



Editor's Column

As we were developing the spring issue of *The Air & Space Lawyer* late last year, we were just becoming aware of Covid-19, and it was not in the United States. By the time the issue was published in March, its impact was already being felt here. Since then, all segments of our industry have been decimated. As of this writing in early May, Airlines for America reports that passenger demand has dropped by 94 percent, with domestic flights averaging 20–25 passengers, and international flights averaging approximately 35 passengers. The number of daily operations has dropped accordingly, and U.S. airlines have halved their active fleets, parking more than 3,000 aircraft. More than 100,000 airline employees voluntarily have reduced hours or compensation or taken early retirement. Aircraft manufacturers, maintenance and other service providers, and airports have been forced to reduce operations and impose significant furloughs.

Looking forward, the great unknown is how quickly demand will rebound to support recalling employees, returning aircraft to service, and resuming manufacturing and maintenance operations once our economy begins to open up again. After 9/11, it took three years for passenger volumes to recover, while it took seven years to recover from the 2008 global financial crisis. This issue is dedicated to all of the aviation industry workers fighting to save it and to maintain the safety and security of its employees and customers.

As lawyers, we have had to help our clients navigate many novel issues this situation has created and at the same time continue to provide ongoing legal advice and support on what are now viewed as

“normal” business and operational issues. In this issue, we are very fortunate to be given a sense of what it has been like for one major airline chief legal officer, Mark Shaw of Southwest Airlines, to deal with the challenges created by the Covid-19 pandemic. Mark’s unique insights underscore the challenge of sustaining an airline fighting an unexpected existential threat.

Business and regulatory challenges do not just go away during times of crisis, and we have three excellent substantive articles that address important continuing issues that will be with us after the Covid-19 pandemic has resolved. In our lead article, Irene Howie presents a very thoughtful analysis and discussion of the implications of the failure of signatory States to rely on Article 33 of the Chicago Convention on International Civil Aviation and its mutual recognition obligation when they responded to the Max 737 accidents. Dan Carragher delivers an excellent discussion of the dilemma facing lessors to craft and enforce liquidated damage clauses and related stipulated loss value clauses after a bankruptcy court in 2019 rejected a creditor’s liquidated damage claim in *In re Republic Airways Holdings Inc.* Finally, Ed Gross and colleagues at Vedder Price review two recent federal studies of the FAA Aircraft Registry, particularly one by the General Accounting Office recommending significant technical and procedural changes and exploring their significant implications for users of the Registry.

To all of our readers, stay safe!

David A. 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.