

# airline insurance market news

JUNE 2008



*The average premium change once again paints a slightly misleading picture in May. The +8% figure suggests a hardening market, but the increase in average fleet values and expected passenger numbers points to a market that is closer to flat.*

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## overview

### overview

The lead price of premium for airline hull and liability insurance programs rose on average by +8% during May. This means that lead premium prices have risen by +13% on average so far this year.

### losses

While rising prices will be met with relief from the underwriting community which saw prices fall by -11% in 2007 and -17% in 2006, the reality is that exposure continues to rise, potentially countering the price increases with increased risk.

### legal update

### airline renewals

Average fleet value (AFV) has risen by +19%, with passenger numbers similarly expected to grow by +20% based on the programs that have been placed so far this year. This suggests that the market is flat or even falling in real terms.

The figures are also skewed somewhat by significant premium increases at three of the May renewals, two of which had lead hull and liability premium increases of over 40% and the third of over 70%.

These increases were the result of both significant exposure growth and a loss last year on one of the programs that led to an increase in premium.

Factoring these changes out of the data, and the average premium movement would have been 0%, while AFV would have risen +8% and passenger numbers by +15% during May, although the annual numbers would not have changed significantly.

## Fuel Challenges

The high price of fuel is continuing to create difficulties for airlines. Although there has not been a continuation of the rash of airline failures and bankruptcies seen last month, a number of organizations have changed strategy somewhat in the face of the high prices.

A number of airlines globally have suggested that they will be focusing their activities on core and profitable routes over the next year.

This could make 2009/10 program renewals very interesting. If a large number of organizations begin to forecast significant AFV reductions, the cost of lead hull and liability insurance programs could fall alongside the exposure reductions.

If this proves to be the case, it may become the catalyst for a shake out in the airline insurance market as global underwriting operations look at the relative profitability of the aviation industry from an insurance point of view and begin to move their resources elsewhere.

At the same time, however, the challenging market conditions, coupled with the high level of competition in the aviation insurance markets generally, is currently driving a high level of innovation.

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Quarter 1	Renewals	Fleet Value Movement (% Change)	Passenger Movement (% Change)	Expiring Premium (US\$m)	Renewal Premium (US\$m)	Premium Movement (% Change)
Q2 2007	50	+13	+15	222.72	187.21	-16
Q3 2007	49	+14	+13	273.69	245.03	-10
Q4 2007	102	+8	+7	1,156.19	1,040.39	-10
Q1 2008	9	+12	+34	25.43	27.53	+8
April 2008	18	+21	+18	88.99	103.61	+16
May 2008	13	+15	+20	45.19	48.83	+8
<b>2008-to-date</b>	<b>40</b>	<b>+19</b>	<b>+20</b>	<b>159.61</b>	<b>179.96</b>	<b>+13</b>

Source: Aon Market Data  
All available data

## market (continued)

For example, Swiss Re recently introduced an Extra Expense Protection product, which supports organizations with expenses above and beyond those covered by standard commercial coverage.

These can include charges leveled by emergency services, consequential losses and marketing and public relations activity after an incident.

There are a plethora of products such as this available from underwriters globally as they strive to differentiate themselves from their competitors. Recognizing, assessing the relative merits and making the most of the potential of these types of products is one of the key functions that Aon's teams of aviation brokers perform for our clients.

## losses

The loss figure excluding attritional losses is US\$376m so far in 2008, compared to US\$393m recorded at the same point last year. Taking a pro-rata figure for an annual estimate of attritional losses into account, the overall loss total is US\$591m, compared to US\$598m in 2007. As a result, despite the value of losses being 69% higher than the 2007 number in January, by May the loss total for 2008 was -1% below the total recorded in May last year.

This highlights the difficulties that the airline industry can create for underwriters as they attempt to ensure that the cost of insurance reflects the actual risk. The high value of aviation hardware can mean that a single loss can have a massive impact on the loss numbers.

While these currently increasing occasional catastrophic losses attract headlines, the reality is that the industry's recent loss history continues to be impressive, particularly given the rise in the numbers of take-offs and landings that occur.

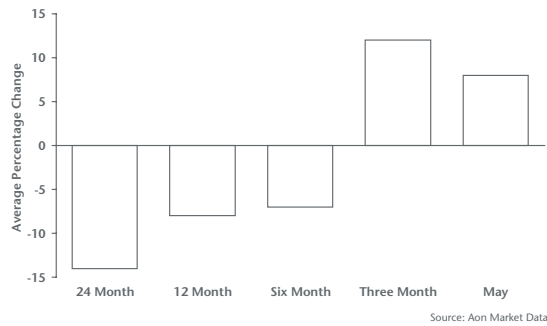
There were two losses that meet our criteria in May.

On the May 25, a Boeing 747-200F cargo aircraft operated by US-based Kalitta Air, registration N704CK, ran off the runway during take-off on a flight from Brussels to Bahrain. The aircraft, valued at US\$10m has been declared a total loss. There were no fatalities.

On May 30, an Airbus A320-200 operated by TACA International Airlines, registration EL-TAF, ran off the runway on approach to Tegucigalpa-Toncontin Airport in Honduras. Details are currently limited, but the aircraft, valued at around US\$36m is a total loss. There were five fatalities, two of which are thought to have been on the ground. There were 124 people on board.

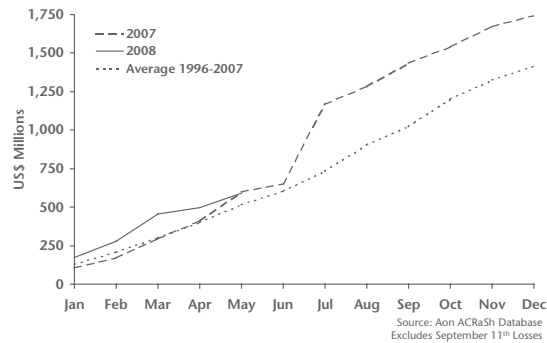
There have been 27 major losses in 2008 so far, only five of which have had a hull reserve greater than US\$10m. According to Aon information, airline incidents that meet our criteria have led to 73 fatalities so far this year. The average number between January and May 1996-2007 is 267.

### Average Percentage Premium Movement

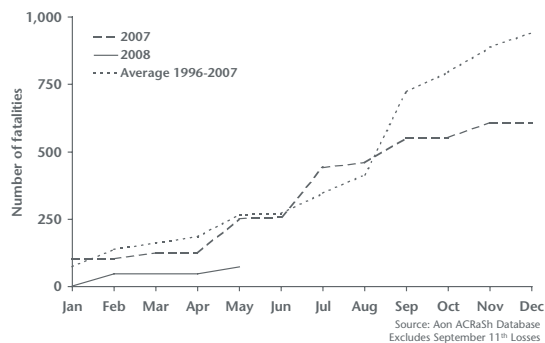


### Cumulative Loss Graph 2008

(Including attritional losses)



### Cumulative Fatalities Graph 2008



## legal update

### Disabled Passengers and Carriage by Air John Balfour, Partner, Clyde & Co.

This article describes the law in the UK as to both discrimination and liability for injury and damage in connection with the carriage of disabled passengers by air after new EC Regulations, part of which came into effect in 2007 and the remainder due in July 2008.

#### The Disability Discrimination Act 1995

The Disability Discrimination Act 1995 made it unlawful for a provider of services to discriminate against a person on grounds of disability. However, there is an exemption in respect of the provision of a transport service, including providing a vehicle, or services in a vehicle (which includes an aircraft). The exemption is limited to the provision of a transport service itself, and not services ancillary to transport, as was confirmed by the Court of Appeal in 2004 in *Ross v Ryanair*<sup>1</sup>, when the court confirmed that Ryanair (and Stansted Airport) was liable for failing to provide free of charge a wheelchair for Mr Ross at the airport in order to enable him to get to the aircraft.

#### Liability for injury

The basic position as to the liability of airlines for injury suffered by disabled passengers has been made clear by the Court of Appeal's judgment in 1997 in *Chaudhari v British Airways*<sup>2</sup>, concerning a claim by a disabled passenger who fell, injuring himself, when getting up from his seat in the aircraft to go to the toilet. The court, following the leading decision of the US Supreme Court in *Saks v Air France*<sup>3</sup>, held that, according to Article 17 of the Warsaw Convention, the airline was only liable if a passenger was injured as a result of an "accident" - ie, an unusual and unexpected event external to the passenger, and not as a result of a pre-existing weakness in the passenger with no external causation, as in this case.

However, disabled passengers are more prone to suffering injury through accidents than other passengers. Examples of situations which have given rise to successful claims include injury while the disabled passenger was being carried on an ambliift, carried onto or off the aircraft or lifted into a seat on the aircraft. Claims may also arise from acts or omissions of an airline's ground-handling agent, for example in respect of injury caused while a passenger is being pushed in a wheelchair through the airport terminal, or carried in a wheelchair on a bus from the terminal to the aircraft. It will normally be very difficult for an airline or its insurers to recover from the ground-handling agent, because most ground-handling agreements provide that the handler is only liable if the damage was caused as a result of its acting intentionally or recklessly and with knowledge that damage would probably result.

#### Liability for damage to equipment

If a passenger's wheelchair, or other equipment, is damaged on board the aircraft, then because of the Warsaw/Montreal Convention system the airline's liability will be limited - to what may be quite a low amount compared to the value of the equipment. Under the 1929 Warsaw Convention, which does not apply so often now, but is still applicable to a few journeys, the airline's liability for "objects of which the passenger takes charge" (ie, cabin baggage) is limited to 332 Special Drawing Rights (SDR).

Under the 1999 Montreal Convention, which now applies to most international carriage, this limit has been increased to 1,000 SDR per passenger in respect of all the passenger's baggage (both checked and cabin baggage).

#### EC Regulation 1107/2006

EC Regulation 1107/2006 on disabled passengers and persons with reduced mobility came into force in 2006, and the anti-discrimination provisions from 2007. Other provisions will apply from 26 July 2008.

The Regulation intends to protect a wide category of persons, as disabled persons or persons with reduced mobility are defined as "any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary) intellectual disability or impairment, or any other cause of disability, or age...". Hence, it covers, as well as persons with physical disabilities which make it difficult or impossible for them to walk, the blind, the old, those temporarily injured and those suffering from "intellectual disability or impairment".

As regards geographical scope, it applies to all air services departing from an airport in the EC, and as regards obligations at airports also those arriving or transiting through an airport in the EC. It also applies to air services departing from an airport in a country outside the EC to an airport in the EC where the operating carrier is an EC airline.

Under the Regulation, the airlines (and tour operators and travel agents) have three basic obligations:

- to accept PRMs, unless justified by legal safety requirements or the size of the aircraft (in which case certain conditions apply);
- to provide a system for the reception of notifications of special needs at points of sale, and also transmit such information to the relevant airports and the operating carrier (if different);
- to provide various facilities free of charge, ie: the carriage of assistance dogs; the carriage of mobility equipment; reasonable seating arrangements; communication of essential flight information; and assistance in moving to toilets on the aircraft.

Obligations are imposed on airports in respect of assistance on the ground, but do not apply until 27 July 2008, and are beyond the scope of this article.

#### Comment

While accepting that genuinely disabled passengers merit the Regulation's protection, airlines are nevertheless concerned that the wide definition could lead to significant abuse, by passengers claiming disability or reduced ability in order to obtain benefits, such as priority boarding or carriage in a wheelchair or buggy, when not really justified.

It is presently unclear exactly how the exception for legal safety requirements will work in practice. It may be argued that carriage of any disabled passenger would compromise safety and even contravene cabin evacuation requirements, but as this could be used to justify a total ban on the carriage of disabled passengers, this cannot be the intention of the exemption.

#### Implications for insurers

While the principal implications of the new EC Regulation are for airlines, and as a general rule airlines' obligations and liability under the Regulation will not fall under standard aviation insurance policies, they may well if the policy includes the AVN60 personal injury extension, which covers, among other things, inadvertent discrimination in refusing transport (although quite what "inadvertent" means in this context may have to be clarified). Insurers will continue to be involved in claims by disabled passengers for injury and damage to equipment.

<sup>1</sup>. [2004] All ER (D) 333.

<sup>2</sup>. (1997) Times 7 May.

<sup>3</sup>. 724 F2d 1383, 18 Avi 17,606.

*The Legal Update section is designed to keep our clients, the market and the industry as a whole informed about developments in the legal aspects of the aviation industry.*

*If you would like to submit a piece to be included in the Aon Airline Insurance Market News or the Aon Aerospace Insurance Market News, please contact [aviation@aon.com](mailto:aviation@aon.com)*

## airline renewals

Airline	Renewal Date
Ethiopian Airlines	01 Jun
Eva Air	01 Jun
Mexicana	01 Jun
Wind Jet	04 Jun
Hemus Air	06 Jun
Skyeurope	08 Jun
Vim-Avia Airlines	10 Jun

Airline	Renewal Date
Atlasjet	11 Jun
Kingfisher Airlines	15 Jun
Uzbekistan Airways	15 Jun
Aegean Airlines	18 Jun
TAME	18 Jun
Caribbean Star	27 Jun

June is another relatively quiet month in terms of both the number of renewals that are placed in the airline insurance markets and the amount of lead hull and liability premium that they represent. The only expected significant change to the renewals compared to last year follows India's Kingfisher Airlines merging with Air Deccan. Based on the 2007 numbers, the combined program will have an AFV of around US\$2.6bn before synergies.

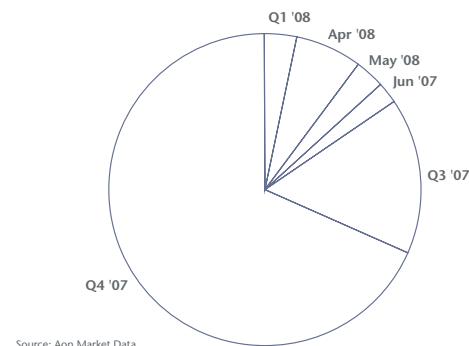
In 2007, the month represented 5% of the total annual number of programs placed and around 2% of the total annual lead hull and liability premium, and there is little reason to expect that the numbers will be significantly different for 2008.

As a whole, the first half of 2007 represented just under 30% of the total number of airline renewals and 15% of the premium, highlighting the importance of the November and December renewal season, when nearly two thirds of lead hull and liability premium is placed.

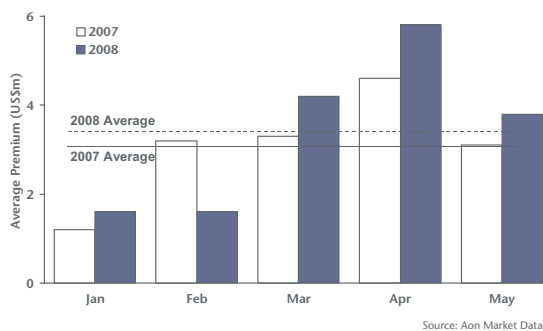
The relative hardening of the airline insurance market so far this year has had limited impact on the average premium per renewal recorded between January and May. In 2007 to May, the average lead hull and liability premium paid by the airline organizations that had renewed was US\$3.1m. In 2008, the average lead hull and liability premium paid between January and May was around US\$3.4m. This compares with US\$4.6m for the same period in 2006.

It seems likely that the airline insurance market will continue in its currently ambiguous direction for the next few months as individuals try to understand how the current difficulties in the global financial markets may impact them and their travel plans. At the same time, the airlines themselves are struggling to cope with the high cost of fuel and raising prices in response. From an insurance point of view, it seems likely that the position will continue to be fascinating.

### Airline Monthly Premium Profile



### Average Premium Per Renewal



This is the Aon Aviation & Aerospace Airline Insurance Market News, which is our attempt to keep our clients and others informed of developments in the airline insurance market.

We welcome any comments or suggestions to add to or improve our product.

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All figures detailed in this newsletter include all known information at time of production on the lead London terms of airlines renewing with fleet values in excess of US\$150 million. They do not take into account any coverage changes and are not weighted in any way with regard to the size of the airline's fleet or the volume of premium paid.

Average fleet values are the average value of a fleet during the entire length of the insurance programme rather than a single specific date.

Loss information covers western built equipment only and the data only includes losses with a total incurred value of over US\$1million. We only write about losses over US\$10m.

We must point out that due to the nature of this type of bulletin, Aon UK cannot be held responsible for any loss or damages caused through the use of any information contained herein. While we try to comment on issues we know to be fact, we are fully aware that in gathering the information contained from various sources there is always the possibility of inaccuracy. We can therefore only claim that the information in this newsletter is correct to the best of our knowledge at the time of publication.

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