In the mid- to late 1970s, notably after passage of the Airline Deregulation Act in 1978, a pall descended over the U.S. aviation regulatory bar. The Civil Aeronautics Board’s comprehensive management of market entry and of airline routes, rates, and services had been a reliable source of steady work for aviation lawyers for decades. Alas, it was now about to dry up—phased out by the new legislation. The CAB itself would be gone by the end of 1984, terminated by the wistfully styled “Civil Aeronautics Board Sunset Act.” No wonder things seemed so dark.

On January 1, 1985, the residual functions of the CAB—an independent regulatory agency that had functioned as an arm of Congress—were transferred to the U.S. Department of Transportation (DOT), an agency of the Executive Branch. Not wanting to be seen as merely re-creating the CAB under a new roof—a result that would have disappointed President Reagan—DOT effectively buried the newly acquired responsibilities within its existing structure. More than 300 former CAB employees migrated to DOT as part of the transition, but their new positions were established within existing DOT offices—principally the Office of Policy and International Affairs and the Office of the General Counsel. What had been a transparent organizational structure at the CAB became opaque at DOT—so impenetrable, in fact, that DOT had to publish a user’s guide to the new location of former CAB people and the functions they performed. It became a hot seller.

By the time the dust settled, however, practitioners noticed that there was still a lot of aviation regulation going on. New start-up airlines required licenses; the Essential Air

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Service program expanded as airlines abandoned unprofitable routes; consumer protection proceedings ramped up in response to the unfamiliar challenges of a competitive marketplace; congestion at the busiest airports was still being addressed through the Federal Aviation Administration’s complex “High Density Rule”; controversies over airport rates and charges required adjudication; the continuing evolution of powerful new, airline-owned computer reservation systems—initially addressed by the CAB—became a major target of DOT’s regulatory agenda; and the incentive to consolidate in the newly deregulated environment engendered a spate of codesharing joint venture and merger cases that redefined the U.S. aviation marketplace. Both U.S. and foreign airlines remained subject to substantial statistical reporting requirements. And the lone exception to the deregulation of domestic aviation pricing—the rates that airlines charge the U.S. Postal Service for carrying mail within Alaska—meant that DOT would maintain for the indefinite future a living museum of classic rate-making expertise and jurisprudence.

Despite the liberalized approach to international air services favored by the United States, deregulation stopped at the water’s edge. Accordingly, air services negotiations with other countries frequently established new routes to foreign destinations that only one or two U.S. airlines were permitted to serve. DOT therefore would conduct a lot of formal cases for the selection of the airlines fortunate enough to fly the new routes. Given the value of the prize—the revenue attributable to an international route can be in the hundreds of millions—these were high-stakes proceedings.

As Mark Twain might have said, reports of the death of aviation regulation were greatly exaggerated.

In fairness, the CAB’s regulation of airline rates, routes, and services was never more than a small piece of the legal and regulatory framework within which aviation operated. The Airline Deregulation Act did not purport to address the regulation of airline or airport safety or security, or the ownership and corporate governance requirements that apply to U.S. air carriers, or the environmental consequences of aviation, or the rights of passengers, or the government’s oversight of general aviation.

Indeed, aviation regulation today has become a vast, complex, and constantly evolving specialty. The scope and diversity of the subject matter is nowhere more powerfully demonstrated than in this extraordinary book. No other volume covers its range and variety so comprehensively and yet so conveniently. The American Bar Association’s Forum on Air & Space Law is to be congratulated for producing what will assuredly become an essential resource for veterans and newcomers alike.

Nothing has been left out of this unique compilation. Readers will find rich introductions to all of the institutions that have responsibility for the integrity of aviation in the United States, including Congress itself. Government requirements applicable to every aspect of the industry are clearly explained with copious citations—airports, airlines, private aircraft, air navigation, labor-management relations, aircraft transactions, the environmental
impact of aviation, accident investigation, marketing and distribution, airline mergers and alliances, and of course aviation safety and security.

Notwithstanding the book’s central purpose—to furnish a practical guide to aviation regulation in the United States—one of its most valuable features is its attention to the essential international framework—legal and institutional, multilateral and bilateral—within which U.S. aviation regulation takes place.

Special recognition is due to the editors, David Heffernan and Brent Connor. They divided the field into 34 discrete segments, each addressed in a separate chapter. More importantly, they identified some of the busiest and most prominent attorneys in private practice and the public sector and persuaded them to prepare carefully documented essays of remarkable quality. The editing of such material, particularly so much of it, is a daunting task but one that Messrs. Heffernan and Connor have carried off consummately. Despite serving as the generals of this veritable army of experts, and despite the press of their respective law practices (and, in Heffernan’s case, editorship of *The Air & Space Lawyer*), they also managed somehow to produce chapters of their own. It was a heroic performance, and they have produced an anthology of immense value.

Finally, of course, we owe a great vote of thanks to the contributors themselves. By taking so much time to organize and share their specialized and often hard-to-come-by knowledge, they have demonstrated a generosity of spirit and a devotion to the field that are hallmarks of the true professional.

As for the rest of us, we are the lucky beneficiaries of this ambitious project. Even the most experienced practitioners will discover, or be reminded of, essential background material that will inform future advice and counsel in valuable ways. For others, whether practitioners new to aviation, journalists, or merely curious users of the system, this bountiful new reference will make a hugely important but arcane body of law far more accessible than ever before.