WHITE PAPER

Proposals to Privatize Amtrak

AMTRAK

PROPOSALS TO PRIVATIZE AMTRAK

"[E]fforts to foster competition have not resulted in improvements to intercity passenger rail."[1]
- Congressional Research Service

Despite what Amtrak has accomplished with limited federal funding, proposals have been made to "privatize" some of its train operations or the Amtrak-owned infrastructure along the Boston-to-Washington Northeast Corridor (NEC). Proponents of privatization assert that it would produce better service at a lower cost and reduce or even eliminate the need for public funding. Great Britain's recent renationalization of its rail service after three disastrous decades of privatization, and past unsuccessful efforts to privatize various Amtrak operations, show otherwise.

Why Has Privatization Been Proposed?

It is not clear what problem Amtrak privatization proposals are intended to solve. Despite inadequate federal funding throughout nearly all of its existence, Amtrak has achieved notable success since it began train operations in 1971 and acquired ownership of most of the NEC in 1976.

- Amtrak set all-time records in ridership and revenue in FY24.

- Despite reduced business travel post-COVID-19 and insufficient equipment capacity to meet demand, Amtrak's NEC ridership was 12% higher in FY24 than in pre-COVID-19 FY19. NEC train operations had an operating cost recovery of 123% in FY24, far exceeding the 100% statutory goal.[2]

- When Amtrak acquired the NEC from the bankrupt private railroad that had owned it, speed restrictions imposed for safety reasons covered 185 miles of NEC track.[3] Today, the NEC is North America's most heavily trafficked and only high-speed railroad. Approximately 2,000 Amtrak, commuter, and freight trains—double the number from 1976—operate over it each weekday at speeds up to 150 mph, which will increase to 160 mph when new high-speed *Acela* trainsets enter service in 2025.

- With funding provided by the Infrastructure Investment and Jobs Act, Amtrak is making long overdue investments in infrastructure and equipment, including $4.5 billion in FY24. These investments are creating thousands of jobs throughout the United States and jump-starting American rail manufacturing. By replacing NEC bridges and tunnels that are 100 to 150 years old and passenger cars approaching 50 years of age, Amtrak is transforming its infrastructure and customer experience, and advancing its goal of doubling ridership by 2040.

- While the federal government is Amtrak's majority owner, federal law requires Amtrak to be operated and managed as a for-profit company.[4] Most of the companies that have expressed interest in operating intercity passenger rail service in the United States are not

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[1] Congressional Research Service, *Improving Intercity Passenger Rail Service in the United States,* at 19 (June 25, 2019), https://fas.org/sgp/crs/misc/R45783.pdf (hereinafter "CRS 2019 Report").
[2] 49 U.S.C. § 24902(a).
[3] U.S. Department of Transportation, *Two Year Report on the Northeast Corridor*, at 6 (Feb. 1978), https://railroads.dot.gov/sites/fra.dot.gov/files/fra_net/2766/1978a.pdf.
[4] 49 U.S.C. § 24301(a)(2).

private, for-profit companies. Instead, those companies are subsidiaries of government-owned railroads in China and Europe.

What Would Privatization Accomplish?

It is not clear what proponents of Amtrak privatization expect it would accomplish. A private entity would face the same constraints as Amtrak, but it would lack Amtrak's essential statutory right to operate over the national rail network.

- Labor costs, which account for nearly two thirds Amtrak's operating costs, would continue to be driven predominantly by agreements negotiated under the unique provisions of the Railway Labor Act to which a private entity replacing Amtrak would be subject. A private entity would also have to pay the same prices Amtrak pays for other major expenditures, such as diesel fuel and the electricity required for NEC operations.

- Privatization would add an additional cost: the profit that private operators would include in their bids. For example, the California High Speed Rail Authority has projected a 10% profit margin for the private operator of its planned service.[5]

- The NEC will not have capacity to accommodate significant additional train operations until the major infrastructure projects currently underway are completed. Even if all of the public funding they will require is provided in a timely fashion, that will take over a decade. Capacity will be further constrained while these projects are constructed.

- Amtrak's unique statutory rights to operate over the host freight and commuter railroads—railroads that own 97% of Amtrak's route network—are not transferable to another entity.

Privatization in Great Britain

In 1994, Great Britain did what proponents of Amtrak privatization advocate: it conveyed its rail infrastructure to a newly-formed private entity and franchised its train operations to private operators. Three decades later, it has completely reversed course.

- Britain renationalized its rail infrastructure in 2002 after 42 people died in three train accidents attributed to the negligence of the private infrastructure owner, which had become insolvent, and its contractors.[6]

- Instead of producing better service at a lower cost, franchising resulted in higher fares, deterioration in service, and franchisees who underbid for contracts and then walked away from their agreements.[7] In late 2024, Britain enacted legislation to end what was left of the

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[5] California High-Speed Rail Authority*, Central Valley and Peninsula Corridors Operations Financial Plan Study*, at 59 (May 1, 2019), https://www.hsr.ca.gov/docs/about/legislative_affairs/Central_Valley_and_Peninsula_Corridors_Operations_Financial_Plan_Study.pdf.

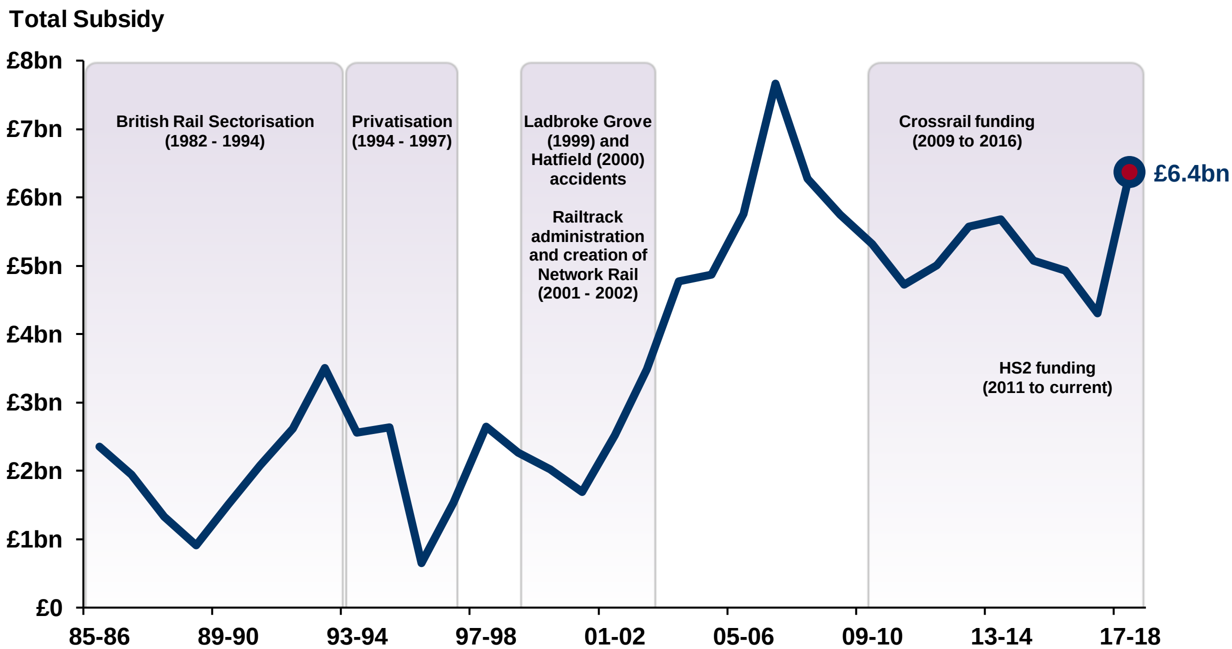
[6] Louise Butcher, *Railways: Railtrack, 1994-2002*, House of Commons Library (March 24, 2010), https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN01224; *Potters Bar crash: how the events unfolded*, The Telegraph (May 13, 2011), https://www.telegraph.co.uk/news/uknews/road-and-rail-transport/7918778/Potters-Bar-crash-how-the-events-unfolded.html.

[7] *Is Britain's rail franchising system fit for purpose?*, Financial Times (Jan. 4, 2018), https://www.ft.com/content/db6a433c-f15f-11e7-b220-857e26d1aca4.

franchise model and create a new government entity, Great British Rail, to replace private train operators.[8]

Two things are particularly noteworthy about Great Britain's failed privatization effort. The first is that the initial decision to end franchising of train operations was made in 2020 while the Conservative Party, which had been the proponent of privatization, controlled Britain's government.[9] Second, government subsidies for rail did not decline during privatization, but instead increased dramatically, as shown in the table below.

Government Subsidies for Rail in Great Britain (adjusted for inflation)[10]



Efforts To Privatize Amtrak Services

Past efforts to privatize Amtrak routes or NEC infrastructure have been universally unsuccessful.

- A Midwestern state privatized equipment provision, maintenance, food service, and marketing for an Amtrak state-supported route in 2015. The state experienced problems similar to those in Great Britain. The first contractor selected had to be replaced before service commenced.[11] During the first year of privatization, ridership fell 10.5%. The contractor's equipment caused mechanical delays to increase by 35%. Five months later, the second contractor announced that it could no longer fulfill its contractual obligations.[12]

[8] David Maddox, *Railways set to come back into public ownership after Lords publish nationalization bill*, The Independent (Nov. 20, 2024), https://www.the-independent.com/news/uk/politics/rail-nationalisation-uk-labour-bill-lords-b2650736.html.
[9] *Rail franchises axed as help for train firms extended*, BBC (Sept. 21, 2020), https://www.bbc.com/news/business-54232015.
[10] Office of Rail and Road (Great Britain), *Rail Finance: 2017-18 Annual Statistical Release,* at 2 (Oct. 11, 2018).
[11] Chris Morisse Vizza, *Whistle-blower: INDOT wasted time on alternative*, Lafayette Journal & Courier (Nov. 18, 2014), https://www.jconline.com/story/news/2014/11/18/indot-amtrak-whistle-blower/19248481/.
[12] *Amtrak takes over Hoosier State train*, Lafayette Journal & Courier (Jan. 30, 2017),

- In 2008, Congress mandated that the Federal Railroad Administration (FRA) solicit development of high-speed services on the NEC and other corridors. This did not attract a single proposal for the NEC, or any proposals for other corridors that included commitments of private funding.[13]

- In 2016, a similar FRA solicitation produced only a single non-Amtrak proposal for the NEC. That proposal was from a consortium led by China's government-owned railway. The Chinese consortium expressed interest in constructing and operating a dedicated high-speed rail line along the NEC, but only if federal and state governments provided most of the funding required.[14]

- In 2017, another FRA solicitation did not attract a single bid. This solicitation, required by the FAST Act, offered federal subsidies equal to 90% of the funding provided to Amtrak for entities willing to take over up to three Amtrak long-distance routes.[15]

Could Private Investment Replace Federal Funding?

Privatization would not change the fact that giving the United States the passenger rail system it needs will require substantial, assured, multi-year federal funding for Amtrak and intercity passenger rail. Indeed, the availability of such funding is an essential prerequisite to attracting private sector interest in U.S. intercity passenger rail, as evidenced by the failure of the privatization efforts described above. And it is necessary to advance public-private partnerships for projects that could attract private investment.

The history of Brightline West, which plans to build a new high-speed rail line between Las Vegas and Rancho Cucamonga, California, illustrates the need for public funding to make intercity passenger rail projects financially viable and attract private investment. In 2020, Brightline West claimed that its proposed high-speed rail line project would require "no capital or operating funding from government."[16] Some four years later, Brightline West has abandoned its plans to construct the project entirely with private funding: it sought and received a $3 billion federal grant to cover a portion of the project's costs,[17] and is continuing to seek the private funding it will need to begin construction, which has not commenced.

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https://www.jconline.com/story/money/2017/01/30/indot-yanks-hoosier-state-train-contract/97257928/.

[13] DOT Office of Inspector General, *FRA Continues to Make Progress Implementing PRIIA Responsibilities But Faces Challenges with Rail Planning,* Report No. CR-2014-030, at 21 (Feb. 25, 2014), https://www.oig.dot.gov/sites/default/files/FRA%20Progress%20Implementating%20PRIIA%5E2-25-14.pdf.

[14] Response by Zhongmin Yang, Proposals for High Speed Rail Corridors, FRA-2016-0014, https://www.regulations.gov/document/FRA-2016-0014-0003.

[15] CRS 2019 Report, at 15.

[16] *LA to Vegas Fact Sheet*, Brightline West, https://web.archive.org/web/20210127221735/https://www.gobrightline.com/sites/default/files/2020-09/LA_To_Vegas_Fact_Sheet.pdf.

[17] Luz Lazo, *Las Vegas-S. California high-speed rail gets $3 billion federal grant*, Wash. Post (Dec. 5, 2023), https://www.washingtonpost.com/transportation/2023/12/05/brightline-west-high-speed-rail-grant/.

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