

Richard H. Anderson
Chief Executive Officer

February 2, 2016

The Honorable Bill Shuster
Chairman
The Honorable Peter A. DeFazio
Ranking Member
Committee on Transportation & Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Shuster and Ranking Member DeFazio:

On behalf of the nearly 80,000 employees of Delta Air Lines, I write to you regarding the future of our nation's air traffic control system, which serves essential public safety, economic, and national security functions. We understand a legislative proposal to outsource these public functions to a Congressionally-sanctioned monopoly controlled by private interests will soon be unveiled. I want to be clear about where Delta stands on this issue. We oppose privatizing U.S. air traffic control or any other attempt to remove air traffic control from the Federal Aviation Administration (FAA). It is unnecessary and unwise. American air traffic control works because it works for the American people—and we should keep it that way.

The Most Challenging Airspace In The World

In discussing this issue, we must start from the fact that the United States has the largest and most complex airspace in the world. The U.S. has over 13,000 airports—more than the next 10 countries combined.¹ At any moment, around 7,000 aircraft are in flight.² As a result, U.S. air traffic controllers must manage both highly congested areas and remote tracts with hundreds of landing locations and extreme weather conditions. U.S. airspace is also unique in its diversity. It has plentiful commercial flights, the most robust general and military aviation in the world, and leads in developing large unmanned aerial vehicles and other disruptive innovations.

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.

COMPARING U.S. AND CANADIAN AIRSPACE		
	United States	Canada
Airports	13,513 ³	1,493 ⁴
General Aviation Craft	199,927 ⁵	36,375 ⁶
Military Aircraft	13,717 ⁷	426 ⁸
Total IFR Flight Hours by Civilian Controllers	24,688,849 ⁹	3,370,104 ¹⁰

A Safe, Effective Air Traffic Control System

We must also recognize that the U.S. air traffic control system works. 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.¹¹ 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 also moves traffic effectively, besting many of its peers on key performance metrics. For example, U.S. airports operate at 97% of their capacity or demand, which compares favorably to the only airspace that approaches ours in complexity, the European Union.¹² Three- and four-runway airports in the United States can handle about a third more flights per hour than those in Europe.¹³ Delays attributed to air traffic control are lower in the U.S. than the EU.¹⁴ Less 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.¹⁵ These numbers are particularly impressive given the unique U.S. airspace.

Moving Forward on NextGen

Privatization advocates frequently complain about the pace of implementing NextGen. But we should recognize two important facts. First, despite dire predictions of failure, the FAA has evolved its existing technology platforms to meet emerging needs. Second, the FAA is making real progress on implementing NextGen.

For example, since October 2014, when the FAA and the aviation industry agreed on a plan to advance four major NextGen priorities over the next three years, the FAA has met 19 deployment commitments.¹⁶ This success has built credibility with industry and is already reducing fuel usage, flight distance, delays, and taxi times. We know that because the FAA is tracking these metrics and making the results public.¹⁷

What caused this emerging turnaround? 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.

In short, the public-private collaboration we need to upgrade FAA systems—subject to congressional oversight—is already underway and delivering concrete results.

Serious Risks And Speculative Benefits

Advocates describe privatization as a cure-all for what ails the FAA. But the truth is that it carries serious risks, offers speculative benefits, and is not necessary.

- **The transition will threaten current progress.** 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 is concerning. 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 2004.¹⁸ Here, FAA Assistant Administrator for NextGen Edward Bolton has warned of a seven-year transition period that would disrupt implementation.

This transition would come at the worst possible time—we are making real progress on NextGen and have a path to continue that momentum. It's time to drive NextGen, not take a multi-year pit stop.

- **Privatization may increase consumer costs.** At present, the FAA runs more efficiently than most of its peers, even without accounting for the challenging airspace it manages. Its air-traffic control cost per flight hour, \$450, is below the international average of \$498.¹⁹ The disparity is even greater when all aviation taxes and fees are considered. For example, Delta analyzed the air-traffic-control costs, government taxes, security fees, and passenger facility charges associated with an illustrative 1000km A320 flight. It found that overall costs in 2012 were much lower for the United States (\$2,590) than for Canada (\$6,654) and the United Kingdom (\$9,095), both of which have privatized air-traffic control. Moreover, after privatization, these costs increased by over 50% in Canada and by 140% in the U.K. The traveling public will not tolerate that kind of increase here.

- **Privatization will complicate the FAA's focus on safety.** At present, the FAA effectively balances safety and efficiency because it has responsibility for both functions. Privatization advocates claim that safety is assured because the FAA will have an arms-length regulatory relationship with the privatized entity. However, divorcing the organizations will make day-to-day coordination more difficult. Moreover, the separation will change each entity's culture and mission. The privatized entity will be driven to increase revenue and reduce costs—goals that will at times be at odds with the remaining FAA's safety mandate.

- **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. For example, a privatized entity would control who can access the skies and under what terms—both in setting procedures and allocating resources. 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. In addition, the privatized entity will levy de facto taxes on airspace users and the traveling public. It will also set flight paths that impact living conditions in communities near airports. These are extraordinary powers to delegate to an entity controlled by private interests, and may well be unconstitutional. It begs the question who will look out for the public interest after privatization?

- **The private entity would not “operate like a business.”** Advocates claim that a private entity will be more efficient because it will operate as a business. But the proposed entity is not a real business—it would be a Congressionally-sanctioned monopoly controlled by private interests but subsidized by taxpayers. As a result, the entity would not benefit from the market discipline that pushes businesses to be more efficient. No matter how high its user fees, or how poor its service, every airspace user would have to rely on it.

This new entity would also be too essential to fail. If it makes mistakes, taxpayers will have to bail it out. That means that private interests could borrow billions of dollars with an implicit federal guarantee. 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.²⁰ Here in the U.S., the upfront cost of bailing out Fannie Mae and Freddie Mac was over \$185 billion.

Taxpayers will also likely subsidize the pension and tort liability of the private entity. Rumors suggest that the private entity will keep its employees in the federal pension system—allowing it to benefit from the recently-increased contributions made by all federal workers. 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.²¹ The private entity would need liability insurance to cover such claims, but given the massive potential exposure, such insurance would likely require a taxpayer-subsidized government backstop.

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.

- **Funding concerns do not justify privatization.** Privatization advocates often cite funding challenges as a reason for reform. But the trust fund is more than sufficient to fund the FAA’s operations.²² And even if one had a concern with funding, there are potential solutions that retain congressional oversight and control over this important public function. In fact, privatization was just one of several options recently evaluated by GAO—one that it cautioned could reduce Congressional oversight and control over air traffic control.²³

In conclusion, we 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, it 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.

Sincerely,



cc: Members of the United States Congress

¹ Central Intelligence Agency, *The World Factbook 2014*, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2053rank.html> (reflecting 2013 data).

² FAA, *Air Traffic 101*, 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/ (last modified Jan. 14, 2014).

³ Central Intelligence Agency, *The World Factbook 2014*, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2053rank.html> (reflecting 2013 data).

⁴ *Id.*

⁵ 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. Data reflects active aircraft; there are another 66,062 inactive aircraft in the United States. *Id.*

⁶ *Id.* at 23 tbl. 2.1.

⁷ Flightglobal, *World Air Forces 2016*, at 5 (2015).

⁸ *Id.* at 37-40.

⁹ 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>.

¹⁰ *Id.*

¹¹ FAA, National Airspace System (NAS) Overview (Aug. 25, 2015), https://www.faa.gov/air_traffic/technology/cinp/fti2/documents/media/nas_overview.pdf.

¹² 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).

¹³ FAA and EUROCONTROL, *Comparison of Air Traffic Management-Related 2013 Operational Performance: U.S./Europe, 2013*, at 39 fig. 3.12 (June 2014), available at https://www.faa.gov/air_traffic/publications/media/us_eu_comparison_2013.pdf.

¹⁴ 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.

¹⁵ Bureau of Transportation Statistics, *Airline On-Time Statistics and Delay Causes*, 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.*

¹⁶ 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>.

¹⁷ FAA, NextGen Performance Snapshots, <http://www.faa.gov/nextgen/snapshots/> (last modified January 27, 2016).

¹⁸ Rui Nelva, *Institutional Reform of Air Navigation Service Providers: A Historical and Economic Perspective* 72 (2015).

¹⁹ CANSO, *Global ANSP Performance Report 2015: The ANSP View*, at 10 fig. 2.

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

²¹ Report generated from Treasury Department Judgment Fund Database, available at <https://jfund.fms.treas.gov/jfradSearchWeb/JFPymtSearchAction.do>.

²² Federal Aviation Administration, *How the Trust Fund is Spent*, https://www.faa.gov/about/budget/aatf/how_trustfund_spent/ (last modified June 19, 2015).

²³ Government Accountability Office, "Aviation Finance: Observations on the Effects of Budget Uncertainty on FAA at 28 (Nov. 19, 2015), available at <http://www.gao.gov/assets/680/673798.pdf>.