Editor’s Column

This issue is my first as Editor-in-Chief of *The Air & Space Lawyer* (A&SL). I follow in the footsteps of David Heffernan, who masterfully shepherded this publication for nine years. David, together with the A&SL editorial board and our dedicated ABA publications team, took a very good publication and made it even stronger, regularly delivering high-quality, substantive articles on a wide variety of topics facing aviation practitioners. Having been on the job now for just a few months, I can tell you it is no easy task. I have big shoes to fill! So, if you see David around Washington, D.C., or at the upcoming Annual Meeting of the Forum (September 12–13 in Seattle), take a moment to thank him for all he has done for A&SL and the Forum. He deserves your recognition.

Turning to this issue, our first cover article continues the debate about antitrust-immunized airline alliances by providing a counterpoint to Diana Moss’s article in the last issue. Contributed by Steven Seiden of Delta Air Lines, the author contends that U.S. consumers benefit from such immunized alliances and joint ventures, and that, contrary to Ms. Moss’s thesis, the DOT carefully takes into consideration potential adverse competitive factors and exercises appropriate oversight of airlines granted immunity to ensure continuation is consistent with statutory standards. The author discusses several empirical studies, including a recently released study commissioned by the DOT, and concludes that the weight of empirical evidence supports his position that immunized alliances continue to provide substantial consumer benefits that outweigh any harm. The author also responds to several of Ms. Moss’s recommendations to reform the DOT’s review and consideration of antitrust immunity applications and grants.

The second feature item is not an article, but an interview with new FAA Chief Counsel Arjun Garg. Mr. Garg was named Chief Counsel in February of this year. He brings to the FAA unique private practice and government experience. Learn about some of the experiences that helped shape his approach to the law and his role at the FAA in this excellent piece. A special thanks to editorial board member Jeff Klang for making this interview happen.

Our third article, by Robert Foster of Cozen O’Connor, provides a new look at the Trump administration’s regulatory reform efforts, anchored by a close look at three recent DOT orders. Those orders respond to three petitions for rulemaking filed by consumer advocacy group FlyersRights.org. The article places those orders in the context of the administration’s broader regulatory reform process, looks at DOT regulatory and enforcement activity, and discusses the significance of the orders.

The final article, by longtime airport attorney Mária Nucci, who now is associated with Pennsylvania’s Allerton Bell, provides a detailed history of what is best described as the litigation “saga” concerning the unsuccessful efforts to close Santa Monica Municipal Airport (SMO). The author provides readers with the historical background necessary to understand the litigation that has dogged this airport for decades, summarizes much of that litigation, and discusses some of the lessons learned that other airports facing similar issues should consider.

I extend my deep appreciation to Kathy Yodice, our Managing Editor, who partnered with me in producing this issue. Kathy was instrumental in guiding the interview with Mr. Garg and Ms. Nucci’s article on SMO to fruition. Together, we hope to live up to the standards set by David Heffernan.

Before closing, I will make an unashamed plug for writing for *The Air & Space Lawyer*. As editors, the biggest challenge Kathy and I face is developing a pipeline of articles to publish. The aviation legal, regulatory, and policy field is broad and getting broader every day. Many issues concerning airports, airlines, consumers, international aviation, unmanned aerial systems, safety, security, preemption, and privacy are of interest to many practitioners—and are just the tip of the iceberg. If you would like to publish on an aviation-related topic, A&SL is a great place to do it. Please do not hesitate to contact Kathy or me if you would like to write an article.

Finally, a hearty congratulations to Andrea Brantner on a stellar term as our Forum Chair. Under your leadership, the Forum has prospered and grown. Thank you for your leadership and dedication to the Forum over the past two years. As you like to say, now it’s time for some fun!

David Berg
Editor-in-Chief

David Berg (airberg600@gmail.com) was general counsel of Airlines for America for 15 years before retiring in 2018. He was Chair of the Forum on Air and Space Law from 2003 to 2005. He resides in Las Vegas, Nevada.