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SUBCOMMITTEE ON TRANSPORTATION, HOUSING, AND URBAN DEVELOPMENT
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Chairman Diaz-Balart, Ranking Member Price, and Members of the Subcommittee, thank you for the opportunity to share my concerns with you about a proposal pending before the Committee on Transportation and Infrastructure to tear the Federal Aviation Administration (FAA) apart and devolve air traffic control—a critical safety and security function—to the private sector.

This proposal is nothing new or imaginative. In fact, last year marked the 30th anniversary of a similar proposal by the airline industry to take control of the air traffic control system from the FAA, which has operated the system since its creation. Congress and commissions have studied the idea three times since then, yet it has never taken flight because, each time, it was found to be unworkable, unproven, unwise, and extremely controversial.

That’s why, last year, every Democrat and two Republicans on the Committee on Transportation and Infrastructure opposed a long-term FAA reauthorization bill that included the privatization proposal. So did the bipartisan leadership of this Committee and your counterparts in the Senate. The Congressional Budget Office concluded the proposal would add **\$20 billion to the Federal deficit over the next 10 years** and tens of billions more in decades thereafter.

Last year, faced with this choice of conducting a science experiment with a risky privatization scheme, Congress enacted—not a long-term FAA reauthorization act—but yet another short-term extension.

I do not know how, if at all, this year’s privatization proposal will differ from last year’s; but I do know that it will suffer from the same fundamental problems as any privatization proposal. According to a review of recent Supreme Court and D.C. Circuit Court of Appeals decisions, privatization of the air traffic control system is an unconstitutional delegation of regulatory functions – not even airline industry lawyers have disputed my analysis of that.

In an attempt to work around these constitutional problems, the proposal keeps the Secretary of Transportation intimately involved in every major decision of the private ATC Corporation. This will require a huge new government bureaucracy within the Department of Transportation—and who will pay for that?—and would slow down, rather than speed up, important reforms and improvements. In fact, last year, the Government Accountability Office (GAO) reported that privatizing the air traffic control system would bring innumerable challenges and could take up to seven years even if done right.

Stakeholders say the air traffic control system needs stable, predictable funding. But that's an FAA-wide need, a **government-wide** need, not just an air traffic control need. Moreover, severing the \$11 billion air traffic control system from the FAA would leave the rest of the agency—especially its critical safety-oversight offices and personnel—subject to the general risks of fiscal crises and political gridlock that have become commonplace in recent years, despite the hard work and dedication of this Subcommittee to keeping the lights on at the FAA.

Stakeholders say the FAA has been too slow with NextGen implementation. You can count me among those in Congress who think the FAA could have managed past NextGen programs better. But the agency is due some credit: It has implemented more than 8,000 satellite-based navigation procedures, has installed the ground infrastructure for a satellite-based system of surveillance to replace radar, and has implemented 99 percent of the milestones jointly agreed upon by the FAA and industry stakeholders. The FAA's work on NextGen has already delivered \$2.7 billion in benefits to government and users, and is expected to provide more than **\$160 billion** in benefits by 2030.

No one can explain precisely how privatization would speed up NextGen. My natural intuition is that privatization would only slow NextGen down. It would create a three-to-five-year period of uncertainty for FAA employees who work currently on NextGen projects, and jeopardize the expected benefits that I just described.

Privatization would sever the thousands of threads between the Air Traffic Organization (ATO) and other FAA offices that are absolutely necessary to keeping NextGen on course and on time. Certification is a prime example. The ATO may be ready to implement dozens of new

performance-based navigation procedures, but it's up to certification specialists in the Aviation Safety Office to verify that airplanes are capable of flying those procedures safely by certifying avionics and pilots and making sure airlines are on the same page. And it's up to the Office of Airports to collaborate with communities underneath new flight paths.

The ATO will soon be ready to switch on the automatic dependent surveillance-broadcast (ADS-B) network everywhere and for every aircraft, but again it's up to the Aviation Safety Office to certify the ADS-B avionics necessary to make it happen. The list goes on.

Some say other countries have successfully separated their air traffic control systems from civil aviation regulators. That's not entirely true. First, privatization is the exception rather than the rule: At least 21 countries have separated air traffic control, but **only two**—Canada and the United Kingdom—have privatized it, and then with extremely mixed results.

And, importantly, **those countries are not the United States.** The Department of Transportation Inspector General reported in 2015 that there are “significant” differences between those countries’ systems and ours. For example:

- **Ours is the biggest.** Canada, the United Kingdom, France, and Germany combined control only 65 percent of the airspace controlled by the United States. (The four countries’ combined airspace comprises 48.57 million square kilometers; ours comprises 75.1 million square kilometers.)
- **Ours is the busiest.** If you add up the instrument flight rules (IFR) movements handled by controllers in Canada, the United Kingdom, France, and Germany combined, you wouldn’t come close to reaching the number of IFR movements handled by FAA controllers. (12.1 million IFR movements in the four countries together versus 15.5 million in the United States.)
- **We have a much larger general aviation presence.** Nearly twice as many general aviation aircraft are registered in the United States as in the four other countries combined. (209,034 in the United States versus 109,435 in the four countries together.)

- **And we're writing the blueprint for NextGen;** many of the others just buy NextGen technologies off the shelf.

I would speculate that these are but some of the reasons that a distinct minority of the stakeholders whom GAO surveyed in 2014 said that spinning off the Air Traffic Organization would even be a viable option.

As I have said many times before, privatization of air traffic control is a solution in search of a thousand problems.

In its report on fiscal year 2017 Transportation, Housing and Urban Development appropriations, the Senate Appropriations Committee described the privatization proposal as “fraught with risk”, full of potential to “lead to uncontrollable cost increases to consumers” and to reduce aviation access to rural America. I hope and respectfully urge this Subcommittee to recognize similarly these concerns in its fiscal year 2018 appropriations bill.

Thank you again, Mr. Chairman, for allowing me the opportunity to testify today, and I stand ready to work together with Members of the Appropriations Committee to remove this poison pill from the FAA reauthorization bill or any other legislation in which it may be included.