

Mica Extends Olive Branch to Amtrak, Dems Pound Rail Privatization Plan

by [Tanya Snyder](#) on June 23, 2011

Rep. Corinne Brown (D-FL), the top Democrat on the Railroads Subcommittee, began her remarks at yesterday's Transportation Committee hearing like this:

My notes say that I'm supposed to say, 'Thank you Mr. Mica for holding today's hearing.' *I don't think so.* Because I think legislation that affects the entire passenger and freight rail system in the United States *deserves* hearing, examination and debate. There are numerous legal, financial and operational questions that need to be answered before we auction off Amtrak to Wall Street investors.



Rep. Corinne Brown (D-FL) wasn't quite ready to thank Mica, as is customary, for holding the hearing.

The hearing was called at the last minute as a result of Brown's and others' [demands for a full airing of Democrats' concerns](#) before taking quick action on the [Republican plan to privatize Amtrak's Northeast Corridor](#).

Committee Chair John Mica (R-FL) started off blustery and aggressive, saying, "We'll have a hearing every week if we have to until we get this done" and dismissing his critics' concerns with

visible frustration. Once he got that out of his system, though, he adopted a more conciliatory tone as he talked about Amtrak.

He introduced Amtrak CEO Joseph Boardman with some self-effacing humility: "[Boardman] takes a beating from time to time, sometimes from me, unwarranted, and I apologize publicly for that, but he does as good a job he can with the cards he's dealt," Mica said.

That was just the beginning of Mica's overtures to the embattled rail chief and his allies. He prodded Democrats and witnesses for suggestions for improving the plan, looking to incorporate their suggestions to build consensus for the bill. Significantly, Mica even allowed that the plan to privatize the Northeast Corridor could end up leaving Amtrak more or less intact, especially since Amtrak is already looking for private-sector partners to team up with.

"I'm not trying to limit any service they provide, or privatize all of Amtrak," Mica said. "I don't mind giving authority to Amtrak to do what we're trying to achieve. I don't know that we need to create a second entity to do this."

He said he'd been told by Amtrak leaders in the past that they didn't have the authority to team up with the private sector to operate and maintain the corridor. "The key is to attract private capital, so we have got to have the ability, for whatever entity, whether it's Amtrak or another entity, to attract that private capital."

Boardman indirectly chided Mica for his previous attacks on Amtrak, saying, "The stability of Amtrak and its future are critical to have any confidence in us as a centerpiece. And this legislation, and the way

that we're characterized on a regular basis, doesn't sustain that in the investment public. And it's not accurate. Sir."

While Mica may have been willing to take a vacation from his usual name-calling, not all Republicans were as generous in their approach to Amtrak. I've been waiting all session to hear from Rep. Chip Cravaack (R-MN), the freshman who ousted Chair Jim Oberstar from his seat last fall. In the first words I'd personally heard from Cravaack at a T&I Committee hearing, he toed the Tea Party line, mingling xenophobia and a fanatical commitment to avoiding borrowing. Amid more moderate, old-school Republicans like Mica, he embodied the new class of Republicans.

"Amtrak is broken, and the other fact is that we're broke," Cravaack said. "I hear about investment – where is that investment money going to come from? Right now 47 percent of our debt is foreign owned. Do we plan to go over 50 percent of that debt? We're going to have foreign-owned entities own our debt and begin to start telling us where we can and can't invest our money. I'm not willing to put my children and my grandchildren at that risk."



Amtrak CEO Joseph Boardman said the privatization plan would set back high-speed rail development by 10 years.

Boardman rejected this kind of talk, saying Amtrak was "a world leader in terms of cost recovery and efficiency" and that its plan for developing high-speed rail had received "positive reviews." He said breaking up Amtrak and handing its assets over to a private firm "would set back the development of high-speed rail by 10 years or more, and will cost the economy of the Northeast and the United States taxpayer a great deal more money."

Democrats also questioned whether the bill was constitutional. "The nonpartisan Congressional Research Service has determined that this proposal is unconstitutional because it violates the [appointments clause](#) of the Constitution," said Committee Ranking Member Nick Rahall. "It is also likely that the proposal violates the [takings clause](#) because it takes Amtrak's private property without just compensation." Several others echoed Rahall's concerns. Boardman affirmed that his understanding was that Amtrak would receive no compensation at all for the corridor or the trains.

"In the history of a 'taking', that's not what we do in this country, and that's not what happened when the corridor was transferred to Amtrak back in 1976," Boardman said. "The private owners were paid substantially, even though they were bankrupt."

Despite Mica's more moderate language, Democrats kept calling this a plan to kill Amtrak, and indeed, Boardman agreed that that would be the upshot. "With the debt that we'd be left with, we would not be able to service that debt," Boardman said, "and as a result of that, without an increase in additional federal assistance, there would be no way for us to continue to operate any of the non profitable [routes]."

"We can tear apart Amtrak and hope for the best or give Amtrak the tools that it needs to run true high-speed rail," said Rep. Brown.

“This bill throws the entire passenger rail system off a cliff and hopes a safety net will suddenly appear,” echoed Rep. Jerry Nadler (D-NY). “At least, it hopes the NEC is safe. It doesn’t deal effectively with other routes, except to remove the cross-subsidy from the Northeast Corridor that now supports them.”

Del. Eleanor Holmes Norton (D-DC) said the cross-subsidies were fair if the United States is, indeed, a union. And Rahall was standing up for his home state of West Virginia when he rushed to the defense of cross-subsidies and of the Cardinal line that connects New York and Chicago, running through his state.

“The Cardinal will suffer a fatal blow under this proposal, along with many other vital routes that connect rural areas of our country, coast to coast,” said Rahall. “Right now, Amtrak serves about 40 percent of America’s rural population. All of this service would be lost under the draft legislation.”

Democrats and some witnesses also expressed serious concerns about labor issues with a transition to private operation. While Mica and Rep. Bill Shuster (R-PA) have continually assured organized labor that wage and benefits will be preserved and that Amtrak employees will have preference for hiring, in fact all existing contracts will be abrogated under the plan, with no guarantees and no [Davis-Bacon](#) protections.

Indeed, Nadler alluded to the fact that keeping current wage and benefit arrangements would make the contract so costly that private companies would be scared away.

Many Democrats referred mockingly to a provision in the draft bill that authorizes the FRA to pay private entities \$2 million each just to prepare a proposal to take over the rail operation or maintenance. Brown said such a thing was “unheard of.”

“We pay corporations in order to encourage competition among corporations?” said Norton. “Do I hear you right? Wouldn’t it be an indication of whether or not a bidder were a serious bidder, that he was willing to put his own capital up to bid?”

She said that provision would have to be stripped out or “be laughed out of the proposal.” Still, though, she and other Democrats maintain that the entire privatization plan won’t go far. Norton says “no one entertains the illusion” that the bill would get through the Senate or be signed by the president and that it “annoys” her that an otherwise “practical” committee would waste time with it.

Indeed, some speculate that Mica is introducing this bill separately from the rest of the reauthorization – which he said would be unveiled the week of July 4 – because he knows it has no chance of passage and didn’t want to let the whole transportation bill sink with it.