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After 2020's Turbulence, Clearer Skies Are Ahead For Airlines

By **Kevin Lewis and Bart Biggers** (February 9, 2021, 5:41 PM EST)

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While 2020 was remarkable for everyone, the airline industry experienced more turbulence than almost any other sector of the economy. U.S. airlines transitioned from a 26th consecutive profitable quarter, at the end of 2019, to the worst annual financial performance in the industry's history in 2020.

This article discusses how COVID-19 ravaged a healthy industry, and how airlines made drastic changes to adapt to the realities of pandemic — or tried to — and identifies trends for 2021 and beyond that point to the industry's recovery.

Our story begins in late 2019 – as the world's oldest commercial air carriers, KLM Royal Dutch Airlines and Avianca SA, celebrated their 100th birthdays. The airline industry closed out a decade of solid profits, after struggling to make money during the early years of the new century.

Records were broken for the world's longest flight, which lasted over 19 hours and traveled between Sydney and London. New airports around the globe were opening regularly, while airport expansion became the norm. New customer experience innovations ranged from robotic airport concierges to biometric boarding passes.

For airlines, the sky was literally the limit in 2019, and the industry spent its time focused on what to do with all those profits. And then, everything changed.

2020: The Year of Living Dangerously

With the advent of COVID-19, the airline industry experienced its worse crisis ever. By the end of the first quarter, routes were canceled to all corners of the globe, with uncertainty as to when they might be reinstated.

Pictures of thousands of once-filled planes, now empty and sitting in the desert or in a corner of the tarmac, left an indelible imprint of the crisis. Airports, once constantly bustling with activity, were now deserted. As the statistics poured in, the numbers told the story very clearly: U.S. passengers enplaned dropped an astounding 97% as compared to 2019.

The airline industry, after approximately 100 years in existence, faced the biggest crisis in its history. With cash burn rates in April of up to $100 million per day, the airline industry faced a new reality virtually overnight: Adjust quickly, or die. And adjust they did.

The problem, of course, was that no one knew how long the flight to the other side needed to be. The catastrophic absence of passengers made the uncertainty of that answer particularly life-threatening to airlines.

Figuring out whether flights and airports could be made safe for passengers, and how to improve airflow on aircraft were urgent questions — but ultimately answerable. Knowing when a vaccine would be developed, and how long the pandemic would endure, were equally urgent questions — but not answerable. Executives, however, had to act in the face of that uncertainty, and quickly moved to pull levers to survive, as an industry accustomed to dealing with adversity dealt with this aggressive, new challenge.

Immediately, airlines started cutting unnecessary costs, lobbied for governmental support and prepared to raise as much cash as possible. They laid off tens of thousands of employees, in a frantic effort to cut costs. As part of the cost-cutting, airlines also had to revise their fleet plans and retire many planes, with wide-body long-range aircraft the first on the chopping block, since strong demand for these shells wasn't anticipated for the foreseeable future.

However, cutting costs alone wasn't going to be enough, as airlines had to raise billions of dollars in capital to improve their balance sheets, and fund their operations. Another huge priority was rebuilding customer confidence in the safety of flying, by investing in new cleaning measures. Because of the need for quick reactions, making decisions about these matters had to be done without time for customary careful planning.

It should probably come as no surprise that the unprecedented problems the airline industry faced in 2020 created numerous legal issues. During this time, teams of lawyers around the globe rolled up their sleeves — often while working from home — to achieve the goals set by management. Employment, labor and employee benefits attorneys worked through the logistics of laying off thousands of employees, and asking those employees who remained to either take pay cuts or have reduced work schedules.

Corporate counsel quickly moved to adjust deals with vendors, only to realize that normal efforts could not solve the problems, since the entire global industry faced the same grim reality. Those lawyers quickly redirected their efforts to reassure customers of the safety of flying with newly regimented cleaning programs, COVID-19 testing and touchless customer experience equipment.

Meanwhile, litigators engaged with vendors over whether force majeure provisions were triggered by pandemics and customers claiming rights to refunds. Privacy lawyers worked to protect customer and employee data related to the COVID-19. In an effort to prevent a tailspin from which the industry could not possibly pull out of, lobbyists and government strategy lawyers worked with national governments to secure government assistance in return for conditions such as keeping employees on the payroll.

And last, but certainly not least, aviation finance lawyers assisted their clients as they literally leveraged virtually every asset the airlines owned. Oft-discussed but not implemented financing ideas were taken off the shelf and executed — like the previously unseen leveraging of loyalty programs, which became the norm and raised tens of billions of dollars for the airlines.

While airlines battled all of the issues that COVID-19 threw at them, the issues that the industry had already been dealing with at the beginning of the year did not subside. Privacy remained a priority for airlines, as regulators continued to make it clear that they took regulations protecting airline passengers' data very seriously.

The U.S. Department of Transportation announced that it was limiting service animals to dogs only, and that carriers did not have to treat emotional support animals as service animals. Instead, airlines could treat them as pets, thus closing a loophole that previously allowed declared emotional support animals to fly free of fees, while potentially affecting other passengers' experiences. Now pigs literally could no longer fly — as pigs, peacocks and other unusual animals were no longer permitted in the cabin.

Meanwhile, regulatory lawyers worked on what would have previously been considered front-page news: the recertification of the airworthiness of the Boeing 737 Max, which had been grounded since March 2019. As the year came to an end, news of its first flights in over 20 months garnered some attention — but far less than the continuing saga of new virus surges and the rollout of vaccines.

Finally, the hottest global aviation topic entering 2020 — environmental, social and governance issues — remained very important, as airlines continued to work with lawyers on climate change, diversity, inclusion and other ESG priorities.

As the passenger airlines battled all these challenges, cargo airlines were left wondering how the pandemic was going to affect their business. Would the world fall into such a recession that they would share the same fate as the passenger airlines? Or would they instead in some way benefit from the pandemic?

After only a few months of dealing with COVID-19, the answer to that question became crystal clear for cargo airlines — in a good way. Their issue quickly became how to handle all the new business generated by a tremendous acceleration of online shopping, not to mention shipments of PPE and other medical equipment, and, finally, vaccines.

Passenger airlines also quickly adjusted their focus to earning revenue from cargo flights, while using those flights to continue to operate skeletal versions of their international networks. Cargo operations were the darling of the airline industry in 2020 — a trend that will certainly continue into 2021.

Trends for 2021 and Beyond

Looking beyond the pandemic, aviation experts predict that domestic traffic will rebound around the world much more quickly than international travel, and that leisure travel will prove to be much more in demand than business travel. Further suppressing the recovery of business travel is the long-range planning time required for conferences and other events — causing event organizers to be reluctant to invest time and money in planning events that might prove to be a bit ahead of the day when vaccines have been widely distributed.

Throughout this recovery, experienced airline lawyers will continue to be in demand, as the industry looks for efficient, practical and cost-effective ways to unwind the complications created in 2020 just to survive the pandemic. Talented in-house airline lawyers will team up with multidisciplinary international law firms that have both a deep understanding of an airline's business and many areas of specialized expertise, to see the airlines to a smooth landing on the other side of the pandemic.

The lack of a V-shaped recovery will likely spur merger and acquisition activity, as airlines look to sales of noncore business to delever their balance sheets from the extreme amount of debt that they took on to survive the pandemic. In addition, M&A activity may be spurred by airlines in some regions looking to consolidation as a means to create efficiencies and survive increased debt loads, and/or to improve operating results.

Meanwhile, finance transactions are here to stay, as debt incurred when staring down the barrel of COVID-19 starts to pinch, and airlines look to restructure their capital stack as they get back on their feet.

The shrinking of international demand will likely cause airlines to seek partners more urgently, as the uncertainty of the rebound of that demand will cause a recalculation of the costs and benefits of codeshares, alliances and joint business arrangements. Unfortunately, airlines will likely not have the luxury of flying routes that are "nice to have" for the network, but might have been stretch goals in terms of generating sufficient revenue to cover costs.

Due to the emphasis on using free cash to retire debt in 2021 and beyond, customer experience investments that are seen to spur immediate stimulation of demand or additional customer confidence — such as contactless travel, including biometrics and digital health passports — will be prioritized. In addition, litigation is expected to increase, due to a backlog of cases from 2020, and new cases related to issues surrounding COVID-19 making it to the courts.

As 2020 ended, there was a new sense of optimism for recovery in 2021, due to several factors. In December, the airlines began assisting in the distribution of COVID-19 vaccines, which have over 90% effectiveness, much higher than was previously predicted.

Although no one is counting this pandemic over and out just yet, the dark days of wondering if and when it will end are presumably over. It is just a question of whether the recovery begins in Q2 or Q3 of 2021.

Just as the vaccines have had better-than-expected efficacy, the global economic picture is now also better than it was feared it would be earlier in the pandemic. In addition to those two reasons for hope for the second half of 2021 and beyond, there is clear pent-up demand for leisure travel.

China's end-of-2020 air travel recovery gives hope to other countries that it may not take as long for travel demand to get back to pre-COVID-19 numbers. The landing may not be free of turbulence, but the runway seems to be in sight.

Travel brings us joy, and now we have hope that this joy will return soon. To transport people and fuel the recovery for which the world is waiting, the airline industry must get back on its feet and stabilize.

When that recovery happens, passengers will travel again — and, as it has over the previous 100 years, the airline industry will be waiting at the gate for them. As passenger numbers rebound in 2021 and beyond, the airlines that entered this journey in 2020 will be stronger than ever from their experiences adapting to survive COVID-19.

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