



Committee on Transportation and Infrastructure
U.S. House of Representatives

Washington, DC 20515

Bill Shuster
Chairman

Peter A. DeFazio
Ranking Member

Mathew M. Sturges, Staff Director

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Katherine W. Dedrick, Democratic Staff Director

**DON'T HAND OUR PUBLIC AIRWAYS
OVER TO PRIVATE SPECIAL INTERESTS**
Oppose Privatization of Air Traffic Control

Dear Democratic Colleague:

Last year, Congress failed to enact a comprehensive, long-term reauthorization of the Federal Aviation Administration (FAA) because House Republicans insisted on including a poison pill—privatizing the Nation's air traffic control (ATC) system—in the otherwise bipartisan bill. Republicans argued that ATC privatization would cure the ailments facing our aviation system today by turning the operation of ATC over to a private corporation run by a board of directors effectively controlled by the major airlines and their allies.

Democrats, some Republicans, and a long list of aviation stakeholders opposed the controversial ATC privatization bill. Every Democratic Member and two Republican Members of the Committee on Transportation and Infrastructure opposed the bill during Committee consideration. Given the controversy surrounding ATC privatization, the House Republican Leadership never brought the bill to the Floor, and Congress was forced to pass a short-term FAA extension act.

Despite their failure in the last Congress, the privatizers are at it again and this time they have the support of the White House and President Trump. With the FAA authorization set to expire on September 30, 2017, we expect T&I Committee Chairman Shuster to reintroduce his proposal to privatize the ATC system in the near future.

We have serious concerns with ATC privatization, including:

- **May Violate the U.S. Constitution.** The Constitution vests “all legislative powers” in a “Congress of the United States” and limits Congress’ authority to delegate legislative powers to other branches of government or private entities. Congress may not delegate regulatory authority to a private entity, such as the ATC Corporation. In addition, ATC privatization may also violate the Due Process Clause of the Fifth Amendment and infringe upon

executive power (including the Appointments and Take Care Clauses of the Constitution). It is unclear if the ATC privatization bill can cure these constitutional flaws. At minimum, any workaround of these constitutional issues will create a labyrinthine system that will only hinder effective management of ATC.

- **Jeopardizes Safety.** The U.S. airspace is the busiest and most complex in the world, yet it is the safest. When considering any changes to our ATC system, maintaining this unparalleled safety record must be our top priority. ATC privatization splits the FAA in two, jeopardizing aviation safety and leaving critical FAA safety oversight and more than 7,400 FAA inspectors and other safety-critical employees subject to year-to-year funding uncertainty. The Aviation Trust Fund would no longer fund critical aviation safety programs and they would be reliant exclusively on the General Fund of the Treasury. ATC privatization puts safety at risk.
- **Jeopardizes National Security.** The FAA and the Department of Defense (DOD) collaborate 24/7 to protect our aerial borders and homeland security. The agency personnel work together seamlessly and share information openly because the FAA is a government agency. Privatizing the ATC system would sever this close relationship and create unnecessary complexity and uncertainty for U.S. military leaders. In fact, the DOD Policy Board on Federal Aviation has told reporters that privatization of the ATC system “raises serious concerns,” noting that “DOD relies on FAA ‘command and control’ capabilities in the execution of the National Defense mission.”
- **Aviation Manufacturers and Workers Lose.** Privatization of the ATC system will break the FAA apart, leaving safety-critical aircraft certification programs no longer funded by the Aviation Trust Fund and subject to the vicissitudes of Congress, including funding uncertainty, sequestration, and shutdowns. Delays in the FAA’s decisions on certification of new aircraft and equipment cost money and put the United States’ global leadership at risk in the aviation market. The FAA’s certification programs need reform now. The Committee developed a bipartisan title of last year’s FAA reauthorization bill to reform certification programs, but it was not enacted because Republicans insisted on pushing their controversial ATC privatization plan.
- **Consumers, Rural America, and General Aviation Lose.** A bottom-line-driven ATC Corporation would cut costs wherever possible. A private ATC Corporation— especially one controlled by the airlines— will prioritize investments in congested urban centers as opposed to rural America. Critical aviation infrastructure in rural areas could be shuttered, and small communities could lose air service. Critical modernization programs that reduce flight delays and airplane noise could be delayed if not canceled. And the Corporation, dominated by airlines, would set the user fees for both General Aviation pilots and passengers. As Richard Anderson, the former Chief Executive Officer of Delta Air Lines, asked in a letter to the Committee on this issue, “[W]ho will look out for the public interest after privatization?”
- **Taxpayers Lose.** American taxpayers have invested more than \$50 billion in ATC assets in the last 20 years. The ATC privatization bill hands over these taxpayer-purchased ATC facilities and equipment to the private corporation free of charge. Last year, the nonpartisan Congressional Budget Office determined that the ATC privatization bill would increase the

deficit by \$20 billion over the next 10 years and billions more in subsequent decades. Adding insult to injury, American taxpayers would be left with the responsibility of bailing out the private corporation if it were to default and could not pay to operate the ATC system.

While the FAA must address some significant issues and we support reform, the answer is targeted solutions, not a risky ATC privatization scheme. We strongly urge you to join with us and oppose these Republican efforts to privatize our ATC system.

If you have any questions, please contact us, or have your staff contact the Democratic staff of the Subcommittee on Aviation (ext. 5-9161).

Sincerely,



PETER DeFAZIO
Ranking Member



RICK LARSEN
Ranking Member
Subcommittee on Aviation