ATA TESTIMONY

Reauthorization of the Federal Aviation Administration: Perspectives of Aviation Stakeholders

Statement of James C. May
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before the
Subcommittee on Aviation
of the
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AIR TRANSPORT ASSOCIATION

OVERVIEW

Federal Aviation Administration (FAA) air traffic control (ATC) services are central to the ability of airlines to operate efficiently and, ultimately, sustain timely, reliable, economically viable air service for their customers. Airline operations only can be as efficient as the ATC system allows. Inefficient services drive unnecessary costs for airlines and their customers – both passengers and shippers. Today's ATC services are woefully inadequate, depriving the flying public – and the U.S. public at large – of substantial economic and environmental benefits.

Likewise, the outdated policies underlying how ATC services are funded unfairly burden the U.S. airline industry and hinder its competitive standing in the global aviation marketplace. The current cost recovery methodology does not accurately reflect the extent to which different users consume ATC services and drive resultant costs. Consequently, government data show that the aggregate annual financial contribution made by airlines and their customers for ATC services significantly exceeds the costs they impose when utilizing federal ATC services.

Now is the time for Congress to make the infrastructure and funding policy changes needed for U.S. airlines to achieve consistent operational integrity, improve customer service, reduce environmental impacts and enable U.S. airlines to compete effectively against global competitors. ATC modernization is critical to improving the fuel efficiency of flight operations, reducing fuel-related emissions and reducing energy costs. FAA reauthorization offers Congress the opportunity to lead on these important issues and to enable much needed change:

- Change technology – modernize the ATC system as quickly as possible and revise operating ATC procedures to reap the benefits
- Change ATC funding – embrace equitable cost-based funding so that the airline industry does not subsidize other user groups
- Change infrastructure development funding – enable innovative financing
- Change aviation's environmental impact – ATC modernization will enable material improvements in fuel efficiency and a corresponding reduction in emissions
- Change philosophy – recognize that airlines are modern, publicly owned businesses that will not be able to improve wages and benefits for employees and attract much needed capital if financial stability continues to remain elusive

ATA's primary goals for FAA reauthorization are: (1) program authority and funding for FAA to swiftly transform the ATC system into a modern, satellite-based system, including authority for research and development, innovative financing mechanisms for modernization equipment acquisition and deployment, support for aircraft equipage and asset/human resource management to capture cost savings; (2) an ATC cost recovery structure that allocates costs to user groups in proportion to their use of the system; (3) an Airport Improvement Program (AIP) structure that does not use funds derived from airlines and their passengers to subsidize noncommercial airport development – our point here is not that noncommercial public-use airports do not deserve funding, but merely that funding should be public-source funds such as the General Fund; and (4) a forward-looking national aviation policy to address the many challenges facing the industry.

A HEALTHY AIRLINE INDUSTRY STIMULATES THE U.S. ECONOMY

As we have noted on many occasions, the U.S. airline industry is not simply an important sector of the national economy; its services drives our entire economy. Air transportation is an indispensable element

of America's infrastructure and our nation's economic well-being. The airline industry is the foundation of the commercial aviation sector, which comprises airlines, airports, manufacturers and associated vendors. **U.S. commercial aviation ultimately drives more than $1 trillion per year in U.S. economic activity and more than 10 million U.S. jobs.**[1] By any measure, the U.S. airline industry is a valuable national asset and its continued economic health should be a national priority.

Recent events illustrate the positive impact that a healthy industry can have on our national economy. Prior to the fourth quarter of 2008, U.S. airlines transported more than two million passengers on a typical day, operating approximately 30,000 flights per day and directly employing more than 500,000 people to do so. Airlines were forced to reduce operations and staffing in the fourth quarter of 2008 due to the meteoric rise of jet fuel prices earlier that year. As a result, the industry lost an estimated $8 billion in 2008. Because of the current recession, airlines have been unable to restore those operations and jobs, and now employ less than 500,000 people,[2] with the prospect of further cutbacks if the economy continues to falter or if more external shocks like the 2009 H1N1 virus occur. On April 21, 2009, the Bureau of Transportation Statistics (BTS) reported that scheduled passenger airlines employed 6.6 percent fewer workers in February 2009 than in February 2008, making eight consecutive months of job losses in the industry.

It is clear from these events that a healthy industry drives high-paying jobs that, in turn, can help drive the economy back to health. For this reason, government policies in all areas should foster financial stability and growth in the airline industry. Commercial air service also is critical to the small communities of our nation. For this reason, we firmly support the continuation of a strong Essential Air Service Program.

The U.S. airline industry cannot sustain its vital role of transporting people and goods, and continue to be a national economic engine, if the government infrastructure that it depends on, the ATC system, remains an impediment to efficiency and growth. U.S. airlines risk becoming a wasting national asset if the industry's fundamental features – speed, dependability and efficiency – are undermined by an obsolete ATC system.

MODERNIZATION IS NEEDED NOW: *FROM NEXTGEN TO NOWGEN*

All sectors of the broader aviation industry – airports, airlines, business aviation, manufacturers, passengers and shippers – agree that the FAA ATC system is badly in need of modernization and that the FAA Next Generation Air Transportation System (NextGen) is needed now. The current ATC system has reached the limits of its capabilities, is expensive to maintain and is labor intensive to operate. In several areas of the country, most notably in the Northeast, the system is unable to provide the capacity needed to meet the demand for ATC services at peak periods and at times of severe weather conditions. With FAA forecasting significant long-term growth, it is critical that modernization initiatives be implemented as soon as possible. The current recession may delay that growth, but it will be only a short respite that we cannot afford to waste. Indeed, now is the right time to accelerate several key NextGen components to drive "NowGen," which will deliver many of NextGen's benefits much sooner.

NextGen

NextGen, which will employ a number of new technologies in a satellite-based air traffic management system, coupled with new operating policies and procedures that take advantage of these technologies,

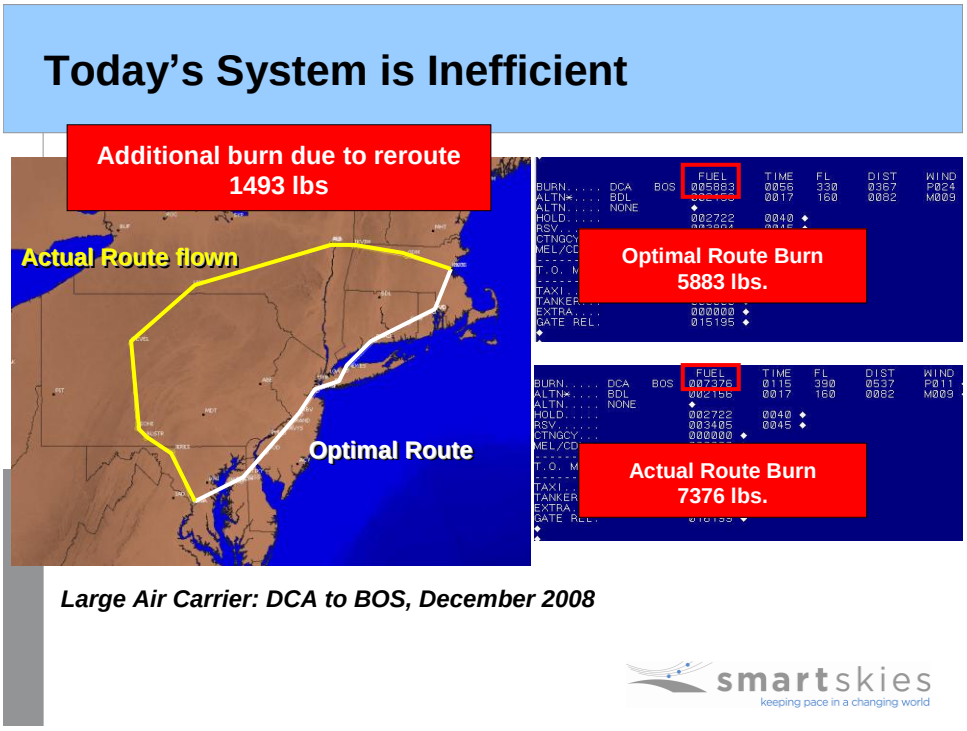
[1] FAA Air Traffic Organization, *The Economic Impact of Civil Aviation on the U.S. Economy*, October 2008.

[2] The industry has lost 151,000 FTEs from its peak employment in May 2001; 28,000 jobs were lost in 2008 alone.

will provide tremendous improvements over the current system and will benefit all system users passengers and shippers, the public in general and the U.S. economy. Public benefits include improved operational efficiency, reduced fuel consumption and emissions and lower operating costs for airlines. NextGen will provide several critical needs:

- **Efficiency and Productivity.** NextGen will enable more efficient flying. Today's ground radar system requires planes to fly over specific points on the ground to maintain radar and communications contact. Navigational aids, radar and controllers are all terrestrial. They are linked to form a complex network system that supports airways, through which aircraft fly. Today's system also requires spacing to accommodate the time it takes for radar to detect objects. Consequently, aircraft fly indirect routings and aircraft spacing – required for safety – wastes capacity. Today's ATC system cannot, and never will be able to, take full advantage of available technology or integrate and fully exploit emerging technology.

  The environmental and economic impact of today's inefficient ATC system is illustrated below. The flight in this example burned an additional 1493 pounds of fuel (218 gallons), releasing an extra 4,560 pounds of carbon dioxide (CO_2) and adding unnecessary cost when margins already are razor thin.



In contrast to today's ATC system, NextGen will enable: optimized, direct routings between airports; reduced aircraft spacing; continuous descent arrivals, precise arrival and departure routings (known as RNAV and RNP procedures), and closely spaced approaches on parallel runways in instrument flight rule conditions. These are just a few of the operational benefits of NextGen.

These efficiency enhancements will drive significant improvements in productivity – both in

terms of asset utilization and personnel. That, in turn, will reduce operating costs, which will help keep fares down and enable those savings to be plowed back into wages and benefits and operating capital.

Improved ATC efficiency also will benefit private aircraft owners. Corporations use private aircraft with the expectation that such use is efficient. While we disagree with that proposition, ATC modernization will provide corporate aircraft owners the same kind of efficiency benefits that commercial airlines will enjoy if their aircraft are properly equipped. Even if they are not properly equipped, they still will enjoy a spinoff benefit simply from operating in the same airspace as more efficient commercial aircraft.

- **Environmental Benefits.** More efficient operations also will use less fuel, increasing aircraft fuel efficiency and reducing greenhouse gas and other emissions. It has been estimated that full implementation of NextGen will reduce emissions by 10-15 percent. Early implementation of certain NextGen elements and other airline initiatives are providing some benefit toward those totals already, but full implementation is needed. Improved fuel efficiency also will reduce operating costs and contribute to improved financial conditions that, like the productivity improvements discussed above, will benefit the public and employees and put the airlines in a better position to continue to invest in new aircraft, alternative fuels and other operational improvements that bring environmental improvements.

- **Capacity.** The current ATC system is saturated and, in some locations, cannot provide the capacity to meet the public's demand for convenient, safe air transportation. This situation inhibits competition and industry growth. It also is the source of unnecessary congestion and delays, and compounds the effect of weather-related delays. NextGen will enable more precise spacing of aircraft and flight paths, which will allow FAA to handle safely and efficiently the traffic growth that it forecasts.

- **Operational Integrity and Customer Satisfaction.** Closely linked to capacity, efficiency and productivity is operational integrity. By expanding capacity and enabling more efficient operations, NextGen will enable better on-time performance and improved customer satisfaction. Today's outdated ATC system contributes to delays and disruptions that could be avoided and will be avoided when NextGen is implemented. With improved operational integrity comes fewer delays, fewer missed connections, fewer misplaced checked bags and more satisfied customers.

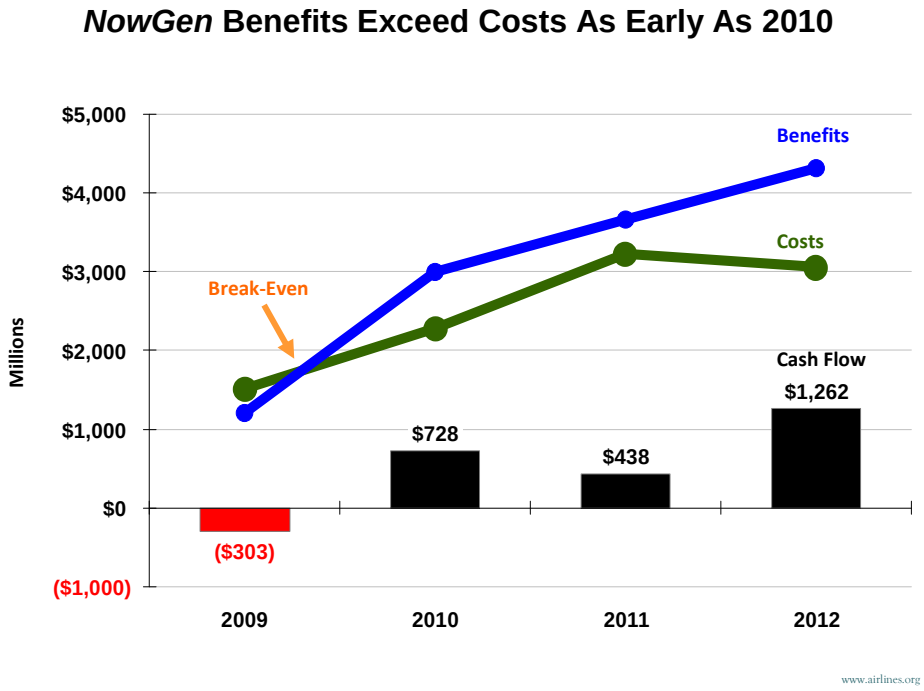
- **Safety.** NextGen's satellite-based system will look and act much like a network to which aircraft and ATC are interconnected. It will provide more precise information to both controllers and pilots about aircraft locations, both in the air and on the ground, and will enable aircraft to constantly know one another's locations. This locational awareness and corresponding digital communications capability will provide critical real-time flight status information not available today. Some of the technology and operating procedures have already been tested and have produced dramatic results. A sharp drop in aircraft accidents in Alaska occurred under the Capstone Program, introduced earlier this decade, which utilizes ADS-B technology, a foundational technology for NextGen.

- **Scalability.** NextGen will be considerably more nimble than today's facility and labor-intensive system. Accordingly, it will be much easier for the FAA to scale the system to meet demand from all aviation sectors, whether that demand is a steady growth curve or fluctuates from time to time. Automation and digital data communications will make it easier for the FAA to adjust the system as needed.

- **Improved Financial Performance.** Modernization will respond to legitimate shareholder expectations that the airlines they invest in will earn a positive return on investment. The current ATC system hobbles the industry's ability to achieve financial stability because of the costs it drives by being inefficient. These failures lead to delays and congestion. The Joint Economic Committee found that the total cost to the economy of domestic delays in 2007 was nearly $41 billion, including $19 billion for airlines and $12 billion for passengers. Delayed aircraft also drive the need for extra gates and ground personnel and impose costs on airline customers (including shippers) in the form of lost productivity, wages and goodwill. The industry cannot survive, and the public will not invest in it, if these conditions remain the *status quo*.

NowGen

By accelerating several key NextGen components and investing in proven technologies, much of NextGen can be transformed into *NowGen* to deliver immediate benefits. *NowGen* accelerates the manufacture and installation of required avionics, the installation of associated ground infrastructure and the development and implementation of new procedures. Instead of achieving roughly 12 percent fleet readiness by 2012 under the existing FAA NextGen schedule, *NowGen* delivers 100 percent fleet readiness in 2012. As a result, *NowGen* delivers tremendous public benefits immediately and total benefits will exceed costs as early as 2010.



NowGen will work because it focuses on accelerating five key proven technologies and implementing related procedures. These are:

- **Automatic Dependent Surveillance-Broadcast (ADS-B).** ADS-B requires new equipment, ground infrastructure, airspace revisions and pilot procedures using a GPS source. The cost and complexity of equipment installation varies significantly depending on current aircraft configuration. ADS-B enables an aircraft to constantly broadcast its current position simultaneously to air traffic controllers and other aircraft. Utilizing GPS to display an aircraft's

position more accurately and frequently enables more efficient use of existing airspace because aircraft separation standards can be safely reduced. Routing efficiencies reduce fuel burn and emissions.

- **Area Navigation (RNAV)/Required Navigation Performance (RNP).** RNAV/RNP requires new onboard equipment and approved procedures. Installation or upgrades to existing flight-management systems, installation of a GPS position source and integration with new and existing cockpit displays drive equipment costs. Extensive revisions to airspace and pilot procedures will be needed. RNAV enables aircraft to fly on any path within coverage of ground- or space-based navigation aids, permitting more direct operations. New flight-path procedures decrease the number of miles flown, reducing fuel burn and emissions. Like RNAV, RNP enables aircraft to fly on any path within GPS coverage, and also includes an onboard performance-monitoring capability; RNP enables closer en route spacing and permits more precise and consistent departures/arrivals.

- **Electronic Display Upgrades**. Some aircraft will require the addition of new specialized display screens to utilize ADS-B and RNAV/RNP; some will require a supplemental display, such as an Electronic Flight Bag. These screens will accurately display an airplane's position relative to itself and other aircraft. These displays can also be used to show new optimum flight paths.

- **Ground-Based Augmentation System (GBAS).** GBAS provides additional information to aircraft to allow GPS to be used for landings in low-visibility conditions, minimizing schedule disruptions due to weather and enabling more environmentally friendly procedures. It requires new equipment, ground infrastructure and procedures. Special avionics are necessary to receive the corrected GPS signal information and must be integrated with the aircraft's flight-management system. GBAS also requires several antennas, a broadcast transmitter and a processing unit at each airport. In some cases, a single installation can service multiple airports due to its 30-mile-radius effective range.

- **Localizer Performance with Vertical Guidance (LPV).** LPV procedures leverage satellite-based precision to improve safety and provide all-weather access at thousands of general aviation airports. Using GPS and leveraging the existing Wide Area Augmentation System (WAAS) enables more accurate flight-path guidance. Action is limited to the development, certification and publishing of procedures.

In addition to the many operational, environmental and customer-service benefits discussed above, *NowGen* also will throw off significant stimulative benefits. We estimate that *NowGen* will yield over $12 billion in U.S. economic benefits through 2012, including $7.4 billion in job creation – as many as 167,000 U.S. jobs distributed widely across the country. These are important societal benefits as the country struggles to recover from the current recession.

ESTABLISH FAIR AND EQUITABLE ATC FUNDING

The ATC system is funded by its users through fees and taxes. Unfortunately, the funding structure has remained static since its creation even though system use has changed over time. Consequently, the share that each user group pays is not aligned with its use of the ATC system. It is time to repair the funding structure so that it is fair to all users and equitably charges user groups based on their use of ATC services.

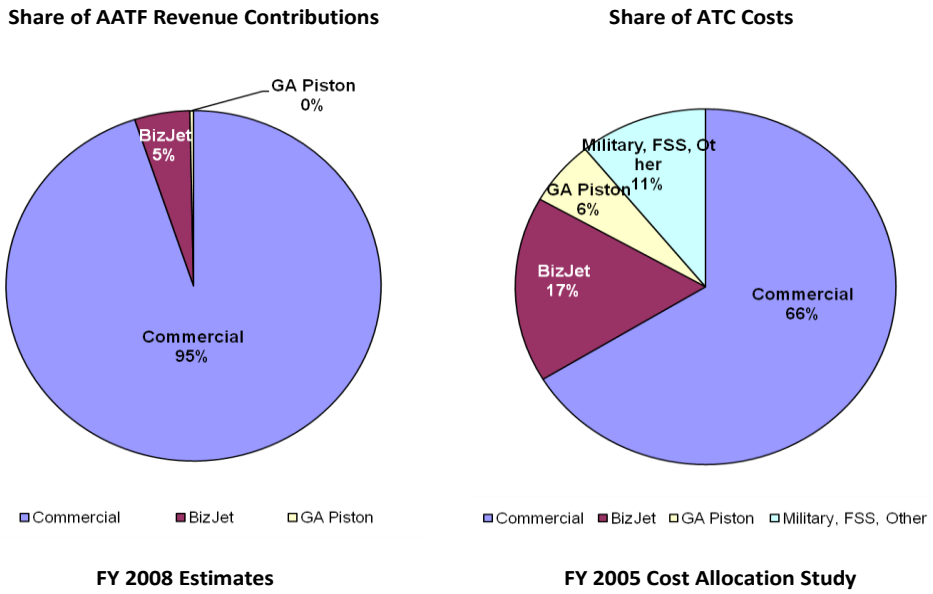
In 1970 when the Trust Fund was established, airlines were the principal users of the ATC system. FAA data show 2,586 airliners were in service then compared with 1,833 corporate aircraft. Today there are almost 10,500 *more* high-performance general aviation aircraft than commercial airliners in the U.S. fleet. While this fact alone does not mean corporate and private jet operations have overtaken commercial jet operations, common sense tells us that they are much bigger users of the ATC system today than they were in 1970. And in fact, an FAA study shows that high-performance general aviation and fractional aircraft account for 17 percent of ATC costs.

Number of Aircraft	**1970**	**2008**	**Growth**
U.S. air carriers (all psgr. and cargo props and jets)	2,586	7,274	**2.8x**
Turbine-powered GA (turboprops + turbojets)	1,833	21,000	**11.5x**
Turbine GA share of total	**41 percent**	**74 percent**	**33 pts.**

Unfortunately, the taxes and fees paid by this user group have not kept up with this dramatic growth, leading to an imbalance in payments into the Trust Fund. This imbalance in ATC system use and payments has lead to an obvious and undeniable economic distortion that has airlines and their customers subsidizing business aviation.

According to data compiled by the FAA and certified by the IRS, airlines and their customers contributed $11 billion to the Trust Fund, well in excess of 90 percent of total Trust Fund receipts, yet the FAA Cost Allocation Report shows that passenger and cargo airline operations only account for approximately two-thirds of ATC costs.[3] In contrast, business jets (general aviation, turbine aircraft and fractional aircraft) contributed only 5 percent of the revenue ($573 million) but accounted for 17 percent of the costs.[4]

[3] The FAA cost-allocation study for FY 2005.
[4] The cost-allocation study breaks it down as follows: general aviation turbine and air taxis/fractionals drove 9.7 percent and 7.2 percent of system costs respectively; general aviation piston drove 5.9 percent of system costs.



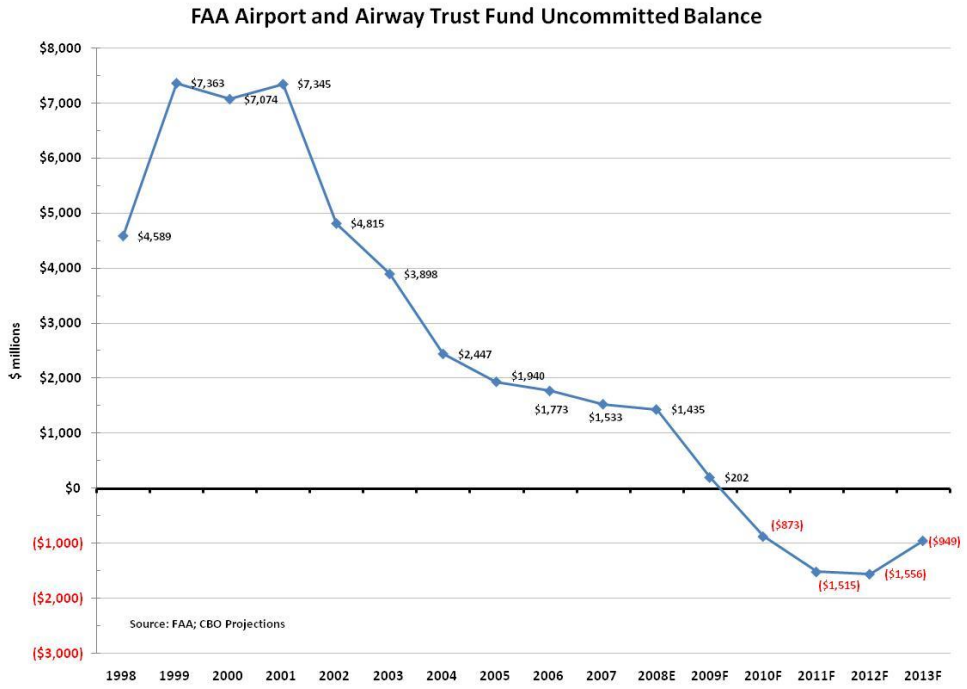
The inequity of this situation is illustrated by comparing the taxes and fees paid by a commercial passenger flight and a private corporate aircraft flight over the same route. A commercial passenger Boeing 737 flying from Washington, D.C. to Fort Lauderdale, Florida, a distance of 902 miles, would generate approximately $1,434 in taxes and fees, assuming a load factor of 75 percent. A private Cessna C750 carrying four passengers would pay just $112. That's more than a tenfold difference. The same aircraft on a flight from Washington, D.C. to New York City would pay $1007 and $26, respectively, while a transcontinental flight from Washington, D.C. to Los Angeles would generate $1,897 from the commercial airline and just $287 from the corporate jet. **The irony, of course, is that the FAA provides the same air traffic control services to the commercial flights and private aircraft in these examples.** Day-in and day-out, corporate aircraft operate in the same airspace as commercial aircraft and utilize the exact same ATC services, but at a fraction of the cost.

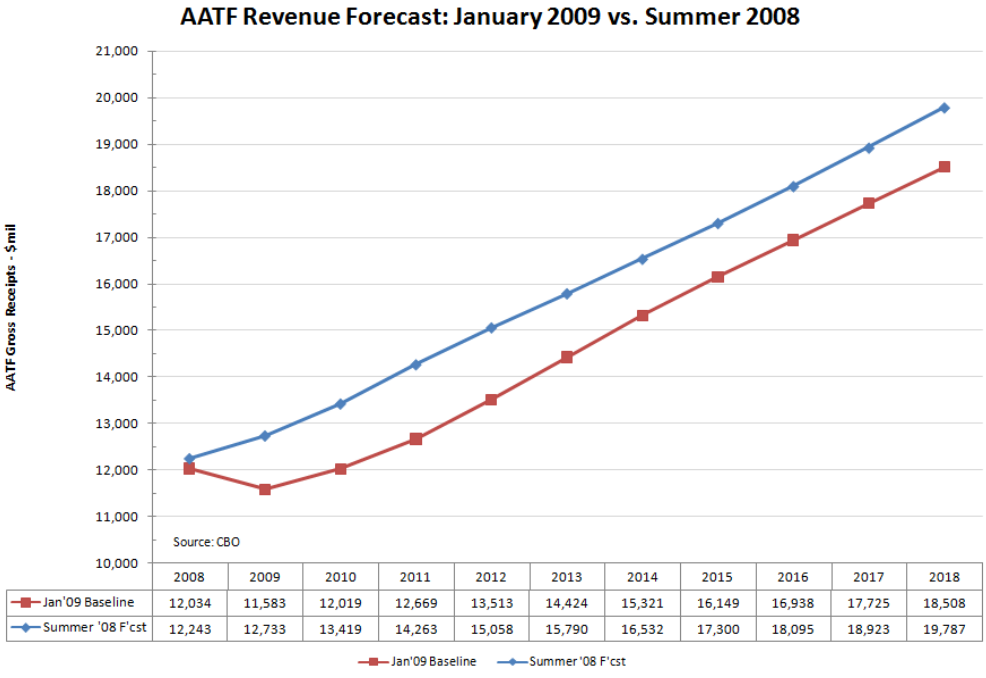
ATA has long supported the principle that ATC system charges to different user groups should reflect each group's use of the system. We continue to endorse that principle and urge that it be embraced in FAA reauthorization legislation.

UPDATE HOW AVIATION INFRASTRUCTURE IS FUNDED

The Airport and Airway Trust Fund Is at Risk

It is time to alter the traditional approach to funding FAA operations and infrastructure development from the Airport and Airway Trust Fund (Trust Fund) and passenger facility charges (PFCs). In particular, the Trust Fund is at risk. Given the recent decline in airline operations and the potential for additional cuts in 2009, near-term revenue into the Trust Fund will decline significantly. It is unclear when growth will return in light of current economic terms – it could be 2010 or even later. This situation has two important adverse effects: (a) the uncommitted balance – discretionary funds – will soon fall into negative territory and likely remain there for several years, and (b) it diminishes the long-term revenue forecast. The charts below illustrate these problems:





	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Jan'09 Baseline	12,034	11,583	12,019	12,669	13,513	14,424	15,321	16,149	16,938	17,725	18,508
Summer '08 F'cst	12,243	12,733	13,419	14,263	15,058	15,790	16,532	17,300	18,095	18,923	19,787

This situation demands a solution and justifies new, diversified approaches to funding infrastructure development as well as FAA operations in general. FAA funding, and in particular funding for NextGen, has been debated for years. Not only have we missed the opportunity to get ahead of this challenge, the Trust Fund is now experiencing pressure that, if allowed to continue, will delay the introduction of NextGen.

The Role of the General Fund Should Expand

As a preliminary matter, it should be an obvious fundamental principle that "public good" programs and functions carried out by the FAA to protect the public, such as safety regulation and oversight, are funded by the General Fund. The Trust Fund should be reserved for its original intended purpose, to provide for the expansion and improvement of the nation's airport and airway system.[5] Adhering to this fundamental principle will relieve the Trust Fund of "mission creep" and ensure that the public fairly contributes to the cost the FAA incurs in overseeing the safest air transportation system in the world. The public derives tremendous value from FAA safety activities. It bears repeating here that U.S. commercial aviation ultimately drives more than $1 trillion per year in U.S. economic activity and more than 10 million U.S. jobs.

Another appropriate role for the General Fund is to fund airport development projects at noncommercial public-use airports, instead of funding them with Trust Fund revenues through the Airport Improvement Program (AIP). Roughly $1 billion of Trust Fund revenues are allocated through AIP annually to public-use airports that do not receive any commercial service. But, as discussed above, the users of those airports contribute very little to the Trust Fund. Thus, commercial aviation is unfairly subsidizing development projects at these airports and the effect is to drain the Trust Fund of badly needed revenues that could be used to pay for ATC services, the development of NextGen and critical infrastructure projects at key commercial airports. ATA does not oppose development at noncommercial public use airports. Just like FAA safety regulation and enforcement, however, these projects are "public good" activities and should not be funded out of the Trust Fund. Instead, General Fund revenues should be substituted for the Trust Fund revenues that support these projects through AIP. This would help repair the health of the Trust Fund.

New Ideas for NextGen

The condition of the Trust Fund combined with the urgent need to implement NextGen makes the historical way of funding this project – on a cash-only basis by means of annual appropriations – impracticable. The present circumstances demand that we look at new ideas. In particular, *NowGen* should be supported by the General Fund.

First among these creative financing concepts is to give the FAA bonding authority. The benefit of bonding authority is that it would give the FAA a known and reliable funding stream without facing the vagaries of the annual appropriations process. In addition, FAA would be able to leverage this funding stream to enhance the capital available for NextGen.

Another concept is to make NextGen eligible for funding from a National Infrastructure Bank, as proposed by Congress and the president. Creating an independent national infrastructure bank with the power to issue the equivalent of municipal bonds would be instrumental in providing NextGen with a known, reliable funding source and would hasten NextGen's full deployment.

Changes for Airport Development Funding

Airports have been hampered in their efforts to issue bonds for development projects due to application of the AMT tax. This occurs because federal tax law classifies most airport bonds as private activity bonds,

[5] "The principle purpose of this legislation is to provide for the expansion and improvement of the Nation's airport and airway system. In substantial part, this purpose is to be achieved through the imposition and application of airport and airway user charges." H.R. No. 91-601, reprinted in 1970 U.S.C.C.A.N. 3047.

even though they finance projects that realistically are public works projects. AMT application has two effects – the earnings on airport bonds are subject to AMT tax calculation, making them less attractive, and airport issuers are charged higher rates on their borrowing. Permanently eliminating this punitive tax on airport bonds would result in broader access to bond markets for critical infrastructure projects (the American Recovery and Reinvestment Act (ARRA) provided relief from the AMT for new private activity bonds issued in 2009 and 2010, as well as allowing the refinancing of current AMT bonds issued between December 31, 2003 and January 1, 2009). Particularly now, when the credit is difficult to obtain, Congress should do everything it can to free up the markets for development projects that will drive jobs and important public benefits.

If Congress passes legislation establishing a National Infrastructure Bank, then airport infrastructure projects that will increase capacity and improve safety should be made eligible for such funding.

A FORWARD-LOOKING NATIONAL AVIATION POLICY WILL ENABLE THE INDUSTRY TO MEET THE MANY CHALLENGES IT FACES AND CONTINUE TO DRIVE ECONOMIC ACTIVITY

A weak U.S. airline industry results in fewer jobs and reduced economic activity, not just for airlines, but across the broad supply chain – including manufacturers (airframe, engine and avionics), hotels and tourism, computer technology and services, maintenance providers, catering and cleaning services, insurance and financial services – that relies on a healthy aviation industry. Consequently, as the industry shrinks, it is unable to help lead the country out of the current economic downturn.

One important contributing factor to this situation is the absence of a clear and forward-looking national aviation policy that recognizes the economic and social importance of the airline industry. This is surprising, even shocking, given that U.S. commercial aviation ultimately drives more than $1 trillion in U.S. economic activity annually and more than 10 million U.S. jobs. A national aviation policy would make a financially healthy airline industry a priority, encourage growth and competition by eliminating airspace and airport capacity constraints, and avoid single-interest and regressive policies that interfere with safe and rational business decisions – in other words, *do no harm.*

Financial health and stability are important for many reasons. Financial stability enables airlines to:

- **Address environmental concerns – invest in new aircraft and equipment.** To continue our decades-long track record of reducing emissions, airlines must have the financial capacity to acquire new aircraft, engines and ground service equipment. Until alternative fuels become commercially available to replace today's carbon-based fuels, the only way to reduce fuel consumption and emissions is by acquiring new and more efficient equipment. New aircraft also reduce noise and local environmental impacts.

- **Support the development and commercialization of alternative fuels.** Alternative fuels will not be developed and become commercially viable unless the airline industry provides a market for them. U.S. airlines are actively supporting the development of alternative jet fuels. That development will take years and the commercialization of alternative fuels will require significant investments in new infrastructure for their transportation, storage and delivery, in addition to the cost of acquiring the fuel itself.

- **Improve wages and benefits for employees.** The post-Sept. 11 period saw the industry lose tens of billions of dollars and the wages and benefits of employees – those who survived reductions in force – shrink. It is obvious that this trend can be reversed only if the financial health of the

industry is restored. Without sustained profitability, wages and benefits stagnate and talented employees move on to other jobs in other industries.

- **Improve customer service.** Airlines need the ability to invest in staffing, training, systems and the equipment needed to improve customer service. New aircraft will increase reliability and further improve customer service. Equipping for NextGen, which will provide capacity and efficiency improvements, likewise will lead to higher levels of customer satisfaction.

- **Support U.S. security initiatives.** Many initiatives of the Transportation Security Administration and the Department of Homeland Security impose significant direct and ongoing costs on passenger and cargo airlines. The airlines must invest in personnel, equipment and computer systems to make these initiatives work to protect the public. The industry supports these initiatives but can do so only if they are financially sound.

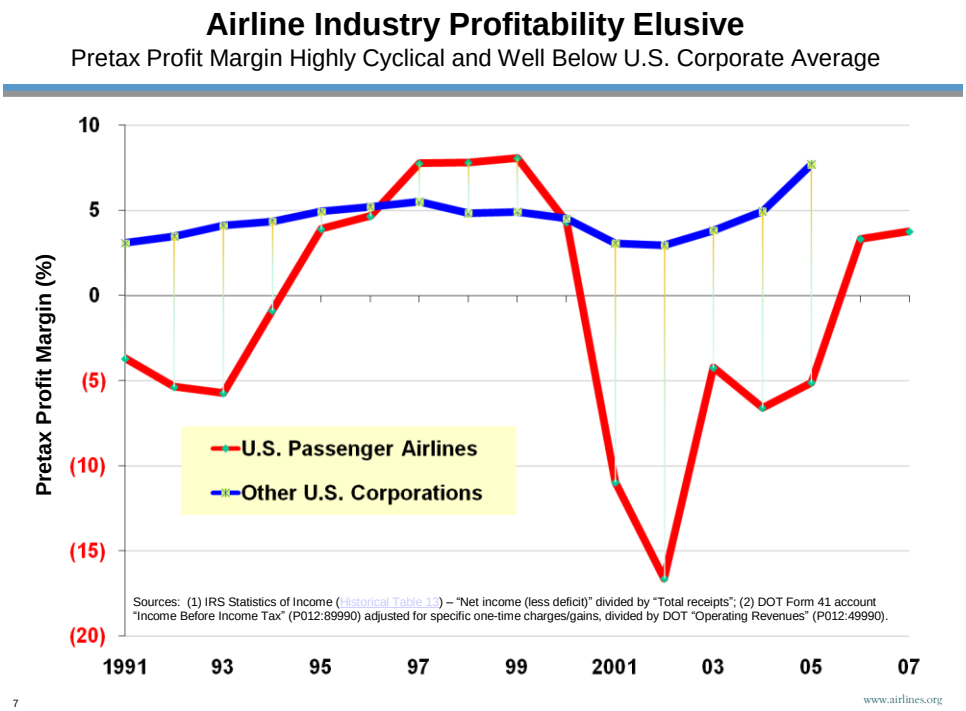
- **Invest in safety.** "Safety first" is the bedrock principle of the airline industry. Operating with the highest degree of safety possible and complying with rigorous regulatory scheme of the FAA requires a significant ongoing investment in aircraft, maintenance, people, training, equipment, audit, quality-assurance and compliance systems. The airlines ongoing commitment to safety has resulted in an ever-improving and unparalleled safety record. The industry's commitment to safety means that it will never shortchange the needed investment to continue this remarkable track record.

- **Survive exogenous shocks.** The airline industry must be able to endure the exogenous shocks that regularly threaten its survival, from basic economic cycles to unprecedented energy prices to international wars to acts of terrorism. No other industry in America has been subjected to more challenges over the past quarter century, and without a doubt they will keep coming.

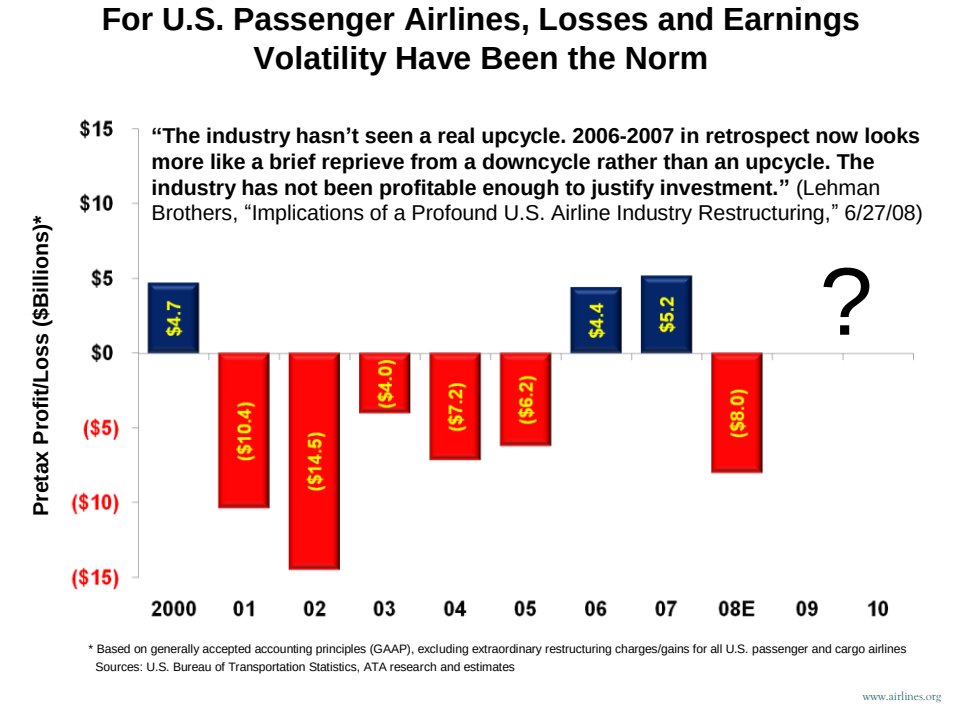
- **Attract Investment.** Airlines are publicly owned entities whose shareholders expect a return on their investment. If shareholders are continually disappointed, capital will dry up and the industry will shrink even further. Financial stability will attract the capital for the many needs discussed above.

DO NO HARM

The U.S. airline industry profit margin, when it has one, is razor thin. It compares unfavorably to most other U.S. industries. This is one reason why a national aviation policy must include a "do no harm" component.



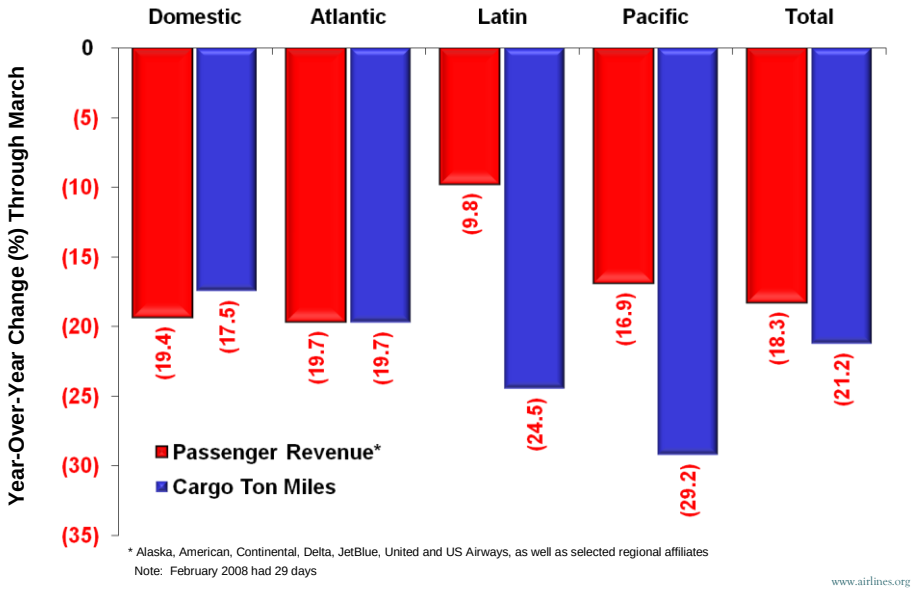
U.S. airlines are in a precarious position. Losses have dogged the industry since 2001, with only a brief respite in 2006-2007. The U.S. airline industry lost an estimated $8 billion in 2008, due largely to unprecedented oil and jet fuel prices.



This year, the current recession, and more recently the 2009 H1N1 virus (swine flu) pandemic, has further depressed demand for air travel, particularly valuable business travel. U.S. passenger airlines lost $1.8 billion in the first quarter 2009, producing an average *negative* 6.9 percent profit margin. One aviation research and consulting firm issued a report recently that concludes U.S. airlines will carry 41 million

fewer passengers in 2009 than in 2008 and experience a revenue drop of $7 billion in 2009 and $9 billion in 2010.[6]

Demand for Air Travel and Air Cargo Down Sharply in 2009



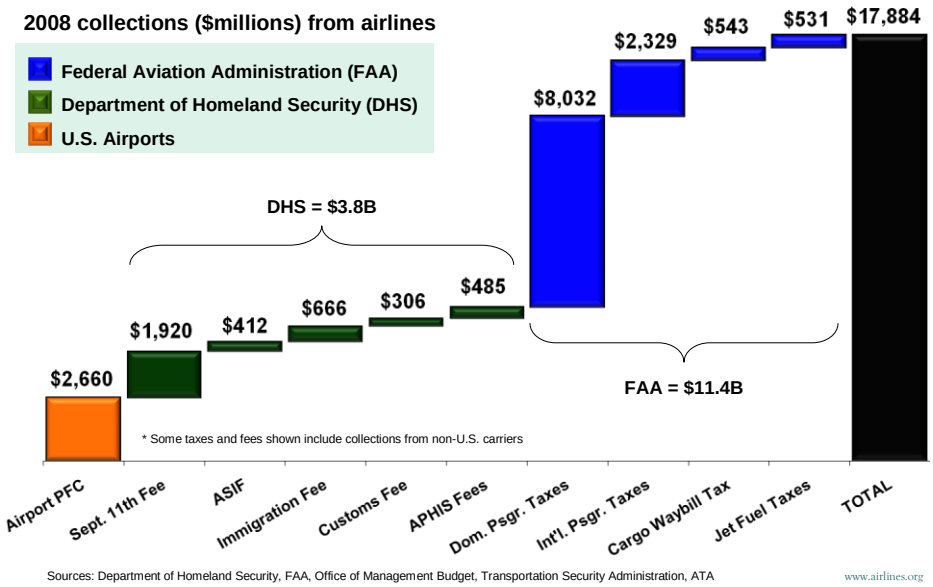
Put simply, the U.S. airline industry cannot afford regressive policies that inhibit best business practices and unnecessarily constrict management decision-making, or that add unnecessary fees and costs. Such policies undermine the ability of airlines to earn a profit, impair shareholder value and impair the ability of airlines to attract new capital and debt financing. That downward cycle prevents airlines from improving employee wages and benefits and from investing in equipment, facilities and new employees. For this reason, Congress should avoid the temptation to interfere with practices that have proven safety records and that satisfy legitimate business needs.

The numerous special taxes and fees that airlines and their customers pay contribute directly to the industry's poor financial performance. In 2008, airlines and their customers paid $18 billion in special taxes and fees – before the usual federal, state and local taxes. This unique burden creates a huge drag on industry profitability.

[6] Boyd Group International, *Airline Traffic: 2009 Prospects Going South*, February 2009.

Airline/Customer "Special" Tax Burden is $18 Billion per Year

In Addition to Typical Federal, State and Local Corporate Taxes (e.g., Income, Property, Sales)



Sources: Department of Homeland Security, FAA, Office of Management Budget, Transportation Security Administration, ATA

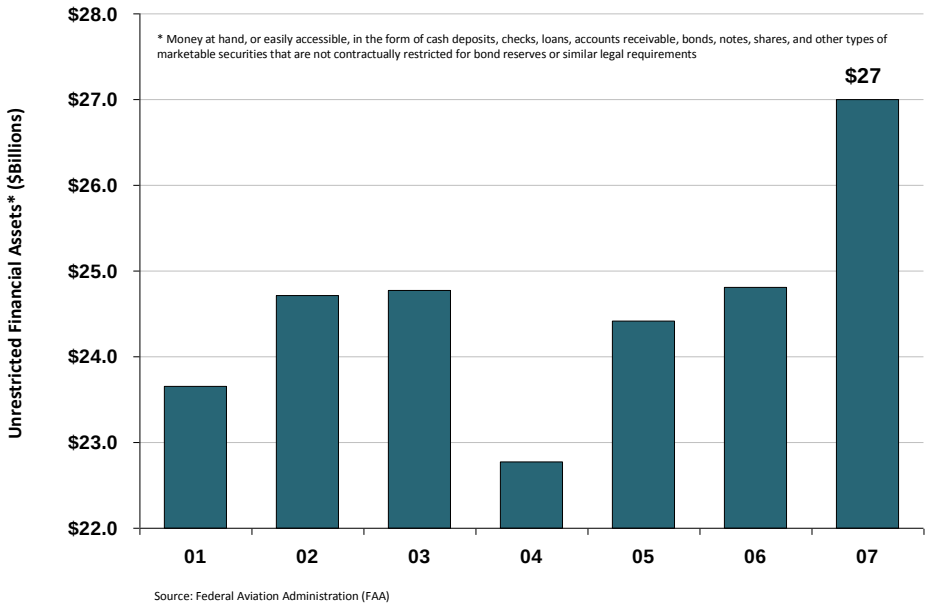
www.airlines.org

Do No Harm – Do Not Increase Passenger Facility Charges

Under the heading of "Do No Harm," passenger facility charges (PFCs) should not be increased from $4.50 to $7 per segment as advocated by the airport community. First, PFCs are a direct tax on passengers. Raising PFCs to $7 would impose an ***additional $2 billion in taxes*** on passengers, raising the cost of air travel and harming both passengers and airlines. PFCs, like any other tax, ultimately reduce consumption of the underlying product or service – in this case air transportation – thereby directly impacting airlines, too. Second, there is no evidence to suggest that necessary projects will go unfunded in the future without increasing PFCs. Indeed, PFCs reached record collections of more than $2.8 billion in 2007. While 2008 collections decreased slightly (approximately $2.7 billion), they still exceeded 2006 levels and FAA is currently estimating record collections for 2009. Third, virtually every PFC application has been approved since PFCs were enacted, so there should be no concern from airports on their ability to impose a PFC. Fourth, GAO reports that from 2001-2005 airports received an average of $13 billion a year for planned capital projects from bonds, federal grants and PFCs. This level of funding should be sufficient to meet current and future capital needs given the current economic conditions and reduced growth projections. If not, airports have accumulated more than $27 billion in unrestricted assets, meaning discretionary funds are available to support necessary capital projects. Finally, although credit markets are tight, airports continue to maintain extremely high credit ratings and historically have had no trouble making successful bond offerings for critical, viable projects. In fact, several airports have recently issued bonds after a provision in the American Recovery and Reinvestment Act (ARRA) provided relief from the Alternative Minimum Tax (AMT) for new private activity bonds issued in 2009 and 2010 as well as allowing the refinancing of current AMT bonds issued between December 31, 2003 and January 1, 2009. While certain airports may be feeling pressure from credit markets, this temporary situation does not justify a permanent change in PFC funding, which will add billions of additional taxes. Instead, airports should revise their spending plans and Congress can consider other options such as permanently eliminating the AMT penalty, providing funds from the General Fund or establishing other innovative financing mechanisms, discussed previously.

Airports Have Accumulated Significant Unrestricted Financial Assets*

based on 521 U.S. Commercial Service Airports



Source: Federal Aviation Administration (FAA)

Do No Harm – Maintain Antitrust Immunity Standards and Process

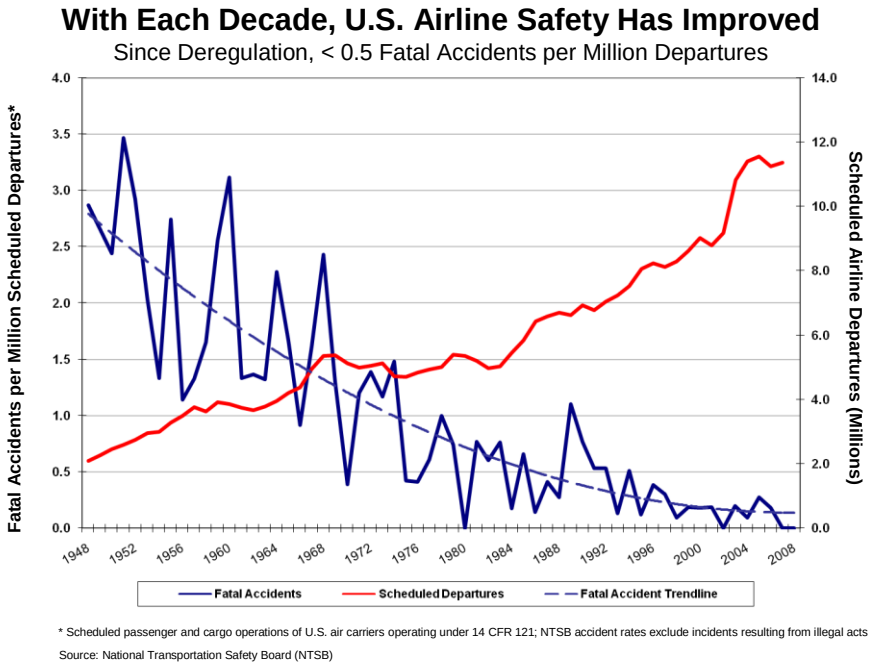
Closely integrated, immunized alliances provide a lawful means for U.S. airlines to achieve significant consumer benefits, optimizing the utilization of both U.S. and foreign carrier networks to mutual advantage. DOT has approved international airline alliances because they produce numerous and substantial benefits both to the public and the participating carriers. Public benefits include new online service and more frequent and convenient online service options, more connecting options across alliances and enhanced interalliance competition. More options and greater competition translates into more competitive fares for consumers. Carrier benefits include strengthened ability to compete, efficient use of assets and enhanced financial performance. The public will lose these important benefits if antitrust immunity is withdrawn – even temporarily – and carriers are forced to demonstrate that an alliance satisfies new and different standards.

Terminating antitrust immunity, as H.R. 831 proposes, would have a harsh impact on airline employees, and cause a ripple effect across the travel and tourism industry at a time when U.S. unemployment is escalating rapidly. We estimate that terminating immunity for existing approved agreements and changing current practice would cost thousands of airline jobs. Parties to alliances and proposed alliances would not continue or go forward with such arrangements without antitrust immunity because they simply cannot incur the uncertainty and risk associated with a potential legal challenge after an alliance has begun operations. Changing antitrust immunity for alliances would suppress economic activity and counter other economic stimulus efforts.

Do No Harm – Foreign Repair Stations are Important and Safe

Safety is the top priority for U.S. airlines. In today's international markets – with U.S. registered aircraft positioned throughout the world – the ability to outsource maintenance to qualified facilities outside of the U.S., particularly heavy maintenance, is essential and efficient. Also, for some aircraft, U.S. facilities do

not have the capacity to meet demand. Even more important, it is safe and subject to full oversight by the FAA and reciprocal international safety regulatory authorities. These facilities unquestionably have the competence to perform maintenance on U.S.-registered aircraft that meet our demanding standards. Data compiled by the National Transportation Safety Board shows that as U.S. airlines increased contract maintenance work to vendors around the world, accidents with maintenance as a probable cause declined from 0.05 per 100,000 departures to absolute zero in recent years. The industry's safety record remains unmatched; no evidence indicates that offshore MRO services are unsafe or insecure.



* Scheduled passenger and cargo operations of U.S. air carriers operating under 14 CFR 121; NTSB accident rates exclude incidents resulting from illegal acts

Source: National Transportation Safety Board (NTSB)

International aviation maintenance is a global business, enabling more than 200,000 highly skilled jobs ***at U.S. MRO facilities*** performing maintenance on U.S.- and non-U.S-registered aircraft, and sustaining thousands of domestic manufacturing jobs. Prohibitions and unnecessary barriers on maintenance outsourcing are not only unnecessary to sustain safety – they will mean U.S. job losses. This is not idle speculation. Representatives from the European Union recently made it very clear to us and federal officials that U.S. maintenance protectionism will provoke retaliation in Europe.

ATA supports FAA oversight of foreign repair station operations, but opposes calls for a moratorium or discriminatory regulations and oversight. In this case, evidence that maintenance performed at foreign repair stations is inferior or unsafe is lacking.

Other Do No Harm Issues

Several other items also fall under the "do no harm" heading. These include:

- **Slot Auctions.** Requiring airlines to forfeit slots and then allowing FAA or airports to auction them off does nothing to address congestion but will add costs that can force airlines to raise fares and discontinue service in smaller markets.
- **Congestion Pricing.** Allowing airports to impose additional costs during congested periods will add costs that can raise fares and force airlines to discontinue service to smaller markets. Both congestion pricing and slot auctions distract policymakers from the real problem: FAA's failure to

provide airspace capacity and to work with airports and airlines to develop capacity enhancements at specific locations.

- **Grandfathered Revenue Diversion.** Federal law allows a few airports to divert revenue to local or state governments, so-called grandfathered revenue diversion. These exceptions to the principle of plowing airport revenues back into maintaining and growing airports so they are self-sufficient are decades old and it is questionable if they continue to serve a legitimate purpose. Airlines must make up these revenues at these airports so their costs increase unnecessarily. These exceptions should be eliminated.
- **Airport Firefighter Stations.** FAA regulations have safely dictated staffing and equipment requirements for airport fire stations for years based on the needs within the airport boundary. Increasing staffing and equipment based on surrounding populations will not enhance airport safety but will increase costs unnecessarily. These are not legitimate safety claims and should be rejected.

This FAA reauthorization legislative process offers a rare opportunity for Congress to make aviation a priority by establishing a strong, forward-looking national aviation policy. It should take advantage of this opportunity.

CUSTOMER SERVICE – IMPROVEMENTS ARE CONTINUING WITHOUT LEGISLATION

We said in 2007 that customer service legislation is not needed for several reasons, including marketplace competition for customers, the airlines' own self-interest in earning repeat business, public attention to this issue and regulatory oversight and enforcement by the Department of Transportation (DOT).[7] We stated that customer service in general would improve over time, and that airlines would learn from the unusual and extreme events of December 2006 and February 2007 in how to better handle lengthy delay situations and improve the decision process to cancel flights. We were right then and we remain firm in our conviction that legislation is not needed.

Recent DOT data show that customer service has improved...

DOT Airline Customer Service Metrics

	2000	2007	2008	1Q09
Flight Cancellations (as % of sched. domestic departures)	3.30	2.16	1.96	1.91
Taxi-Out* Times > Three Hours (per 10,000 domestic departures)	2.92	2.15	1.76	1.22
On-Time Arrival Rate (% of domestic flights within 00:15)	72.6	73.4	76.0	78.4
Involuntary Denied Boardings (per 10,000 domestic passengers)	1.04	1.12	1.10	1.31
Mishandled Bags (per 1,000 domestic passengers)	5.29	7.05	5.26	4.29
Customer Complaints (per 100,000 domestic passengers)	2.98	1.38	1.13	1.03

* Time elapsed between departure from the origin airport gate and wheels off

Sources: Bureau of Transportation Statistics and DOT *Air Travel Consumer Report*

[7] *See*: Statement of James C. May, President and CEO of the Air Transport Association of America before the Senate Committee on Commerce, Science and Transportation, April 11, 2007, on Airline Service Improvements.

…and that extended delays are down.

Taxi-Out Delays Have Decreased

Taxi-Out Delays (per 10,000 departures)		
	2 hrs and/or more	3 hrs and/or more
2007	11.88	2.15
2008	10.20	1.76
Jan-Feb 2009	7.04	1.03

In addition, the most recent DOT Consumer Report[8] shows that lengthy tarmac delays remain extremely rare:

- A total of 21 flights out of 557,442 scheduled flights in March 2009 (0.0038 percent) had tarmac delays of four hours or more; 88 had delays of three hours or more (0.0158 percent)
- Of the 21 flights delayed four hours or more, 18 occurred on March 1 due to an unusual weather event, and the remaining three occurred on March 29.

ATA member airlines have been very active in addressing the issues associated with lengthy tarmac delays since the winter of 2006-2007. For example, the congressional hearings in April 2007 revealed gaps in the delay data collected by BTS, particularly with respect to cancelled and diverted flights. ATA and its members supported changes to the reporting system to capture this data and worked with DOT and BTS to update the reporting system. Carriers began reporting this new data in October 2008.

ATA and its members also participated in the National Task Force to Develop Model Contingency Plans to Deal with Lengthy Airline On-Board Ground Delays (Task Force) established by former DOT Secretary Peters in early 2008. The Task Force addressed contingency planning for both airports and airlines, and produced an extensive document capturing numerous issues that contingency plans should address, and best practices to deal with them. It was a highly successful exercise that enabled airlines and airports to review and update their internal contingency plans on an ongoing basis as the Task Force worked on these issues.

In November 2007, DOT initiated a rulemaking process to expand its consumer protection regulations for airline passengers. ATA and its members have actively participated in this rulemaking and, in fact, have supported several DOT proposals. While we disagree with certain proposals having to do with incorporating contingency plans and related items into airline contracts of carriage, when finalized, the rule will enable consumers to obtain more relevant information and provide additional protections to passengers when things go wrong despite the best efforts of airlines.

Beyond the regulatory front, innovation and competition continue to drive airlines to improve the passenger experience. Online and kiosk applications to obtain boarding passes are no longer novel – they are considered *de rigueur.* Airlines are now experimenting with electronic boarding passes so that cell phones and personal digital assistants (PDAs) can be used, thereby eliminating paper boarding passes entirely. And *a la carte* pricing for services not every passenger needs or wants is helping to offset

[8] Issued May 2009.

upward pressure on base fares. These innovations have become a point of competition, which is exactly what Congress looked for – innovation and competition – when it passed the *Airline Deregulation Act*.

For all of these reasons, we do not think consumer protection legislation is needed. In particular, we oppose a hard and fast rule requiring airlines to give passengers the option to deplane after three hours. Mandatory deplaning will have numerous unintended consequences that, ultimately, will create even more inconvenience for passengers and lead to even more flight cancellations. Forcing airplanes to return to the gate or get out of line to deplane a passenger to a ground vehicle on an active taxiway will be highly disruptive to airport and airline operations and raises significant safety issues.

As we noted in prior testimony,[9] if a flight returns to a gate and is cancelled, then the passengers will very likely be delayed at least into the next day, if not longer. Even if a flight is not cancelled, planes will lose their place in line to depart by being forced to go back to the terminal or pull out of line to deplane passengers by air stairs. This will cause even longer delays for everyone else. Consequences that will occur, particularly from a return to the gate to deplane a passenger, include:

- Cancellations because crews "time out"[10]
- Flights delayed because they lose their place in the departure line
- Unplanned overnight stays for unaccompanied minors
- Mishandled baggage
- Missed meetings and vacations
- Cascading cancellations and delays caused by planes and crews out of position, especially when diversions are involved
- An overall increase in cancellations because airlines will pre-cancel flights to limit passenger inconvenience and operational complications caused by the bill's requirements

These consequences are likely to be exacerbated for flights diverted to alternate airports.

The impact of flight cancellations extends beyond the passengers on the cancelled flight. Operationally, the consequences for airlines and the next day's passengers include:

- Crews and aircraft are 'out of position' and the next day's schedule is compromised
- Passengers at the destination city must wait for the aircraft to arrive the following day, delaying or cancelling *their* departures
- Flight crews 'deadheading' on the cancelled flight will not reach their destinations and will not be available to operate their scheduled flights
- Aircraft will be forced to traverse congested runways/taxiways when logistically possible (as it was not for long periods at JFK during the storm gridlock) to return to the terminal

Based on objective metrics, customer service is improving and airlines are doing a better job of responding to lengthy tarmac delays. Competition, regulatory oversight and enforcement, and public scrutiny are working. On the other hand, proposed legislation will be disruptive and add unnecessary costs. We continue to believe that additional legislation is not necessary.

[9] *See* footnote 7 above.

[10] FAA regulations on duty limits and rest requirements for pilots and flight attendants, as well as carrier collective bargaining agreements that go beyond the regulations, limit the amount of time pilots and flight attendants may be on duty without a rest break. Limited provisions that allow the duty day to be extended because of reasons beyond the control of the airline assist in dealing with weather-related delays. However, the utility of these provisions will be curtailed significantly by forcing planes back to the gate to deplane passengers.

CONCLUSION

It is imperative that Congress enable FAA to move forward promptly with its NextGen program and authorize its acceleration through *NowGen*. The environmental, capacity and efficiency benefits of NextGen are critical to meeting the needs of the flying and shipping public and improving the financial condition of the U.S. airline industry. FAA reauthorization legislation should embrace new thinking and new ideas about infrastructure funding, especially in light of current economic conditions and the need for FAA to be able to plan its research, development and acquisitions over several years. The principle of fair and equitable funding of the ATC system and the AIP program should be imbedded in reauthorization legislation. What user groups pay for ATC services should be aligned with their consumption of those services – airlines should not subsidize other users. Likewise, AIP funding for development projects at noncommercial public use airports should not come solely from the taxes and fees that commercial airlines pay into the Trust Fund. In addition, we urge Congress to adopt a forward-looking national aviation policy that recognizes the commercial airline industry's value and importance to our economy and society. Finally, customer service legislation is not needed. The industry has done a good job of responding to issues related to long tarmac delays and, on an objective basis, is providing better customer service.