

[F.No. AERA/20010/MYTP/Celebi/C/Del/2011-12]

Airports Economic Regulatory Authority of India

Order No. 14/2011-12

**AERA Building,
Administrative Complex,
Safdarjung Airport ,
New Delhi - 110 003**

Date of Order : 29th September,2011

Date of Issue : 7th October,2011

In the matter of Multi Year Tariff Proposal submitted by M/S Celebi Delhi Cargo Terminal Management India Private Limited for the services provided for Cargo Handling Facility at Cargo Terminal, IGI Airport, New Delhi

M/s Celebi Delhi Cargo Terminal Management India Pvt. Ltd. (Celebi) have vide application dated 30.04.2011, submitted their Multi Year Tariff Proposal (MYTP) for the first control period of 5 years commencing w.e.f. 01.04.2011, in respect of the tariff for the services provided for Cargo Facility at the Cargo Terminal, IGI Airport, New Delhi.

2.1 In respect of the regulated service(s) provided for cargo facility at the major airports, the Authority considers that materiality of the service is linked to the cargo volume at the major airport. The materiality shall be assessed based on cargo volume in Metric Tonnes (MT) at the major airport as a percentage of cargo volume in MT at all major airports, in terms of Clause 4.3 of the Guidelines [The Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services provided for Cargo Facility, Ground Handling and Supply of Fuel to Aircraft) Guidelines, 2011]. The percentage share of cargo volume for IGI Airport, is 26.4% which is greater than 2.5% Materiality Index fixed for the subject service. Hence the service is deemed 'material'.

2.2 As per the information furnished by Celebi, in Form F1 (b) on the Competition Assessment, following service provider will be rendering similar service at IGI Airport:

(i) M/s Delhi Cargo Service Centre (DCSC)

2.3 The Guidelines provide that where a regulated service is being provided at a major airport by two or more service providers(s), it shall be deemed 'competitive' at that airport. In the instant case with the total number of players being two, the service is deemed 'material but competitive.'

2.4 As per Clause 3.2 of the Guidelines, based on the assessment of materiality and competition, when such regulated service is deemed 'material but competitive', the Authority shall determine tariff(s) for the service provider(s) based on a light touch approach for the duration of the Control Period. Hence



the regulated service being provided by Celebi at IGI Airport, New Delhi is 'material but competitive' and shall come under the light touch approach for tariff determination.

2.5 Celebi have furnished the basis for arriving at the details, including the Aggregate Revenue Requirements, the rationale for the projections/various parameters used; justification, assumptions and cost drivers used for calculating O&M Expenditure; supporting documents for the administration and general expenses and also for R&M Expenditure etc;

2.6 Copies of agreements entered into with agencies for provision of Regulated Services at the major airport, including stakeholder consultation undertaken have also been furnished.

3. The Authority while considering the MYTP submitted by Celebi inter alia, noted that:

(i) At the time of commencement of the control period, i.e., on 01.04.2011, there was only one service provider i.e. Celebi for international cargo operations at the IGI Airport, New Delhi. However, with the commencement of the cargo operations by Delhi Cargo Service Centre (DCSC) at IGI Airport, New Delhi, there will be two players. Therefore, it was felt that while technically the period from 01.04.2011 till date of commencement of operations by DCSC was a material but not competitive situation since within a few months two players are likely to emerge, on balance it would be appropriate to treat the case as a "material but competitive" situation for the control period. The Authority also observed that Celebi is an old operator which has been operating on the basis of historical tariffs and no change in tariff has been proposed at this stage.

(ii) The Authority also decided to accept the request for confidentiality of documents to the extent requested by Celebi.

4. Accordingly, the Authority vide, Consultation Paper No. 16/2011-12 dated 27.08.2011, proposed for stakeholder consultation that

(i) The cargo service by Celebi at IGI Airport, New Delhi is 'material' but 'competitive' and hence the Authority may adopt a 'Light Touch Approach' for determination of tariff for the 1st Control period w.e.f 01.04.2011.

5. In response to the aforesaid Consultation Paper, comments were received from Air India (AI) vide letter dated 26.09.2011, received on 28.09.2011

6.1 The Authority observed that the comments of AI pertained to the approach determined by the Authority to assess competition. The Authority, therefore, felt that it would itself need to address the points raised by AI, as the comments of the AI were not of a nature for which some factual matter needs to be verified from third party - like the airport operator or the service provider.



6.2 The issues raised by Air India and the Authority's views on each are as under:

- (i) AI stated that *"with the two players the situation as on date is DCSC is only catering for domestic cargo handling and Celebi for international cargo handling and therefore it is monopolistic situation and to be treated under 'material but non-competitive environment'. Given the status-quo situation, the airlines have no option and is compelled to go the individual handlers and agree on the prices charged by the individual concessionaires"*.

The Authority was of the opinion that though at the commencement of the control period, Celebi was the only service provider for international cargo but very shortly Delhi Cargo Service Centre Pvt. Ltd., i.e., DCSC is also expected to start its International cargo operations at IGI Airport, Delhi. Also, DCSC is an existing service provider for domestic cargo services and on the date Celebi starts its domestic cargo, it will have an existing competitor in this field. Thus, during the period from 1.4.2011 till commencement of international cargo handling services by DCSC, there was only one service provider for international cargo operations at IGI airport, Delhi. However, with commencement of operations by DCSC, there will be two players. Therefore, it was felt that as "Celebi had already entered into user agreements, which are negotiated while keeping into consideration competitive operations of cargo terminals at other airports driven by volume, loyalty and service levels;" Celebi is an old operator which has been operating on the basis of historical tariffs and no change in tariff has been proposed at this stage; since commencement of 1st tariff year, i.e., 1.4.2011 of the 1st control period, a few months have already passed and a second player is shortly to emerge, hence on balance, it was found appropriate to treat this case a material but competitive situation for the control period. Thereafter, the airlines will also have an option of choosing between two service providers. In all, action of DCSC to commence its operation will be conducive to engender competition.

- (ii) AI had further stated that *"the two service providers (DCSC and CDC) get benefit in terms of assured duopoly till the total cargo handled in the aggregate of the preceding 12 months at the IGI Airport reaches mutually agreeable (among DIAL, DCSC and CDC) volumes or 2 million tonnes, whichever is earlier. After that DIAL has the right to introduce a third terminal operator for development and operation of another cargo terminal offering similar services. Therefore, even after both the concessionaires start handling international and domestic cargo, the duopoly situation may lead to other problems"*.



The Authority observed that Air India (AI) in their comments on Consultation Paper No. 5/2010-11 dated 2.08.2010 relating to determination of tariff for services provided for cargo facility, ground handling and supply of fuel to the aircraft guidelines, had commented as under:

".....AERA has proposed defining "competition" as a regulated service being provided by three or more service providers. NACIL suggests that this be reduced to two or more service providers and supports the view of various stakeholders in this regard. Our experience at Cochin airport where we compete with BWFS Bird support this view....."

It was based on the comments/views of AI and other Stake holders/service providers at the time of framing the Guidelines that the Authority revised the proposal of "three or more service providers" to "two or more service providers" scenario to be treated as "competitive" during "competition" assessment. Hence, it was incorrect for AI to make a completely contrary suggestion at this stage. Furthermore, once "competition" is defined as two or more players, the issue of "duopoly" is irrelevant, apart from being somewhat of a tautology. Therefore, the Authority was not persuaded to accept AI's contention that the two-player scenario at IGI airport will not amount to a "competitive" environment.

- (iii) AI has also stated that *"also DIAL has a 26% stake in both the cargo concessionaires at Delhi. With the Airport operating having a stake in both the concessionaires it is their view that it is non-competitive environment also. With DIAL having a material interest in the business; one as a shareholder - share of the profit, two as the Airport Operator – revenue from concession fee it will lead to a non-competitive environment wherein DIAL will be able to have an active say in the rates charged to airlines. Hence it is their view that even though the market will have two players it should fall under material but non-competitive environment."*

In this regard, the Authority observed that by 26% equity stake, the Delhi International Airport Limited (DIAL) will have a decisive say in the decision making process of Celebi. Moreover, Authority was of the view that the composition of various service providers as well as a monopolistic or restrictive or unfair trade practice – if indulged in by any entity, is outside the Authority's jurisdiction. Further, it was the view of the Authority that the inherent competition in a two-service provider environment should adequately take care of any concerns in this regard.

ORDER

7. Upon careful consideration of material available on record, as well as submissions made by stakeholders, the Authority, in exercise of powers conferred by Section 13(1)(a) of the Act hereby orders that:



- (a) The services provided by Celebi Delhi Cargo Terminal Management India Pvt. Ltd., the Cargo facility Service provider at IGI Airport, New Delhi are "material but competitive". Hence the Authority will adopt a "light touch approach" for determination of tariff for the 1st Control Period w.e.f 01.04.2011.
- (b) Celebi Delhi Cargo Terminal Management India Pvt. Ltd., may submit the Annual Tariff Proposal for the first tariff year of the first control period for the consideration of the Authority within a period of 75 days of the issue of this Order in accordance with the Guidelines.

**By the Order of and in the
Name of the Authority**



**(Capt. Kapil Chaudhary)
Secretary**

To,

**M/s Celebi Delhi Cargo Terminal Management India Pvt. Ltd.,
Import Building – III,
International Cargo Terminal,
Indira Gandhi International Airport,
New Delhi – 110037.
(Through: Shri Sanjay Khanna, Chief Executive Officer)**

