

# A Few Clarifications About Air Traffic Control Reform

BY Rui Neiva

Policy Analyst

Eno Center for Transportation



Change can be frightening. Big changes, like restructuring U.S. air traffic control (ATC) governance, even more so. On April 5<sup>th</sup>, Kevin DeGood, Director of Infrastructure Policy at the Center for American Progress, a progressive think-tank, published an article titled “[4 Essential Questions About Air Traffic Control Privatization](#).” The article systematically went through potential fears some Americans may have if Congress were to take U.S. ATC governance out of direct Congressional control. While change can be frightening, it is probably not as scary as DeGood has suggested.



Over the past two years Eno has convened the [Eno NextGen Working Group](#), which brought together academics, former government officials, unions, and industry leaders representing airlines, airports, manufacturers, private operators, pilots, controllers, and the business community to the table to discuss how to best accelerate modernization of U.S. ATC. Early working group discussions and research revealed that there was broad consensus and objective evidence supporting the idea that this was not strictly a technology issue, and that in order to accelerate system modernization, U.S. ATC governance and funding streams need restructuring. The working group has now released a final, consensus-based [report](#), based on extensive research on the history of air traffic control in the U.S. and of air traffic control providers around the world, that suggests that moving towards a government corporation or non-profit independent corporation would improve funding stability, accelerate modernization, and allow stakeholders an opportunity to influence the governance of the system.

DeGood posed several questions about air traffic control reform that indicate a lack of familiarity with the subject matter. The first problem is evident in the title of his article, where he refers to “privatization” of air traffic control. He then refers to “privatization” throughout the article. He recognizes the fact that no one has put forward a serious

proposal for creating a for-profit entity to operate air traffic control in the U.S., but nevertheless insists on referring to the proposed reforms as “privatization”. The more accurate term is “corporatization” since most interested parties are recommending either a government corporation or a not-for-profit model. Neither of these are fairly considered as privatization, and using that term simply serves to stoke fear about a for-profit entity being in charge of the safety of millions of travelers.

DeGood’s first question asked why stakeholders and Congress were exploring a new governance model for U.S. if the current model is effective. He then proceeded to do a very good job of answering that question. As he pointed out, the interest in restructuring U.S. ATC has grown in part out of a desire to stabilize the ATC’s budget. In recent years, ATC financial stability has been undermined by Congressional gridlock and budget struggles, including the 2013 government shutdown and budget sequester. One thing DeGood didn’t mention is that, like other federal agencies, the FAA is also subject to federal procurement rules that create additional challenges when it comes to managing large-scale projects such as NextGen. The inability of federal agencies to issue bonds or any other form of long-term financing further exacerbates these challenges. Having to rely on an annual budget appropriation to deploy a multi-year multi-billion project like NextGen is incredibly challenging. Also, while DeGood correctly notes that debates about governance reform in the U.S. have been mostly academic (the exception being an attempt in the first Clinton Administration to create a federal government corporation that even had legislation introduced in the House), that has not been the case in the rest of the world, with over 60 countries going through governance and funding reform since 1987 when the first country, New Zealand, decided to reform their system. The experience in these dozens of nations is not academic and is worth exploring in order to better understand the U.S. situation. .

The article then asked: if we were to restructure U.S. ATC governance, who would pay for the system’s operation? DeGood accurately notes that currently the FAA is paid for through a combination of general funds and through the Airport and Airway Trust Fund, which is a dedicated fund of aviation taxes. He suggests that “proponents of privatization would like to redirect the flow of trust fund revenues” to pay for operating the new ATC. This is not entirely accurate. Proponents of restructuring have typically suggested that current aviation taxes that pay for ATC would be repealed and replaced with a set of user fees that would directly charge users of the system. There is the issue of how to pay for the remaining FAA functions besides ATC, namely certification, safety regulation, and grants to airports. But that is an entirely different issue – few would argue that we should have an inadequate and unstable funding system for ATC just because we are not able to create a good funding system for other FAA functions.

Among developed nations, the U.S. is the only one that does not charge the users of ATC services directly. For several years, ICAO, the UN agency for international aviation, has advised its member states that charging users fees is the appropriate way to fund ATC. The U.S. model has perverse effects on the system, as there is no connection between the services provided and the costs incurred. A stronger connection between service and cost is essential for efficiency improvements. DeGood ignores this point and claims that because the FAA runs a very safe system, efficiency might not be able to be improved. But safety and efficiency are not the same thing. Experiences in other countries also shed light on this, as there have been significant increases in efficiency, while safety has also improved, since the restructuring of other ATC systems. For example in Canada, user fees increased five percent from 1999 to 2014, 33 percentage points lower than inflation. In the same period, the operations account at the FAA (which pays for air traffic controller’s salaries, a major expense in ATC provision) increased from \$5.9 billion in 1999 to \$9.7 billion in 2014 (both are nominal dollars, not adjusted for inflation).

The claim that the new provider would impose “taxes” (sic) high enough to cover the cost of NextGen indicates a misconception about how a new non-governmental provider would operate. Being a non-governmental authority, this new provider would be unable to impose “taxes” of any kind. The new provider, with substantial stakeholder involvement, will charge user fees and would be motivated to invest the necessary money to run the most efficient system possible. The provider would be incentivized to make those investment decisions based on a cost-benefit analysis, just like any other technological service business (which ATC ultimately is) out there. Also, NextGen is a tool, not a goal in itself. If the new provider decides that parts of NextGen are not worth pursuing because of limited benefits or that other projects that the FAA has not even considered should be pursued, the travelling public should

welcome those decisions. An independent ATC provider would almost certainly be able to make better decisions than FAA about what modernization efforts are best for the system, since they would not be relying on Congress to back those decisions financially.

The third question is related to NextGen implementation, and how its deployment would be affected. In answering this question, DeGood argues that “splitting off NextGen from the bulk of facilities and equipment planning and procurement—as some proponents of privatization would like to see—increases the possibility that the two will become out of step”. As far as we know, no one has ever proposed any split of facilities between FAA and the new ATC provider. For reform to work, on day one the new ATC provider would take over all FAA facilities that are in anyway related to ATC provision. There would be no need for any integration, because the FAA relationship with ATC would simply be as the arms’ length safety regulator.

DeGood’s argument about the potential for disruption in economic downturns is on more solid ground. Indeed, like any other enterprise in bad times, the new ATC provider might have to delay investments. But how is that different from what is happening today? A recent National Research Council [report](#) said that the FAA should reset expectations, because the original transformative vision for NextGen will never come to fruition. The FAA capital budget (the Facilities & Equipment account) was just cut to its [lowest level in 15 years](#). Regardless of who holds power in Congress in the next few years, it is really realistic to assume that, in the face of ever increasing Social Security and Medicare expenditures, the discretionary items of the budget like NextGen would see increased or even stable funding?

The final argument in this “question” is about the potential pressures during downturns for the ATC provider to decrease “taxes” (sic). There are three different things at play here. First, airlines should not dominate the governing board and no one is proposing such an arrangement. In Canada the airlines nominate four out of 15 people on the board. Unless they present a very compelling case to the other stakeholders, it is unlikely they would agree with such a decrease in user fees. Second, although airlines might nominate people to the governing board, no one is suggesting that they nominate their own employees to the board. Unless the system is very poorly structured, what will happen is that a trade organization representing the airlines (Airlines for America being the most likely candidate) will be able to nominate a few people to the board. But those people will not be airline employees and, more than that, they will have a fiduciary duty to work in the best interest of the ATC provider, not the stakeholder who nominates them. Ultimately, they would be liable for any decisions that harm the organization. Finally, what has happened in other countries during downturns is exactly the opposite of DeGood’s argument: since ATC providers have to maintain full cost-recovery every year (and Congress can and should mandate that when chartering the corporation), during downturns many systems have been obligated to increase their fees – which in turn further exacerbates the problem, as higher costs for the airlines lead to less traffic. To avoid this death spiral, NAV CANADA has created a rainy-day fund, which is used whenever traffic comes below expectations (it has been depleted once, after 9/11, but was able to sustain NAV CANADA during the 2008 Great Recession, allowing it to avoid raising fees). Legislation recently introduced in Europe also gives their ATC providers flexibility to create such mechanisms.

The final question relates to aviation policy, with a focus on how privatization would affect safety regulation. It is true that Congress and the FAA have played a strong role in creating the very safe system that we have today. However, there is zero evidence that taking ATC provision out of the government would change that. The FAA would still be the authority on air traffic control shift length, just as it is today. They impose, for example, the maximum number of hours flown and minimum resting periods for pilots and flights attendants, despite the fact that they do not run the airlines. Similarly they would still regulate ATC even if they do not operate it. DeGood also mentions the case of the regulation of the freight railroads by the Federal Railroad Administration (FRA). While it is fair to say that freight railroads have sometimes had contentious relations with the FRA, what is the evidence that those discussions are not useful in creating a safe and more efficient system? Is DeGood actually suggesting we would be better off if the federal government ran the freight railroads?

Finally, on this topic of safety regulation, it is worth reiterating that the U.S. is an outlier among developed nations. Every other peer nation has separated ATC provision from its safety regulation. And they have done it because

having the two functions housed in the same governmental department presents a conflict of interest, with potential impacts on safety. In fact, since the early 2000s, ICAO has recommended a clear separation of authority and responsibility between the regulatory functions and service provision functions; in the European Union, that separation is now law and mandatory. At the request of the FAA, the MITRE Corporation studied the matter of how civil aviation authorities (CAA) like the FAA have dealt with having ATC provision spun off into a new entity. The report concluded that “the separation of the [ATC provider] from the CAA was reasonably successful” and that “MITRE did not discover any views that the system prior to separation was preferred”. An increased focus on safety, from both the CAA and the ATC provider, was found to be one benefit that the separation provided. Although most of the conversations have focused on funding and governance reform, removing ATC provision from the FAA would have the additional benefit of separating those two functions.

While we might reasonably fear poorly thought out reform projects, this one is quite the opposite as it has been percolating for decades and has extensive precedent around the world. There is no reason why the Congress, the Administration, and the aviation stakeholders, cannot come together and create a system that is safe, is attentive to user needs, has reliable and stable funding streams, is cost effective, and is able to deploy modernization efficiently. Many other nations have done it, so the only remaining question is: why can't we?

***The views and opinions expressed in this article are those of the author and do not necessarily reflect the official policy or position of The Eno Center for Transportation.***

- A Closer Look at the Safest U.S. City to Drive In <http://t.co/cmGXR0x2HQ>2015/06/26

Follow us on Twitter!

- [Who is Eno?](#)
- [About Eno](#)
- [Newsroom](#)
- [Leadership Courses](#)

## Eno Center for Transportation

The Eno Center for Transportation is a neutral, non-partisan think-tank that promotes policy innovation and provides professional development opportunities across the career span of transportation professionals.

[Browse Our F.A.Q.](#) »

- [Staff](#)
- [Employment](#)
- [Contact Us](#)
- [Give to Eno](#)
- [Find Us:](#)
- [Facebook](#)
- [Twitter](#)
- [Linked In](#)
- [Store](#)
- [Newsletter](#)
- [F.A.Q.](#)

- [Events](#)
- [About](#)
- [CTL Blog](#)
- [Research & Consulting](#)
- [Leadership Staff](#)
- [Sign Up For Classes](#)
- [Board Book](#)
- [Projects](#)
- [Account](#)
- [Login](#)
- [Thank You](#)
- [Account](#)
- [Login](#)
- [Thank You](#)

©2015 Eno Center for Transportation. All Rights Reserved. [RSS:](#)

- [News](#)
- [Policy Blog](#)
- [Privacy Policy](#)
- [Terms and Conditions](#)
- [Return Policy](#)

[Website Developer](#)

[Private Area](#)