



## 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. Administration Proposes Increased Aviation Fees.

The Obama Administration included new aviation fees in its long-term deficit reduction plan. The proposals would impose a \$100-per- departure fee on commercial airlines and corporate jets; and raise the passenger security fee from the current \$2.50 per flight segment capped at \$10 per round trip, to an initial \$5 per flight segment, with an increase to \$7.50 by 2017.

The industry roundly opposes the proposals. “Airlines and passengers are being asked to pay for national security, although it clearly is a responsibility of government,” said the International Air Transport Association (IATA). The Regional Airline Association (RAA) said the \$100 departure fee “would cost more than regional airlines earned last year, threatening service to smaller cities.” The Air Transport Association of America (ATA) urged legislators to oppose the proposals. In remarks to the International Aviation Club in Washington, ATA President/CEO Nicholas Calio said they are “nothing less than an all-out assault” on the industry, which is seen by some members of Congress as “low-hanging fruit” and “a cash cow.” Government should view airlines as a growth enabler and strategic asset, said Calio. Citing state support for aviation in other countries, he proposed a National Airline Policy that would reduce the industry tax burden, expedite implementation of a satellite-based air traffic management system, expand access to rapidly growing global markets, and enable the industry to attract investment.

### 2. FAA Operating Authority Extended Through January.

Congress voted to extend operating authority for the Federal Aviation Administration (FAA) through January. Long-term funding for FAA expired in 2007; both houses passed new FAA reauthorization bills this year, but they have not yet been resolved.

### 3. GAO: Tarmac Delay Rule Prompts Flight Cancellations.

The tarmac delay rule introduced by the U.S. Department of Transportation (DOT) in April 2010 has nearly eliminated tarmac delays of more than 3 hours, down from 693 to 20 incidents over 12 months. However, a study by the Government Accountability Office (GAO) finds airlines were more likely to cancel a flight, rather than risk fines of up to \$27,500 per passenger. GAO said DOT’s claim that cancellations have not increased significantly is due to limited data from smaller airlines. GAO recommended that DOT collect and publicize more comprehensive data on airline on-time performance and assess the full range of the tarmac delay rule's costs and benefits and, if

warranted, refine the rule's requirements and implementation. DOT indicated it would soon begin a study of the effect of the tarmac delay rule.

4. **Rule to Make Websites, Kiosks Accessible to Travelers With Disabilities.**  
DOT wants to require airlines to make their websites more accessible to persons with disabilities. The proposed rule would apply to U.S. and foreign carriers with sites marketing to U.S. consumers for travel within, to or from the United States. Carriers would be required to ensure that their ticket agents do the same; small ticket agents would be exempt. The rule would also require that automated airport kiosks be made accessible to passengers with disabilities, and apply to U.S. and foreign carriers and U.S. airports that own, lease or control the kiosks at U.S. airports with 10,000 or more annual boardings. Kiosks ordered 60 days after the rule takes effect would have to meet standards for automated transaction machines established in the 2010 Americans with Disabilities Act rule.
5. **Proposal to Ban the Use of Electronic Cigarettes on Aircraft.**  
A DOT proposal would explicitly ban use of electronic cigarettes on aircraft “because there is a lack of scientific data and knowledge” of their ingredients. The current regulatory ban on smoking of tobacco products is sufficiently broad to include use of electronic cigarettes, but the new action would eliminate any confusion. The proposal would apply to all scheduled flights of U.S. and foreign carriers to and from the U.S. DOT is considering whether to extend the ban on smoking, including electronic cigarettes, to charter flights with aircraft seating 19 or more passengers.
6. **Airlines Oppose DOT Proposal for Expanded Fee Reporting.**  
ATA, RAA and individual airlines filed objections to a DOT proposal issued in July, which would require reporting carriers to file a quarterly Statement of Ancillary Revenue made up of 23 categories, additional to Form 41 reports. ATA and RAA jointly said the proposal would create public utility-type requirements that no other consumer service industry must bear, and urged withdrawal of the proposal. Allegiant Air cited a recent statement by President Obama calling for “no more regulation than the health, safety and security of the American people require.” Spirit Airlines urged withdrawal of the proposal “in light of the cost to carriers, lack of benefit to consumers, and potential to make public highly sensitive competitive revenue data.”
7. **ATA to FAA: Revise Proposed Pilot Fatigue Rule.**  
ATA urged FAA to revise the proposed rule changing the number of hours that pilots may fly, saying it will not improve safety, could lead to a \$2 billion annual increase in airline costs, and eliminate up to 27,000 direct U.S. airline jobs and 400,000 related industry jobs. As proposed, the rule ignores proven science

and operational data, especially in the areas concerning schedule reliability, flight-time limits and limiting extensions of duty periods, said ATA, and does not address the very different working environments of cargo and charter pilots compared to passenger airline pilots. The FAA proposal on pilot rest requirements was issued in 2010, after investigators cited pilot fatigue as a contributor to the 2009 Colgan Air crash near Buffalo that killed 49 people.

**8. Airlines Collect \$1.4 Billion from Baggage, Change Fees in First Quarter.**

U.S. airlines collected \$1.38 billion from baggage fees (\$784 million) and reservation change fees (\$598 million) in first quarter 2011, reports DOT.

**9. DOT Fines.**

DOT fined Emirates \$100,000 for limiting compensation for lost, damaged, and delayed baggage to less than consumers were entitled under the Montreal Convention. . . . DOT levied fines of \$50,000 against JetBlue and Virgin Atlantic for violating rules prohibiting deceptive price advertising; the carriers failed to adequately display information on additional taxes and fees on the Internet. . . . DOT fined Amadeus \$95,000 for providing software to travel agencies that resulted in their websites failing to disclose to consumers when flights were being operated under a code sharing arrangement. Amadeus is the first global distribution system to be fined by DOT. . . . Online ticket agent Lowestfare.com was fined \$50,000 for failing to adequately disclose code sharing arrangements.

**10. FAA Proposes Penalties.**

FAA proposed a \$1.9 million civil penalty against Pinnacle subsidiary Colgan Air, for allegedly allowing 84 newly-hired flight attendants to work on 172 revenue passenger flights, when they were not properly trained to use the cabin fire extinguisher system on the Bombardier Dash 8-Q400s; they were trained with fire extinguishers used on Saab 340s. . . . A \$1.1 million civil penalty was proposed against Aviation Technical Services, for allegedly making improper repairs to 44 Southwest Boeing 737-300s related to inspections for fatigue cracks in fuselage skins. FAA proposed a \$175,000 civil penalty against the Massachusetts Institute of Technology (MIT), for alleged violations of DOT hazardous materials regulations. An air bill that accompanied an MIT package containing lithium batteries stated the shipment did not contain dangerous goods. The package caught fire at a FedEx sorting facility. FAA alleges MIT employees were not properly trained and tested to handle hazardous material. . . . A \$590,000 civil penalty was proposed against Alaska Airlines, for allegedly operating a non-compliant B-737-400 on 2,107 flights. Investigators determined a flight deck ceiling fire, which occurred while the aircraft was parked, was caused by chafed wiring resulting from improper installation of a hose clamp. Alaska subsequently corrected the problem on

nine other B-737-400s; there were no other fires. . . . FAA proposed a \$2,425,000 civil penalty against Cessna, after carbon composite parts of a Corvallis wing came apart during a production audit test flight. Investigators traced the problem to excessive humidity in Cessna's Chihuahua factory, which prevented the bonded materials from curing properly.

**11. Effect of Crises on Aviation.**

The 9/11 terror attacks in the United States and the global banking crisis of 2008-2009 caused decreases of 3% and 9% respectively in global air capacity, with recoveries within 36 months and 24 months. But regionalized events such as the Gulf Wars, swine flu and volcanic eruptions caused on average less than a 4% drop in regional airline capacity that recovered within three months or less, with a negligible impact on global capacity. "Air travel is largely immune to regionalized events such as natural disasters, conflicts and fuel price spikes," finds the OAG World Crisis Analysis, which calculated the impact of such events on global airline capacity over the past 30 years. From 1979 to September 11, 2001, world airline capacity increased an average 5%, or 94 million seats, per year, says the report; since 9/11, world capacity has grown an average 2.6%, or 81 million seats, per year.

**12. July Employment Rose 2.4%.**

U.S. scheduled passenger airlines employed 387,038 workers in July, reports DOT, 8,978 (2.4%) more than in July 2010 and the highest employment number since June 2009.

**13. First Dreamliner Delivered to ANA.**

Boeing delivered the B-787 Dreamliner to All Nippon Airways (ANA), which will launch the new jet into passenger service in late October. Made from composite materials, the Dreamliner is the first mid-size airplane capable of flying long-range routes. Features include fuel economy, low operating costs and "a host of new technologies that greatly enhance the passenger experience." United expects to be the first airline in North America to take delivery of the Dreamliner. In other news, Boeing predicted worldwide demand for 33,500 new commercial airplanes worth \$4 trillion over the next 20 years.

**14. DOT Air Travel Consumer Report for July.**

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

**Washington Aviation Summary**

	July '11 / '10	June '11	Full Year				
			2010	2009	2008	2007	2006
On-time arrivals %	77.8 / 76.7	76.9	79.8	79.5	76	73.4	75.4
Cancellations %	1.7 / 1.4	1.8	1.76	1.39	1.96	2.16	1.71
Mishandled baggage*	3.71 / 3.69	3.57	3.99	3.91	5.26	7.05	6.73
<i>Consumer complaints:</i>							
Airline service	1,285 / 1,097	1,127	10,985	8,821	10,648	13,180	8,325
Disability-related	56 / 31	48	572	519	477	488	430
Discrimination**	5 / 12	12	143	131	115	99	114

Note: U.S. airlines reported one tarmac delay of more than three hours in July.

\* Reports per 1,000 passengers.

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

**15. Canada's Competition Bureau Challenges Air Canada-United JV.**

See Section X, item 6.

## II. AIRPORTS

### 1. Comments Filed on DCA- LGA Slot Trade.

Airports Council International (ACI-NA) urged DOT to deny a Delta-US Airways slot swap proposal because it fails to recognize the primary role of local airport proprietors in managing congestion and seeks unlawfully to usurp their proprietary right to control how their facilities are used, and would set a precedent that establishes incentives for air carriers to obtain monetary compensation from sale of assets they do not own. In their filings, low-cost carriers, including Spirit, Southwest, JetBlue and Virgin America, called for a larger divestiture of slots, citing anti-competition concerns. The transaction entails transfer from Delta 42 slot pairs at Reagan Washington National (DCA) and route authorizations for flights to Brazil, and a cash payment to US Airways, in exchange for transfer by US Airways of 132 slot pairs at LaGuardia (LGA) to Delta; the carriers would divest eight pairs of daily slots at DCA and 16 pairs at LGA to smaller rivals.

### 2. Puerto Rico Picks Finalists for Airport Sale.

Consortia selected to bid for a concession to run San Juan airport are Zurich Airport, Camargo Correa and PSP Investments; Fraport and Goldman Sachs; GMR and Incheon Airport; Grupo Aeropotuario del Sureste and Highstar Capital; Grupo Aeropuertos Avance, and Puerto Rico Gateway Group. The Puerto Rico Public Private Partnership Authority and the Ports Authority seek a concession of no more than 50 years and improvements of \$40 million to \$80 million over first five years. Final proposals are due by yearend with selection to be made in early 2012.

### 3. FAA to Contribute \$466.5M to Philadelphia Airport Program.

FAA plans to contribute \$466.5 million toward Philadelphia International's Capacity Enhancement Program (CEP), over the life of the program. Airport Revenue Bonds will constitute two-thirds of the \$6.4 billion CEP funding, along with sources such as user fees and additional grants. When the program is completed in 2025, the airport will have a new runway and two extended runways; new terminal, ground transportation and cargo facilities; and a people mover system.

### 4. Pittsburgh Promoted to Ease Northeast Congestion.

Allegheny County Airport Authority (ACAA) is promoting Pittsburgh International as a means to decrease congestion in the Northeast Corridor, via wayport concepts, i.e., utilize existing infrastructure to handle connecting traffic through less congested airports and set traffic to origination and destination in

airports more prone to delays to airport capacity limits. The Pittsburgh CASE (Capacity and Service Enhancement) Program would keep traffic at Philadelphia, New York, Newark and LaGuardia at hourly optimal capacity.

5. **Lambert-St. Louis Welcomes China Cargo.**

Missouri politicians and local leaders are promoting an Aerotropolis plan and a China freight hub, offering tax credits for companies that arrange international shipments out of Lambert-St. Louis and sales tax exemptions for other companies. Meanwhile, as China Cargo began Lambert service, Chinese officials said, "Together we will nurture and grow this route. [China] will render support in both policy and financial gain for this route."

6. **British Airways Acquires New Heathrow Slots.**

British Airways acquired six London Heathrow slot pairs from bmi. Lufthansa, which is seeking a buyer for bmi, said the slot sale is not part of a wider strategy to sell the unit piecemeal. But Virgin Atlantic, which has expressed interest in bmi, urged regulators to probe attempts to "salami slice" bmi assets, leaving an "uncompetitive and unattractive rump" for sale.

7. **Laser-Guided Travel Pods Unveiled At Heathrow.**

Laser-guided travel pods that ferry passengers are in use at London Heathrow. The system consists of 21 low energy, battery powered, driverless, zero emission vehicles capable of carrying four passengers and their luggage along a dedicated 3.8km guide way. The pods will carry the 500,000 passengers between the Terminal 5 Business Car Park and the main terminal each year, at speeds up to 25 miles per hour, with average wait time of 34 seconds, said developer ULTra.

8. **Interest in Spanish Airports Privatization Confirmed.**

Spain's Aena Aeropuertos said seven consortia confirmed interest in the privatization of Madrid Barajas and Barcelona El Prat. Aeroports de Paris, Changi, Ferrovial and Fraport are among participating companies. Winning bidders will take a 90.05% stake, with 20-year contracts. The privatization process is expected to be completed at the end of November.

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

#### **1. Report: Aviation Security 10 Years After 9/11.**

Despite 10 years of working on the problem, the aviation screening system still falls short in critical ways, according to the Bipartisan Policy Center, which issued a progress report on recommendations issued in 2004 by the 9/11 Commission. Of 41 recommendations, nine have been implemented inadequately, or not at all. For example, full body scanners are not effective at detecting explosives hidden within the body and raise privacy and health concerns, the Director of National Intelligence has inadequate authority, and some states have not met federal targets for establishing standardized secure IDs. Areas of significant progress are intelligence sharing and deployment of a biometric entry system (USVISIT), though a biometric exit screening system is not in place. . . . In related news, court documents from a lawsuit against United and security firm Huntleigh indicate that nine security screeners at Boston Logan on 9/11 could not speak, read or understand English, did not know who Osama bin Laden or Al Qaeda were, and, in one case, could not identify mace, which was used by the 9/11 hijackers. This case is scheduled for trial in November, and the presiding judge said he probably will allow the plaintiff to seek “terror damages” for her son’s pain and suffering. The new filing responds to a defense motion that asked the judge to dismiss the case; “Neither United nor Huntleigh can be held liable under either federal or state law for not stopping an attack that the entire federal government was unable to predict, plan against or prevent,” wrote defense lawyers.

#### **2. Joint Terrorism Task Force at Boston Logan.**

The first U.S. airport-based counterterrorism office is operating at Boston Logan, with a goal to improve communication and collaboration between federal and local agencies. The Joint Terrorism Task Force will allow agencies to share information and work with state and local police on investigations and research. It also will allow shared access to databases if there is a terrorist attack at or originating from the airport. The two planes flown into the World Trade Center towers on 9/11 were hijacked from Logan.

#### **3. TSA Purchases 300 AIT Units.**

The Transportation Security Administration (TSA) purchased 300 millimeter wave Advanced Imaging Technology (AIT) machines for \$44.8 million. The machines will be deployed to airports nationwide with new automated target recognition software, which eliminates passenger-specific images. In July, TSA began installing the new software on nearly 500 AIT units currently

installed at 78 U.S. airports. AIT screens passengers for metallic and non-metallic threats concealed under layers of clothing.

4. **Honolulu TSA Agents Fired for Improper Bag Screening.**

In the largest personnel action ever taken by the agency, TSA fired 28 security screeners at Honolulu International Airport and suspended 15, after an investigation found they did not screen checked bags for explosives. TSA suspended 12 workers in June; additional cases were still being decided. The American Federation of Government Employees plans to appeal the firings, saying the screeners were taking orders from top officials, now gone, who faced pressure from airlines and management to move bags faster.

5. **Screening Procedures Amended for Children.**

TSA rolled out revised airport screening procedures in which children 12 and under will not be required to remove their shoes or be subjected to pat-downs. Secretary of Homeland Security Janet Napolitano said there may be exceptions to keep airport security unpredictable. She also said the department may phase out shoe removal for everyone at checkpoints.

6. **Simultaneous Iris/Face Biometric System Introduced.**

A biometric system with simultaneous iris and face capture has been introduced by AOptix Technologies. InSight Duo is an expansion of the InSight iris recognition system. "Rapid collection of a dual modality record enables flexible usage of either biometric," said the company, and is "particularly well suited to enrollment and authentication applications including registered or trusted traveler programs and expedited processing at immigration or airport security checkpoints, where speed and accuracy are critical." AOptix is working with IATA on Checkpoint of the Future and other initiatives.

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

### **1. Streaming Entertainment Inflight on Personal Devices.**

Row 44 will introduce a video streaming service later this year on some Southwest aircraft, which will allow customers to select from movies and TV shows . . . American Airlines and its provider, Gogo, will roll out an inflight “entertainment on demand” streaming video product to about 400 WiFi enabled aircraft by the end of 2012. In tests on some transcontinental flights, customers already wirelessly stream content from an inflight library to WiFi-enabled laptops during flights. . . . Virgin America and Lufthansa Systems are testing an inflight entertainment system, to launch in late 2012, which features a larger, high-definition touch-screen seatback monitor with full WiFi connectivity and curated content. Passengers can use personal electronic devices to connect to the system. Virgin America plans to continue to offer fleetwide WiFi, which it introduced in May 2009.

### **2. Appeals Court Says Orbitz Can Sell American’s Tickets.**

An Illinois court denied an appeal by American and ruled in favor of Orbitz parent Travelport, recognizing the company’s right to sell American’s tickets. Travelport said it will pursue its claims against American while continuing “to work constructively” with the airline to ensure that consumers, corporations and travel agents “benefit from the most transparent travel booking processes possible.”

### **3. American Intensifies Sabre Complaint.**

American Airlines alleged in a Texas state court that Sabre organized travel agents to boycott its flights, among other anticompetitive actions, with intent to coerce the airline into abandoning its effort to modernize “the costly legacy system” for distributing American’s travel data. Meanwhile, Sabre and American agreed to extend their expiring distribution contract until a court decision; a trial is scheduled for next June. In related news, Business Travel Coalition says 89% of 244 business travel buyers surveyed this year by GBTA Foundation expect increased travel costs if airlines move to a direct connect model that bypasses the existing travel distribution system.

### **4. Claims Rejected in US Airways Suit Against Sabre.**

A Manhattan judge rejected US Airways claims that Sabre conspired and monopolized the travel agent market and limited competition. The judge ordered the airline to provide more information for allegations in two remaining antitrust claims.

5. **American Airlines Launches Aprendi.com.**

American Airlines launched Aprendi.com, the first social travel website in Spanish, where users can share travel experiences. The carrier said more than 30 million Latinos participate on social websites.

6. **“Hacker Fares” Launched.**

Kayak now includes Hacker Fares™ in search results for cheap fares. These are legal “holes in the matrix,” such as buying split tickets, two one-way fares on separate airlines for a round trip. “We want to make sure everyone understands that these aren't just regular flight options,” explains the company. “These require a little bit of ‘hacking.’” UK-based Skyscanner offers a similar service. . . . Kayak and other online travel services opposed Google’s acquisition of ITA Software, but the Justice Department approved the acquisition in April with conditions that included an agreement requiring Google to license ITA Software’s technology to other companies until 2016. Google’s search results for airline tickets are now powered by ITA Software and can be accessed on Google’s “flights” section.

7. **Real-Time Baggage Tracking for Passengers.**

SITA and Amadeus are developing real-time baggage tracking for passengers, from check-in to end of journey. Altéa Baggage Tracking is based on integration of SITA BagMessage and Amadeus Altéa Departure Control. The first phase will cover 54 airports worldwide. Despite recent significant improvement in the mishandling rate, 29.4 million bags were delayed on arrival in 2010, said SITA, which translates into a cost of \$2.94 billion for airlines. IATA has outlined a \$1.2 billion savings target for 2012 to be achieved through deployment of self-service baggage tagging and development of baggage tracking solutions.

## V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel, as of September 16, was \$128/barrel, up 0.4% on the month and up 43% year-on-year, reports the International Air Transport Association. Fuel price average for 2011 was \$127.9/barrel.

### 2. **EC Sets Rules for Allocation of Free Emissions Allowances.**

The European Commission (EC) announced it will grant airlines permits to cover 85% of carbon dioxide emissions free of charge in 2012, when the European Union emissions trading system (EU ETS) expands to include aviation. The grants will fall to 82% from 2013 through 2020, with 15% auctioned and 3% set aside for new entrants. Permits purchased in 2012 to cover 15% of emissions are estimated at €975 million, at a carbon price of €13 per ton of CO<sub>2</sub>. Some 900 airlines have applied for free allocations, including all commercial airlines with significant operations to or from Europe. The European Court of Justice will issue an advisory opinion on October 6 on a suit filed by U.S. airlines contesting inclusion in the EU ETS. Airlines worldwide have expressed opposition to the directive. The EC said it “has no intention to amend its legislation”; it “prefers global action [but] can't defend that the aviation sector is exempted from contributing because they can't agree internationally.”

### 3. **U.S. Awards Grants to Develop Biofuels.**

The U.S. government awarded university researchers \$136 million to develop aviation biofuels from tall grasses, crop residues and forest resources. The five-year program is meant to spur innovation and job creation. Research teams are from Washington State University, University of Washington, Iowa State, Louisiana State University and University of Tennessee.

### 4. **U.S., Australia to Develop Alternative Aviation Fuels.**

Australia and the United States signed a Memorandum of Understanding (MOU), which calls for an exchange of information and joint studies in areas such as fuel sources and environmental impacts. The MOU facilitates analysis of fuel source supply chains. In related news, transportation and energy ministers from 21 Asia/Pacific economies agreed to continue progress on initiatives to make transportation in the region cleaner and more energy-efficient and called for further efforts to phase out subsidies that promote use of fossil fuels. The meeting was held in San Francisco by Asia/Pacific Economic Cooperation (APEC); U.S. Transportation Secretary Ray LaHood

and U.S. Energy Secretary Steven Chu hosted. APEC economies have a goal of reducing the use of energy in economic activity by at least 25% by 2030.

**5. Jatropha for Biojet Fuel to Be Developed in Brazil.**

Production of crude jatropha oil as a source for aviation biojet fuel is planned in Brazil. A multi-phased program will lead to deployment of 75,000 acres of intercropped jatropha plantations in the central-west region of Brazil using SGB Biofuels' JMax™ hybrid seeds. The crude jatropha oil produced will be converted into biokerosene to supply customer airlines. SG Biofuels has teamed with Brazil-based JETBIO, leader of a multi-stakeholder initiative that includes Airbus, Inter-American Development Bank, Bioventures Brasil, Rio Pardo Bioenergia, Air BP and TAM Airlines. Brazil's central-west region was selected because of the large availability of underutilized pastureland presenting an excellent opportunity for intercropping jatropha with cattle husbandry activities. In November 2010, TAM and Airbus conducted a successful test flight using a jatropha-based biofuel blend.

**6. Embraer, GE Conclude Biojet Fuel Tests.**

Embraer and GE held test flights to benchmark operational characteristics of an Embraer 170 and its GE CF34-8E engines when powered by HEFA (Hydro-processed Esters and Fatty Acids) fuel under a broad range of unique flight conditions. One of the two engines was powered with the maximum ASTM permissible mix of 50% HEFA (derived from camelina) with Jet-A. With these tests, "both companies confirmed that technical plans and procedures for future fuels testing are robust, enabling value-added and timely testing of additional fuels."

## VI. U.S. CONGRESS

### 1. Committees Approve Fiscal 2012 Appropriations for FAA.

The House Appropriations Committee funding bill for Fiscal 2012 includes \$16.7 billion for DOT, which is \$3 billion above last year's level and \$15.8 billion below the President's request. Included in the House legislation is \$12.6 billion for FAA, an increase of \$233 million over last year and \$485 million below the President's request. The bill fully funds the Next Generation Air Transportation System (NextGen). The Senate Appropriations Committee FY 2012 funding bill includes \$3.5 billion for airport capital investments and \$8 million to hire an additional 71 aviation safety inspectors.

### 2. House Panel Introduces TSA Authorization Legislation.

The House Homeland Security Committee introduced legislation that would authorize TSA for 2012 and 2013. H.R. 3011 would require TSA to continue its "common-sense shift" to an intelligence-driven and risk-based screening system, set accountability and training guidelines for security officers, and establish parameters for the screening of children. The bill calls for an agency-wide efficiency review; an air cargo advanced screening pilot program for U.S.-bound cargo; and enhanced information sharing with the private sector.

### 3. Visa Reform Legislation Proposed.

Congressman Joe Heck (R-NV) introduced the "Welcoming Business Travelers and Tourists to America Act of 2011," which calls for a 12-day visa processing standard and a videoconferencing pilot for visa interviews; currently visa applicants are interviewed within 30 days. H.R. 3039 directs the Secretary of State to use nonimmigrant visa fees to hire more consular officers in China, Brazil and India to meet the 12-day standard.

### 4. Senator Calls for Anti-Missile Technology on Commercial Aircraft.

Senator Barbara Boxer (D-Calif.) asked the Departments of Defense and Homeland Security to establish a joint program to improve anti-missile technology and work toward its deployment on wide-body aircraft. "The risk to commercial aircraft posed by shoulder-fired missiles has long been acknowledged by the national security community. Recent reporting of unaccounted for missiles in Libya is yet another reminder of this threat," Boxer wrote. "Installing this technology on 500 wide-body planes would protect 2 billion passengers over 20 years."

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

### **1. U.S.-Tunisia Partnership.**

The United States and Tunisia expect to launch negotiations for a bilateral open skies agreement in 2012, said U.S. Secretary of State Hillary Rodham Clinton, as the two countries inaugurated a new framework for bilateral cooperation, the U.S.-Tunisia Joint Political and Economic Partnership. The governments also resolved to cooperate closely on security matters through increased training assistance, information-sharing, and countering extremist messaging. The United States has committed \$40 million in support of the Tunisian transition.

### **2. UAE, Costa Rica Sign Sweeping Open Skies Pact.**

The United Arab Emirates (UAE) and Costa Rica signed an open skies Memorandum of Understanding and initialed an Air Services Agreement, allowing full flexibility on routes, capacity, number of frequencies and types of aircraft, in passenger or cargo service, and the exercise of fifth freedom traffic rights. The parties also agreed to allow unrestricted non-scheduled operations between the two countries. Any number of designated airlines of both parties will have the right to perform scheduled air services. The UAE designated Emirates Airline, Etihad Airways, Air Arabia, RAK Airways and FlyDubai as national airlines under the agreement.

## VIII. EUROPE AND AFRICA

### 1. European Carriers Expected to Deliver \$1.4 Billion Profit This Year.

European carriers are expected to deliver a \$1.4 billion profit this year, up \$900 million from IATA's June forecast. Stronger than expected traffic fueled by the weak Euro has encouraged inbound tourism and provided a boost to export markets. Profit expectations for the world's airlines jumped to \$6.9 billion from previously forecast \$4 billion. But profitability for the global industry is still exceptionally weak (1.2% net margin) considering total revenues of \$594 billion, said IATA, which projects profits to fall to \$4.9 billion next year, on revenues of \$632 billion for a net margin of just 0.8%.

### 2. SAS to Cut Costs Another 3%-5% Annually Until 2015.

SAS has reduced unit costs by 23% since 2008 and plans a further cut of 3%-5% annually until 2015 to achieve sustainable profitability. A new strategic platform includes expansion of market share in the leisure travel segment. "SAS has changed from a holding structure with several subsidiaries to become one functionally organized airline," said President and CEO Rickard Gustafson, who appointed a new management group.

### 3. Icelandair to Serve Denver.

Icelandair will introduce four weekly Boeing 757 flights to Denver in May, the first new carrier to initiate transatlantic service there in more than 10 years; British Airways and Lufthansa serve Denver. The new service is expected to bring 300 jobs to Colorado, generating \$9 million in wages and \$19 million in tourism spending.

### 4. UK Overhauls Northern Ireland Air Passenger Duty.

The UK cut the Air Passenger Duty (APD) for direct long-haul routes from Northern Ireland airports, to the short-haul rate of £12 per passenger in economy and £24 for business and first class, effective November 1, down from £60 and £120 respectively. Continental had threatened to cancel Belfast-New York service, as it was no longer viable.

### 5. Jaan Albrecht Named CEO of Austrian.

Jaan Albrecht was named CEO of Lufthansa unit Austrian Airlines, effective November 1. Albrecht has been CEO of Star since 2001 and will continue to lead the alliance until a successor is named.

6. **easyJet Founder to Launch Fastjet.**

Sir Stelios Haji-loannou intends to set up “Fastjet,” breaching an agreement with easyJet, the airline he founded, in the newest chapter of a long-running feud. Sir Stelios accuses easyJet of breaching terms of a contract by conducting a smear campaign against him. He and his family still own a considerable stake in easyJet and he remains a non-executive director.

7. **Russia Orders Overhaul of Aviation Industry.**

President Dmitry Medvedev ordered an overhaul of Russia's aviation industry after a Yak-42 charter crashed on takeoff near Yaroslavl, killing 43, including members of a top Russian ice hockey team, and bringing the accident rate this year to eight. Medvedev called for reducing the number of airlines and said the government may end bailouts of struggling manufacturers and buy more foreign planes. In related news, Russia's Interstate Aviation Committee said a June crash of a RusAir Tu-134 landing at Petrozavodsk airport, which killed 47 people, was attributable to heavy fog, poor crew cooperation and a slightly drunk navigator.

8. **China Airlines Joins SkyTeam.**

See Section IX, item 1.

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

### **1. China Airlines Joins SkyTeam.**

China Airlines became the 15th SkyTeam member and the first Taiwanese airline to join the alliance. Mainland operators China Southern and China Eastern are SkyTeam members.

### **2. ACCC Authorizes Qantas-American JBA.**

The Australian Competition and Consumer Commission (ACCC) granted authorization for a Joint Business Agreement (JBA) between Qantas and American Airlines. The airlines will coordinate operations on services between Australia/New Zealand and the United States and on their respective services which support these trans-Pacific routes.

### **3. Delta, Virgin Australia Expand Code Sharing.**

Under an approved Delta-Virgin Australia trans-Pacific agreement, to begin in November, Delta will add its code to all flights between Los Angeles and Sydney, Melbourne and Brisbane, operated by V Australia, Virgin Australia's long-haul international carrier. V Australia will add its code to Delta Los Angeles-Sydney service.

### **4. Emirates to Begin Seattle, Dallas Services, Interline With WestJet.**

Emirates unveiled expansion plans for the United States, with the launch of daily Boeing 777 nonstops to Dallas-Fort Worth (February) and Seattle-Tacoma (March). In other news, Emirates launched an interline agreement with Canadian airline WestJet.

### **5. Hawaiian Adds Fukuoka to Asia Expansion.**

Hawaiian will begin daily nonstops between Honolulu and Fukuoka, its third destination in Japan, in April, pending Japan government approval. The Hawaii Tourism Authority estimates the flight will provide \$154 million in visitor spending and \$16.8 million in tax revenue annually. Hawaiian is hiring 400 people to accommodate expansion plans for 2012.

### **6. Tiger Air Names New CEOs.**

Singapore-based Tiger Airways appointed Chin Yau Seng as group CEO, effective November 1. Chin was named acting CEO when Tony Davis was sent to head Tiger Airways Australia, which continues to resume domestic services gradually since being grounded by Australia's Civil Aviation Safety Authority. Andrew David, a former Virgin Blue executive, will head the Australia unit. . . . In other news, Thai Airways scratched plans for Tiger to

operate new budget carrier, Thai Tiger, which would have been 51% owned by Thai Air and 49% by Tiger. Thai instead will launch regional Thai Smile. . . . Tiger agreed to acquire a 33% equity stake in Indonesia's PT Mandala, which will be restructured and offer low-fare travel to international and domestic Indonesian destinations within a five-hour flying radius. Saratoga Group will control 51% of the company, with the remaining 16% held by previous shareholders and Mandala creditors.

**7. Kingfisher to Phase Out Low-Cost Operation.**

India's Kingfisher will phase out no-frills Kingfisher Red and reduce capacity in first class service, which has seen load factors of 50%. The Airbus fleet will be reconfigured to increase economy seating by 10%.

**8. Indonesia Safety and Infrastructure Challenges.**

Indonesia has 1.4% of global traffic but accounted for 4% of all accidents in 2010 and recorded 33 accidents between 2005 and 2010, said IATA; and should mandate the IATA Operational Safety Audit (IOSA) for carriers and the IATA Safety Audit for Ground Operations (ISAGO) at Indonesian airports. Efforts in recent years to improve safety resulted in removal of five Indonesian carriers from Europe's list of banned airlines, said Tony Tyler, IATA Director General and CEO. "Now we need a coordinated initiative by all stakeholders to solve the safety issue once and for all and restore confidence in all of Indonesia's airlines." Indonesia is expected to be the sixth fastest growing market for international passengers by 2014, when it also will rank as the ninth largest domestic market and among the top 10 for international freight.

## **X. AMERICAS**

### **1. Judge Declines ALPA Bid to Block United Procedure Changes.**

A federal judge denied a request by Air Line Pilots Association (ALPA) to issue a stay on the September 30 deadline for United's implementation of the latest phase of revised operating procedures associated with the Continental merger. ALPA claimed the level and timeline of training associated with the bid for a single operating certificate could pose safety hazards. The judge said ALPA's argument was too speculative to justify pushing back the deadline. United said the suit was an attempt to influence negotiations on a joint contract between United and Continental pilots.

### **2. US Airways Pilots Ordered to Stop Illegal Slowdown.**

The U.S. District Court in Charlotte issued a preliminary injunction to stop an illegal slowdown being run by USAPA, the union that represents US Airways' pilots, saying the union had engaged in a concerted effort to disrupt the airline.

### **3. Southwest /AirTran Update.**

Southwest named AirTran President Bob Jordan as Chief Commercial Officer; he also will continue to lead AirTran. A tentative agreement was reached between Southwest and AirTran pilots, that would integrate their seniority lists. Southwest closed its acquisition of AirTran in May.

### **4. Frontier to Cut Service, Jobs in Milwaukee.**

Republic subsidiary Frontier will reduce daily departures at General Mitchell International from 67 to 45, ground six smaller capacity regional jets and lay off 213 workers at the airport.

### **5. Spirit Consolidates Training Centers.**

Spirit consolidated multiple training locations into one 10,317-square-foot facility near Fort Lauderdale-Hollywood International. In other news, Spirit is now offering vacation packages.

### **6. Canada's Competition Bureau Challenges Air Canada-United JV.**

Canada's Commissioner of Competition applied to the Competition Tribunal to prohibit a proposed joint venture between Air Canada and United Continental, stating it would monopolize ten important Canada-U.S. routes and substantially reduce competition on nine additional routes.

7. **Air Canada, Flight Attendants Reach Tentative Contract.**

Air Canada reached a tentative contract with flight attendants, averting a possible strike. The four-year pact withdraws support for a proposed low-cost carrier, improves working conditions, increases wages, and includes a pension plan that blends defined benefit and defined contribution.

8. **LAN-TAM Merger Conditionally Approved by Chile's Antitrust Court.**

Chile's antitrust court granted conditional approval of the LAN-TAM merger, requiring the swap of four daily slots at Sao Paulo Guarulhos with airlines interested in the Santiago-Sao Paulo route, and withdrawal from either oneworld (LAN) or Star (TAM). The merger still requires Brazilian approval.

9. **GOL Receives ANAC Approval for Webjet Acquisition**

GOL received approval from Brazil's National Civil Aviation Agency to conclude an acquisition of Rio-based Webjet. Approval is needed from the defense department. GOL brands include Varig, Gollog, Smiles and VoeFácil.

10. **Icelandair to Serve Denver.**

See Section VIII, item 3.

11. **China Airlines Joins SkyTeam.**

See Section IX, item 1.

12. **ACCC Authorizes Qantas-American JBA.**

See Section IX, item 2.

13. **Delta, Virgin Australia Expand Code Sharing.**

See Section IX, item 3.

14. **Emirates to Begin Seattle, Dallas Services, Interline With WestJet.**

See Section IX, item 4.