International Comparative Legal Guides

Aviation Law 2026

A practical cross-border resource to inform legal minds

14th Edition

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Industry Chapters

1 Views from the Open Plan Office: A Private Practice Lawyer's Move into Industry
Alan D. Meneghetti, Ipeco, Inc.

4 WALA Elevated: A New Chapter in Global Airport Law
Diego R. Gonzalez, Yudith Castillo Nuñez & Rita Cornejo Lanao, Worldwide Airport Law Association

Expert Analysis Chapters

7 New Technology Aircraft and the Environment – The Financing Challenge
Philip Perrotta, K&L Gates LLP

12 Regulations on Drone Flights in Japan
Hiromi Hayashi, Koji Toshima & Tetsuji Odan, Mori Hamada

18 Aviation Safety and Aircraft Certification in the United States
Justin Green, Marc Moller, Erin Applebaum & Evan Katin-Borland, Kreindler & Kreindler LLP

Q&A Chapters

24 **Argentina**
Francisco J. Venetucci & Celina Andriani, Venetucci Maritime

33 **Austria**
Dr. Martin R. Geiger, GHP | Attorneys-at-Law

40 **Belgium**
Birgitta Van Itterbeek & Annick Sleeckx, Ariga

54 **Chile**
Francisco Prat & Martín Fernández, PRAT&CIA. Abogados

63 **Dominican Republic**
María Esther Fernández Alvarez de Pou, María Fernanda Pou Fernández & María Gabriela Pou Fernández, Fernández & Pou Abogados / Attorneys

74 **France**
Grégory Laville de la Plaigne, Manon Samaille & Fabien Corfa Loaëc, Clyde & Co

86 **Germany**
Rainer Amann & Claudia Hess, Urwantschky Dangel Borst PartmbB

96 **India**
Anand Shah, Sarah Jayne Rufus, Kshitez Kaushik & Arya Madhani, AZB & Partners

110 **Israel**
Omer Shalev, Gross, Orad, Schlimoff & Co. (GOS)

122 **Italy**
Barbara Michini & Alessandro Vacca, Gianni & Origoni

137 **Japan**
Hiromi Hayashi & Tetsuji Odan, Mori Hamada

148 **Malaysia**
Saranjit Singh & Gita Maghandren, Saranjit Singh Advocates & Solicitors

160 **Morocco**
Maître Habiba Birouk, Maître Assia Rhanja & Najia Madani, Birouk Law Firm

169 **Panama**
Felipe A. Escalona Boyd, Delvalle, Escalona, Levy & Corró (DELCO)

177 **Poland**
Maciej Zych & Paweł Mazur, Wardyński & Partners

186 **Portugal**
Saul Fonseca, Diogo Perestrelo & Julia Werberich, PLMJ Sociedade de Advogados, SP, RL

198 **Saudi Arabia**
Hamad Khalifa Aldossary & Ghaida MohammedAkram Makhdoum, Dossary Law Firm

211 **South Africa**
Chris Christodoulou, Christodoulou & Mavrikis Inc

221 **Spain**
Sergi Giménez, AUGUSTA ABOGADOS

231 **Switzerland**
Dr. Peter Kühn & Dr. Thomas Weibel, VISCHER AG

243 **Ukraine**
Dr. Anna Tsirat, Jurvneshservice

251 **United Kingdom**
Alan D. Meneghetti, Ipeco, Inc.
Philip Perrotta, K&L Gates LLP

270 **USA**
Diane Westwood Wilson & Paul Bowles, Fox Rothschild LLP

287 **Venezuela**
Andrea Cruz S., Palacios Torres y Korody | PTCK

USA

Diane Westwood Wilson

Paul Bowles

Fox Rothschild LLP

1 General

1.1 Please list and briefly describe the principal legislation and regulatory bodies which apply to and/or regulate aviation in your jurisdiction.

The US Department of Transportation ("DOT") is a federal cabinet-level department comprising multiple agencies and is tasked with providing an efficient network of national transportation systems and services. The DOT derives its authority from Title 49 of the US Code, which establishes the DOT and grants the Secretary of Transportation broad powers to regulate various transportation modes in the US.

The Federal Aviation Administration ("FAA") is a national agency within the DOT, the largest transportation agency in the US, and regulates all aspects of US civil aviation, including commercial space transportation, airspace over the US, surrounding international waters, and unmanned aircraft systems ("UAS"). The federal FAA Reauthorization Act of 2024 (Bill No. H.R. 3935, Public Law 118-63), signed into law on 16 May 2024, amends Title 49 of the United States Code and extends the FAA authorisation until 2028. *See* question 5.1.

The National Transportation Safety Board ("NTSB") is a fully independent US government agency that investigates and reports on civil transportation accidents, not only aviation accidents and incidents. The NTSB makes safety recommendations aimed at preventing future accidents.

The US Department of Homeland Security ("DHS") is a federal department responsible for ensuring public security in the US including, but not limited to, border security, immigration, cyber security, and customs.

The Transportation Security Administration ("TSA"), Customs and Border Protection ("CBP"), and Cybersecurity and Infrastructure Security Agency ("CISA") are three agencies under DHS jurisdiction. TSA is responsible for airport security and works in conjunction with CBP to screen airline passengers and employees at airports traveling to and from the US. CISA develops strategies to protect physical and cyber infrastructure, including airports, from cyberattacks.

Title 14 of the Code of Federal Regulations ("CFR"), "Aeronautics and Space", issued by the DOT and FAA, concerns aeronautics, air transportation, and space exploration.

Title 49 of the CFR, titled "Transportation", sets forth the comprehensive federal regulatory framework governing all modes of transportation within the US. Issued jointly by the DOT and the DHS, it establishes the rules and standards designed to ensure the safety, security, and efficiency of the nation's transportation systems. Title 49 encompasses a broad range of regulatory areas including the operation and maintenance of transportation infrastructure, the transportation of hazardous materials, civil aviation and airport security, motor carrier and rail safety, and procedures for enforcement and compliance.

1.2 What are the steps which air carriers need to take in order to obtain an operating licence?

Air carriers must obtain economic authority from the DOT and safety authority from the FAA.

Economic authority. The DOT grants economic authorisation through a certificate for interstate or foreign passenger and/or cargo operations. 49 USC § 41101. The DOT Air Carrier Fitness Division evaluates whether the applicant is "fit, willing, and able" to conduct commercial airline operations. *See* 49 USC § 41738 and 14 CFR § 298.21. Specifically, US air carrier applications are analysed for: (1) US citizenship (49 USC § 40102(a)(15)); (2) managerial competence; (3) financial fitness; and (4) legal compliance.

A US air carrier economic authority may consist of either a (1) certificate for interstate or foreign passengers and/or cargo and mail authority, (2) certificate for interstate or foreign all-cargo authority, or (3) authorisation as a commuter air carrier. All air carriers must file an application on the public docket at: https://www.regulations.gov, making it available for public comment. Air carriers must file separate applications for interstate and foreign authority.

The DOT analyses foreign air carrier applications for: (1) foreign citizenship; (2) operational and financial fitness; and (3) whether the carrier is covered by a bilateral agreement (14 CFR Parts 211 and 302). Foreign carriers must hold either a valid permit issued by the DOT (49 USC § 41301) or a valid exemption (49 USC § 40109). The DOT may grant exemptions for a maximum of two years at any one time, and foreign air carriers, pursuant to 49 USC § 40109(g)(3), may request renewal of exemption authority. The President of the US has the power to review and overturn the DOT's final decision to grant or deny a foreign air carrier's application. The DOT created an exception to this formal application process when it simplified the licencing procedure for Canadian charter air taxi operators due to the size and scope of such aircraft. 14 CFR Part 294. Separately, an agreement of the US and EU Joint Committee allows for reciprocal recognition of regulatory determinations of airline fitness and citizenship, meaning that applicants from EU Member States, Iceland, and Norway are entitled to file abbreviated applications.

Air carriers cannot operate until their application is approved, however, an exemption may be sought permitting commencement of operations prior to DOT decision. After approval, an air carrier must comply with the 49 USC § 41110(e) requirement to remain "fit" to retain the air carrier's air transportation services authority.

Safety authority. US carriers must hold an Air Carrier Certificate and Operations Specifications ("OpSpecs") (14 CFR Parts 121 and 135). OpSpecs are issued pursuant to Part 119, which governs the certification process, management qualifications, and the scope of authorised operations for Air Carriers. US carriers undergo a five-stage certification process: (1) pre-application; (2) formal application; (3) document compliance; (4) demonstration and inspection; and (5) certification. Similarly, foreign carriers must hold an OpSpecs (14 CFR Part 129), and the FAA evaluates the foreign air carrier for compliance with certain safety regulations and standards.

1.3 What are the principal pieces of legislation in your jurisdiction which govern air safety, and who administers air safety? Does this legislation adequately cover all the issues which tend to arise in your jurisdiction, or do you feel that certain amendments or additional laws would be desirable?

The FAA administers air safety within four major areas:

1. Airports – optimises the safety, capacity, and condition of airports in the US. 14 CFR Part 139.
2. Air Traffic Organization – controls air traffic routes and airspace safety. 14 CFR Parts 71 and 77.
3. Aviation Safety – ensures the certification, approval and airworthiness of aircraft, including UAS – the FAA does not require small drones (defined as less than 55 pounds) to comply with current agency airworthiness standards or obtain aircraft certification – and the certification of crew, including pilots, mechanics, and other air safety-related professionals. 14 CFR Parts 21, 25, 33, 61, 91, 107, 121, 125, and 135. The FAA provides public access to its Dynamic Regulatory System (DRS), a comprehensive, searchable repository of aviation safety guidance addressing multiple aspects of US aviation safety. *See* https://drs.faa.gov/browse
4. Office of Commercial Space Transportation – regulates the US commercial space transportation system, including rocket and satellite launches. 51 USC § 50921.

As discussed below in question 5.1, the US government passed the FAA Reauthorization Act of 2024, advancing a safer, cleaner, greener, and more accessible aviation system in the US. This Act requires airlines to use more sustainable fuels, encourages investment in airports, implements key safety measures, and bolsters accessibility and consumer protection for all passengers. To support its policy objectives and the ongoing advancement of US aviation safety as a worldwide benchmark, this Act authorises $105 billion in funding through fiscal year 2028 related to the FAA's various certification and safety programmes, infrastructure and technology upgrades, and the hiring of inspectors and air traffic controllers. *See* H.R. 3935, Title I. Additionally, the TSA (established under the DHS in response to the 9/11 terrorism acts) develops and implements policies to ensure the safety and security of transportation systems at airports. These laws and the body of regulations, caselaw and rules interpreting and implementing the amendments provide comprehensive legislation supporting the FAA and US as the safest civil aviation system in the world.

1.4 Is air safety regulated separately for commercial, cargo and private carriers?

The nature of the operator's business and aircraft and 14 CFR Part 119 determine which operating rules apply. Safety regulations differ based on aircraft size, measured by the number of passenger seats and payload capacity, and whether the operation involves common carriage of passengers and/or cargo:

- Operation and certification requirements for aircraft operators involved in scheduled common carriage, such as airlines and cargo carriers. 14 CFR Part 121.
- Operators of larger aircraft being operated for non-common carriage purposes. 14 CFR Part 125.
- Commuter or on-demand operations of air carriers or commercial operators. 14 CFR Part 135.

These Parts establish operational requirements relating to equipment, maintenance, pilot qualifications, and training. 14 CFR Parts 91 and 129 also establish operating standards applicable to foreign air carriers operating in the US.

1.5 Are air charters regulated separately for commercial, cargo and private carriers?

The US regulates air charters based upon aircraft size and type:

- On-demand commuter and cargo operations have various restrictions including, but not limited to, the number of seats and size of the aircraft, recordkeeping requirements, staffing and training of pilots and crews, and restrictions on the number of trips made per week. 14 CFR Parts 135 and 298.
- Large aircraft carrying charter passengers or cargo, in interstate and/or foreign air transportation. 14 CFR Part 212.
- Public charters for both small and large aircraft, with varying restrictions, must submit a charter prospectus to the DOT prior to flying. 14 CFR Part 380.

1.6 As regards international air carriers operating in your jurisdiction, are there any particular limitations to be aware of, in particular when compared with 'domestic' or local operators? By way of example only, restrictions and taxes which apply to international but not domestic carriers. Does the *status quo* tend to create an aviation market which is sufficiently competitive and open?

The United States generally affords foreign air carriers national treatment within the scope of rights granted under applicable bilateral or multilateral air transport agreements, many of which are Open Skies agreements. To operate to or from the United States, a foreign carrier must hold US economic authority and comply with US safety and security requirements, which DOT administers through foreign air carrier permits or exemptions and associated rules of practise. The FAA and DHS/TSA oversee safety and security, respectively. 49 U.S.C. § 41301; 49 U.S.C. § 40109; 14 CFR Part 211; 49 U.S.C. § 44701; 14 CFR Part 129; 49 U.S.C. § 114; 49 U.S.C. § 44907; 49 CFR Parts 1542, 1544, and 1546.

The FAA's International Aviation Safety Assessment Program ("IASA") evaluates whether a foreign country's aviation authority over carriers operating in the US or under US carrier codeshares complies with International Civil Aviation Organisation ("ICAO") international safety standards, and also considers the existence of an effective aviation security

agreement between the US and the foreign country before granting a licence to operate in the US. ICAO promotes the safe and orderly development of civil aviation globally by setting standards, regulations, and procedures necessary for aviation safety, security, efficiency, regularity, and environmental protection. *See* https://www.faa.gov/about/initiatives/iasa

Several structural limitations differentiate foreign from domestic operators, including restrictions on revenue traffic solely between two US points except in narrow emergencies; limitations on foreign control of US airlines and preservation of US citizen ownership and actual control of US certificate holders; and the Fly America Act's requirement to use US-flag, instead of foreign, air carriers when a passenger's travel expenses are funded by the US government, unless a treaty exception applies. *See* 49 U.S.C. § 41703; 49 U.S.C. § 40102(a)(15); 49 U.S.C. § 41102; 49 U.S.C. § 40118. Treaty rights also matter. Unless an air services agreement expressly grants seventh freedom rights, foreign carriers cannot operate standalone services between the United States and a third country without serving their home state, which can limit network design relative to US carriers' flexibility on US-foreign routes under the same agreement. *See* Convention on International Civil Aviation art. 6; 49 U.S.C. §§ 41301, 41302; Air Transport Agreement between the United States of America and the European Union and its Member States, as amended by the 2010 Protocol, arts. 3, 7.

Taxes and fees also differ between international and domestic operations. International itineraries with US segments are subject to a periodically indexed international arrival and departure taxes rather than US domestic, per-segment *ad valorem* ticket excise tax and fees. 26 U.S.C. § 4261(c); cf. 26 U.S.C. § 4261(a)–(b). International travel also triggers separate US customs, immigration, and agriculture user fees. Both domestic and international segments may be subject to the September 11th security fee and airportimposed passenger facility charges within statutory caps. 49 U.S.C. § 44940; 49 CFR Part 1510; 8 CFR Part 286; 19 CFR §§ 24.22–24.23; 7 CFR § 354.3; 49 U.S.C. § 40117; 14 CFR Part 158. For international air cargo, an excise tax applies to domestic, not international, air transportation of property. 26 U.S.C. § 4271.

Consumer protection, competition oversight, and charter rules apply evenhandedly to foreign and US carriers when they market, sell, and operate in the United States. DOT enforces prohibitions on unfair and deceptive trade practices, and refund and fee transparency rules, that also apply to foreign carriers selling to US consumers. DOT and DOJ review alliance coordination and other cooperative agreements for competitive effects, including potential antitrust immunity in the public interest. 49 U.S.C. § 41712; 14 CFR Parts 250, 259, and 399; 49 U.S.C. §§ 41308–41309. Public Charter operations remain regulated under 14 CFR Part 380, which DOT is modernising to address charter models that function like scheduled service. 14 CFR Part 380.

On balance, this regime produces a market that is generally competitive and open on international city pairs covered by liberal air services agreements, with broad freedoms for pricing, capacity, and code sharing. That said, the above structural constraints often meaningfully shape entry strategies and relative opportunities. They also preserve distinct roles for US and foreign operators in parts of the market. 49 U.S.C. Subtitle VII; 49 U.S.C. § 40118; 49 U.S.C. § 41703; 49 U.S.C. ch. 491.

Essentially giving equal treatment to foreign carriers and implementing ICAO and other international aviation standards, the US provides a competitive, open aviation market. Further, as noted in questions 1.10, 4.1, and 4.5 below, DOT and DOJ regulation and scrutiny aim to mitigate anti-competitive activities that could potentially harm the flying public.

1.7 Are airports state or privately owned? Are there any plans to alter this position?

Commercial airports are nearly exclusively publicly owned in the US, whether by local, regional, state or bi-state authorities, but operated through private long-term contractual arrangements. As an example, in New York and New Jersey, the Port Authority of New York and New Jersey (the "Port Authority") is an interstate compact that operates several airports in New York and New Jersey. The City of New York contracts with the Port Authority, and the Port Authority in turn contracts with numerous airport operators, US airlines, and maintenance and service organisations to design, build, manage and operate terminals. These arrangements provide for long-term airport operation agreements.

The US Airport Investment Partnership Program ("AIPP") (formerly the Airport Privatization Pilot Program), enacted in 1997 and last amended in 2018, is the primary policy aimed at supporting longer term public-private partnerships surrounding not just airport operation but also ownership. Privatised airports under the AIPP are subject to different requirements and regulations than privatisation outside the AIPP, such as standards for use of sale/lease proceeds, rates or charges on airlines, and charges on passengers. Generally, all proceeds and revenue generated by the airport must be used for its capital or operating costs, although the AIPP grants an exception upon approval by 65% of the air carriers operating at the airport (based on the number of carriers and by landed weight). Stewart International Airport in Newburgh, NY was the first commercial service airport to participate in the FAA's privatisation programme from March 2000 to October 2007, however, it reverted to public ownership and is operated by the Port Authority. Luis Muñoz Marín International Airport in San Juan, Puerto Rico was privatised in 2013, and the Airglades International Airport in Clewiston, Florida, which is currently being developed as a logistics hub to transport perishable goods from Latin American producers, is also privatised. Most recently, on November 13, 2024, the FAA published notice that it approved the Final Application for privatisation of Avon Park Executive Airport in central Florida. *See* FR Doc. 2024-26190, filed 13 November, 2024, available at: https://www.federalregister.gov/documents/2024/11/13/2024-26190/airport-investment-partnership-program

There have been multiple AIPP applications to privatise airports, all withdrawn or terminated. In August 2025, two tax reforms were proposed to incentivise US airport privatisation, including: (1) remove the mandate that tax-exempt airport bonds be paid off before there is a change in control; and (2) expand the scope of successful surface transportation tax-exempt private activity bonds to include airports. *See* https://www.brookings.edu/articles/incentivizing-us-airport-privatization

1.8 Do the airports impose requirements on carriers flying to and from the airports in your jurisdiction?

Yes, airports impose requirements on carriers which are largely based on FAA mandates.

The FAA Airport Safety Program, addresses general aviation airport safety, runway safety, and safety management systems. For example, the FAA Passenger Facility Charge ("PFC") Program permits the collection of PFC fees of up to $4.50 for

every eligible passenger at commercial airports controlled by public agencies. Revenue generated from PFC must be used for eligible projects that either preserve or enhance capacity, safety, or security of the national air transportation system; reduce noise resulting from an airport that is part of such system; or provide an opportunity for enhanced competition between or among domestic and foreign air carriers. PFCs are capped at $4.50 per flight segment, with a maximum of two PFCs charged on a one-way trip or four PFCs on a round trip, for a maximum of $18 total. The FAA Reauthorization Act of 2023 does not include any changes to the cap on PFCs, although there have been efforts to amend the proposed law to include a PFC increase.

Additionally, airport owners and operators can impose their own local requirements on carriers. For example, the Port Authority has its own requirements for aircraft operation and aircraft noise restrictions governing carriers flying to and from John F. Kennedy International Airport, LaGuardia Airport, Newark Liberty International Airport, New York Stewart International Airport, and Teterboro Airport.

1.9 What legislative and/or regulatory regime applies to air accidents? For example, are there any particular rules, regulations, systems and procedures in place which need to be adhered to? Do you believe that there are any changes which would be of benefit to the existing regime?

Federal regulations grant the NTSB authority to investigate all civil transportation accidents, including aviation accidents. The NTSB determines "probable cause" and issues safety recommendations to the FAA which air carriers, manufacturers, and airports take under consideration. For general aviation accidents, the responsible NTSB field office may delegate authority to the FAA pursuant to Section 304(a)(1) of the Independent Safety Board Act of 1974. The Department of Defence and the respective branches of the US military, investigate military aircraft crashes; however, the US military may authorise the NTSB to jointly investigate aviation accidents involving both military and civilian or certain public aircraft (i.e., government owned aircraft). 49 CFR § 831. Upon request, the NTSB frequently assists foreign governments with accident investigations, typically conducted in accordance with ICAO Annex 13. Prominent examples include the Boeing 737 Max crashes in Ethiopia and Indonesia, the disappearance of Malaysia Airlines Flight MH370, and the Boeing 787 Dreamliner crash in India.

Federal regulations require operators of any civil aircraft to immediately notify the NTSB local field office of an aircraft accident (49 CFR § 830.5) and to ensure the preservation of aircraft wreckage, cargo, and data recorders and all records, reports, internal documents, and memoranda dealing with the accident (49 CFR § 830.10(a)). Federal statute also requires notification of and counselling to family members (49 USC § 1136). The Aviation Disaster Family Assistance Act of 1996 (49 USC §§ 1136 and 41113) and Foreign Air Carrier Family Support Act of 1997 (49 USC § 41313) require US and foreign carriers to have a Family Assistance Plan in place that sets forth how the carrier will address the needs of families and passengers involved in any accident resulting in a major loss of life. The NTSB must be permitted to inspect all relevant records (49 CFR § 830.10(d)).

The investigation of an accident begins with the NTSB creating its "go-team" that is led by an investigator-in-charge and is equipped with specialists trained in areas such as aircraft systems and structures, witness interviews, maintenance, operations, air traffic control, and meteorology. The NTSB generally issues a "preliminary" report on its online accident database shortly after an accident. There were two public Board hearings in 2025 – the Alaska Airlines Flight 1282 door plug incident held on 24 June 2025, and the midair collision of Sikorsky UH-60L Blackhawk operated by the US Army and American Airlines Flight 5342 on 30 July – 1 August 2025. At the conclusion of the NTSB's investigation, the NTSB issues a public "final" report (49 CFR Parts 831 and 845). The final report typically includes: (1) a factual report of the accident; (2) the probable cause of the accident; (3) whether mechanical or human error contributed to the accident; (4) the presence of design flaws or structural failures of the aircraft and its components; and (5) the impact of environmental or atmospheric interference. If appropriate, the NTSB report may also include safety recommendations based upon its factual findings. The NTSB issued its Final Report regarding Flight 1282 on 24 June 2025. Investigation of Flight 5342 is ongoing.

If criminal conduct is suspected or implicated, local police authorities, the Federal Bureau of Investigation ("FBI") and/or the Department of Justice ("DOJ") will become involved. A criminal investigation may delay certain aspects of the NTSB's accident investigation and could create a conflict with the authority of the NTSB. While there are jurisdictions that have moved toward criminalisation of aviation incidents, the US regime remains focused on transparency and advancing safety as its first priority.

The FAA and the NTSB signed an agreement dated 9 September 2022, memorialising that the NTSB and FAA will work together to investigate commercial space mishaps, with the NTSB acting as the lead investigative agency for FAA permitted, licenced, or otherwise FAA approved commercial space launch or reentry mishaps that result in: (1) a fatality or serious injury to any person, regardless of whether the person was on board the commercial space launch or reentry vehicle; or (2) damage to property not associated with the commercial space launch or reentry activities or the launch site, from debris that could reasonably be expected to cause death or serious injury. The FAA will be the lead investigative agency for all other commercial space mishaps.

1.10 Have there been any recent cases of note or other notable developments in your jurisdiction involving air operators and/or airports?

In January 2024, a federal judge blocked the proposed $3.8 billion merger between JetBlue and Spirit pursuant to DOJ's legal action. *See US v. JetBlue Airways Corp.*, Case 1:23-cv-10511, ECF No. 461 (D.Mass. Jan. 16, 2024). Thereafter, in November 2024 and, again, in August 2025, Spirit filed for Chapter 11 Bankruptcy. Spirit's updated pricing bundles and "Go Comfy" premium option failed to reverse its losses and extensive debt. Some predict that Spirit may discontinue operations in 2026. *See* https://www.forbes.com/sites/willmcgough/2025/08/30/spirit-airlines-could-be-in-its-final-year-of-operation

Multiple passenger lawsuits arising out of the Alaska Airlines Flight 1282 door plug incident are currently pending in Washington, Oregon, and California. Three lawsuits in California were dismissed against The Boeing Company and Spirit AeroSystems, Inc. for lack of personal jurisdiction, leaving Alaska Airlines as the remaining defendant. *Marin, et al v. Alaska Airlines, Inc. et al*, Case No. 5:25-cv-01480-WLH-AGR, ECF No. 39 (C.D. Cal. Aug. 26, 2025); *Choe et al, v. Alaska Airlines, Inc., et al.*, Case No. 5:25-cv-01479-WLH-AGR, ECF No. 40 (C.D.

Cal. Aug. 26, 2025); *Moise et al., v. The Boeing Company, et al.*, Case No. 2:24-cv-03942-WLH-AGR, ECF No. 41 (C.D. Cal. July 31, 2024). The extent to which passengers may rely on the contents of the NTSB reports and investigation and documents in the NTSB docket is a subject in the litigation. *See Margarita Anderson et al. v. The Boeing Company et al.*, Case No. 25-2-0006-1-3 KNT (Wash. Sup. Ct., Jan. 2, 2025). In September 2025, the first wrongful death lawsuits were filed against American Airlines, PSA Airlines, and the US government arising out of the 29 January 2025 American Airlines Flight 5342 midair collision, in which all souls on both aircraft perished. *See Crafton v. American Airlines Inc., et al.*, Case No. 1:25-cv-03382 (D.C.C. Sept. 24, 2025); *see also Cully v. American Airlines Inc.*, et al, Case No. 1:25-cv-03437 (D.C.C. Sept. 26, 2025).

Most recently, on 4 November 2025 the crash of a UPS MD-11 cargo aircraft on takeoff from Louisville, Kentucky resulted in loss of lives and significant property damage from impacting a petroleum recycling facility. The NTSB issued its Preliminary Report less than a month after the crash, and the FAA issued an order grounding MD-11 and DC-10 aircraft.

The ongoing conflict following Russia's invasion of Ukraine in February of 2022 impacted the aviation industry in numerous ways. The US, United Kingdom, and the European Union ("EU"), imposed various sanctions and economic restrictions on Russia, its companies, financial institutions, and oligarchs. Among other things, the US sanctions included the closure of US airspace to Russian-operated aircraft, blocking assets or prohibiting transactions with certain Russian companies and individuals, and export controls prohibiting the export or reexport of aircraft and components to Russia or for use in Russia. Since February 2022, Western lessors of Russian operated aircraft with an asserted value in excess of $10 billion have commenced insurance coverage actions in the US, UK and Ireland seeking an estimated $10–$35 billion. As a significant development, on 4 June 2025 a Florida state court granted summary judgment and ruled that the losses alleged by Carlyle Aviation Partners, LLC can only be covered by War Perils coverage, not All-Risk Coverage, under Florida law, reasoning that Carlyle's aircraft were not returned because of Russia's war perils. *See Carlyle Aviation Partners, LLC v. American International Group UK Ltd., et al.*, No. 2022-020857-CA-01, 2025 WL 1592458 (Fla. Cir. Ct., June 4, 2025). The operator and lessor cases continue to wend their way through the courts.

Passenger class actions continue to be brought against the airlines, the most recent lawsuit against Delta Air Lines and United Airlines alleging they were unfairly charged a premium to sit in "windowless" seats on Boeing 737, Boeing 757, and Airbus A321 planes. *See Nicholas Meyer, et al. v. Delta Air Lines, Inc.*, Case No. 1:25-cv-04608 (E.D.N.Y., Aug. 19, 2025).

1.11 Are there any specifically environment-related obligations or risks for aircraft owners, airlines, financiers, or airports in your jurisdiction, and to what extent is your jurisdiction a participant in (a) the EU Emissions Trading System (EU ETS) or a national equivalent, and (b) ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)?

The Clean Air Act of 1970 ("CAA") (42 USC § 7401 *et seq.*), a federal air quality law, was enacted to reduce and control air pollution and is administered by the Environmental Protection Agency ("EPA"). EPA regulatory programmes, such as the National Emissions Standards for Hazardous Air Pollutants, set emissions standards, whereas the FAA establishes and administers compliance with the Certification Requirements for aircraft and engines. 40 CFR Part 87, entitled "Control of Air Pollution from Aircraft and Aircraft Engines", sets forth the EPA emission standards, and 14 CFR Part 34, entitled "Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes", sets forth the associated FAA requirements. These rules and regulations closely follow standards adopted by ICAO.

The US continues to participate in ICAO's global market-based mechanism, CORSIA, which is designed to offset and reduce CO_2 emissions. Offsetting of CO_2 emissions is intended to be achieved through the acquisition and cancellation of emissions units from the global carbon market by airplane operators. By 2026, 130 countries will participate in CORSIA. *See* https://www.icao.int/CORSIA/corsia-states-chapter-3-state-pairs. During the current phase, only flights between countries that volunteer to participate in CORSIA are subject to offsetting requirements. By 2027, CORSIA will begin a second phase expected to end in 2035, subjecting international flights to offsetting requirements, with exceptions that include, for example, least developed countries, small island developing states and landlocked developing countries.

The US is not a participant in the EU ETS, which follows a "cap and trade" approach wherein the EU caps how much greenhouse gas pollution is permissibly emitted each year and allows tradable allowances equal to that limit.

The Biden administration's Sustainable Aviation Fuel Grand Challenge aimed to increase sustainable aviation fuels ("SAF") production in the US to 3 billion gallons by 2030 and 35 billion gallons by 2050. The 2050 SAF goal would account for the entire jet fuel market, thus achieving a net-zero greenhouse gas emission. To incentivise the production of SAF, a $1.25 SAF credit for each gallon of SAF produced was envisioned. Although approximately 20 new SAF projects were expected to be operational by 2030, with the change in administration, changes in the US position are to be expected.

Airlines are beginning to use artificial intelligence ("AI") to reduce carbon emissions and aviation's global warming impact, and to more accurately predict weather and create direct flight routes to reduce the amount of fuel burned and ultimately result in less CO_2 emissions.

2 Aircraft Trading, Finance and Leasing

2.1 Does registration of ownership in the aircraft register constitute proof of ownership?

A Certificate of Registration alone is "not evidence of ownership of an aircraft in a proceeding in which ownership is or may be in issue". 49 USC § 44103(c)(2). The best evidence of FAA-registered aircraft ownership is an original bill of sale from the manufacturer/seller to the current owner. For multiple prior-owner aircraft, the best evidence of current ownership is a chain of title with all prior bills of sale and previous title transfers. The following documents are not acceptable as evidence of ownership: acquisition and invoice/shipping document, DD Form 1149, transfer order surplus personal property, SF Form 123; US Air Force excess/surplus personal property transfer and work agreement; and notice of award, statement, and release document, DPDS Form 1427. Pursuant to the FAA Reauthorization Act of 2024 (Public Law 118-63), the FAA is establishing a process to enable private aircraft owners to request that certain ownership information, such as names and addresses, be withheld from public view on the FAA's website. *See* 49 USC § 44114(b). Such requests

can be submitted online through the Civil Aircraft Registry Electronic Services ("CARES") system.

2.2 Is there a register of aircraft mortgages and charges? Broadly speaking, what are the rules around the operation of this register?

The FAA Aircraft Registry is a public database for recording aircraft mortgages, liens and other security interests on US registered aircraft. 14 CFR Part 49 contains the requirements for recording mortgages and other security interests. A notice of federal tax lien is not recordable under Part 49, however, since the Internal Revenue Code requires it to be filed elsewhere. IRC 6323(f). Aircraft registration documents consist of an aircraft registration application, AC Form 8050-1, evidence of ownership (*i.e.*, bill of sale or chain of title), and a $5 registration fee to the FAA. All documents must include the manufacturer, model, serial number, registration number, and original signatures. For registration, the FAA Aircraft Registry requires that the aircraft must be owned by: (1) a US citizen; (2) a partnership each of whose partners is a US citizen; (3) a US corporation of which the president and at least two-thirds of the board of directors are US citizens and at least 75% of the voting interest is owned or controlled by US citizens; (4) a citizen of a foreign country lawfully admitted for permanent residence in the US; (5) a US governmental unit or subdivision; or (6) a non-US citizen corporation organised and doing business under the law of the US or one of its states as long as the aircraft is based and primarily used in the US (60% of all flight hours being from flights starting and ending in the US). *See* 49 USC § 44102; 14 CFR Part 47. When the applicant for registration is a limited liability company (LLC), the LLC must also submit information regarding its organisation, how management authority is held, and how the LLC meets the definition of a US citizen. An aircraft registered in a foreign country is not eligible for US registration. The duration of aircraft registration certificates is seven years after the last day of the month in which it is issued. *See* 14 CFR § 47.40(a). The Aircraft Registration Application is valid until the applicant either receives the aircraft registration certificate, the FAA denies the application, or 12 months have elapsed during which the registration is pending on the aircraft. *See* 14 CFR § 47.31(c).

The Cape Town Convention and related Protocol on Aircraft Equipment is an international treaty that recognises an international registry for registering ownership and security interests. The FAA Aircraft Registry serves as the entry point for registering an interest or prospective interest in eligible US aircraft and aircraft engines with the International Registry. The process requires filing a completed AC Form 8050-135 with the FAA. After reviewing it solely for completeness, the FAA returns the authorised form to the filing party, along with a unique authorisation code, for use in registering such interests with the International Registry through its website.

2.3 Are there any particular regulatory requirements which a lessor or a financier needs to be aware of as regards aircraft operation?

Lessors and financiers should require their lessee/operator to comply with all applicable FAA and DOT aircraft operation regulations. 14 CFR Part 91 sets forth general rules regarding operation of civil aircraft and, as noted in question 1.3, other Parts govern safety regulations. The lessee/operator must meet certain requirements, including, for example, licensure of the aircraft pilot. The lease agreement should explicitly provide that the lessee maintains operational control of the aircraft. Moreover, lease agreements for a "large civil aircraft", as defined in 14 CFR § 1.1 (more than 12,500lbs, maximum certificated takeoff weight) must include a written truth-in-leasing clause as a concluding paragraph, which satisfies the requirements set forth in 14 CFR Part 91. The lease is filed with the FAA for truth-in-leasing purposes only and within 24 hours of execution, a copy of the lease must be sent to the aircraft registration branch. *See* 14 CFR § 91.23. At least 48 hours prior to the first flight the lessee must notify the FAA of the time, departure location, and the aircraft's registration number. A copy of the lease must be carried on board the aircraft at all times.

2.4 As a matter of local law, is there any concept of title annexation, whereby ownership or security interests in a single engine are at risk of automatic transfer or other prejudice when installed 'on-wing' on an aircraft owned by another party? If so, what are the conditions to such title annexation and can owners and financiers of engines take pre-emptive steps to mitigate the risks?

The Cape Town Convention, to which the US is a signatory, defines aircraft engines and airframes as distinct and separate aircraft objects. Article XIV(3) of the Aircraft Equipment Protocol provides that "ownership of or another right or interest in an aircraft engine shall not be affected by its installation on or removal from an aircraft".

2.5 What (if any) are the tax implications in your jurisdiction for aircraft trading as regards a) value-added tax (VAT) and/or goods and services tax (GST), and b) documentary taxes such as stamp duty; and (to the extent applicable) do exemptions exist as regards non-domestic purchasers and sellers of aircraft and/or particular aircraft types or operations?

Tax implications are unique to each transaction given the interplay between US federal and individual state tax laws and applicable treaties. Aircraft transactions (including the use, sale, or lease of an aircraft) involving the US or US citizens can be subject to federal and/or state(s) tax laws, regulations and treaties. Tax treatment favourability depends upon various factors, including but not limited to the jurisdiction of the persons involved in the transaction, the situs of closing, the intended use of the aircraft after closing.

There is no VAT in the US. Parties must consult the US tax code (Title 26 of the USC) with respect to any aircraft sale or lease transaction in the US with a US entity or citizen.

Each US state maintains its own tax laws, and within each state, there may be county or city tax laws. Most states collect sales tax on transactions involving tangible personal property. Specifically, state taxes for aircraft purchases and transactions range widely between 2% (Virginia) and 7.5% (California). Alaska, Delaware, Montana, New Hampshire, and Oregon do not have a state sales tax (although Alaska allows for certain local taxes and Delaware has retailers', wholesalers', and lease taxes, and applies a 0.384% sales tax rate on aircraft below 12,500lbs). This means that sales taxes will not be assessed for aircraft delivered in these five states. There are states that provide special tax treatment and exemptions specific to transactions involving aircraft. New York, Maine, Connecticut, and Rhode Island exempt some or all categories of aircraft from sales tax, while others cap the sales

tax on aircraft sales and leases (South Carolina – $500; North Carolina – $2,500; Virginia– 2%). There have been numerous unsuccessful attempts to repeal the sales tax exemptions for aircraft in New York. Many states, such as Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Michigan, Oklahoma, Texas, and Wisconsin have a "fly-away" exemption, which exempts the transaction from sales tax if the aircraft is flown out of the state where it was purchased within a specified period of time after closing. The "fly-away" exemption may be limited, *e.g.*, in Georgia, the aircraft must be manufactured or assembled in Georgia, or in Oklahoma, the exemption applies when the sale price exceeds $2.5 million. Other states provide a "lessor exemption" that typically comes in the form of a resale exemption. A lessor can elect to pay use tax on receipts from the rental/lease of an aircraft *in lieu* of payment of sales or use tax on the full cost of the aircraft at time of purchase. The specifics of a lessor exemption differ from state to state. An overview of aircraft state tax laws can be found on the Aircraft Owners and Pilots Association website (https://www.aopa.org/advocacy/state-advocacy).

2.6 Is your jurisdiction a signatory to the main international Conventions (Montreal, Geneva and Cape Town)?

The US is a signatory to the following major treaties and conventions:

- Convention on International Civil Aviation (the "Chicago Convention"), Dec. 7, 1944, 61 Stat. 1180.
- Convention on the International Recognition of Rights in Aircraft, June 19, 1948, 4 U.S.T. 1830.
- Convention for the Unification of Certain Rules relating to International Carriage by Air (the "Warsaw Convention"), Oct. 12, 1929, 49 Stat. 3000.
- The Geneva Conventions of 1949.
- Convention on Offenses and Certain Other Acts Committed on Board Aircraft (the "Tokyo Convention"), Sept. 14, 1963, 20 U.S.T. 2941.
- Montreal Protocol No. 4, Sept. 25, 1975, to amend the Warsaw Convention as Amended by the 1955 Hague Protocol.
- Convention for the Unification of Certain Rules for International Carriage by Air (the "Montreal Convention"), May 28, 1999, S. Treaty Doc. No. 106-45, TIAS13038, 1999 WL 33292734.
- Convention on International Interests in Mobile Equipment (the "Cape Town Convention") and Aircraft Equipment Protocol, Nov. 16, 2001, TIAS 06-301.02 and 06-301.03.

2.7 How are the Conventions applied in your jurisdiction?

Federal treaties preempt the individual state laws in conflict therewith; however, both federal and state courts may exercise jurisdiction over the interpretation of treaties and conventions, with the US Supreme Court having final say over the proper interpretation of a treaty. A seminal US Supreme Court decision governing international aviation law, *EL AL Israel Airlines, Ltd. v. Tseng*, 525 U.S. 155 (1999), upheld the pre-emptive effect of treaties, such as the Montreal Convention, on local law. Unlike the Montreal and Warsaw Conventions, there is limited case law in the US interpreting the Cape Town Convention or the Geneva Convention. However, in a precedential decision, the US Supreme Court in *Hamdi v. Rumsfeld*, 542 U.S. 507, 520 (2004) held that "it is a clearly established principle of the law of war that detention may last no longer than active hostilities".

2.8 Does your jurisdiction make use of any taxation benefits which enhance aircraft trading and leasing (either in-bound or out-bound leasing), for example access to an extensive network of Double Tax Treaties or similar, or favourable tax treatment on the disposal of aircraft?

The US has an extensive network of income tax treaties aimed at minimising double taxation. There is no exact method to maximise an entity's tax benefits and there are various restrictions on "treaty-shopping", which compel the utilisation of sophisticated analysis tailored to each situation to maximise the taxation benefits. Further, the One Big Beautiful Bill Act, signed into law on 4 July 2025, provides 100% bonus depreciation for qualifying aircraft, provided certain conditions are met.

2.9 To what extent is there a risk from the perspective of an owner or financier EITHER that (A) a lessee of aircraft or other aviation assets in your jurisdiction may acquire an economic interest in the aircraft merely by payment of rent and thereby potentially frustrate any rights to possession or legal ownership or security, AND/OR (B) an operating lease of an aircraft constitutes an encumbrance or third party *in rem* interest of a lessee in the aircraft itself which prevents unilateral termination of the lease following a lessee default in accordance with its terms?

Aircraft owner/financier economic interests in a leased aircraft depends on the type of lease and objectives of the owner and financier. A "true" or "operating" aircraft lease is a contract for the use and possession of an aircraft for a specified duration, typically less than the useful life of an aircraft. With a true or operating lease, the lessee does not expect to acquire ownership of the aircraft through making lease payments. Alternatively, parties may enter an "aircraft finance" lease, also referred to as a "conditional sale" or "long-term lease". The lessee's ultimate goal under a "finance" lease is to acquire the leased aircraft, and the lessee makes payments throughout the duration of the lease, typically a significant portion of the aircraft's useful life. Under this regime, the FAA may treat a "finance" lessee as the owner of the aircraft and the lessor as a secured party (rather than an owner), meaning that the owner would be required to record its aircraft security interest to be able to maintain its security interest in the aircraft.

Prudence dictates that an owner of the aircraft properly perfect its interest in a lease of a US-registered aircraft under the FAA regulations, the Cape Town Convention, and in accordance with the Uniform Commercial Code ("UCC") (*see* question 3.2) for components not contained within an aircraft.

3 Litigation and Dispute Resolution

3.1 What rights of detention are available in relation to aircraft and unpaid debts?

The US legal system provides creditors the ability to obtain judgments or injunctions regarding an aircraft owner or operator's unpaid debts. If such an owner operator has not filed a bankruptcy action, a creditor may: (1) obtain a court judgment enforceable in accordance with the relevant state laws and procedures; or (2) obtain a pre-judgment restraining

order or injunction preventing the debtor from moving the aircraft, subject to meeting certain criteria. State law generally governs creditors' rights; however, creditors may seek relief in both state and federal courts. The applicable law may vary depending on the type of debt, priority of any lien, and whether the lien has been perfected, *i.e.*, properly recorded/registered. If the aircraft owner or operator has filed for bankruptcy protection, the debtor could be afforded automatic stay protection under US bankruptcy law, and subject the creditor to the jurisdiction of the bankruptcy courts. The remedies will be limited to the appropriate relief afforded by federal bankruptcy law and is dependent on the type of bankruptcy relief sought and the type of debt.

A recent decision in the Southern District of New York suggested that certain enhanced rights of creditors and lessors of aircraft equipment should be enforceable in the US against foreign air carriers that file for US bankruptcy protection. *See In Re SAS AB*, 2024 WL 3506430 (Bankr. S.D.N.Y. July 22, 2024), *aff'd*, 2025 WL 692429 (S.D.N.Y. Mar. 4, 2025) (holding that because Sweden had not made the formal declaration required under Article XI of the Aircraft Protocol, its adoption of "Alternative A" was ineffective in the debtor's Chapter 11 case); *see also* Prof. Kenneth Ayotte and Gulnur Bekmukhanbetova, *Mind the Gap: The Uncertain Status of Aircraft Lenders to Foreign Airlines in Chapter 11*, A.B.I. Journal, 28–29 (December 24, 2024) (https://s3.amazonaws.com/abi-org-corp/journals/international_12-24.pdf).

3.2 Is there a regime of self-help available to a lessor or a financier of an aircraft if it needs to reacquire possession of the aircraft or enforce any of its rights under the lease/finance agreement?

The UCC governs nearly all commercial transactions in the US and all 50 states have adopted some form of the UCC. In certain circumstances, the UCC permits a self-help remedy, although a lessor's rights may be limited by the applicable lease and/or financing agreements. Pursuant to UCC § 2A-523 and § 2A-525, a lessor is entitled to repossess leased equipment or render the equipment unusable, if it can do so without causing a breach of the peace. Upon seizure, the lessor may then retain, sell, lease, or otherwise dispose of the aircraft and apply the proceeds to satisfy the outstanding debt. Default remedies available in the US may be affected by the Cape Town Convention and its Aircraft Equipment Protocol, depending on the type of aircraft, its place of registration, the location of the debtor, and whether the transaction documents create an "international interest". The US Declaration to the Cape Town Convention affirms that the US respects applicable local laws with respect to non-consensual liens.

As discussed in question 3.1 above, Sweden's failure to make the formal declaration required under Article XI of the Aircraft Protocol rendered its adoption of "Alternative A" ineffective in a US Chapter 11 proceeding. 2024 WL 3506430 at *2–4.

3.3 Which courts are appropriate for aviation disputes? Does this depend on the value of the dispute? For example, is there a distinction in your jurisdiction regarding the courts in which civil and criminal cases are brought?

Civil and criminal aviation disputes can be litigated in either state or federal court, depending on the parties and amount in dispute. Individuals and the government may bring a claim in civil court, where the available remedies are generally limited to monetary and/or injunctive relief. Only the government can prosecute criminal cases, which can result in a monetary award, injunctive relief, and/or incarceration. The NTSB handles accident investigations or appeals of FAA enforcement actions. *See* 49 U.S.C. § 44709-13; 14 CFR § 13.19; *see also* Federal Aviation Administration, *Legal Enforcement Actions* (accessed Nov. 16, 2025), https://www.faa.gov/about/office_org/headquarters_offices/agc/practice_areas/enforcement/enforcement_actions; National Transportation Safety Board, *Office of Administrative Law Judges – Processes* (accessed Nov. 6, 2025), https://www.ntsb.gov/legal/alj/Pages/ALJ%20Processes.aspx

State courts have broad jurisdiction and can hear almost any civil or criminal case not pre-empted by federal law or international convention or treaty. A civil lawsuit can be filed in federal court if the case involves either: (1) federal question jurisdiction (*i.e.*, the case arises under or implicates a federal treaty, law, or regulation, *e.g.*, the Montreal Convention); or (2) diversity jurisdiction (the claim is between citizens of different states and the amount in controversy exceeds $75,000). Alternatively, if a plaintiff files a civil lawsuit in state court, there are limited bases for a defendant to remove the matter to federal court, which may be challenged by a plaintiff via a motion for remand. Plaintiffs continue to bring cases alleging damages just under $75,000 in an effort to avoid removal to federal court, which is not always successful in defeating federal jurisdiction. *See, e.g., Auto Money N. LLC v. Walters*, 737 F. Supp. 3d 330 (D.S.C., Jun. 11, 2024) (holding that federal court possessed jurisdiction because attorneys fees may be considered as part of amount in controversy; a fee amount of even $1 would be sufficient to bring litigants over the jurisdictional threshold).

3.4 What service requirements apply for the service of court proceedings, and do these differ for domestic airlines/parties and non-domestic airlines/parties?

The Federal Rules of Civil Procedure ("FRCP") govern service requirements in federal courts. Conversely, in state courts, each state has its own rules of civil procedure, which includes rules regarding service of process. Service of process standards are generally liberal in both federal and state courts. Some jurisdictions authorising service via certified mail, by leaving a copy with someone at the defendant's dwelling or usual place of abode, publication, service on the Secretary of the State, by email or social media platforms, and even serving the defendant's counsel. *See, e.g., Nguyen v. Chase*, 2024 WL 5169897 at *3 (M.D. Fla. Dec. 19, 2024) (citing *WhosHere, Inc. v. Orun*, 2014 WL 670817 at *3 (E.D.Va. Feb. 20, 2014))("service of process by "social networking websites complies with both Rule 4(f)(3) and constitutional due process, even when the Hague Convention applies"); *Birmingham v. Doe*, 593 F. Supp. 3d 1151, 1159 (S.D. Fla. 2022) (service by "social media messaging" "does not violate an international agreement", even when the Hague Convention applies, so long as a signatory nation does not expressly object). Most recently, Texas and Alaska have amended their rules to permit, in certain circumstances, alternative electronic service by social media, email, or other technology. *See* Tex. R. Civ. P. 106(b)(2); Alaska R. Civ. P. 4(e)(3).

FRCP 4(f) provides that foreign defendants may be served subject to treaty within a country in treaty relations with the US, *e.g.*, Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Nov. 15, 1965, 20 U.S.T. 361, 658 U.N.T.S. 163., Inter-American Convention on Letters Rogatory and Additional Protocol ("IACAP"), Jan. 30, 1975, S. TREATY DOC. No 27, 98th Cong., 2d. Sess. (1984). *Compare Audra Short, et al. v. Embraer S.A., et al.*, No. 20-cv-61473-WPD, Order dated May 26, 2021, ECF No. 88

(S.D.Fla. 2021) (permitting alternative service outside of the Hague Convention and specifically upon the Brazilian manufacturer's retained counsel); *see also San Antonio Winery, Inc. v. Jiaxing Micarose Trade Co., Ltd.*, 53 F.4th 1136 (9th Cir. 2022) (the Lanham Act permits service on a foreign corporation through means that do not require the international transmittal of documents, and therefore, the Hague Convention is not implicated); *Trapenard v. Clester*, 2023 WL 2264177 (M.D.Fla. Feb. 28, 2023) (IACAP only applies in situations where a party seeks to serve letters rogatory, and IACAP does not preclude any other methods of alternative service); *Amazon.com Inc. v. Parkhomenko*, 2024 WL 4604752 (W.D. Wash. Oct. 28, 2024) (service by email on defendants located in Ukraine and Belarus was not prohibited as Ukraine and Belarus both "implemented the Hague Convention in full and did not expressly object to service by email").

3.5 What types of remedy are available from the courts or arbitral tribunals in your jurisdiction, both on i) an interim basis, and ii) a final basis?

Courts and arbitral tribunals both have authority to award interim and final relief. Generally, a showing of irreparable harm is required for interim relief, meaning that the threatened harm cannot be corrected through monetary compensation or conditions cannot be imposed to otherwise remedy the harm. Interim relief comes through a Temporary Restraining Order ("TRO") and Preliminary Injunction. TROs are generally limited to emergency situations to prevent immediate, irreparable harm, and on a temporary basis until a Preliminary Injunction hearing can be conducted. In some courts, discovery is permissible prior to the Preliminary Injunction hearing and even prior to filing a lawsuit. *See, e.g.*, NY CPLR § 3102(c) ("Before an action is commenced, disclosure to aid in bringing an action, to preserve information or to aid in arbitration, may be obtained, but only by court order. The court may appoint a referee to take testimony").

In a court proceeding, a final judgment follows a decision on the merits, either by motion, stipulation or trial (before a judge or jury). The US permits parties to agree to binding or non-binding arbitration. In binding arbitration, the arbitrator's decision is final and legally binding, while an arbitrator's decision in non-binding arbitration is merely advisory. After a final binding arbitration award, the successful party may bring a court proceeding to confirm and convert the award into a judgment, whereas the aggrieved party may seek to vacate an arbitration award in whole or in part. Vacating a binding arbitration award is exceptional in New York, the venue for the vast majority of commercial disputes, particularly involving foreign parties. The US Federal Arbitration Act (9 USC § 1 *et seq.*) provides extremely narrow standards for review, vacating awards only in narrow circumstances: (1) the award was procured by corruption, fraud, or undue means; (2) there was evident partiality or corruption by the arbitrators; (3) there was arbitral misconduct, such as refusal to hear material evidence; or (4) the arbitrators exceeded their powers, or so imperfectly executed their powers that they failed to render a mutual, final, and definite award.

The Federal Arbitration Act does not apply to "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce". 9 USC § 1. In *Lopez v. Aircraft Service International, Inc.*, 2022 WL 18232726 (N.D.Cal. Dec. 9, 2022), the California district court relied on the US Supreme Court holding in *Southwest Airlines Co. v. Saxon*, 596 U.S. 450 (2022) to that a field technician fuelling aircraft at Los Angeles International Airport was involved in interstate transportation and therefore exempt from the Federal Arbitration Act's requirements. *Lopez* was affirmed by the Ninth Circuit on July 19, 2024. *Lopez v. Aircraft Serv. Int'l, Inc.*, 107 F.4th 1096 (9th Cir. 2024), *cert. denied*, 145 S. Ct. 1063 (2025).

3.6 Are there any rights of appeal to the courts from the decision of a court or arbitral tribunal and, if so, in what circumstances do these rights arise?

Rights of appeal in federal courts, state courts and arbitral proceedings differ. In federal court, interim appellate review is extremely limited and primarily discretionary, *e.g.*, pursuant to Fed. R. Civ. P.23(f), 28 USC § 1292. Some states permit an appeal only from a final judgment, while others permit interlocutory appeals, either as of right or permission (*e.g.*, New York).

As discussed above, the Federal Arbitration Act (9 USC § 1 *et seq.*) severely limits judicial review of arbitration awards. *See* question 3.5. In *Hall Street Associates, LLC v. Mattel, Inc.*, 552 U.S. 576 (2008), the US Supreme Court held that the Federal Arbitration Act exclusively determines the scope of judicial review, which precludes parties from customising the scope of judicial review in their arbitration agreements.

Federal courts have jurisdiction over certain appeals of FAA and NTSB decisions. In recently decided *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), the US Supreme Court overturned *Chevron* deference and held that federal courts must exercise their independent judgment when interpreting ambiguous federal statutes and may not defer to a federal agency's interpretation of the law. There have not yet been any FAA or NTSB decisions analysed under the new *Loper Bright* standard, so the full implications of this ruling remain to be seen.

3.7 What rights exist generally in law in relation to unforeseen events which might enable a party to an agreement to suspend or even terminate contractual obligations (in particular payment) to its contract counterparties due to *force majeure* or frustration or any similar doctrine or concept?

US commercial agreements often contain *force majeure* provisions to address events beyond the parties' control that would frustrate one or both parties' performance. Typical qualifying events include: epidemics, pandemics, and quarantines, such as COVID-19; natural disasters, such as earthquakes or floods; violence, such as war, hostilities, terrorist acts or civil unrest; government action (*i.e.*, changes in laws, regulations, order, and embargoes); and organised labour activities, such as strikes and work slow-downs, and shortages of power, supplies, infrastructure, or transportation. *Force majeure* provisions also usually include a "catch-all" clause such as "acts of god" to protect a party against unforeseen events that are not specifically enumerated. *Force majeure* clauses vary by events, conditions, subject matter, industry, and relative bargaining power. State contract law generally governs the applicability of *force majeure* provisions, which are narrowly construed on a case-by-case basis and extremely difficult to prove.

Delta passengers recently filed a complaint against the airline after a massive computer outage caused widespread cancellations. *See Bajra v. Delta Air Lines, Inc.*, 785 F. Supp. 3d 1289 (N.D. Ga. 2025). The court held that the network outage did not constitute *a force majure*, and allowed five of the nine plaintiffs to pursue breach of contract claims based on Delta's failure to refund their flights, plus an additional group of five

plaintiffs are pursuing related claims under the Montreal Convention. *Id*. at 1306, 1314–16, 1320.

Additionally, US courts recognise the common law doctrines of impossibility of performance and frustration of purpose. While unforeseen events that make contractual performance impossible may excuse a party's performance under the doctrine of impossibility, courts narrowly apply the frustration of purpose doctrine. At a minimum to be applied, the frustrated purpose must be so fundamental to the contract that, without it, the parties would never have entered into the contract.

UCC § 2-615 includes an impracticability provision whereby a seller of goods may be able to excuse his inability to deliver all or some of the goods where performance has been made "impracticable".

In *Rudolph v. United Airlines Holdings, Inc.*, 1:20-cv-02142 (N.D.Ill. 2020), three passengers filed a class action arguing that United violated consumer protection laws by refusing to refund passengers for cancelled flights during the COVID-19 pandemic. United moved to dismiss the Complaint arguing, in part, that COVID-19 qualifies as a *force majeure* event that relieved United of its obligation to issue refunds for the cancelled flights. The court granted United's motion in part and denied it in part, generally holding that United's reading of the *force majeure* clause was overly broad, because it would render the schedule change provision in the Contract of Carriage moot. One plaintiff was granted discovery to determine whether the pandemic or economic considerations were the proximate cause of the flight cancellation. The court granted United's motion to dismiss as to the plaintiff whose international flight was cancelled following travel restrictions and the plaintiff who cancelled his own flight as proximately caused by the pandemic. In March 2024, the court denied the plaintiffs' motion for class certification, and the parties subsequently filed a stipulation of voluntary dismissal with prejudice in April 2024, while United's summary judgment motion remained pending. *See* 1:20-cv-02142 (N.D. Ill. 2020) (Doc. Nos. 209 and 213).

The August 2025 lawsuit, referenced in question 1.10 above, *Nicholas Meyer, et al. v. Delta*, similarly seeks class certification for passengers who booked "window" seats but were provided "windowless window seats". Delta filed the required pre-motion letter advising the Court that it anticipated filing a Motion to Dismiss the Complaint, arguing that the contract of carriage makes no representations about window seats but instead expressly provides to the contrary that seat assignments are not guaranteed and "form no part of this contract", and arguing that the Airline Deregulation Act preempts the plaintiffs' other causes of action. *See Nicholas Meyer, et al. v. Delta Air Lines, Inc.*, Case No. 1:25-cv-04608, ECF No. 17 (E.D.N.Y, Oct. 17, 2025). Delta's motion to dismiss is scheduled to be filed by 9 December 2025, with briefing to conclude in January 2026.

3.8 Is there any trend developing towards regulatory support in civil justice for out-of-court solutions and the importance of engaging in Alternative Dispute Resolution (or similar)? If so, what (if any) are the implications for the answers in questions 3.1–3.7 inclusive?

State and federal courts throughout the US continue to encourage and facilitate Alternative Dispute Resolution ("ADR") through programmes and guidelines established within each jurisdiction. The ADR could be through an assigned magistrate judge, volunteer attorneys and private arbitrators. For example, the Mediation Program of the US District Court for the Southern District of New York, a federal, not state, court in New York, provides ADR services at the earliest practicable stage of a lawsuit. *See* https://www.nysd.uscourts.gov/programs/mediation-adr. Local Civil Rule 83.9 obligates all parties to consider the use of mediation or a judicial settlement conference and report the parties' election to the assigned judge at the first case management conference.

4 Commercial and Regulatory

4.1 How does your jurisdiction approach and regulate joint ventures or other forms of partnership and/or alliances between airlines? In your opinion, are there any improvements to the existing regime which would be advisable?

Corporate Service Agreements, Code-Sharing: The DOT regulates joint ventures between major air carriers to ensure that it is not anti-competitive and would not harm the public. 49 USC § 41720. Pursuant to 49 USC § 41712, the DOT has the authority to take certain actions to prohibit unfair or deceptive practices and unfair methods of competition. The DOJ, after consulting with the DOT, may file a lawsuit seeking injunctive relief against the parties to an airline agreement, whether or not the agreement is subject to 49 USC § 41720. In January 2024, a federal judge blocked the proposed $3.8 billion merger between JetBlue and Spirit pursuant to DOJ's legal action. *See US v. JetBlue Airways Corp*., Case 1:23-cv-10511, ECF No. 461 (D. Mass. Jan. 16, 2024).

Global Airline Alliances: Pursuant to 49 USC § 41308–41309, the DOT employs a two-step analysis to analyse major US and foreign air carrier requests for DOT immunity from US antitrust laws. First, the DOT determines whether the proposed alliance "substantially reduces or eliminates competition". If the DOT concludes, yes, it must reject the application unless the DOT finds that the alliance "is necessary to meet a serious transportation need or to achieve important public benefits" and a less anti-competitive alternative does not exist. If the DOT grants immunity, an alliance is required to comply with the operating constraints and reporting requirements specified in a final DOT order. In September 2025, the DOT ordered for the dismantling of the Delta-Aeromexico joint cooperation agreement effective January 2026.

The aforementioned challenges to JetBlue's activities demonstrate that the DOT and DOJ obstacles to alliances and mergers are formidable.

4.2 How do the competition authorities in your jurisdiction determine the 'relevant market' for the purposes of mergers and acquisitions?

Determining the "relevant market" requires an analysis of the relevant product markets (goods and services) and geographic markets. The relevant authorities, including the DOT, DOJ, and Federal Trade Commission ("FTC"), evaluate whether the desired merger or acquisition will or may substantially lessen competition, and whether consumers in the relevant market can find a suitable alternative in a reasonable time at similar cost and quality. Relevant product market definition factors include the line of commerce being offered, such as scheduled passenger or cargo flights from Point A to Point B, or control or ownership of landing rights or slots. The relevant geographic market is typically defined by locations where the companies involved compete, often based on routes or city-pairs.

Transactions that significantly raise concentration levels in city-pair markets may attract scrutiny by the DOJ and the FTC.

Two elements govern the DOJ analysis of the effect in all city-pair markets served by the respective carriers: (1) non-stop service; and (2) non-stop and connecting service. The DOJ recognises that non-stop service between cities is important because business travellers are less likely to consider connective service as a reasonable alternative.

4.3 Does your jurisdiction have a notification system whereby parties to an agreement can obtain regulatory clearance/anti-trust immunity from regulatory agencies?

The Hart-Scott-Rodino Act ("HSR Act") (15 USC § 18a *et seq.*) is the federal premerger notification programme requiring US carriers that are seeking to merge or acquire another carrier to provide notice of the proposed transaction to the DOJ and FTC. The carrier must first complete a HSR form, which asks for the parties involved, the structure of the transaction, and financial data. The DOJ uses this form to determine whether a more extensive review is needed. Before the parties can close the transaction, they must wait a specific amount of time while the enforcement agencies review the proposed merger. The government can grant early termination of the waiting period.

As referenced in question 4.1, parties must submit to a DOT application for clearance to form a cooperative agreement or joint venture within the meaning of 49 USC § 41720, or to obtain an exemption from antitrust laws for a proposed alliance. See 49 USC §§ 41308–41309.

4.4 How does your jurisdiction approach mergers, acquisition mergers and full-function joint ventures? In your opinion, are there any improvements to the existing regime which would be advisable?

The US federal government closely scrutinises such transactions, as explained in questions 4.1 and 4.3. According to the FAA's website, airline mergers constitute a six-phase process to combine two organisations, thousands of employees, different cultures and potentially different types of aircraft and operations. Factors that affect the merger process include substantive changes in certain areas of management, labour issues, personnel turnovers, changes/differences in fleet type, changes in outside vendors and contractors, and rapid expansion. Further, a merger can cause changes in operational control systems, routes and airplane models, revisions to manuals containing procedures for conducting various operations, maintenance and inspection programmes, and revisions to training curricula. Once the merger is complete, the FAA issues a single operating certificate for the new and combined organisation. *See* https://www.faa.gov/newsroom/how-does-work-faas-safety-role-airline-mergers

The policy of the administration in power may exert considerable influence on the degree of scrutiny.

In addition, the DOT conducts a separate review before issuing the new airline economic authority to operate and the DOJ looks at the overlap of the two airlines' routes and how a merger would affect competition.

4.5 Please provide details of the procedure, including time frames for clearance and any costs of notifications.

The HSR Act requires applicants to provide detailed information to the FTC and DOJ about each party's business, including the rationale and plans for the transaction. In turn, the FTC and DOJ determine whether additional information is needed or whether to challenge the transaction or allow it to proceed. Effective 21 February 2025, the FTC increased the size-of-transaction threshold from $119.5 million to $126.4 million. For transactions valued at more than $126.4 million but less than $505.8 million, the parties also must meet the size of person test.

The FTC also amended the required filing fees as follows: (1) $30,000 for transactions less than $179.4 million; (2) $105,000 for transactions valued in excess of $179.4 million but less than $555.5 million; (3) $265,000 for transactions valued in excess of $555.5 million but less than $1.111 billion; (4) $425,000 for transactions valued in excess of $1.111 billion but less than $2.222 billion; (5) $850,000 for transactions valued in excess of $2.222 billion but less than $5.555 billion; and (6) $2.39 million for transactions valued at $5.555 billion or more. Before finalisation of the transaction, the parties must observe a statutory waiting period, which is 15 days for reportable acquisitions by means of a cash tender offer or certain bankruptcy transactions, and 30 days for all other types of reportable transactions, unless extended if additional information and/or documentary material is requested.

On November 12, 2024 the FTC issued a final rule amending the premerger notification form and associated instructions, requiring additional information regarding the applicant's business operations, disclosure of investors in the buyer, high-level business plans related to competition, and information regarding business lines of each filer to reveal existing areas of competition between the parties and their relationships. These changes are aimed at aiding the FTC determine which proposed deals require closer antitrust scrutiny and investigation. *See* 89 Fed. Reg. 89216 (Nov. 12, 2024).

Additionally, parties seeking approval of a joint venture within the meaning of 49 USC § 41720, or a cooperative agreement, and/or antitrust immunity for a proposed alliance must submit an application to the DOT. The DOT shall grant approval and/or request for an exemption where: (1) it is not in violation of the laws of 49 USC § 413; (2) it is not adverse to the public interest; and (3) it does not substantially reduce or eliminate competition, unless it is necessary to meet a serious transportation need or to achieve important public benefits. The Attorney General and the Secretary of State are provided notice and given an opportunity to comment, and, if required, a hearing is conducted. The DOT must issue a final decision within six months of receipt if there is no hearing, or 12 months if there is a hearing.

4.6 Are there any sector-specific rules which govern the aviation sector in relation to financial support for air operators and airports, including (without limitation) state aid?

The US government does not provide direct financial support to US airlines, however, there are programmes that assist air carriers and/or airports as set forth in question 4.7. Under the Federal Airline Deregulation Act of 1978 (49 USC § 41713 *et seq.*), the US federal government may not enforce a state law, regulation, or other provision related to a price, route, or service of an air carrier providing transportation.

Airports receive federal and state government financial support through the Airport Improvement Program ("AIP"). The AIP provides funding through FAA grants for airport capital improvements related to enhancing airport safety, capacity, security, and environmental concerns. The amount of the grant varies depending on the airport size, ranging from

75% coverage of eligible costs for large and medium-sized primary hub airports, to 90–95% coverage of eligible costs for small primary, reliever, and general aviation airports. An airport must be included in the National Plan of Integrated Airport Systems to receive a grant. This system is prepared and published every two years and identifies public-use airports that are important to public transportation and contribute to the needs of civil aviation, national defence, and the Postal Service. By accepting federal funding from the AIP, airports accept certain grant assurance obligations to operate and maintain the airport in a safe and serviceable condition, not grant exclusive rights, mitigate hazards to airspace, and use airport revenue properly. Operators must also comply with security requirements imposed by the TSA and CBP. The AIP provides more than $3.18 billion annually to more than 3,300 eligible airports. The FAA Reauthorization Act of 2024 increased AIP funding from $3.35 billion to $4 billion annually, starting in fiscal year 2025 continuing through fiscal year 2028.

4.7 Are state subsidies available in respect of particular routes? What criteria apply to obtaining these subsidies?

The US government may subsidise air carriers to serve small, rural communities in an effort to maintain a minimal level of scheduled air service to those communities. Under the Essential Air Service ("EAS") programme, the DOT will generally subsidise two round trips per day with a 30- to 50-seat aircraft between an EAS community and a major hub airport. As of Autumn 2024, the DOT provides EAS programme subsidies to air carriers, or grants to communities through the Alternate EAS ("AEAS") programme, within 65 communities in Alaska and 112 communities in the 48 contiguous states, Hawaii, and Puerto Rico that otherwise may not receive any scheduled air service. The largest EAS hubs are Denver, Chicago O'Hare and Minneapolis/St. Paul.

A proposed amendment to the FAA Reauthorization Act of 2023, which would have eliminated EAS, failed by a vote of 49-386 with representatives calling EAS critical to rural communities. The US senate committee on commerce, science & transportation publicly noted that the FAA Reauthorization Act of 2024 increased EAS programme funding by over 111% per year, thus bolstering the programme and its service to rural communities. The Act also modified EAS programme subsidies based upon the EAS community's distance from the nearest large or medium airport. Airports less than 175 miles have average per-passenger subsidies of less than $650, while those 175 miles or farther have average per-passenger subsidies of less than $1,000, which reduces to $850 effective October 1, 2026. *See* H.R. 3935, Sec. 561.

The AEAS programme provides subsidies to a municipality or airport authority and allows them to allocate the grant money in ways that may better suit their individual needs, but that would not otherwise meet EAS programme guidelines.

Small communities may obtain grants and financial assistance to address air service and airfare issues through the Small Community Air Service Development Program ("SCASDP") (49 USC § 41743). The SCASDP provides more flexibility than the EAS programme as the eligibility criteria is broader and permits a grant applicant to self-identify its air service deficiencies and propose an appropriate solution. Eligibility requires that the airport serving the community cannot be larger than a small hub airport. To obtain the benefits of SCASDP, the community must also demonstrate that it has insufficient air carrier service or unreasonably high airfares. The DOT may provide assistance to an air carrier to subsidise service to and from an underserved airport for a period of up to three years, or it may provide assistance to an underserved airport. SCASDP can involve, among other things, revenue guarantees, financial assistance for marketing programmes, start-up costs and studies. There is no limit on the amounts of the grants, which vary depending upon the features and merits of proposals, and to date, grant sizes have ranged from $20,000 to nearly $1.6 million.

4.8 What are the main regulatory instruments governing the acquisition, retention and use of passenger data, and what rights do passengers have in respect of their data which is held by airlines and airports?

With respect to security screening, air carriers operating flights to, from and through the US must provide passenger name records ("PNR data") to the DHS pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 (49 USC § 114) and the TSA under its Secure Flight Program (49 CFR Parts 1540 and 1560). Separately, for international flights, carriers transmit Advance Passenger Information System data and passenger name record data to US Customs and Border Protection under the CBP regulations, which govern the scope of data elements and transmission timeframes and which are distinct from TSA's Secure Flight programme (19 C.F.R. § 122.49b; 19 C.F.R. § 122.49d). PNR data includes a passenger's full name, date of birth, gender, and travel information, and records of passengers who are not potential or confirmed matches on the "No Fly List" are deleted within seven days of travel. Individuals on the "No Fly List" are prohibited from boarding a commercial aircraft travelling within, into or out of the US. According to the FBI, the "No Fly List" "prohibits an individual who may present a threat to civil aviation or national security from boarding a commercial aircraft that traverses [US] airspace".

The Privacy Act of 1974 (5 USC § 552a) allows passengers to request a copy of or make corrections to their PNR data. Additionally, air carriers typically have their own privacy policies, that are governed by state privacy laws. EU citizens are covered by the EU–US PNR Agreement, which allows the transfer of certain passenger data to CBP in order to facilitate safe and efficient travel.

Generally, airports do not collect passenger personal data, although their facilities may be utilised by the government for that purpose. The DOT regulates consumer privacy under its unfair and deceptive practice statute, 49 USC § 41712. An airline or ticket agent may violate a passenger's privacy by: (1) violating the terms of the airline's privacy policy; (2) gathering or disclosing private information in a way that violates public policy, is immoral, or causes substantial consumer injury not offset by countervailing benefits; (3) violating a rule issued by the DOT identifying specific privacy practices to be unfair or deceptive; or (4) violating the Children's Online Privacy Protection Act ("COPPA")(15 USC §6501 *et seq.*) or FTC rules implementing COPPA. The DOT may bring a civil action in the US district courts. 14 CFR § 399.79. Complaints related to consumer privacy may be submitted to the DOT through its Aviation Consumer Protection website.

4.9 In the event of a data loss by a carrier, what obligations are there on the airline which has lost the data and are there any applicable sanctions?

Air carrier privacy obligations are governed by their own privacy policies and state privacy laws. There is no federal law

that specifically regulates the loss of private consumer data or a data breach. Rather, the DOT's unfair and deceptive practices and unfair methods of competition statute (49 USC § 41712) allows passengers to file privacy-related complaints and an airline could be subject to fines up to $27,500 per violation.

State privacy laws often require, among other things, reasonable security procedures, data disposal procedures, and notification of a security breach. In the event of a breach or data loss, states generally allow individuals to commence private actions and the state Attorneys General can file enforcement actions for civil penalties, damages, and/or injunctive relief. As set forth above, the DOT may file a civil action against an airline or ticket agent pursuant to 14 CFR § 399.79.

State privacy and data security statutes continue to expand and generally require reasonable security and prompt breach notification. In some jurisdictions, enforcement is by the state attorney general. California's Consumer Privacy Act, as amended by the California Privacy Rights Act, remains the most expansive state privacy law and confers rights to access, delete and correct personal information and to limit the use and disclosure of sensitive personal information, enforced by the California attorney general and the California Privacy Protection Agency (Cal. Civ. Code § 1798.100 *et seq.*). Several additional state comprehensive privacy laws have come into force since 2024, including, among others, laws in Texas, Oregon and Montana in 2024 and in Delaware, New Jersey, Iowa and Tennessee in 2025, with Indiana's law scheduled to take effect in 2026. Airlines that meet state applicability thresholds must comply with those statutes alongside any contractual or DOT enforced commitments (Tex. Bus. & Com. Code § 541.001 *et seq.*; Or. Rev. Stat. § 646A.570 *et seq.*; Mont. Code Ann. § 30 14 1701 *et seq.*; Del. Code tit. 6, § 12D 101 *et seq.*; N.J. Stat. Ann. § 56:13 1 *et seq.*; Iowa Code § 715D.1 *et seq.*; Tenn. Code Ann. § 47 18 3201 *et seq.*; Ind. Code § 24 15 1 1 *et seq.*). For EU travellers, administrative, civil, and criminal remedies under US law remain available consistent with the EU–US PNR Agreement and applicable US statutes (19 C.F.R. § 122.49d).

4.10 What are the mechanisms available for the protection of intellectual property (e.g. trademarks) and other assets and data of a proprietary nature?

Parties may protect intellectual property primarily through trademarks, patents, and copyrights. Patents provide limited duration property rights relating to inventions, (e.g., machines, manufactured articles, industrial processes, and chemical compositions), with their duration dependent on patent type. The USPTO grants patents in exchange for public disclosure of the invention. Copyrights, which protect original works of artistic works, computer software, and architecture are registered with the US Copyright Office and the duration of copyright protection depends on several factors. Once the copyright protection expires, the copyright belongs to the public domain, and anyone can freely use the copyright. The US also recognises intellectual property protection through trade secrets, which is generally a formula, pattern, compilation, programme, device, method, technique, or process that provides a competitive edge. Federal intellectual property laws provide mechanisms for enforcement of rights and, in certain circumstances, the recovery of statutory or treble damages depending on the nature of the infringement.

A common law trademark may be established through the use of the mark in commerce. However, federal trademark registration with the US Patent and Trademark Office ("USPTO") under the Lanham Act (15 USC § 1051, *et seq.*) provides broader geographic protection and is advantageous for purposes of exclusivity. A federal trademark establishes a legal presumption of the exclusive right to use the trademark throughout the US or in connection with the registered classes of goods and services associated with the trademark. Conversely, a common law trademark can only be enforced in the geographic area where the trademark is being used. Unlike copyrights or patents, trademarks do not expire and endure so long as the trademark is continued to be used in commerce to indicate the source of goods and services. In *Sanho Corporation v. Kaijet Technology International Limited, Inc.*, 2024 WL 4553279 at *18 (N.D. Ga. May 20, 2024), a Georgia federal court, relying on the US Supreme Court decision in *Abitron Austria GmbH, et al. v. Hetronic International, Inc.*, 600 U.S. 412 (2023), held that a foreign supplier to a US company, whose products are displayed in stores across the US and are admittedly are used in US commerce, is not necessarily protected by an "extraterritorial defence" even though the foreign supplier operates abroad.

4.11 Is there any legislation governing the denial of boarding rights, delayed flights and/or cancelled flights? Is this legislation adhered to and well monitored?

Federal legislation governs the issues of oversold flights and denied boarding. While 14 CFR Part 250 of the Federal Aviation Regulations permits airlines to oversell tickets for a flight, it mandates Denied Boarding Compensation and other protections for passengers who hold "confirmed reserved space" on a flight and were involuntarily denied boarding because the flight was oversold, subject to passenger compliance with the carrier's contract of carriage, check-in, and gate appearance requirements. Airlines must solicit volunteers to relinquish their seats in exchange for compensation before denying passengers boarding. Compensation depends upon the planned arrival time of the substitute transportation, if available, and whether the flight is domestic or international. The regulations do not establish a maximum level of compensation, but instead require airlines to provide *at least* the lower amount of: (1) 200% of the passenger's one-way fare or $1,075 for delays of more than one hour but less than two hours for domestic flights or four hours for international flights; and (2) 400% of the passenger's one-way fare or $2,150 for delays of more than two hours for domestic flights or four hours for international flights.

Carriers must notify the DOT quarterly of all passengers involuntarily denied boarding. The DOT may seek enforcement action against air carriers that improperly deny passengers boarding under Part 250 as well as 49 USC § 41712. The DOT imposes uniform triggers and tight timelines for cash refunds and requires early, standardised disclosure of ancillary fees. These obligations apply to US and foreign carriers marketing to US consumers ticket agents. DOT enforces pursuant to its unfair and deceptive practices authority in 49 U.S.C. § 41712 and civil penalty provisions in 49 U.S.C. § 46301. The operative requirements are codified in DOT's consumer protection parts, with refund duties in Part 259 and advertising and fee-disclosure policies in Part 399.

The automatic ticket refunds rule requires carriers to issue refunds automatically – without requiring a consumer request – when a passenger's flight is cancelled or "significantly changed" and the passenger does not accept alternative transportation or travel credits. "Significant change" includes a departure or arrival time shift exceeding three or

six hours for domestic or international itineraries, respectively; departure or arrival airport change; itinerary connection increases; service class downgrades; and certain changes that reduce disability accommodations or otherwise materially alter the journey. Carriers must return to the original form of payment the amount paid within seven business days (credit card purchases) or twenty calendar days (cash or check purchase), including taxes, fees, and ancillary services. Vouchers or credits may be substituted only if the consumer affirmatively chooses. The rule further requires automatic refunds of checked-baggage fees when baggage is delayed beyond defined timeframes that vary based on domestic or international travel. DOT codifies these refund obligations as consumer protection regulations that are enforced as unfair or deceptive practices when not met (14 CFR Part 259; 14 CFR Part 399; 49 U.S.C. § 41712; 49 U.S.C. § 46301).

In parallel, DOT's ancillary fee transparency rule requires clear and conspicuous disclosure of specific, high-salience ancillary fees (*e.g.* baggage fees, ticket change and cancellation fees) for accurate travel cost comparison early in the shopping process, during fare advertisement and first point of online purchase. The rule prohibits drip-pricing practices that obscure the true cost by deferring fee disclosures to later checkout screens, and it bars marketing that advertises a fare without including all mandatory carrier-imposed charges in the total price shown. Optional ancillary services must be offered on an opt-in basis rather than pre-selected by default. Together, these rules replace case-by-case refund and disclosure disputes with bright-line duties and require airlines and ticket agents to align their contracts of carriage, refund workflows, customer communications, and retailing systems with the codified triggers and disclosure points to avoid violations and potential civil penalties (14 CFR Part 259; 14 CFR Part 399; 49 U.S.C. §§ 41712, 46301).

In addition to legislation, with respect to international flights, passengers may file a claim with the airline for reimbursement under Article 19 of the Montreal Convention.

4.12 What powers do the relevant authorities have in relation to the late arrival and departure of flights?

DOT may bring enforcement actions and seek civil penalties against carriers that engage in unrealistic scheduling or operate chronically delayed flights, treating such practices as unfair and deceptive under 49 U.S.C. § 41712 and imposing penalties under 49 U.S.C. § 46301. DOT defines a chronically delayed flight for enforcement purposes as a domestic flight that operates at least ten times in a month and arrives more than 30 minutes late more than half the time, with cancellations counted as late arrivals; carriers must report on-time performance under DOT's reporting rules to facilitate this oversight (14 CFR Part 234; 49 U.S.C. § 41712). Carriers must adopt and adhere to customer service plans, must notify passengers of known delays, cancellations, and diversions, and must comply with tarmac delay rules that limit on-airport delays to three hours for domestic flights and four hours for international flights, subject to safety, security, and air traffic control exceptions; violations may result in substantial per-passenger civil penalties that DOT adjusts for inflation (14 CFR § 259.8; 14 CFR § 259.4; 49 U.S.C. §§ 42301, 41712, 46301; 14 CFR Part 383). DOT has continued to bring high-visibility tarmac delay enforcement actions against both US and foreign air carriers, and it has paired those cases with broader initiatives to improve consumer refunds and fee transparency under the 2024 rules referenced above (14 CFR Part 259; 14 CFR Part 399). In addition, the US levies substantial fines for failure to comply with the tarmac delay rules, pursuant to 49 USC §§ 42301, 41712, and 46301. DOT fines are not limited to domestic air carriers. For example, in May 2024 the DOT fined Mexican carrier Volaris Airlines for tarmac delay violations.

4.13 Are the airport authorities governed by particular legislation? If so, what obligations, broadly speaking, are imposed on the airport authorities?

Federal law governs airport certification and imposes broad obligations on federally assisted airports. The FAA issues Airport Operating Certificates under 49 U.S.C. § 44706 and 14 CFR Part 139 to airports that serve scheduled passenger carrying operations in aircraft originally designed with more than nine passenger seats and to airports that serve unscheduled passenger carrying operations in aircraft originally designed with more than 30 passenger seats.

To obtain and retain a certificate, an airport must meet operational and safety standards tailored to its class of operations and must maintain an FAA approved Airport Certification Manual; FAA Airport Certification Safety Inspectors conduct periodic inspections for compliance (14 CFR Part 139). In addition, airports that accept federal grants are bound by statutory grant assurances, including obligations to operate the airport safely and efficiently, to make it available for public use on fair and reasonable terms without unjust discrimination, to avoid the grant of exclusive rights, and to use airport revenue for airport purposes (49 U.S.C. § 47107(a)–(b); 49 U.S.C. § 47133). During excessive tarmac delays, airport authorities must coordinate with carriers to facilitate deplanement to the extent practicable under the carrier's tarmac delay contingency plan and in accordance with safety and security requirements; carriers' obligations are codified in DOT's tarmac delay rule and statute (14 CFR § 259.4; 49 U.S.C. § 42301).

4.14 To what extent does general consumer protection legislation apply to the relationship between the airport operator and the passenger?

The Americans with Disabilities Act of 1990 (the "ADA") (42 USC §§ 12101–12213), Section 504 of the Rehabilitation Act of 1973 (29 USC § 794), and the Air Carrier Access Act of 1986 (the "ACAA") (49 USC § 41705, 14 CFR Part 382) govern airport accessibility and disability assistance requirements for disabled passengers. Required services include wheelchair or other guided assistance to board, deplane, or connect to another flight; seating accommodation assistance that meets passengers' disability-related needs; and assistance with the loading and stowing of assistive devices. The ADA also protects airport and airline employees in addition to airport passengers.

Airports that accept federal grants must comply with grant assurances that include operating the facility for public use on fair and reasonable terms without unjust discrimination and maintaining safe and efficient operations, which can be enforced by FAA and DOT (49 U.S.C. § 47107). DOT and DOJ share enforcement of accessibility, with DOT focusing on ACAA compliance by carriers and DOJ overseeing ADA compliance by public entities and places of public accommodation.

Additionally, federal grants, such as through the AIP, the Federal Aid to Airports Program, or the Airport Development Air Program, also require airport owners and operators to operate their facilities in a safe and efficient manner and to comply with certain conditions and assurances. US airports also must be available for public use on fair and reasonable terms without unjust discrimination.

4.15 What global distribution suppliers (GDSs) operate in your jurisdiction?

The three major GDSs that operate in the US are Amadeus, Sabre, and Travelport (combined three GDSs: Galileo; Apollo; and Worldspan), and they account for approximately 98% of all travel bookings.

4.16 Are there any ownership requirements pertaining to GDSs operating in your jurisdiction?

No, however, the DOT may monitor the actions of GDSs pursuant to the DOT's unfair and deceptive practices statute. 49 USC § 41712.

4.17 Is vertical integration permitted between air operators and airports (and, if so, under what conditions)?

Vertical integration between air operators and airports in the US occurs primarily through leases, use agreements, and terminal concessions rather than through ownership integration, because most commercial airports are owned by public entities and are subject to federal grant assurances. Airlines routinely enter longterm agreements for gates, terminal space, and operational support at regional and hub airports. Airport owners and operators that accept federal grants must make the airport available to the public on fair and reasonable terms and without unjust discrimination, may not grant exclusive rights for aeronautical services, and must restrict the use of airport revenue to airport purposes, which together mitigate competition concerns while permitting efficient vertical arrangements that support service quality (49 U.S.C. § 47107(a)(1), (a)(4); 49 U.S.C. § 47133). In some metro areas, neighbouring airports compete for traffic, while multiterminal airports may have terminals operated by carriers or consortia under lease, all subject to federal oversight and grant assurance constraints. For large and medium hub airports, federal law requires submission of competition plans as a condition of certain grants, further embedding procompetitive safeguards into airport governance (49 U.S.C. § 47106(f)).

4.18 Are there any nationality requirements for entities applying for an Air Operator's Certificate in your jurisdiction or operators of aircraft generally into and out of your jurisdiction?

Yes, to receive operating authority by the DOT and FAA, a US carrier must be deemed a "citizen" pursuant to 49 USC § 40102. *See* question 4.4.

5 In Future

5.1 In your opinion, which pending legislative or regulatory changes (if any), or potential developments affecting the aviation industry more generally in your jurisdiction, are likely to feature or be worthy of attention in the next two years or so?

The FAA Reauthorization Act of 2024, authorising and amending programmes administered by the FAA and NTSB through fiscal year 2028 continues to be a significant and evolving development. Since its enactment, the FAA has filled the position for Assistant Administrator for Rulemaking and Regulatory Improvement who is responsible for the FAA's rulemaking agenda, updating outdated rules of the agency, evaluating existing regulations for effectiveness and accuracy, and similar tasks. H.R. 3935, Sec. 202. The Act also created a new office of Airspace Modernization responsible for the ongoing modernisation of the US National Airspace System ("NAS"), replacing the NextGen office which will close after the conclusion of work on NextGen by the end of 2025. *See* H.R. 3935, Sec. 205-07. The FAA completed its rulemaking regarding mandatory drug testing for certain employees of foreign aircraft repair stations operating under Part 145 of the Federal Aviation Regulations. The regulation affects 977 repair stations in 65 countries. The FAA intends to implement regulations providing for at least one unannounced safety inspection each year, with minimum qualifications for mechanics and others work on US-registered aircraft at foreign repair stations. *See* H.R. 3935, Sec. 302.

Another key topic of interest in the US aviation industry is the FAA's delegation of airworthiness authority to private companies and individuals under its Organization Designation Authorization ("ODA") framework. The FAA moved to implement the Act's requirements for mandated recurrent training requirements for ODA holders, an ODA holder code of ethics, and safety reporting requirements. *See* H.R. 3935, Sec. 303-04. The FAA issued Draft Notice N 8100.20 asking for public comment on June 17, 2025. Comments were closed July 17, 2025, with the final notice expected in late 2025 or early 2026.

The FAA also implemented a modernised and overhauled Notice to Airmen ("NOTAM") system ahead of schedule. The work was prompted by a shutdown of most of the United States National Airspace System in 2023 due to a failure of the NOTAM system's ageing infrastructure.

Following numerous "close calls" in the US, the FAA issued a safety call to action and conducted a Safety Summit, awarded at least $121 million to airports around the US to reduce the risk of runway incursions and conduct runway safety meetings at approximately 90 airports, and established the Runway Safety Council to develop strategies to address airport surface safety risks. RSC had its first meeting February 7, 2025 and is expected to support further FAA action in 2026.

The FAA dramatically ramped up its hiring and training of air traffic controllers. In 2025, the FAA is expected to hire 2,000 new controllers in 2025, with over 3,000 more controllers training at the FAA's air traffic control academy and in programs jointly established by the FAA and public and private universities.

In the wake of various mental health events, including the Alaska Airlines 22 October 2023 incident, the FAA Reauthorization Act of 2024 implemented a Mental Health Task Force to provide recommendations for detecting and reporting mental health conditions and reviewing treatment options and allowable antidepressants for pilots. *See* H.R. 3935, Sec. 411. Under federal regulations, commercial airline pilots must hold a first-class medical certificate, which mandates a visit to an aviation medical examiner, every 12 months for pilots aged 40 and younger, and every six months for older pilots. 14 CFR § 61.23. FAA exam forms (Form 88500-8) require pilots to self-disclose psychiatric conditions (No. 47) and mental disorders (No. 18m) including depression and/or anxiety.

In August 2025, the FAA issued its Notice of Proposed Rulemaking ("NPRM") to establish a framework for the operation of unmanned aircraft ("UA") beyond the visual line of sight of the operator (NPRM). *See* Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations, 90

Fed. Reg. 38212 (Aug. 7, 2025). The rules are geared towards virtually all types of commercial Beyond Visual Line of Sight (BVLOS) flights, including package delivery, agriculture, aerial surveying, public safety, recreation, and flight testing, but excluding the carriage of passengers. All such operations must be conducted below 400 feet and take-off will be limited to pre-designated and access-controlled locations. In addition, all operators will need FAA approval for the area where they intend to fly. This includes the boundaries of the flights as well as the approximate number of daily operations, as well as takeoff, landing and loading areas.

Operators will have two options for receiving FAA authorisation: Permits and Certificates. Permits will be easier to obtain and are available for lower-risk operations that are limited in scope. A full operating Certificate will be required for operations that are deemed high-risk due to the aircraft size, weight and speed. These certificates will come with much higher oversight requirements and will require the operator to have a full Safety Management System ("SMS").

One of the major concerns with scaling up BVLOS operations has been how to deconflict the aircraft from other UAS and manned aircraft in the absence of a UAS operator with a visual line of sight performing the "see and avoid" function. The FAA's solution is the creation of entities referred to as Automated Data Service Providers ("ADSP") which will perform the deconfliction function. The FAA anticipates approving and regulating these entities and requiring them to conform to "industry consensus standards following vetting and testing". The FAA has left open the option for large UAS service providers to act as their own ADSPs or to contract with third party vendors. In addition, the FAA will require that all drones be capable of yielding to any manned aircraft equipped with ADS-B.

The proposed regulation also addresses the type of airworthiness certification BVLOS aircraft will have and what restrictions will apply to their size and weights. The current aircraft certification process takes years to complete and has been a major obstacle to the entry of larger and more sophisticated aircraft into the National Airspace System. In response to these issues, the FAA intends to create a new, streamlined certification process that will be based on consensus industry standards that will apply to aircraft with a maximum weight of 1,320lbs.

There will also be a security component to Part 108 operations, including physical security for facilities and other controlled-access areas and cybersecurity to protect networks, the aircraft, and their communications systems.

Finally, while Part 108 operations will be permitted over people generally, they will be barred from flying over large open-air assemblies of people such as concerts, sporting events, or crowded parks. In order to meet the increasing risks associated with operations over persons, the FAA proposed five categories of operations over people based on the expected population density, each with increasing limitations and required risk mitigation technologies and strategies.

The public comment period has closed, and the FAA's final rule is expected to be released in mid to late 2026.

Acknowledgments

Ms. Wilson and Mr. Bowles thank Anna Conte, Jane Han, Caroline Hymes, Cecilia Littleton, Mark McKinnon, and Elliot Moorman, attorneys in Fox Rothschild's aviation practice group's New York, Washington D.C., and Minneapolis offices, for their assistance in preparing this USA chapter. Ms. Conte, Ms. Han, Ms. Hymes, Ms. Littleton, Mr. McKinnon and Mr. Moorman represent companies in the airline industry and related manufacturers in general commercial, product liability, and regulatory matters in US state and federal courts. Mr. McKinnon is also an industry leader who is particularly well versed in the ever-evolving area of law related to Unmanned Air Vehicles.

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