



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. ICAO: Air Traffic Recovery Fast-Approaching Pre-Pandemic Levels.

Air transport seat capacity and passenger totals globally have reached 80% of pre-pandemic levels, reports the International Civil Aviation Organization (ICAO), with passenger revenue at 72% of 2019 high point. The number of passengers carried from January to August of this year increased by 55% compared to same period 2021. Most international route groups should fully recover to pre-pandemic levels by fourth quarter this year or first quarter 2023. Segments of East and North Asia could prove to be slower, with their recovery later in 2023. . . . The 41st ICAO Assembly (September 27 to October 7) opened in Montreal, preceded by a three-day Innovation Fair where ICAO Council President Salvatore Sciacchitano said the COVID-19 pandemic led to proposals for technical and policy solutions to help reconnect the world, “but a more systematic approach to disaster risk identification and management will be necessary to circumvent the compound impacts of multiple disasters. This is a pre-requisite to building a resilient future for our sector.” ICAO Secretary General Juan Carlos Salazar said the Fair had highlighted challenges in bringing innovations from concept to reality; since many ideas are common across jurisdictions, there is a need for regulators to engage with innovators and communicate with a broader range of stakeholders. . . . Willie Walsh, Director General of the International Air Transport Association (IATA), called for “implementing lessons learned from the economically and socially painful destruction of global connectivity that resulted from government attempts to control the spread of COVID-19,” and urged support for industry’s commitment to net zero carbon emissions by 2050 with corresponding policy measures on decarbonization and coordinated policy measures to incentivize sustainable aviation fuel (SAF) production. Other issues Walsh addressed include the need for a global framework for how air transport implements its obligation under the UN Convention on the Rights of People with Disabilities; and the need for universal ratification of Montreal Protocol 2014 (MP 14) to provide effective disincentives for unruly behavior globally (while MP 14 is in effect, only 38 states have ratified it).

2. FAA Administrator Nominee Named in LA Search Warrant.

Phil Washington, President Biden’s nominee to lead the Federal Aviation Administration (FAA), was named in a search warrant in an investigation of certain sole-source contracts awarded by the Los Angeles County Metropolitan Transportation Authority when he was CEO. Washington, who currently is CEO of Denver International Airport, has denied allegations of wrongdoing. The

Senate Commerce Committee is considering his nomination. “Every nominee for this critical position is subject to the confirmation process, which includes a careful and thorough review of the individual’s qualifications. Mr. Washington’s nomination and all of his background is undergoing that process now,” said Committee Chair Maria Cantwell.

3. Rule Would Require Transparency of Airline Ancillary Service Fees.

The U.S. Department of Transportation (DOT) issued a Notice of Proposed Rulemaking (NRPM) that would require U.S. and foreign air carriers and ticket agents to clearly disclose baggage, change, cancellation, and family seating fees to consumers whenever fare and schedule information is provided for flights to, within, and from the United States. Under the ‘Enhancing Transparency of Airline Ancillary Service Fees’ rule, the fees must be displayed as passenger-specific or itinerary-specific based on the consumer’s choice. Because seat availability and fees can fluctuate frequently, DOT also proposes to require that carriers and ticket agents enable consumers traveling with a young child to purchase seats with the fare at all points of sale; and that carriers provide useable, current and accurate information regarding fees for those families to ticket agents that sell or display the carrier’s fare and schedule information. The rulemaking is in response to President Biden’s Executive Order on Promoting Competition in the American Economy, which established a White House Competition Council to monitor progress on initiatives and coordinate federal government response “to the rising power of large corporations in the economy.”

4. DOT Introduces Airline Customer Service Dashboard.

DOT rolled out an airline customer service dashboard to help consumers determine what they are owed when a flight is cancelled or delayed because of an airline issue. “Thanks to the creation of this dashboard,” said DOT Secretary Pete Buttigieg, “nine airlines now guarantee meals and hotels when an airline issue causes a cancellation or delay.”

5. DOT Introduces Refund Rule.

DOT is collecting comments on a proposed rule to ensure customers get prompt refunds when flights are cancelled or significantly delayed or where there is a change in departure time, airport or class of service; the NPRM is also proposing that customers receive non-expiring vouchers if a passenger chooses not to fly because of concerns over serious communicable disease

6. DOT Closes Investigation into Refund Delays

The DOT Office of Aviation Consumer Protection recently concluded an investigation of 10 airlines and is pursuing enforcement action against them for extreme delays in providing refunds for flights they canceled or significantly changed. The Office is investigating refund practices of additional airlines flying to, from, or within the United States. In 2021, the Office issued its largest fine ever for extreme delays in providing refunds to thousands of consumers for flights to or from the United States that a carrier canceled.

7. American, JetBlue Face DOJ in Antitrust Trial.

A year ago, the Department of Justice (DOJ), with Attorneys General in six states and the District of Columbia, sued in the District of Massachusetts to block the “Northeast Alliance,” under which American and JetBlue consolidated operations in Boston and New York City, eliminating “important competition in these cities [and] significantly diminishing JetBlue’s incentive to compete with American elsewhere.” The case came to trial in Boston in September, with DOJ calling the arrangement a “de facto merger” that should be disbanded, and that could get worse with a proposed JetBlue-Spirit Airlines merger, which DOJ is examining separately. On day one of the trial, JetBlue CEO Robin Hayes told presiding Judge Leo Sorokin the alliance involved no cooperation on setting prices and allowed JetBlue to combat competition from Delta in Boston and expand in congested New York area airports.

8. FAA Rejects Republic’s Pilot Training Exemption Request.

FAA rejected a proposal to allow graduates of the Republic Airways pilot training program to apply for a restricted airline transport pilot certificate with the reduced aeronautical experience of military or former military pilots; i.e., 750 hours rather than the 1,500 hours required for commercial pilots. FAA concluded that Republic’s proposal is not in the public interest and would adversely affect safety, and that granting the request would set a precedent that could result in sweeping changes to the 1,500-hour system. FAA previously concluded that “the argument that an exemption would serve to address a pilot shortage is overly simplistic and does not present a persuasive argument to lower pilot certification standards [and] the exemption process is not the avenue to address the hiring difficulties of an operator that may result in service cuts to particular areas.” Air Line Pilots Association, Int’l (ALPA) applauded FAA’s decision and urged DOT to similarly reject any proposed business models that “could undermine the safety critical impact of the first officer qualifications on travelers, from small communities and large ones alike.” . . . In related news, National Transportation Safety Board (NTSB) Chair Jennifer Homendy, addressing ALPA, said lowering safety standards to address the failure of some airlines to anticipate and adequately prepare for the rapid industry recovery is not the

answer to recent operational disruptions. “Seeking exemptions from pilot flight- and duty-time and minimum rest requirements is not the answer. Rolling back training criteria and qualification standards among other important safety requirements is not the answer. And risking our nation's extraordinary aviation safety record and the lives of flight crews and the traveling public is not the answer.” Regarding cargo crew fatigue, she cited several fatigue-related accidents that involved cargo operators. “Cargo and passenger pilots operate the same types of aircraft, operate in the same airspace, and share the same runways and taxiways. The risk is just as great, if not greater, because of the time of day that cargo operations typically occur: in the pre-dawn hours. But the most compelling argument for eliminating the cargo carveout is this: cargo pilots deserve the same protections as their colleagues in passenger aviation.”

9. FAA Finalizes Rules to Protect ODA Engineers.

FAA finalized protections for Boeing and other engineers who participate in the Organization Designation Authorization (ODA) program, reviewing the safety of aircraft designs on behalf of FAA. Under the new rules, concerns employees raise about being pressured by the company must be investigated and reported to FAA; employees also can communicate directly with FAA. FAA is establishing a panel to review the ODA system and recommend improvements. Required by Congress, the panel will include representatives from FAA, NASA, unions, airlines and aviation manufacturers.

10. DOT Approves Additional Havana Flights for American, JetBlue.

DOT approved requests by American and JetBlue to add flights to Havana. American will increase Miami service from six to eight daily, Sunday through Friday, and from six to seven daily on Saturday. JetBlue can operate one additional Saturday-only frequency from Fort Lauderdale. United hopes to resume flights to Cuba later this year.

11. Coalition of Attorneys General Want to Protect Airline Customers.

House and Senate leaders were urged to pass legislation that would authorize state attorneys general to enforce state and federal consumer protection laws governing the airline industry. The letter, signed by 38 attorneys general, also encouraged Congress to consider shifting authority for federal investigations of airline patron complaints from DOT “to an agency more primarily focused on consumer protection, such as the Department of Justice or Federal Trade Commission.” National Association of Attorneys General said attorneys general have received “thousands of complaints from outraged passengers, claiming airlines have failed in their service responsibilities, causing significant frustrations and unnecessary challenges.”

12. Boeing, Muilenburg to Settle SEC Charges Re 737 MAX.

The Securities and Exchange Commission (SEC) charged Boeing and former CEO Dennis Muilenburg with making misleading public statements about the 737 MAX, following the crashes of Lion Air Flight 610 in October 2018, and Ethiopian Airlines Flight 302 in March 2019, in which a total of 346 lives were lost. After the first crash, Boeing and Muilenburg knew that the Maneuvering Characteristics Augmentation System (MCAS) posed an ongoing airplane safety issue, but nevertheless assured the public that the MAX was “as safe as any airplane that has ever flown the skies,” noted SEC. After the second crash, “they assured the public that there were no slips or gaps in the certification process with respect to MCAS, despite being aware of contrary information.” The SEC orders find that Boeing and Muilenburg negligently violated antifraud provisions of federal securities laws. Without admitting or denying the findings, Boeing and Muilenburg consented to pay penalties of \$200 million and \$1 million, respectively.

13. Global Unions Call for New National Aviation Oversight Bodies.

International Transport Workers’ Federation (ITF) called for immediate creation of new national aviation bodies “to address an industry that has become environmentally, economically, and socially unsustainable.” The ‘New Deal for Aviation,’ introduced at ITF’s bi-annual civil aviation conference in Montreal and to be delivered to the 41st ICAO Assembly, is “designed to stop travel chaos becoming a permanent feature of the aviation industry,” and warns that the industry is on course for a prolonged period of recurring crises. “We need to restore the checks and balances of global aviation,” said ITF officials. “In what was once a nationalized industry in countries around the world, the scale has moved too far towards serving the interests of CEOs and shareholders above those of workers and passengers. The ‘New Deal’ has the potential to move the scale back, and ensure that both employees and travelers get the treatment they deserve.” ITF polling found that 11% of aviation workers believe their employers act in their interest, while 89% believe they act purely in the interests of company shareholders. ITF is a federation of 670 unions in 147 countries, representing 18 million transport workers.

II. AIRPORTS

1. Orlando Opens \$2.8 Billion Terminal C.

Orlando International opened its \$2.8 billion Terminal C, which “encompasses 300 acres and adds 15 gates capable of accommodating up to 20 aircraft, including narrowbody, jumbo and super-jumbo jets.” The facility features virtual ramp control for ground operations; fully integrated, multimodal rail, air and ground transportation; automated TSA screening lanes; and facial recognition. Synect’s Passenger360 approach and digital signage platform welcomes, engages and assists passengers from ticketing to gates and beyond; the system can address thousands of changes per second, such as flight or weather changes.

2. Construction Begins on \$9.5 Billion New Terminal One at JFK.

Construction began on the \$9.5 billion New Terminal One (NTO) at John F. Kennedy International (JFK). Cost of the terminal will be privately financed by the NTO consortium, while Port Authority of New York and New Jersey will undertake infrastructure upgrades and improvements. The project will be built in phases, with arrivals and departures hall and 14 new gates opening in 2026 and completion of the Terminal's final nine gates in 2030. Ferrovial is lead investor in the NTO consortium, which will design, build and operate the 2.4 million square foot international terminal. NTO is part of an \$18 billion JFK transformation underway, which includes a new Terminal 6 that will connect with JetBlue's existing Terminal 5; expansion of Terminal 4, led by Delta and others; and Terminal 8, led by American and British Airways.

3. Tampa to Build New \$787.4 Million Terminal.

Tampa International was cleared to begin construction of a \$787.4 million terminal, with completion expected in 2027. The building will be about 563,000 square feet “with vast concessions space, an outdoor terrace, state-of-the-art customs and security facilities, as well as new screening, gate check-in and bag processing technologies.” The Aviation Authority projects 23.4 million passengers for Fiscal Year 2023, up 9% over FY22.

4. Boston Logan Terminal E Project Receives \$62 Million Grant.

Boston Logan received a \$62 million grant to fund improvements to Terminal E (\$50 million) and improvements to critical terminal area roadways (\$12 million). Funded by the Bipartisan Infrastructure Law passed in 2021, the grant was the largest awarded to any major U.S. airport. Construction on the Terminal E Modernization Project began in spring 2019 and completion is expected next summer. Features include a 500,000 square-foot building addition and

renovations to the existing building, four new international gates, a new security checkpoint, and roadside improvements.

5. Schiphol CEO Resigns.

Amid continuing cancellations and delays, Dick Benschop, President, Director and CEO of Royal Schiphol Group, resigned. He will remain until a successor is found. “Under Dick’s leadership, far-reaching measures were taken to stabilize the situation at Schiphol,” said officials. “Further intervention in the capacity and management of the security companies is necessary.”

6. Singapore Changi T2 Departures Begin in October.

Changi Airport Group (CAG) is conducting operational readiness trials with airline and airport partners to prepare for reopening the southern wing of Terminal 2 (T2) for departure operations on October 11, when Singapore Airlines (SIA) takes off for Malaysia and Thailand. Arrival operations resumed in May. “With a refreshed design, upgraded systems and a high degree of automation across the passenger journey, T2 will enable Changi to serve our passengers better as we prepare for a busier year-end holiday peak,” said officials. Completion of the northern wing of T2 is expected by 2024. . . . The Passenger Service and Security Fee and Aviation Levy imposed on Origin-Destination passengers departing Changi will increase on November 1. The funds will go toward CAG’s operation, current upgrading of terminals and future development plans, and the air hub development and regulatory functions of the Civil Aviation Authority of Singapore. Planned for 2020, the increases were suspended due to the COVID-19 pandemic.

III. SECURITY AND DATA PRIVACY

1. **Pekoske Confirmed for Second Five-Year Term as TSA Administrator.**

The U.S. Senate voted to confirm David Pekoske for a second term as the Transportation Security Administration's (TSA) Administrator. Pekoske identified as key priorities equitable compensation required to recruit, train, equip and retain a highly skilled and professional workforce; technology investment; and strengthening partnerships with transportation stakeholders and international governments. Before joining TSA, Pekoske led teams that provided counterterrorism, security and intelligence support services to government agencies. He served as the 26th Vice Commandant of the U.S. Coast Guard, and was a Commissioner on the Cyberspace Solarium that made recommendations on cybersecurity strategy for the United States. He has twice been awarded the Homeland Security Distinguished Service Medal.

2. **Four New International Air Carriers Join TSA PreCheck.**

TSA announced the expansion of TSA PreCheck with the addition of Air Europa, Flair, Volaris El Salvador and ITA Airways. Air Europa is a Spain-based airline and SkyTeam member; Flair Airlines is a Canada-based airline with operations throughout North America; Volaris El Salvador operates flights from El Salvador to the United States, Mexico and Central America; and ITA Airways is an Italy-based airline. . . . TSA screened 8.76 million travelers during Labor Day weekend, September 2 to 5, exceeding 2019 passenger screening volumes for the first time over a holiday weekend. . . . Transportation Security Officers intercepted 4,312 firearms at checkpoints this year and anticipates that "firearm catches at checkpoints will eclipse the current full year-record of 5,972 firearms intercepted in 2021." . . . American Airlines passengers flying out of Miami International can now schedule a TSA checkpoint screening time with MIA Reserve, a free reservation service. The six-month pilot program, with security technology firm Pangiam, software and consultancy company Copenhagen Optimization, secure identity platform CLEAR, and American Airlines, is available daily during limited hours at TSA Checkpoint 4. Separately, Miami will launch the first phase of biometric boarding at passenger gates in October.

IV. TECHNOLOGY AND EQUIPMENT

1. Sabre Sues Hawaiian over Violations of GDS Agreement.

Sabre Global Technologies filed a lawsuit against Hawaiian Airlines, accusing the airline of violating a global distribution services agreement by withholding inter-island flights and fares and charging a \$7 per segment booking surcharge. Hawaiian plans to defend against Sabre's claims. . . . Sabre signed an extended agreement with Vietnam Airlines. In addition to Sabre's Global Distribution System (GDS), the Hanoi-based carrier uses a suite of SabreSonic Passenger Service System technology including reservation and ticketing, inventory and departure control solutions, and Sabre's Revenue Optimizer. A SkyTeam member, Vietnam Airlines flies on 100 routes to 20 domestic and 30 international destinations.

2. Lufthansa Group, Amadeus Partnership Expanded.

Lufthansa Group and Amadeus signed a new agreement under which the airlines' New Distribution Capability (NDC)-sourced content will be available via Amadeus NDC-enabled interfaces—Amadeus Selling Platform Connect, Amadeus Travel API and Cytric Travel & Expense. This includes NDC offers from Lufthansa, SWISS, Austrian Airlines, Brussels Airlines, Air Dolomiti and Eurowings Discover, including continuous pricing and ancillary services. Beyond NDC offers, travel sellers will continue having access to the airlines' content through existing data transmission technology. A gradual global roll-out begins in fourth quarter in selected European markets, enabling shopping, booking, payment and servicing, after which "the range of content and functionalities will be continuously expanded."

3. United Invests Another \$15 Million in Electric Flying Taxi Market.

United announced a \$15 million investment in Eve Air Mobility, with a conditional purchase agreement for 200 four-seat eVTOLs (electric vertical take-off and landing vehicles) plus 200 options, expecting first deliveries in 2026. Backed by Embraer, Eve "is taking a holistic approach to progressing the urban air mobility (UAM) ecosystem," with access to Embraer's service centers, parts warehouses and field service technicians, and air traffic management solution. Eve is listed on the New York Stock Exchange. With a range of 60 miles, Eve's vehicle has the potential not only to offer a sustainable commute but also to reduce noise levels by 90% compared to current conventional aircraft. In August, United placed a \$10 million deposit with California-based Archer Aviation for 100 eVTOLs.

4. Air Canada to Purchase Electric Regional Aircraft.

Air Canada and Saab have invested \$5 million each in Swedish electric airplane maker Heart Aerospace, and Air Canada also placed a purchase order for 30 ES-30s. The electric regional aircraft, with a capacity of 30 passengers, replaces the company's earlier 19-seat design, the ES-19. Orders for the ES-19, placed by United Airlines and Mesa Air Group for a total of 200 with an option for an additional 100, have been reconfirmed for the updated ES-30 design. In total, Heart has potential orders for 96 ES-30s, which include a reserve-hybrid configuration so it can also be used during cruise on longer flights to complement electrical power provided by batteries; "this gives the airplane a fully electric range of 200 kilometers, an extended range of 400 kilometers with 30 passengers, and flexibility to fly up to 800 kilometers with 25 passengers, all-inclusive of typical airline reserves." The ES-30 is expected to enter into service in 2028.

V. ENERGY AND ENVIRONMENT

1. Fuel Bill for Global Airline Industry.

The average price of aviation jet fuel on September 16 was \$121.64/barrel, down 15.2% on the month and up 46.1% compared to a year ago, reports IATA. Jet fuel price average for 2022 (year to date) was \$142.4/barrel.

2. U.S. Releases SAF Grand Challenge Roadmap.

The Sustainable Aviation Fuel Grand Challenge Roadmap, a U.S. government strategy for scaling SAF production, was released by the Departments of Transportation, Energy, Agriculture and the Environmental Protection Agency. Goals are to achieve a minimum of a 50% reduction in life cycle GHG emissions compared to conventional fuel, produce three billion gallons of SAF per year by 2030, and supply sufficient SAF to meet 100% of aviation fuel demand by 2050. Expanding SAF supply and end use, reducing its cost, and enhancing its sustainability are among objectives of the SAF Grand Challenge. More information can be found on the Biomass Research and Development Board website.

3. Air Company Fuels First Test Flight with SAF Made from CO₂.

Air Company launched AIRMADE™ SAF on a U.S. Air Force unmanned flight and said global aviation partners have signed agreements to purchase over one billion gallons of the CO₂-derived jet fuel. JetBlue intends to purchase 25 million gallons of AIRMADE SAF over five years and Virgin Atlantic intends to purchase up to 100 million gallons over 10 years. Boom Supersonic intends to purchase up to five million gallons on an annual basis through its Overture flight test program. Air Company will facilitate the net-zero carbon flight test of Overture, which is projected to carry 65–80 passengers at twice the speed of traditional airliners while operating on 100% SAF.

4. European Aviation Environmental Report Released.

Long-term trends show that the European region “will be home to some 12.2 million annual flights by 2050, with aircraft CO₂ emissions potentially rising to 188 million tonnes, unless environmental protection is further mainstreamed across the sector,” say publishers of the third European Aviation Environmental Report. The report offers an overview of current environmental performance of the sector and includes recommendations with a view to reducing the climate change, noise and air quality impact from aviation. It was prepared by the European Union Aviation Safety Agency (EASA), with support from the European Environment Agency (EEA) and EUROCONTROL, and places aviation in the context of the new European Green Deal as well as European

industry's Destination 2050 initiative and the Toulouse Declaration of reaching carbon neutrality by 2050 in line with the EU economy-wide objective.

5. **OMV to Supply SAF to Ryanair, Lufthansa.**

Ryanair signed a Memorandum of Understanding (MoU) with Vienna-based OMV for supply of SAF at airports across Austria, Germany and Romania. The MoU enables Ryanair “to purchase up to 53m gallons of SAF from OMV over the next eight years, saving over 400,000 tonnes in CO2 emissions (equivalent to c.25,000 Ryanair flights from Dublin to Vienna).” . . . OMV signed an MoU with Lufthansa Group to supply more than 800,000 tons SAF between 2023 and 2030. The companies intend to expand their existing partnership to include new locations for SAF production and delivery as well as new SAF production technologies. OMV has been supplying the first volumes of SAF to Austrian Airlines, part of the Lufthansa Group, at Vienna International since March 2022.

6. **SMBC Launches Sustainability Solution for Airlines.**

SMBC Aviation Capital launched a sustainability solution for its airline customers, including an initial \$53.3 million investment in carbon credit programs that align with the United Nation's Sustainable Development Goals (SDGs). The Dublin-based global leasing company collaborated with airlines to develop the initiative. Airlines and investors can acquire carbon credits from SMBC either as part of a lease contract or independently. The credits are based on energy efficient cookstove projects in Africa, Asia and the Americas, which are certified by Gold Standard and Verra.

VI. U.S. CONGRESS

1. Sen. Warren Concerned About JetBlue-Spirit Merger.

In a letter to Secretary of Transportation Pete Buttigieg, Senator Elizabeth Warren (D-Mass.) expressed concerns about the proposed merger between JetBlue and Spirit Airlines, and urged DOT to use its full statutory authority to block mergers that it determines are inconsistent with the public interest at the agency level without having to go to court.

2. Treasury OIG Review of Airline Use of Pandemic Funds Requested.

A letter requesting a review of federal funding the Treasury Department disbursed to airlines to sustain operations during the coronavirus pandemic, including whether funds were used for buyouts or staff reductions, was sent to the Treasury Office of Inspector General by Carolyn Maloney, Chair of the House Committee on Oversight and Reform, and James Clyburn, Chair of the House Select Subcommittee on the Coronavirus Crisis. After receiving significant federal funding, three leading U.S. airlines cut a substantial share of their workforce and urged employees to take early retirement, contrary to the intent of the CARES Act and American Rescue Plan Act, they said, exacerbating an existing pilot shortage, a major contributing factor in widespread flight delays and cancellations.

3. Hearing: Integrating New Entrants into the National Airspace System.

A hearing titled “FAA Reauthorization: Integrating New Entrants into the National Airspace System” was convened by Kyrsten Sinema (D-Ariz.), Chair of the Senate Subcommittee on Aviation Safety, Operations and Innovation. It was the first in a series of discussions to examine issues related to advanced air mobility (AAM) and unmanned aerial systems (UAS) operators. Topics such as certification of emerging aircraft technologies, airspace management, workforce, and infrastructure needed to support their deployment were considered.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. Boeing Sales Affected by U.S.-China Tensions.

Boeing officials said they will begin to re-market some 737 Max jets that were earmarked for Chinese customers, since the Civil Aviation Administration of China (CAAC) has not finalized procedures that would allow deliveries to resume. Meanwhile, Xiamen, a formerly all-Boeing airline, placed a firm order for 40 Airbus A320neo family aircraft valued at \$4 billion. And Air China, China Eastern, China Southern and Shenzhen earlier ordered 292 A320 family aircraft valued at \$37 billion. . . . In other news, China announced sanctions against the CEOs of Raytheon and Boeing Defense over a U.S. arms sale to Taiwan, and protested a bill approved by the Senate Foreign Relations Committee that would increase U.S. military support for Taiwan and establish sanctions against China in the event of cross-strait hostilities. The bipartisan Taiwan Policy Act of 2022 “makes clear the United States does not seek war or increased tensions with Beijing. Just the opposite. We are carefully and strategically lowering the existential threats facing Taiwan by raising the cost of taking the island by force so that it becomes too high a risk and unachievable,” said the bill’s sponsors.

2. Flight Safety Foundation, AFRAA to Cooperate on African Airline Safety.

The African Airlines Association (AFRAA) and Flight Safety Foundation agreed to collaborate on matters of mutual interest aimed at improvement of safety of the air transport industry in Africa, such as joint regional technical workshops, development of information and resource material, and promotion of effective safety information sharing. “For African aviation to yield better safety performance, the continued coordinated efforts by aviation stakeholders are essential in line with the five pillars: a cooperative approach to safety improvement in Africa under the framework of the Abuja Safety Targets, operational compliance of African carriers with International standards, data-driven safety management, infrastructure safety, and fleet modernization,” said AFRAA Secretary-General Abderahmane Berthe. Nairobi-based AFRAA has 46 airline members representing 85% of total international traffic carried by African airlines. Flight Safety Foundation is an international non-profit organization whose sole purpose is to provide impartial, independent, expert safety guidance and resources for the aviation and aerospace industry, with headquarters in the Washington, DC area.

VIII. EUROPE AND AFRICA

1. Delta to Expand Transatlantic Service Next Summer.

Delta will expand transatlantic service next summer, including new daily service from New York Kennedy to Geneva, London Gatwick, Berlin and Rome. From Atlanta, Delta will add three weekly flights to Dusseldorf, five weekly to Edinburgh and three weekly to Stuttgart. From Los Angeles, Delta will add daily service to Paris and London Heathrow.

2. Lufthansa Fully Back in Private Hands.

“Lufthansa is once again fully in private hands,” said Chairman and CEO Carsten Spohr, as all remaining shares held by the government were sold to investors. . . . Lufthansa and Vereinigung Cockpit union agreed on a pay increase for pilots at Lufthansa and Lufthansa Cargo and “a comprehensive peace obligation until June 30, 2023. Strikes are excluded during this period.” Lufthansa had canceled 800 flights at Frankfurt and Munich in preparation for planned strikes; 130,000 passengers were affected. . . . Lufthansa units Eurowings Discover and Edelweiss will have a joint CEO, Bernd Bauer, effective October 1, “expand their tourism competence in the future,” and remain independent. Edelweiss is based in Zurich, while Eurowings Discover flies from Frankfurt and Munich. . . . Lufthansa Group adopted the International Holocaust Remembrance Alliance working definition of antisemitism, the first airline group to do so, and partnered with the American Jewish Committee (AJC) to develop sensitivity trainings. The actions followed an incident in May in which 100 Orthodox Jewish passengers flying from New York to Budapest were barred from boarding a connecting flight, because some had not worn masks and had gathered in the aisles against flight regulations. AJC and other antisemitism watchdogs criticized the airline for permitting collective punishment of Jewish passengers. Lufthansa apologized, blamed miscommunication for the “categorically inappropriate” decision to bar them all, and established an internal task force to investigate the case. Lufthansa CEO Jens Ritter said the company would appoint a senior management position “for the prevention of discrimination and antisemitism.”

3. Delta, Air France to Hold Exclusive Talks on ITA Stake.

Italy selected a consortium comprised of Delta, Air France and Certares Management to hold exclusive talks on buying a majority stake in ITA Airways, the successor to Alitalia. A rival bid was presented by Lufthansa and MSC Mediterranean Shipping.

4. Virgin Atlantic to Join SkyTeam.

Virgin Atlantic will join SkyTeam in early 2023, becoming its only UK member airline, “enhancing the alliance’s transatlantic network and services to and from Heathrow and Manchester Airport.” Virgin Atlantic is part of a joint venture with SkyTeam members Delta and Air France-KLM. They are co-located at London Heathrow Terminal Three, near SkyTeam members Aeromexico and China Eastern. Virgin Atlantic flies to 12 U.S. destinations in partnership with Delta and Air France-KLM and operates services to the Caribbean, Greater China, India, Israel, Nigeria, Pakistan and South Africa.

5. British Airways, Qatar Expand Partnership.

British Airways and Qatar Airways expanded their partnership, adding 42 new countries to their shared network, and bringing number of destinations served by the two airlines to 185 across 60 countries. Cooperation on some routes subject to pending regulatory clearances.

6. Norse Atlantic Receives UK Air Operator Certificate.

UK Civil Aviation Authority granted Norse Atlantic Airways an Air Operator Certificate and Operating License, allowing the startup to operate Boeing 787 flights from its London Gatwick base to U.S. destinations, subject to further regulatory approvals; flights to and from the UK will be operated by British pilots and both UK and U.S.-based cabin crew. Norse Atlantic’s first flight took off from Oslo to New York on June 14, 2022. The airline has a connectivity partnership with easyJet, Norwegian and Spirit Airlines; the virtual interline agreement, powered by Islandic software company DoHop, will provide over 600 weekly connections to Norse’s transatlantic services. Bjørn Tore Larsen is the CEO and major shareholder.

7. Ethiopian Airlines Consortium to Own 49% Stake in New Nigeria Air.

The Nigerian Ministry of Aviation selected Ethiopian Airlines as the preferred strategic partner in proposed national carrier Nigeria Air. Ethiopian will own a 49% stake in the new airline, Nigerian Sovereign Fund 46%, and the Nigerian government the remaining 5%. The previous Nigeria Airways, wholly owned by the government, ceased to operate in 2003.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. Hong Kong, Taiwan, Japan Relax Pandemic Travel Rules.

Hong Kong ended hotel quarantine for arrivals and is requiring travelers to monitor themselves for Covid-19 for three days. “If things go well, then of course we will be considering other new measures to allow even more activities in Hong Kong and allow more convenience for travelers to come,” said Chief Executive John Lee Ka-chiu. As the announcement was made, Cathay Pacific’s website experienced high traffic and crashed from time to time, reported the South China Morning Post. A virtual waiting room was set up to manage the online traffic and customers had 30 minutes to book a ticket. Hong Kong International Airport reported 5,080 passenger flights in August, compared to 30,000 in August 2019. . . . Taiwan resumed visa-free entry for citizens of countries that previously had that status and plans to end mandatory quarantine for all arrivals from around October 13. “Now, we must make every effort to revive tourism, stimulate the economy and lead Taiwan’s economy to develop by leaps and bounds,” said President Tsai Ing-wen. “It has finally come to the final moment of the pandemic,” she wrote on her Facebook page. . . . Japan will remove its cap on daily arrivals and resume visa-free arrivals on October 11, Prime Minister Fumio Kishida said, in an effort to revive the economy. In 2019, prior to the pandemic, a record 31.9 million tourists visited Japan, reports Kyodo. The estimated monthly figure for August this year was 169,800, according to the Japan National Tourism Organization. The government will also offer a subsidy program, the National Travel Discount, to encourage domestic tourism; it will provide about \$77 in discounts and coupons.

2. United, Emirates Plan to Code Share.

Emirates and United are planning code share activities, subject to government approvals. Nonstop flights between Newark and Dubai that begin in March 2023 will connect customers through Dubai to more than 100 destinations on Emirates and flydubai. Emirates customers will be able to connect on United to 200 new cities in the Americas, through Chicago, San Francisco and Houston. The airlines will have interline arrangements at the eight other U.S. airports served by Emirates—Boston, Dallas, Los Angeles, Miami, New York Kennedy, Orlando, Seattle and Washington DC.

3. Air New Zealand Begins Auckland - New York Nonstops.

Air New Zealand began Boeing 787 Dreamliner service between New York Kennedy and Auckland. Through a partnership with United Airlines, domestic customers across the U.S. can connect to New Zealand through New York as well as Air New Zealand's other gateways, and, said CEO Greg Foran, “for

customers arriving in Auckland, we have connections to 20 different regions around the country.” . . . Qantas plans to resume flights to New York from Australia next year via Auckland. The Dreamliner service begins June 14, subject to regulatory approval.

4. **Garuda Files for Chapter 15 in New York.**

Garuda Indonesia filed for Chapter 15 bankruptcy protection in New York. The flag carrier’s debt is roughly \$5.1 billion, said CEO Irfan Setiapatra.

5. **Boeing: Middle East Fleet to More than Double by 2041.**

With air travel and tourism continuing to drive Middle Eastern economic growth, passenger traffic is expected to grow at 4% annually through 2041. Middle East airlines will require 2,980 new airplanes valued at \$765 billion to serve passengers and trade, according to the 2022 Boeing Commercial Market Outlook (CMO). More than two-thirds of these deliveries will enable growth, while one-third will replace older airplanes with more fuel-efficient models such as the 737 MAX, 787 Dreamliner and 777X. The Middle East freighter fleet is projected to reach 170 by 2041, more than doubling the pre-pandemic fleet; two of the world’s top five cargo carriers by tonnage are based in the region. . . . The CMO forecasts a global market value of \$7.2 trillion for new deliveries, with the fleet increasing by 80% through 2041 compared to 2019 pre-pandemic levels. The commercial services market to meet this demand is valued at \$3.6 trillion. Asian markets account for roughly 40% of long-term global demand for new airplanes and Europe and North America just over 20%, with 15% of deliveries going to other regions. The CMO also predicts continued robust demand for dedicated freighters. Carriers will need 2,800 additional freighters, including 940 new widebody models in addition to converted narrow-body and widebody freighters over the forecast period.

6. **Virgin Atlantic to Join SkyTeam.**

See Section VIII, item 4.

7. **British Airways, Qatar Expand Partnership.**

See Section VIII, item 5.

X. AMERICAS

1. Canada Lifts Pandemic-Related Travel Restrictions.

The government of Canada is lifting pandemic-related requirements for all travelers, regardless of citizenship, effective October 1. . . . In other news, startup Canada Jetlines entered service with flights from Toronto Pearson to Calgary. The leisure airline has one Airbus A320, with another arriving in December, and plans to expand to 15 by 2025 at a rate of five per year. CEO is Eddy Doyle.

2. American to Close San Francisco Flight Attendant Base.

American Airlines will close its San Francisco International flight attendant base and Sacramento satellite on January 31, 2023. “We expect that San Francisco will maintain the same level of flying it does today, but there are no plans to grow San Francisco and no future flying prospects based on our current network strategy,” said the airline. Any of the affected 403 workers “who wants one will have a spot at another base.”

3. Southwest Announces Leadership Changes.

Mike Van de Ven is stepping down as President and COO of Southwest. CEO Bob Jordan will assume the additional role of President and Andrew Watterson will be promoted to COO. . . . In March, Southwest will add seasonal nonstops on Saturdays between Denver and San Jose, Costa Rica, subject to government approvals. . . Southwest reached a tentative agreement with its Aircraft Appearance Technicians, represented by the Aircraft Mechanics Fraternal Association (AMFA).

4. FedEx Announces Cost Savings of \$2.2 - \$2.7 Billion.

“We’re moving with speed and agility to navigate a difficult operating environment, pulling cost, commercial, and capacity levers to adjust to the impacts of reduced demand,” said Raj Subramaniam, FedEx Corp. President and CEO, as the company reported consolidated results for first quarter ended August 31. Operating income at FedEx Express declined 69% due to an 11% year-over-year reduction in global package and freight volume; increased 3% at FedEx Ground due to yield management actions, including higher fuel surcharges, and growth in FedEx Home Delivery; and increased 67% at FedEx Freight driven by yield management actions, including higher fuel surcharges, partially offset by higher salaries and employee benefits and lower shipments. In fiscal 2023, the company expects cost savings of \$2.2 to \$2.7 billion, including reduction in variable incentive compensation. In first quarter, the company

realized \$300 million of these savings and expects to realize \$700 million in savings in second quarter. Expected cost savings of \$1.5 to \$1.7 billion at FedEx Express will include reducing flight frequencies and temporarily parking aircraft. Effective January 2, FedEx Express, FedEx Ground, and FedEx Home Delivery rates will increase by an average of 6.9%; FedEx Freight rates will increase by an average of 6.9%-7.9%.

5. Alaska, Horizon Reach Agreements with Pilots.

Alaska Airlines pilots approved a tentative agreement with management, after three years of negotiations, which includes compensation, retirement and other improvements. Membership voting is expected to begin in coming weeks. . . . Pilots at Alaska's regional unit Horizon Air ratified a new agreement that includes pay increases, enhancements to retirement benefits and improvements involving commuter policies and instructor benefits.

6. Mesa Builds Pilot Development Program.

Mesa Airlines purchased 29 Pipistrel Alpha Trainer 2 aircraft, with the option to buy an additional 75 over the next year. The new fleet "will be the backbone of the Mesa Pilot Development Program (MPD)," an initiative "to alleviate the pilot shortage while giving new pilots a direct route to a long-term career," said Chairman and CEO Jonathan Ornstein. Pilots can accumulate up to 1,500 flight hours required to fly a commercial aircraft at Mesa Airlines. The aircraft will go into operation in Inverness, Florida starting in October 2022, with expansion to Arizona over the next year. Qualified pilots who join the program will be offered up to 40 hours of flight time each week, build company longevity, and receive flight benefits and priority status for employment as a First Officer at Mesa. Flight costs of \$25 per hour, per pilot, will be fully financed by Mesa with zero interest, providing no upfront out-of-pocket expense for flight time while the candidate is accruing the required hours to earn the Airline Transport Pilot (ATP) certificate. Flight costs will be repaid over three years during term of employment at Mesa. In addition, all Mesa pilots can join United's Aviate program. Phoenix-based Mesa operates as American Eagle, United Express or DHL Express.

7. Allegiant, VivaAerobús Plan Commercial Alliance Agreement.

Las Vegas-based Allegiant and Mexico's VivaAerobús submitted a joint application to DOT requesting approval of and antitrust immunity for a fully-integrated Commercial Alliance Agreement, which will afford coordination across all areas of operations, including code sharing, scheduling, marketing, information systems and loyalty programs, providing seamless access and benefits for customers of both airlines. Allegiant will also make an equity investment of \$50 million in VivaAerobús, and Allegiant Chairman and CEO Maurice Gallagher, Jr. is expected to join the VivaAerobús Board of Directors.

The transactions are also subject to clearance by the Mexican Federal Economic Competition Commission. The alliance is anticipated to add new transborder routes and nonstop competition where currently only connecting service is available. More than 250 new potential route opportunities are identified in the DOT application; specific routes targeted for service will be announced following application approval. The airlines hope to offer flights under the alliance beginning in first quarter 2023. If approved, the alliance will be the first-of-its-kind between two ultra low-cost air carriers. Allegiant offers nonstops to 130 U.S. cities, but does not serve Mexico. VivaAerobús, which offers extensive intra-Mexico service and nonstops from Mexico to the U.S. and Latin America, will have access to Allegiant's distribution network and point-of-sale process. The alliance will also enable VivaAerobús to add U.S. routes, particularly underserved or untapped-to-Mexico markets where Allegiant has a significant presence such as Las Vegas and cities in Florida. . . . Allegiant announced it has repaid the \$24.8 million dollar emergency relief loan the company received under the Coronavirus Aid, Relief and Economic Security (CARES) Act in April 2020.

8. Breeze Adds Eight Las Vegas Routes.

Breeze Airways announced eight new routes to Las Vegas; promotional fares started at \$29 one way. The “Seriously Nice™ low-fare, high flex airline” founded by David Neeleman, has ordered 80 new Airbus A220-300s, to be delivered one per month over the next six years, with options for 40 more.

9. Azul Accelerates Fleet Transformation Plan.

Azul accelerated phase-out of previous-generation Embraer E-195 E1s to advance delivery of the next-generation E2, which has a “26% lower seat cost compared to the E1.” The E1 fleet will be reduced by 40% by end of 2023 compared to 2019. Azul received its first Airbus A350, which, said CEO John Rodgers, “will bring much more comfort to our customers and more efficiency in terms of fuel consumption and CO₂ emission, bringing a reduction in cost per seat when compared to the A330CEO aircraft.” The A350 is completing the certification process with Brazilian regulatory agencies. By year-end, two new generation Airbus A350s will be flying on Azul's network, replacing two older generation A330CEOs. The largest airline in Brazil in number of flights and cities served, Azul was founded by stakeholder David Neeleman.

10. Delta to Expand Transatlantic Service Next Summer.

See Section VIII, item 1.

11. Delta, Air France to Hold Exclusive Talks on ITA Stake.

See Section VIII, item 3.

12. **Virgin Atlantic to Join SkyTeam.**
See Section VIII, item 4.
13. **United, Emirates Plan to Code Share.**
See Section IX, item 2.
14. **Air New Zealand Begins Auckland - New York Nonstops.**
See Section IX, item 3.