



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. FAA, NATCA Reach Labor Agreement.

The Federal Aviation Administration (FAA) and National Air Traffic Controllers Association (NATCA) reached a collective bargaining agreement after three years of negotiations. A mediation process produced an agreement that is subject to ratification by union members. An independent arbitration team released a decision on five issues, including compensation, which are not subject to ratification. The agreement provides employees with greater flexibility in work schedules, childcare support and a new grievance review process. It gives FAA “flexibility to more effectively redeploy labor to congested airports using Controller Incentive Pay,” said FAA, and “restores a more equitable pay standard to benefit new hires as well as veterans nearing retirement.” Associated costs will be phased in over the three years of the contract.

2. FAA Investigates Southwest Unauthorized Parts Use.

FAA found that Southwest has been using unauthorized hinge fittings on 82 Boeing 737s. FAA and Boeing said the parts do not pose an immediate safety issue. Southwest earlier this year agreed to pay a \$7.5 million civil penalty for operating older 737s on nearly 60,000 flights between June 2006 and March 2007 without performing necessary inspections. In July, a Southwest jet developed a one-foot hole in its fuselage inflight, with cause as yet not determined.

3. DHL Agrees to \$9.4 Million Settlement With U.S. Government.

DHL agreed to remit \$9,444,744 to settle alleged violations concerning shipments to Iran, Sudan and Syria, and failures to meet recordkeeping requirements. The U.S. Departments of the Treasury and Commerce alleged that between August 2002 and March 2007, DHL made more than 300 shipments to Iran and Sudan, and between December 2002 and April 2006 failed to maintain required records with respect to numerous other shipments to Iran. Regulations prohibit shipment of most goods to Iran and Sudan and require maintenance of complete records on shipments for five years. Descriptions of package contents were missing from thousands of air waybills. Many shipments were intercepted and reported by Customs and Border Protection, which assisted with the investigation. DHL agreed to make significant improvements in its compliance program and will hire an unaffiliated third-party consultant to conduct compliance audits.

4. **FAA, NTSB Probe Midair Collision Over Hudson River.**

Following a midair collision of a sightseeing helicopter and a privately-operated Piper over the Hudson River, which killed nine people, FAA convened a New York Airspace Working Group to review operating procedures over the Hudson and East Rivers and recommend safety improvements. The National Transportation Safety Board (NTSB), which is investigating the August 8 accident and has recommended major changes for New York City area airspace, found that a Teterboro controller made a non-business-related phone call near the time of the collision. "The role that air traffic control might have played in this accident will be determined by the NTSB as the investigation progresses," NTSB stated. "Any opinions rendered at this time are speculative and premature." In a press release, NATCA "strongly disputed NTSB inference of controller responsibility in the crash sequence." NTSB removed NATCA as a party to its investigation, saying NATCA gave "conflicting interpretations of factual information released by NTSB."

5. **Airlines Fined for Violations of DOT Consumer Rules.**

The U.S. Department of Transportation (DOT) assessed civil penalties against Continental, Hawaiian and US Airways for violating DOT consumer regulations. Hawaiian was assessed \$50,000 and US Airways \$70,000 for failing to disclose when flights were being operated under a code sharing arrangement. Continental was assessed \$75,000 for violating a DOT requirement that airfare ads state the full price to be paid by the consumer. The carrier advertised fares on its Web site that did not contain a notice of additional taxes or government fees, at the first point at which fares were displayed, or provide a link to the notice. In addition, Continental listed numerous fares that were advertised as being "each way" or "one-way" without clearly disclosing that they were available only for a round-trip purchase.

6. **JetBlue, Lufthansa File for Code Share Authorization.**

JetBlue filed for DOT authorization to put Lufthansa's code on JetBlue flights. Initially, the airlines plan to offer connecting service with the "LH" code between 12 JetBlue destinations in the U.S. and Puerto Rico via JFK or Boston and Lufthansa's network of 180 destinations in Europe, the Middle East, Africa and Asia. Pending authorization, code share flights will be available for sale by early October. In 2008, Lufthansa acquired a 19% share in JetBlue.

7. **ExpressJet Tarmac Delay Due to Misinformation.**

DOT determined that the crew was not at fault in the August 8 tarmac delay of an ExpressJet-operated Continental flight, in which passengers were in a plane on the ground in Rochester, Minnesota, from 12:30 a.m. to 6:00 a.m.

The flight crew repeatedly tried to get permission to deplane passengers or obtain a bus for them, but a representative of Delta unit Mesaba—the only carrier able to assist Continental at the airport—said the airport was closed to passengers, because no one from the Transportation Security Administration (TSA) was available to screen them. DOT clarified that TSA procedures allow passengers to deplane, enter the terminal and re-board without being screened again, as long as they remain in a sterile area. “There was a complete lack of common sense,” DOT Secretary Ray LaHood said. “It’s no wonder the flying public is so angry and frustrated.” DOT said more senior Continental or ExpressJet personnel should have been involved in efforts to obtain permission to deplane passengers. Continental CEO Larry Kellner said company processes to avoid these situations clearly broke down. Delta CEO Richard Anderson said Delta is working with Mesaba to conduct an internal investigation. The ExpressJet crew say they remained with the aircraft, provided beverages, pillows, blankets and air conditioning during the duration of the delay, and kept the flight deck door open so customers could approach with questions. “This event highlights an important point in extended delay programs—it takes cooperation of airlines, airports, ground handling agents and government agencies to deplane customers in a timely manner,” said ExpressJet CEO Jim Ream. “Everyone must know the standard and work together to follow it.”

8. Sun Country to Voluntarily Limit Runway Taxi Time.

As a result of a delayed Sun Country flight from New York Kennedy to Minneapolis St. Paul, which included a five hour and forty-five minute taxi time, the airline has established a maximum taxi time limit of four hours. After such time, the Sun Country flight will return to the gate area to disembark its passengers. CEO Stan Gadek said the new policy is modeled on legislation supported by Senator Amy Klobuchar (D-Minn.), an advocate for passenger rights and a three-hour cap on tarmac delays.

9. Branson Warns President Obama on British Airways, American Alliance.

Virgin Atlantic President Sir Richard Branson wrote to President Barack Obama to warn of “dangers to consumers if British Airways and American Airlines are allowed to effectively merge.” Branson has waged a campaign against the proposed pact, since the two carriers applied a year ago for permission to fix prices and schedules and share marketing and operational data. “Never before has the U.S. government approved an anti-trust immunity application where barriers to entry are so significant that any new meaningful competitive entry is virtually impossible,” wrote Branson, referring to Heathrow. “BA and AA are opportunistically suggesting your Administration should suspend rigorous competition analysis due to the current economic downturn. You should reject this self-serving sympathy ploy. Every carrier faces financial

challenges and should be adjusting their business plans and costs without a free meal ticket from government.” In related news, John Conyers (D-Mich.), Chairman of the House Judiciary Committee, asked DOT to delay its decision on the proposed alliance until the Justice Department’s Antitrust Division makes its recommendation. Branson is scheduled to testify at a Committee hearing on the joint application in September.

10. Alaska Wants Open Review of Virgin America Ownership Status.

Alaska Airlines renewed its request that DOT open up its ongoing review of Virgin America's current and prospective citizenship status to public scrutiny and comment. The filing follows two earlier Alaska petitions requesting a public inquiry into whether Virgin America complies with U.S. foreign ownership and control restrictions on domestic carriers. Similar requests to DOT have been made by Patty Murray, who heads the Senate Transportation Appropriations Subcommittee, and James Oberstar, who chairs the House Transportation Committee, and some unions. Seattle-based Alaska competes with San Francisco-based Virgin America on the West coast.

11. ALPA Calls for Temporary Ban on Battery Shipments on Airliners.

The Air Line Pilots Association (ALPA) asked the U.S. government to prohibit shipments of lithium batteries on passenger and all-cargo aircraft until new regulations are in place to ensure their safe transport. During the past two months, fire, smoke, or evidence of fire associated with battery shipments has occurred aboard three separate U.S. airliners, said ALPA. A severe battery fire in 2006 aboard a DC-8 prompted NTSB to recommend the full regulation of these types of batteries as dangerous goods.

12. U.S. Airline Passenger Traffic Falls 9.3% in May.

U.S. airlines carried 59.7 million passengers in May, 6.2 million fewer (-9.3%) than a year earlier, reported DOT, with 8.6% fewer domestic and 14.8% fewer international passengers. This was the largest percentage decrease from the same month of the previous year since December 2001. The Air Transport Association of America (ATA) reported that passenger revenue, based on a sample group of U.S. carriers, fell 21% in July, versus July 2008. Four percent fewer passengers traveled on U.S. airlines in July, while the average price to fly one mile fell 18%, a modest improvement over the 21% year-over-year yield decline in June. U.S. airlines saw cargo revenue ton miles decline 15% year-over-year in June (11% domestically and 18% internationally); July 2009 cargo data was not yet available. Corporate travel is expected to decline 15% this year, according to research company PhoCusWright; historically, corporate travel has comprised about 40% of the total U.S. travel market.

13. International Scheduled Traffic Declined 7.2% in June.

International scheduled passenger traffic declined 7.2% in June, compared to June 2008, reports the International Air Transport Association (IATA), with freight demand down 16.5%; passenger load factors were 75.3%, down from 77.6% in June 2008. Airlines saw international revenue declines of up to 30% at the start of the busy June-August period.

14. June Passenger Airline Employment Down 6.3%.

U.S. scheduled passenger airlines employed 6.3% fewer workers in June, compared to June 2008, reported DOT. The seven network carriers employed 260,808 in June, 67.2% of the passenger airline total, while low-cost carriers employed 16.5% and regionals employed 14.6%.

15. DOT Air Travel Consumer Report for June.

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

	June '09 / '08	May '09	Full Year					
			2008	2007	2006	2005	2004	2003
On-time arrivals %	76.1/70.8	80.5	76	73.4	75.4	77.4	78.1	82
Mishandled baggage*	4.17/5.15	3.56	5.26	7.05	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>								
Airline service	747/883	656	10,643	13,180	8,325	8,741	7,452	5,983
Disability-related	54/29	39	474	488	430	511	521	375
Discrimination**	10/8	13	115	99	114	129	118	85

Note: There were 42 flights with tarmac delays of at least four hours in June, and 278 with tarmac delays of three hours or longer.

* Reports per 1,000 passengers.

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

II. AIRPORTS

1. Delta, US Airways to Swap Slots at LaGuardia, Washington.

Delta and US Airways agreed to exchange slots at New York LaGuardia and Washington Reagan National, subject to government approvals. US Airways will obtain 42 Delta slot pairs at Washington Reagan, where it will add 15 new daily destinations, using larger dual-class jets. US Airways will transfer to Delta 125 LaGuardia slot pairs currently used by US Airways Express, and will discontinue 26 Express destinations, resulting in a cut of 300 employees at its Piedmont subsidiary. US Airways does not plan changes to mainline flight levels at LaGuardia, including its Shuttle service. A swap of LaGuardia gates will allow Delta to consolidate operations, including its Shuttle. Delta will continue to serve Washington Reagan. US Airways will also acquire from Delta rights to operate daily service to Sao Paulo and Tokyo. US Airways plans to begin daily Charlotte-Rio de Janeiro service in December and seeks authority for daily flights between Charlotte and both Rio and Sao Paulo. The Tokyo service would operate from Phoenix in 2012 or later, contingent upon government approvals and economic conditions at the time.

2. AirTran, Continental to Swap Slots at Newark, Washington, LaGuardia.

AirTran will exchange its 10 Newark slots for Continental slots at Washington Reagan (six) and New York LaGuardia (four), reported the Associated Press. AirTran will cease Newark Liberty operations on October 25, and announced it will expand operations at LaGuardia and Washington Reagan on November 4.

3. OIG to Audit FAA Stimulus Funds Award Process.

FAA's process for awarding stimulus funds for Airport Improvement Program (AIP) projects does not meet federal requirements, said the DOT Office of Inspector General (OIG), in an advisory to DOT. Federal stimulus requirements call for transparent, merit-based selections and effective administration of funds, but FAA awarded millions to low-priority airport projects of questionable economic merit and to airports whose operators have histories of grant management problems, said the OIG. FAA said it wanted to ensure widespread geographic distribution of funds. "We suggest that until FAA can demonstrate their economic merit, it should refrain from awarding additional grants for lower-ranked projects," concluded the OIG, which plans a full audit. DOT Deputy Transportation Secretary John Porcari responded that the low-priority projects were necessary to bring the airports up to national safety standards, and that airports cited for mismanagement have resolved those problems. DOT was awarded \$1.1 billion in stimulus funds for airport improvements; FAA has approved 263 projects worth \$873.9 million.

4. **LAX Board Approves \$1.6 Billion Bond Issue.**

The Los Angeles Board of Airport Commissioners approved the sale of more than \$1.6 billion in bonds, about \$700 million of which will finance construction of a cross-field taxiway, firefighting facilities and other projects at Los Angeles International Airport (LAX).

5. **Court Rules on LAX Terminal Fee Dispute.**

The U.S. Court of Appeals in Washington ruled that a rent increase for airlines operating out of two LAX terminals was not discriminatory, upholding a DOT decision. Plaintiffs, including Alaska, AirTran, Frontier, Midwest, Southwest and US Airways, complained in 2007 that increased charges for them were discriminatory compared to fees for airlines operating at other terminals. Los Angeles World Airports said the carriers operating at other terminals had long-term leases still in effect.

6. **European Passenger Traffic Down 9.6% in First Half.**

European airports reported an overall decline of 9.6% in passenger traffic during first half 2009, said ACI Europe, with freight down 23.7%. Passenger traffic decreased 7.6% in June, compared with June 2008; freight traffic decreased 20.1% and overall movements decreased 8.6%. ACI Europe forecasts declines for the full year of -8% for passengers and -16% for freight.

7. **Heathrow Unveils New Terminal 2.**

A new £1 billion terminal was unveiled by London Heathrow officials. Part of a £4.8 billion investment across the airport, Terminal 2 will allow consolidation of Star Alliance operations and provide capacity for an estimated 20 million passengers annually. In two consecutive phases, a new terminal will be constructed by 2013, on the site of the existing Terminal 2 and Queen's Building, which will be demolished. Phase two will extend the new Terminal 2 into the existing Terminal 1 site; Terminal 1 will close when phase two is complete in 2019. Terminal 2 will have nine new aircraft parking stands, a third of which are configured to accommodate jumbo aircraft. The facility will use 40% less carbon than the existing Terminal 2.

8. **Barcelona Terminal T1 Opens.**

Barcelona International officially opened its \$1.7 billion Terminal T1. One of the largest civil engineering projects ever undertaken in Europe, the environmentally friendly facility is expected to handle more than 30 million passengers a year, said operator Aena, with capacity for 90 airfield operations per hour.

9. Ryanair to Close Most Manchester Routes.

Ryanair will switch or close nine of its 10 Manchester routes (44 weekly flights) to airports in East Midlands, Leeds Bradford and Liverpool, from October 1. Ryanair said the airport refused to lower charges “to reflect the lower fares being paid by passengers in the current recession.”

10. Kosovo Seeks Airport Investor.

Kosovo is seeking to privatize Kosovo International Airport (Pristina). The tender includes construction of a new terminal, control tower, hangar and parking area, as part of a 20-year lease/management agreement. The bidding process closes September 23, with winner to be announced by the end of 2009. Pristina handled 1.2 million civil and military passengers in 2008, with estimated net revenues of €7 million. British Airways, Austrian, Malev, Swiss and Turkish are among airlines offering scheduled and chartered service.

III. SECURITY AND DATA PRIVACY

1. Passengers Now Provide Birth Date, Gender When Booking.

U.S. airlines began asking passengers to enter date of birth and gender when making reservations. In May, airlines began asking passengers to provide their name as it appears on their government-issued identification. The new Secure Flight rules should help prevent misidentification of passengers who have names similar to individuals on a watch list, said the Transportation Security Administration (TSA).

2. Verified Identity Pass Barred From Selling Traveler Data.

A federal judge in New York issued an order banning Verified Identity Pass (VIP) from selling, transferring or disclosing to any third party data it collected while operating Clear at U.S. airports. VIP shut down its registered traveler program suddenly in June and on its Web site informed customers that data would be protected in compliance with TSA's privacy and security standards. The court noted a risk of the data being disclosed because of a lack of accountability and control over how the data is stored. A class action lawsuit also claimed VIP "committed conversion, fraud, breach of contract, negligence and unjust enrichment," when it did not refund money to members. In related news, Chairman of the Committee on Homeland Security Bennie Thompson (D-MS) and Ranking Member Peter King (R-NY) sent a letter to Homeland Security Secretary Janet Napolitano regarding TSA plans to delete biometric data from registered traveler databases, which the Congressmen say could hinder restoration of the program.

3. TSA to Roll Out CrewPass.

After a year of testing in three airports, TSA is set for a nationwide rollout of the CrewPass secure ID program for crew members. The program, developed in cooperation with the Air Line Pilots Association, uses fingerprints to verify crew members' identities, and TSA will check a cockpit access personnel database before allowing crew to enter an airport's secure area through the exit lane at security checkpoints.

IV. E-COMMERCE AND TECHNOLOGY

1. Row 44 Licensed to Provide Inflight Broadband.

Row 44, a provider of inflight Wi-Fi for commercial aircraft, received a permanent operating license from the Federal Communications Commission (FCC). The company has secured similar approvals in Mexico and Canada. The Row 44 system will support inflight mobile phone calls and text messaging, should those services gain regulatory approvals in North America. The satellite-based Row 44 service competes with Aircell's Gogo, which utilizes ground antennas and is used by several U.S. airlines. Southwest has been testing the Row 44 service since February and plans a fleetwide rollout in first quarter 2010.

2. AMR to Develop Next-Generation Passenger Service System.

American signed a letter of intent with HP to develop a next-generation passenger service system. The carrier's current system supports reservations, pricing and ticketing, inventory, flight information and check-in, and the new system, Jetstream, will also enable American to deliver online and mobile travel tools to its customers. HP intends to offer the new system to other airlines worldwide. American said it "remains a committed customer of Sabre" for flight operations, inflight provisioning, ground movement monitoring and airport staff management.

3. Continental Offers Customers Human Emulation Technology.

Continental launched Virtual Expert, in which "Alex" interacts with customers to interpret requests and provide answers to travel needs, from booking a flight to understanding visa requirements. Developed by Next IT, the technology emulates the look and voice of a human and the ability to understand the intent of phrases and dialogue. Continental tested the product with 3,000 frequent flyers and with reservations agents in Salt Lake City, and is the first network carrier to offer human emulation technology.

4. Amadeus One Debuts for Business Travel Marketplace.

Amadeus One has been launched as a next generation IT solution designed specifically to serve the needs of the North American business travel marketplace. Features include: Amadeus Cryptic Magic enables an agent to enter cryptic commands at point-of-sale and obtain the same policy compliant results as an agent operating in a graphical environment; multi-source content aggregation pulls travel content from a range of sources, both in- and outside the GDS environment, into an integrated booking flow; customer profiles can be easily updated, shared and utilized across the agency's operation. A new

Chicago-based Amadeus Travel Technology Consulting team has the business travel marketplace as its first focus.

5. Travel Ebusiness Losing Consumers.

A new Forrester Research report found that 15% fewer travelers enjoy using the Web in 2009 than in 2007. One in three feels that travel Web sites do a good job presenting travel choices, down from 39% in 2008. The study says travel eBusinesses can reverse traveler dissatisfaction and avoid having them abandon the Web in favor of other, more expensive offline channels. They must recognize that travel eBusiness is comprised of four continuous phases—context, engagement, value and customer appreciation—and become more involved with customer data strategy; global distribution systems must evolve into more useful global merchandising systems.

6. EUclaim Aids Passengers Seeking Compensation.

Passengers on airlines flying out of European airports can seek compensation for long delays and other situations, through EUclaim, when airlines claim extraordinary circumstance to avoid payments established by the EU Air Passenger Bill of Rights. Using EUclaim's online "Calculator," passengers answer questions and can file a claim. EUclaim compiles historical flight data as a basis for evaluating complaints and seeks redress from the airline or in court. About 15,000 passengers have asked EUclaim to seek compensation on their behalf, according to the Web site. Ryanair CEO Michael O'Leary has referred to EUclaim as "a hopeless bunch of ambulance chasers."

V. ENERGY AND ENVIRONMENT

1. Fuel Bill for Global Airline Industry.

The price of aviation jet fuel, as of August 21, was \$80.5/barrel, up 7.6% for the month and down 43.6% year-on-year, reports the International Air Transport Association. Fuel price average year-to-date was \$65.5/ barrel.

2. Synthetic Fuels Specification Approved.

The ASTM International Committee on Petroleum Products and Lubricants passed a new specification that will enable the use of synthetic fuels in aviation. ASTM International is one of the largest standards-development organizations in the world.

3. Renewable Synthetic Diesel Fuel to Be Used in LAX GSE.

Eight U.S. airlines operating at Los Angeles International Airport (LAX) signed a multiyear agreement with Los Angeles-based fuel manufacturer Rentech and Aircraft Service International Group (ASIG) to purchase up to 1.5 million gallons per year of renewable synthetic diesel fuel (RenDiesel) for use in ground service equipment at LAX, beginning in late 2012, when the Rialto Renewable Energy Center that will produce the RenDiesel fuel is scheduled to enter service. The initial airline purchasers of RenDiesel are Alaska, American, Continental, Delta, Southwest, United, UPS and US Airways. RenDiesel will be produced primarily from urban woody green waste, such as yard clippings. Ground services provider ASIG will handle receipt and dispensing of RenDiesel.

4. Denver Airport to Build Solar Project to Power Fuel Facility.

Denver International Airport plans to build a photovoltaic solar electricity-generating system that will power the airport's fuel-storage and -distribution facility. The \$7 million, 1.6-megawatt project, to be built on nine acres north of the airfield by the end of this year, is expected to provide 100% of the fuel farm's electricity consumption.

5. Portland Airport Tests Checkpoint Waste Disposal System.

Portland International Airport in Oregon is testing a "liquid station" that encourages travelers to "drink or drain" beverage before passing through the security checkpoint. TSA regulations prohibiting liquids and gels in quantities over three ounces have resulted in an estimated one ton of liquids per day entering the waste stream, adding up to \$100 a day to the airport's dump fees. The stainless steel receptacles are wheeled off and drained twice a day. The liquids flow into the sewer system, instead of being hauled to a landfill, and the

empty bottles are recycled. The dump stations are diverting several thousand pounds of liquid from trash every month.

6. Fewer Than 500,000 People Deal With Aircraft Noise: FAA.

Fewer than 500,000 people experience high noise levels from aircraft today, according to FAA, compared to some seven million in the late 1970s. FAA assesses high noise levels by measuring sound in neighborhoods around U.S. airports that experience a 24-hour average noise exposure level of 65 decibels (dB) or more. This noise exposure (DNL or day-night sound level) takes into account the number of aircraft noise events, the noise level of each event and whether the event occurred in the daytime or at night. Widespread use of jet engines has helped reduce aircraft noise levels by about 20 dB; airplanes are four times quieter than they were 50 years ago. Among solutions that will offset noise growth due to predicted traffic increases, said FAA, are Next Generation Air Transportation System (NextGen) technologies and procedures, Optimum Profile Descents (OPD), also known as Continuous Descent Arrivals, and development of mature low-noise technology through the CLEEN initiative (Continuous Lower Energy Emissions and Noise).

VI. U.S. CONGRESS

1. GAO to Study Airline Fees.

The Government Accountability Office (GAO) was asked to determine whether airline à la carte fees are excessive, in a letter from House Transportation Committee Chairman James Oberstar (D-Minn.) and Aviation Subcommittee Chairman Jerry Costello (D-Ill.). Airlines collected \$1.1 billion in baggage fees in fiscal year 2008 and made over \$400 million in charges for ticket changes and cancellations in first quarter fiscal 2009. “We are concerned that these fees may be excessive and that they are resulting in revenue being diverted from the Airport and Airway Trust Fund,” said the letter. The GAO also was asked to study what steps airlines take to compensate passengers for missing bags, given that they are charging extra to check bags.

2. Regional Pilot Pay, Living Conditions Examined by Senate Panel.

Executives from Continental and Colgan Air, as well as American Eagle and Delta, were questioned about regional pilot pay and living conditions, at a hearing held by the Senate Aviation Subcommittee on “Aviation Safety: The Relationship Between Network Airlines and Regional Airlines.” Since the February Colgan Air crash in Buffalo, which killed 50 people, much attention has been paid to regional pilots’ \$20,000 annual starting salaries, work rules, training, commuting habits and fatigue issues. Pinnacle subsidiary Colgan was operating the flight for Continental. Panel Chairman Byron Dorgan (D-N.D.) said large airlines have some responsibility for policies of regional carriers that operate their feeder routes. Reporting that some regional pilots share crash pads near their duty stations to save money and have a place to rest between flights, *The Washington Post* said, “Regional airline pilots, whose employers pay much less than major airlines, say crash pads are emblematic of the dysfunction in the nation’s air transportation system. They exist to fill a need for a cheap place to rest.” Pinnacle CEO Phil Trenary said salaries at his carrier are “in line with industry standards” and are determined by collective bargaining.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. UK Grants £340 million for Airbus A350 Development.

With the World Trade Organization (WTO) expected to rule in September on the unfair subsidies case made by the United States on behalf of Boeing, the UK announced it will provide Airbus with up to £340 million of repayable launch aid for development of the A350XWB. Amid U.S. complaints that Britain was taking a “major step in the wrong direction,” the UK called the ongoing feud “senseless” and said the aid was an investment in British engineering expertise. In June, other European governments agreed to give Airbus €3.5 billion in soft loans for A350 development. A counterclaim against the U.S. government has been lodged by the European Union with the WTO, charging that Washington has invested \$5 billion in the Boeing Dreamliner.

2. Singapore, Peru Conclude Open Skies Agreement.

Singapore concluded a new open skies agreement with Peru, which allows carriers from both countries to operate unlimited passenger and cargo flights between the two countries and beyond to any city worldwide, and unlimited hubbing rights for cargo operations. Singapore also signed new air services agreements with Colombia and Ecuador. The pact with Colombia allows carriers of each country to operate up to eight passenger flights and eight cargo flights weekly; frequencies will increase to fourteen weekly each by January 2011. The Ecuador pact allows carriers from both sides to operate up to 56 weekly passenger flights between and beyond the two countries and an open skies arrangement for cargo operations, with hubbing rights.

3. Australia, New Zealand Propose Common Air Travel Border.

As they move toward a joint economic market, Australia and New Zealand announced plans to relax border security. Travelers from each country would check in electronically; only those selected in risk profiling would be screened. Trans-tasman flights would operate from domestic terminals and departure taxes and duplication of quarantine, customs and security checks would be eliminated. More than one million visitors cross the Tasman each year.

VIII. EUROPE AND AFRICA

1. Lufthansa Wins EU Approval to Acquire Austrian Airlines.

Lufthansa won EU approval for its takeover of Austrian Airlines, in exchange for which the airlines will give up some slots on routes between Vienna and Frankfurt, Munich, Stuttgart, Cologne and Brussels. The EU also approved Austria's €500 million restructuring program to reduce Austrian Airlines' debt, saying the plan conforms with rules on rescue and restructuring of firms in difficulty. Austrian Airlines will be integrated into the Lufthansa Group in September. Lufthansa also controls Swiss, Air Dolomiti, Eurowings and Germanwings, and recently acquired British Midland and SN Brussels. Austrian's subsidiaries include Lauda Air and Tyrolean Airways. Both parties are members of the Star Alliance.

2. Aer Lingus Suffers €93 Million First-Half Operating Loss.

Aer Lingus reported a first-half operating loss of €93 million, with total revenue down 12% to €555 million. Total passengers numbers increased 2% for the period, while average fare declined by 17%. Gross cash stands at €1,052 million, net cash at €440 million. Incoming CEO Christoph Mueller will aim to return the airline to profitability, said the company, which is reducing costs and capacity. Ryanair, which holds a 30% share in Aer Lingus and has twice attempted a takeover, admonished the Irish Stock Exchange and the Irish Takeover Panel for allowing the Aer Lingus Board to reject its last offer "on the basis of patently false claims about growth and profitability."

3. Air France-KLM Withdraws Bid for Czech Airlines.

Air France-KLM pulled out of the bidding for SkyTeam partner Czech Airlines (CSA), and suggested that CSA focus on developing and implementing a standalone recovery plan to restore profitability. In April, the Czech government named Air France-KLM and a consortium of Czech and other companies as candidates to take over its 91.5% stake in CSA. The sale will continue with a single bidder.

4. British Airways Sales May Drop by £1 Billion.

British Airways told its employees full-year revenue may fall by £1 billion, reports Bloomberg, if the decline in sales continues at the same pace as in fiscal first quarter. Sales fell 12% in the three months through June to £1.98 billion, as traffic declined 3.2%. CEO Willie Walsh said the company needs more cash, in addition to \$1 billion in new funds raised earlier this year.

5. **News From Russia.**

Aeroflot signed a sponsorship agreement worth more than \$100 million with the organizers of the 2014 Winter Olympic Games, to be held in the Russian Black Sea resort of Sochi. The pact involves opening new routes to Sochi, including direct routes from some European points. The carrier will also provide the Russian Olympic and Paralympic teams with air transport during the 2010, 2012, 2014 and 2016 Olympic Games. In other news from Russia, state-owned Rosavia (Russian Airlines) issued a tender to Airbus, Boeing and Irkut for 50 narrowbody jets, with deliveries starting in 2011, and may option another 15. Startup Rosavia will comprise assets of defunct airlines, including AiRUnion, KrasAir and Samara. Reuters reported that Iran banned its airlines from leasing older Russian-built aircraft following two fatal July accidents; in one, a Caspian Airlines-operated Tupolev, enroute to Armenia, crashed in northwestern Iran, killing all 168 people aboard; in the other, 17 people were killed when an Ilyushin Il-62 leased by Iran's Aria Tour veered off the runway and hit a wall in northeastern Iran. And, Prime Minister Vladimir Putin warned Russia's plane manufacturers, particularly state-run United Aviation Corp. (UAC) that the state will not cover losses indefinitely and correct management's mistakes, giving the sector an October 1 deadline to propose recovery measures. "We understand that the situation is difficult and your competitors are using their governments' support, but you should not repeat somebody else's stupid mistakes," he told industry managers and government officials at the MAKS air show near Moscow. UAC is developing the Sukhoi Superjet-100 and Antonov An-148 passenger liners and the Ilyushin Il-96-400 cargo plane as well as fighter jets.

6. **JetBlue, Lufthansa File for Code Share Authorization.**

See Section I, item 6.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. AAPA July Traffic Results.

Members of the Association of Asia Pacific Airlines (AAPA) carried 11.5 million international passengers in July, 7.8% fewer than in July 2008. Revenue passenger kilometers declined by 8.5%. With a 6.5% reduction in available seat capacity, average load factor for the month fell by 1.7% to 76.6%. For the first seven months of the year, international passenger traffic, in RPK terms, fell 11.8% year on year. International cargo traffic in freight ton kilometers was 11.4% lower for July than in July 2008, a significant improvement compared to the cumulative 20.8% decline recorded for the first seven months of 2009. Cargo capacity in July was reduced by 12.1%, resulting in average international cargo load factor of 66.9% for the month.

2. ANA, US Airways Establish New Code Share Agreement.

Star Alliance partners US Airways and ANA will begin a new code share agreement on September 16, subject to government approvals. US Airways will place its code on ANA flights between Tokyo Narita and Los Angeles, San Francisco, Chicago, Washington Dulles and New York Kennedy. ANA will place its code on US Airways flights from those airports to Charlotte, Philadelphia, Phoenix and Las Vegas.

3. JAL, Nippon to Merge Cargo Operations.

Japan Airlines (JAL) and Nippon Yusen Kaisha are negotiating a merger of their cargo businesses, which have been code sharing since March. The government has encouraged the merger, which is targeted to take effect April 1, 2010. JAL Group announced additional "drastic adjustments" for second half FY2009. Frequencies will be further reduced on eight international routes; connections between Nagoya and Paris and Seoul Incheon will be discontinued. Downsizing of aircraft will affect 15 flights on 14 international routes. JAL still plans to switch to the newest Boeing 777-300ER aircraft for Tokyo-Chicago and Tokyo-Los Angeles routes and will complete the introduction of its executive class flat seat on all Europe and mainland North and South America routes. JAL will add a once-daily Boeing 777-200ER flight between Tokyo Haneda and Beijing, and will discontinue first class cabin service on routes to New Delhi, Singapore and Bangkok.

4. Air China Increases Cathay Pacific Stake.

Air China raised its stake in Cathay Pacific to just under 30% from its current position of 17.5%. The mainland carrier will pay about US\$800 million for the 12.5% stake to CITIC Pacific, which will also sell a 2% stake in Cathay to

Swire Pacific, bringing Swire's stake in Cathay to just under 42%. CITIC Pacific will retain 3% of Cathay. The current Air China-Cathay collaboration, which also includes Cathay unit Dragonair, covers code sharing, frequent flyer programs, some cost- and revenue-sharing, and joint staff training; they are negotiating a cargo joint venture.

5. TAM, Air China Begin Code Share Operations.

Star Alliance partners TAM and Air China began operating code share flights between Sao Paulo and Beijing, with a connection at Madrid Barajas.

6. China's Spring Airlines to Fly International Routes.

Spring Airlines was granted approval from the General Administration of Civil Aviation of China (CAAC) to operate international routes linking the mainland with Hong Kong, Macao and neighboring countries, like Japan, South Korea and Russia. With a fleet of 13 Airbus 320s, flying 30 domestic routes, Spring handled 1.6 million passengers in the first six months of this year, up 40% year-on-year; revenue rose by 20%. Spring Chairman Wang Zhenghua said the company aims to be a low-cost air carrier. "We will fill a niche market rather than competing with big airlines," he said. The company is planning a stock listing on the Shanghai Stock Exchange next year.

7. China's East Star Officially Bankrupt.

Wuhan-based private airline East Star officially went bankrupt, after a rescue plan submitted by East Star Group and ChinaEquity was found unfeasible. ChinaEquity had promised a \$29 million investment, but did not specify the source of the funding, failed to provide certificates and documents, and lacked measures to protect creditors, said a local court.

8. Former Beijing Airport Director Executed.

China executed the former head of Capital Airports Holding Company, which runs 30 airports, including Beijing's new international airport. Li Peiying was convicted on corruption charges, including misappropriating \$12 million for personal use from 2000 to 2003, and taking bribes of \$4 million from 1995 to 2003. The court said Li's actions inflicted great economic loss on the country.

9. Qantas Increases Jetstar Capacity.

Qantas Group will lease four additional Airbus A330s, starting in November 2010, to allow for Jetstar's long haul international growth. "We currently have more than 160 aircraft on order over the next 10 years, including 50 Boeing 787s for operation by both Jetstar and Qantas," said CEO Alan Joyce; Boeing B787 "program delays mean we have had to consider medium term options to support new long haul market opportunities for Jetstar." Qantas announced a before-tax profit of \$181 million for full year ended June 30, down 87% on the

prior year. Joyce attributed the profit, amid worldwide decline, to “our strategy built around two strong flying brands in Qantas and Jetstar, a portfolio of airline-related businesses, and an ongoing focus on managing costs and driving efficiencies.” Jetstar had a record year, “delivering improved profitability while increasing capacity by 14.4%.”

10. Emirates Charged With Alleged Air Freight Price Fixing.

The Australian Competition and Consumer Commission instituted proceedings against Emirates for conspiring with other international air cargo carriers to fix the price of fuel and security surcharges and rates, from 2002 to 2006. Emirates denied the allegations. Air New Zealand denied a news report that its Deputy CEO Norm Thompson and other staff colluded with Emirates SkyCargo staff to fix cargo rates between Australia and New Zealand; Air New Zealand CEO Rob Fyfe said those discussions related to securing needed additional lift across the Tasman.

11. Etihad, American Code Share Approved.

A new code share agreement between Etihad and American will begin with Etihad flights from Abu Dhabi to Chicago on September 2. Etihad will place its code on selected U.S.-Europe and domestic services operated by American. American will place its code on services operated by Etihad between Abu Dhabi and New York, Chicago, Paris, Dublin, Frankfurt, Manchester and Milan. American's domestic routes covered by the new arrangement initially will include flights between New York and Washington, Los Angeles and San Francisco and between Chicago and Washington, Los Angeles, San Francisco and Houston. The transatlantic services include American's flights between: Paris and Boston, Chicago, Miami; Dublin and Chicago; Frankfurt and Dallas/Fort Worth; Manchester and Chicago; and Milan and New York.

X. AMERICAS

1. Republic Wins Frontier Bid.

Republic Airways Holdings was the winning bidder in the auction to acquire Frontier. Republic agreed to purchase 100% of the stock of Frontier Holdings upon its emergence from bankruptcy for \$108.75 million, and to waive any right to recovery on its \$150 million general unsecured claim. Southwest had submitted a bid of more than \$170 million, with a contingency that the two pilot unions would reach an agreement on how to work together. “Despite a good faith and diligent effort by all involved,” said Southwest, “the two unions were not able to come to an agreement before the auction deadline. As a result, Southwest’s bid was deemed unacceptable.” Separately, Republic Airways Holdings completed its acquisition of Midwest for \$31 million.

2. Continental to Join Star Alliance in October.

Continental announced plans to join Star Alliance on October 27, ending its SkyTeam participation after its last scheduled flight on October 24.

3. Fort Lauderdale Lands Virgin America.

After Virgin America announced it would begin daily nonstops to Fort Lauderdale on November 18 from San Francisco and Los Angeles, Spirit Airlines briefly held a “We’re No Virgin—We’ve Been Cheap and Easy For Years” sale, with one-way fares from \$9 between Fort Lauderdale and Los Angeles and other destinations. JetBlue also announced new San Francisco-Fort Lauderdale service, beginning November 17, in addition to its Los Angeles/Long Beach-Fort Lauderdale nonstops.

4. Court Upholds Ruling in Boston Logan Skycap Gratuities.

The Massachusetts Supreme Judicial Court upheld a \$325,000 jury award for nine skycaps at Boston Logan, who said their tips fell sharply after American introduced a \$2 service fee for bags checked curbside. The court said the fee was the functional equivalent of a gratuity under the Massachusetts Wage Act and must be paid to workers providing the service. Because the ruling was based on Massachusetts law, it is not expected to have any bearing on similar suits pending in other states. The skycaps also sued American’s contractor, G2 Secure Staff, and those claims are in arbitration. The court said American, which split the \$2 fee with G2, could not avoid liability because eight of the nine skycaps worked for a contractor; “To allow such an ‘end run’ around the act would contravene the express purpose of the act, namely to protect gratuity payments given to, or intended for, service employees such as

skycaps.” American dropped the fee earlier this year, in a partial settlement of the skycaps’ suit, and said it is considering all of its legal options.

5. Startup Baltia to Purchase Boeing 747.

New York Kennedy-based Baltia Air Lines signed a final aircraft purchase agreement for its first Boeing 747, with plans to provide direct passenger and cargo service from New York to St. Petersburg, subject to receipt of government operating authority.

6. Allegiant Withdraws From Cuba Charter Programs.

Las Vegas-based Allegiant Air has exited the Cuban family charter programs it currently flies for five separate charter program sponsors. “These programs are exposing the airline and its people to operational complexity inconsistent with our [keeping things simple] operating philosophy,” said CEO Maurice J. Gallagher, Jr. “Since we are not short of profitable opportunities consistent with operational simplicity, we decided the sensible thing was to remain true to our proven operating philosophy and return our people and aircraft to such efforts.”

7. Judge Rules Aerolineas Argentinas Assets Cannot Be Seized.

A U.S. federal judge rejected efforts to force Argentina to give up control of Aerolineas Argentina, as requested by bondholders with a \$2.2 billion judgment against the country. “The history of the airline’s conversion into a government instrumentality suggests that the Republic was merely trying to assure the company’s survival, not that it was using Aerolineas to shield the Republic from liability,” wrote the judge. “Since the republic has been pouring money into Aerolineas, this situation is the opposite of the typical alter ego relationship, where a sham entity is left underfunded by its principals.”

8. IATA Offers to Work With Brazil on Aviation Issues.

Speaking in Sao Paulo, Giovanni Bisignani, Director General and CEO of the International Air Transport Association (IATA), noted recent encouraging developments in Brazil’s civil aviation sector, including elimination of a tax on jet fuel that collected \$100 million annually, adoption of the IATA Operational Safety Audit and a staged liberalization of air fares. Bisignani offered to work with the government in the two areas of airport concessions and congestion at Sao Paulo Guarulhos Airport, and noted the need to address the issues of Petrobras’ import parity pricing policy, which “adds 30 cents to every gallon of jet fuel sold in Brazil,” and a 50% surcharge airlines pay to Brazil’s airport operator INFRAERO. Brazil will host the 2014 FIFA World Cup.

9. JetBlue, Lufthansa File for Code Share Authorization.

See Section I, item 6.

10. **ANA, US Airways Establish New Code Share Agreement.**

See Section IX, item 2.

11. **TAM, Air China Begin Code Share Operations.**

See Section IX, item 5.

12. **Etihad, American Code Share Approved.**

See Section IX, item 11.