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**BEFORE THE HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE**

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Chairman Shuster, Ranking Member DeFazio, and members of the Committee, I want to thank you on behalf of the nearly 80,000 employees of Delta Air Lines for the opportunity to submit testimony for your hearing today. The Committee's hearing concerns an issue of great importance: the future of our nation's air traffic control system, which serves essential public safety, economic, and national security functions. The Committee is presently considering H.R. 4441, which would outsource air traffic control services to the "ATC Corporation"—a private entity controlled by private interests.

Delta opposes privatizing U.S. air traffic control or any other attempt to remove air traffic control services from the Federal Aviation Administration (FAA). In particular, Delta opposes H.R. 4441. Among other reasons, the proposed legislation:

- (1) Empowers private interests and judges to overrule the FAA on safety policy;
- (2) Sets up a lengthy, undefined transition process that will delay NextGen for years;
- (3) Creates a private monopoly that is too essential to fail and may need a bailout;
- (4) Picks winners and losers—denying commercial general aviation, airports, business jets, UAVs, manufacturers, most unions, states, municipalities, safety experts, *and consumers* a vote over the governance of our air traffic control system;
- (5) Favors some market participants, like corporate jets, with fee carve-outs, undermining any policy justification for a user-fee system;
- (6) Strips management rights to take mission-critical actions in an emergency;
- (7) Makes ineffective and meaningless current law prohibiting employees from striking;
- (8) Puts taxpayers on the hook for pensions tied to unrestricted private sector salaries;
- (9) Transfers billions of dollars in taxpayer-purchased assets to private interests;
- (10) Empowers private interests to levy de facto taxes on consumers with no limit;
- (11) Grants private interests the power to control access to the skies;
- (12) Authorizes the denial of air traffic control services to users in good-faith fee disputes;
- (13) Fails to reckon with the ATC Corporation's massive potential tort liability, which may not even be insurable in the private market;
- (14) Does not prohibit discriminatory or anti-competitive behavior by the ATC Corporation; and
- (15) Insulates a crucial public safety function from accountability and oversight from the Government Accountability Office, Inspectors General, and, most of all, Congress.

## **The Benefits Of Privatizing Air Traffic Control Are Speculative And It Will Create Serious Risks**

Advocates describe privatization as a cure-all for what ails the FAA's management of air traffic control services. But the truth is that it carries serious risks, offers speculative benefits, and is not necessary.

### **The Transition Will Delay NextGen For Years**

The first drawback to privatization is that it will break the current momentum for implementing NextGen. For both the FAA and stakeholders, privatization would take years of attention and resources away from upgrading technology and redirect it to organizational charts, corporate bylaws, and complex transitions. It's hard to predict how long this transition period would last, but NavCanada's experience raises questions. Created in 1996 with plans for an 18 month transition, the entity's finances remained turbulent for years afterward, with user fees in flux through 2004.<sup>1</sup>

Here, H.R. 4441 *plans* for a transition period that would run *over five and a half years*. Under the bill, operational control would transfer more than three and half years from now, the FAA and ATC Corporation would be required to reach transition agreements that extend *at least* two years beyond that.

FAA Assistant Administrator for NextGen Edward Bolton has warned of a seven-year transition period that would disrupt implementation. There is good cause to fear he may be right, as the bill does not resolve many issues that are essential to the transition. H.R. 4441 does not set out a process for transferring operational control or even identify the billions in government assets that will be given to the ATC Corporation.

This lengthy, distracting transition would come at the worst possible time—we are making real progress on NextGen and have a path to continue that momentum. Even if you assume that a privatized air traffic control system would modernize more quickly than the FAA—and we reject that assumption—it is difficult to imagine that a privatized air traffic control system, once it finally gets up and running, would be so much more effective that it would make up for years wasted in the transition process.

### **Privatization Will Compromise The FAA's Safety Jurisdiction**

At present, the FAA effectively balances safety and efficiency without compromising either objective, because the Air Traffic Organization and the Office of Aviation Safety are part of the same organization. They work hand in glove to use airspace as efficiently as possible while keeping it safe. That collaboration benefits from the offices being part of the same agency, sharing management and facilities.

Privatization advocates assert that safety is not an issue because the FAA will remain the safety regulator and maintain an arms-length regulatory relationship with the ATC Corporation.

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<sup>1</sup> Rui Neiva, *Institutional Reform of Air Navigation Service Providers: A Historical and Economic Perspective* 72 (2015).

However, the ATC Corporation will be driven to reduce costs—a goal that will inevitably conflict with the FAA’s safety mandate.

H.R. 4441 compromises the FAA’s safety jurisdiction by empowering the ATC Corporation to propose changes to safety procedures for air traffic management, airspace classification, and airspace access. The government must act on these proposals within 45 days or else face a writ of mandamus from the ATC Corporation. Moreover, if the government denies or modifies an ATC Corporation proposal, the bill provides that its decision will receive no deference if challenged in court by the ATC Corporation. This unusual arrangement ignores both the FAA’s safety expertise and basic principles of administrative law. It creates a dynamic where the ATC Corporation can propose changes to safety procedures, rush the government’s evaluation, and threaten to put safety decisions in the hands of unelected, non-expert judges if the FAA disagrees.

On this issue, I share the concerns of those who have always opposed a for-profit air traffic control service out of fear that it would be incentivized to cut safety to reduce costs—a position NATCA voiced just this past week. The reality is that a non-profit entity that is funded and run by for-profit companies would have the same incentives—it would be a cost center. And I see no benefit that would justify creating a dynamic where safety is set in opposition to costs.

### **Privatization Will Outsource Public Policy To Private Interests**

Air-traffic control requires policy decisions that should be made by the people’s elected representatives, not private interests. Under H.R. 4441, the ATC Corporation would control who can access the skies and under what terms. The bill concedes this fact by requiring that fees and charges “shall [not] be determinant of access to airspace.” That’s like saying that whether you have a first-class or economy ticket is not “determinant” of whether you can get on a plane—it’s true, but it still makes quite a bit of difference.

Under H.R. 4441, the ATC Corporation would also control airspace access by deciding *where* to invest in air traffic control services. Notably, the bill contains no prohibition on the ATC Corporation’s allocating resources in a discriminatory or anti-competitive way. Nothing would prevent the ATC Corporation, for example, from delaying upgrades to hub airports that are used primarily by the competitors of airlines with influence over the Corporation. H.R. 4441 also does not require the ATC Corporation to invest in rural areas and diminishes Essential Air Service funding which rural areas rely upon.

H.R. 4441 also vests the ATC Corporation with the power to levy de facto taxes on airspace users and the traveling public—subject only to a deferential review by the Secretary of Transportation. This is an extraordinary power to delegate to an entity controlled by private interests. That is especially true when those private interests may make different decisions about the appropriate level of taxation and investment than this Congress would.

On all of these questions of public policy, I have no doubt that commercial airlines will fare well. But rural areas, general aviation, and other airspace users that generate less revenue will likely suffer—in the same way that private investment decisions have left rural Americans with inadequate broadband access. And innovators, such as high-altitude UAV operators, will

have to petition an entity that is structured to protect the interests and prerogatives of existing stakeholders.

In fact, H.R. 4441's proposed governance regime for the ATC Corporation is deeply troubling and seems to be driven more by political deals than public policy. On an eleven-person board, the airlines get four seats, noncommercial general aviation gets two, and the National Air Traffic Controllers Association (NATCA) and Air Line Pilots Association (ALPA) each receive one. All other aviation stakeholders—including airports, regional airlines, commercial general aviation, business jets, UAVs, manufacturers, other unions, states, municipalities, safety experts, and *passengers*—don't have a single vote.

H.R. 4441 would also significantly increase the influence of labor unions over air traffic control services by expanding the scope of collective bargaining to be equivalent to private-sector bargaining. At the same time, H.R. 4441 strips existing management rights to set a budget, define the organization, develop internal security practices, make personnel decisions, and *take necessary, mission-critical actions in an emergency*. And because existing federal law only prohibits individuals from “participat[ing] in a strike ... against the Government of the United States,” individual air traffic controllers would not be barred from striking against the ATC Corporation, which H.R. 4441 makes clear is “not a department, agency, or instrumentality of the United States Government.”

Public policy decisions affecting air traffic control services ought to be made by public officials acting in the public interest, subject to Congressional oversight—not by a collection of private interests. That's doubly true when, as under H.R. 4441, a few privileged private interests get to call the shots.

### **The ATC Corporation Would Not “Operate Like A Business.”**

Advocates claim that the ATC Corporation will be more efficient because it will operate as a business. But H.R. 4441 grants the ATC Corporation a nearly complete monopoly over air traffic control services. As a result, it would not benefit from the market discipline that pushes businesses to be more efficient. Under this bill, no matter how high its user fees, or how poor its service, every airspace user would have to rely on the ATC Corporation.

H.R. 4441 also sets up an ATC Corporation that would be too essential to fail. If it made mistakes, taxpayers would have to bail it out. That means that private interests could borrow billions of dollars with an implicit federal guarantee. Normal businesses don't get that subsidy—or create that level of risk for the United States. It makes no difference that the bill states that the ATC Corporation's debt will have no federal guarantee—that legislative language can't change the reality that air traffic control services are essential and Congress could not let them lapse.

A bailout would not be unprecedented: the U.K. had to rescue its privatized air traffic control service after a downturn in trans-Atlantic air travel.<sup>2</sup> Here in the U.S., the upfront cost of bailing out Fannie Mae and Freddie Mac was over \$185 billion. The reality is that the aviation

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<sup>2</sup> *Air Traffic Bailout Confirmed*, BBC News (Mar. 20, 2002), available at <http://news.bbc.co.uk/2/hi/business/1884324.stm>.

industry can be cyclical and it is not hard to imagine the ATC Corporation over-extending in good times, only to require a bailout later.

H.R. 4441 also provides for what must be one of the largest giveaways of public assets in history. Our current air traffic control infrastructure has been purchased and maintained with taxpayer funds. Despite that, the bill requires the government to give billions of dollars in assets to the ATC Corporation. This includes not only real property, but equipment and intellectual property as well. H.R. 4441 also sticks taxpayers with the liabilities related to those assets—including tort, environmental damage, and losing legal claims. Normal businesses don't get that kind of deal, and taxpayers shouldn't be on the other side of it.

H.R. 4441 also puts taxpayers on the hook for an uncapped increase in pension liability. The bill specifies that its employees will be able to stay in federal systems and provides that their private sector salaries will count towards the “High-3” annual salaries that are used to calculate their federal pension benefits. That could allow thousands of employees to significantly boost their federal pensions and leave taxpayers holding the tab.

On tort liability, the Judgment Fund has paid out nearly \$225 million for air crash claims over the last ten years, a period without a catastrophic crash.<sup>3</sup> H.R. 4441 recognizes that ATC Corporation would need liability insurance to cover such claims, but totally fails to recognize that, given the massive potential exposure, such insurance would likely require a taxpayer-subsidized government backstop. The bill also vests the Transportation Secretary with authority to set insurance requirements for the ATC Corporation—which almost guarantees that a loss in excess of those limits would lead to demands for taxpayer-funded assistance. (Advocates for privatization have also failed to account for the costs of this insurance, in addition to the expense of legal representation, background investigations, and a host of administrative services that the government will no longer provide.)

Instead of a real business pushed by competition to improve its performance, we would be creating a monopoly that is controlled by private interests but would not bear the full costs of financial mismanagement or operational negligence. Delta has no confidence that such an entity will perform more effectively than the FAA—especially with the absence of Congressional oversight.

### **Privatization Will Increase Consumer Costs**

H.R. 4441 would also likely make it more expensive to fly. At present, the FAA's costs compare favorably to its peers, especially accounting for the more challenging and complex airspace that it must manage. The FAA cost per flight hour, at \$450, is below the international average of \$498 reported by the Civil Air Navigation Services Organisation.<sup>4</sup> It is also lower than key members of the EU, including Germany (\$650 per flight hour), the U.K. (\$774 per flight hour), and Spain (\$801 per flight hour).<sup>5</sup> The FAA's costs have remained relatively stable; from 2009 to 2014, they have increased an average of 2% per year, compared to the 3% cost

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<sup>3</sup> Report generated from Treasury Department Judgment Fund Database, available at <https://jfund.fms.treas.gov/jfradSearchWeb/JFPymtSearchAction.do>.

<sup>4</sup> CANSO, *Global ANSP Performance Report 2015: The ANSP View*, at 10 fig. 2.

<sup>5</sup> *Id.*

growth rate for NavCanada. As another comparison, a study conducted for FABEC (the airspace block covering Belgium, France, Germany Luxembourg, the Netherlands, and Switzerland), found that the FAA's costs were lower than its European counterparts, with cheaper costs per flight (540€ compared to 843€) and only slightly more expensive costs per passenger (10.78€ compared to 10.13€).<sup>6</sup>

The FAA also compares favorably in terms of the taxes and fees charged to users. While the variation in tax and fee rules makes overall comparisons difficult, an analysis conducted by Delta of an illustrative 1000km A320 flight in 2012 found air-traffic control fees of \$1,174 per flight in the United States, compared to \$853 in Canada and \$1,674 in the United Kingdom. However, when total aviation taxes and fees are considered, the all-in costs in the U.S. are significantly less. With government taxes, security fees, and passenger facility charges, Canadian and UK costs balloon to \$6,654 and \$9,095 per flight, respectively, compared to \$2,590 for U.S. costs.

### **NavCanada Is Not A Model For The U.S., Which Has The Largest And Most Complex Airspace In The World**

To counter all of these downsides and risks, the principal argument offered by privatization advocates is that privatization has worked in other countries, principally Canada. As discussed above, there is plenty of reason to question that premise based on comparisons of costs, alone. But more fundamentally, that argument ignores the unique character of United States airspace.

The truth is that the United States has the largest and most complex airspace in the world. It spans about 30 million square miles and over 13,000 airports. At any moment, around 7,000 aircraft are in flight, monitored by a network of over 300 air traffic control facilities. To put that in a global context, the CIA reports the United States has more airports than the next 10 countries combined.<sup>7</sup>

As a result, U.S. air traffic controllers must manage the most challenging regions in the world. That includes highly congested areas like the airspace around New York and Philadelphia, which has four major airports and sees one-third of the nation's air traffic pass through each day. It also includes remote tracts, like the over 2 million square miles managed by the Anchorage Air Route Traffic Control Center, a vast terrain that has hundreds of registered and unregistered landing locations and frequent extreme weather conditions.

Our airspace is also unique in its diversity. In addition to commercial airlines, the United States has the most vibrant general aviation sector in the world. Of approximately 362,000 general aviation aircraft worldwide, over 199,000 are based in the United States. And though some are deployed abroad, the U.S. military has far more aircraft than other nations. Moreover,

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<sup>6</sup> FABEC, *Statements and Facts Concerning the Alleged Low Performance of European ATM* at 27 (Dec. 2, 2013).

<sup>7</sup> FAA, *Air Traffic 101*, [https://www.faa.gov/air\\_traffic/briefing/](https://www.faa.gov/air_traffic/briefing/) (last modified Sept. 18, 2014); FAA, Air Traffic Organization, [http://www.faa.gov/about/office\\_org/headquarters\\_offices/ato/](http://www.faa.gov/about/office_org/headquarters_offices/ato/) (last modified Jan. 14, 2014).

U.S. air traffic controllers—and whoever oversees them—will need to reckon with large unmanned aerial vehicles (UAVs) and other innovations will impact our airspace.

As a result, we have an airspace that is different in kind from our international peers, and materially more challenging to control. For example, compared to Canada, the United States has over eleven times as many airports, over five times as many general aviation craft, and over thirty-two times as many military aircraft. U.S. civilian air traffic controllers track over seven times as many flight hours as their Canadian counterparts. And as anyone who has been stuck in Washington gridlock can tell you, more traffic means more problems—not economies of scale.

Making decisions for U.S. airspace based on what works in Canada makes as much sense as New York City (8,490,000 people) modeling its municipal services on what’s working well for Winnipeg (660,000 people).

<b>COMPARING U.S. AND CANADIAN AIRSPACE</b>		
	<b>United States</b>	<b>Canada</b>
Airports	13,513 <sup>8</sup>	1,493 <sup>9</sup>
General Aviation Craft	199,927 <sup>10</sup>	36,375 <sup>11</sup>
Military Aircraft	13,717 <sup>12</sup>	426 <sup>13</sup>
Total IFR Flight Hours by Civilian Controllers	24,688,849 <sup>14</sup>	3,370,104 <sup>15</sup>

Additionally, on this issue, based on what I've heard being said on the Hill to Members of Congress, I am compelled to correct the record. Delta does not have any geographic or network advantage over our competitors—to the contrary, we operate the most flights out of the busiest airport in the world in Atlanta, the most flights out of the most complex air space in the world in New York, have more connecting traffic than any of our competitors, and maintain a more diverse fleet mix than any of our competitors. All of these factors should make it more difficult, not easier, to perform well and deliver the results our customers deserve. And it is a testament to the men and women at Delta that they break operational records every year, despite the advantages our competitors enjoy.

<sup>8</sup> Central Intelligence Agency, *The World Factbook 2014*, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2053rank.html> (reflecting 2013 data).

<sup>9</sup> *Id.*

<sup>10</sup> General Aviation Manufacturers Ass’n, *2014 General Aviation Statistical Databook & 2015 Industry Outlook* at 34 tbl. 2.14 (2015), available at [http://www.gama.aero/files/GAMA\\_2014\\_Databook\\_LRes%20-%20LowRes.pdf](http://www.gama.aero/files/GAMA_2014_Databook_LRes%20-%20LowRes.pdf). Data reflects active aircraft; there are another 66,062 inactive aircraft in the United States. *Id.*

<sup>11</sup> *Id.* at 23 tbl. 2.1.

<sup>12</sup> Flightglobal, *World Air Forces 2016*, at 5 (2015).

<sup>13</sup> *Id.* at 37-40.

<sup>14</sup> Civil Air Navigation Services Organisation (CANSO), *Global ANSP Performance Report 2015: The ANSP View*, at 6 fig. 1 (2015), available at <https://www.canso.org/global-ans-performance-report-2015-ansp-view>.

<sup>15</sup> *Id.*

## The U.S. Air Traffic Control System Is Safe And Effective—Not Broken

Privatization advocates also frequently paint a bleak picture of the present and future of American air traffic control. These dire predictions are reminiscent of the apocalyptic predictions of the Mineta Commission from nearly twenty years ago. And they are just as wrong: the truth is that the U.S. air traffic control system works, and it has constantly adjusted successfully to meet the ever-changing landscape of aviation in the United States.

The first and most important mission of the FAA is safety—and its record is unparalleled. On an average day, the FAA safely handles nearly 70,000 flights carrying roughly two million people. Every American that gets on a plane has complete faith in our air-traffic control system.<sup>16</sup> Safety is ingrained in the culture of the FAA, and it continually works to handle new challenges and improve the already-high level of safety in the industry. The FAA is also critical in spreading that culture of safety around the world, including by promoting systematic approaches to ensuring safety and mitigating risk.

The FAA also moves traffic effectively, besting many of its peers—privatized or otherwise—on key performance metrics:

- **High Throughput**—The FAA consistently helps airports in the United States operate at 97% of their capacity or demand, as measured by the System Airport Efficiency Rate, a metric developed by the FAA to measure system performance. Since the FAA began tracking this metric in 2000, performance has consistently been above 95%. This compares favorably to the only airspace that approaches ours in complexity, the European Union.<sup>17</sup> Three- and four-runway airports in the United States can handle about a third more flights per hour than those in Europe.

COMPARATIVE THROUGHPUT		
	European Union	United States
4-runway airports	61 flights per hour	80 flights per hour
3-runway airports	44 flights per hour	60 flights per hour
2-runway airports	39 flights per hour	48 flights per hour
1-runway airports	29 flights per hour	29 flights per hour

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<sup>16</sup> FAA, National Airspace System (NAS) Overview (Aug. 25, 2015), [https://www.faa.gov/air\\_traffic/technology/cinp/fti2/documents/media/nas\\_overview.pdf](https://www.faa.gov/air_traffic/technology/cinp/fti2/documents/media/nas_overview.pdf).

<sup>17</sup> The FAA measures throughput using its System Airport Efficiency Rate metric (SAER), which measures how well airports are able to meet demand, given their capacity. *See* FAA, Aviation System Performance Metrics—SAER, <http://aspmhelp.faa.gov/index.php/SAER> (last modified July 15, 2015).



- **Limited Delays**—Delays attributed to air traffic control are lower in the U.S. than the EU.<sup>18</sup> Fewer than 10% of U.S. flights are affected by air traffic control-related delays (which includes delays related to non-extreme weather, high volume, equipment problems, and closed runways), and those rates have improved by over 25% in the last five years.<sup>19</sup>
- **Strong Productivity**—FAA controllers are also among the most productive controllers in the world, as measured by the number of flight hours per hour worked. In 2014, a report conducted by the Civil Air Navigation Services Organisation comparing 28 different national providers found that FAA employees handled 50% more flight hours per hour worked than the international average, surpassed only by services that manage radically less challenging airspaces.<sup>20</sup>

Indeed, on all of these metrics, the FAA’s performance is particularly impressive given the unique challenges posed by U.S. airspace.

### **The FAA Is Moving Forward Effectively On NextGen**

Finally, privatization advocates often point to the pace of upgrading our air traffic control infrastructure—but they usually skip over the past few years. Why? Because the undeniable truth is that the FAA’s implementation of NextGen has made tremendous progress in recent years, acquiring critical momentum.

Some of this progress can be traced to 2010, when the FAA established the NextGen Advisory Committee, a 31-member body of aviation stakeholders from the government and industry, to work towards developing a common understanding of NextGen priorities and to resolve implementation issues. This approach—involving the full range of stakeholders in the process of implementing NextGen and shaping the FAA’s plans—has been a success.

In October 2014, the FAA and private stakeholders agreed on a plan to advance four major NextGen priorities over the next three years: Improved Multiple Runway Operations, DataComm, Performance Based Navigation, and Surface and Data Sharing. The then-chairman of the NextGen Advisory Committee and former Chief Executive Officer of Alaska Air Group, Bill Ayer, celebrated this agreement, stating, “This unprecedented collaboration has created much momentum. We are indeed at a tipping point where we will gain more followers once the

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<sup>18</sup> In 2013, the U.S. and Europe had respectively 3.2% and 3.1% of departures delayed due to air-traffic control. *Id.* at 66 tbl. 5-1. However, U.S. delays were largely driven by weather (*e.g.*, thunderstorms), while European delays were the result of capacity and staffing constraints. *Id.* at 66. When weather-related delays are excluded, U.S. air-traffic control-related delays are substantially lower. *Id.* at 67 figs 5.4, 5.5.

<sup>19</sup> Bureau of Transportation Statistics, *Airline On-Time Statistics and Delay Causes*, [http://www.transtats.bts.gov/OT\\_Delay/OT\\_DelayCause1.asp](http://www.transtats.bts.gov/OT_Delay/OT_DelayCause1.asp) (last accessed February 1, 2016). In 2015 (through November), 5.42% of flights were delayed by the National Aviation System. *Id.* In 2003-2008 and 2009-2014, National Aviation System delays averaged 7.78% and 5.99% of flights. *Id.*

<sup>20</sup> CANSO, *Global ANSP Performance Report 2015: The ANSP View*, at 13 fig. 5.

benefits and positive attributes of NextGen are fully delivered and widely understood and help us overcome the barriers to success.”<sup>21</sup>

Even more importantly, the FAA has proven its ability to implement these initiatives. In June of 2015, the NextGen Advisory Committee reported that it was “impressive” that the FAA had met 19 commitments in the deployment of these priority initiatives.<sup>22</sup> This success has built credibility with the industry, encouraging operators to invest in the new avionics necessary to realize the full benefits of NextGen initiatives. Already, these improvements are starting to have concrete benefits, including reducing fuel burn, flight distance, delays, and taxi times. We know that because the FAA is tracking these metrics and making the results public.<sup>23</sup>

I can give you a few examples. At Hartsfield-Jackson Airport in Atlanta, a NextGen enhanced lateral spacing operation has allowed air-traffic controllers to halve the time to clear aircraft to take off from the same runway, getting 8 to 12 additional aircraft off the ground every hour.<sup>24</sup> Atlanta passengers are also seeing a significant reduction in delays, leading to lower emissions and over \$20 million in annual fuel savings. In Denver, implementation of NextGen capabilities has created shorter and more direct flight paths, resulting in fuel savings and reductions in delays.<sup>25</sup> In New York City, implementation of NextGen capabilities has led to a reduction in the number of flights having to return to the gate during bad weather by 65%, and taxi times between gate pushback and takeoff have dropped by almost 10 minutes.

What caused this momentum? Three key factors have come into alignment. *First*, the FAA has engaged private stakeholders to an unprecedented degree, working with all of us to set priorities, establish implementation benchmarks, and define performance metrics. *Second*, the FAA has focused its attention on near-term incremental changes that will deliver real results, while advancing a long-term plan. *Third*, the FAA has executed on these concrete, focused priorities, building private-sector confidence.

To be sure, there remain challenges in implementation. But much of the difficulty lies not in the FAA’s organizational structure, but the complexity of the issues. A major modernization project such as NextGen involves many competing priorities: the industry has encouraged incremental progress focused on high-priority programs with clear benefits, while the FAA, as a government agency, must take a long-term perspective towards implementing a durable national infrastructure. Privatization will not make the complexity or the competing priorities go away. Instead of an organizational silver bullet, the solution must be collaboration

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<sup>21</sup> Letter from Bill Ayer to Michael Whitaker, FAA Deputy Administrator, October 14, 2014, <http://www.rtca.org/Files/Miscellaneous%20Files/DepAdmin%20Whitaker%20ltr%20Oct2014%20NAC%20fnl.pdf>

<sup>22</sup> Letter from Richard Anderson to Michael Whitaker, FAA Deputy Administrator, June 23, 2015, <http://www.rtca.org/Files/Miscellaneous%20Files/letter-NAC%20Chair%20to%20FAA%20Deputy%20Admin.pdf>.

<sup>23</sup> FAA, *NextGen Performance Snapshots*, <http://www.faa.gov/nextgen/snapshots/> (last modified January 27, 2016).

<sup>24</sup> National Air Traffic Controllers Association, *NextGen Now*, Vol. 1, Issue 4 (Summer 2015), available at <http://natca.uberflip.com/i/536025-nextgen-now-volume-1-issue-4>.

<sup>25</sup> FAA, *NextGen Performance Snapshots: Denver International Airport*, <http://www.faa.gov/nextgen/snapshots/airport/?locationId=26> (last modified January 27, 2016).

over how best to shape the future of U.S. aviation—exactly the sort of collaboration that is already underway and is delivering concrete results, under the watch of Congressional oversight.

### **The FAA Air Traffic Organization Needs Smart, Targeted Reforms**

I want to be clear that Delta is not reflexively opposed to bold, challenging reforms. After all, there are few things more complex and more challenging than merging two major airlines. Before Delta merged with Northwest, the conventional wisdom was that such mergers were just too unwieldy to manage. And our merger was extremely challenging, requiring a multi-year integration period. The truth is that any major transition like this will take longer, cost more, and be more disruptive than you plan for.

In our case, we pursued the merger after carefully accounting for the costs because we had a clear understanding of the concrete financial and operational benefits that would result. Here, I have yet to see an accounting of the costs of privatization or a convincing, concrete case for the benefits. There is simply no compelling reason to change such a critical system that works so very well. Indeed, this bill feels like an experiment. Our nation's air traffic control system is too important—to public safety, economic growth, and national security—and working too well for such an experiment to be prudent.

That said, I do think that this Committee can have a revolutionary, lasting impact on aviation in this country by making targeted, smart reforms that offer concrete advantages and enjoy broad support. Four stand out:

*First*, Congress should grant the FAA greater funding certainty, which was the original intent of establishing the Airport and Airways Trust Fund (AATF). It can find ways to protect FAA funding from unrelated controversies, harness all the revenue available to it from the AATF rather than diverting those aviation dollars to other priorities, and ensure that this essential public service remains subject to important accountability mechanisms like Congressional oversight, the GAO, and an IG.

*Second*, Congress should grant the FAA the authority to borrow funds, either from the Treasury, the Federal Financing Bank, or private markets. It should also consider exempting capital investment by the FAA from traditional budget accounting rules if it will facilitate prudent investments.

*Third*, Congress should consider building on successful recent collaboration between the FAA and aviation stakeholders toward implementing a fully modernized air traffic control system by enhancing the role of the NextGen Advisory Committee and requiring the FAA to solicit its input and feedback for all major ATC-NextGen related program decisions at all stages of development.

*Fourth*, Congress should consider establishing a properly-resourced and empowered Project Management Organization at the FAA, which would span all lines of FAA business and equip the agency to sequence and implement all the necessary technological, procedural, systems, and managerial changes necessary to transition to a fully modernized ATC system.

Thank you for your consideration of my views, and I regret that I could not be present today.