



## WASHINGTON AVIATION SUMMARY

October 2007 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. New U.S.-China Routes Announced.**

New direct routes to China were announced by the U.S. Department of Transportation (DOT). In final decisions, Delta was awarded Atlanta to Shanghai and United won San Francisco to Guangzhou, both to begin in 2008. Tentative awards for four new daily flights to begin in 2009 are proposed for: American for Chicago-Beijing, Continental for Newark-Shanghai, Northwest for Detroit-Shanghai and US Airways for Philadelphia-Beijing. The awards are the result of an agreement with China signed in July that will bring the number of flights between the two countries to 23 a day from a current 10 by 2012. MAXjet, the only airline that applied for and failed to win rights to China, will compete for future China route authority, said CEO Bill Stockbridge.

### **2. ICAO Forecasts 4.6% Annual Growth Rate in Air Traffic.**

Total world airline scheduled passenger traffic is expected to grow at an average annual rate of 4.6% up to the year 2025, half a percentage point lower than the rate achieved from 1985 to 2005, according to the International Civil Aviation Organization (ICAO). Total freight traffic growth over the same period will be 6.6% per year. International traffic is expected to continue to grow faster than total traffic, at 5.3% annually for passenger traffic and 6.9% for freight. The total number of departures and distance flown on domestic and international services of scheduled airlines are expected to more than double. Airlines of the Middle East and Asia/Pacific regions are expected to show the highest growth in both passenger and freight traffic. All international route groups are anticipated to grow at average rates ranging from 3.5% to 6.6% per annum. The fastest growing route groups are those to, from and within the Asia/Pacific region.

### **3. FAA Issues Final Decision on Airspace Redesign.**

The Federal Aviation Administration (FAA) issued a final decision for redesigning the New York, New Jersey and Philadelphia metropolitan area airspace. The plan calls for changing the way planes take off and land at Philadelphia International and four New York-area airports—Kennedy, LaGuardia, Newark and Teterboro, N.J.—so that the airspace is used more efficiently. FAA said the plan will reduce delays by 20% when fully implemented at these airports, with an eventual ripple effect across the country. The changes will begin within months and are expected to be complete by 2011. Half a million fewer people will be exposed to noise, said FAA, but regional residents and political leaders say the redesign violates federal environmental laws and will sue.

**4. Blakey Warns Airlines to Reduce Schedules.**

In her last major speech before leaving her post as FAA Administrator, Marion Blakey said “airlines need to take a step back on scheduling practices that are at times out of line with reality.” If they don't address this voluntarily, she said, “don't be surprised when the government steps in. Drawing down the schedule at Chicago was not my happiest hour, but it could come to that on the East Coast as well.” FAA then gave domestic and international airlines an October 11 deadline to submit their summer flight schedules for New York Kennedy and Newark airports, and may impose operational limits during peak hours. Acting FAA Administrator Robert Sturgell later wrote, in a letter to *USA Today*, “Imposing caps on flights eliminates congestion in the air in the same way that banning some drivers would ease congestion on the roads. Both would reduce congestion, but neither would improve the quality of life of the average American.” By month's end, Sturgell and DOT Secretary Mary Peters were meeting with the President to discuss how to reduce congestion and airline delays.

**5. Inspector General Report on Aviation Delays.**

A DOT Inspector General (IG) report said airlines, airports, FAA and DOT must work together to reduce long onboard delays and minimize their impact on passengers. The report found that onboard delays endured by passengers last winter were largely due to airlines' lack of a system wide policy to minimize such delays, but such initiatives are being developed. DOT should take a more active role in overseeing customer service issues, recommended the IG, and all parties should immediately take actions “to improve airline customer service and minimize long onboard delays. Many of the recommendations are not new and date back to recommendations in our 2001 report, which were directed at delay and cancellation problems—key drivers of customer dissatisfaction with airlines.”

**6. DOT Approves United, bmi Antitrust Immunity.**

DOT granted United and bmi antitrust immunity with other transatlantic Star Alliance partners, effective upon enactment of the U.S.-EU Open Skies treaty in March 2008. The immunized group will include United, bmi, Air Canada, Austrian, Lufthansa, LOT Polish Airlines, SAS, Swiss and TAP. United and bmi made the request for immunity in April.

**7. Fourteen 9/11 Cases Settled; Other Plaintiffs Seeking Trials.**

Lawsuits filed by relatives of 14 September 11 victims seeking compensation from airlines and security contractors were settled in Federal District Court in Manhattan. Of the original 95 cases filed on behalf of 96 victims, 21 remain;

the rest have been settled or dismissed. Relatives awaiting trials aim to pursue answers to how Islamic terrorists were able to pass through airport security and take over four airliners. In order to sue, families had to forgo a settlement from the federal September 11th Victim Compensation Fund of 2001. The fund awarded an average of \$2 million to the families of 2,880 people killed in the attacks.

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

Based on data filed by 20 of the largest U.S. airlines

|                      | <b>July<br/>'07 / '06</b> | <b>June<br/>'07</b> | <b>Full Year</b> |             |             |             |
|----------------------|---------------------------|---------------------|------------------|-------------|-------------|-------------|
|                      |                           |                     | <b>2006</b>      | <b>2005</b> | <b>2004</b> | <b>2003</b> |
| On-time arrivals %   | 69.8 / 73.7               | 68.1                | 75.4             | 77.4        | 78.1        | 82          |
| Cancellations %      | 2.1 / 2.1                 | 2.7                 | n/a              | 1.87        | 1.56        | 1.79        |
| Mishandled baggage*  | 7.93 / 6.51               | 7.92                | 6.73             | 6.64        | 4.91        | 4.19        |
| Consumer complaints: |                           |                     |                  |             |             |             |
| Airline service      | 1,717 / 831               | 1,094               | 8,321            | 8,741       | 7,452       | 5,983       |
| Disability-related   | 45 / 46                   | 45                  | 427              | 511         | 521         | 375         |
| Discrimination**     | 15 / 7                    | 6                   | 114              | 129         | 118         | 85          |

\* Reports per 1,000 passengers.

\*\* Other than disability; i.e., race, religion, national origin or sex.

## **II. AIRPORTS**

### **1. Miami International Opens South Terminal**

Miami International opened its \$1.1 billion, 1.7 million sq. ft. South Terminal, with capacity for 8 million passengers a year. The terminal's 40-booth customs checkpoint can quickly screen thousands of international passengers daily, part of a \$140 million security program that includes a new baggage screening system, three additional security checkpoints and a new federal inspection services (FIS) facility that combines passport control and baggage checks in one location; Miami has the busiest FIS facility in the nation.

### **2. Continental Plans Major Expansion at Cleveland Hopkins.**

Continental plans a 40% capacity increase at Cleveland Hopkins International by summer 2009. The State of Ohio offered the carrier an incentive package valued at more than \$16 million and expects creation of an estimated 700 Ohio jobs. To support the airport growth, future plans call for an expanded security checkpoint area and more ticket counters. Concession redevelopment is underway and options to expand and/or relocate the FIS and customs hall are under review. Already completed are a new runway and centralized de-icing pad, C Concourse ramp replacement and a new in-line baggage screening system. The carrier initially will operate 50 new flights, principally on regional jets, and add 20 new nonstop destinations by next summer. By early 2009, Continental plans more than a dozen additional flights, principally on mainline aircraft. Many of the regional jets will be reallocated from Newark. New destinations planned include previously announced Boeing 757 seasonal service to Paris de Gaulle, to begin next May.

### **3. San Francisco to Renovate Terminal 2.**

San Francisco International Airport commissioners voted to solicit bids to renovate Terminal 2, closed since 2000 when the airport opened its \$2.85 billion international terminal. Costs for renovating the 610,000 sq. ft. Terminal 2, built in the 1950s, are estimated at up to \$250 million and likely will be paid for by bonds. The project will take two to three years to complete. More than 34 million people flew through SFO in the fiscal year ended June 2007; JetBlue, Virgin America and Southwest recently launched operations there.

### **4. 2007 Military Airport Program Selections.**

FAA will provide funding to four airports to help them convert from military to civilian use. The airports are Portsmouth International, Portsmouth, NH; Sawyer International, Marquette, MI; Plattsburgh International, Plattsburgh, NY; and Killeen-Fort Hood Regional, Killeen, TX. The MAP uses federal

Airport Improvement Program (AIP) funding to boost civilian aviation capacity by upgrading former military airports.

5. **Canada Pension Bids for Auckland; Dubai Withdraws.**

Canada Pension Plan Investment Board made a bid for a minority stake of Auckland International Airport, placing the airport's value at up to US\$3.5 billion. Dubai Aerospace withdrew its plan to buy a majority stake in the airport after local shareholders and the public objected to the sale.

6. **Flight Restrictions Proposed for Sao Paulo Congonhas.**

New restrictions proposed by Anac, Brazil's civil aviation regulator, would limit flights from Sao Paulo Congonhas to a 1,000 kilometer radius (which would include Brasilia and Rio de Janeiro), reduce the number of takeoffs and landings to 33 per hour, and end hub operations for TAM and GOL; overall passenger capacity at the airport would be reduced to 4,700 per hour from 5,100 per hour. The six carriers that use Congonhas—TAM, GOL, VRG, BRA, OceanAir and Pantanal—have submitted proposed flight schedules. The recommendations follow the July 17 disaster, in which a TAM jet failed to stop on the runway at Congonhas and crashed into a building, killing 199 people. New Congonhas safety measures announced by the Defense Ministry include reducing runway lengths to establish an escape area and tightened restrictions on use of the airport in wet conditions. To stem nationwide airport delays, Brazilian legislators are pressing for a \$1 billion airport expansion plan and construction of a new airport in Sao Paulo. Officials are also considering a high-speed rail link between Rio de Janeiro and Sao Paulo.

### **III. SECURITY**

#### **1. Reports Critical of DHS, TSA.**

A report released by the Government Accountability Office (GAO) finds that the Department of Homeland Security (DHS) has made more progress in its mission areas than in its management areas and needs to strengthen information sharing, partnerships and coordination, among other performance expectations. Another report, by the DHS Inspector General, identifies gaps in Transportation Security Administration (TSA) policies for ensuring the security of air cargo on passenger planes. Among numerous problems cited in the IG report, TSA has too few cargo inspectors, an ineffective database to track violations and vaguely written regulations. Congress has ordered TSA to improve cargo screening over the next three years.

#### **2. Automated Targeting System Revised Slightly.**

DHS decided to retain the Automated Targeting System with some revisions, despite opposition from privacy advocates. Risk assessments will be kept for 15 years instead of 40 years and no longer will be shared with other government agencies. The system, used by Customs and Border Protection officers to screen U.S. and foreign passengers who arrive from or depart for foreign locations, compares Passenger Name Records with government watch lists of known and suspected terrorists and other wanted or barred individuals. In related news, the U.S. Department of Justice Inspector General said the government's master watch list of known or suspected terrorists, created in 2004, is marred by errors and inconsistencies that can obstruct the capture of terrorists or cause innocent people to be detained. The list contained 720,000 records as of April, and is growing at the rate of more than 20,000 records a month. Auditors found that 38% of 105 records contained errors or inconsistencies, reported the *Washington Post*.

#### **3. Sikh Americans Object to Turban Searches.**

A TSA policy enacted in August gives airport screeners additional discretion to search passengers' headgear, including turbans, which could conceal plastic or other nonmetal parts of explosive devices. Agency officials said the policy is not meant to single out any groups, but the Sikh American community, about a half-million strong, say it is misguided and subject to abuse. In response to efforts of the Sikh American Legal Defense and Education Fund (SALDEF) and other groups, Congressional leaders issued a letter to DHS Secretary Michael Chertoff and TSA Administrator Kip Hawley. "We are concerned that the change was made without community consultation," said the letter, and that greater discretion for searching headwear without proper guidance for

security officers "has lead to racial profiling . . . A mandatory turban pat-down is tantamount to racial and religious profiling and is therefore unacceptable in our democracy. It would be intolerable if the new policy had indeed been implement, whether intended or not, in this manner."

**4. TSA Considers Reservation System for Security Checks.**

TSA is considering an online reservation system, in which airline passengers could reserve slots for airport security checks, reports *USA Today*. "If we have a smoother flow going through, that's a much calmer environment and a better security environment," said Administrator Kip Hawley.



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

### **1. Sabre Launches “Branded Fares,” Premium Coach Seat Selection.**

Qantas is the launch customer for Sabre Branded Fares, a new feature on the standard travel agency desktop of the global distribution system (GDS) that allows airlines to package and brand a variety of fares featuring different attributes, including flexible one-way fares. Sabre also unveiled the Distribution Merchandising suite that allows airlines to differentiate and sell premium airline seats in coach class. The launch customer is Midwest, which is introducing a two-by-two seating option with more legroom in its all-coach class MD-80 cabin. In other news, Sabre signed Virgin America to a multi-year distribution agreement that will allow the airline's fares and inventory to be made available to all Sabre Connected travel agents worldwide.

### **2. Travel Industry Objects to EU CRS Deregulation Plan.**

More than 100 travel companies objected to a European Union (EU) proposed plan to deregulate computer reservation systems (CRS). In a letter to EU Transport Commissioner Jacques Barrot, they asked for the reopening of public consultation with their participation. Currently, airlines have large stakes in major CRS companies. The letter, organized by Business Travel Coalition (BTC), contends that if airlines control the CRSs without regulatory protections, travelers will be subjected to higher prices and reduced choice. “The CRS Code of Conduct protects consumers, corporate buyers and travel management companies vis-à-vis full airfare content, data privacy safeguards and pricing discipline in the marketplaces for travel distribution and air transportation services in Europe,” said BTC. The EU believes that growing use of the Internet as an alternative distribution channel negates the need for regulation.

### **3. Amadeus-Sabre Payment Joint Venture Cleared.**

The European Commission (EC) cleared Amadeus and Sabre Holdings to jointly create an electronic payment system. Moneydirect handles commissions, pre-paid bookings and deposits and bulk settlements for sectors of the travel industry other than air travel. The EC said the joint venture will not restrict competition, since the business has only limited links with the companies' travel reservation businesses.

### **4. Airlines Testing Inflight Wireless Internet Service.**

Alaska will be the first U.S. carrier to test a satellite-based in-flight wireless Internet service. The airline will test Row 44's satellite-based broadband connectivity solution next year on a next-generation Boeing 737 and, if

successful, equip its 114 aircraft by the end of 2009. Passengers with wifi-enabled personal devices will have high-speed access to the Internet, e-mail, virtual private networks and stored inflight entertainment content. Unlike air-to-ground services, the satellite-based system can function over land, water and across international borders. In Europe, several airlines plan to test a satellite system provided by an Airbus joint venture. American announced it would test a high-speed air-to-ground Internet service on some of its Boeing 767s; AirCell said it would build cellular towers throughout the continental United States to transmit the broadband signals for that system. Virgin America plans to offer AirCell-based service sometime in 2008; passengers will be able to access the Internet through their own devices or through seatback inflight entertainment systems.

**5. Demise of Paper Tickets by Next Summer.**

The paper airline ticket will be all but extinct by next May, said Giovanni Bisignani, Director General of the International Air Transport Association (IATA). When IATA in 2004 began to urge airlines to replace the global paper ticket system with electronic ticketing, about 16% of tickets issued worldwide were electronic, compared to 84% today. IATA estimates that a fully electronic ticketing system will save airlines \$3 billion a year.

## **V. NOISE AND ENVIRONMENT**

### **1. Environmental Provisions in House Bill to Fund FAA.**

The FAA funding bill passed by the U.S. House of Representatives contains several environmental-related provisions: a phase-out of noisy stage 2 aircraft over the next five years; a pilot program for developing, maturing, and certifying continuous lower energy, emissions and noise engine and airframe technology; and a program to fund six projects at public-use airports to take promising environmental research concepts into the actual airport environment. FAA is also directed to establish a pilot program at five public-use airports to design, develop and test new technologies to better manage the flow of aircraft on the ground, and thereby reduce emissions and increase fuel savings. The bill also directs FAA to initiate action to ensure crewmember safety by applying occupational health standards onboard aircraft. (*See also Section VI.*)

### **2. Group Seeks Taxes to Control Aviation Emissions.**

A report commissioned by UK-based Friends of the Earth (FOE) says proposals to include aviation in the EU's Emissions Trading Scheme (ETS), effective 2011, will have little impact on aviation's contribution to climate change. FOE urged the EU to substantially strengthen its ETS proposals and called for additional measures to curb the growth in flights, such as a fuel tax and a value-added tax on passenger tickets. The group also wants the UK to include international aviation emissions in its proposals for a new climate change law. The authors of the report, "Aviation in a Low-Carbon EU," are from the Tyndall Centre for Climate Change Research at the University of Manchester.

### **3. Frankfurt Airport Plans Night Flight Ban.**

Frankfurt airport operator Fraport, the state of Hesse, the city of Frankfurt and neighboring municipalities agreed to the building of a new runway, contingent on a total night-flight ban to protect residents from air traffic noise. Rejecting the plan, Lufthansa CEO Wolfgang Mayrhuber said a complete ban would affect not only airlines but also Germany's economy. Separately, Lufthansa and SWISS passengers can make carbon offset donations on the Lufthansa Web site via independent partner "myclimate." The myclimate emissions calculator, which takes into account the fuel-consumption data for Lufthansa's fleet, provides guidelines for the voluntary donations. Passengers can also donate award miles to aid agencies and environmental organizations as part of the "Miles to Help" initiative.

**4. easyJet Launches Green Campaign to Educate Politicians and Public.**

easyJet published a report on aviation's contribution to climate change, unveiled its own tax proposals and announced that it already covers its environmental costs more than four times over—all part of a campaign to encourage UK politicians to adopt “a more intelligent approach to air travel.” A major advertising campaign in newspapers and on easyJet aircraft will bolster the effort. Among findings in the report: aviation CO<sub>2</sub> accounts for about 1.6% of global greenhouse gases; today's aircraft are typically 70% cleaner and 75% quieter than their 1960s counterparts; improvements in aviation technology could make flying 50% cleaner than today's aircraft within 10 years and 75% cleaner by 2050. The UK taxes aviation more heavily than any other European country and more heavily than any other comparable form of transport, said easyJet, which recommends replacing the current passenger tax with a tax based on aircraft types and distance traveled. “Taxing families but not private jets is a grotesque insult,” said CEO Andy Harrison.

**5. Qantas Launches Carbon Swap Program.**

Qantas and its budget unit Jetstar launched a voluntary offset program that allows passengers to calculate the per-passenger emissions of their flights and buy carbon dioxide credits that would be paid to government-approved projects, including grants for renewable energy sources, tree-planting and energy efficiency improvements. Qantas will plant 90,000 native eucalyptus trees across Australia to offset carbon dioxide emissions of system wide flights on the program launch day. CEO Geoff Dixon said Qantas has a target of cutting its emissions by two million tonnes by 2011. Virgin Blue launched a carbon offset program earlier this year.

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

### **1. House Passes FAA Funding Bill.**

The House passed a four-year, \$68 billion FAA funding bill that would advance air traffic control (ATC) improvements and the satellite-based Next Generation Air Transportation System. The bill does not impose user fees as advocated by the airline industry and the Administration, and will have to be reconciled with a Senate counterpart. The White House has threatened a veto. Among its provisions, the House bill would:

- require FAA to mandate reduced peak-hour schedules at congested airports if airlines fail to reduce flights voluntarily, and set up a pilot program at five airports to develop and test new air traffic flow management technologies.
- call for an assessment of FAA safety research programs and whether the agency implements changes quickly enough.
- increase the jet fuel tax for noncommercial planes from 21.8 cents per gallon to 35.9 cents per gallon to help pay for ATC modernization.
- increase the maximum passenger facility charge from \$4.50 to \$7 to help pay for airport capital development.
- establish a new labor dispute resolution procedure and require the National Air Traffic Controllers Association and FAA to return to the negotiating table.
- allow employees of FedEx and other express delivery companies to organize nationally.
- authorize increased funding for the Essential Air Service program, extend the Small Community Air Service Development program through FY 2011, at the current level of \$35 million per year, and make an additional \$9 million per year available from overflight fees beginning in FY 2009.
- authorize \$570 million to increase the number of aviation safety inspectors by more than one-third by the year 2011.
- authorize \$42 million for runway incursion reduction programs and \$74 million for runway status light acquisition and installation; require FAA to develop a plan to install and deploy systems to alert controllers or flight crews to potential runway incursions.
- require safety inspections of foreign repair stations at least twice a year.
- require air carriers and large and medium hub airports to file with DOT emergency contingency plans, detailing food, water, restroom facilities, cabin ventilation and medical treatment for passengers delayed onboard aircraft, and a plan to allow passengers to deplane during excessive delays. The plans

must be updated periodically. DOT must investigate consumer complaints about flight cancellations, overbooking, lost baggage or incorrect fare information.

**2. Bankruptcy Reform Legislation Introduced.**

A bill that would protect workers and retirees when corporations file for bankruptcy was introduced in the House Judiciary Committee. The “Protecting Employees and Retirees in Business Bankruptcies Act of 2007” would “remedy the unjust bankruptcy code that helped airline managements strip workers of their hard-earned pensions, salaries, and work rules following the events of 9/11,” said Air Line Pilots Association, International (ALPA) President Capt. John Prater; “but now that the emergency is over, it’s time to fix the bankruptcy code, and this bill is a good first step.” Since 2001, pilots have given more than \$30 billion in concessions, said Prater.

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

### **1. U.S., Japan Expand Air Services Agreement.**

The United States and Japan agreed to expand their 1998 air services agreement. The amendment concludes four years of negotiations. UPS will be able to operate six daily flights between the U.S. and Nagoya, in addition to its daily service to Tokyo and Osaka, and connect these to its regional hub in Shanghai, which will open next year. Polar Air Cargo will be allowed to start services to Osaka. For passenger flights, carriers from both nations will have greater flexibility on code share services. DOT said the two sides agreed to resume negotiations by next summer.

### **2. WTO Hearings Held in EU-U.-S. Subsidy Dispute.**

The World Trade Organization (WTO) held hearings in the U.S.-EU dispute on government subsidies to Boeing and Airbus. In a statement to the WTO, the EU said U.S. subsidies to Boeing have cost Airbus \$27 billion in lost revenues over the past few years. Airbus has gained 20% in market share at Boeing's expense since 2000, said the U.S., and EU claims are meant to distract attention from its own massive subsidies. An interim ruling in the U.S. case was scheduled for October, but has been delayed because of the complexity of the dispute. A decision on the EU complaint is not expected until next year. Both would be subject to appeals.

### **3. Chile, India Sign Open Skies Agreement for Cargo Transport.**

Chile and India signed an open skies agreement that allows their airlines to operate unlimited cargo services between the two nations on any type of aircraft. The pact also grants more operating flexibility for passenger traffic.

### **4. UK, Israel Agree to Increase London-Tel Aviv Flights.**

The UK and Israel reached an agreement that will allow each country to allow a second airline to fly the London-Tel Aviv route. British Airways and El Al currently make these flights. bmi announced plans to start daily nonstops next spring.

## VIII. EUROPE/AFRICA

### 1. New Restructuring for Alitalia.

Alitalia may halve iMilan Malpensa service because it cannot sustain two hubs (the other is at Rome Fiumicino), and because Malpensa development cannot be entrusted to a company that is close to bankruptcy, said government officials. Ryanair offered to fill the void at Malpensa and Milan Orio al Serio. Alitalia posted a €211.1 million first-half net loss, better than a €220.2 million loss in the 2006 period. Italy continues to seek a buyer for its 49.9% stake in Alitalia; Air France-KLM expressed interest, as a new management team led by Maurizio Prato attempts to restructure the Italian carrier.

### 2. bmi Announces 17 New Destinations.

From October 28, bmi will operate 17 new destinations from Heathrow to Europe, the Middle East, Africa and Central Asia. The carrier announced inflight enhancements on mid- and long-haul flights and introduced lie-flat seats on Heathrow to Riyadh and Jeddah and Manchester to the U.S. and Caribbean.

### 3. Lufthansa Expanding Winter Capacity.

Lufthansa plans to offer 6.5% more seating capacity on international and 4% more on European services, from October 28 to March 29. Lufthansa and Deutsche Post will form a jointly-owned freight airline based in Leipzig, to begin operations in 2009. Lufthansa Cargo and Deutsche Post unit DHL Worldwide Express will finance the new venture with €50 million in capital.

### 4. Air Berlin to Buy Condor From Thomas Cook.

Air Berlin will buy German charter Condor from Thomas Cook, subject to anti-competition scrutiny and whether Lufthansa, which owns a 24.9% stake in Condor, asserts a contractual preemption right. Thomas Cook would win three Air Berlin board seats and €500 million in shares and cash. Air Berlin earlier this year acquired domestic rivals DBA and LTU.

### 5. DOT Approves United, bmi Antitrust Immunity.

See Section I, item 6.

### 6. UK, Israel Agree to Increase London-Tel Aviv Flights.

See Section VII, item 4.



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

### **1. China to Add 27 International Air Routes.**

General Administration of Civil Aviation of China (CAAC) approved 27 new routes to Europe and America, to be opened in 2008 and 2009 and operated by Air China, China Southern, China Eastern, Shanghai Airlines and Hainan Airlines. CAAC plans to support the low-cost carrier (LCC) sector by opening some secondary airports and easing control of fares and some routes.

### **2. Singapore Invests in China Eastern.**

Singapore Airlines (SIA) and its parent Temasek will pay US\$918 million for a combined 24% stake in China Eastern Airlines (CEA). The partnership, approved by China in August, includes coordination of flight schedules and joint marketing. It calls for SIA and Temasek to acquire CEA stakes of 15.7% and 8.3%, respectively; China Eastern parent CEA Holding would own a 51% stake. SIA would have the right to increase its holding, should China liberalize its foreign ownership restrictions. SIA would hold two seats on the CEA Board and one on a newly established Finance Committee. "Management exchanges will enable both organizations to share proven practices and establish closer cooperation," said SIA. "CEA and SIA will consider jointly any question of CEA joining a global alliance . . . CEA and CEA Holding will not issue new shares nor sell any existing shares to SIA's competitors, and SIA will not invest in other PRC-based airlines, except for Great Wall Airlines, in which it has an existing interest." Cathay Pacific, which owns about 17% of Air China, offered, then withdrew, a counter-proposal to acquire a stake in China Eastern.

### **3. China Eastern, AVIC to Form Regional Airline.**

China Aviation Industry Corp I (AVIC I) entered into a joint venture with China Eastern Airlines to form a regional carrier that will begin operating in the first half of next year. The regional will be headquartered in western China, with AVIC I holding a 60% stake, and will have a registered capital of \$129 million and an initial fleet of at least 10 MA60s, 50-seat turboprops manufactured by AVIC I. "Our long-term aim is to operate 100 regional aircraft, made by AVIC I, and to play an important role in western China's economic development," said an AVIC I official. China will require 898 new regional aircraft by 2026, AVIC I reported, compared to Boeing's forecast of 340.

### **4. Dragonair Joins oneworld.**

Dragonair will become an affiliate member of oneworld on November 1, launching four weekly Airbus A320 flights from Hong Kong to Kathmandu in December. A unit of oneworld founding member Cathay Pacific, Dragonair

retains its own brand and flight code and operates 400 flights a week to 19 mainland destinations, and service to other Asian countries.

**5. ANA Extends Routes in Europe.**

ANA is extending code shares with Star partners Lufthansa and Austrian to cover ten new cities in Germany, with Lufthansa, and destinations beyond its Frankfurt gateway, including Vienna with Austrian, and Amsterdam, Rome, Copenhagen, Helsinki, Lyon, Nice, Oslo and Stockholm, also with Lufthansa.

**6. Private Airlines Develop in Vietnam.**

Malaysia's AirAsia and the Vietnam Shipbuilding Industry Group (Vinashin) signed a cooperation agreement to establish a low-cost airline, Vina AirAsia, to begin service in July 2008. Vinashin will hold a 70% stake and AirAsia the remaining 30%. Vina AirAsia will serve domestic, regional and international routes with nine aircraft. Vietjet, backed by a Vietnamese group, hopes to provide full service domestic and international service by next year. T&C Investment Joint Stock Co., a wholly foreign-owned company, has sent an enquiry to Vietnam's Civil Aviation Administration about starting a new airline. Foreign investors are permitted to own up to 49% of a joint-stock air carrier. Vietnam currently has three airlines, Vietnam Airlines, Vasco (Vietnam Air Services Company) and Pacific Airlines, in which Qantas has a 30% stake.

**7. AirAsia to Take 20% Stake in AirAsiaX**

AirAsia agreed to buy a 20% stake in budget long-haul carrier AirAsiaX. Richard Branson's Virgin Group earlier invested in AirAsiaX. AirAsia and AirAsiaX were founded by AirAsia CEO Tony Fernandes. In related news, AirAsiaX applied for regulatory approval to fly to Australia from Kuala Lumpur.

**8. New U.S.-China Routes Announced.**

See Section I, item 1.

**9. U.S., Japan Expand Air Services Agreement.**

See Section VII, item 1.

**10. Chile, India Sign Open Skies Agreement for Cargo Transport.**

See Section VII, item 3.

**11. UK, Israel Agree to Increase London-Tel Aviv Flights.**

See Section VII, item 4.

## **X. AMERICAS**

### **1. US Airways Receives Single FAA Certification.**

FAA granted a single operating certificate to US Airways, which merged with America West 2005 and has since integrated two sets of policies, procedures, manuals, checklists and computer systems. The next step is to achieve single contracts with pilots, flight attendants and ground and maintenance employees, who will continue to work under terms of transition agreements reached after the merger.

### **2. Northwest Stake in Midwest Will be 47%.**

Northwest's minority holding in Midwest would be 47% in the TPG Capital acquisition of Midwest announced in August and expected to close in the fourth quarter. Northwest would provide \$213.3 million of the \$451 million price approved by the Midwest board, but would not have a representative on the new board nor any management role. Separately, Northwest will increase capacity by no more than 1% this year, rather than 2% as previously planned. Capacity on U.S. routes will be trimmed by 2% to 3% and expanded on international flights by as much as 5%.

### **3. Southwest to Retain Open Seating Policy.**

"After much research, deliberation, careful evaluation and significant feedback," Southwest decided to retain its open seating policy. The carrier will change boarding procedures, however. By early November, passengers will line up according to a letter and number indicated on boarding passes. In other news, Southwest said 609 of 8,500 eligible employees accepted early-out packages, offered in an effort to cut costs.

### **4. JetBlue Appoints Russell Chew President.**

JetBlue named Chief Operating Officer Russell Chew to President. Chew joined JetBlue after four years with FAA as Chief Operating Officer, following a 17-year career with American Airlines in their Operations and Planning units.

### **5. Reid to Remain at Virgin America Until February.**

Fred Reid may remain CEO of Virgin America until February 18, 2008, said DOT, while the carrier continues its search for his replacement. As a condition of winning an operating license, Virgin America had agreed that Reid would step aside by November 18, six months after certification; DOT determined Reid, who was hired by Virgin Group founder Richard Branson, might be beholden to foreign interests in violation of U.S. law. San Francisco-based

Virgin America offers low-fare service to Los Angeles, New York, Washington, D.C. and Las Vegas.

**6. Frontier Airlines Names Browning Chairman.**

Frontier named D. Dale Browning Chairman, to succeed retiring Sam Addoms. Browning has served on the airline holding company's board since 1996. The airline said it is considering a partnership with Hawaiian; Frontier already partners with AirTran and last year offered a discount on British Airways flights.

**7. Mesa Sued by Hawaiian for Misuse of Financial Documents.**

Hawaiian's suit against Mesa, regarding alleged misuse of financial documents Mesa obtained when considering an investment in Hawaiian in 2004, is being heard in federal court in Honolulu. Mesa says it used publicly available information when setting up go!, its own inter-island operation. Mesa's Chief Financial Officer was placed on administrative leave while charges that he deleted documents on three computers are investigated. Hawaiian is asking for monetary damages and a one-year injunction against Mesa.

**8. Latin American Passenger Traffic Climbs 8.2% in July.**

The Latin American Air Transport Association (ALTA) said its member airlines carried 9.9 million passengers in July, 8.2% over last year. Traffic and capacity increased 11.6% and 16.2% respectively. Load factor was 76.2%, down 3.1%. The number of passengers carried from January to July 2007 increased 7.5%, versus the same period the previous year, reaching 63 million. Freight ton kilometers rose 11.4% in July and 2.5% year-to-date.

**9. Aeromexico Bidding Intensifies.**

A \$150 million bid for Aeromexico by an investor group that includes Citigroup unit Banamex bank was deemed reasonable by the airline's Directors. Mexico's Saba family increased to \$160 million its earlier \$100 million offer, which had been approved by Mexico's Federal Competition Commission. Hotel operator Posadas, which owns Mexicana, is expected to bid. The government owns 62% of Aeromexico.

**10. TAM Revises Domestic Network, Expands Internationally.**

TAM revised its domestic network, effective October 1, to comply with new regulations governing flights to and from Sao Paulo Congonhas Airport (See Section II), saying the changes should have little impact on its financial outlook. In August, TAM had a 49.3% domestic market share, a slight decrease from the same period in 2006. Domestic load factor was 62.2%, slightly higher than the 59.2% market average. International market share rose

to 65.3%; load factor was 66.7%, while market average was 62.9%. TAM began a partnership with regional NHT, based in Rio Grande do Sul, which will cover flights to 81 domestic destinations. As of November 30, TAM will begin daily flights to Frankfurt and by December a direct daily flight to Madrid. New code share agreements planned for 2007 include TAP (September), LAN (October), United (November) and Lufthansa (December).

**11. VRG Launches Flights to Paris and Rome.**

GOL unit VRG (formerly Varig) began daily Boeing 767-300ER flights from Sao Paulo Guarulhos to Rome Fiumicino, via Paris de Gaulle. GOL founder and Chairman Nene Constantino is considering a buyout of shares in the airline and the delisting of GOL's stock on the Sao Paulo and New York stock exchanges; the stock has fallen as much as 46% over the past year amid Brazil's air system disruptions. But Constantino de Oliveira Jr., his son and Gol CEO, reportedly opposes the idea. GOL went public in June 2004 and acquired operating assets of Varig in March 2007. Load factors on domestic flights dropped to 53.8% in August from 77.1% in the previous August, and to 55.3% from 77.6% on international flights, attributable, said the airline, to the suspension of ticket sales following the fatal crash at Sao Paulo Congonhas airport in July, bad weather, the transfer of flights to Guarulhos and intense press coverage of the accident.

**12. New U.S.-China Routes Announced.**

See Section I, item 1.

**13. DOT Approves United, bmi Antitrust Immunity.**

See Section I, item 6.

**14. U.S., Japan Expand Air Services Agreement.**

See Section VII, item 1.

**15. Chile, India Sign Open Skies Agreement for Cargo Transport.**

See Section VII, item 3.