



**SpiceJet Limited**  
319 Udyog Vihar, Phase-IV,  
Gurugram 122016, Haryana, India.  
Tel: + 91 124 3913939  
Fax: + 91 124 3913844

January 24, 2022

To,  
The Chairperson,  
Airports Economic Regulatory Authority,  
AERA Building, Administrative Complex,  
Safdarjung Airport,  
New Delhi- 110 003.

Kind Attention – Shri. Balwinder Singh Bhullar

Dear Sir,

**Subject: Response to Consultation Paper No. 25/2021-22 dated December 29, 2021 on determination of Aeronautical Tariff for Netaji Subhas Chandra Bose International Airport, Kolkata, for the Third Control Period (01.04.2021 – 31.03.2026)**

At the outset, we would like to express our sincere gratitude to AERA for inviting stakeholder comments on the Consultation Paper, and further acknowledging the impact of COVID-19 on the aviation sector.

Sir, you will appreciate that airlines which are the 'catalyst' for the global economy including the aviation sector, have been hit the hardest by COVID-19. Since February/March 2020, due to restrictions on the scheduled international and domestic air travel issued by the Ministry of Civil Aviation and Directorate General of Civil Aviation and other restrictions on inter/intra state travel (collectively 'Government Restrictions'), airlines' cash flows have been severely impacted.

While the airline operations showed an upward trend from December 2020, however the brutal second wave of COVID-19 in March 2021 and subsequent emerging variants of COVID-19, have again impacted the operations to a great extent and have prolonged the process of financial recovery.

As per industry estimates issued by IATA and CAPA, it will take almost two (2)- three (3) years for airline operations to reach pre COVID-19 levels, in terms of number of flights and passengers. In the current situation, airlines in India are staring at a loss of approximately USD 8.0 billion for the FY 2020-21 and 2021-22 as per CAPA. With limited financial support from the Government, Airlines are constrained to implement severe cost control measures to sustain their operations.

You will further appreciate that, while the low passenger demand for air travel coupled with certain Government Restrictions on fare, prevents airlines from generating adequate passenger revenue, airlines continue to incur high operational cost, including on account of high airport charges and



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The Consultation Paper proposes an increase/hike in the aeronautical tariffs as more particularly mentioned under Annex – A attached hereto. In this regard, we humbly request AERA to not implement any increase in the aeronautical tariff in the Third Control Period given the adverse financial impact of COVID-19. Any increase in cost will further dampen the demand as the market is highly price sensitive.

Without prejudice to the above, and as desired by AERA, please find attached our recommendations/ comments on the Consultation Paper, under Annex – A. We hope that your good self will positively consider such recommendations/ comments as it will help in achieving the affordability and sustainability of the airline, which is also outlined as a key objective in the National Civil Aviation Policy, 2016.

We look forward to your continued support in these challenging times. SpiceJet shall ever remain grateful to you, Sir.

Thanking you in advance.

Yours Truly,  
**For SpiceJet Limited**

  
  
**GP Gupta**  
**Chief Strategy Officer**

Copy to:  
Director (P&S Tariff), Airports Economic Regulatory Authority of India (AERA)

**Annex – A**  
**Comments on Consultation Paper and Tariff Card**

**1. Exemption on Landing Charges:**

**a. Refund of Landing Charges: (Refer 14.2.8 to 14.2.11 of the CP)**

AERA has proposed to compensate Airports Authority of India (AAI) the mutually agreeable amount pertaining to the landing charges that were levied by AAI Kolkata on aircraft operated by SpiceJet with a certified capacity of less than 80 seats.

Sir, in line with the recommendations of the Naresh Chandra Committee, the Ministry of Civil Aviation (MOCA) announced exemption of landing charges in respect of aircraft with maximum seating capacity of less than 80 seats (small aircraft) and being operated by domestic scheduled operators, vide its letter no. G-17108/07/2001-AAI dated February 9, 2004. Airports Authority of India (AAI) also issued orders in line with the above letter, vide its letter no. Av.11014/22/2002-Rev/ dated February 11, 2004. All the airports (except Civil Enclaves at Defence Airports) stopped charging landing charges on small aircraft in line with the above letters.

In accordance with the above Government policy airline operators in India inducted small aircraft with less than 80 seats into their fleet to boost connectivity to small and far flung airports which has immensely helped in promotion of travel, trade and tourism along with generating a lot of employment opportunities to the people in those areas. The small aircraft have played a vital role in the success of the ambitious UDAN scheme launched by the Government of India.

With the privatisation of airports and constitution of Airports Economic Regulatory Agency (AERA), some airports, as part of their tariff, got landing charges on small aircraft approved from AERA which were not in line with the above letters of MOCA and AAI. Such landing charges were recovered by the airport operators from the airlines. Since such recovery was contrary to the government policy on the basis of which airlines had made large investments, airlines raised this issue with MOCA and AERA. After the representations, AERA stopped approving landing charges on small aircraft from second control period onwards on domestic flights. It is worth mentioning that as per the letter no. G-17108/07/2001-AAI dated February 9, 2004, no landing charges were to be charged in respect of the flights being operated by small aircraft by a scheduled domestic operator.

In view of the above, it is submitted that all the landing charges charged by AAI – Kolkata at NSCBIA Airport for operations of the aircraft with less than 80 seat be refunded to SpiceJet along with interest to be calculated as per interest charged by AAI – Kolkata from time of time. The principal amount charged from SpiceJet by AAI – Kolkata are as under: -

Financial Year	Amount invoiced by AAI Kolkata (Including GST) (in INR)
2016-17	1,38,64,406
2017-18	1,81,95,279
<b>Grand Total</b>	<b>3,20,59,685</b>





Airports Authority of India (AAI) has submitted that it will accord credit to SpiceJet if AERA allows exemption from landing charge in respect of aircraft with a maximum certified capacity of less than 80 seats in 1st control period and suitably compensate AAI for amount of credit to be accorded. Hence to above mentioned amount may kindly be approved to be credited to SpiceJet.

**b. Compensation to AAI: (Refer 14.3.1 of the CP)**

We are thankful to AAI for considering the claim of SpiceJet for the refund of the amounts as mentioned in Point 1(a) above, and to rectify the errors that had crept in to the MYTP, Consultation paper and Tariff Order for the First Control Period regarding the levying of landing charges in respect of aircraft with maximum seating capacity of less than 80 seats being operated by domestic scheduled operators, in contradiction with the Ministry of Civil Aviation, Government of India's letter no. G-17108/07/2001-AAI dated February 9, 2004 and AAI's letter no. Av.11014/22/2002-Rev/ dated February 11, 2004. We are also thankful that this oversight has been rectified in the Tariff Order for the Second Control Period, in line with the MOCA's letter no. G-17108/07/2001-AAI dated February 9, 2004 and AAI's letter no. Av.11014/22/2002-Rev/ dated February 11, 2004. We are also thankful that aforementioned exemption has been stated in the proposal of AAI – Kolkata for the Third Control Period and has been considered accordingly by AERA.

In our view, subject to the aforementioned amounts being refunded to SpiceJet, AAI – Kolkata may be suitably compensated for the deficit, if any, that may be created due to such refund to SpiceJet.

**2. Revenue from Air Navigation Services and Cargo services:  
(Refer 2.2.5, 2.2.6 and 2.2.7 of the CP)**

It is submitted that as per section 2 of Airport Economic Regulatory Authority of India Act, 2008 (AERA Act), under sub-section (a), "aeronautical services means any services provided-

(i) For navigation, surveillance and supportive communication thereto for air traffic management.....

(v) for the cargo facility at an airport.."

It is submitted that considering the above provisions of the AERA Act, revenue from Air Navigation Services, Cargo services (100% revenue accruing to AAICLAS) should form part of aeronautical revenues and accordingly AERA should take into account of the corresponding revenue and revise the tariff card.

**3. New Aeronautical Capital Additions and Total Aeronautical Capital additions proposed by the Authority: (Refer 5.2.60, 5.2.74, 5.2.75 and Table 71 and 72 of the CP)**

We appreciate that considering the reduced traffic owing to COVID-19, AERA has rationalised the capital expenditure and excluded certain proposed additions by AAI - Kolkata to RAB.



Stoppage of non-safety related capital expenditure:

Authority acknowledged the effect of the pandemic in the Second Control Period, also opined that a delay in the capitalisation of works would unfairly burden the airport users without passing on the benefits to them.

As mentioned above it will take around two (2) -three (3) years for the flight operations to reach to its pre COVID-19 peak levels.

In view of the above, in order to support the airlines to continue and sustain its operations, all non-essential capital expenditure proposed by AAI – Kolkata be put on hold/ deferred, unless deemed critical from a safety or security compliance perspective. Further, in case AAI – Kolkata wants to make capital expenditure, then it should be at no additional expense to the airlines until the project is completed and put to use by the airlines. Similarly, if any proposed Capex projects can be deferred from the Third Control Period to the Fourth Control Period, same should be considered by the Authority.

**4. Terminal Building Ratio: (Refer 5.2.78 of the CP)**

AERA has requested stakeholders view on the non-aeronautical component of the terminal building ratio, as AAI Kolkata has proposed in the range of 5-8%, whereas AERA mentions that this is in contrast to the 8-12% that the IATA and IMG norms recommend.

In our view, we request AERA to kindly undertake detailed scrutiny examination with the assistance of an independent study to be conducted on before the tariff determination of the Third Control Period.

**5. Fair Rate of Return (FRoR): (Refer 6.2.6 of the CP)**

We appreciate that AERA has considered a lower FRoR of 13.38 %, which is net of income tax return to the airport operator, for the Third Control Period.

However, while such fixed/ assured return favours the service provider, it creates an imbalance against the airlines, which are already suffering from huge losses and bear the adverse financial impact through higher tariffs.

Due to such fixed/assured returns, Airport Operators like AAI – Kolkata have no incentive to look for productivity improvement or ways of increasing efficiencies, take steps to reduce costs as they are fully covered for all costs plus their hefty returns. Such a scenario breeds inefficiencies and higher costs, which are ultimately borne by airlines. In the present scenario any assured return on investment to any services providers like AAI - Kolkata, in excess of three (3) % (including those on past orders), i.e. being at par with bank fixed deposits (i.e., return on investment after the income tax), will be onerous for the airlines.

Without prejudice to the above, in case the Authority is unable to accept our recommendation mentioned above, the Authority is requested to conduct an independent study for determination of FRoR to be provided to AAI - Kolkata. Such independent study can be exercised by the Authority in terms of powers conferred under the Airports Economic





Regulatory Authority of India Act, 2008, as amended, and in line with studies being conducted by Authority in case of certain major airport operators.

**6. Return on land – Third Control Period: (Refer 7.2.1 of the CP)**

It is noted that the Authority is of the opinion not to allow return on land as AAI has not provided the required information and relevant documentation to substantiate any purchase of land. Notwithstanding the foregoing, we recommend that no returns may be provided for investment in land by AAI – Kolkata in view of the fact that Land value never depreciates, but appreciates.

**7. Operating Expenses: (Refer 8.1.4, 8.2.14 and Table 85 & 91 of the CP)**

We appreciate that the Authority had appointed an independent consultant, M/s EY LLP to assess the MYTP submitted by the airport operator of NSCBIA, CCU.

We are unaware as to whether AAI – Kolkata has taken cost cutting measures including re-negotiations of all the cost items on its profit and loss account. It may be noted that cost incurred by AAI – Kolkata impacts the airlines, as such most of the cost is passed through or borne by the airlines.

Further, in view of industry reports from IATA and CAPA, which foresee a minimum period of two (2)-three (3) years for air traffic and flight operations to reach pre COVID-19 levels, we request Authority should:

- (a) Put on hold any increase in operational expenditure by AAI - Kolkata;
- (b) Advise AAI - Kolkata to review its spending on operational expenditure and re-negotiate all the operational expenditure in a significant manner and address any increase in fees sought by AAI - Kolkata. It may be noted that across various industries, instead of cost escalations, all the costs have been renegotiated downwards substantially. Accordingly, AAI - Kolkata needs to significantly reduce all such costs in a very aggressive manner. AAI - Kolkata may be advised to reduce its cost by at least 35% and no escalation should be permitted; and
- (c) In view of the above, AAI - Kolkata should be advised to pass on cost benefits to the airlines.
- (d) In particular, we submit that:
  - (i) Y-O-Y Increase in the O&M expenses proposed by AAI - Kolkata is approximately 7% to 9%. Instead of a significant reduction in cost items of operating expenses, Authority has proposed a Y-O-Y percentage increase of around 6% to 7% between 2022 and 2026. Such an increase in the name of escalation, in a highly uncertain environment, where airlines are operating under curtailed operations, appears without any rationale and should be avoided.

(ii) Payroll Cost:



Although the activity level has gone down drastically, rather than significant reduction in the cost, the employee expenses are proposed to increase Y-O-Y each year by 6% over the five (5) year control period.

We submit that while the aviation sector, including airlines have incurred huge losses and are struggling to meet their operational costs, and are not able to pay even to the support staff, on the other hand AAI - Kolkata seems to have paid/will pay incremental salaries which may not appear prudent considering the significant losses incurred by the aviation sector.

It appears that AAI - Kolkata wants to recover its full employee cost from the airlines, which are facing significant challenges to meet its operating expenses.

We submit that there should not be any increase in manpower till the existing manpower is effectively utilised as it will take another two (2)- three (3) years to recover. Existing manpower can be reviewed and any additional costs due to contract manpower or otherwise should be reduced.

Without prejudice to the above, AAI - Kolkata needs to considerably restructure its employee benefit expenses and other expenses and hold any revisions at least for the next two (2) years.

**8. Non-Aeronautical Revenue: (Refer 9.2.5 and Table 94 of the CP)**

- a. We request AERA to kindly undertake detailed scrutiny examination with the assistance of an independent study to be conducted on the non-aeronautical revenue before the tariff determination of the Third Control Period, as we are of the view that the low figures of Kolkata are disappointing. It is further requested that Kolkata Airport explores all avenues to maximise revenue from the utilisation of terminal building for non-aeronautical purposes, as deemed fit

Without prejudice to the above, our submission is that increase in non-aeronautical revenue is a function of passenger traffic growth, inflationary increase and real increase/escalations in contract rates. AERA is requested to ensure no adjustments are proposed to non-aeronautical revenue which is not dependent on traffic but are derived from agreements with concessionaires.

- b. Royalty:

Any attempt to award the contracts by the airport operator on highest revenue share basis should be discouraged as it breeds inefficiencies and tends to disproportionately increase the cost. It is general perception service providers has no incentive to reduce its expenses as any such increase will be passed on to the airlines through tariff determination mechanism process and indirectly airlines will be forced to bear these additional costs. There needs to be a mechanism for incentivizing the parties for increasing efficiencies and cost savings and not for increasing the royalty for the airport operator.

As you are aware, royalty is in the nature of market access fee, charged (by any name or description) by the Airport operator under various headings without any underlying





services. These charges are passed on to the airlines by the airport operator or other services providers. The rates of royalty at Kolkata airport are as high as up to 32-33% for some services. It may be pertinent to note that market access fee by any name or description is not practiced in most of the global economies, including European Union, Australia etc. Sometimes it is argued by the airport operators that 'Royalty' on 'Aero Revenues' helps in subsidizing the aero charges for the airlines, however royalty in 'Non-Aero Revenues' hits the airlines directly without any benefit.

In view of the above, we urge Authority to abolish such royalty which may be included in any of the cost items.

**9. Tariff/Government Restrictions: (Refer 14.2.12, 17.2 Annexure II of the CP)**

**1. Tariff:**

While AERA has proposed an increase of approx. 2% Y-O-Y every year on Landing Charges, Parking Charges, UDF and Aerobridge Charges (with a reduction in Q4 of FY 2026 for all the aforementioned charges); keeping in view the devastation caused by the COVID-19 pandemic, we are of the view that there should be a freeze on the existing charges for at least the next three years.

It is in the interest of all the stakeholders not to increase the tariffs in order to encourage middle class people to travel by air, which will help in sharp post-COVID-19 recovery of aviation sector.

**2. Government Restrictions:**

Please further note, there were no scheduled operations between March 25, 2020 to May 24, 2020 due to the restrictions imposed by the Government of India which was caused due to the lockdown during the pandemic period. Hence it is requested that:

- a. no space rentals should be chargeable during the above mentioned period to the airlines, and refund of rentals already charged should be made immediately;
- b. no parking charges (including housing charges, if any) should be applicable during the afore mentioned period, and refund of such parking charges already charged should be made immediately;
- c. After the above mentioned period, there was a calibrated opening of operations allowed by the Government, and thus instead of applying the full rates, the space rentals and parking charges should only be applicable only in the same ratio as of the allowed operations, and refund in accordance with this request be made immediately;
- d. no parking charges should be applicable on the aircraft which continue to be grounded due to the above mentioned reasons, and refund of such parking charges already charged should be made immediately. In addition, it is requested that no further charges should be applicable till the end of the restrictions as outlined above.

