

THE HIGH RISK OF PRIVATIZING THE US AIR TRAFFIC CONTROL SYSTEM

By Douglas A. Decker, P.E.

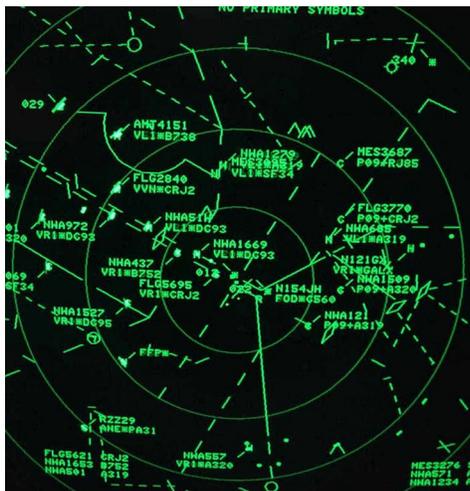
COL John W. McDonald (Ret)



Legislation is pending in the House of Representatives that would turn over management of the Nation's air traffic control (ATC) system and related services to a federally chartered, not-for-profit, non-government corporation funded by user fees. The legislation proposes that the United States follow Canada's privatization model, although other nations have privatized their air traffic control capabilities as well. The supporters of this initiative, primarily commercial airlines, say that the existing system is antiquated and relies on old technology. They believe that the new organization would reduce airline delays and costs. We are opposed to privatizing the air traffic control system as proposed in H.R 2997 (21st Century Aviation Innovation, Reform and Reauthorization (AIRR) Act of 2017), introduced by Congressman Bill Shuster (R, PA) who is chairman of the House Transportation and Infrastructure Committee. A board of directors, which would be dominated by airline representatives or associated parties, would govern the proposed new organization. Importantly, Congress would retain neither fiscal control nor oversight of this corporation.

BACKGROUND

This congressional initiative is just one of many proposed over the past 40 years. Previous proposals have all in the end been considered less effective than the existing system. If approved this time, the legislation would replace an ATC system that manages the most complex airspace in the world and remains the safest and best in the world.



The US airline industry has made ATC privatization their top policy priority and has invested heavily in lobbying the Congress to assure its success. Operating on thin profit margins, commercial airlines believe expediting commercial traffic over other traffic would reduce time of flight and improve on-time arrivals and departures. Consequently, the transfer of the government owned and regulated ATC monopoly operated by the FAA to a federally chartered, private monopoly controlled by the airlines and their interests would achieve a long-standing airline objective. President Trump supports this concept.



Unfortunately, air traffic control privatization entails risk. While airlines state that privatization would increase safety, it would likely do the opposite. Part of the airline argument is the slow pace and increasing costs of ATC modernization. However, as of today, less than 30% of commercial airline aircraft have the navigation electronics installed to exploit ADS-B, a fully functioning part of the FAA NextGen system, which uses GPS for aircraft tracking. Further, the airlines' success with their own technologies is not encouraging. News reports of breakdowns of nationwide airline reservation and crew management systems over the past year are rife. Few airline passengers would argue that the airlines have a grip on technology.

Under H.R. 2997, the FAA would at no cost hand over all government owned ATC assets and control of the air traffic control system in the United States to an unelected, unaccountable non-profit corporation, likely to be dominated by commercial aviation interests. Aggravating this situation is the fact that the US government would not retain oversight of this new corporation. The new corporation would have nearly unchecked power, market domination and private control over a critical public asset employed to control over 26 million commercial, military and general aviation flights annually. Maintaining congressional oversight and involvement of the DoT Inspector General to guarantee accountability for performance of the ATC system is critical. Otherwise, the harm to consumers, local communities and national security could be significant.

WHY DO THE AIRLINES WANT CONTROL?

- They want to set the priorities of where planes fly.
- They want to set the rates and charges for using the ATC system.
- They want to monopolize the airways as they have successfully done in other countries.
- They want unfettered access to airports.

WHY NOT PRIVATIZE THE HIGHWAYS?

Consider for a moment privatizing the highways, similarly to what the airlines want to do, and turning over control of the highways to the trucking industry?

- Would they be concerned with the needs of the automobile drivers?
- How would they spend the Highway Trust fund on the roads they utilize?
- What fees and taxes would be imposed on automobiles?
- Would rural roads of America be a priority?
- Would they institute policies that give truckers priority lanes on highways or institute flow control giving trucks the priority?



It sounds ludicrous, but that is what the airline industry is attempting to do in privatizing the air traffic control system. The general aviation community is concerned that general and business aviation retain equitable access to airports and airspace, as it generally does now. The public should be very concerned about how fairly an airlines-dominated ATC would treat the US aviation community as a whole. It is no secret that airline customer service has declined steadily for more than a decade. That record does not bode well for the future of privatized ATC. Unfortunately, the proponents for reforming the ATC system have not made a compelling case for privatization of the ATC system. We need to educate the public on the dangers of this legislation.

DEFINING THE PROBLEM

The legislation now under consideration, H.R. 2997, would separate air traffic control and related services from the FAA. The plan calls for removal of some current ticket fees and excise taxes and application of user fees to fund the new organization.

The benefits of privatizing air traffic control as presented by the airline industry include:

- Providing stable funding to technology and equipment enhancements
- Reducing delays in commercial aircraft arrivals and departures from major airports
- Decreasing costs to the government and passengers
- Increasing safety
- Accelerating the modernization of air traffic control systems
- Improving procurement of new equipment

Let's review each of these items:

PROVIDE STABLE FUNDING: It is universally agreed that funding large, multi-year federal government projects is a challenge and can be very disruptive to program schedules. This issue is not entirely the fault of the FAA. The Congress and its arcane and dysfunctional budget system must accept some blame. Because Congress cannot pass annual budgets on time, it resorts to continuing resolutions, which maintain previous year funding, but do not allow for increases in program funding to achieve planned milestones. The result is continually shifting priorities within programs and stretched deployment of systems.





RESPONSE: This is an issue of multi-year funding and should be addressed by Congress. Congress is reluctant to fix this problem, since it inherently removes some control from the management of federal programs. One key argument in favor of privatization is that a corporation could borrow funds in the private marketplace against user fees collected directly to meet its requirements for funding technology programs. This would provide greater financial stability. However, in the event this corporation became overcommitted and failed to meet its loan payments, who would bail it out? In the United Kingdom, the government bailed out its privatized system. Since the US government could not let this corporation go bankrupt, it would implicitly guarantee any loan or be forced to take back the ATC system. Further, this corporation would not operate under the Federal Tort Claims Act. Therefore, it could be held liable for its actions. In the event of a major aircraft accident, claims could escalate into the billions of dollars. Again, the US government would have to bail it out.

REDUCE DELAYS: According to the Bureau of Transportation Statistics, 55% of air carrier delays were weather related in the period June to November 2017. When weather delays a flight, it has a domino effect causing the next flight to be late. In other cases, the airlines, not the FAA, were directly responsible. Many times, planes were delayed because of ground congestion or the arrival gate was occupied with another plane. The airlines do not have a good track record in managing their reservation computer systems; they failed system-wide many times in 2017 causing massive disruptions and delays. The airlines have a poor record when it comes to upgrading and investing in their own antiquated computer systems.

RESPONSE: This is primarily an internal airline issue. A new organization will not control crew staffing or the weather. The current NextGen ATC system will increase the capacity in the skies by decreasing spacing, but can't fix internal airline or weather-related issues.

DECREASE COSTS: The NextGen system has had delays in implementation and cost overruns. This is well documented in DoT Inspector General reports. Some of this is because it is a new system and what worked on paper did not function in real time. Other issues were related to subcontractor performance, and some were overly optimistic design projections. The latest report from the IG is that NextGen program is making good progress.

Will NextGen decrease costs? The adoption of GPS point-to-point navigation will increase route efficiency, reduce costs and save time. The NextGen system also will offer improved approach guidance decreasing flight time among its many other features. According to the FAA, it has spent \$7.5 billion on NextGen over the past seven years which has resulted in \$2.7 billion in benefits to passengers and the airlines to date, and is expected to yield more than \$160 billion in benefits through 2030.



RESPONSE: Would a new private organization have similar startup problems with large-scale technology systems? The answer is probably yes. The airlines are not known for robust computer scheduling and reservation systems, and over the past year they have had seventeen nationwide disruptions bringing entire airlines to a stop. Regarding NextGen, there is no guarantee that a private corporation can decrease costs better than the FAA. The US ATC is the largest system in the world, ten times larger than Canada's, and there is a significant learning curve and potential risks in changing the operating model.

INCREASE SAFETY: The ATC system would provide a higher degree of safety under a not-for-profit organization with more timely introduction of modern "state of the art" equipment.

RESPONSE: While safety is critical to airline operations, it competes with the profit motive. Issues like aircraft spacing are often cited as reasons for flight delays. However, the current FAA-controlled ATC system has produced the safest airspace in the world. The last fatal commercial aircraft accident occurred in 2009. NextGen modernization, already underway and according to the DoT IG making good progress, will enhance airspace safety. Perhaps the saying "if it ain't broke, don't fix it" is most appropriate for this initiative.

ACCELERATE MODERNIZATION OF AIR TRAFFIC CONTROL SYSTEMS: The airlines contend that the federal budget system prevents the FAA from fielding modern systems on schedule within cost. There is much to agree with on this point. Lack of federal budgets at the start of the government fiscal year has plagued government agencies everywhere, and continuing resolutions stymie program growth by constraining funding to that of the previous year. How can you achieve milestones without stable funding? With privatization, the air traffic control corporation will charge fees and borrow funds in the commercial market to ensure timely financing of modernization programs.

RESPONSE: While supporters of privatization argue that the new corporation will have advantages over the FAA, as asserted earlier, progress is doubtful given the airlines' bleak reputation for modernization. This past year has seen frequent crashes of airline ticketing and scheduling systems, causing major snafus countrywide. If adoption of emerging technologies incrementally, as suggested by proponents of privatization, were an advantage, why have the airlines not adopted such practices to improve their own systems? Further, were a downturn in commercial aviation to occur, such as that after September 11, 2001, how would the privatized corporation pay its bills? Will the government guarantee the loans and enable the accompanying moral hazard for this corporation, since it could not allow air traffic control of the national airspace to lapse?



IMPROVE PROCUREMENT OF EQUIPMENT: This argument relies on the considerations cited above -- that is the ability to borrow in the commercial markets.

Other factors that warrant consideration in the privatization of US air traffic control include the following:

NATIONAL SECURITY: The current FAA system addresses sensitive military operations throughout the country, often without the public knowing the circumstances. Classified operations are managed directly with controllers in a secure FAA environment composed of US citizens who have sworn an oath of allegiance to the Nation. This same condition will not exist for a private corporation. Will coordination with the military be effective, responsive and secure with a workforce where uncleared, perhaps even foreign nationals, control the airspace? The US military conducts over 5,200 controlled flights daily. Will they receive the priority they need to accomplish their missions? Or will their priority be sacrificed to ensure timely arrival of commercial flights? Does the country really want a private corporation controlling the flight of Air Force One? The United States and its aviation assets remain the greatest terrorism target in the world. Is this the best way to prevent attacks against the United States from the air? Alternatively, what if one of these private corporation employees inserts malicious software into the system. Will it cause aircraft to collide in flight or on the ground? Or will it merely shut down the US airspace indefinitely? When it comes to securing the country against a multitude of threats, federal agencies and organizations have proved competent and capable.

AVIATION ECONOMY: The public thinks about the aviation sector of the economy as primarily commercial aviation, and while it is a major part, it is not the entirety. There are over 210,000 private aircraft and over 420,000 registered private pilots in the United States. They comprise a significant part of this \$448 billion segment of the US economy. In fact, general aviation alone generates \$219 billion in economic output in the United States and creates 1.1 million jobs. Our national airspace is an environment unlike that of any other country in the world. We are unique! If user fees were applied to general aviation, although not currently planned, a future possibility, the private sector would suffer greatly. Pilots would stop flying – or fly without requesting flight services, increasing risks for flight safety for all. Manufacturers of general aviation aircraft would see orders for new aircraft decline precipitously. Importantly, this sector provides the pilots of the future, those who go on to fill the cockpits in commercial passenger and cargo aircraft. Already suffering from a shortfall of pilots, the airlines would face drastic challenges were the general aviation sector to decline. Rural airports would see much less usage, and many would be forced to close, depriving businesses and private individuals of access to isolated areas throughout the country.



CONTROL OF THE NEW ATC CORPORATION: As proposed, the new corporation would be independent of the US government. While the FAA would continue to regulate air safety, the corporation would decide when and how to modernize, where and when to expand or close services, what fees are imposed and how much those fees would be. The Congress has in the past controlled agencies of the government through Title 31 appropriations, with an annual review and approval of future operations and activities. Such control would no longer exist. Recourse could only be through fines from the FAA for violating regulations or through the court system, a potentially slow and costly effort. Even the DoT IG would lack access to the new corporation.

Another consideration is that of unionization of employees in the new corporation. Assuming that would be permitted, as it is with the current NATCA, how would the government resolve a strike that shutdown the US airspace? President Reagan fired the striking controllers and replaced them. Military controllers assisted during the crisis. That would not appear to be a likely solution in the event of a future strike, whether legal or illegal.

Finally, the new corporation would be a government created monopoly. Given the composition of the proposed board of directors, control would essentially shift to the airlines and their interests, perhaps over a longer timeframe than critics suggest, but it would shift. Amtrak was created in the same light. As demonstrated over the years, maintenance and technology has been sacrificed to meet operating costs. Is this the model the United States wants for its air traffic control? Are we prepared to accept aviation accidents as a by-product of this decision?

TRUST: At the end of the day, opposition to creating a privatized air traffic control corporation arises from a lack of trust. Trust does not exist between the airlines and general aviation communities.

Trust does not exist in the Congress to not change the rules after the corporation has been created and assets shifted from government to private control.

Trust does exist in the airlines to make needed modernization improvements to an aging air traffic control system that is in the midst of modernization.

Meanwhile, as inefficient as it may sometimes seem, the FAA remains a trusted agency with a proven record of safety and equitable handling of the many segments of the US aviation community. Pilots who have operated in both the privatized Canadian airspace and the US airspace greatly prefer the US system. Simply put, it works and works well! Privatization is a solution in search of a problem.





OUR OPINION: The FAA has made progress in reducing flight time and cost. Can the FAA be more efficient – yes? And the real test will come when more features of Next-Gen become operational. If the airlines really want to increase capacity, they will need to invest in both upgraded navigation systems to exploit NextGen and more terminal space and gates. This problem will not be remedied with a new organizational structure. They claim that the system could be operated at a lower cost. The debate really comes down to “control.” Who controls this monopoly – the government through the FAA or the airlines? Would the airlines be looking out for the best interest of the public or their shareholders?

Our experience in dealing with large-scale federal government projects indicates that the complexity of separating air traffic control (ATC), air traffic controllers and the National Airspace System to a standalone, non-profit corporation will entail significant political, financial, air safety and national security risks.

You will hear many different reasons for justifying an independent ATC system, but the bottom line is the airlines want control. It is plain and simple. Is the primary interest of the airlines what is good for the public or what is good for the airline stockholders?

CONCLUSION

While the motivations for privatization—namely, budgetary certainty and improved procurement—may be simple, the massive transformation in aviation governance is anything but. Privatization could be the right policy answer, if it were not managed by the users, i.e. the airline industry, but by a separate, totally independent organization with the aviation industry serving on non-binding advisory boards. This transition could take place similar to the earlier privatization of half of FAA control towers. The changeover should be commensurate with the risk and reward. Given the complexity and uncertainty surrounding privatization and the successful track record of the FAA, the airline advocates have a high bar to clear to demonstrate that the current system is so broken that a major change in governance is warranted.





ABOUT DOUGLAS A. DECKER, P.E.

Douglas A. Decker has been a licensed pilot for over 50 years. He holds an Airline Transport Pilot rating and owns a single engine A-36 Beechcraft Bonanza airplane that is equipped with NextGen ADS-B equipment. Decker is a member of the South Carolina Aviation Association, Aircraft Owners and Pilots Association (AOPA), National Business Aviation Association (NBAA) and, Experimental Aviation Association (EAA), the EAA's Young Eagle Program and the American Bonanza Society. Decker currently serves as a pilot with Angel Flight and Mercy Flight.

In February 2016, Decker was presented with the Federal Aviation Administration Wright Brothers Master Pilot Award for exhibiting professionalism, skill and aviation expertise in piloting aircraft for 50 years.

Decker has been actively involved in airport management, promotion and development for over thirty-five years. He served in State Airport System Planning at seventy-one airports including twenty-six served by daily air service. He has testified before the United States Congress six times including the Senate Aviation Subcommittee and House Armed Services Committee and presented testimony before the South Carolina TRAC Commission and the South Carolina Senate Transportation Sub-committee.

Decker has held positions including: Commissioner on the Utah State Aeronautics Board, member of Salt Lake City International Airport Advisory Board, member of the Capital Improvements Committee, General Mitchell Milwaukee International Airport and member of the State of Wisconsin Aviation Master Plan Task Force. Decker spearheaded the successful to open the Wendover AFB, Utah to public use. As a result, the city renamed the airport "Decker Field" and awarded Decker the Utah Pilot's Award for Outstanding Service to Aviation in Utah.

Decker is a graduate of the University of Denver. He is a licensed Professional Engineer and a member of the National Society of Professional Engineers. Decker retired as Vice President of the Government Business Group at Johnson Controls Inc. where he was employed for forty-two years.

Decker was inducted into the Association of Energy Engineers Hall of Fame in 2001 and the Energy Efficiency Hall of Fame in 2009. The Energy Efficiency Forum established the Douglas Decker Lifetime Achievement Award in his honor.

He resides in Pawleys Island, SC with his wife Judy.



ABOUT COL JOHN W. MCDONALD (USA, RETIRED)

John W. McDonald is retired colonel from the US Army, who served over 23 years in the Infantry before entering the business world.

In the Army, McDonald assumed several positions at Department of the Army involved with strategic plans and policy, including work on numerous Joint Staff and National Security Council studies during the Carter and Ford Administrations. Later, he was responsible to the Chief of Staff and Secretary of the Army for oversight and decision-making on specialized operations, intelligence and research and development activities. He commanded 3rd Brigade, 101st Airborne Division during Desert Shield, the 1st Battalion 9th Infantry on the DMZ South Korea, and other units in West Germany and Vietnam.

At Science Applications International Corporation, McDonald managed multiple divisions involved in support to various operations of the Joint Staff and Army Staff over a period of nine years. During that period he was temporarily assigned to the presidentially directed Downing Task Force investigating the bombing of Khobar Towers, Saudi Arabia and drafted the final report.

In 2001, McDonald was appointed as Deputy Under Secretary of the Army in the George W. Bush Administration where he led numerous task forces to re-structure the headquarters organizations and processes of the Army. He also led the effort to adopt the Future Combat System as the path to a modernized Army.

After his stint back in government, McDonald rejoined SAIC and led strategic business planning for one of the five corporate groups, resulting in growth of more than 20% over three years to \$1.6B in annual revenues. Since retiring from SAIC, McDonald has consulted with Defense contractors on business planning and applied that expertise to local endeavors, like the strategic business plan for the Georgetown County Airport.

McDonald is a graduate of the United States Military Academy at West Point, with post-graduate degrees from the Institute of Political Studies, University of Grenoble, France, and The American University, Washington, D.C.

He lives in Pawleys Island with his wife Jane.

