



## WASHINGTON AVIATION SUMMARY

### APRIL 2023 EDITION

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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. DOJ Sues to Block JetBlue Acquisition of Spirit.**

The U.S. Department of Justice (DOJ) filed a civil antitrust lawsuit to block JetBlue's proposed \$3.8 billion acquisition of Spirit Airlines. The complaint, filed in the District of Massachusetts with Attorneys General of Massachusetts, New York, and the District of Columbia, alleges that Spirit's low-cost, no-frills option has brought lower fares and more options to routes across the country, making it possible for more Americans to travel. The complaint alleges the acquisition would eliminate the "Spirit Effect," where Spirit's presence in a market forces other air carriers, including JetBlue, to lower fares and would eliminate half of U.S. ultra-low-cost capacity. "JetBlue and Spirit compete fiercely today on hundreds of routes," said DOJ. The complaint notes "JetBlue has already partnered with American Airlines, the largest airline in the world, through the Northeast Alliance, which the Department sued to block [and] is doubling down on consolidation..." The case will go to trial on October 6. . . . JetBlue reiterated its commitment to the merger shortly after DOJ's filing, saying it was determined to create a national challenger to the Big Four.... The Department of Transportation (DOT) denied an exemption request by JetBlue and Spirit to operate under common ownership, citing the DOJ antitrust lawsuit. DOT said it will continue to investigate a transfer application to combine and operate their international routes under one certificate for the duration of the proceeding.

### **2. Phil Washington Withdraws Bid to Lead FAA.**

Phillip A. Washington, President Biden's nominee to lead the Federal Aviation Administration (FAA), withdrew his name from consideration after a contentious Senate Transportation Committee hearing and delayed confirmation vote. He was nominated in July 2022. While supported by former FAA Administrators and some industry groups, others criticized Washington's limited aviation experience and alleged involvement in a corruption investigation for which he denies wrongdoing. "FAA needs a confirmed Administrator, and Phil Washington's transportation & military experience made him an excellent nominee," tweeted DOT Secretary Pete Buttigieg. "The partisan attacks and procedural obstruction he has faced are undeserved, but I respect his decision to withdraw and am grateful for his service." Some Republicans advised the President to nominate Acting Administrator Billy Nolen, who has decades of aviation experience. "Nolen would likely receive widespread bipartisan support and earn a quick confirmation in the Senate," wrote Ted Cruz (R-TX) and Ted Budd (R-NC), in an op-ed.

**3. FAA Convenes Safety Summit in Wake of Serious Incidents.**

“There have been far too many close calls and near-collisions recently, any of which could’ve had devastating consequences,” said Jennifer Homendy, Chair of the National Transportation Safety Board (NTSB), at the start of a Safety Summit convened by FAA. NTSB is investigating several recent runway incursions, wrong-runway landings, a severe turbulence incident that left 25 people injured, and an incident in which an aircraft came within several hundred feet of hitting the Pacific Ocean. Seven NTSB recommendations on runway collisions haven’t been acted on, said Homendy, including one from 23 years ago. At a 2017 forum, FAA highlighted pilot deviation and air traffic control (ATC) communications as key concerns, and participants called for better data and technology to prevent runway incursions. Today, we have the data, roughly 1,500 to 1,700 runway incursions annually, most low- or no-risk. And we have the technology, but Airport Surface Detection Equipment, Model X (ASDE-X) is operational at only 35 airports and Airport Surface Surveillance Capability (ASSC) at only eight airports. Homendy also noted that cockpit voice recorders (CVRs) in recent runway incursions were overwritten, since they need only record two hours of audio. Europe mandates 25-hour recorders on new aircraft. “We should do the same,” she said, and retrofit certain in-service aircraft; both are open NTSB recommendations from 2018. Turbulence is the most common accident involving Part 121 carriers and accounts for three out of four flight attendant injuries. NTSB has issued 25 turbulence recommendations— all remain open—including increased sharing of turbulence events, the need for flight attendants to be seated with seatbelt buckled during certain phases of flight, and for parents to secure children under two in their own seat with an FAA-approved child restraint system.

The Safety Summit opening panel, moderated by FAA Acting Administrator Billy Nolen and Robert Sumwalt, Executive Director of Embry-Riddle’s Center for Aviation and Aerospace Safety and former NTSB Chair, included leaders of Air Line Pilots Association, Airlines for America, American Association of Airport Executives, National Air Traffic Controllers Association, Regional Airline Association and National Business Aviation Association. In breakout sessions, pilots and flight attendants said they continue to feel stress in the workplace, amid long hours under adverse conditions. Primary concerns of others are workforce experience and attrition. Nolen plans to appoint a special panel to evaluate the air traffic system and FAA safety oversight.

**4. U.S. to Require 25-Hour Cockpit Voice Recordings.**

After the Safety Summit, FAA said it will initiate a rulemaking requiring Cockpit Voice Recorders (CVRs) to capture 25 hours of information, instead of the current two hours, and will establish an Aviation Rulemaking Committee to

explore how to better use data gathered by airplane systems. “That’s a win for safety!” tweeted NTSB Chair Jennifer Homendy. . . . FAA also issued a safety alert with specific steps for airlines, pilots and others. Among them: Ensure pilots and flight attendants have the same understanding of what “sterile flight deck” means and risks associated with extraneous communication during this time. Emphasize importance of awareness of the aircraft in relation to taxiways, runways and other aircraft. Encourage personnel to identify and report existing and emerging safety issues through voluntary reporting programs. Reinforce adherence to published processes and procedures, including checklists, ATC instructions, and internal company procedures. Ensure Safety Management Systems are accounting for the high rate of change and churn in industry. . . . And, addressing an industry meeting, Acting FAA Administrator Billy Nolen called for real-time sharing of data. “Going forward”, he said, “zero has to be the only acceptable number for serious incidents and close calls.”

5. **ALPA Raises Concerns for Need of FAA Safety Resources.**

After slowing to unprecedented levels during the pandemic, with tens of thousands of employees furloughed, commercial aviation is ramping up faster than most expected, wrote Lee Moak, past president of Air Line Pilots Association (ALPA), in the Washington Post. The industry is racing to meet training requirements required to bring furloughed employees back and certify new employees on the flight deck, at operations and maintenance facilities, and at FAA ATC centers and towers. FAA has been without a permanent Administrator for almost a year. The FAA office in charge of safety has had an Acting head for a year, as Billy Nolen, previously in that role, is Acting FAA Administrator. Congress has underfunded FAA for decades, leaving the safety regulator to make do without technology, tools and staffing needed to upgrade aging systems, physical and digital infrastructure. FAA needs a confirmed Administrator. Congress needs to pass an FAA reauthorization bill that prioritizes and funds improvements for the Air Traffic Organization, adds certification resources and makes other upgrades. And lawmakers must hold FAA accountable for delivering safety mandates issued by Congress.

6. **DOT Posts Dashboard on Family Seating Fees.**

The DOT website now features a family seating dashboard that identifies airlines that guarantee fee-free family seating, and those that do not. DOT is working on a rulemaking to ensure a young child is able to sit adjacent to an accompanying adult.

7. **Audit Initiated of Buttigieg’s Use of FAA Planes on Official Trips.**

At the request of Republican Senator Marco Rubio, the DOT Office of Inspector General will initiate an audit to determine if DOT Secretary Pete Buttigieg’s use

of FAA jets on official trips taken since January 31, 2021 complied with federal regulations and DOT policies and procedures. The Secretary's staff said he flies commercially most of the time and use of the government planes often saved taxpayer money.

**8. DOJ Charges Unruly Passenger.**

The Department of Justice charged a passenger for allegedly attempting to open an emergency exit door while aboard a United flight from Los Angeles to Boston and attempting to stab a flight attendant. The charge of interference and attempted interference with flight crew and attendants using a dangerous weapon provides for a sentence of up to life in prison, up to five years of supervised release and a fine of up to \$250,000. "We're thankful for the FBI's quick action on this," said Association of Flight Attendants-CWA (AFA-CWA). "This is another example of the urgent need for a national banned disruptive passenger list. We call on Congress to pass the "Protection from Abusive Passengers Act." In 2022, there were 2,456 unruly passenger reports, 831 investigations and 567 enforcement actions initiated, said FAA, which proposed \$8,449,543 in fines.

**9. Proposed FAA Budget for Fiscal Year 2024.**

The proposed Biden Administration budget for Fiscal Year 2024 provides \$16.5 billion in discretionary spending for FAA, with funding for hiring and training air traffic controllers, to ensure the National Airspace System (NAS) can accommodate growth in traditional commercial aviation traffic and new entrants from commercial space, unmanned aircraft and advanced air mobility industries. The budget requests a \$3 million increase to bolster aviation consumer protection activities, including additional staff and information technology enhancements to reduce the backlog of consumer complaints, expedite rulemaking, and increase outreach and enforcement.

**10. Court Rejects FlyersRights Seat Size Claim.**

The D.C. Court of Appeals denied FlyersRights.org's petition to compel FAA to enact a provision of the 2018 FAA Reauthorization Act requiring FAA to establish minimum dimensions for airline seat size and spacing by October 2019. FlyersRights maintains that tight seating slows emergency exits and poses health risks such as blood clots. "To be sure, many airline seats are uncomfortably small," wrote the court. "But it is not 'clear and indisputable' that airline seats have become dangerously small."

**11. FAA Proposal Would Fulfill Requirement of Aircraft Certification Act.**

FAA proposed a policy that would require applicants who want to modify original transport category aircraft designs to disclose all proposed changes in a single

document at the beginning of the certification process, to fulfill a requirement of the “Aircraft Certification, Safety, and Accountability Act.”

## II. AIRPORTS

### 1. Limited Waiver of Slot Usage Requirements at NY, DC Airports.

FAA issued a limited, conditional waiver of minimum usage slot requirements for airlines at New York Kennedy, LaGuardia and Newark, and Reagan Washington National to relieve summer congestion, “due to post-pandemic effects on air traffic controller staffing.” Carriers can voluntarily turn in up to 10% of their slots for the period of May 15 through September 15.

### 2. Nearly \$1 Billion in Airport Funding Awarded.

FAA awarded funds from the Airport Terminal Program, one of three aviation programs in the Bipartisan Infrastructure Law providing \$1 billion annually for airport projects for five years. Among the 99 airports receiving grants are Chicago O’Hare (\$50 million), Baltimore/Washington (\$38 million), Dallas-Fort Worth (\$35 million), Salt Lake City (\$29 million), and Philadelphia (\$15 million). These awards are in addition to \$1 billion announced last year for 85 terminals projects, most of which are under construction.

### 3. MWAA's First President and CEO Jim Wilding Dies.

Jim Wilding, the first President of Metropolitan Washington Airports Authority (MWAA), has died. Wilding retired in 2003 after a 43-year career in aviation. He participated in original planning and development of Dulles while with FAA, and was Director of the federally-owned authority overseeing Dulles and National. The airports were transferred to the new MWAA in 1987. The James A. Wilding International Arrivals Hall at Dulles was named in his honor.

### 4. New York Drops Plan to Build AirTrain to La Guardia.

Port Authority of New York and New Jersey will not move forward with construction of an AirTrain to LaGuardia. The decision was based on findings of an expert panel, established at the request of Governor Kathy Hochul, which recommends a near-term focus on improving bus service at a cost of around \$500 million compared to estimates of \$2.4 billion to \$6.2 billion for the light rail option.

### 5. New Kansas City Terminal Opens.

A new 40-gate terminal opened at Kansas City International. At just over one million square feet and a budget of \$1.5 billion, it is the largest single infrastructure project in the Missouri city’s history.

**6. Airlines Challenge Legality of Schiphol Flight Reductions.**

The International Air Transport Association (IATA) and several airlines initiated proceedings against the Dutch government, which is cutting significant capacity at Schiphol to reduce noise and CO2 emissions. “In contravention of EU law and its international obligations,” stated IATA, “no meaningful consultation was undertaken with industry; flight reductions are being imposed as a first resort, rather than as a last resort; and the need to restore economic damage to the aviation industry of the Netherlands is not being addressed.” The “unilateral and sudden decision to reduce Schiphol’s capacity from 500,000 to 460,000 flight annual movements (with the ultimate goal of reducing flight movements to 440,000 by 2024) is incomprehensible,” said the airlines, which “are urging the courts to safeguard the future capacity of Schiphol Airport.” . . . Separately, JetBlue was granted temporary slots at Schiphol after earlier denials and a complaint to DOT.

**7. Pittsburgh Renovations Include Unique Tunnel.**

With a new terminal expected to open in 2025, Pittsburgh International unveiled the design of a connector bridge and tunnel to the existing airside center core, which, said Allegheny County Airport Authority, “will evoke the beauty of the region.” Ceiling lighting will emulate scenic skies of western Pennsylvania and when passengers reach the end of the tunnel, the center core will expand into full view as new escalators guide them to the gate level.

**8. CAA Finalizes Cap on Heathrow Fees.**

The UK Civil Aviation Authority (CAA) finalized annual caps for Heathrow airline fees through 2026. Average maximum price per passenger will fall by about 20% from £31.57 per passenger in 2023, to £25.43 in 2024, and remain at that level until end of 2026. “This lower level of charges from 2024 recognizes that passenger volumes are expected to return to pre-pandemic levels and should benefit passengers in terms of lower costs, while also allowing Heathrow Airport Limited to continue investing in the airport for the benefit of consumers and supporting the airport’s ability to finance its operations,” said CAA. In response, Heathrow said CAA cut airport charges when airlines are making massive profits and the airport “remains loss-making because of fewer passengers and higher financing costs.” Airlines maintain that Heathrow fees remain the highest in the world; they can appeal CAA’s decision.

**9. EU Rejects American Airlines Appeal on Delta Heathrow Slots.**

The European Union Court of Justice dismissed American Airlines’ appeal to cancel Delta’s slots for London Heathrow service to Philadelphia. American had argued that Delta was not meeting the frequency obligation for the route. The



court ordered American to bear its own costs and those of the European Commission and Delta.

**10. Auckland to Complete \$3.9 Billion Airport Project.**

The Auckland Airport Board approved final design stages of a \$3.9 billion construction program over the next five to six years at Auckland Airport. The 57-year-old domestic terminal will be replaced by a combined domestic and international terminal at the eastern end of the existing international terminal. “Set to open between 2028 and 2029, the combined terminal will serve the larger and more efficient domestic jet aircraft flying to and from Auckland to New Zealand’s other main centers, alongside international operations,” said officials. During construction, domestic travel will continue to operate from the existing domestic terminal.

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

1. **TSA Update.**

The Transportation Security Administration (TSA) PreCheck program surpassed 15 million active members, a new record for the expedited screening program which began in December 2013. . . . The President's budget for Fiscal Year 2024 provides \$60.4 billion in discretionary funding for the Department of Homeland Security (DHS), including \$1.4 billion to ensure TSA employees are paid at rates comparable to other federal workers.

2. **New Cybersecurity Requirements for Airport, Aircraft Operators.**

A new cybersecurity amendment was issued on an emergency basis to security programs of certain TSA-regulated airport and aircraft operators, because of persistent threats against U.S. critical infrastructure, including aviation, and following extensive collaboration with aviation partners. The amendment requires that impacted TSA-regulated entities develop an approved implementation plan that describes measures to improve cybersecurity resilience and prevent disruption and degradation to their infrastructure. They must develop network segmentation policies and controls to ensure that operational technology systems can continue to safely operate in the event that an information technology system has been compromised, and vice versa; create access control measures to secure and prevent unauthorized access to critical cyber systems; implement continuous monitoring and detection policies and procedures to defend against, detect, and respond to cybersecurity threats and anomalies that affect critical cyber system operations; and reduce the risk of exploitation of unpatched systems through the application of security patches and updates for operating systems, applications, drivers and firmware on critical cyber systems in a timely manner using a risk-based methodology. Previous requirements for TSA-regulated airport and aircraft operators included measures such as reporting significant cybersecurity incidents to the Cybersecurity and Infrastructure Security Agency (CISA), establishing a cybersecurity point of contact, developing and adopting a cybersecurity incident response plan and completing a cybersecurity vulnerability assessment. The Administration has announced a National Cybersecurity Strategy under which TSA will continue to work closely with DOT, CISA and industry partners to strengthen cybersecurity resilience of the nation's critical infrastructure.

## **IV. TECHNOLOGY AND EQUIPMENT**

### **1. American's NDC Content Accessible via Sabre.**

American's New Distribution Capability (NDC) content becomes available through Sabre's global distribution system (GDS) on April 3. The airline had alerted travel agencies they must be connected to its NDC technology or lose access to up to 40% of fares. American Society of Travel Advisors (ASTA) had asked American to delay NDC implementation until the end of 2023, since many GDS and third-party booking technology partners would not be fully prepared to facilitate implementation by an April 3 deadline, but the airline refused. "Given its broad consumer protection mandate, DOT may want to investigate the consequences of AA's actions, should it continue down its intended path," said ASTA.

### **2. SITA, Lufthansa Automate Bag Reflight Operations.**

SITA and Lufthansa are automating baggage reflight operations to reduce mishandled bag costs, which in 2022 ran to \$2.2 billion for global airlines, with over 4 million bags mishandled during transfer. SITA's WorldTracer Auto Reflight notifies passengers on arrival of any delay with their bag, while collecting delivery details and ultimately allowing the passenger to bypass the baggage hall. It automatically suggests suitable flight routing for rush bags, uses the original bag tag to reflight and informs the baggage system of the new bag routing. According to first results of Proof of Concept, we will be able to automatically reflight as much as 70% of mishandled bags at Munich, said Lufthansa.

### **3. Report: "Delivering Traveler Value."**

A new report from Amadeus and Microsoft explores how the growing role of artificial intelligence (AI), the metaverse and enhanced data analytics, among other new technology, can help the travel sector better understand the traveler. "Delivering Traveler Value: Inspiring, understanding and fulfilling expectations throughout the travel experience and beyond" is based on findings from a survey by Northstar Research Partners of 2,400 business and leisure travelers across six key markets – Brazil, Germany, India, Indonesia, UK and the United States.

### **4. Universal Hydrogen Completes First Flight of Regional Airliner.**

Universal Hydrogen flew a 40-passenger regional airliner for 15 minutes using hydrogen fuel cell propulsion. Operated by Connect Airlines and conducted under an FAA Special Airworthiness Certificate, this was the first of a two-year flight test campaign expected to culminate in 2025 with entry into passenger

service of ATR 72s converted to run on hydrogen. Connect, which will begin regional turboprop service this spring, has placed a first-position order to convert 75 ATR 72-600s to hydrogen powertrains with purchase rights for 25 additional conversions. French airline, Amelia, is the European launch customer. Backed by GE Aviation, Airbus Ventures, Toyota Ventures, JetBlue Ventures, and American Airlines, and green hydrogen producers and financial investors, Universal Hydrogen “plans to springboard from regional airplanes to larger ones and to hydrogen fuel deliveries for other mobility applications using its modular logistics network.”

**5. United, Archer Announce First eVTOL Route in Chicago.**

United will offer service from its O’Hare hub to Vertiport Chicago, near the downtown Loop, utilizing Archer Aviation’s electric vertical takeoff and landing (eVTOL) aircraft. United and Archer’s goal for its urban air mobility (UAM) network is “to provide residents and visitors in the Chicago Metropolitan Area with a safe, sustainable, low noise, and cost-competitive alternative to ground transportation beginning in 2025.” Travel time to the airport will be about 10 minutes.

**6. SITA, Volocopter Collaborate on Digital Infrastructure For Vertiports.**

SITA and Volocopter agreed to collaborate on digital infrastructure for vertiports. The air transport industry IT provider is an investor in the Series E funding round of the UAM maker. Volocopter’s launch product, the VoloCity electric air taxi, “will operate routes in congested megacities to offer future passengers stable, quiet, and safe flights” from vertiports. SITA “will develop new operating standards and a digital-first passenger experience.”

## **V. ENERGY AND ENVIRONMENT**

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

Average price of aviation jet fuel on March 10 was \$109.25/barrel, down 8.2% on the month and down 17.8% compared to a year ago, reports IATA; data from S&P Global Platts.

### **2. United Invests \$5 Million in Algae-Based Fuel Producer Viridos.**

United is investing \$5 million in Viridos, which specializes in the bioengineering of microalgae. Its proprietary technology accelerates the amount of oil produced from microalgae, and this algae oil could then be used to scale future production of sustainable aviation fuel (SAF). Algae is an abundant and scalable resource that can be grown and harvested without impacting the food supply chain. This is the first investment of United's recently announced UAV Sustainable Flight Fund. The fund is starting with more than \$100 million in investments from United and inaugural corporate partners Air Canada, Boeing, GE Aerospace, JPMorgan Chase and Honeywell. To date, nearly 6,000 United customers have contributed to supplement United's investment in the fund while purchasing tickets.

### **3. JetBlue, Shell Bringing New Supply of SAF to LAX.**

JetBlue and Shell Aviation are bringing additional supply of SAF to Los Angeles International. JetBlue is expected to take delivery of 10 million gallons of blended SAF at LAX over the next two years with option to purchase up to 5 million more in third year, either at LAX or other airports. Shell is building supply chain capabilities to blend, handle and distribute SAF and enable more customers access to SAF. Through Avelia, a blockchain-powered digital SAF book-and-claim solution for business travel, organizations will be able to purchase JetBlue-issued SAF certificates.

### **4. BWI Recycling Used Cooking Oil for Conversion to Renewable Fuels.**

Foodservice companies at Baltimore/Washington (BWI) Airport are recycling used cooking oil for a zero-waste program that converts it into renewable fuels. A collaborative effort with Fraport Maryland and Mahoney Environmental is designed to eliminate safety concerns for restaurant employees who work with hot oils, and will enable BWI to become more sustainable. BWI is the seventh major U.S. commercial airport to work with Mahoney, which controls the entire recycling process—from equipment set-up to collection, to processing, to finished product.

5. **Airports Engage in Carbon Management, Reduction.**

More than half a million tonnes of CO<sub>2</sub> were reduced by airports certified by Airport Carbon Accreditation between May 2021 and May 2022, reports Airports Council International (ACI), with 395 airports in 79 countries engaging in carbon management and reduction. Airports of all sizes are certified, from global hubs such as London Heathrow, Istanbul, Doha Hamad International, Singapore Changi and Dallas-Fort Worth, to capital gateways such as Abidjan, Athens, Amman, Phnom Penh, Quito and San Jose, and smaller airports serving remote areas, island nations and popular tourism destinations such as Galapagos, Kelowna, Puerto Vallarta, Enfidha Hammamet, Trondheim and Sunshine Coast. Founded by ACI Europe, the program hopes to help airports achieve net zero CO<sub>2</sub>.

6. **Southwest Buys Carbon Credits from SMBC Aviation Capital.**

Southwest Airlines agreed to purchase over 400,000 carbon credits from Dublin-based SMBC Aviation Capital, the first aircraft leasing company to develop a carbon credit program. The credits will be certified by either Gold Standard or Verra over a five-year timeframe.

7. **EU-Funded Project Studies SAF from Manure, Straw.**

EU-funded research project CIRCULAIR will develop conversion technologies to produce SAF from abundant agricultural residues through hydrothermal liquefaction. Manure and straw were chosen as feedstocks, due to their abundance in agriculture and potential synergy effects in co-liquefaction. The CIRCULAIR consortium partners are Aarhus University, Circlia Nordic, Aalborg University and Topsoe, in Denmark; RISE in Sweden; Eni in Italy; Universidad Complutense de Madrid in Spain; Universität Hohenheim and Bauhaus Luftfahrt in Germany; and L-up in France. The four-year research project has a total budget of €5 million.

## **VI. U.S. CONGRESS**

1. **Senate “NOTAM Improvement Act of 2023” Advances.**

The Senate Commerce Committee passed the NOTAM Improvement Act. The bipartisan legislation would require FAA to establish a Task Force on NOTAM (notice to airmen required by international or domestic law) Improvement. The system, which alerts pilots of safety and location hazards on flight routes, suffered an outage in January, grounding flights nationwide. Companion bipartisan legislation passed the House in January.

2. **“Protection from Abusive Passengers Act” Reintroduced.**

The “Protection from Abusive Passengers Act” was reintroduced in Congress. Under the bipartisan, bicameral legislation, passengers fined or convicted of serious physical violence or intimidation would be banned by TSA from flying on commercial aircraft and from participating in the TSA PreCheck or Customs’ Global Entry programs. FAA investigated 831 unruly-passenger incidents in 2022.

3. **Bill Would Raise Mandatory Commercial Pilot Retirement Age.**

The “Let Experienced Pilots Fly Act” was reintroduced in the Senate. The bipartisan bill raises the mandatory commercial pilot retirement age from 65 to 67; requires that pilots over age 65 maintain a first-class medical certification which must be renewed every six months; requires air carriers to continue using pilot training and qualification programs approved by FAA; and does not change any qualification beyond age to become a commercial airline pilot. “There is a severe and growing pilot shortage in the United States,” said Senator Lindsey Graham (R-South Carolina). “With baby boomers making up half of the airline pilot population, roughly 5,000 fully qualified pilots will be forced to retire within the next two years and the problem will grow even more acute in the years after.”

4. **“Cash Refunds for Flight Cancellations Act” Reintroduced.**

Democrats in the House and Senate reintroduced the “Cash Refunds for Flight Cancellations Act,” which codifies DOT authority to require major airlines to give passengers a cash refund if the airline cancels or significantly delays their flight, and creates a right to receive a cash refund if the passenger cancels their flight up to 48 hours ahead of the flight’s scheduled departure, said bill sponsors. The bill would authorize the Secretary of Transportation to impose a \$1,000 civil penalty on an airline for failing to provide a full cash refund to a passenger within 30 days.

5. **“Saracini Enhanced Aviation Safety Act” Introduced.**

The “Saracini Enhanced Aviation Safety Act” was introduced in the Senate by Bob Casey (D-PA). The bill would require secondary barriers between the cabin and cockpit door on all passenger airplanes, enhancing Casey’s “Saracini Aviation Act” enacted in 2018 that required the secondary barrier on each new aircraft purchased in the United States. The bill is named for Captain Victor Saracini, who piloted United Flight 175 when it was hijacked by terrorists and flown into the World Trade Center on September 11th, 2001. . . . Air Line Pilots Association (ALPA) has called for “an immediate final rule for installation of secondary barriers for all newly manufactured passenger aircraft, as required by law,” and wants Congress to pass this enhanced bill. ALPA also wants Congress to pass the “Cargo Flight Deck Security Act” requiring all-cargo aircraft to be equipped with hardened intrusion-resistant cockpit doors (IRCD).

6. **“American Aviator Act of 2023” Reintroduced.**

The “American Aviator Act of 2023” was reintroduced in the Senate. The bipartisan legislation would authorize grant funding through FAA to support training for veterans who are not already military pilots. Veterans would receive flight training to become a commercial pilot and other certifications, including flight instructor. “The legislation helps ensure there are enough qualified pilots in the future to continue providing safe and reliable air service to rural airports across the country,” said sponsor Tammy Baldwin (D-WI).

7. **Bill Protects Personal Data from Foreign Tech.**

The “Restricting the Emergence of Security Threats that Risk Information and Communications Technology (RESTRICT) Act” was introduced in the Senate. The bipartisan legislation would better empower the Department of Commerce to review, prevent, and mitigate information communications and technology transactions that pose undue risk to national security. It addresses “a host of dangerous technology platforms – including TikTok – that can be manipulated by China and other foreign adversaries to threaten U.S. national security and abuse Americans’ personal data.”

8. **Hearing: Enhancing Consumer Protections and Connectivity.**

A hearing titled “Enhancing Consumer Protections and Connectivity in Air Transportation” was convened by the Senate Transportation Committee to examine the need to strengthen consumer protections, including bolstering DOT rules, enhancing accessibility for the disabled and exploring the intersection of competition and customer service.



In her testimony, Sara Nelson, President, Association of Flight Attendants, advocated for the proposed JetBlue-Spirit merger, saying the JetBlue plan “can actually begin to correct the consolidation of pricing power among four major airlines, promote collective bargaining to the highest standards for good jobs, and improve service to our communities.” Reconfiguring all Spirit airplanes from 28” seat pitch to 32” seat pitch “means more comfort for passengers and a far better ratio of gate agents and flight attendants to passengers, and would contribute to addressing very real concerns detailed in the “Emergency Vacating of Aircraft Cabin (EVAC) Act.” The merger would also “expand service beyond what either airline can do alone.” Among other comments, Nelson cited dire statistics that illustrate the need for separate seats and proper restraints for infants and children under the age of two. Referring to “the terrible assaults flight attendants experience while on duty,” she called for a national banned disruptive passenger list and “language in the FAA reauthorization bill that bans these passengers from flying.”

Jeff Shane, a former DOT policy executive, provided historical perspective on subjects such as the “Airline Deregulation Act of 1978” and Open Skies, and advised the government to “exercise extreme caution in promulgating rules designed to alter the conduct of private business,” such as ancillary fees. He urged caution regarding mergers. “You don’t make competition policy based simply on the number of airlines in the market, or on the aggregate market share enjoyed by the ‘big three’ or ‘big four’; instead, you carefully examine the quality of the choices available to actual passengers in actual city pairs and you look objectively at actual pricing trends.” Shane said “it would be a serious error of policy to adopt legislation and/or regulations that freeze the industry in its tracks, homogenize its means of distribution, prescribe what it can charge for some services and what it can’t, and needlessly sap much of the competitive energy that should govern airline customer relations. If we are singling out airlines for a level of regulatory micromanagement that we wouldn’t conceive of visiting on other businesses, we need to be clear about the public policy rationale for that different treatment.”

**9. Hearing: Implementation, Oversight of Aircraft Certification.**

A hearing titled “Implementation and Oversight of the Aircraft Certification, Safety, and Accountability Act” was convened by Senate Commerce Committee Chair Maria Cantwell (D-Wash.) to examine the implementation of aviation safety and oversight reforms mandated by the “Aircraft Certification, Safety, and Accountability Act of 2020” and review additional reforms necessary. “We have made significant progress meeting the requirements of the law to improve and refine our certification and safety oversight processes,” said Billy Nolen, Acting FAA Administrator. We have rededicated processes to treat aircraft as complex

systems, with full consideration of how all elements interact, he said; are integrating human factors considerations more effectively throughout all aspects of the design and certification process; are improving oversight by ensuring coordinated and flexible flow of data and information; and hiring new talent who understand safety implications of new and innovative technologies,.

**10. Hearing: Strengthening the Aviation Workforce.**

A full committee hearing to examine challenges facing the aviation workforce and identify solutions for improving education, recruitment, hiring, training and retention of workers in the aviation industry and at FAA was convened by Maria Cantwell (D-Wash.), Chair of the Senate Commerce Committee. Titled “Strengthening the Aviation Workforce,” the hearing examined opportunities to increase representation in and promote awareness of aviation careers. “Over the next 20 years, to meet projected growth in commercial aviation, we will need 128,000 pilots, 134,000 maintenance technicians and 173,000 crew members in North America alone,” said Cantwell in her opening remarks.

Women represent roughly 5% of airline pilots and less than 12% of aerospace engineers, yet make up 47% of the total U.S. workforce.” According to Bureau of Labor statistics, less than 15% of pilots and engineers combined are Black or Hispanic or Asian. The cost of flight education at a traditional four-year institution can range past \$100,000, subject to rising tuition fees, and “we should consider policies that will help drive down those costs and get more students into the aviation talent pool.” We must continue to invest in an FAA that has 45,000 employees, including 14,000 air traffic controllers, 5,000 flight standards workers and 1,500 aircraft certification personnel. According to DOT, the U.S. airline industry employed 787,328 workers in January 2023, nearly 8% more than in the pre-pandemic time period of 2019. The U.S. aircraft manufacturing sector is expected to hire more than 10,000 workers in 2023, with an average salary of over \$106,000, about 40% above national average, according to Aerospace Industries Association.

Alaska Airlines’ True North Pilot Development partners with historically Black colleges and universities “to develop and hire pilots who are Black, Indigenous and people of color,” noted Constance von Muehlen, Executive Vice President and COO, in her testimony. The program, which began in 2021 includes financial assistance, mentoring and eventual direct hire placement in an entry-level position. The airline plans to expand the program to other schools and broaden its scope of career opportunities. . . . Among his remarks, ALPA President Jason Ambrosi said Congress can and must do more to reduce the cost of flight training. “The FAA reauthorization provides an opportunity to amend the ‘Higher Education Access Act of 1965’ to ensure flight education and

training qualify for federally subsidized student loans for four-year, two-year, and appropriately accredited Part 141 programs. There is no reason for unequal loan treatment between a traditional college student and a student seeking to be a professional airline pilot, who must shoulder prohibitively costly private loans for training.”

**11. Hearing: Navigating the Comprehensive Passenger Experience.**

The House Aviation Subcommittee held a hearing entitled “Navigating the Comprehensive Passenger Experience,” in advance of upcoming FAA reauthorization. The goal of the hearing was to assess the passenger experience from arrival at departure airport to departure from destination airport. Subcommittee Ranking Member Steve Cohen (D-TN) said some provisions in the 2018 FAA reauthorization law to improve the airline passenger experience are still outstanding, such as a final rule on the SEAT Act, which required FAA to establish minimum dimensions for passenger seats. Much more work is needed to enhance the disabled passenger experience, he said. DOT received 1,394 disability-related complaints in 2021, compared to 541 complaints in 2020. And consumers whose flights are cancelled or significantly delayed “should not be forced to jump through hoops to claim their rightful cash refund.” Testifying were representatives of Airlines for America, Airports Council International - North America, National Air Traffic Controllers Association, Paralyzed Veterans of America and National Air Traffic Controllers Association, AFL-CIO.

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

### **1. U.S.-Mongolia Economic Partnership**

FAA participated in the 4th U.S.-Mongolia Economic Policy Dialogue held in Washington, D.C. The two nations discussed potential collaboration on projects to advance Mongolia's economic development, diversification, and independence, with a focus on renewable energy and energy security, critical minerals, transportation, food security, intellectual property rights, and the digital economy. In January, a Memorandum of Consultations (MOC) was signed, marking the successful negotiation of an Air Transport Agreement, "an important step toward establishing scheduled, nonstop passenger flights between Mongolia and the United States."

### **2. Russian Airlines to Fly to Venezuela via Cuba.**

Russian airlines will fly to Venezuela via Cuba, reports TASS, while Venezuelan carriers will fly via Cuba to Moscow. The Russian Federal Agency for Air Transport stated: "Russian and Venezuelan aviation authorities reached an agreement aimed at strengthening bilateral cooperation in the area of air service on providing the right to airlines of the two countries to perform flights with the fifth freedom of the air." During 2022-2023, flights between Russia and Venezuela were performed by Nordwind and Conviasa.

## VIII. EUROPE AND AFRICA

### 1. JetBlue's New York-Paris Service Starts in June.

JetBlue's daily nonstop Airbus A321 (LR) service from New York Kennedy to Paris Charles de Gaulle begins June 29. The airline also flies to London.

### 2. Virgin Atlantic Joins SkyTeam.

Virgin Atlantic officially joined SkyTeam, enhancing the alliance's London Heathrow and Manchester services. Virgin Atlantic is the only UK member of SkyTeam, and a founding partner of the joint venture that includes Delta, Air France-KLM, Aerolíneas Argentinas, Aeromexico, Air Europa, China Airlines, China Eastern, Czech Airlines, Garuda Indonesia, ITA Airways, Kenya Airways, Korean Air, Middle East Airlines, Saudia, TAROM, Vietnam Airlines and XiamenAir. Virgin Atlantic flies to 12 U.S. destinations in partnership with Delta and Air France-KLM and to Austin, Tampa, the Caribbean, China, India, Israel, Nigeria and South Africa; service to the Maldives begins in October.

### 3. Lufthansa to Resume Munich to Boston Service.

Lufthansa will resume Munich to Boston service on June 1, after a three-year interruption, and Munich to New York Kennedy on July 4. The daily flights will be operated on the Airbus A380. . . . Dorothea von Boxberg was named CEO of Brussels Airlines and will serve as Representative of the Executive Board to the European Commission. She currently is Chair of Lufthansa Cargo Executive Board, and has held Lufthansa Group management positions since 2007. Lufthansa's Supervisory Board extended the contract of CEO Carsten Spohr to end of 2028; he is Chairman of Executive Board of Deutsche Lufthansa. . . . Lufthansa plans to launch regional subsidiary City Airlines this year, with flights from Munich to European cities. . . . Lufthansa Group placed orders for ten Airbus A350-1000s, five A350-900s and seven Boeing 787-9s, with total list value of about \$7.5 billion; deliveries begin in mid-2020s. Older aircraft types to be withdrawn include the Boeing 747-400, A340-600 and A340-300.

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

1. **ANA to Launch AirJapan Flights Next Year.**

All Nippon Airways (ANA) plans to launch Air Japan in February 2024. The rebranded Air Japan will operate the Boeing 787 Dreamliner on Asian routes, with “comfortable cabin space at affordable prices.”

2. **Air Premia Begins Seoul-Newark Flights in May.**

South Korean carrier Air Premia will begin four weekly Boeing 787-9 flights between Seoul Incheon and New York Newark in May. Air Premia also offers five weekly flights to Los Angeles.

3. **Hong Kong’s Greater Bay Airlines Plans Long-Haul Service.**

Hong Kong-based Greater Bay Airlines (GBA), which began passenger and cargo services in 2022, ordered 15 Boeing 737-9 MAX planes, with commitment for five Dreamliners to support plan to launch long-haul service. GBA currently operates three 737-800s to Bangkok, Taipei, Tokyo and Seoul and plans to develop an extensive network of air services to major cities in Asia and Mainland China, “riding on the back of the opening of the three-runway system at Hong Kong International Airport in late 2024.”

4. **Saudi Arabia Launches Riyadh Air.**

Saudi Arabia’s Public Investment Fund (PIF) announced the establishment of Riyadh Air, a wholly owned PIF subsidiary. CEO will be former Etihad CEO Tony Douglas; senior management will include Saudi and international expertise. Boeing announced the airline plans to buy 39 787-9s, with options for another 33. Riyadh Air aims to fly to 100 destinations by 2030, said PIF, and will “serve as a catalyst for the Saudi National Transport and Logistics Strategy and the National Tourism Strategy by increasing air transport options, raising cargo capacity and, in turn, growing international passenger traffic.” The airline is expected to add \$20 billion to non-oil GDP growth, said PIF, which is also involved with the King Salman International Airport masterplan. . . . Saudi Arabian Airlines (SAUDIA) plans to order 39 Boeing 787-9 and 787-10 airplanes, with options for 10 more, to “support the country’s goal of serving 330 million passengers and attracting 100 million visitors annually by 2030.”

5. **Virgin Atlantic Joins SkyTeam.**

See Section VIII, item 2.

## **X. AMERICAS**

### **1. Strike Authorization Vote Approved for American's Pilots.**

Allied Pilots Association (APA), which represents pilots at American Airlines, approved a strike authorization vote, to take place through April. The airline is prepared to offer pay increases of 21% in first year of contract, with cumulative increases, CEO Robert Isom told pilots.

### **2. Delta Pilots Ratify New Agreement**

Delta pilots ratified a new contract, which becomes amendable on December 31, 2026, and, said ALPA, includes a 34% increase in pay over the life of the contract, and improvements to quality of life, vacations and benefits. Pilots also voted in favor of a Letter of Agreement that provides job protections against international flying by Delta partners. . . . Delta's holiday 2023 Latin America schedule will be the largest in its history, with expanded service across Mexico, Central America and the Caribbean. Delta is adding seasonal routes from New York Kennedy to San Juan, Santo Domingo and Santiago, and from Atlanta, Detroit and Minneapolis to tropical destinations.

### **3. Southwest to "Boost Operational Resiliency."**

"We understand the root causes that led to the holiday disruption," Southwest President and CEO Bob Jordan told investors. As a result of initial assessments conducted internally and by aviation consultancy Oliver Wyman, the airline has developed a Tactical Action Plan. For winter operational challenges it is purchasing additional deicing trucks; securing additional deicing pads and deicing fluid capacity at key network locations; and purchasing more engine covers and engine heaters for cold weather operations. Southwest will further augment winter staffing levels, for example, when ground operations employees are limited to the amount of time they can work outside in extreme temperatures. Additionally, the airline plans to implement a new weather application to provide crews with more real-time and dynamic weather indications to enhance deicing holdover times, which determines the time required before aircraft must be deiced again prior to departure. Under a five-year Operational Modernization Plan, implementation of tools and technology that allow for a greater pace of recovery during extreme events will be prioritized, and the airline is budgeted to spend more than \$1.3 billion on investments, upgrades, and maintenance of information technology systems in 2023.

### **4. Atlas Air Worldwide Becomes Privately Held Company.**

The acquisition of Atlas Air Worldwide by investors Apollo, J.F. Lehman, and Hill City has been completed. The company will continue to operate under the

Atlas Air Worldwide name and be led by President and CEO John Dietrich and the current executive leadership team. Atlas Air Worldwide is a leading global provider of outsourced aircraft and aviation operating services. It is the parent company of Atlas Air and Titan Aviation Holdings and majority shareholder of Polar Air Cargo Worldwide.

**5. Canada Approves WestJet Acquisition of Sunwing.**

The Canadian government found that WestJet's proposed acquisition of Sunwing Vacations and Sunwing Airlines is in the public interest, subject to measures, such as maintaining capacity on routes most affected by the merger and increasing regional connectivity.

**6. JetBlue's New York-Paris Service Starts in June.**

See Section VIII, item 1.

**7. Virgin Atlantic Joins SkyTeam.**

See Section VIII, item 2.

**8. Lufthansa to Resume Munich to Boston Service.**

See Section VIII, item 3.

**9. Air Premia Begins Seoul-Newark Flights in May.**

See Section IX, item 2.