

F.No.AERA/25013/WP 01/2009-10
Airports Economic Regulatory Authority of India


Room No. 1,
New Administrative Block,
Safdarjung Airport,
New Delhi.

Dated 16th April, 2010

Public Notice No. 02/2010-11

The attention of all concerned is invited to White Paper No. 01/2009-10 in respect of regulatory philosophy and approach in economic regulations of airports and air navigation services issued by the Authority on 22nd December, 2009 with the deadline for receipt of comments/suggestions by 5th January, 2010. The date was finally extended upto 12th January, 2010 in view of various representations received from stakeholders. The comments received from stakeholders were uploaded on the "AERA Corner" in the Ministry of Civil Aviation's website on 15th January, 2010 vide Public Note No. 03/2009-10. This was followed by the Consultation Paper No. 03/2009-10 dated 26th February, 2010 wherein the Authority laid down its proposed positions in respect of various issues relating to regulatory philosophy and approach.

2. Subsequently, the Ministry of Civil Aviation had furnished their comments on the White Paper vide its letter no. Av.20011/003/2009-AD dated 9th March, 2010. The Authority is of the opinion that the issues raised by the Ministry have been adequately addressed in the aforesaid Consultation Paper No. 03/2009-10. The Ministry was informed accordingly vide Authority's letter dated 12th March, 2010. The issues raised by the Ministry and comments of the Authority are attached herewith for information of all concerned.


(C.V. Deepak)
OSD-II
Tel: 2461 8539

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F. No. AV.20011/ 003 /2009-AD

Government of India
Ministry of Civil Aviation
AD Section

Safdarjung Airport, New Delhi,
Dated 02.03.2010.

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To,
Shri Sandeep Prakash,
Secretary,
Airports Economic Regulatory Authority,
Safdarjung Airport,
New Delhi.

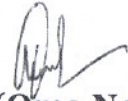
Sub: White Paper on various issues related to regulatory approach and philosophy in Economic Regulation of Airports and Air Navigation Services- regd.

Sir,

I am directed to refer to your letter no. AERA/25013/WP-1/2009-10 dated 22.12.2009 on the above-mentioned subject and to enclose the views/comments of the Ministry of Civil Aviation as **Annexure-I**.

2. It is further stated that the views/comments of this Ministry are only of advisory in nature as such may not be construed as 'approval' of the Government for the specific approach/outline of the White Paper.

Yours faithfully,



(Oma Nand)

Under Secretary to the Govt. of India

Tele-24640214

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Annexure-I

S. No.	Issues	Comments
1.	Form of regulation - whether Price Cap, Rate of Return or Light Touch?	Consumer's interest is of paramount importance and it should be kept in view while deciding about the form of regulation.
2.	"Till"- Treatment of non-aeronautical revenue and adoption of Single, Dual or Hybrid (Shared) till	The adoption of a specific 'till' methodology should be airport specific, keeping into mind the contractual obligations (if any), socio-economic objectives of the Government as in the case of the airports in the North-Eastern states and in remote locations (if covered under the ambit of AERA) and other such conditions. The ultimate objective should be to reduce the burden on the end users (passengers).
3.	Fair Rate of Return (on investment and on equity)	In case of the development of an airport under PPP mode, this paradigm is reasonable, but in case where the socio-economic mandate of the Government comes into play, this should not be the objective.
4.	Capital Investment - specifically the need for user consultation and degree of regulatory oversight to ensure efficient investment	This may be desirable
5.	Operating Expenditure - Incentives for efficiency improvement and cost pass through	May be desirable but with the condition that it should not adversely affect the performance standards and tariff/ fee payable by the passengers

S. No.	Issues	Comments
6.	Form of Price Control and Tariff Structure - should the regulator set individual tariffs or should the operator have flexibility within the 'aggregate' determined by the regulator?	Individual tariff structure may be more appropriate as different charges would have different bearing on the end users. Any subjective decision by the airport operator, which most likely will be shrouded in ambiguity, would lead to unnecessary criticism at later stage.
7.	Passenger Charges Vs Airline Charges - Interplay between the two to enable agreed upon fair rate of return to the investor/ operator.	The Passenger Charges are presumably direct charges, but even Airline Charges are ultimately passed on to the passengers. Hence it does not make much difference for the end user as far as the interplay between the two charges are concerned, as long as his net payable is not being adversely affected. Consumer's interest is of paramount importance and it should be kept in view while deciding about the interplay between the two charges.
8.	Service Quality Monitoring - Setting and monitoring of standards; and ensuring compliance through predefined 'bonus'/ 'rebate' on airport charges	The Service Quality Monitoring Standards should be airport specific, keeping into mind the contractual obligations (if any). It is also desirable to have an inbuilt penalty system for non-compliance of set performance standards. However, ensuring compliance through predefined 'bonus'/ 'rebate' on airport charges, which ultimately would have a bearing on the end users (passengers) is not desirable.

F. No. AERA/25013/CP/03/2009
Airports Economic Regulatory Authority of India

Room No. 1,
New Administrative Block,
Safdarjung Airport, New Delhi.

Dated the 12th March, 2010

To

Shri Oma Nand,
Under Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhawan,
New Delhi.

Subject: White Paper on various issues related to regulatory approach and philosophy in Economic Regulation of Airports and Air Navigation Services – regarding

Sir,

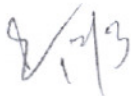
I am directed to refer to your letter No. AV.20011/003/2009-AD dated 02/09.03.2010 on the above subject and to say that the Authority has thereafter issued a Consultation Paper on 26.02.2010 setting out its tentative position / approach on various issues.

2. The Ministry's comments have been examined in this background and the comments of the Authority thereupon are enclosed herewith. As can be seen, the Consultation Paper issued on 26.02.2010 addresses the issues highlighted by the Ministry.

Yours faithfully,



(C.V. Deepak)
OSD-II
Tel: 24618539





S. No	Issues	Views / Comments of Ministry	Comments of AERA
1.	Form of regulation - whether Price Cap, Rate of Return or Light Touch?	Consumer's interest is of paramount importance and it should be kept in view while deciding about the form of regulation.	<p>The airlines, passengers and cargo facility users are broadly the consumers for any airport. Taking into consideration the views of the Ministry as indicated at Sl No. 2, it is presumed that the interest of the end users, i.e., passengers and cargo facility users needs to be given paramount importance. In this regard, the attention of the Ministry is invited to the para 1.3 of Part V of the Consultation Paper issued by the Authority on 26.02.2010 wherein the Authority has laid down its objectives. It is explicitly stated that the Authority would protect and promote the interests of the existing and future users of major airports and air navigation services through provision of quality services commensurate with the respective tariffs/charges, <u>keeping in particular focus the interests of passengers and cargo facility users and the user expectations.</u></p>
2.	"Till"- Treatment of non-aeronautical revenue and adoption of Single, Dual or Hybrid (Shared) till	The adoption of a specific 'till' methodology should be airport specific, keeping into mind the contractual obligations (if any), socio-economic objectives of the Government as in the case of the airports in the North-Eastern states and in remote locations (if covered under the ambit of AERA) and other such conditions. The ultimate objective should be to reduce the burden on the end users (passengers).	<p>As summarized in para 1.10 of part V of the Consultation Paper, the Authority considers that, for Indian situation, the Single Till is the most appropriate basis, in general. While taking this view, the Authority has been mainly influenced by the following:</p> <p>(a) Non-aeronautical revenue is clearly a function of aeronautical activity at an airport. Therefore, there is a persuasive case for non-aeronautical revenues to be taken into consideration for fixation of aeronautical tariffs.</p> <p>(b) A Single Till approach protects interests of users by ensuring service provision commensurate with the respective tariff / charges.</p> <p>(c) Single till approach takes all airport assets and costs into account thus avoiding complications relating to cost</p>

S. No	Issues	Views / Comments of Ministry	Comments of AERA
			<p>allocations etc. inherent under a dual till approach.</p> <p>As regards the airports covered by Concession Agreements / State Support Agreements, above approach has been qualified by explicitly stating in para 1.7, Part V that "the Authority will consider the provisions and consequently the effect of concession agreements for the concerned airports while / at the time of determining tariffs for the first tariff cycle. In effect, the covenants of the concession agreements may require appropriate modifications to be made to the general framework".</p>
3.	Fair Rate of Return (on investment and on equity)	In case of the development of an airport under PPP mode, this paradigm is reasonable, but in case where the socio-economic mandate of the Government comes into play, this should not be the objective.	Ministry's support to provision of fair rate of return to the airports under PPP mode is noted. The Consultation Paper has also dealt with the issue at length. The attention of the Ministry is also drawn to Section 11 of the AAI Act, 1994 wherein it is provided that the AAI shall act on business principles. Therefore, even in case of AAI airports, a fair rate of return needs to be provided in respect of the investments made. In any case, it is the basic principle of any regulatory regime that cost incurred in implementing the socio-economic mandate of the Government are defrayed through / by the general exchequer and the regulated entity is not required to bear these costs.
4.	Capital Investment -specifically the need for user consultation and degree of regulatory oversight to ensure efficient investment	This may be desirable.	Noted. The Consultation Paper, specifically, highlights the AERA's position that user consultation in this regard should be undertaken.
5.	Operating Expenditure - Incentives for efficiency	May be desirable but with the condition that it should not adversely affect the performance standards and	The Price Cap regulation would be operationalised through the building blocks illustrated at page 27 of the Consultation Paper. As would be

S. No	Issues	Views / Comments of Ministry	Comments of AERA
	improvement and cost pass through	tariff/ fee payable by the passengers	observed, the service quality is one of the important factors in the assessment of operating expenditure.
6.	Form of Price Control and Tariff Structure - should the regulator set individual tariffs or should the operator have flexibility within the 'aggregate' determined by the regulator?	Individual tariff structure may be more appropriate as different charges would have different bearing on the end users. Any subjective decision by the airport operator, which most likely will be shrouded in ambiguity, would lead to unnecessary criticism at later stage.	The Authority proposes to follow a price cap form of regulation under which the Authority will determine a yield per passenger which an airport could recover during the regulatory cycle. Subsequently, detailed tariff proposals from airport operators will be reviewed and approved. Thus, while airport operators are proposed to have flexibility to propose individual tariff within the specified price cap, such tariffs will be subject to approval by the Authority. As such, there will be no free reign for the airport operators enabling them to fix individual tariffs to their whims and fancies. In this regard para 1.24 (in part V) of Consultation Paper may please be referred to.
7.	Passenger Charges Vs Airline Charges - Interplay between the two to enable agreed upon fair rate of return to the investor/ operator.	The Passenger Charges are presumably direct charges, but even Airline Charges are ultimately passed on to the passengers. Hence it does not make much difference for the end user as far as the interplay between the two charges are concerned, as long as his net payable is not being adversely affected. Consumer's interest is of paramount importance and it should be kept in view while deciding about the interplay between the two charges.	The passenger charges are charges such as PSF, UDF and DF which are directly recovered from the passengers over and above the airline fare whereas airline charges are the charges which the airport operator levies on the airlines. While it is true that the airlines would attempt to recover such charges from the passengers through the fares, the ability of airlines to fully pass on the incidence of such charges depends upon the competitive pressure. On the other hand, the passenger charges are in full measure recovered from the passengers. Hence, the sensitivity of the passenger to the UDF/ADF is far higher than the pass through of airline charges through tickets. White Paper has highlighted the issue of interplay between these charges in the above background.

S. No	Issues	Views / Comments of Ministry	Comments of AERA
8.	Service Quality Monitoring - Setting and monitoring of standards; and ensuring compliance through predefined 'bonus'/'rebate' on airport charges	The Service Quality Monitoring Standards should be airport specific, keeping into mind the contractual obligations (if any). It is also desirable to have an inbuilt penalty system for non-compliance of set performance standards. However, ensuring compliance through predefined 'bonus'/'rebate' on airport charges, which ultimately would have a bearing on the end users (passengers) is not desirable.	The Authority, after due consideration of the international best practices, has come to a conclusion that a penal regime (operationalised in the form of rebates) for underperformance vis-a-vis specified benchmarks would be the most appropriate option to adequately protect the interest of the users. Under such a mechanism, the calculated rebate level for a year will need to be passed on to users of airport in the form of reduced airport (aeronautical) tariff in the following year(s). Thus, the Authority proposes to have a penalty system for non compliance with set performance standards and the consequential rebate would be passed on to users through reduced airport (aeronautical) charges in the subsequent year(s).