



Committee on Transportation and Infrastructure
U.S. House of Representatives

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Chairman

Washington, DC 20515

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April 5, 2016

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Dear Colleague:

At 8:37 a.m. on September 11, 2001, an air traffic manager at the Federal Aviation Administration (FAA) Boston air route traffic control center picked up a phone to the North American Aerospace Defense Command's Northeast Air Defense Sector (NEADS). Controllers had just determined that American Airlines flight 11 had been hijacked. "[W]e have a hijacked aircraft headed towards New- New York," the FAA specialist told a NEADS weapons sergeant, according to a recording of the call, "and we need you guys to, we need someone to scramble some F-16s or something up there to help us out." Eight minutes later, NEADS activated an air defense scramble.

In the 15 years since then, the FAA and the Department of Defense (DOD) have refined their ability to collaborate and seamlessly share information with one another regarding national emergencies and threats to the homeland. The agencies' coordination during the 9/11 attacks proved the importance of this interagency relationship – and it also provided a starting point for improvements to the relationship to facilitate more open coordination and more timely information-sharing, among other things.

Echoes of the 9/11 attacks reverberated through the American consciousness again last month with news of the terror attacks in Brussels. Those attacks remind us that terrorists remain fixated on attacking the civil aviation system— and that the arms-length coordination between the federal air traffic control system and our Armed Forces is more important now than ever.

Despite the fact that the FAA's close collaboration with the DOD and other Federal stakeholders keeps the traveling public safe during national emergencies, H.R. 4441, the "Aviation Innovation, Reform, and Reauthorization Act of 2016" (AIRR Act), privatizes the FAA's air traffic control organization and places it in the hands of a private corporation controlled by special interests. Conspicuously absent from the corporation's board: any DOD representation.

Today, the FAA and the DOD collaborate seamlessly on hundreds, if not thousands, of issues, ranging from the establishment of restricted airspace for military training exercises, to civilian air traffic control of aircraft on military missions, to safeguarding planes in the air during another attack on the homeland. This seamless collaboration occurs because the FAA and the DOD are both part of the Federal Government. The FAA provides the military with an up-to-the-second feed of the tactical air picture in U.S. airspace, giving military officials the ability to identify every single aircraft in U.S. airspace. Under H.R. 4441, agency-to-agency collaboration to keep the skies safe will end, and military leaders will be forced to completely rewrite the blueprint for how they can work

with a privately-held, cost-cutting corporation to protect national security. At minimum, other laws will have to be changed.

For example, the AIRR Act permits the Secretary of Defense to assume command over the air traffic control system only during “war”. What happens during a national emergency— not yet recognized as outright “war” – such as that which unfolded at 8:37 a.m. on September 11, 2001? Furthermore, hundreds of joint orders, memoranda of understanding and agreement, and letters of agreement at the national, regional, and local levels govern the relationship between military units and the air traffic control system. Most, if not all, of these orders, memoranda, and letters would have to be renegotiated and rewritten. Moreover, the bill requires the new corporation to assess fees for use of the air traffic control system, but it doesn’t exempt foreign governments from paying those fees. As a result, it’s virtually guaranteed that foreign governments will retaliate by charging the U.S. Government user fees for operating military aircraft in their airspace. As you know, our Armed Forces rely on air traffic control services around the world, 24 hours a day, seven days a week; foreign user fees would only add to the taxpayers’ burden under this bill.

But these concerns pale in comparison to our biggest question: With the horror of the Brussels attacks last month, is now the time to compromise the strong relationship between our Armed Forces and the air traffic control system? Is now the time to gamble with national security by handing over the air traffic control system to a private corporation controlled by special interests? We think that, after reviewing the AIRR Act and the long list of concerns raised by aviation stakeholders and bipartisan Congressional leaders, you’ll agree that the answer to these questions is: No.

Please contact us or Alex Burkett, Democratic Counsel for the Subcommittee on Aviation (ext. 5-9161), should you have any questions. Thank you for your consideration.

Sincerely,


PETER DeFAZIO
Ranking Member


RICK LARSEN
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