cutting measures in 2010 and 2011 include a company-wide wage freeze, early retirement for cabin attendants; and savings of up to €37 million annually in overhead costs. Iberia will launch a new Business Plus class on long-haul routes. Iberia announced that “more aggressive commercial actions will be implemented, with new approaches to large and small businesses, ethnic groups, tour operators, and other groups.” Merger talks with British Airways have been underway since July 2008.

**6. Czech CSA Drops Privatization Plans.**

The Czech government turned down a \$58 million bid for CSA and decided to restructure rather than privatize the airline. A condition of the bid submitted by Unimex Group and private carrier Travel Service called for a capital injection by the government that would make the final balance negative, said Finance Minister Eduard Janota.

**7. Transatlantic Low-Cost Service Coming.**

At least two low-cost European carriers will begin transatlantic service next year. Iceland Express is booking flights to New York Newark from June 2010. The company started in 2003 with fares up to 80% less than traditional carriers and in summer 2009 offered scheduled Boeing 737-700 service to 18 destinations in Europe, operated by Air Astraesus. Iceland Express is owned by investment company Fengur; Managing Director is Matthias Imsland. And Norwegian start-up Feel Air will begin Airbus A330 operations from Stockholm Arlanda and Oslo to New York Kennedy and Bangkok, with fares at 50% less than existing competition. Leasing costs are at a record low and operational tasks can be outsourced, said Feel Air CEO Kai Holmberg. “We have a world class fleet utilization of 16.7 hours a day on an inconsistent schedule which will give us immediate advantages of scale. Frequencies will be weighted toward New York in summer and Thailand in winter. We are building a Ryanair type cost religion, combined with AirAsiaX operation and business model, wrapped up in a Virgin-style employment & branding philosophy.”

**8. Continental Joins Star Alliance.**

See Section X, item 1.

**9. Iberia, Gol Sign New Code Share Pact.**

See Section X, item 10.

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

### **1. Asia Pacific September Traffic Results Improved.**

Members of the Association of Asia Pacific Airlines (AAPA) carried 10.8 million international passengers in September, unchanged from September 2008, and the first time in over 12 months that traffic did not decrease. International passenger traffic measured in revenue passenger kilometers was 0.9% lower in September, compared to steep monthly declines over the past year. The results were achieved despite a 6.1% reduction in seating capacity, pushing average load factor 4.1% higher, to 76.4% for the month. September traffic was 6.5% below levels of a year ago, the smallest shortfall so far this year. Average AAPA international cargo load factor in September rose by 3.4% to 68.7%, as carriers cut capacity by 11.2%. For the first nine months, international passenger numbers were down 9%, and international air cargo traffic was down 18%. "Currently, rising oil prices are driving up costs and will act as a brake on the wider economy," said Andrew Herdman, AAPA Director General; "the recovery still looks quite fragile."

### **2. JAL Struggles With Turnaround Plan.**

Japan's new Enterprise Turnaround Initiative Corporation (ETIC) is working on a plan to help JAL avoid bankruptcy. ETIC, which has broad powers and a five-year mandate to revitalize Japan's ailing regional economies, can procure state-guaranteed funding. A government task force has presented various restructuring proposals for JAL, which has been in talks with both Delta and American Airlines about a possible alliance.

### **3. Chinese Airlines Report Profits.**

China Southern, Air China and China Eastern reported third quarter profits, as the Chinese economy expanded by 8.9%. Nationwide, passenger numbers rose 20% in the first nine months.

### **4. Jet Airways Announces Change of CEO**

Nikos Kardassis became Acting CEO of India's Jet Airways, stepping in for Wolfgang Prock-Schauer, who resigned to become CEO of bmi. Kardassis was CEO of Jet from 1994 to 1999 and most recently served as Senior Vice President, The Americas. The company reported a \$16 million loss from a five-day pilots' strike in September.

### **5. Etihad Offers Chicago Service.**

Etihad Airways launched the first-ever nonstop service between Chicago and Abu Dhabi. The initial three flights per week will increase to six in November

and daily in January. Etihad passengers can connect through O'Hare with code share partner American to cities including Washington DC, Los Angeles, San Francisco and Houston. United Arab Emirates is America's largest export market in the Arab world, generating more than \$11 billion in exports last year; 750-plus U.S. companies operate in the UAE, which in turn has made significant recent investments in U.S. companies, including Citibank, General Electric and MGM. In other news, Etihad Airways graduated its first female cadet pilots.

**6. Arab Air Carriers Annual Meeting.**

The air transport industry in the Middle East and North Africa (MENA) should focus on key challenges of growth, including safety, cost control, liberalization and the environment, said Giovanni Bisignani, IATA Director General and CEO, speaking before the annual Arab Air Carriers Organization (AACO) meeting in Jeddah. Over the first eight months of the year, passenger demand in the region expanded by 8%, outstripped by a capacity increase of 13%. But growth has not yet translated into profitability, said Bisignani. Through September, the region's accident rate was six times worse than the global average and only Syria and Egypt have mandated IOSA, an IATA safety program. As for the need for cost control, Bisignani cited the build-operate-transfer agreement with AIG to build a new terminal at Queen Alia in Amman, in which AIG can increase charges without a requirement to consult airlines; 54% of gross revenue goes to the government. "I am surprised that the government of Jordan . . . has ignored the ICAO principle of user consultation," said Bisignani. The region must think beyond national borders, said Bisignani. "Why not have a United Arabian Sky with seamless air traffic management and common technology standards?" AACO members are expected to carry 105 million passengers in 2009.

**7. Continental Joins Star Alliance.**

See Section X, item 1.

## X. AMERICAS

### 1. Continental Joins Star Alliance.

Continental became the 25th member of Star, having left SkyTeam in 2008, and has signed code share pacts with Star members including United, Air Canada, Lufthansa, bmi, ANA and Asiana. President Jeff Smisek estimated the move to Star will add \$100 million a year in revenue. Separately, Smisek, who becomes CEO on January 1, said Continental will generate about \$200 million in revenue this year from baggage check fees and next year will test sales of some non-alcoholic drinks; it is the only U.S. carrier that still serves complimentary meals in coach on flights of more than three hours.

### 2. United Narrows Loss in Third Quarter.

United reported a third quarter net loss of \$63 million, but, said Chairman Glenn Tilton, is “poised to see better year-over-year unit revenue performance as economies begin to recover and business travel returns.” . . . United introduced Premier Baggage, in which customers pay a flat annual price to check two standard bags each time they fly; ancillary revenues increased by almost 13% in Q3 compared to last year, to \$13 per passenger . . . Air Line Pilots Association (ALPA) said United’s pursuit of “an ‘innovative’ arrangement with Aer Lingus, despite both airlines laying off employees, is an insult.” United has agreed with Aer Lingus to operate Washington-Madrid flights with non-United pilots. “The arrangement is simply a clever way of outsourcing flying to a foreign carrier,” said ALPA, which is seeking legislation to guarantee U.S. airlines “do a reasonable share of the international flying conducted by airlines that seek antitrust immunity for such revenue-sharing ventures as the United-Aer Lingus arrangement.”

### 3. American to Close Kansas City Maintenance Base.

American intends to close its Kansas City, Mo., maintenance base next September and eliminate about 700 maintenance and engineering jobs, with incentives to take voluntary layoffs. The facility was part of the 2001 TWA acquisition and officials said the closing was a natural consequence of the shrinking of American’s fleet from more than 900 aircraft after the TWA purchase to about 600 at present and this year’s restructuring of American’s route system, according to news reports. American also plans to downgrade its San Francisco line maintenance to a secondary station, close stations in Detroit, Minneapolis and San Jose, Calif., and reduce St. Louis operations.

4. **US Airways to Cut 1,000 Jobs in Operations Realignment.**

US Airways will reduce 1,000 crew and airport positions during the first half of 2010, as it realigns operations to focus on its Charlotte, Philadelphia and Phoenix hubs, Reagan Washington National Airport and Shuttle service between New York LaGuardia, Boston and Washington National. Las Vegas flights will be reduced from 64 to 36 daily departures, stations in Colorado Springs and Wichita will close, and five European destinations from Philadelphia—Birmingham, London Gatwick, Milan, Shannon and Stockholm—will be suspended. US Airways is returning its Philadelphia-Beijing flight authority to DOT until economic conditions improve, while retaining the option to reapply in the future.

5. **Southwest Adds Flights in Key Markets.**

Southwest is adding 62 roundtrips, including 21 daily departures from Chicago Midway and 18 from Baltimore-Washington, and eliminating 10 roundtrips, as part of its “aircraft schedule optimization exercise.” Southwest had a third quarter net loss of \$16 million, compared to \$120 million lost in Q3 last year, and cited lower capacity and greater ancillary fees as factors in its improved performance. In other news, the carrier agreed to settle a lawsuit filed by shareholders in August 2008, after FAA fined Southwest \$10.2 million for operating planes that had not gone through required inspections. According to press reports, Southwest will pay plaintiffs’ legal expenses of \$3.5 million, add safety-related employees and increase training for maintenance workers. Plaintiffs agreed to drop claims against Southwest and executives, including CEO Gary Kelly and former CEO Herb Kelleher. Southwest said additional class-action lawsuits filed by passengers lack merit. In a more recent safety violation, Southwest in September was found to be using unapproved parts on its planes and given until December 24 by FAA to replace them. In June, a Southwest jet made an emergency landing when a foot-long hole opened in the fuselage.

6. **Republic Completes Acquisition of Frontier.**

Republic Airways completed its acquisition of Frontier and its Lynx subsidiary, upon Frontier’s emergence from bankruptcy. Republic acquired 100% of the equity in the reorganized company for \$108.75 million and said it plans to continue the Frontier brand. Frontier CEO Sean Menke was named Republic Executive Vice President and Chief Marketing Officer.

7. **Joint Venture Between go! and Mokulele.**

A joint venture to provide Hawaiian inter-island service under the go! and Mokulele brand names was formed. Mesa, which owns go!, will own 75% of the venture, and Mokulele, which is 50% owned by Republic, will own 25%. Routes served by Mokulele partner Shuttle America, a Republic subsidiary,

will be operated by go!. Mesa and Mokulele have been involved in mutual lawsuits, and Mesa was charged with bringing about the demise of Aloha through practices involving go!. In other news, Continental in March will add four weekly Honolulu-Orange County flights, daily Maui-Los Angeles service and a second daily Honolulu-Los Angeles flight.

**8. Avianca, TACA to Combine.**

Colombian airline Avianca and Grupo Taca agreed to combine and form a new holding company, subject to regulatory and other approvals. TACA Chairman and CEO Roberto Kriete will serve as Chairman of the future group; Avianca CEO Fabio Villegas will serve as CEO. The two airlines will retain their brands, to satisfy international investment rules, and together will have \$3 billion in annual revenue; serve more than 100 destinations worldwide (75 in Latin America) from Bogota, Lima, San Salvador and San Jose, Costa Rica; operate 129 aircraft; and employ 12,000 people. Avianca is controlled by Synergy Group Chairman German Efromovich, and TACA by Kingsland Holding.

**9. TAM Chairman Barioni Neto Resigns.**

David Barioni Neto has resigned as Chairman of Brazil's TAM. Chief Financial Officer Libano Barroso will hold the position on a temporary basis.

**10. Iberia, Gol Sign New Code Share Pact.**

A new code sharing agreement with Gol will allow Iberia to add 13 destinations to its network in Brazil, where it currently offers direct flights to Sao Paulo and Rio de Janeiro from Madrid. The agreement is subject to approval by Brazilian authorities. Iberia carried about 470,000 passengers between Spain and Brazil last year at a load factor of 83%.

**11. Air France to Begin Paris-New York A380 Service.**

See Section VIII, item 2.

**12. Transatlantic Low-Cost Service Coming.**

See Section VIII, item 6.

**13. Etihad Offers Chicago Service.**

See Section IX, item 5.